IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

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DEC - 4 1997
Dav. Co. Chancery Court

JAMES E. BROWN,

Plaintiff/Counter-Defendant,

v.

DENNIS LEON SPANN,

Defendant,

RANDALL R. GARRETT,

Defendant/Counter-Plaintiff.

Case No. 96-1691-II

FILED
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CLERK AND MASTER
DAVIDSON CO. CHANCERY CT.
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JUDGMENT

This matter came on to be heard for trial on November 19, 1997 before the Honorable Carol L. McCoy, Chancellor, upon the Complaint, Answers, Counter-Claim, Reply, trial briefs of two (2) parties, testimony of witnesses and exhibits proffered and admitted in open Court, argument of counsel and the record as a whole. From all of which, this Court found at the conclusion of trial certain facts, separately stated its conclusions of law thereon and directed entry of an appropriate judgment. This Court's findings of fact and conclusions of law are attached hereto and incorporated herein, the same as if set out fully and are summarized below as follows:

The Installment Contract of Sale executed by Dennis Leon Spann and Mr. James E. Brown on July 30, 1992 is void and unenforceable. The competent proof in the record shows that the Installment Contract of Sale was not entered by the parties to it in good faith. Its enforcement is contrary to public policy. No valid consideration was given for the conveyance it purports to effectuate.

Since the Installment Contract of Sale is a nullity, the Assignment executed by Mr. Brown on July 16, 1993 transferred nothing of substance to Randall R. Garrett. Therefore, the Assignment is likewise void and unenforceable.

Moreover, the Court concludes that none of the parties entered

in good faith the Assignment or purported oral loan agreement between Mr. Brown and Mr. Garrett. There is considerable doubt about the terms of this oral loan agreement. The testimony about its terms is in conflict on several material points.

However, none of these factual disputes need to be resolved by this Court since Mr. Garrett's Counter-Claim and Mr. Brown's reply show no dispute about the amount loaned and obligation to repay the principal amount loaned with interest. Given this conclusion, it is unnecessary and this Court expressly declines to enforce any alleged terms of the oral loan agreement between Mr. Brown and Mr. Garrett except those matters which appear undisputed in the pleadings. Accordingly, Mr. Brown will pay interest to Mr. Garrett at the rate of ten percent (10%) from July 16, 1993 until such time as the interest is paid in full and will receive no set-off for the $100.00 payments made by Mr. Spann to Mr. Garrett during the approximate period August, 1993 through June, 1997.

IT IS THEREFORE THE JUDGMENT OF THIS COURT that the Installment Contract of Sale executed on July 30, 1992 and the Assignment executed on July 16, 1993 should be and are hereby rescinded.

IT IS FURTHER THE JUDGMENT OF THIS COURT that James E. Brown is liable to Randall R. Garrett and is hereby awarded without any entitlement to set-off the sum of $25,000.00 plus interest at ten percent (10%) from July 16, 1993 to the date interest is paid in full.

IT IS FURTHER THE JUDGMENT OF THIS COURT that the parties shall split the cost of this cause for which execution may issue if necessary.

ENTERED this _____ day of _____, 1997.

CAROL L. McCOY, CHANCELLOR

I hereby certify that this is a true copy of original instrument filed in my office.
This 6th day of Aug 1998
CLAUDIA C. BONNYMAN Clerk & Master
By Linda Smith
Deputy Clerk

PREPARED FOR ENTRY:

BOOK 11056 PAGE 112

Robert L. DeLaney (No. 4319)
323 Union Street
Nashville, TN 37201
(615)244-3000

WILLIS & KNIGHT

By: Jeffrey G. Rappuhn (No. 10586)
215 Second Avenue, North
Nashville, TN 37201
(615)259-9600
Attorneys for Plaintiff/
Counter-defendant

w/ permission

CERTIFICATE OF SERVICE

I, the undersigned, certify that a true and exact copy of the foregoing Judgment has been served upon Bobby D. Davis, Esq., 101 Shepherd Hills Drive, Madison, TN 37115 and Mr. Dennis Leon Spann, 6971 Old Hickory Boulevard, Whites Creek, TN 37189 by U.S. mail this 31 day of December, 1997.

Robert L. DeLaney

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IDENTIF. & REFERENCE

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FELIX Z. WILSON II REGISTER
DAVIDSON COUNTY, TN.

PICK-UP

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