

EDWARD B. OVERTON
Complainant

No. 1102

E Q U I T Y

Vs.

CIRCUIT COURT

J. ALBERT SCHOCK, et al,
Defendants

OF

BALDWIN COUNTY, ALABAMA

This cause coming on to be heard upon the Bill of Complaint as amended and upon decrees pro confesso against all parties defendant, and it appearing to the Court from the averments of the Bill of Complaint as confessed that Complainant is the owner of an undivided two/fifth's interest in the property described in the Bill; that J. Albert Schock is the owner of a two/fifth's interest and Phillip N. Schock of a one/fifth interest and that the Colonial Company, Inc., is a corporation operating said company under the general direction of Complainant, said property being:

The Hotel property in Fairhope known as the Colonial Inn and described as Lots One and Two in Block One, Division Two, and Lots One and Two, except the East Twenty-five feet of Lot Two, in Block Two North, Division Two, of the Town of Fairhope, as per plat of said Town, recorded in the Probate Records of Baldwin County, including the furniture, supplies, fixtures and equipment of all kind now in the buildings upon above described property and the outhouses thereof and all rights, franchises and privileges connected with the operation of and hotel.

It further appearing that said property cannot be equitably/ divided so as to set off to Complainant his interest therein by metes and bounds and that a sale of the property for division is necessary, and that Complainant is therefore entitled to the relief asked:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Bill of Complaint as last amended has equity, and that in compliance with the equities of the Bill and the interest of the parties thereto that the entire property be sold free of all liens, claims or encumbrances other than that of the Bank of Fairhope, holder of the first mortgage thereof, and that the Register of this Court shall offer for sale and sell said property in front of the Courthouse door of this County at public sale to the highest bidder for cash on the 24th day of July, 1944 after giving three week's notice of the time, place and

terms of sale by publication once a week for three successive weeks in the "Fairhope Courier", a newspaper in the City of Fairhope in said County; and that the Register report any sale he may make under this decree to this Court for Confirmation, and collect and hold the purchase money he may receive for the further orders of this Court.

IT IS FURTHER ORDERED that any party hereto, having an interest in said property, may, in case of becoming the purchaser at said sale, obtain a credit upon the purchase price to the proportion of his interest in the property upon paying or securing to the Register the like proportion of the costs of this suit.

This cause is retained for further orders in pursuance of this decree.

Ordered, adjudged and decreed this the twenty-ninth day of June, Nineteen Hundred and Forty-Four.

J. M. Hare

Judge

NO.

EDWARD B. OVERTON,
Complainant

EQUITY
CIRCUIT COURT

Vs.

J. ALBERT SCHOCK, et al,
Defendants

OF

BALDWIN COUNTY, ALABAMA

RECORDED

This cause coming on to be heard upon Complainant's motion and the prayer of the bill for appointment of a receiver pendente lite, and it appearing to the Court from the sworn allegations of the bill that the property here sued for is a going hotel, the value of which will materially deteriorate if not continued in actual operation and that the interests of all parties will best be served by the appointment of a receiver to manage and operate said property during the pendency of this cause. The Court is of the opinion that a receiver should be appointed:

IT IS THEREFORE ORDERED AND ADJUDGED that Kirby Wharton of Fairhope be, and he hereby is named as such receiver and upon giving bond as such in the sum of \$2,500.00 with sureties to be approved by the Register of this Court shall take over the operation and management of the Colonial Inn, the property here sought to be partitioned, and operate same along the same lines as heretofore operated, until otherwise ordered by this Court, making a report semi-monthly to the Register of this Court of his acts in the premises and with full power and authority to do whatever is necessary for the successful operation of the hotel. Such operation and receivership to continue pending further orders of this Court.

Done at Term Time in Bay Minette this the 24th day of April, 1944.

Judge

DOES OF SOME TYPE IN THE SQUARE ARE THE STAY OF THE
GONE OF THE CITY.

upon observation and investigation to conduct further in-
 vestigation to determine the necessity of the work.
 The work in the business and other parts of the country to be
 carried out under the authority of the Director of this office of
 the Department of Education, and the Director of the State of
 California to be determined by the Director of the State of
 California and the Director of the State of California.
 The work in the business and other parts of the country to be
 carried out under the authority of the Director of this office of
 the Department of Education, and the Director of the State of
 California to be determined by the Director of the State of
 California and the Director of the State of California.

IT IS REQUESTED THAT THE FOLLOWING BE REPRODUCED IN THE
 COPY OF THE REPORTS OF THE INVESTIGATION:

Obținute sunt biobenzolul, glicerol și benzofenol și sunt omise. IAR

and to obtain a copy of the report to which you

THE JOINT COMMISSION ON THE SELECTING AND TRAINING OF JUDICIAL OFFICIALS

THE ARREST OF WHICH MAY BE POSSIBLE THEREAFTER IS NOT CONTINUED

OF THE CITY OF NEW YORK

THIS LOG IS SUBJECT TO THE COMPTON LEO AND ANDREW ATTORNEYS

THE NEW SYSTEM OF THE CITY FOR THE PROTECTION OF THE PUBLIC HEALTH

Хүгс ороон хотын дунд нь байрлалын хамгийн сайн, ашигтай

DATE: 10/10/1964

198

EDWARD P. O'BRYEN

RECEIVED

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SECRET

Index

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RECORDED

TO THE HONORABLE FRANCIS W. HARE, JUDGE OF THE CIRCUIT COURT
OF BALDWIN COUNTY, ALABAMA; IN EQUITY

Comes EDWARD B. OVERTON, and by this his Bill of Complaint, presented against J ALBERT SCHOCK, PHILLIP N. SCHOCK AND THE COLONIAL COMPANY, INC., respectfully shows:

FIRST: That Complainant is over the age of twenty-one years and a resident of Fairhope, Baldwin County, Alabama.

That Defendants J. A. Schock and P. N. Schock are both over the age of twenty-one years and residents of the City of Mobile and the Colonial Company, Inc., is a corporation organized under the laws of the State of Alabama and domiciled in the City of

Alabama. That the stockholders thereof are Complainant, and J. A. and P. N. Schock.

SECOND: That Complainant and the two Defendants Schock are the joint owners of the hotel property in Fairhope known as the Colonial Inn and described as Lots One and Two in Block One, Division Two, and Lots One and Two, except the East Twenty-five feet of Lot Two, in Block Two North, Division Two, of the Town of Fairhope, as per plat of said Town, recorded in Book / *Mae* Page 321, of the Probate Records of Baldwin County. That the hotel property includes also the furniture, supplies, fixtures and equipment of all kind now in the buildings upon above described property and the houthouses thereof and all rights, franchises and privileges connected with the operation of and hotel.

THIRD: That the Colonial Inn, for many years a high class hostelry of the Town of Fairhope with an established and continuing patronage of desirable guests was purchased by the individual parties hereto in the month of August 1943, under an understanding and agreement of the parties; that it was to be operated and

managed by Complainant who is familiar with its methods and the traditions of service which for many years made said hotel a success. For convenience in operation the Colonial Company, Inc., was incorporated on or about August 1943 for the purpose of operating said hotel under the general direction of Complainant.

FOURTH: That for the purpose of financing the purchase of the hotel from its original owner, a mortgage was executed upon the hotel property by Complainant then the holder of the legal title and his wife on August 4th, 1943 to the Bank of Fairhope for the sum of Fifteen Thousand Dollars which mortgage is still in force and for which Complainant is personally liable.

FIFTH: That later, on August 24th, a two-fifths interest in the hotel property was conveyed by Complainant and wife to J. A. Schock and a one-fifth interest to Philip N. Schock, whose ideas of hotel management differ widely from those of Complainant.

SIXTH: Realizing that continuance of the present operation will be to his detriment as well as to that of the hotel business, Complainant sought to effect an amicable dissolution of the arrangement but said adult Defendants refuse to buy out Complainant's interest or sell to him at a figure commensurate with the value of the business.

SEVENTH: Complainant further avers that the nature of the property here jointly owned is such that it cannot be divided in specie and only by a sale of the property and division of the proceeds can an equitable division be made among the parties hereto.

EIGHTH: THE PREMISES CONSIDERED, Complainant prays that

thereof in proportion to their respective holdings.

ELEVENTH: Complainant further prays that an order be made providing that in the time of the public sale all parties expecting to bid be required to file with the Register of this Court a certified check in the sum of One Thousand Dollars, payable to said Register. Said checks to be held by the Register and upon the completion of the sale and payment of the balance of the purchase price to be returned to such bidders with the exception of the check of the highest bidder which shall be held as a guarantee of his compliance with the terms of his bid. Upon the failure of said highest bidder to make payment of the balance due, said check to be applied as liquidated damages for failure to protect the said bid.

TWELTH: The premises considered, Complainant prays that the Defendants J. A. Schock, Phillip N. Schock and the Colonial Company, Inc., be made parties defendant to this cause and by proper process required to answer same within the time prescribed by law.

THIRTEENTH: Complainant further prays for such other, further or different relief as in equity may be proper to effectuate the purposes of this Bill.

Elliott B. Rinkley
Beede & Hall

Solicitors for Complainant

EDWARD B. OVERTON,
Complainant

EQUITY.

Vs.

CIRCUIT COURT OF

J. ALBERT SCHOCK, et al,
Defendants

BALDWIN COUNTY, ALA.

Comes the Complainant and, by leave of the Court first granted, amends the Bill of Complaint as follows:

By adding between paragraphs FIFTH and SIXTH the following:

"FIFTH A: That, contrary to the understanding under which the property was jointly purchased, Defendant J. Albert Schock, with the cooperation of Defendant Phillip N. Schock, at once endeavored to change the management of the hotel from that of a dignified and conservative resort with established clientele whose occupancy was practically continuous to an hostelry catering to a transient, less desirable and less profitable trade, to interfere and up-set the traditions under which the hotel had long been managed, antagonizing patrons, in many cases to the point where only solicitation of Complainant induced them to remain; that said Defendants' manner and behavior, while in the hotel, was so objectionable to the guests that a number of these assured Complainant that they would not continue to stay if said Schock continued to interfere with the management; that the help, who had been with the hotel for many years, continued to stay only at the earnest solicitation of Complainant and that if Defendants continue to share in the management of the hotel, Complainant is reliably informed from guests and from those interested in the welfare of the hotel, that same will lose the larger part of its patronage and the value of the property be materially impaired.

FIFTH B: That the manner of Phillip N. Schock has been abusive and insulting to Complainant and, that if either Defendant is permitted to carry out his ideas as to the management and operation of the hotel or to remain around same, it is in danger of losing its remunerative patronage and sustaining serious financial loss."

Elliot B. Rinsley
Reuben Lee
Solicitors of Complainant

NOTICE OF SALE UNDER DECREE IN CIRCUIT COURT.

EDWARD B. OVERTON,
Complainant
VS
J. ALBERT SCHOCK, ET AL
Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY.
No. 1102.

By virtue of a decree rendered at the June 29th, 1944,
term of the Circuit Court in Equity in the above entitled cause,
I shall proceed to sell at public outcry, in front of the court
house door of Baldwin County, Alabama, at 12:00 o'clock noon, to
the highest bidder for cash on the 24th day of July, 1944, the
following described property situated in Fairhope, Baldwin
County, Alabama, to-wit:

The Hotel property in Fairhope known as the Colonial Inn
and described as Lots One and Two in Block One, Division Two,
and Lots One and Two, except the East twenty five feet of Lot
Two, in Block Two North, Division Two, of the Town of Fairhope,
as per plat of said Town, recorded in the Probate Records of
Baldwin County, Alabama, including the furniture, supplies,
fixtures, and equipment of all kind now in the buildings
upon above described property and the outhouses thereof, and
all rights, franchises and privileges connected with the
operation of said Hotel.


Register.

Publish three times.

RECORDED

Edward B. Overton
Complainant

vs.

J. Albert Schoed, et al
Defendants

RECORDED

Notice of Sale
Under Decree in
District Court

11/62

The State of Alabama,
Baldwin County.

{ No. 1102 ... CIRCUIT COURT IN EQUITY.

EDWARD B. OVERTON,

Complainant

vs.

J. ALBERT SCHOCK et al

Defendants

Motion is hereby made for a Decree Pro Confesso against J. ALBERT SCHOCK, PHILLIP

N. SCHOCK and the COLONIAL COMPANY, Inc.

Defendants

in the above stated cause, on the ground that more than thirty days have elapsed since service of summons upon said Defendant S; and that said summons was duly served according to law, and that said Defendant S have failed to demur, plead to or answer the Bill of Complaint in this cause to this date.

This Twentieth day of June 19 44.

Elliott B. Rinkley
Beverly H. Hall

Solicitors

RECORDED

No. 1102.

Page

The State of Alabama,

Baldwin County.

CIRCUIT COURT, IN EQUITY

EDWARD B. OVERTON,
Complainant.

vs.

J. ALBERT SCHOCK et al.
Defendants.

MOTION FOR DECREE PRO
CONFESSO ON PERSONAL SERVICE

Filed June 30 19 44.

R. S. Luck

Register.

Recorded in Record,

Vol. Page

R. S. Luck

Register.

Meore Printing Company, Bay Minette, Ala.

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA, } No. 1102
BALDWIN COUNTY }

CIRCUIT COURT BALDWIN COUNTY

April. TERM, 1944

TO ANY SHERIFF OF THE STATE OF ALABAMA:

^{VS}
You are hereby commanded to summon J Albert Schock. and

^{VS}
Phillip N Schock. and The Colonial Co Inc.

to appear and plead, answer or demur, within thirty days from the service hereof, to the Complaint filed in
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against

J Albert Schock Phillip N Schock. and The Colonial Co Inc. Defendant

by Edward B Overton.

Plaintiff

Witness my hand this 26th day of April. 194 4

R. Schock Register.

No. _____ Page _____

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

Plaintiffs

vs.

Defendants

SUMMONS AND COMPLAINT

Filed _____ 194 _____

Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE

194 _____

Sheriff

I have executed this summons

this _____ 194 _____

by leaving a copy with

Sheriff

Deputy Sheriff

EDWARD B. OVERTON.

Complainant,

Vs.

J Albert Schock. et als.

Respondent.

In the Circuit Court.

In Equity No. _____.

DECREE PRO CONFESSO ON PERSONAL SERVICE.

In this cause, it appears to the Register, that service was had on the Respondent _____

J Albert Schock. and Phillip N Schock

by the Sheriff of Mobile County, on the 5th day of May,
and Amended Bill on the 17th Day of May 1944
1944.

And it further appears to the Register, that the said _____

J Albert Schock and Phillip N, Schock.

_____, the Respondent S, having to the date hereof,
failed to plead, demur to or answer the Bill of Complaint filed in this cause, it is now, therefore,
on motion of Elliott G Rickarby and Beebe & Hall. Solicitors
for Complainant, ordered, and decreed by the Register that the Bill of Complaint in this cause be,
and it hereby is, in all things taken as confessed against the said J Albert Schock. and
Phillip N Schock.

This 22nd day of June, 1944.
Register.

RECORDED

No. 1102

**CIRCUIT COURT OF
BALDWIN COUNTY,
ALABAMA.
IN EQUITY**

Edward B. Overton, et al.

Complainant,

Vs.

J Albert Schock, et al.

Respondent.

**DECREE PRO CONFESSO ON
PERSONAL SERVICE.**

Issued this 22nd day of June,
1944.

RAH
Register.

LAW OFFICES
ELLIOTT G. RICKARBY
FAIRHOPE, ALABAMA

July 24, 1944

Mr. Robert S. Duck
Bay Minette, Alabama

Dear Sir:

OVERTON VS. SCHOCK, 1102 EQUITY: At the last minute a settlement was reached in this case wherein Defendants sold out to Complainant and the papers have passed and the money paid, so the case may be dismissed. Mr. Blackburn will hand you check for the costs for which please send me a voucher.

While I am glad to get this very unpleasant case settled and to avoid a complicated and troublesome litigation, I am sorry that you do not get the opportunity to get better recompensed. This settlement, however, is very much better than litigation.

With personal regards and thanks for your cooperation and assistance.

Sincerely,

Elliott G. Rickarby

2031

EGR:mt

cc: Honorable J. B. Blackburn