

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 155-0912

KIM WADE, BROKER

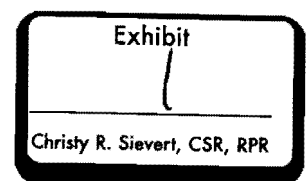
RESPONDENT

MOTION TO QUASH SUBPOENAS FOR HEARING TESTIMONY
AND DOCUMENT PRODUCTION AND RELEASE OF WITNESSES

Comes the Mississippi Real Estate Commission, hereinafter referred to as "Commission", pursuant to authority of §§73-35-1, *et seq.*, Miss. Code Ann. (1972), as amended, and requests the Full Commission to quash the subpoenas of certain witnesses and release them from their obligation to attend the hearing in the above captioned matter for the following reasons:

1. In connection with the above captioned formal complaint, Kim Wade, Broker, Respondent, requested the service of subpoenas on nine witnesses. All subpoenas requested have been served and returnable for the hearing, now scheduled for July 13, 2010.

2. Counsel for the Commission has requested Respondent to release those witnesses who either will provide no essential information to the disposition of the complaint or will provide documents in lieu of their appearance. Respondent



refused the request.

3. Brendan Sartin and David Morrow are attorneys in Brandon, Mississippi, and served as closing attorneys for the transaction underlying the formal complaint. Both have provided the documents requested by Mr. Wade and are available for use at the hearing. Additionally, both attorneys have provided written correspondence stating that they have conflicts with the date of the hearing and have requested that they personally be released from attendance of the hearing. Neither Mr. Sartin nor Mr. Morrow will provide any evidence other than the documents which would be relevant to the disposition of the complaint. (See attached documents.)

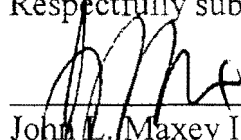
4. Lee Garland has been subpoenaed as a witness. He had no role in the underlying transaction and his only conceivable connection is as President of the Board of Directors of Multiple Listing Service of Jackson Association of Realtors. He has provided written evidence of a conflict in his schedule and his unavailability to attend the hearing. (See attached document.)

5. Excusing these witnesses from personal attendance at the hearing will not result in any prejudice to any party and will not deprive any party of due process of law.

WHEREFORE, for the foregoing reasons, the Commission requests the Full

Commission to excuse these three people from attending the hearing. In the alternative, should the Full Commission find one or more of these witnesses to be essential to the due process to be afforded the Respondent Wade, the Commission requests the Full Commission to continue this hearing until another date.

Respectfully submitted,



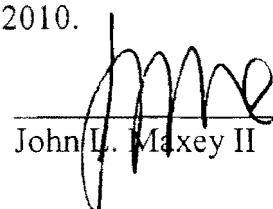
John L. Maxey II
MAXEY WANN PLLC
210 E. Capitol Street, Suite 2100
P. O. Box 3977
Jackson, Mississippi 39207-3977
ATTORNEYS FOR THE
MISSISSIPPI REAL ESTATE COMMISSION

CERTIFICATE

The undersigned hereby certifies that on the date set forth hereinafter, a true and correct copy of the above and foregoing Motion was caused to be served on the following via e-mail:

Tamekia R. Goliday, Esquire: trgoliday@yahoo.com

This the 7th day of July, 2010.



John L. Maxey II

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

RECEIVED
JUL 12 2010

COMPLAINANT

VS.

NO. 155-0912

MS Real Estate Commission

KIM WADE, BROKER

RESPONDENT

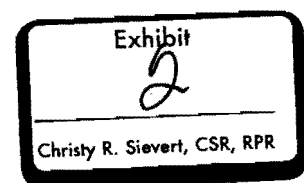
RESPONSE TO MOTION TO QUASH SUBPOENAS FOR HEARING TESTIMONY
AND DOCUMENT PRODUCTION AND RELEASE OF WITNESSES

KIM WADE responds to the Mississippi Real Estate Commission's motion and files his objection to this motion. Kim Wade (Wade) moves this Commission to deny Complainant's Motion and to either continue this hearing until such time as it is convenient for witnesses to attend or in the alternative, dismiss this matter with prejudice. As ground for Respondent's objection, Kim Wade would state as follows.

Wade submitted subpoena requests to the Commission that nine (9) subpoenas are issued herein. The date of the hearing was May 11, 2010.

After subpoenas (albeit altered by the Commission) were issued and served, the witnesses who were served had ten (10) days to file and serve any objections to said subpoenas.

None of the witnesses filed or served any written objection within the ten (10) day period prescribed by Rule 45 of the Mississippi Rules of Civil Procedure.



However, Attorney for the Commission, John Maxey, filed a motion on behalf of three (3) of the witnesses that I caused to be subpoenaed, as though he represents them. They are not his clients, he does not represent them and he has no authority to file motions on their behalf in this matter. Further, Attorney John Maxey has no authority to extend the time for filing objections to the issuance of the subpoenas served.

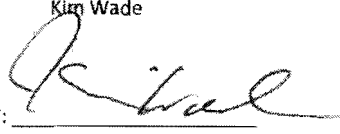
Therefore, I object to the attorney for the Commission doing two (2) things: (1) Filing any Motion on behalf of the witnesses and (2) representing them before this Commission at the same time that he represents the Commission.

The witnesses seeking release through Attorney Maxey, from their obligation to appear before this Commission are material to my defense and they possess documents and oral testimony necessary for my defense. Lee Garland can provide oral testimony regarding misrepresentations made by one of the Complainant's, John Eubanks, along with other relevant testimony that cannot be obtained from documents alone. Attorney's Morrow and Sartin can provide useful testimony regarding John Eubanks assertion that his attorneys encouraged him to willfully lie in notarized documents that he submitted to the Commission, along with other relevant issues. The testimony that I need from these witnesses is central to my defense against the charges made against me.

A fair hearing is impossible without the appearance of all of the witnesses subpoenaed, along with an opportunity to cross examine them all, on the record. I cannot cross examine documents only, without witnesses to authenticate them and provide other related testimony.

If the reason underlying the Commission's Motion to Quash is based on the convenience of the witnesses, I Move that this Commission enter its Order continuing this hearing until such time as it is convenient for the witnesses to attend, or in the alternative, I Move that this matter be dismissed, with prejudice, in order to obtain a more just result.

This the 12th day of July, 2010.

Kim Wade

BY: _____
Kim Wade

WITH THE

RECEIVED

NOV 30 2009

MS Real Estate Commission

- MS Real Estate Commission

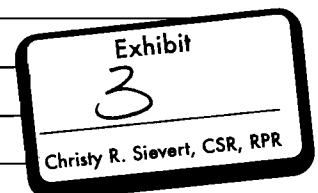
Blain Mable % Richardson Properties, 108 I-55 W Frontage Rd Terry MS 39170 601-878-2484

(Brief statement of facts concerning complaint)

Please See Attached



Witnessed to and subscribed before me this 27 day of November, 2009.
Rhonda H. Burt
 Notary Public

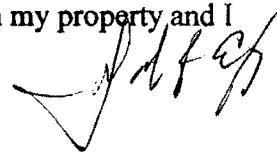


Sworn Statement/Complaint
For
Mississippi Real Estate Commission

I contacted Kim Wade, who I thought was a licensed Real Estate Broker/Agent, about selling my house and property in Terry Mississippi located at 1268 Lewis Lane. He presented himself as a broker and agent that had just recently left the Ann Prewitt Agency, and as a member of Mississippi Realty Association and it's MLS. In September of this year he called me and said that the MLS listing had run out and he had not had time to get it back on. When I asked him why he said that he had been busy and was on his way to Washington D.C for the September 12 rally.

Later that month (Sept.) he called and said there was a buyer for the listing. He went on to say that the contract from the buyer said, he thought "As is". Which I thought was very strange. When he finally brought me the contract to read and sign or make changes I noticed that the "As Is" phrase had been crossed out and initialed by the buyer. When asked Wade admitted that he had written that on the contract when he got it, but the buyer had cancelled it out, all of this before I ever saw or read the contract. It is my understanding that conditions are between the buyer and the seller. The agent does not have the authority to write conditions on the contract. I had to request the pre-approval letter from the proposed mortgage company several times before Wade got it and sent to me. He would always say "I can't make the other side do anything!"

The buyer's application for mortgage money was denied on September 28, 09. The closing had been set for 1PM on the 30th. Wade called me at the President of First Southern Bank's home during dinner at 8:20 PM on the 29 and said that the financing company had run into a glitch but it would get worked out, meanwhile the closing was cancelled for the next day. I thought it was very funny to get notified at 8:20 PM so told Wade to call me before noon on the next day and find out the exact problem and let me know. He did not and in fact would not return my calls to him that day and has not returned any call from me since then. I attempted to call the buyers agent, Blair Marble of Richardson Properties, but he would not return any calls. Finally, I got in touch with the buyer and learned what had happened. He was at Diversified Mortgage when I found him trying to get them to make the mortgage. Mrs. Neely told me that she thought she could make the deal but would let me know the first of the next week. On the next Tuesday (11/3) Mrs. Neely told me that the mortgage underwriter had turned down the deal, for the same reason had the first bank. She did say that if he filed this years taxes with the IRS and his finances were good she could probably make the mortgage then. The buyer kept saying he and his wife wanted the house. I finally asked the buyer if he was interested in a Lease-Purchase arrangement and he was. Those terms were discussed and he signed the papers on November 12, 2009. That time the buyers agent raised cain and when he spoke to me via buyers cell phone was only interested in where on the Lease Purchase agreement did it list his commission. I told him it did not. My agent then called and threatened me that if I did not sign an extension of the old contract so that everyone could get his commission he was going to file a lien on my property and I

A handwritten signature in black ink, appearing to be "J. H. G.", is written over the end of the text.

would not be able to sell. The buyer's agent did then and has continued to refuse to refund the earnest money deposited with him. Buyer's Agent, Blair Marble, did violate the listing agreement in that he never gave the sellers broker the earnest money as it so states is to be done. I have told every one that I want the earnest money to be refunded, since that decision is somewhat mine and the contract states that if buyer is refused mortgage money he is to be refunded earnest money.

The week before Thanksgiving I called MLS because I had a funny feeling about the entire process, something just was not right. I spoke with Ms. Sally Plummpp and Ms. Jo Scruggs, CEO. During their research they found the following:

- 1-The MLS listing of my property was under the broker and agent for Prestige Realty and Investments. Who I had never dealt with nor signed any agreement with.
- 2-The listing Agent was shown as Melissa Reese, who I never spoke to, met nor signed any agreement with for my property.
- 3-Kim Wade's name was not shown anywhere on listing, but Wade's phone number was given as the owner's number.
- 4-There were over eight (8) incorrect statements in the listing, even including stating the wrong listing price, of 10,000 dollars over the true listing price. It even contained the wrong address, just to say a few of the errors.

As I have said I have never dealt with Melissa Reese nor Prestige Realty and Investments. I understand that Ms. Reese admitted to Ms. Scruggs that she did not know there was anything wrong with letting Wade use her company and name for his listing. The listing was withdrawn on November 10, 2009

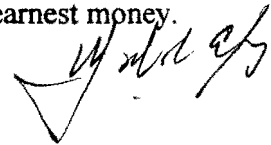
Kim Wade has not joined Jackson Realty Association and is not a realtor, even though he used the J.A.R. listing agreement form as if he was a member. Wade placed a Realty Association Lock Box on my property for agents to use to show the house, although he did not have the authority to have a box. Sometime after 11/13/09 he removed the lock box but did not return the property keys that he had placed in the box.

In Summary;

Kim Wade Through actions, words and deeds passed himself off as a Realtor and member of Jackson Realty Association when he was not. Drew up a fraudulent contract, signed same and threatened seller. In all of his dealings has acted in a non-professional manner that could be classed as criminal.

Melissa Reese & Prestige Realty and Investments allowed MLS listing to be made that showed them as the listing Broker and agent when they knew that the listing was false and misleading.

Blair Marble & Richardson Properties refused to refund earnest money per conditions of contract to sale and also did not give the earnest money to listing agent as stated in the listing agreement, even though I agreed to allow a refund of the earnest money.



Click here to report a possible inaccuracy on this listing
Click photo to enlarge or view multi-photos.

LIST-IT Internet MLS © Solid Earth Geographics

Photo not available
at this time

Residential MLS#: 209164 VT:

1268 E LEWIS DR

TERRY, MS 39170

Subdivision: METES AND BOUNDS

SubType: Detached

Year Built: 1984

Appraised SQFT: 2,233/Appraiser

School District:

Elem Sch: Gary Road

High Sch: Terry

Legal Description: 4.5 acres in sec32 & 33 T3N, RIW in Hinds county

Directions: OLD 51 HIGHWAY PASS TERRY DOWNTOWN TO LEFT ON
CHERRY GROVE ROAD TO LEFT ON LEWIS LANE

Status: Withdrawn

DOM: 125

County: Hinds

Complex Name:

Style: A-Frame/Dome/Log

ListType: ERS

Construction Complete Date:

BR: 3

Baths: 2/0

Middle Sch: Byram

Other Sch: HILLCREST

LP: \$185,000

OLP: \$185,000

19,000 Too High

General Information

Acres: 4.56

Garage/Cap: 2 Car, Garage/2

Total Rooms: 7

Foundation: Slab

Lot Desc: 1 to 5 Ac

Stories: 1

Exterior: Brick

Lot Size:

Fireplaces: 1

Flood Ins: Flood Insurance not presently Required

Green Certified:

New Const:

Handicap: N

Floors: Carpet

Rooms & Features

Rooms: Bedroom(s) Entry Level, breakfast Area, Dining Room, Family Room, Formal Dining, Kitchen/Dining Combo, Laundry Room, Master Bedroom Entry Level, Office, Pantry, Sun Room, Utility Room, Workshop

Appliances: Range/Oven

Amenities: None

Heating/Source: Central Heating, Natural Gas, Propane, Wood

Cooling: Ceiling Fan(s), Central Air

Equipment: Bath Exhaust Fan, Garage Door Opener, Smoke Detectors, Water Heater

Interior: Attic Floored, Extra Insulation, Greenhouse, Walk-In Closet

Special Needs: None

Utility Conn.: Electric Dryer

Floors: Carpet

Cooktop: Electric

Sewer: Septic Installed

Fence: Partial

Patio: Enclosed, Screened-In Porch

Pool/Heat: None/None

Roof: Asphalt Shingles

Waterfront: None

Structures: Greenhouse, Kennel, Shed

Interior Walls:

Oven Type: Electric

Water: Public

Security: None

Windows: Aluminum

Water Heater: Gas, Propane

Roof Features: Gable Vent

Irrigation: None

Basement: None

Taxes & Financing

Homestead: Y

Assumable:

HO Assoc: N

Assoc Fee Inc:

Tax Amt: \$786

Homestead Yr:

Lsehold Fee: 0

HO Fee: \$0

Tax Year: 2009

Exemptions: Y

Lsehold Fee Increase: N

Parcel ID: 4850-913-6

Sold In Prev 12 Mos: N

Comments

Public Remarks: Country boy can survive on these 4.56 acres on a private road with only 5 homes on it. Home has sunroom, wood burning stove, energy efficient 11 inch walls open plan with formal dining. All bedrooms have walk in closet. Property has separate office and utility shed boat house, active garden, plenty of fruit trees. There's room on property for another homesite, fenced dog run. Your kids can run free in this country setting.

REALTOR Remarks: Your client looking for a country home with privacy. This has it that and more on this private road with 5 homes on it. Easy to show....

Office and Showing Information

ListOff: PRESTIGE REALTY & INVESTMENT

ListAgt: MELISSA REESE - 2048

Co-Off:

Co-Agt:-

Contct Ord:

Direct 601-573-6317

Cell 601-573-6317

Co-Agent Cell

Ph

Co-Agent Cell

Ph

Owner EUBANKS

Owner Ph.: 601.594.8882

Occupied:

Tenant:

Tenant

Ph.:

Exclusions: NONE

List Date: 07/09/2009

CSO: 3 Co-op: / SC: / OC:

LB Loc. FRONT PORCH

Poss. Negotiable

Warranty:

Y

To Show Call List Agent, Call Owner, Lockbox,
Show Anytime

Exp Date: 12/31/2009

-Information deemed reliable but not guaranteed-Copyright: 2009 by the Multiple Listing Service of Jackson, Inc.
Prepared by 1951 PLUMPP of JACKSON ASSOCIATION OF REALTORS on 11/24/2009 1:02:57 PM



WORKING WITH A REAL ESTATE BROKER

****THIS IS NOT A LEGALLY BINDING CONTRACT****

Approved 01/2003 By
MS Real Estate Commission
P. O. Box 12685
Jackson, MS 39232

GENERAL

Before you begin working with any real estate agent, you should know whom the agent represents in the transaction. Mississippi real estate licensees are required to disclose which party they represent in a transaction and to allow a party the right to choose or refuse among the various agency relationships.

There are several types of relationships that are possible and you should understand these at the time a broker or salesperson provides specific assistance to you in a real estate transaction.

The purpose of the Agency Disclosure is to document an acknowledgement that the consumer has been informed of various agency relationships, which are available in a real estate transaction.

For the purpose of this disclosure, the term seller and/or buyer will also include those other acts specified in Section 73-35-3 (1), of the Miss. Code, "...list, sell, purchase, exchange, rent, lease, manage, or auction any real estate, or the improvements thereon including options."

SELLER'S AGENT

A seller can enter into a "listing agreement" with a real estate firm authorizing the firm and its agent(s) to represent the seller in finding a buyer for his property. A licensee who is engaged by and acts as the agent of the Seller only is known as a Seller's Agent. A Seller's agent has the following duties and obligations:

To the Seller:

- * The fiduciary duties of loyalty, confidentiality, obedience, disclosure, full accounting and the duty to use skill, care and diligence.

To the Buyer and Seller:

- * A duty of honesty and fair dealing.
- * A duty to disclose all facts known to the Seller's agent materially affecting the value of the property which are not known to, or readily observable by, the parties in a transaction.

BUYER'S AGENT

A buyer may contract with an agent or firm to represent him/her. A licensee who is engaged by and acts as the agent of the Buyer only is known as the Buyer's Agent.

If a Buyer wants an agent to represent him in purchasing a property, the buyer can enter into a Buyer's Agency Agreement with the agent. A Buyer's Agent has the following duties and obligations:

To the Buyer:

- * The fiduciary duties of loyalty, confidentiality, obedience, disclosure, full accounting and the duty to use skill, care and diligence.

To the Seller and Buyer:

- * A duty of honesty and fair dealing.

DISCLOSED DUAL AGENT

A real estate agent or firm may represent more than one party in the same transaction. A Disclosed Dual Agent is a licensee who, with the informed written consent of the Seller and Buyer, is engaged as an agent for both Seller and Buyer.

As a disclosed dual agent, the licensee shall not represent the interests of one party to the exclusion or detriment of the interests of the other party. A disclosed dual agent has all the fiduciary duties to the Seller and Buyer that a Seller's or Buyer's agent has except the duties of full disclosure and undivided loyalty.

A Disclosed Dual Agent may not disclose:

- To the Buyer that the Seller will accept less than the asking or listed price, unless otherwise instructed in writing by the Seller.
- To the Seller that the Buyer will pay a price greater than the price submitted in a written offer to the Seller, unless otherwise instructed in writing by the Buyer.
- The motivation of any party for selling, buying, or leasing a property, unless otherwise instructed in writing by the respective party, or
- That a Seller or Buyer will agree to financing terms other than those offered, unless otherwise instructed in writing by the respective party.

IMPORTANT NOTICE!

"Customer" shall mean that person not represented in a real estate transaction. It may be the buyer, seller, landlord or tenant.

A Buyer may decide to work with a firm that is acting for the Seller (a Seller's Agent or subagent). If a Buyer does not enter into a Buyer Agency Agreement with the firm that shows him properties, that firm and its agents may show the buyer properties as an agent or subagent working on the seller's behalf. Such a firm represents the Seller (not the Buyer) and must disclose that fact to the Buyer.

When it comes to the price and terms of an offer, the Seller's Agent will ask you to decide how much to offer for any property and upon what terms and conditions. They can explain your options to you, but the final decision is yours, as they cannot give you legal or financial advice. They will attempt to show you property in the price range and category you desire so that you will have information on which to base your decision.

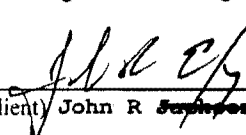
The Seller's Agent will present to the Seller any written offer that you ask them to present. You should keep to yourself any information that you do not want the Seller to know (i.e. the price you are willing to pay, other terms you are willing to accept, and your motivation for buying). The Seller's agent is required to tell all such information to the Seller. You should not furnish the Seller's agent anything you do not want the Seller to know. If you desire, you may obtain the representation of an attorney or another real estate agent, or both.


THIS IS NOT A CONTRACT. THIS IS AN ACKNOWLEDGEMENT OF DISCLOSURE

The below named Licensee has informed me that brokerage services are being provided me as a:

- ☒ Client (Seller's or Landlord's Agent) ☐ Customer (Not as my Agent)
☐ Client (Buyer's or Tenants Agent)
☐ Client (Disclosed Dual Agent)

By signing below, I acknowledge that I received this informative document and explanation prior to the execution of confidential information which might affect the bargaining position in a real estate transaction involving me.


(Client) John R. Eubanks


(Licensee) Kim Wade
Kim Wade Real Estate
(Company)

July 5, 2003
(Date)
(Customer)
(Customer)

LICENSEE - Provide a copy of disclosure acknowledgement to all parties and retain signed original for your files.

This is a legally binding agreement - READ IT CAREFULLY

1 Are you currently a party to a referral agreement with a relocation company or another real estate broker? ☐ YES ☒ NO

Legal Description:

see legal description

39176
Zi

COMPENSATION.

(d) Owner shall not be obligated to pay the compensation provided for in subparagraph (a) if a valid listing agreement is entered into during the term of said Protection Period with another licensed real estate broker and a sale, lease or exchange of the property is made during the term of said valid listing agreement.

I authorize Broker to advertise my property on the Internet

☐ I authorize Broker to place a lockbox on my property

I agree to provide a Home Warranty upon sale of property

I authorize Broker to accept a fee for selling the referenced Home Warranty

I authorize Broker to accept a deposit of earnest money

I authorize Broker to obtain mortgage information on the above described property

ACCT# Mortgage Company

Address

I authorize Broker to place a For Sale/Sold sign on my property

I authorize Listing Broker to disclose to buyers or cooperating brokers the existence of offers on the property

Page 1 of 2



Rev. Date 8/2008

The Listing Broker is hereby authorized as an MLS Participant to:

☐ Offer other licensed Brokers cooperation and compensation but not by subagency

☒ Offer other licensed Brokers Subagency and compensation

☐ Act in the capacity of a Disclosed Dual Agent

8. **IMPROVEMENTS:** All improvements and appurtenances are included in the Purchase Price including, if now in or on the Property, the following: lighting fixtures and their shades, ceiling fans, drapery and curtain hardware, window shades and blinds, window and door screens, stationary laundry tubs, water heaters, smoke detectors, built-in security systems, TV antenna and satellite dish and complete rotor equipment, mailbox, remote control garage door opener(s), water pump and pressure tank, built-in kitchen appliances, attached gas grill, awnings, all plumbing and heating and air conditioning equipment including any window units. Seller shall provide to buyer or selling broker at closing at least one (1) exterior door key to the main dwelling.

List any leased equipment:

Is security system under contract that must be fulfilled? ☐ YES ☒ NO

9. **LEAD BASED PAINT:** If dwelling was built before 1978, a lead-based paint inspection may be required and the presence of known lead-based paint must be disclosed.

10. **HOMESTEAD EXEMPTION:** Homestead exemption ☒ is or ☐ is not in effect for the current year as represented by the Property Condition Disclosure Statement.

11. **OWNER'S ACKNOWLEDGEMENT.** I hereby certify that all information provided herein and on the Property Condition Disclosure Statement attached has been written by me and is complete, true and accurate to the best of my knowledge and belief. I, the Owner, agree to defend, indemnify and hold harmless the Broker and their salespersons against and from any losses, damages, claims, suits at law (including court costs and attorneys fees) or other costs or expenses relating to or resulting from any actual or alleged inaccuracy or incompleteness of the property information contained herein or any other information provided by me.

By signing below I acknowledge that the mandatory **Working With a Real Estate Broker** disclosure form has been fully explained to me and I acknowledge receipt of a signed copy. I, as Owner, acknowledge that I have read and understand this Agreement and, have received a copy. I further acknowledge that I have good title to the Property and full authority to execute this Agreement. I further agree to permit Broker to reassign me to another agent within the firm for representation should I and Broker agree that reassignment is best.

12. **BROKER ACKNOWLEDGEMENT.** Broker/Agent agrees: (1) to exercise all duties to Seller(s) as set forth in the **Working With a Real Estate Broker** disclosure prescribed by the Mississippi Real Estate Commission, including the fiduciary duties of confidentiality, obedience, disclosure, full accounting and the duty to use skill, care and diligence; and (2) to exercise the duty of honest and fair dealing to Seller(s) and Buyer(s).

13. **EQUAL HOUSING OPPORTUNITY:** This property is offered in compliance with applicable anti-discrimination laws.

14. **ATTORNEY FEES:** In any legal action, proceeding or arbitration arising out of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs from the non-prevailing party.

15. **ENTIRE AGREEMENT.** There are no other agreements or conditions except as set forth herein and on the MLS profile sheet attached, if any. No verbal statements, representations, promises or inducements shall have any validity or effect nor shall be a part of this Agreement. Any amendments, changes, additions or deletions to this Agreement must be in writing signed by all parties. Owner should seek professional, legal and/or tax advice.

16. **NOTICE.** Any notices required or permitted to be given under this contract shall be delivered by hand or mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope; by nationally recognized overnight carrier service; by facsimile with receipt acknowledgment (if the fax number is listed below); or by email (if the email address is listed below), at Sender's option, and addressed to Owner as follows:

Address: _____

Facsimile: _____

Email: _____

Signed this the _____ day of _____, at _____ ☐ a.m. ☐ p.m., and a copy hereof received:

BROKER: Kim Wade

OWNER: _____

Broker's Firm Name Kim Wade Real Estate

Phone: (601) 878-2138

Kim Wade

OWNER: _____

Broker's Affiliated Salesperson

Phone: (601) 594-8882

Phone: (601) 955-7529



Copyright ©2008 by Mississippi Association of REALTORS®

Rev. Date 8/2008

REALTOR® F4 - Exclusive Right to Sell Listing Agreement

Produced with ZipForm™ by RE FormsNet, LLC 18025 Fifteen Mile Road, Clinton Township, Michigan 48035 www.zipform.com

T8722675.ZFX

November 21, 2009

Mr. Jim King
Chief Investigator
MS Real Estate Commission
2506 Lakeland Dr.-Suite 300
Flowood, MS 39232



RECEIVED
NOV 30 2009

MS Real Estate Commission

RE: Complaint

Dear Mr. King:

I would like to thank you for your interest and help regarding the refusal of Richardson Realty to refund the buyer of my property his "earnest money" deposit. Unfortunately as of this date I have been told that the firm has still not refunded the \$1000.00.

Since the day that I visited your office I have done some investigation of my own and have found some very disturbing facts and information, namely;

- 1- I have always had trouble trying to locate my property on Multiple listing's computer files. I had put it to the normal problems one has with computers. This past Friday (11/20/09) I contacted MLS and was told that they have never had a listing for my property located at 1268 Lewis Lane, Terry, MS 39170.
- 2- I was contacted by my realtor on September 10th who said that my listing in MLS would not be in there for the next few days because he was going to Washington, D.C. to attend the capitol rally on the 12th. I asked him why he did not get the listing straightened out and he simply said he was too busy getting to Washington.
- 3- I could never get my realtor to pass on information to me regarding any prospects and their offers. Every time I called him he would get belligerent and always say "I can't make them do anything".
- 4- When I was offered a deal on my house, my realtor called and said the buyer had sent a contract which stated "AS IS", he "thought it said". When I did get to see the contract the As Is Clause was deleted and the buyer had initialed the deletion. I asked my realtor didn't he say that the buyer had written the clause in on the contract and he then admitted HE wrote it in before I saw it. I understand that the seller and buyer are the only ones to put in conditions and/or delete same.
- 5- As soon as there was a contract for the sale of my property my realtor removed all advertising signs, and with no listing in MLS I was provided no means of advertising my property. Even after the financing was denied my realtor did not reinstate any advertising, I was left in the dark as far as letting the public know that the property was for sale.
- 6- On Thursday Evening at 8:20 PM on Oct. 29th I received a call from my realtor while I was at the home of the President of First Southern Bank stating that "their has been a glitch in the sale, it will get worked out but the closing is put off and will not be tomorrow (10/30/09) as planned. I found out that there was no glitch,

the underwriter turned down the loan on Wednesday Morning, 10/28/00 and my realtor was notified. I told my realtor that I wanted to hear from him by 12 noon tomorrow (10/30) and tell me actually what was happening. I did not hear from him and he has not called, written, or in any way gotten in touch with me since then. I have called and left messages and only one time did I get him on the phone and that time he told me if I did not sign an extension to the sale contract he was going to file a lien on my property, which I take as a threat and in some ways blackmail.

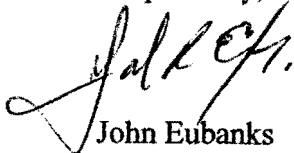
- 7- After you had spoken with the buyer's agent the buyer called me from his office saying that the agent and his boss were accusing him of causing them to lose their license and would I speak with them. I did and told him that I went to the Commission and what he really wanted to know was where in our lease agreement did it state his commission. I informed him it did not mention anything regarding his so called commission. The buyer then told me that the agent was telling him that if he did not sign an extension he would not be able to buy and close on the property when he did get approval for the loan.
- 8- Later the buyer came to my home and advised me that he had signed an extension since he was told he HAD to if he wanted to buy the house. He said he was also told that that "extension" was faxed to my agent for him to present to me. Since that day I have not heard from my agent.
- 9- After the original sale contract was signed and all corrections made my agent has wanted to change the amount of commission he would get on closing from 2% to 3%, even though the contract states seller agent will receive 2% and the buyer's agent will get 3%.

The entire process with both Richardson Properties and my agent, Kim Wade Broker/agent, has been a nightmare. The buyer who is a young first time buyer has been intimidated and to some degree threatened, and had his deposit refused to be refunded. Some type of contract has been drawn up and signed, but only by the buyer. I have not been given any information by my agent and he refuses to call or communicate with me, even wanting to change the agreed commission.

I would like to file a formal complaint. If this is not in acceptable form please advise and will comply. With this type of activity and agents it is no wonder that the residential housing market is in a depressed condition.

Again thank you for your assistance and any help you can give would be greatly appreciated.

Respectfully,



John Eubanks
53 Grice Rd

Columbia, MS 39429 Telephone (H) 601-731-2825, © 601-955-7529

RICHARDSON PROPERTIES, INC.

103 I-55 WEST FRONTAGE TERRY, MS 39170 PHONE 601-878-2484 OF FAX 601-878-5424

14. **PRORATION:** Ground rents, property taxes, interest, maintenance fees, & other expenses of the property are to be prorated as of the closing date. Security deposits, advance rentals or considerations involving future lease credits shall be credited to the Purchaser. In the event the reserves now in escrow are transferred to the Purchaser through assumption of loan, the Seller hereby warrants that the amount in reserve will be adequate (no shortage/all payments current). If the reserve is not adequate, the Seller agrees to pay the shortage.

15. **TITLE & CONVEYANCE:** Seller is to furnish Purchaser with Warranty deed or Lease Assignment (as appropriate) & a Certificate of Title prepared by an attorney upon whose Certificate Title Insurance may be obtained from a title insurance company qualified to do & doing business in the State of Mississippi. Seller shall, prior to or at close-out, satisfy all outstanding mortgages, deeds of trust & special liens affecting the subject property which are not specifically assumed by Purchaser herein. Title shall be good & marketable, subject only to the following items recorded in the Chancery Clerk's office of said County; easements without encroachments, applicable zoning ordinances, protective covenants and prior mineral reservations, otherwise the Purchaser, at his option, may either (a) if defects cannot be cured by designated closing date, cancel this contract, in which case all earnest money deposited shall be returned, (b) accept title as is or (c) if the efforts are of such character that they cannot be remedied by legal action within a reasonable time, permit Seller such reasonable time to perform this curative work at the Seller's expense. In the event the curative work is performed by the Seller, the time specified herein for closing of this sale shall be extended for a reasonable period necessary for such action. The Seller represents that the property may be legally used as zoned & that no government agency has served any notice requiring repairs, alterations or corrections of any existing condition except as stated herein legally used a requiring repairs, alterations or corrections of any existing condition except as stated herein.

16. **BREACH OF CONTRACT:** Specific performance is the essence of this contract, except as otherwise specifically provided for in paragraphs 5, 12, & 16 & as further delineated below. (a) In event of breach of this contract by Purchaser, Seller at his option may either (1) accept the earnest money deposit as liquidated damages & this contract shall then be null and void, or (2) enter suit in any court of competent jurisdiction for damages, giving credit on said damages for the said earnest money deposit, or (3) enter suit in any court of competent jurisdiction for specific performance. If Seller accepts the earnest money as liquidated damages, or if Seller litigates for additional damages in any court of law, Broker shall be paid one-half (1/2) of the earnest money deposit, or damages awarded, but not to exceed the full commission herein provided for. If Seller succeeds in a suit for specific performance, Broker shall be paid a full commission by Seller. (b) In the event of breach of contract by Seller, Purchaser at his option may either (1) accept the return of the earnest money deposit and cancel the contract, or (2) enter suit for damages in any court of competent jurisdiction, or (3) enter suit in any court of competent jurisdiction for specific performance. (c) If it becomes necessary to ensure the performance of the conditions of this contract for either party to initiate litigation, then the party in default agrees to pay reasonable attorney's fees and court cost in connections therewith.

17. **SURVIVAL OF CONTRACT:** All express representation, warranties & covenants contained herein shall survive delivery of the deed except where herein specified to the contrary. All others contractual obligations shall terminated with closing.

18. **DAMAGE BY FIRE, ETC:** This contract is further conditioned upon delivery of the improvements in their present condition & in the event of material damage by fire or otherwise, before closing, the Purchaser may elect to complete the transaction in accordance with this contract provided the property is restored by Seller at Seller's expense prior to closing of the sale.

19. **ACCELERATION (Due on Sale) CLAUSE:** If the note and /or deed of trust or mortgage for any existing loan contains an acceleration (due on sale) clause, the lender may demand full payment of the entire loan balance as a result of this transfer. Both parties acknowledge that they are not relying on any representation of the other party or Broker with respect to the enforceability of such a provision.

20. **RESPONSIBILITY OF BROKER:** Both parties agree that RICHARDSON PROPERTIES, INC., BROKER, IS THE PROCURING CAUSE OF THIS SALE. This instrument contains all the terms of this sale, & no representation have been made by anyone other than are herein contained. No agent or representative of Broker shall have any power to make any representations as to the property or any statement, unless & except fully embodied herein in writing. This contract shall impose no obligations upon Broker, otherwise that in accordance with its terms, & no agent or representative of Broker has any authority otherwise than herein stated to do any act or other than herein set forth. Broker assumes no responsibility for the performance of this contract by either party hereto or for the condition of the subject property.

21. **LEAD-BASED PAINT:** Parties are aware that the age of the property might make it suspect that "Lead Based Paint" might have been used in accordance with "HUD" and "EPA" final rulings as set forth in 61 Federal Regulations 9064 (March 6, 1996) & in compliance with Section 1018 of the Residential Lead Based Paint Hazard Reduction Act of 1992 (Title X of the Housing & Community Development Act of 1992. PL 102-550) the Seller does give notice to the Purchaser at Purchaser has ten (10) days to conduct the Risk Assessment of Inspection as provided therein & has provided all available records or reports pertaining thereto, on dwellings built prior to 1978.

22. **EQUAL HOUSING OPPORTUNITY:** The parties are aware that Broker does business in accordance with the Federal Fair Housing Law (Section 809, Title VIII), & it is illegal to discriminate against any person because of race, color, religion, sex, handicap, familial status or national origin in the sale or rental of housing or residential lots, in advertising the sale or rental of housing, in the financing of housing, in the provision of real estate brokerage services, or in blockbusting.

23. **PURCHASER(S)/SELLER(S) ACKNOWLEDGEMENT:** Purchaser acknowledges that he has not received or relied upon any statements or representations which are not herein expressed, including any statements or representations regarding the effect of this transaction upon Purchaser's tax or legal liability, the size or condition of the property, the presence of UST insulation, previous flooding, effect of or location within Mississippi State Tidelands or Federal Wetlands, presence of expansive soils, or past structural condition of the slab or foundation of this property or the presence of acceleration clauses or tax or balloon notes, & agrees to hold Broker(s) harmless from any liability with regard to those items, conditions, or statements. Purchaser hereby acknowledges receipt of a duplicate original hereof.

24. **DISCLOSURE OF AGENCY RELATIONSHIP:** The parties confirm, in connection with this transaction, that the Listing Firm & the Selling Firm have represented the party or parties indicated below, & that these relationships were disclosed to the parties in writing at or before the time specific real estate assistance was provided. Notwithstanding the provisions of Paragraph 8 of the Purchase Agreement relating to the payment of commissions, the parties agree that one of the following applies:

(A) Seller's Agent

(B) Buyer's Agent

(C) Dual Agent

IF NOT FULLY UNDERSTOOD, SEEK LEGAL ADVICE FROM YOUR ATTORNEY BEFORE SIGNING. THIS BECOMES A BINDING CONTRACT UPON ACCEPTANCE IN WRITING OF ALL PARTIES.

Purchaser's Signature X Chris A. Banna SS# _____ Phone#s (601) 832-7097 Date 9.24.07

Purchaser's Signature B. J. J. J. J. SS# _____ Phone#s _____ Date _____

Seller's Agent's Signature _____ Phone#s _____ Date _____

Seller's Signature J. R. E. J. SS# _____ Phone#s 601 576 2151 Date _____

Seller's Signature _____ SS# _____ Phone#s _____ Date _____

Listing Agents's Signature G. C. J. J. Phone#s 601 Date 9.24.07

594.22.22

CONTRACT FOR THE SALE AND PURCHASE OF REAL ESTATE

In consideration of the mutual promises contained herein, the undersigned Seller agrees to sell, to the undersigned Purchaser, who agrees to buy, the herein described property on the terms & conditions stated below & on the reverse hereof. Both Purchaser & Seller acknowledge at Richardson Properties, Inc., Broker, is the procuring cause of this sale.

1. PROPERTY DESCRIPTION: Address 1268 Lewis Dr MS Hinds County, and all improvements thereon. Legal Description 4.56 Acres Tax parcel # 175,000
in the records of the county courthouse within which the property is located the exact legal description to be determined. All fixtures including window (curtains, blinds, etc.) & floor covering, heating, & air-conditioning equipment, built-in appliances, attached mirrors, lighting fixtures, ceiling fans, flowers & shrubs, curtain rods and hangers, mailbox, satellite, T.V. antenna, barbecue grill, pool, Jacuzzi, hot tub & all equipment pertaining to the same & all other items permanently attached unless specifically excluded herein, shall remain.

PURCHASER(S) INITIALS XCB SELLER(S) INITIALS JE

2. PRICE: The purchase price of the property is \$ 175,000

Payable as follows:

A. Cash down payment at closeout (U.S. Cash or Cashiers Check) subject to adjustments & Prorations \$ 175,000

B. Purchaser shall apply (within 3 working days of contact acceptance) & qualify for a new loan \$ 175,000

C. Purchaser shall assume existing loan described below with an approximate balance of \$ 175,000

It is expressly agreed that not withstanding any provisions of this contract the purchaser shall not be obligated to complete the purchase of the property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless the appraised value of the property, excluding closing costs, is not less than contract price.

3. LOAN/CLOSING COSTS:

Disc. Points B Tax Service B Mktg/Title Ins. Lender B Survey B Flood Cert. S

Loan Orig. B Underwriting B Home Inspection B Septic/Treatment Inspect S

Pre-pd items B VA Funding Fee B Home Warranty S Appraisal/Record Fee S

PMI/FHA/MIP B Appraisal B Other B

Sellers' total contribution per #3 shall not exceed \$ 175,000

4. TERMITE CERTIFICATE: Sellers will, as a part of the price, furnish Purchaser, prior to or at closing, a certification from a licensed, reputable termite control company, that subject property shows no evidence of termite or other wood destroying insect infestation & if such infestation now exists, furnish a warranty of approved treatment. In the event that structural damage is found by such inspection, then the seller shall have the option to correct any structural damage by insect infestation or to declare the contract void.

5. DEPOSIT: The Purchaser has deposited with Broker the sum of \$ 175,000 cash/check as earnest money.

Subject to clearing of any check, the Broker/Trustee acknowledges receipt of the above mentioned earnest money & holds same in a non-interest bearing escrow account subject to the terms of this purchase agreement. The same is to be applied to the cash down payment on closing of the transaction. Should Purchaser require approval for a specified loan for any part of the purchased price, & after applying therefore in good faith, be unable to secure such loan, then the earnest money shall be returned in full to the Purchaser. However, should Purchaser fail or refuse within 3 working days of this contract to PURCHASER(S) INITIALS XCB apply for such loan, or refuse to diligently pursue loan approval, or fail or refuse within 7 days after the issuance of a loan commitment to execute all documents necessary for said loan, Purchaser shall be considered in default under the terms of this contract & Seller shall have such recourse as is delineated in paragraph 16 hereof.

6. CLOSING DATE: 10/30/09 POSSESSION DATE: 10/30/09

7. CONVEY TITLE TO: Chris D. Barnes & Bridgett R. Barnes

8. COMMISSION: The Seller of property sold under this contract agrees to pay commission on the total purchase price indicated in paragraph 2 hereof, or through any other agreement or renegotiated contract between the parties or their assigns. Payable as follows: Selling Broker(s) 3 % plus Listing Broker(s) 2 % for a total of 5 %.

9. INSURANCE:

(A) If this sale is by new first loan, Purchaser shall provide new policies at closing.

(B) If this sale is by loan assumption, Seller shall assign insurance policy & any unearned premium & adequate insurance reserve. If policy is not assignable, the premium will be refunded to Purchaser & Purchaser will provide new policy at closing.

10. SPECIAL PROVISIONS/CONTINGENCIES:

PROPERTY AS IS

SELLER HAS SURVEY DONE

11. PRE-CLOSING INSPECTION: The Seller represents that all heating, air conditioning, plumbing, electrical, gas, & mechanical systems as well as all built in appliances, pool Jacuzzi, hot tub & all other equipment pertaining to the same are in normal working order & in a good state of repair, or will be before closing and/or possession (including door knobs, deadbolts, window latches and all other basic working mechanisms), but this representation on the part of Seller does not survive the closing of this transaction & Purchaser shall have the responsibility to carefully inspect & satisfy themselves of such equipment condition prior to closing. The Purchaser has the option of hiring a Home Inspector. Closing and/or possession constitutes acceptance by Purchaser of equipment condition except as otherwise provided for in paragraph 12.

PURCHASER(S) INITIALS XCB SELLER(S) INITIALS JE

12. DEFECTS: The Seller represents that they are not aware of any visible or hidden defects such as damaged carpet, roof leaks, damaged walls or other flaws not visible at regular walk-through. SELLER(S) INITIALS JE

13. CONDITIONS/DISCLOSURE/ACCEPTANCE OF PROPERTY: The Purchaser hereby represents that he has personally inspected & examined the abovementioned premises & all improvements thereon & accepts the property in its "as is" & present condition except for those items listed in paragraphs 10 & 11.

HOME SHALL BE LEFT FOR PURCHASERS IN CLEAN & SANITARY CONDITION.

PURCHASER(S) INITIALS XCB SELLER(S) INITIALS JE DATE 9.24.09

103 1-55 WEST FRONTAGE TERRY, MS 39170 PHONE 601-878-2484 OF FAX 601-878-5424

15. **TITLE & CONVEYANCE:** Seller is to furnish Purchaser with Warranty deed or Lease Assignment (as appropriate) & a Certificate of Title prepared by an attorney upon whose Certificate Title Insurance may be obtained from a title insurance company qualified to do & doing business in the State of Mississippi. Seller shall, prior to or at close-out, satisfy all outstanding mortgages, deeds of trust & special liens affecting the subject property which are not specifically assumed by Purchaser herein. Title shall be good & marketable, subject only to the following items recorded in the Chancery Clerk's office of said County; easements without encroachments, applicable zoning ordinances, protective covenants and prior mineral reservations, otherwise the Purchaser, at his option, may either (a) if defects cannot be cured by designated closing date, cancel this contract, in which case all earnest money deposited shall be returned, (b) accept title as is or (c) if the efforts are of such character that they cannot be remedied by legal action within a reasonable time, permit Seller such reasonable time to perform this curative work at the Seller's expense. In the event the curative work is performed by the Seller, the time specified herein for closing of this sale shall be extended for a reasonable period necessary for such action. The Seller represents that the property may be legally used as zoned & that no government agency has served any notice requiring repairs, alterations or corrections of any existing condition except as stated herein legally used a requiring repairs, alterations or corrections of any existing condition except as stated herein.

17. SURVIVAL OF CONTRACT: All express representation, warranties & covenants contained herein shall survive delivery of the deed except where herein specified to the contrary. All others contractual obligations shall terminated with closing.

19. **ACCELERATION (Due on Sale) CLAUSE:** If the note and/or deed of trust or mortgage for any existing loan contains an acceleration (due on sale) clause, the lender may demand full payment of the entire loan balance as a result of this transfer. Both parties acknowledge that they are not relying on any representation of the other party or Broker with respect to the enforceability of such a provision.

responsibility for the performance of this contract by either party hereto or for the condition of the subject property.

21. **LEAD-BASED PAINT:** Parties are aware that the age of the property might make it suspect that "Lead Based Paint" might have been used in accordance with "HUD" and "EPA" final rulings as set forth in 61 Federal Regulations 9004 (March 6, 1996) & in compliance with Section 1018 of the Residential Lead Based Paint Hazard Reduction Act of 1992 (Title X of the Housing & Community Development Act of 1992. PL 102-550) the Seller does give notice to the Purchaser at Purchaser has ten (10) days to conduct the Risk Assessment of Inspection as provided therein & has provided all available records or reports pertaining thereto, on dwellings built prior to 1978.

23. **PURCHASER(S)/SELLER(S) ACKNOWLEDGEMENT:** Purchaser acknowledges that he has not received or relied upon any statements or representations which are not herein expressed, including any statements or representations regarding the effect of this transaction upon Purchaser's tax or legal liability, the size or condition of the property, the presence of EMI insulation, previous flooding, effect of or location within Mississippi State Tidelands or Federal Wetlands, presence of expansive soils, or past structural condition of the slab or foundation of this property or the presence of acceleration clauses or tax or balloon notes, & agrees to hold Broker(s) harmless from any liability with regard to those items, conditions, or statements. Purchaser hereby acknowledges receipt of a duplicate original hereof.

(A) Seller's Agent

(B) Buyer's Agent

(C) Dual Agent

Purchaser's Signature X Chris A. Bona SSN _____ Phone#s (601) 832-7097 Date 9.24.09

Purchaser's Signature [Signature] Phone# _____ Date _____

Seller's Agent's Signature _____ Phone#s _____ Date _____

Seller's Signature W. R. E. L. SS# _____ Phone#s 601 576 2131 Date _____

Seller's Signature _____ SS# _____ Phone#s _____ Date _____

Listing Agents's Signature G. C. Wash Phone#s 601 Date 7

594.622

CONTRACT FOR THE SALE AND PURCHASE OF REAL ESTATE

In consideration of the mutual promises contained herein, the undersigned Seller agrees to sell, to the undersigned Purchaser, who agrees to buy, the herein described property on the terms & conditions stated below & on the reverse hereof. Both Purchaser & Seller acknowledge at Richardson Properties, Inc., Broker, is the procuring cause of this sale.

1. PROPERTY DESCRIPTION: Address 1268 Lewis Dr, MS, Hinds County, and all improvements thereon. Legal Description 4.56 Acres Tax parcel # _____

In the records of the county courthouse within which the property is located the exact legal description to be determined. All fixtures including window (curtains, blinds, etc.) & floor covering, heating, & air-conditioning equipment, built-in appliances, attached mirrors, lighting fixtures, ceiling fans, flowers & shrubs, curtain rods and hangers, mailbox, satellite, T.V. antenna, barbecue grill, pool, Jacuzzi, hot tub & all equipment pertaining to the same & all other items permanently attached unless specifically excluded herein, shall remain.

PURCHASER(S) INITIALS XCB SELLER(S) INITIALS JE

2. PRICE: The purchase price of the property is \$175,000

Payable as follows:

A. Cash down payment at closeout (U.S. Cash or Cashiers Check) subject to adjustments & Prorations \$175,000

B. Purchaser shall apply (within 3 working days of contract acceptance) & qualify for a new loan \$175,000

C. Purchaser shall assume existing loan described below with an approximate balance of \$175,000

\$175,000

It is expressly agreed that not withstanding any provisions of this contract the purchaser shall not be obligated to complete the purchase of the property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless the appraised value of the property, excluding closing costs, is not less than contract price.

3. LOAN/CLOSING COSTS:

Disc. Points <u>B</u>	Tax Service <u>B</u>	Mktg./Title Ins. Lender <u>B</u>	Survey <u>B</u>	Flood Cert. <u>5</u>
Loan Orig. <u>B</u>	Underwriting <u>B</u>	Home Inspection <u>B</u>	Septic/Treatment Inspect <u>5</u>	
Pre-pd items <u>B</u>	VA Funding Fee <u>—</u>	Home Warranty <u>5</u>	Appraise/Record Fee <u>5</u>	
PMI/FHA/MIP <u>B</u>	Appraisal <u>B</u>	Other <u>—</u>		

Sellers' total contribution per #3 shall not exceed \$ 2,000

4. TERMITE CERTIFICATE: Sellers will, as a part of the price, furnish Purchaser, prior to or at closing, a certification from a licensed, reputable termite control company, that subject property shows no evidence of termite or other wood destroying insect infestation & if such infestation now exists, furnish a written report of approved treatment. In the event that structural damage is found by such inspection, then the seller shall have the option to correct any structural damage by insect infestation or to declare the contract void.

5. DEPOSIT: The Purchaser has deposited with Broker the sum of \$ 17,500 cash/check as earnest money. Subject to clearing of any check, the Broker/Trustee acknowledges receipt of the above mentioned earnest money & holds same in a non-interest bearing escrow account subject to the terms of this purchase agreement. The same is to be applied to the cash down payment on closing of the transaction. Should Purchaser require approval for a specified loan for any part of the purchased price, & after applying therefore in good faith, be unable to secure such loan, then the earnest money shall be returned in full to the Purchaser. However, should Purchaser fail or refuse within 3 working days of this contract to PURCHASER(S) INITIALS XCB apply for such loan, or refuse to diligently pursue loan approval, or fail or refuse within 7 days after the issuance of a loan commitment to execute all documents necessary for said loan, Purchaser shall be considered in default under the terms of this contract & Seller shall have such recourse as is delineated in paragraph 16 hereof.

6. CLOSING DATE: 10/30/09 POSSESSION DATE: 10/30/09

7. CONVEY TITLE TO: Chris D. Barnes & Bridgett R. Barnes

8. COMMISSION: The Seller of property sold under this contract agrees to pay commission on the total purchase price indicated in paragraph 2 hereof, or through any other agreement or renegotiated contract between the parties or their assigns. Payable as follows: Selling Broker(s) 3 % plus Listing Broker(s) 2 % for a total of 5 %.

9. INSURANCE:

(A) If this sale is by new first loan, Purchaser shall provide new policies at closing.

(B) If this sale is by loan assumption, Seller shall assign insurance policy & any unearned premium & adequate insurance reserve. If policy is not assignable, the premium will be refunded to Purchaser & Purchaser will provide new policy at closing.

10. SPECIAL PROVISIONS/CONTINGENCIES:

PROPERTY AS IS

Seller has survey done

11. PRE-CLOSING INSPECTION: The Seller represents that all heating, air conditioning, plumbing, electrical, gas, & mechanical systems as well as all built in appliances, pool Jacuzzi, hot tub & all other equipment pertaining to the same are in normal working order & in a good state of repair, or will be before closing and/or possession (including door knobs, deadbolts, window latches and all other basic working mechanisms), but this representation on the part of Seller does not survive the closing of this transaction & Purchaser shall have the responsibility to carefully inspect & satisfy themselves of such equipment condition prior to closing. The Purchaser has the option of hiring a Home Inspector. Closing and/or possession constitutes acceptance by Purchaser of equipment condition except as otherwise provided for in paragraph 12.

PURCHASER(S) INITIALS XCB SELLER(S) INITIALS JE

12. DEFECTS: The Seller represents that they are not aware of any visible or hidden defects such as damaged carpet, roof leaks, damaged walls or other flaws not visible at regular walk-thru. SELLER(S) INITIALS JE

13. CONDITIONS/DISCLOSURE/ACCEPTANCE OF PROPERTY: The Purchaser hereby represents that he has personally inspected & examined the abovementioned premises & all improvements thereon & accepts the property in its "as is" & present condition except for those items listed in paragraphs 10 & 11.

HOME SHALL BE LEFT FOR PURCHASERS IN CLEAN & SANITARY CONDITION.

PURCHASER(S) INITIALS XCB SELLER(S) INITIALS JE DATE 9.24.09

RICHARDSON PROPERTIES, INC.

103 1-55 WEST FRONTAGE TERRY, MS 39170 PHONE 601-878-2484 OF FAX 601-878-5424

14. **PRORATION:** Ground rents, property taxes, interest, maintenance fees, & other expenses of the property are to be prorated as of the closing date. Security deposits, advance rentals or considerations involving future lease credits shall be credited to the Purchaser. In the event the reserves now in escrow are transferred to the Purchaser through assumption of loan, the Seller hereby warrants that the amount in reserve will be adequate (no shortage/all payments current). If the reserve is not adequate, the Seller agrees to pay the shortage.

15. **TITLE & CONVEYANCE:** Seller is to furnish Purchaser with Warranty deed or Lease Assignment (as appropriate) & a Certificate of Title prepared by an attorney upon whose Certificate Title Insurance may be obtained from a title insurance company qualified to do & doing business in the State of Mississippi. Seller shall, prior to or at close-out, satisfy all outstanding mortgages, deeds of trust & special liens affecting the subject property which are not specifically assumed by Purchaser herein. Title shall be good & marketable, subject only to the following items recorded in the Chancery Clerk's office of said County; easements without encroachments, applicable zoning ordinances, protective covenants and prior mineral reservations, otherwise the Purchaser, at his option, may either (a) if defects cannot be cured by designated closing date, cancel this contract, in which case all earnest money deposited shall be returned, (b) accept title as is or (c) if the efforts are of such character that they cannot be remedied by legal action within a reasonable time, permit Seller such reasonable time to perform this curative work at the Seller's expense. In the event the curative work is performed by the Seller, the time specified herein for closing of this sale shall be extended for a reasonable period necessary for such action. The Seller represents that the property may be legally used as zoned & that no government agency has served any notice requiring repairs, alterations or corrections of any existing condition except as stated herein legally used a requiring repairs, alterations or corrections of any existing condition except as stated herein.

16. **BREACH OF CONTRACT:** Specific performance is the essence of this contract, except as otherwise specifically provided for in paragraphs 5, 12, & 16 & as further delineated below. (a) In event of breach of this contract by Purchaser, Seller at his option may either (1) accept the earnest money deposit as liquidated damages & this contract shall then be null and void, or (2) enter suit in any court of competent jurisdiction for damages, giving credit on said damages for the said earnest money deposit, or (3) enter suit in any court of competent jurisdiction for specific performance. If Seller accepts the earnest money as liquidated damages, or if Seller litigates for additional damages in any court of law, Broker shall be paid one-half (1/2) of the earnest money deposit, or damages awarded, but not to exceed the full commission herein provided for. If Seller succeeds in a suit for specific performance, Broker shall be paid a full commission by Seller. (b) In the event of breach of contract by Seller, Purchaser at his option may either (1) accept the return of the earnest money deposit and cancel the contract, or (2) enter suit for damages in any court of competent jurisdiction, or (3) enter suit in any court of competent jurisdiction for specific performance. (c) If it becomes necessary to ensure the performance of the conditions of this contract for either party to initiate litigation, then the party in default agrees to pay reasonable attorney's fees and court cost in connection therewith.

17. **SURVIVAL OF CONTRACT:** All express representation, warranties & covenants contained herein shall survive delivery of the deed except where herein specified to the contrary. All others contractual obligations shall terminated with closing.

18. **DAMAGE BY FIRE, ETC:** This contract is further conditioned upon delivery of the improvements in their present condition & in the event of material damage by fire or otherwise, before closing, the Purchaser may elect to complete the transaction in accordance with this contract provided the property is restored by Seller at Seller's expense prior to closing of the sale.

19. **ACCELERATION (Due on Sale) CLAUSE:** If the note and/or deed of trust or mortgage for any existing loan contains an acceleration (due on sale) clause, the lender may demand full payment of the entire loan balance as a result of this transfer. Both parties acknowledge that they are not relying on any representation of the other party or Broker with respect to the enforceability of such a provision.

20. **RESPONSIBILITY OF BROKER:** Both parties agree that RICHARDSON PROPERTIES, INC., BROKER, IS THE PROCURING CAUSE OF THIS SALE. This instrument contains all the terms of this sale, & no representation have been made by anyone other than are herein contained. No agent or representative of Broker shall have any power to make any representations as to the property or any statement, unless & except fully embodied herein in writing. This contract shall impose no obligations upon Broker, otherwise than in accordance with its terms, & no agent or representative of Broker has any authority otherwise than herein stated to do any act or other than herein set forth. Broker assumes no responsibility for the performance of this contract by either party hereto or for the condition of the subject property.

21. **LEAD-BASED PAINT:** Parties are aware that the age of the property might make it suspect that "Lead Based Paint" might have been used in accordance with "HUD" and "EPA" final rulings as set forth in 61 Federal Regulations 9064 (March 6, 1996) & in compliance with Section 1018 of the Residential Lead Based Paint Hazard Reduction Act of 1992 (Title X of the Housing & Community Development Act of 1992. PL 102-550) the Seller does give notice to the Purchaser at Purchaser has ten (10) days to conduct the Risk Assessment of Inspection as provided therein & has provided all available records or reports pertaining thereto, on dwellings built prior to 1978.

22. **EQUAL HOUSING OPPORTUNITY:** The parties are aware that Broker does business in accordance with the Federal Fair Housing Law (Section 809, Title VIII), & it is illegal to discriminate against any person because of race, color, religion, sex, handicap, familial status or national origin in the sale or rental of housing or residential lots, in advertising the sale or rental of housing, in the financing of housing, in the provision of real estate brokerage services, or in blockbusting.

23. **PURCHASER(S)/SELLER(S) ACKNOWLEDGEMENT:** Purchaser acknowledges that he has not received or relied upon any statements or representations which are not herein expressed, including any statements or representations regarding the effect of this transaction upon Purchaser's tax or legal liability, the size or condition of the property, the presence of radon, insulation, previous flooding, effect of or location within Mississippi State Tidelands or Federal Wetlands, presence of expansive soils, or past structural condition of the slab or foundation of this property or the presence of acceleration clauses or tax or balloon notes, & agrees to hold Broker(s) harmless from any liability with regard to those items, conditions, or statements. Purchaser hereby acknowledges receipt of a duplicate original hereof.

24. **DISCLOSURE OF AGENCY RELATIONSHIP:** The parties confirm, in connection with this transaction, that the Listing Firm & the Selling Firm have represented the party or parties indicated below, & that these relationships were disclosed to the parties in writing at or before the time specific real estate assistance was provided. Notwithstanding the provisions of Paragraph 8 of the Purchase Agreement relating to the payment of commissions, the parties agree that one of the following applies:

(A) Seller's Agent

(B) Buyer's Agent

(C) Dual Agent

IF NOT FULLY UNDERSTOOD, SEEK LEGAL ADVICE FROM YOUR ATTORNEY BEFORE SIGNING.
THIS BECOMES A BINDING CONTRACT UPON ACCEPTANCE IN WRITING OF ALL PARTIES.

Purchaser's Signature X Chris A. Banna SS#

Phone#s (601) 832-7097 Date 9.24.07

Purchaser's Signature B. Delaney SS#

Phone#s _____ Date _____

Seller's Agent's Signature _____

Phone#s _____ Date _____

Seller's Signature J. R. E. Jr. SS#

Phone#s 601 576 2131 Date _____

Seller's Signature _____ SS#

Phone#s _____ Date _____

Listing Agents's Signature G. C. Wash

Phone#s 601 Date _____

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