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 FARMERS' & MERCHANTS' BANK OF FOLEY, :  
 a corporation, Complainant, :  
 -vs- :  
 W. B. BURMEISTER, Respondent. :  
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No. 1110 1/2  
 IN THE CIRCUIT COURT OF  
 BALDWIN COUNTY, ALABAMA.  
 IN EQUITY.

Comes the respondent, through his solicitors of record, and shows unto the Court that on the 21st day of December, 1933, the Supreme Court of Alabama rendered an opinion and decree dissolving the injunction issued against the respondent by this Honorable Court and discharging the receiver appointed by it in connection with said injunction, and remanding the cause to this Court, which said opinion and decree is on file in this cause and is hereby referred to and made a part hereof as fully as if set forth in full herein.

WHEREFORE, the premises considered, respondent moves this Court to enter an order requiring the receiver, G. C. Rich, Esquire, to file in this Court his account for a final settlement of his said receivership.

*Alan V. Allen,*  
*Harry L. Smith & Coffey*  
 Solicitors for Respondent.

NO 1110 1/2

Equity

RECORDED

Farmer's & Merchants  
Bank, Foley - corp

vs

W. B. Burmeister

Filed, Jan. 11<sup>th</sup> 1934  
M. A. Straw  
Register

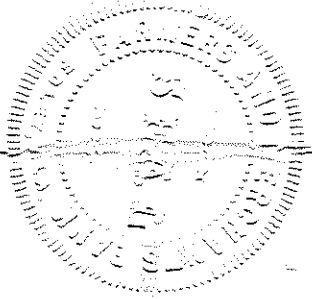
*[Faint, mostly illegible text from the reverse side of the document, appearing as bleed-through or ghosting.]*

*[Handwritten signatures and initials, including a large signature that appears to be 'W. B. Burmeister' and other names.]*



otherwise shall remain in full force and effect.

IN WITNESS WHEREOF, we have hereunto set our hands and seals  
the day and date first above written.



FARMERS & MERCHANTS BANK OF FOLEY,  
A Corporation

BY

*E. H. Sanders*  
Its Cashier.

*David H. Gaar* (SEAL)

*John Lewis* (SEAL)

Taken and approved this 1st day of ~~April~~, 1955.

*J. W. Pickens*

Register.

BALDWIN COUNTY, ALABAMA  
IN CHANCERY

**RECORDED**

FARMERS & MERCHANTS BANK  
OF FOLEY,

COMPLAINANT,

VS

W. B. BURMEISTER,

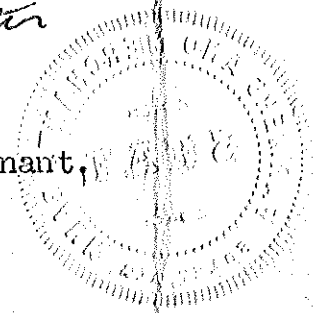
RESPONDENT.

**RECORDED**

INUNCTION BOND

*Filed May 1, 1933*  
*W. Richardson*  
*Register*

LLOYD A. MAGNEY,  
Attorney for Complainant,



ALSO SEE BOOK 1000 PAGE 1000  
IN BUREAU OF RECORDS  
ALSO SEE BOOK 1000 PAGE 1000

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 FARMERS & MERCHANTS BANK OF FOLEY, :  
 a corporation, :  
 Complainant, :  
 -vs- :  
 W. B. BURMEISTER, :  
 Respondent. :  
 -----

NO. \_\_\_\_\_  
 IN THE CIRCUIT COURT OF  
 BALDWIN COUNTY, ALABAMA.  
 IN EQUITY

The receiver in this cause, A. A. Rich, Esq., having heretofore filed in this Court his report and account for a final settlement of his receivership, now comes the respondent and objects to the allowance of the item of Fifty & 00/100 Dollars (\$50.00) requested by the receiver to pay the fee of his attorneys for representing him in the suit referred to and mentioned in his said report, on the grounds that said item is not a proper charge against the assets of this receivership.

Respondent objects also to the allowance of the item of Three Hundred & 00/100 Dollars (\$300.00) claimed as compensation to the receiver, on the following separate and several grounds, viz.:

1. Because the amount claimed by the receiver as compensation is unreasonable and excessive for the services performed by him.
2. Because the amount of said item is in excess of the compensation allowed by law to receivers.

*Harry L. Smith & Coffey*  
*Russ N. Allen*  
 Attorneys for Respondent.

1110 3/4  
 Equity reserved  
 Farmers & Merchants Bank  
 VS  
 W. B. Burmeister  
 Filed for records 10th 94  
 Wm. D. Stone  
 every 4

JOHN N. ALLEN  
ATTORNEY AT LAW  
VAN ANTWERP BUILDING  
MOBILE, ALABAMA

October 22nd, 1934.

Mrs. Mary Alice Stone, Clerk,  
Circuit Court,  
Bay Minette, Ala.

Dear Madam:

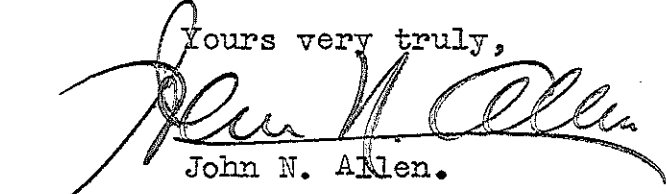
I am just in receipt of your letter advising that Mr. Rich has paid to you the sum of \$494.04, balance left in his hands as receiver in the case of Farmers & Merchants Bank of Foley vs. W. B. Burmeister, and that this sum will be turned over to Mr. Burmeister by you.

Inasmuch as Messrs. Harry T. Smith & Caffey and I are attorneys for Mr. Burmeister, and, as such, have a lien for our fees on the above stated sum paid by Mr. Rich under terms of Judge Hare's decree, we are entitled to have the money paid over to us as attorneys for Mr. Burmeister. As you know, it is always customary for Clerks of Courts to pay money due litigants to their attorneys of record, who, as such, are authorized to give receipt therefor and enter proper cancellation of judgment on the court records. Therefore, in order to save time, I respectfully request that you favor us in this matter by forwarding your check for the sum of \$494.04 payable to "John N. Allen and Harry T. Smith & Caffey" at your very earliest convenience.

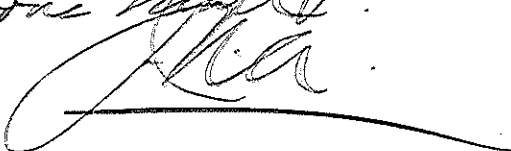
Noting what you had to say with reference to the Court Costs due Mr. Richerson, we request that you kindly hold these costs until we have had an opportunity to take up with Judge Hare the matter of having same applied on the deposit made for costs by our client.

With kindest regards and trusting that I shall hear from you by return mail, I am,

Yours very truly,

  
John N. Allen.

JNA:LG

*If convenient, please forward check  
by this afternoon's mail.*  


FARMERS & MERCHANTS BANK  
OF FOLEY, a corporation,  
COMPLAINANT,

IN THE CIRCUIT COURT OF BALDWIN  
COUNTY, ALA.

-VS-

IN EQUITY.

W. B. BURMEISTER,  
RESPONDENT.

Comes the respondent and for answer to the bill of complaint as amended, ~~reiterates~~ reiterates the allegations contained in its original answer, which are true.

Further answering the amended bill of complaint, this respondent reiterates the allegations of his answer in regard to the contract of rental between him and the complainant, and specifically denies the allegations of the amended seventh paragraph to the effect that complainant refused to enter into any rental agreement with respondent, and that no rental agreement was ever made between the parties.

Answering paragraph ten A, respondent says that he is ~~in~~ informed and believes and, upon such information and belief states, that the allegations of the first subdivision or paragraph of paragraph 10A are untrue.

The facts in regard to the matter alleged in the second subdivision of paragraph 10A are as alleged in the original answer to which reference is here made.

Answering the last paragraph or subdivision of paragraph 10A, the respondent does not know whether \$150.00 of the rent due by Krahe for the year 1932 was assumed by the complainant bank, but he has been informed that said bank assumed responsibility for the payment of said rent after suit was instituted by the Cooney Estate against Krahe for the collection thereof.

*John W. Coffey*  
*Harry E. South*  
Attorneys for Respondent.

State of Alabama,  
Mehroe County.

Before me, \_\_\_\_\_, a Notary Public in and for said State and County, personally appeared W. B. Burmeister, who is known to me, ~~acknowledged before me~~ ~~and who~~ and who, being by me first duly sworn, deposes and says that the allegations of the foregoing amended answer are true, as alleged.

*W. B. Burmeister*

Subscribed and sworn to before me this \_\_\_\_\_ day of May, 1933.

Notary Public





# Circuit Court, Baldwin County, Ala., IN EQUITY.

PLAINTIFF  
DEFENDANT

# 1110 1/2

*Farmers + Merchants Bank*  
VS.  
*W. B. Bumister*

BILL OF COST

	Dollars	Cts.		\$	Cts.
<b>Fees of Register</b>			<b>AMOUNT BROUGHT FORWARD</b>		
Filing each bill and other papers <i>17-S-15-R</i>	3	20	For receiving, keeping and paying out or distributing money, etc. 1st \$1,000 1 per ct.; all over \$1,000 and not over \$5,000, 3-4 of 1 per ct.; all over \$5,000 and not exceeding \$10,000, 1-2 of 1 per ct.; all over \$10,000, 1-4 of 1 per ct.	22	50
Issuing each Subpoena <i>R</i>		50	Receiving, keeping and paying out money paid into court, etc., 1-2 of 1 per ct. of amount received.		
Issuing each copy thereof <i>R</i>		40	Each Notice Sent by Mail to Creditors		
Entering each return thereof <i>R</i>		15	Filing, Receipting for and Docketing each Claim, etc		
For each Order of Publication		1 00	For all entries on Subpoena Docket, etc.		
Issuing Writ of Injunction <i>R</i>	1	50	For all entries on Commission Docket, etc.	3	50
For each Copy thereof		50	Making Final Record, per hundred words	24	25
Entering each return thereof		15	Certified Copy of Decree		1 00
Issuing Writ of Attachment		1 00	Report of Divorce to State Health Office Acts 1915		50
Entering each return thereof		15	<b>Total Fees of Register</b>	51	75
Docketing each case <i>R</i>	1	00	<b>FEEES OF SHERIFF</b>		
Entering each Appearance <i>R</i>		25	Serving and Returning <i>Subpoena on Doft</i>		6 00
Issuing each Decree Pro Confesso on personal service		1 00	Serving and Returning Subpoena for Witness		65
Each Order Appoiating Guardian		1 00	Levying Attachment		3 00
Any other order by Register <i>R</i>		50	Entering and Returing same		25
Issuing Commission to Take Testimony		50	Entering and Returning Execution		25
Receiving and Filing		10	Selling Property Attached		25
Endorsing each package		10	Impaneling Jury		75
Entering Order Submitting Cause <i>S</i>		50	Executing Writ of Possession		2 50
Entering any other Order of Court <i>R-2-2</i>		25	Collecting Execution for Costs		1 50
Noting all Testimony <i>S</i>		50	Serving and Returning Sci. Fa., each		65
Abstract of Cause, etc.		1 00	Serving and Returning Notice		65
Entering each Decree <i>R-2-51</i>		75	Serving and Returning Writ of Injunction		1 50
For Every Hundred Words Over Five Hundred <i>S</i>		15	Serving and Returning Writ of Exeat		1 50
Taking Account on Reference		3 00	Taking and Approving Bonds, each		1 00
Taking Testimony, etc.		15	Collecting Money on Execution		
Each Report, Five Hundred Words or less		2 50	Making Deed		2 50
For every Hundred Words Over Five Hundred		15	Serving and Returning Application		1 00
Amount Claimed, Less than Five Hundred Dollars, etc.		2 00	Serving Attachment, Contempt of Court		1 50
Issuing each Subpoena		25	<b>TOTAL FEES OF SHERIFF</b>	7	50
Witness Certificate, each		25	<b>Recapitulation</b>		
Issuing Execution, each		75	Register's Fees <i>S-29-2 R-21-95</i>	51	25
Entering each Return		15	Sheriff's Fees		7 50
Taking and Approving Bond, each <i>R</i>		1 00	Commissioner's Fees		
Making Copy of Bill, etc.		15	Solicitor's Fees		
Each notice not otherwise provided for <i>R-3</i>		50	Witness Fees		
Each Certificate or Affidavit, with Seal		50	Guardian Ad Litem		
Each Certificate or Affidavit, no Seal		25	Printer's Fees		
Hearing and passing on application for Receiver or Trustee		3 00	Trial Tax		3 00
Each Settlement with Receiver or Trustee <i>S</i>		3 00	Recording Decree in Probate Court		
Examining each Voucher of Receiver or Trustee		10	<b>Total</b>	61	75
Examining each Answer on Exception		3 00	<i>Cost of Transcript</i>		
Recording Resignation or Suggestion of Death of Trustee		75			
Entering each Certificate to Supreme Court		50			
Taking Questions and Answers, etc.		25			
For all other service relating to such proceedings		1 00			
For service in proceeding to relieve minors, etc. same fee as in similar cases.					
Commission on sales, etc.: 1st \$100, 2 percent; all over \$100, and not exceeding \$1000, 1 1/2 per cent; all over \$1,000 and not exceeding \$20,000, 1 per cent; all over \$20,000, 1-4 of 1 per cent.					
<i>L E L</i> Sub Total Carried Forward	22	50			

Received payment this \_\_\_\_\_ day of \_\_\_\_\_ 193\_\_\_\_\_

Register.

NOTE: Unless the above costs in this cause are paid within ten days of the present date, execution will be issued and placed in the hands of Sheriff for collection, creating more costs.



STATE OF ALABAMA :  
                          :  
COUNTY OF MOBILE :

Personally appeared before me, Lillie B. Grandahl, a Notary Public in and for said State and County, Wm. G. Caffey, who, upon oath, deposes and says that he is one of the solicitors for the respondent in the above entitled cause, and that the facts stated in the above and foregoing petition are true.

WM. G. CAFFEY

Subscribed and sworn to before me  
this the 22nd day of August, 1939.

Lillie B. Grandahl

Notary Public, Mobile County, Alabama.

(SEAL)

Filed August 24th, 1939.

R. S. DUCK, CLERK.

FARMERS & MERCHANTS BANK OF	:	
FOLEY, a corporation,	:	
	:	IN THE CIRCUIT COURT OF
Complainant.	:	BALDWIN COUNTY, ALABAMA.
VS.	:	
	:	IN EQUITY. NO. 1110 $\frac{1}{2}$ .
W. B. BURMEISTER,	:	
Respondent.	:	

Now comes the respondent in the above entitled cause and shows unto the Court that in and by the decree of this court in said cause dated August 22, 1934, it was provided:

"It is further ordered, adjudged and decreed that the respondent do have and recover of Thomas W. Richerson, a former Register of this Court, and that the said Thomas W. Richerson shall pay over to said respondent, the sum of One Hundred and 00/100 Dollars (\$100.00), the amount of cash deposited with the said Thomas W. Richerson, as Register of this Court, as security for costs of the appeal of this cause to the Supreme Court of Alabama, for which let execution issue."

And the respondent shows unto the Court that he has not been able to collect the said \$100.00 from the said T. W. Richerson; that he is advised that there is now in the hands of the Hon. R. S. Duck, the Clerk of this Court, sufficient monies collected by the said Hon. R. S. Duck on account of fees due to T. W. Richerson to pay the said \$100.00 provided to be paid to the respondent in the decree of August 22, 1934, as above set forth.

WHEREFORE, the respondent moves the Court for an order directing the Clerk of this Court to pay to him the said \$100.00, as provided in the said decree, out of the monies which have been collected by the said Clerk of this Court as fees due to the said T. W. Richerson.

JOHN N. ALLEN

HARRY T. SMITH & CAFFEY

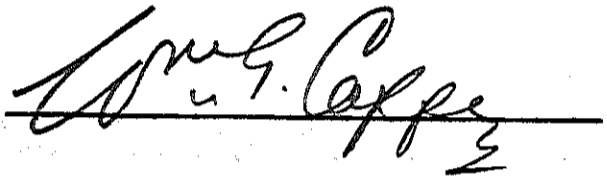
SOLICITORS FOR RESPONDENT.



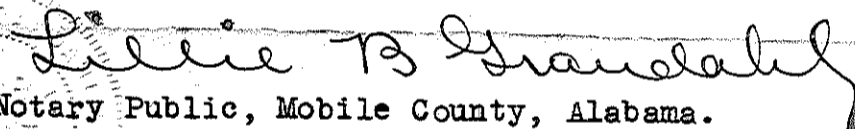


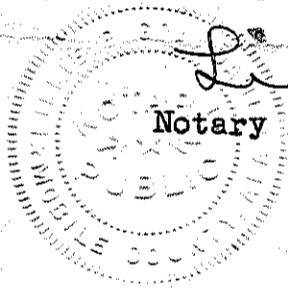
STATE OF ALABAMA :  
:  
COUNTY OF MOBILE :

Personally appeared before me, Lillie B. Grandahl, a Notary Public in and for said State and County, Wm. G. Caffey, who, upon oath, deposes and says that he is one of the solicitors for the respondent in the above entitled cause, and that the facts stated in the above and foregoing petition are true.

  
Wm. G. Caffey

Subscribed and sworn to before  
me this the 22 day of August, 1939.

  
Lillie B. Grandahl  
Notary Public, Mobile County, Alabama.







FARMERS AND MERCHANTS	:	
BANK OF FOLEY, A CORPORATION,	:	
	:	IN THE CIRCUIT COURT OF
Complainant,	:	
	:	BALDWIN COUNTY, ALABAMA.
Versus	:	
	:	
W. B. BURMEISTER,	:	IN EQUITY.
	:	
Respondent.	:	

Now comes the respondent in the above entitled cause and answering the bill of complaint says:-

1. Answering the first paragraph of Part One of the bill of complaint this respondent admits that the Farmers and Merchants Bank of Foley is a corporation organized and existing under the laws of the State of Alabama, with its principal place of business in Foley, Baldwin County, Alabama, and that the respondent is over the age of twenty-one years and a resident of Foley, Baldwin County, Alabama.

2. Answering the first paragraph of the second part of the bill of complaint, the respondent says that the facts are as follows:-

Respondent and A. J. Hartung made an agreement in 1929, with one, A. A. Rich for the growing of gladioli bulbs in Baldwin County, they to furnish the bulbs and said Rich to furnish the land and to cultivate the bulbs and to bear certain other expense in connection therewith. The flowers and such of the bulbs, or bulbs produced by or through them, were to be marketed and the proceeds divided between B. & H. Nurseries, consisting of respondent and A. J. Hartung and the said A. A. Rich. It was further agreed that at the end of two seasons,

the bulbs then on hand as a result of this venture should be divided one-half to the B. & H. Nurseries and one-half to said A. A. Rich, after said bulbs had matured along in July of 1931. ~~Later~~ In the latter part of May, 1930, the respondent and said A. J. Hartung, doing business as B. & H. Nurseries, agreed to sell their interest in the bulbs and business in Baldwin County above referred to, to F. W. Krahe, the express understanding and agreement being, however, that the title to all of said bulbs belonging to the said B. & H. Nurseries, and the title to all bulbs produced by or through them, should be and remain in the B. & H. Nurseries until the purchase price agreed upon should be fully paid. At the same time, the said F. W. Krahe obtained title from said B. & H. Nurseries to a part of a carload of small gladioli bulbs which he also proposed to grow in Baldwin County, and which were planted by Krahe on the Mitchell Farm in Baldwin County. After this agreement was made with said F. W. Krahe, said A. A. Rich was notified by said B. & H. Nurseries that they had agreed to sell their interest in the bulbs to said Krahe, but that they would continue to assist in marketing the products as they had originally agreed to do. Later on, said Krahe having no experience in planting bulbs arranged for respondent and A. J. Hartung to come to Baldwin County to supervise the planting, cultivation and marketing of the flowers from these bulbs, the understanding and arrangement being that he would pay their expense to Baldwin County, and would pay their living expenses thereafter until the next flowering time, after which A. J. Hartung and this respondent would receive their compensation for their services by receiving each one-third of the net proceeds of the flowers and/or bulbs, the said F. W. Krahe to receive the other one-third. This arrangement was made along in September, 1930, and the respondent

and the said A. J. Hartung came to Baldwin County under this arrangement along in November, 1930, and began to work at this business under said arrangement. They were merely employees of F. W. Krahe, but were to receive their compensation, as stated, by each receiving one-third of the net profits from the business. This business at the outset was conducted under the name of B. & H. Nurseries and continued to be so conducted until said F. W. Krahe agreed to buy out the interest of the B. & H. Nurseries. Thereafter, the flowers produced from bulbs in which A. A. Rich had an undivided interest, and the legal title to the other undivided interest in which remained in the B. & H. Nurseries, were marketed under the name of Foley Floral Company. The flowers and bulbs from those bulbs in which the said A. A. Rich had no interest were marketed under the trade name of the Premier Cut Flower Company for the purpose of distinguishing the sales and returns from these two sources. It is true that F. W. Krahe did construct an irrigation system on the property rented by him from the Cooney Estate and upon which a part of his operations were being conducted in the latter part of the Winter of 1932. Except as hereinabove specifically admitted the facts stated in the first paragraph of the second part of the bill of complaint are specifically denied.

3. Answering the second paragraph of Part Two of the complaint this respondent says that it is true as hereinabove stated that said Hartung and the respondent, beginning in November, 1930, were merely employees of said F. W. Krahe upon the terms and conditions hereinabove specified, they being, as stated, experienced men in the business of producing cut flowers for market, whereas said F. W. Krahe was not so experienced. The ownership of F. W. Krahe in this business has been fully stated in answer to paragraph One of Part Two. It is true that the said F. W. Krahe was the owner of all of the property connected with the business except certain office equipment that belonged to the B. & H. Nurseries and except, as stated, the carload of bulbs originally shipped to Baldwin County by the B. & H. Nurseries and those that

had been produced through them, ~~which~~ remained, under the agreement, the property of the B. & H. Nurseries until paid for; and the same were never paid for and the bulbs produced through said original carload of bulbs have remained and now are the property of the B. & H. Nurseries.

4. Answering the third paragraph of Part Two of the complaint this respondent says that it is true that along about February, 1931, this respondent, at the request of Mr. F. W. Krahe typed a statement to the general effect that F. W. Krahe was the owner and operator of the Foley Floral Company, and that should there be any change in the Foley Floral Company, the complainant would be notified at once/<sup>by</sup>said Krahe. This respondent does not know whether F. W. Krahe signed the statement and filed it with the complainant but is informed that he did deliver it to complainant. As a matter of fact, at the time said F. W. Krahe was the owner of the Foley Floral Company and was solely responsible for its obligations, but he did not own that part of the bulbs produced through those which he had agreed to buy from the B. & H. Nurseries and to which title had been reserved until they were paid for in full, nor was it represented by this respondent that said F. W. Krahe owned any specific property or that he owned said bulbs.

5. Answering the fourth paragraph of Part Two of the complaint this respondent says that some time in the fall of 1931, he was requested by Mr. F. W. Krahe to make up an inventory so as to show everything that was used in connection with the business and so that the interested parties could tell the status of the business and thereby to obtain a better idea as to future operations. The respondent did make up such an inventory and gave it to Mr. Krahe, but he was not informed, nor did he know it was to be used for the purpose of obtaining credit from the

by the said Krahe from complainant in October and November, 1931, was borrowed on an open note, and it was not until the middle of December that he ever heard of any part of the property connected with the business being used to secure any debt to the complainant bank. About the middle of December, he, Krahe, told the respondent that he was going to give a mortgage, on the cold storage plant and a building connected with it and used as an office, for the principal sum of \$1,000.00 with interest amounting to \$50.00, payable the following July 1st. This amount was represented by \$700.00 which the respondent is informed and believes, and on such information and belief states was borrowed on open note and \$300.00 which was received in cash at the time, and all of which the respondent was advised was to be secured only on the cold storage plant and the said building used as an office. Later on, along in April, 1932, respondent and Mr. Hartung were told by said F. W. Krahe that this mortgage covered everything connected with the business except the bulbs, but did not cover any bulbs.

6. Answering the fifth paragraph of Part Two of the complaint this respondent says that he is informed and believes, and on such information and belief states, that on or about December 12, 1931, the said F. W. Krahe signed a note in the name of Premier Floral Company, a copy of which is hereto attached marked Exhibit "A".

7. Answering the sixth paragraph of Part Two of the complaint this respondent says that from the time that he came to Baldwin County in November, 1930, he performed the duties of his employment as hereinabove stated, in connection with the business that has been hereinabove described under the direction of Mr. Krahe by whom he was employed, but he was not in charge of said business in any other way except to perform his duties under the terms of his employment as aforesaid. His dealings with the bank consisted of drawing checks under authority from Mr. Krahe, and sometimes he made deposits for Mr. Krahe and obtained his bank

statements at times from the bank, and occasionally attended to other clerical matters. Otherwise he was not in contact with the complainant. The respondent specifically denies that he was fully advised of the matters alleged in paragraphs one to five inclusive of Part Two of the bill of complaint except insofar as he has stated in this answer.

8. Answering the seventh paragraph of Part Two of the complaint this respondent says that after the time said loan is alleged to have been made the business was carried on in the same way it had previously been carried on and respondent continued to perform his duties under the terms of his contract of employment as described above in answer to paragraph six and not otherwise. There was no change in the situation except that about June 12, 1932, said F. W. Krahe went to Michigan and shortly thereafter the respondent told the complainant of this fact and that said Krahe had stated that he was going to try to come back in the fall or in the spring, and that he was going to try to borrow some money to send down as soon as possible to be used in the business. Respondent is further informed and believes and on such information and belief states that Krahe had informed the complainant bank before he left that he was going back to Michigan to try to raise money for the business there. Respondent corresponded with Mr. Krahe after he went to Michigan until about July 20th, and after that time the respondent on a number of occasions during that summer and fall reported to the complainant that he had been unable to hear further from him, and finally, about the middle of December, respondent, after repeated efforts to get a reply from said Krahe, told the complainant that it looked to him as if Mr. Krahe was not coming back because he had not heard from him since the 20th of July and the lease was about to expire and he had not renewed it. Along about the 3rd of January the respondent discussed with the complainant again the question

of Mr. Krahe's coming back and stated at that time that he, respondent, felt certain that said Krahe was not coming back and then discussed with the complainant the question of respondent's obtaining the right to use the equipment and supplies belonging to Mr. Krahe that had been mortgaged to the complainant in respondent's floral and farming business, which he proposed to conduct on the Cooney farm which he, the respondent, had leased. Respondent then stated that he would be willing to pay \$250.00 for the use of such of the equipment and supplies of Mr. Krahe as had been mortgaged to the complainant, with the understanding, however, that if Mr. Krahe should make any payment on account of his indebtedness to the bank, this should apply against the \$250.00 and in the event that <sup>any</sup> payment that might be made by Mr. Krahe did not amount to \$250.00 then that the respondent was to make up the difference personally. That proposition was verbally accepted by the complainant, but later the respondent was requested to re-state the same in writing, which he did, under date of January 14, 1933, a copy of the agreement as so re-stated being hereto attached, marked Exhibit "B" and by reference expressly made a part hereof. Respondent did advise the complainant that he had leased the lands which had previously been leased by Krahe in his business of growing bulbs and flowers, and that he, the respondent, intended to go on raising bulbs, <sup>X</sup>flowers and other crops and that he desired to rent from complainant the property covered by the chattel mortgage, but there was no mention made in this conversation of his desiring to rent the bulbs, as respondent had no idea any bulbs were covered by said chattel mortgage and had been specifically advised to the contrary by said Krahe. There was no arrangement whatever made about the respondent's renting any bulbs from the complainant. The respondent insisted at all times that no bulbs and/or flowers were covered by the complainant's note and chattel mortgage, but it was insisted by the complainant in February, 1933, that the note and chattel mortgage covered bulbs belonging to Krahe because it purported to



respondent also informed the complainant, as was a fact, that he and Mr. Hartung individually owned bulbs that had been formerly planted on approximately six acres of land. In this conversation in regard to renting the property covered by the complainant's chattel mortgage, the complainant did state that it did not then own the property covered by the chattel mortgage as it only had a chattel mortgage and had agreed that possession might remain with the mortgagor, but that if Krahe had in fact abandoned the property covered by the chattel mortgage, it, the complainant, would proceed to foreclose its mortgage and upon acquiring title would thereafter take up with the respondent the matter of his purchasing the property so acquired by the foreclosure of said mortgage upon terms that might be mutually agreeable to the parties. In the meantime, it was understood and agreed, as already stated, that the respondent have the use of such equipment and supplies as were covered by the complainant's said chattel mortgage and the respondent under this arrangement took possession of the property so covered by the chattel mortgage and proceeded to plant and raise gladioli that are now flowering and ready to be marketed as well as other crops. Respondent admits that the cashier of the complainant bank did come out to the place for the stated purpose of making an inventory. The respondent did go around with him while he was making up the inventory and during this time told him that in his opinion the cold storage plant and equipment in the office belonged to the owners of the land on which it was situated, and he also specifically told the cashier at that time that the bulbs were not covered by the mortgage. The cashier asked the respondent what bulbs there were and the respondent replied that Krahe had originally planted bulbs on about ten acres of land situated on the Mitchell Farm and that the B. & H. Nurseries had planted the bulbs originally planted on about six acres of land on the Cooney Farm, the products from which bulbs were claimed by the B. & H. Nurseries because Mr.

Krahe had not paid for them and title had been reserved until they were paid for. The cashier then asked the respondent how many bulbs there were and the respondent said that they originally tried to plant about fifty thousand to sixty thousand to the acre, whereupon the cashier replied that he was going to put it down at that rate for ten acres. Nothing more was said at that time about the respondent's being left in charge and control of the property covered by the complainant's chattel mortgage. The arrangements for the rental of such property as was covered by the chattel mortgage had already been made as hereinabove stated.

Respondent knows nothing about the foreclosure proceedings referred to in said paragraph except that the complainant did advise him that they were going to foreclose the mortgage and that the bank would bid it in, and on one occasion advised him that the property would be sold on Monday, March 6, 1933, and that they would advise him further later on. The respondent does not know whether the mortgage was in fact foreclosed and the property sold at public auction, but was so informed later by complainant's representative, nor whether the auctioneer executed to the complainant the bill of sale referred to in said paragraph, and insofar as these allegations may be material the respondent demands strict proof thereof.

9. Answering the eighth paragraph of Part Two of the complaint this respondent says that the most valuable part of the property listed in the next preceding paragraph is the gladioli bulbs, but as a matter of fact, that there are nothing like 600,000 blooming size bulbs there, many of them having been lost in the course of the two or three years in which they have been planted and by not being dug at the proper time; that the bulbs that are there now are in the ground and growing and that they are now blooming, and that some varieties have been ready for cutting and have been cut, beginning about ten days ago, and others are now ready for cutting and that all

of them will be ready for cutting within the next three weeks. The respondent admits that the bulbs in question are growing in ground that is owned neither by the complainant nor the respondent, but are growing in ground that had been rented by the respondent and/<sup>is</sup>in his possession as a tenant thereof. He further admits that they cannot, at this time, be moved and disturbed without destroying the crop of flowers and without destroying the bulbs.

10. Answering the ninth paragraph of Part Two of the complaint this respondent says that some time along in the early part of April, the complainant did begin negotiations with the respondent looking to the sale and purchase of the property that it claimed to have acquired under the foreclosure of its said mortgage, and asked the respondent to make it a proposition in writing, which he did some time toward the latter part of April, 1933. The respondent did assert at that time, as he had before, that he was the owner of a large part of the gladioli bulbs which F. W. Krahe had never owned because he had bought them under conditional sale contract and had never paid for them; that as to the/rest of the bulbs that they had been abandoned by Krahe and allowed to remain in the land rented by respondent, and that such of them as were growing had been cultivated by him and that they were not covered by the complainant's mortgage; that the complainant had no right to them, and that the respondent would not consider the purchase of the bulbs from the complainant for the reason that the complainant did not own them. Respondent denies that there was any fraud committed by him on the complainant and denies that he knowingly permitted F. W. Krahe to represent to the complainant that all the bulbs belonged to him, and denies that he knowingly permitted said Krahe to borrow any money from the complainant and to make a mortgage which covered said bulbs, and specifically denies that he, at all times, or at any time, acknowledged and admitted that said bulbs were the property of the said F. W. Krahe except as herein before stated, and

denies that he is estopped to claim that said bulbs were not the property of the complainant. All allegations of the ninth paragraph of Part Two not hereinabove specifically admitted are hereby specifically denied and strict proof thereof is demanded.

11. Answering the tenth paragraph of Part Two of the complaint this respondent says that it is true that the bulbs planted by him on the Cooney Place which was rented by him and which has been and is now in his possession, as tenant thereof, are now producing, and will for the next three or four weeks produce, flowers, and that the same must be immediately cut and sold, or that they will be lost and wasted, and that it is true that said bulbs will require constant care and attention to protect, preserve and mature the same, and he also admits that it is impossible for complainant to dig said bulbs and take actual and physical possession of the same for the reason that to do so would kill and destroy both the bulbs and the flowers. It is true that the bulbs are growing on lands leased by the respondent and in his possession, and that complainant has been warned not to interfere with the bulbs and flowers growing on said land.

Further answering said paragraph of the complaint the respondent says that he does owe some debts outside of the State of Alabama, but that he has taken care of and is able to take care of all of the debts in the State of Alabama, and that the gladioli which belong to him and which are involved in this suit are of considerably greater value than all of the debts that he owes in this State. Respondent denies that the complainant has no adequate remedy at law and denies that it has any equity for the relief that it is claiming in this cause.

12. Answering the eleventh paragraph of Part Two of the complaint the respondent says that there is no necessity for answering the allegations of the eleventh paragraph of Part Two of the complaint.

13. Answering the twelfth paragraph of Part Two of the complaint this respondent says that if he had not been restrained by order of this Court, he would have cut and sold the flowers from the bulbs which he has planted, and that he would have kept and retained the money for the reason that the same would have belonged to him.

14. Answering the thirteenth paragraph of Part Two of the complaint this respondent says that he admits that it is essential that the flowers be cut and marketed promptly, or that they will be wholly lost, but he denies that the Receiver should be retained in this cause under the facts and circumstances. In this connection the respondent avers that if the Receiver is continued there will almost certainly be a large loss in the marketing of these flowers for the reason that the respondent has over a period of years established and become familiar with the market for these flowers and respondent has actually arranged for the shipment and sale of these flowers principally on a commission basis. If the sale of the flowers is taken over by the Receiver at this time, when they are ready to be gathered and marketed, and the Receiver is compelled to find a market for them, the result will almost certainly be a large loss. Owing to the fact that the Receiver has not had sufficient experience, it would be necessary for some one to advise him what gladioli to cut and what not to cut. Furthermore, the Receiver appointed is not sufficiently experienced to determine just where the stems of the flowers should be cut and what amount of foliage should be left on the bulb. If the stems are cut too short the value of the flower is lessened, and if cut too long the bulb remaining in the ground will become so weakened that the quality of the next crop of flowers will be very poor. The receiver lacks sufficient experience also in the methods employed on this farm to pre-cool flowers after cutting and before shipment. Inasmuch as all of these flowers

are shipped to distant markets improper pre-cooling before shipment results in the flowers becoming so deteriorated en route that they are either thrown away or are sold for greatly reduced prices, upon reaching their destination. Therefore, if the Receiver appointed attempts or undertakes to cut, pre-cool and handle the flowers according to his own judgment, a large loss will inevitably result.

Further answering the bill of complaint, this respondent respectfully shows unto the Court that there are now in existence none of the bulbs to which said Krahe had any right, title or interest that were in existence in December, 1931, and that there are now in existence no such bulbs that were growing in the year 1932. Those bulbs that were in existence in December 1931, which did not rot, either before planting or after planting, perished in the production of new bulbs in the year 1932. Such of the new bulbs produced in 1932 as were cultivated in 1933 are in like manner entirely worthless as they now consist of a mere husk to which is attached a growing bulb or bulbs. The respondent further respectfully shows unto the Court that the chattel mortgage under which the complainant claims is that, a copy of which is hereto attached as Exhibit "A", and that it has no claim either to the bulbs or to the flowers now growing on the said lands leased by respondent except under and by virtue of said instrument and that the same was not a lien upon any bulbs now growing upon the property leased by and in the possession of respondent, referred to in the complaint and that complainant acquired no title thereto under its alleged foreclosure of said mortgage.

Respondent further shows unto the Court that said Krahe having abandoned his business and whatever interest he had in the gladioli bulbs that he had then growing upon the Cooney Place, allowed said bulbs to be and remain upon said place after the term of his lease, without gathering the same, but allowing

leased from the owner thereof during the following year and some of the bulbs so abandoned and left by said Krahe he cultivated. Said bulbs having been allowed thus to remain upon the land of another after the term of the lease had expired ceased to be the property of their former owner and ceased to be subject to any chattel mortgage that may heretofore have existed thereon, and complainant has no right, title or interest in or to any of the bulbs and/or flowers now being grown by respondent upon the lands so leased by him and in his possession.

And now having fully answered, the respondent prays to be hence discharged with all costs in this behalf incurred.

Alan N. Allen  
Harry J. Smith & Co.  
 SOLICITORS FOR RESPONDENT.

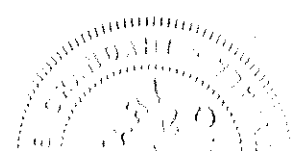
STATE OF ALABAMA,  
 COUNTY OF MOBILE.

Personally appeared before me, Lillie B. Grandahl, a Notary Public in and for said State and County, W. B. Burmeister, who, upon oath, deposes and says that all of the facts alleged in the above and foregoing answer are true as alleged.

W. B. Burmeister

Subscribed and sworn to before me  
 this the 5<sup>th</sup> day of May, 1933.

Lillie B. Grandahl  
 Notary Public, Mobile County, Alabama.



"EXHIBIT A"

Foley, Ala.,

Dec. 12, 1931.

\$1,050.00

On or before the 1st day of July, 1932, I, or we, promise to pay Farmers & Merchants Bank, or order, at Farmers & Merchants Bank, Foley, Ala., the sum of One Thousand Fifty Dollars for value received, with 8% interest from maturity.

In case this note is not paid at maturity in full, then I, or we, agree to pay in addition to the above sum and interest all costs and a reasonable attorney's fee for the collection of same and in consideration of value received I, or we, hereby waive as to payment of this debt all rights of exemption under the Constitution and Laws of the State of Alabama or any other state in the United States, and to secure the payment of this note and also any of indebtedness I, or we, hereby grant, bargain, sell and convey to Farmers & Merchants Bank, heirs and assigns, all my, or our, live stock and personal property of every kind now in my, or our, possession and owned by me, or us, and all live stock and personal property hereinafter acquired including horses, mules, colts, cows, yearlings, hogs, wagons, buggies, farm implements and household goods and also my, or our, entire crop of cotton and corn and other produce that I, or we, my or our families may produce or cause to be produced, including all rents in the present year; also the crops raised each successive year until this debt is paid in full; also the following described property, to-wit: cold storage house; cold storage plant and equipment of any and every description; that part of building used for office; also, all farming implements and equipment of any and every description owned by the undersigned; all or any irrigation system owned or installed by the undersigned; and all equipment in connection with same; all of the above property being located on the P. J. Cooney place of 40 acres northwest of Foley as per description in release from the



payment of this note in whole or in part may be seized and sold by the said Farmers & Merchants Bank, agents or assigns, at public auction, for cash, at Foley, Ala., after posting for one day or more written notices in as many places in Baldwin County. The proceeds of such sale to be applied first to the expenses of recording this note and mortgage, advertising, selling, conveying and attorney's fee; second, to the payment of the above sum, and balance, if there be any, to the undersigned.

It is agreed and understood that if, through mismanagement, want of proper care, or for any other cause any of said property should deteriorate in value, or if said property should be traded or removed from the County, then the whole debt hereby secured shall become due immediately and the said Farmers & Merchants Bank is hereby authorized to proceed to foreclose said mortgage as above provided in case of default.

PREMIER FLORAL COMPANY (SEAL)

By F. W. KRAHE (SEAL).

The State of Alabama

Baldwin County

PROBATE COURT.

Filed in office this 18 day of December, 1931, at 8:00 A. M. and duly recorded in Mtge. Book No. 52, pages 577 and I certify that \$1.65 license or privilege tax, paid as required by an Act of the Legislature approved August 22, 1923:

G. W. Humphries, Judge of Probate

By J. L. Kessler, Clerk.

G. W. Humphries, Judge of Probate.

"EXHIBIT B"

FOLEY FLORAL CO.  
WHOLESALE  
CUT FLOWERS AND BULBS  
FOLEY, ALA.

January 14, 1933.

Farmers & Merchants Bank,  
Toley, Alabama.

Gentlemen:-

Attention of Mr. Sanders, Cashier.

As per our recent conversation regarding the Chattel Mortgage Note you have and other notes of Mr. F. W. Krahe doing business also under the name of Foley Floral Co., that on further thought I would state in a letter what the writer would do in the matter.

Current conditions being unsettled and the outlook for selling floral products not encouraging compared with the past year I am willing to use my best efforts to carry on the business in the interest to all concerned, getting from Mr. F. W. Krahe by operating the Foley Floral Co. an amount of money up to \$250.00 not later than June 15, 1933. Any shortage in the earnings below \$250.00 to be paid personally by me. Payments to apply to interest first and any over to be applied to the principal of the Chattel Mortgage Note. If other means have been used whereby the Bank or holders of the Chattell Mortgage and notes have received funds that apply for credit on the said above Chattell Mortgage and Notes then the writer is to only pay out personally the difference of what may not be collected under the \$250.00 as stated above. In consideration of my assuming herein above stated the bank agrees to take no action during the period indicated which will impede the use of all existing facilities of the Floral Company. In order to produce a crop for the purpose of applying proceeds as above indicated it is expressly agreed by your bank that such material now held in stock by the Floral Company and incorporated in the Mortgage will be used by me to produce and market the products without any personal liability on my part. In fact my position in this transaction to be that of representative acting under authority of your bank. The within is subject to your acceptance as indicated hereon.

Subsequent to the coming shipping season say by July 15th. it is understood we are to confer for the purpose of working out future plans.

Yours truly,

(Signed) W. B. Burmeister.

Accepted

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 FARMERS & MERCHANTS BANK OF FOLEY, :  
 a Corporation, :  
 Complainant, :  
 -vs- :  
 W. B. BURMEISTER, :  
 Respondent. :  
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IN THE CIRCUIT COURT  
 OF BALDWIN COUNTY,  
 ALABAMA - IN EQUITY.

This cause coming on to be heard, and being submitted for final decree under and in accordance with opinion and decree of the Supreme Court of Alabama, rendered on December 21st, 1933, dissolving the injunction heretofore issued and discharging the receiver heretofore appointed and remanding the cause to this Court; and it appearing from said decree of the Supreme Court of Alabama that W. B. Burmeister, respondent herein, is entitled to all monies left in the hands of the receiver after payment of all proper costs and expenses of his receivership, and to, also, all of the properties of every kind and description which came into the possession of said receiver during the term of his receivership; and it appearing, further, that said receiver has filed his final report and account as receiver, and that the balance remaining in his hands from the sale of cut flowers during the term of his receivership, after deducting all proper expenses of said receivership, is the sum of Five Hundred Forty-Five & 84/100 Dollars (\$545.84); and it appearing, further, that Messrs. Smith & Johnston, attorneys at law, of Mobile, Alabama, are entitled to a fee of Fifty & 00/100 Dollars (\$50.00) and expenses amounting to One & 80/100 Dollars (\$1.80), for representing the receiver in a suit filed against him for personal injuries sustained by one of his employees during the term of the receivership.

It is, therefore, ordered, adjudged and decreed by the Court that the injunction heretofore issued in this cause be and the same is hereby dissolved, and that the receiver heretofore appointed be and he is hereby discharged as an active receiver in this cause; and that said receiver and the sureties on his official bond be discharged from all further liability and accountability upon his filing in this Court vouchers evidencing compliance with the terms of this decree as set forth hereinafter.

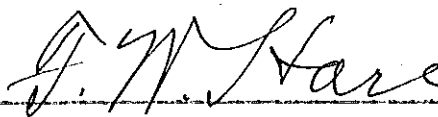
2.

receiver be allowed the sum of Three Hundred & 00/100 Dollars (\$300.00) which he has paid himself for his services as receiver out of the receivership funds which came into his hands, and that the receiver's final report and account be and the same is hereby in all things passed and allowed as stated; that said receiver pay to Smith & Johnston, attorneys of Mobile, Alabama, the sum of Fifty-One & 80/100 Dollars (\$51.80), as the attorneys' fee due them for representing him in the suit mentioned above, and that he pay over to the respondent, W. B. Burmeister, the balance of Four Hundred Ninety-Four & 04/100 Dollars (\$494.04) left in his hands after payment of said attorneys' fee, and deliver to said respondent all of the properties of every kind and description which came into his possession during the term of his receivership, for all of which let execution issue.

It is further ordered, adjudged and decreed that the bill of complaint in this cause be and the same is hereby dismissed, and complainant in this cause, Farmers & Merchants Bank of Foley, be and it is hereby taxed with all of the costs of this cause, for which let execution issue.

It is further ordered, adjudged and decreed that the respondent do have and recover of Thomas W. Richerson, a former Register of this Court, and that the said Thomas W. Richerson shall pay over to said respondent, the sum of One Hundred & 00/100 Dollars (\$100.00), the amount of cash deposited with the said Thomas W. Richerson, as Register of this Court, as security for costs of the appeal of this cause to the Supreme Court of Alabama, for which let execution issue.

Done in Term Time this 22<sup>nd</sup> day of August, 1934.



Judge.

WILLIAMSON & COMPANY, INC. vs. W. B. BURNETT

WILLIAMSON & COMPANY, INC. vs. W. B. BURNETT

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WILLIAMSON & COMPANY, INC. vs. W. B. BURNETT

1710 1/2

Farmers + Merchant Bank

VS

W. B. Burnett

Decree

Filed this 2 day of September 1933  
M. A. Jones  
Register -

WILLIAMSON & COMPANY, INC. vs. W. B. BURNETT

WILLIAMSON & COMPANY, INC. vs. W. B. BURNETT

WILLIAMSON & COMPANY, INC. vs. W. B. BURNETT

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WILLIAMSON & COMPANY, INC. vs. W. B. BURNETT

WILLIAMSON & COMPANY, INC. vs. W. B. BURNETT



2500/11/10

RECORDED

11104

Decree annulling  
exceptions to  
Receiver's Report

Filed June 8<sup>th</sup> 1994  
Wm. C. Adams  
Registrar

TO THE ATTORNEY GENERAL  
OF THE STATE OF TEXAS

AND TO THE ATTORNEY GENERAL  
OF THE STATE OF TEXAS

FARMERS & MERCHANTS BANK OF FOLEY, :  
a corporation, :

Complainant, :

-vs-

W. B. BURMEISTER, :

Respondent. :

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY

STATE OF ALABAMA, )

MOBILE COUNTY. )

Before me, the undersigned authority, personally appeared A. A. Rich, who, upon first being duly sworn, deposes and says that on, to-wit, the 29th day of April 1933, Hon. F. W. Hare, Judge of said Court, entered an order in said cause, appointing the affiant as receiver of the business of the Premier Floral Company and to administer the same under and by direction of the further orders of this Court; that on, to-wit, the 5th day of May 1933 the affiant, after complying with the conditions in said order of the 29th of April 1933, took charge of said business as receiver, and began his administration of the receivership under order of this Court; that the business of W. B. Burmeister, conducted under the trade name of Premier Floral Company, was that of raising and marketing of gladioli blooms, and at the time affiant took charge of the business it was the marketing season for such blooms; that the affiant was charged with the duty of finding a market for the gladioli blooms and of superintending the gathering, chilling, packing, and shipping of those blooms, getting them ready for market, which duty required constant attention in both the office and in the field during the shipping season; that the affiant had to exercise care in selecting customers to insure the proper returns for the sale of said blooms; that during the shipping



of the blooms mature later than others, the later blooms require attention in order that they will properly develop for the market, and the ground has to be cultivated during this development; that later the bulbs had to be dug and removed from the ground, in order that they be prepared for the next season, which work consisted of assorting, cleaning, and placing the bulbs in bags, before being hung up for a certain period; that the affiant discharged all of the duties above stated with reference to his handling of the business of the Premier Floral Company as such receiver during the shipping season of that year; that the shipping season for the year 1933 in the business of which the affiant was receiver lasted from about, to-wit, May 5th to about May 30th, and that the affiant spent at least four hours each day during said period of about twenty-five days in the office and in the field, looking after, directing, and supervising the proper gathering, packing, shipping, and marketing of the blooms, and looking after and directing the cultivation and care of the maturing blooms prior to their being picked; that, in addition to this time, he spent a considerable amount of time in correspondence connected with the proper marketing of the blooms; that after the shipping season, or marketing season, was over, the affiant spent considerable time and effort from the end of said shipping season until about, to-wit, the month of September 1933, in collecting proceeds of the sale of said blooms, to insure the proper return for the business; that it is not true that the affiant was on the premises for only about two or three hours each day during the said twenty-five days and engaged in packing and shipping his own flowers, as stated in the affidavit of Mr. Burmeister, but affiant further states that he was engaged in the same business himself and so informed the Court at the time of his appointment; that when the cooling equipment of Mr. Burmeister was used for the cooling of affiant's own flowers, Mr. Burmeister was paid by the affiant for said use, such transactions being separate and apart from

the business of the affiant as receiver of the business of the Premier Floral Company; that on or about, to-wit, May 10th, 1933 the affiant employed Mr. A. J. Hartung to work for affiant as receiver in selecting the flowers to be cut and to cut, pick, and grade them for shipment; that the affiant employed Mr. Hartung rather than employ some other person to do this work. Affiant further states that it would have been impossible for him to personally do all the work required to properly cut, pack, grade, and ship and market the blooms of the Premier Floral Company, of which he was receiver, during the shipping season, and that it was necessary for the proper carrying out of such work to employ others to aid in it, because of the limited time during the marketing season to get the blooms to the market; that the statement that the affiant was of no benefit to the business and that he arranged for no marketing of the flowers is untrue, but that the affiant, in the conducting of his own business in previous years, was in contact with prospective purchasers of these blooms, and that the blooms which the affiant handled as receiver were shipped and sold both to the purchasers which the Premier Floral Company had been shipping to, and also to those which the affiant had been shipping to, and which the affiant deemed the more responsible to deal with, and wherever affiant deemed it advisable, purchasers on the prospective list of the Premier Floral Company were dropped and purchasers of which the affiant was familiar with substituted, in order to insure prompt payment and collection of the purchase price, and due to this fact collections during the year were more prompt than any previous year. Affiant further states that his responsibility as receiver continued from the time of his appointment, and that the fact that he employed Mr. Hartung to help gather and ship the flowers in no sense relieved affiant of his responsibility as such receiver; that all during the receivership af-

or delegated them to his employees, and that during his receivership up until the time of the filing of the report, to which exceptions were filed, the affiant handled approximately Two Thousand Dollars (\$2,000.00) as purchase price for the blooms marketed and sold as such receiver; that affiant's responsibility was of necessity, from the nature of his duties as receiver, much greater than any responsibility of Mr. Hartung, who merely worked in the capacity of an employee, in fact, the responsibility of Mr. Hartung was only that which exists between an ordinary servant and master, and in no sense could it be justly said that the affiant, A. A. Rich, had no responsibility in connection with his receivership of the defendant's business, as he was acting under order of Court, and under duty to account to the Court for his acts as such receiver; that the charge for services rendered by affiant as such receiver is reasonable under the circumstances, considering the amount of work involved, the responsibility attached to handling, as receiver, the business of another person, and the funds which passed through the affiant's hands as such receiver, and such charge for services has been heretofore approved and allowed by this Court as reasonable compensation for the services of affiant as receiver.

∨ That, as to the objection to the charge of Messrs. Smith & Johnston as attorneys' fee and expenses in defending for affiant, as receiver, a certain suit filed by Arthur John Rich in the Circuit Court of Baldwin County, Alabama, against affiant, as receiver, claiming compensation in the amount of Thirty-Six Hundred Dollars (\$3600.00) for an injury which said Arthur John Rich is alleged to have sustained on the 14th day of May 1933, while working as a day laborer for affiant, affiant states that such a charge is a proper expense of affiant as receiver, and that a defense of such suit was necessary to protect funds in the hands of affiant as receiver, and that affiant petitioned this Court for approval of the

employment of said firm of Smith & Johnston to represent him in said suit, and this Court entered an order approving and authorizing such employment; and affiant further states that he is informed and believes that such fee and expenses as made in said charge were reasonable and proper. Affiant further states that said suit was successfully defended by said firm.

Affiant further states that it would be a matter of impossibility to state the exact number of hours that he spent in the work as receiver, because he did not keep a time book on himself and made no record of the exact number of hours spent while acting as such receiver and in performing the duties incident thereto; and affiant further states that the number of hours which he may have worked and spent in performing his duties as such receiver would not be fair and reasonable criterion by which to base his compensation as such receiver.

A. A. Rich Receiver

Sworn to and subscribed before me this  
17<sup>th</sup> day of May, 1934.

Genevieve G. Jewell  
Notary Public, Mobile County, Alabama

The State of Alabama }  
Baldwin County---Circuit Court }

TO ANY SHERIFF OF THE STATE OF ALABAMA--GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the \_\_\_\_\_

9th \_\_\_\_\_ ~~day~~ day in \_\_\_\_\_ May \_\_\_\_\_ 193 3

in a certain cause in said Court wherein FARMERS & MERCHANTS BANK OF FOLEY, a corp

Plaintiff, and W. B. BURMEISTER

Defendant, a ~~judgment~~ <sup>decree</sup> was rendered against said

W. B. BURMEISTER

to reverse which DECREE the said W. B. BURMEISTER

has on this day applied for and obtained from this office an APPEAL, returnable to the

PRESENT Term of our SUPREME Court of the State of Alabama, to

be held at Montgomery, ~~on the~~ ~~\_\_\_\_\_ day of \_\_\_\_\_ 193~~ ~~\_\_\_\_\_ next,~~

and the necessary ~~ACQU~~ <sup>SECURITY</sup> having been given by the said W. B. BURMEISTER

with W. E. COONEY

AND AL. J. HARTUNG sureties,

Now, You Are Hereby Commanded, without delay, to cite the said

FARMERS & MERCHANTS BANK OF FOLEY, a corporation

or HON. LLOYD A. MAGNEY attorney, to appear at the

PRESENT Term of our said Supreme Court, to defend against the said

Appeal, if THEY think proper.

WITNESS, T. W. Richerson, Clerk of the Circuit Court of said County, this 16th

day of MAY, A. D., 193 3

Attest:

T. W. Richerson Clerk

RECORDED

*Aspiral*

**CIRCUIT COURT**  
BALDWIN COUNTY, ALA.

FARMERS & MERCHANTS BANK  
OF FOLEY, a corporation

vs. } Citation in Appeal

W. B. BURMEISTER

Issued 16th day of MAY 193 3

Moore Ptg. Co., Bay Minette

*Send copy to  
Lloyd A. Magney  
Solicitor for Complainant.*

*Return to Clerk of the Court*

*Attaching copy of  
the within Nat  
on Lloyd A. Magney  
Solicitor for Complainant  
Mr. Starn  
Shirley*

*(mirrored text)*

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FARMERS & MERCHANTS BANK OF  
FOLEY, a corporation,

Complainant,  
-vs-

W. B. BURMEISTER,

Respondent.

No. \_\_\_\_\_

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

NOTICE OF APPEAL

Now comes the respondent in the above entitled cause and takes an appeal to the Supreme Court of Alabama from the following fiat, decree and order of the Judge of the Circuit Court of Baldwin County, Alabama, Equity Side, viz.:

1. Fiat of the Judge of said Court under date of April 29th, 1933, authorizing and directing issuance of the writ of injunction prayed for in the amended bill of complaint filed in this cause.
2. Order of the Judge of said Court made on April 29th, 1933, appointing a receiver as prayed for in the amended bill of complaint filed in this cause.
3. Decree rendered by the Judge of said Court on May 9th, 1933, denying respondent's motion to dissolve said injunction and discharge the receiver.

DATED this 11th day of May, 1933.

Henry J. Allen  
Harry J. Smith Coffey  
Attorneys for Respondent.

Attorneys for Reboundent.

*Handwritten signature*  
Attorney for Reboundent

General pro receiver.

It is hereby ordered that the receiver be authorized to sell and dispose of the property of the estate of the said deceased in such manner as he may deem proper.

Witness my hand and seal of office at the City of New York, this 17th day of May, 1933.

*Filed May 17, 1933*  
*J.M. Robinson*  
*Register*

It is hereby ordered that the receiver be authorized to sell and dispose of the property of the estate of the said deceased in such manner as he may deem proper.

Reboundent.

J. M. Robinson

Deputy Register

Office of the Register

Register's Office

City of New York

May 17, 1933



FARMERS & MERCHANTS BANK  
OF FOLEY, A CORPORATION,

COMPLAINANT,

VS

W. B. BURMEISTER,

RESPONDENT.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN CHANCERY

ORDER

This cause coming on to be heard on the Bill of Complaint, the same being positively verified, and it appearing to the Court from the allegations of the Bill of Complaint that an emergency exists and that unless a Receiver be appointed as prayed in said Bill to take charge and control of the property therein mentioned, the same will probably be largely lost.

And it further appearing to the Court from the Affidavit on file in this cause that A. A. Rich of Foley, Alabama is experienced in the growing and marketing of cut flowers and bulbs and is without interest in the present litigation and is in all respects qualified to act as Receiver;

It is, therefore, ordered that A. A. Rich be and he hereby is appointed Receiver of the business heretofore conducted under the trade name of Premier Floral Company and is authorized and directed to take possession and charge and control of all of the property and assets of said business and to administer the same under and by direction of the further orders of this Court; that this order shall not become effective until the said A. A. Rich shall file with the Register of this Court a bond conditioned for the faithful performance of his duties as such Receiver in the penal sum of \$1,000.00 with surety to be approved by the Register; further, that this order shall not become effective until the Complainant shall give bond in the penal sum of \$500.00 conditioned to pay to the Respondent such damage as he may sustain by the appointment of the Receiver if such appointment is vacated or the Receiver removed or discharged because improvidently appointed.

Dated this 29th day of April, 1933.

*J. H. Hare*  
\_\_\_\_\_  
Judge.



FARMERS & MERCHANTS BANK OF  
FOLEY, a corporation,  
Complainant,

vs.

W.B. BURMEISTER, Respondent.

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

TO HON. LLOYD A. MAGNEY:

You are hereby notified that on Tuesday May 9, 1933,  
at 10 o'clock A.M., a hearing will be had on the motion  
filed in this cause to dissolve the temporary injunction,  
and for the discharge of the receiver appointed, at Mon-  
roeville, Alabama, before the Honorable F.W. Hare, Judge  
of the Twenty-first Judicial Circuit of Alabama.

Witness my hand this the 6th day of May, 1933.

T. H. Richardson

REGISTER.

Original

RECORDED

Parsons v. Meacham Book

Resumes

Executed May 6  
1933 by serving  
copy of within  
on Lloyd Maguire  
Atty W R Stovall  
Sheriff

Issued May 6/33  
J M Meacham  
Regulator

shipped to  
serve copy  
on L A Maguire  
Fisher  
Coy

File to Mr. Parsons  
5/10/33

FARMERS & MERCHANTS BANK  
OF FOLEY, A CORPORATION,

COMPLAINANT,

VS

W. B. BURMEISTER,

RESPONDENT.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN CHANCERY

BOND ON APPOINTMENT OF  
RECEIVER

KNOW ALL MEN BY THESE PRESENTS, That we, Farmers & Merchants Bank of Foley, a corporation, as principal and the undersigned as sureties, are held and firmly bound unto T. W. Richerson, Register of the Circuit Court, Equity Side, of Baldwin County, State of Alabama, and his successors in office in the sum of \$500.00 for the payment of which to the said Register or his successors, we bind ourselves, our and each of our successors, executors and administrators jointly and severally firmly by these presents.

Sealed with our seals and dated this 1st day of May, 1933.

Now the condition of this obligation is that, whereas, the above bounden Farmers & Merchants Bank of Foley, a corporation, has filed its Bill of Complaint in the said Circuit Court, Equity Side, of Baldwin County, Alabama and has obtained thereon from the Hon. F. W. Hare, Judge of said Court, an order appointing A. A. Rich as Receiver of the business heretofore conducted under the trade name of Premier Floral Company and authorizing and directing the said A. A. Rich to take possession, charge and control of all of the property and assets of said business and to administer the same under and by direction of the further orders of said Court;

Now, if the said Farmers & Merchants Bank of Foley, its successors or assigns or any of them, shall pay or cause to be paid to the said W. B. Burmeister all damages which he may sustain by the appointment of said Receiver if such appointment is vacated or the Receiver removed or discharged because improvidently appointed, then this obligation shall be null and void, but otherwise shall remain in full force and effect.

IN WITNESS WHEREOF, we have hereunto set our hands and seals the day and date first above written.

FARMERS & MERCHANTS BANK OF FOLEY,  
A Corporation,

BY

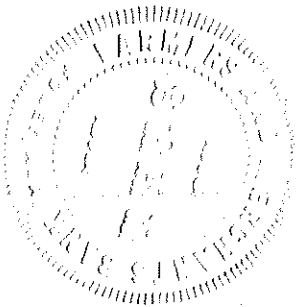
[Signature]  
Its Cashier.

David H. GEAR (SEAL)

[Signature] (SEAL)

Taken and approved this 1st day of May, 1933.

T. W. Richerson  
Register.





FARMERS & MERCHANTS BANK  
OF FOLEY, A CORPORATION,

COMPLAINANT,

VS

W. B. BURMEISTER,

RESPONDENT.

)  
( IN THE CIRCUIT COURT OF  
( BALDWIN COUNTY, ALABAMA  
( IN CHANCERY

BOND OF RECEIVER

KNOW ALL MEN BY THESE PRESENTS, That we, A. A. Rich as principal and the undersigned as sureties, are held and firmly bound unto T. W. Richerson, Register of the Circuit Court, Equity Side, of Baldwin County, State of Alabama, and his successors in office in the sum of \$1,000.00 for the payment of which to the said Register or his successors, we bind ourselves, our and each of our successors, executors and administrators jointly and severally firmly by these presents.

Sealed with our seals and dated this 3rd day of May, 1933.

Now the condition of this obligation is that, whereas, the above bounden A. A. Rich was, by the order of the Hon. F. W. Hare, Judge of the Circuit Court, Equity Side, of Baldwin County, Alabama appointed Receiver and authorized and directed to take possession and charge and control of all of the property and assets of the business conducted under the trade name of Premier Floral Company and to administer the same under and by direction of the orders of said Court;

Now if the said A. A. Rich shall faithfully perform his duties as such Receiver and true accounting make of all monies and properties received by him then this obligation shall be null and void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, we have hereunto set our hands and seals the day and date first above written.

A. A. Rich (SEAL)

David H. Gear (SEAL)

John Lewis (SEAL)

Taken and approved this 5th day of May, 1933.

T. W. Richerson  
Register.

IN WITNESS WHEREOF I have hereunto set my hand and the seal of said Court at Montgomery, Alabama, this 15th day of February, 1933.

RECORDED IN BOOK

ALSO RECORDED IN MONTGOMERY COUNTY RECORDS BOOK 100 PAGE 100

BY

CLERK OF COURT

... A ...

...

... of ...

...

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA IN CHANCERY

FARMERS & MERCHANTS BANK OF FOLEY, A CORPORATION,

COMPLAINANT,

VS

W. B. BURMEISTER,

RESPONDENT.

*Friedberg 8th 1933*  
*T. W. Dickinson*  
*Register*

BOND OF RECEIVER

LLOYD A. MAGNEY,  
Attorney for Complainant.

RECORDED

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10318101



FARMERS & MERCHANTS BANK,  
A Corporation,

Plaintiff,

-VS-

W. B. BURMEISTER,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN CHANCERY

AFFIDAVIT

STATE OF ALABAMA:  
BALDWIN COUNTY:

A. J. Hartung being first duly sworn on his oath deposes and says: that he has been for many years associated with W. B. Burmeister in the business of producing, shipping and selling cut flowers and has been associated with the said Burmeister in the said business during all of the time that the same has been conducted in Foley, Alabama and was so associated during the shipping season of 1933.

The receiver in the above entitled case Mr. A. A. Rich, presented his credentials and took charge of the business on the 5th day of May, 1933, and for six days and until May 10th, 1933 was in full charge thereof. On said tenth day of May, 1933, a contract was entered into between the said A. A. Rich and this affiant and the said W. B. Burmeister whereby the said Rich as receiver employed this affiant and the said Burmeister to perform for the said receiver the duties which they had been accustomed to performing in conducting their own business, under the supervision, however, of the said receiver. The shipping season was well advanced before May 5th and came to a close on May 30th, 1933 so that there was only about twenty-five days after said receiver was appointed that flowers were actually cut and shipped. This affiant attended to the selection and cutting of the flowers to be shipped and superintended the cooling, packing and shipping of all flowers. The receiver merely supervised or watched the work and had very little active part in it and this affiant kept account of the actual hours devoted to the business by the receiver and states that from May 5th to May 10th Mr. Rich actually devoted to the field work about three hours per day and from May 10th to May 20th about two hours per day and from May 20th to May 30th not to exceed one hour per day.

During all of this time Mr. Rich was engaged in cutting, packing and marketing flowers which he had himself produced and he would have all of his flowers brought to the packing shed of the defendant where flowers were cooled, packed and shipped right along with those of the defendant and a large part of the time which he spent on the premises was devoted to his own business and had no connection at all with the business of the defendant.

During all of this time the cooling plant was operated by the defendant under an arrangement with Mr. Rich whereby a certain price per hamper was paid for cooling of flowers and the defendant in addition to operating the cooling plant attended to the office work such as making out the invoices, labels and the shipping tickets and attending to the necessary correspondence.

During the twenty-five days that flowers were shipped Mr. Rich, in addition to the time he spent in checking up on the field work, spent some time with the defendant in the office and affiant kept account of the approximate number of hours spent by Mr. Rich in connection with the office work and states that from May 5th to May 10th Mr. Rich devoted about two hours per day to the office work and from May 10th to May 30th about one hour per day and since May 30th in winding up the loose ends and getting in slow collec-

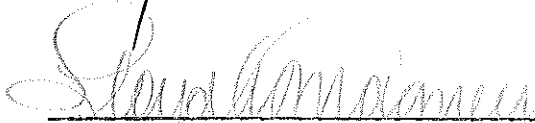
business, of course, took up a considerable portion of the time which he spent in the office but all told Mr. Rich has devoted not to exceed one hundred hours to his duties as receiver and all of this time has been merely put in by him without benefit to the business for the reason that the actual work was done as it always has been done by this affiant and the respondent and Mr. Rich's time added nothing to the carrying on of the business but as a matter of fact was a hinderance rather than a benefit to the business because much time was lost in explaining details to Mr. Rich which, of course, it was his right as receiver to know. However, the business was carried on exactly as it would have been without Mr. Rich being present except that as the money came in it was turned over to him and by him deposited in the bank.

Affiant recognizes, of course, that the receiver should be compensated for his efforts but feels that the allowance claimed by him of \$300.00 is grossly excessive and that Mr. Rich performed no services and assumed no responsibility to justify any such charge. So far as the actual work performed by him is concerned it could have been better performed by an ordinary hand at 12 $\frac{1}{2}$ ¢ an hour or a total of \$12.50.

Affiant insists that this was not an ordinary receivership in which the receiver took complete charge and operated the business out of his own experience and upon his own responsibility but was, instead, a case in which the owners of the business conducted it exactly as they always had done merely accounting to and paying over to the receiver the proceeds and for that reason affiant believes that the payment claimed by the receiver is without any justification either for time spent, services performed, responsibility assumed, benefit conferred to the business by the receiver's services or for any other reason.



Subscribed in my presence and sworn to before me this 17 day of April, 1934.

  
Notary Public.



FARMERS AND MERCHANTS BANK  
OF FOLEY, a CORPORATION,

Complainant,

VS.

W. B. BURMEISTER,

Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

*W. B. Burmeister  
Foley, Ala.*

*W. B. Burmeister  
Foley, Ala.*

*W. B. Burmeister  
Foley, Ala.*

*W. B. Burmeister  
Foley, Ala.*

*W. B. Burmeister  
Foley, Ala.*

In this cause on motion of the respondent, which is unopposed by the complainant, it is ordered that the Receiver execute within ten days from this date additional bond to be approved by the Register in the sum of \$2,000.00, making his aggregate bond \$3,000.00.

This 10th., day of May, 1933.

*A. W. Hare*

Judge.

RECORDED  
Received

Farmers & Merchants  
Bank of Foley, a corp  
vs.

W. B. Burmeister

Filed May 12, 1932

McNicherson, Register

This copy of the 1932

taxed the aggregate amount of \$2,000.00

and to be allowed by the Register in the sum of \$2,000.00

received except within the year from this date additional

amounts by the combination, it is ordered that the

in this case on motion of the respondent, which is

A. B. BURMEISTER

McNicherson

AS

IN COURT

OF FOLEY, A CORPORATION,  
VERSUS W. B. BURMEISTER

County of

BY DAVID GONNIN, ATTORNEY  
IN THE CIRCUIT COURT OF

W. B. Burmeister

LLOYD A. MAGNEY  
LAWYER  
FOLEY, ALABAMA

October 18, 1934.

Mrs. M. A. Stone,  
Register in Chancery,  
Bay Minette, Alabama.

RE: FARMERS & MERCHANTS BANK VS. BURMEISTER, #1110 $\frac{1}{2}$

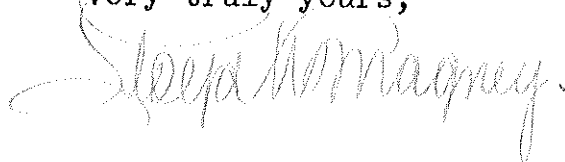
Dear Mrs. Stone:-

I have your letter enclosing a copy of the decree and cost bill in this matter.

I do not think that the transcript item should be included in this bill for the reason that Mr. Richardson, who would collect for the transcript, if I paid it in to you, has already been paid by the cost deposit which was made and which he has appropriated.

I will arrange to get the balance of the cost bill to you shortly, but I am going to deduct this transcript charge. If Mr. Richardson or any one else can show later why we should pay it, it can and will be paid at that time.

Very truly yours,



LAM:EP

FARMERS & MERCHANTS BANK  
OF POLEY, a corporation,

Plaintiff,

-vs-

W. B. BURMEISTER,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
IN CHANCERY.

AMENDED BILL OF COMPLAINT.

Comes now the above named Complainant and files this its amended bill of complaint, and incorporates herein and refers to and thereby makes a part hereof as fully as though set out in full, all of its said original bill of complaint, except Paragraph 7 of Part TWO of said original bill of complaint, said Paragraph 7 of Part TWO being hereby amended to read as follows:

7. That after said loan of money was made as aforesaid, the business was carried on by the Respondent as theretofore, and Complainant had no notice or knowledge of any change in the situation until during the month of February, 1933, at which time the Respondent came to Complainant and stated that the said F. W. Krahe had abandoned said business and gone back to Michigan and left him, the Respondent, in charge of the property; that he desired to go on with the business and desired to rent all of the property covered by said loan from Complainant and to use the bulbs and cut and sell the flowers under a rental contract with the Complainant; that Complainant refused to enter into any rental agreement with Respondent and no rental agreement was ever made between the parties; that Complainant notified Respondent then, that it did not own the property as yet, having merely a chattel mortgage upon it and having agreed that the possession might remain with the mortgagor and that it could not and would not enter into any rental arrangement, but that if the said Krahe had in fact abandoned said property, that Complainant would proceed at once to take possession of said property and proceed at once to foreclose its mortgage and that upon acquiring full title to and possession of said property it would then sell the same