

Robert R. Russell
P.O. Box 837
Tampa Florida

4 797850

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

WILLIAM J. PRIEHS,
Plaintiff,
vs.
JAMES O. TURNAGE,
Individually and in his
capacity as a former officer
and Trustee of TAHITIAN MOTOR
LODGE, INC., a dissolved
Florida corporation,
Defendant.

CASE NO. 80-1194-Civ-T-K

FILED
APR 22 1985
RUDOLPH CLAY
RECORDER
STATE OF FLORIDA/S.S. NO.
RECORDS SECTION
TAMPA, FLORIDA

FINAL JUDGMENT

THIS CAUSE came on before the court sitting without a jury, during the weeks of March 22 and March 29, 1982, with David A. Maney, Esquire, appearing as counsel for plaintiff, and Elwood Hogan, Jr., Esquire, appearing as counsel for defendant.

The court heard the testimony, and examined the proofs offered by the respective parties.

The court has previously filed a Memorandum Opinion on the 15th day of February, 1983, and filed a Supplemental Opinion on July 20, 1983.

The evidence and the argument of counsel having been heard and fully considered, it is the opinion of the court that the law and the facts are with the plaintiff, and that the plaintiff, WILLIAM J. PRIEHS, will be assigned a share in the notes and mortgage now owned by the defendant, JAMES O. TURNAGE, generated from the sale of the motel

8/52/85

previously owned by TAHITIAN MOTOR LODGE, INC., a dissolved Florida corporation.

It is therefore

ORDERED AND ADJUDGED:

1. That plaintiff, WILLIAM J. PRIEHS, shall have and recover from JAMES O. TURNAGE, both individually and in his capacity as a former officer and trustee of TAHITIAN MOTOR LODGE, INC., a dissolved Florida corporation, the sum of One Hundred Seventy-Three Thousand, Two Hundred Fifty Dollars (\$173,250), with interest from August 1, 1983, representing 23.1% of the interest collected by the defendant during the past five years.

2. That the defendant, JAMES O. TURNAGE, both individually and in his capacity as a former officer and trustee of TAHITIAN MOTOR LODGE, INC., a dissolved Florida corporation, shall convey to plaintiff, WILLIAM J. PRIEHS, a 23.1% interest in the following described notes and mortgage:

(a) Note dated August 1, 1978, in the principal amount of \$65,000, executed by the Tarpon Management Company, Inc., in favor of JAMES O. TURNAGE;

(b) Note dated August 1, 1978, in the principal amount of \$250,000, executed by the Tarpon Management Company, Inc., in favor of JAMES O. TURNAGE;

(c) Note dated August 1, 1978, in the principal amount of \$1,855,000, executed by Tarpon Management Company, Inc., in favor of JAMES O. TURNAGE, recorded in the Official

Records of Pasco County, Florida, in Official Record Book 961, page 1635, and secured by that certain mortgage deed dated the 1st day of August, 1978, recorded in Official Record Book 961, page 1632, upon the following described property:

A portion of Tracts 49 and 50 of the Tampa-Tarpon Springs Land Company's subdivision of Section 30, Township 26 South, Range 16 East, as shown on Plat recorded in Plat Book 1, pages 68, 69 and 70 of the Public Records of Pasco County, Florida, being further described as follows: Commence at the Northwest corner of the Southwest 1/4 of said Section 30; thence run due East along the North line of the Southwest 1/4 of said Section 30, 2560.97 feet to the Westerly right of way line of U.S. Highway 19 as it is now constructed; thence along said right of way line South 2°17'44" West, 600.02 feet for a Point of Beginning; thence continue along said right of way line, South 2°17'44" West, 397.83 feet to the South line of said Tract 49; thence along the South line of Tracts 49 and 50, North 89°40'09" West, 330.19 feet; thence North 2°17'44" East, 409.15 feet; thence South 87°42'16" East, 330 feet to the Point of Beginning.

The conveyance by the defendant to the plaintiff shall be subject to the Mortgage Modification Agreement dated 28 February, 1979, and recorded in Official Record Book 999, page 235, and 999, page 236, of the Official Records of Pasco County, Florida. Further, the conveyance shall be subject to the Mortgage dated November 29, 1982, held by First Federal Savings and Loan Association of Tarpon Springs, and recorded in the Official Record Book 1222, pages 01406-01410, of the Official Records of Pasco County, Florida.

The defendant, JAMES O. TURNAGE, individually and in his capacity as a former officer and trustee of TAHITIAN

MOTOR LODGE, INC., shall also convey a 23.1% interest in the mortgage which is referred to by the terms of the \$1,855,000 Note, which is security for the payment of the said Note.

3. In the event that the defendant JAMES O. TURNAGE fails to convey the 23.1% interest in the notes and mortgage as ordered herein, this judgment shall operate as a conveyance when it has been recorded in the Official Records of Pasco County, Florida and when a copy of it has been furnished to the holder of the notes and mortgage.

4. No attorney's fees will be awarded plaintiff. Huddleston v. Herman & MacLean, 640 F.2d 534, 559-60 (5th Cir. 1981), rev'd in part on other grounds, ___ U.S. ___, 103 S.Ct. 683, ___ L.Ed.2d ___ (1983).

5. Defendant's motion to correct the court's calculations is denied for failure of proof and specificity of liabilities allegedly borne by him.

FOR ALL OF WHICH LET EXECUTION ISSUE.

DONE AND ORDERED, this 23 day of August, 1983.



THOMAS A. CLARK, JUDGE
Circuit Court of Appeals,
Eleventh Circuit, sitting
by designation

Copies to:

David A. Maney, Esquire
Elwood Hogan, Jr., Esquire

I certify the foregoing to be a true
and correct copy of the original.
DONALD M. CINNAMOND, Clerk
United States District Court
Middle District of Florida
By: James O. Gordon, Jr.
Deputy Clerk