
20190515000163740 1/10 \$43.00
Shelby Cnty Judge of Probate, AL
05/15/2019 08:18:31 AM FILED/CERT

ALABAMA

This Instrument Was Prepared By:

Amy L. Baker
Stites & Harbison PLLC
303 Peachtree Street, NE, Suite 2800
Atlanta, Georgia 30308
(404) 739-8800

After Recording, This Instrument Should Be Returned To The Preparer At The Address Shown Above.

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES (the "Assignment") is made as of this 1 day of May, 2019 by **BEZSHAN M. DOLATABADI** and **ANDREA DRIVER RUSSELL**, now known as **ANDREA D. DOLATABADI**, husband and wife, having an address of 721 Rosebury Road, Helena, Alabama 35080 (collectively, the "Assignor" and sometimes hereinafter referred to as "Guarantor"), to and for the benefit of SYNOVUS BANK, a Georgia banking corporation having an address of 960 Buford Highway, Cumming, Georgia 30041 (the "Assignee" and sometimes hereinafter referred to as "Lender").

WITNESSETH:

WHEREAS, Assignor owns an undivided interest in the real property (the "Property") described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, the Assignor desires to induce the Lender to extend a loan (the "Loan") to BEZSHAN, LLC, an Alabama limited liability company (the "Borrower"), pursuant to the terms of that certain U.S. Small Business Administration Note of even date herewith from Borrower to Assignee in the original principal amount of FOUR HUNDRED SEVENTY THREE THOUSAND AND NO/100 DOLLARS (\$473,000.00) (the "Note");

WHEREAS, the Loan is guaranteed by those certain guaranty agreements of even date herewith from Assignor in favor of Lender (collectively, the "Guaranty");

WHEREAS, the Assignee requires that the Assignor secure the indebtedness owed by Assignor to Assignee as described in the Guaranty by the execution of this Assignment.

WHEREAS, Assignor, Borrower, Guarantor and Assignee hereby agree and acknowledge that Lender's extension of the Loan to Borrower is beneficial to Assignor; and


NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Assignee and Assignor hereby agree as follows:

1. Assignment. Assignor, intending to be legally bound, does hereby sell, assign, transfer and set over unto Assignee all right, title and interest of Assignor in and to all rents, issues, income and profits of the Property, and all right, title, and interest of Assignor in and to the lease(s) of all or of portions of the Property and made a part hereof, and any leases which may be hereafter entered into for all or any portion of the Property (hereinafter referred to as the "Leases"), and any and all amendments, modifications, extensions, replacements and renewals thereof, including all security deposits or interests therein now or hereafter held by Assignor and the benefit of all guarantees executed in connection with any of the Leases. This Assignment is absolute and is effective immediately; provided, however, until notice is sent by Assignee to Assignor in writing that an Event of Default has occurred under the Loan Agreement (each such notice is hereinafter referred to as the "Notice"), Assignor may receive, collect and enjoy the rents, issues, income and profits accruing from the Property.

2. Representations. Assignor represents and warrants to Assignee that: (a) it has made no prior assignment or pledge of the rents assigned hereby or of the Assignor's interest in any of the Leases; (b) no default exists in any of the Leases and there exists no state of facts which, with the giving of notice or passage of time, or both, would constitute a default under any of the Leases; and (c) Assignor is the sole owner of the lessor's interest in the Leases.

3. Negative Covenants of Assignor. Assignor shall not, without Assignee's prior written consent, which consent shall not be unreasonably withheld, execute an assignment or pledge of the rents from the Property or any part thereof, or of the Assignor's interest in any of the Leases, except to Assignee. Furthermore, Assignor shall not, without Assignee's prior written consent, reduce the rent payable by any tenants under the Leases, nor otherwise materially modify or amend the Leases, nor waive any obligations of, or release any of the tenants under the Leases.

4. Affirmative Covenants of Assignor. Assignor will at its sole cost and expense (a) at all times promptly and faithfully abide by, discharge or perform all of the covenants, conditions and agreements contained in the Leases; (b) transfer and assign to Assignee any and all Leases subsequently entered into, upon the same terms and conditions as are herein contained, and make, execute and deliver to Assignee upon demand any and all instruments required to effectuate such agreement; (c) furnish to Assignee, within ten (10) days after a request by Assignee to do so, a written statement containing the names of all tenants of the Property or any part thereof, the terms of their respective Leases, the spaces occupied, and the rents payable thereunder; (d) furnish Assignee promptly with copies of any notices of default which Assignor may at any time give to any tenant of the Property or any part thereof; and (e) pay immediately upon demand all sums expended by Assignee under the authority hereof, together with interest thereon at the highest rate permitted by applicable law.


20190515000163740 2/10 \$43.00
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5. Agreements of Assignor.

(a) Should Assignor fail to make any payment or to do any act as herein provided for and upon notice to Assignor, then Assignee, but without obligation so to do, and without releasing Assignor from any obligation hereof, may make or do the same in such manner and to such extent as Assignee may deem necessary to protect the Property and the Leases, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the Property or the Leases or the rights or powers of Assignee, and also the right to perform and discharge each and every obligation, covenant and agreement of the Assignor in the Leases contained, and in exercising any such powers to incur and pay reasonably necessary costs and expenses, including reasonable attorneys' fees, all at the expense of Assignor.

(b) This Assignment shall not operate to place responsibility for the control, management, care or repair of the Property upon Assignee, and Assignee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under the Leases, or under or by reason of this Assignment, and Assignor shall and does hereby agree to indemnify and to hold Assignee harmless of and from any and all liability, loss or damage which it may or might incur under the Leases or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertaking on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases, except such claims or demands resulting from the gross negligence or willful misconduct of Assignee, with respect to the Leases, after Assignee exercises its remedies hereunder; provided, however, Assignee's election not to act or take other remedial action pursuant to this Assignment or the Guaranty, shall not constitute gross negligence or willful misconduct. Should Assignee incur any such liability, loss or damage under the Leases or under or by reason of this Assignment, or in the defense of any such claims or demands, then Assignor shall, upon Assignee's demand, reimburse Assignee in the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest at the highest rate permitted by applicable law.

(c) Nothing herein contained shall be construed as constituting Assignee a "mortgagee in possession" in the absence of the taking of actual possession of the Property by Assignee pursuant to the provisions hereinafter contained. In the exercise of the powers herein granted Assignee, no liability shall be asserted or enforced against Assignee, all such liability being expressly waived and released by Assignor.

(d) A demand on any tenant by Assignee for the payment of the rent on any default of Assignor claimed by Assignee shall be sufficient warrant to the tenant to make future payment of rents to Assignee without the necessity for further consent by Assignor.

(e) Assignor does further specifically authorize and instruct each and every present and future tenant of the whole or any part of the Property to pay all unpaid rent agreed upon in any Leases to Assignee upon receipt of demand from Assignee to pay the same, and Assignor hereby waives all right, claim or demand it may now or hereafter have against any such tenant by reason of such payment of rent to Assignee or compliance with other requirements of Assignee pursuant to this Assignment.

(f) Assignor hereby irrevocably appoints Assignee as Assignor's true and lawful attorney in fact, which appointment is coupled with an interest, with full power of substitution and with full power for Assignee in its own name and capacity or in the name and capacity of Assignor, from and after the service of the Notice of any default not having been cured, to demand, collect,



receive and give complete acquittances for any and all rents, issues, income and profits accruing from the Property and the Leases, and at Assignee's discretion to file any claim or take any other action or proceeding and make any settlement of any claims in its own name or otherwise, which Assignee may deem necessary or desirable in order to collect and enforce the payment of the rents, issues, income and profits. Tenants of the Property are hereby expressly authorized and directed to pay any and all amounts due Assignor pursuant to the Leases directly to Assignee or such nominee as Assignee may designate in writing delivered to and received by such tenants, who are expressly relieved of any and all duty, liability or obligation to Assignor in respect of all payments so made.

6. Default. At any time after the occurrence of an Event of Default under the Loan Agreement, Assignee may, at its option, from and after the Notice and expiration of any applicable period of grace, if any, and without regard to the value of the Property or the adequacy of the security for the indebtedness, either in person or by agent, with or without bringing any action or proceeding, or by a receiver to be appointed by a court, enter upon, take possession of, manage and operate the Property or any part thereof, do any acts which Assignee deems proper to protect the Property and the Leases, and either with or without taking possession of the Property in the name of Assignor or in its own name, sue for or otherwise collect and receive such rents, issues, income and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including, but not being limited to, reasonable attorneys' fees, management fees and brokers' commissions, upon any indebtedness of Assignor to Assignee described in the Guaranty, and in such order as Assignee may determine. Assignee reserves, within its own discretion, the right to determine the method of collection and the extent to which enforcement of collection of delinquent rents shall be prosecuted, and shall not be accountable for more money than it actually receives from the Property. The entering upon and taking possession of the Property or the collection of such rents, issues, income and profits and the application thereof, as aforesaid, shall not cure or waive any default under the Guaranty. Assignor agrees that it will facilitate in all reasonable ways Assignee's collection of such rents and will, upon request by Assignee, promptly execute a written notice to each tenant directing the tenant to pay rent to Assignee.

7. Assignee's Right to Exercise Remedies. No remedy conferred upon or reserved to Assignee herein or in the Guaranty is intended to be exclusive of any other remedy or remedies, and each and every such remedy herein or in the Guaranty contained shall be cumulative and concurrent and shall be in addition to every other remedy given hereunder and thereunder or now or hereafter existing at law or in equity or by statute. The remedies may be pursued singly, successively or together against Assignor or the Property at the sole discretion of Assignee. No delay or omission of Assignee to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein, and every power and remedy given by this Assignment to Assignee may be exercised from time to time as often as may be deemed expedient by Assignee.

8. Defeasance. As long as Assignor shall not have defaulted in the performance of any obligation, covenant or agreement herein or in the Guaranty, Assignor shall have the right to collect upon, but not prior to accrual, all rents, issues, income and profits from the Property and to retain, use and enjoy the same. Upon the performance of all obligations, covenants and agreements herein and in the Guaranty, this Assignment shall become and be void and of no effect, but the affidavit of any officer or agent of Assignee showing any part of such indebtedness remaining unpaid or showing nonperformance of any such obligations, covenants or agreements shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment, and any person may and is hereby authorized to rely thereon.

9. Notices. All notices, demands and requests given or required to be given by either party hereto to the other party shall be in writing. All such notices, demands and requests shall be deemed to have



been properly given if served in person or if sent by United States registered or certified mail, postage prepaid, addressed as follows:

As to Assignor:
721 Rosebury Road
Helena, Alabama 35080

and to Assignee at:
960 Buford Highway
Cumming, Georgia 30041
Attention: SBA Lending/Legal Notice

or to such other address as Assignor or Assignee may from time to time designate by written notice to Assignee or Assignor and given as herein required. Notices, demands and requests given in the manner aforesaid shall be deemed sufficiently served for all purposes hereunder upon the earlier of dispatch or personal service.

10. Miscellaneous.

(a) This Assignment may not be modified, amended, discharged or waived orally, but only by an agreement in writing and signed by the party against whom enforcement of any such modification, amendment, discharge or waiver is sought.

(b) The covenants of this Assignment shall bind Assignor, the successors and assigns of Assignor, all present and subsequent encumbrances, tenants and subtenants of the Property or any part thereof, and shall inure to the benefit of Assignee, its successors and assigns; provided, however, Assignor shall make no assignment of its rights or obligations hereunder without the prior written consent of Assignee.

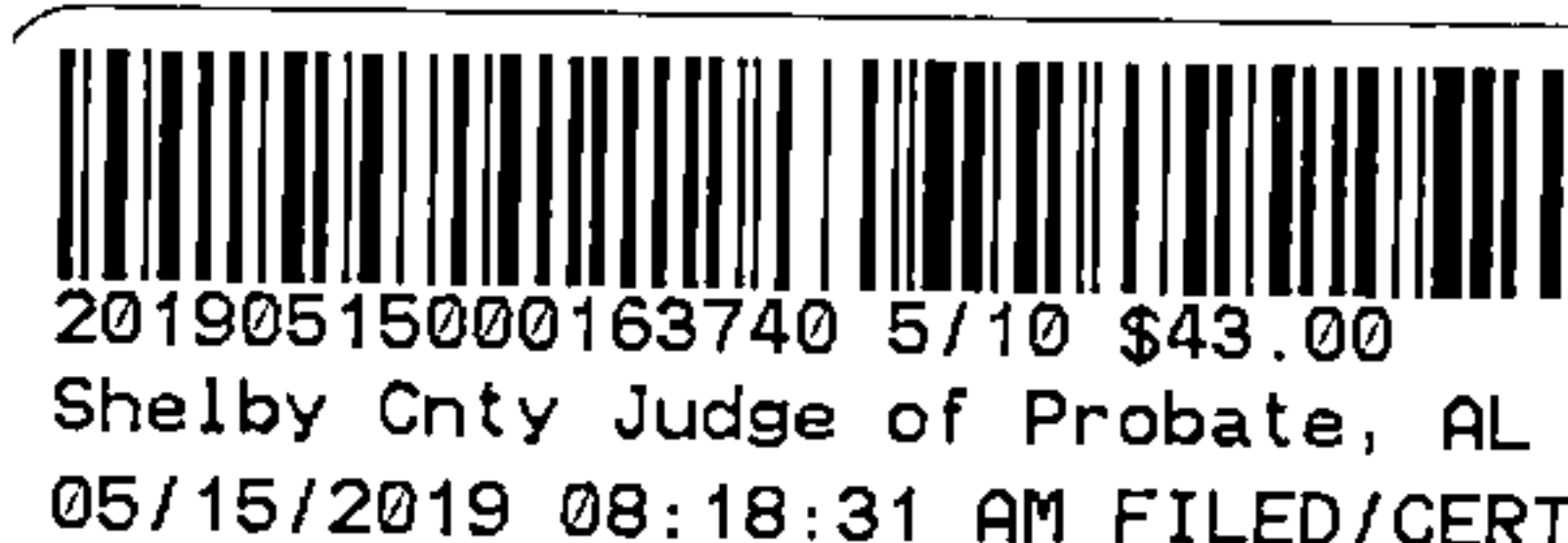
(c) As used herein, the singular shall include the plural, as the context requires, and all obligations of each Assignor shall be joint and several.

(d) The captions in this Assignment are used for convenience in finding the subject matters, and are not to be taken as part of this Assignment or used in determining the intent of the parties or otherwise in interpreting this Assignment.

(e) In the event any one or more of the provisions contained in this Assignment or in the Guaranty shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of Assignee, not affect any other provision of this Assignment, but this Assignment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

(f) This Assignment shall be governed by and construed in accordance with the laws of the State of Alabama.

(g) The terms "Assignor" and "Assignee" shall be construed to include the heirs, personal representative, successors and assigns thereof. The gender and number used in this Assignment are used as reference term only and shall apply with the same effect whether the parties are of the masculine or feminine gender, or corporate or other form.



(h) The rights of Assignee hereunder shall be separate, distinct and cumulative of other powers and rights which Assignee may have under any other Guaranty or at equity, none of them shall be in exclusion of any others, and all of them shall be cumulative to the remedies provided Assignee for collection of indebtedness, enforcement of rights under security deeds, and preservation of security as provided at law, contract or equity. No act of Assignee shall be construed as an election to proceed under any one provision herein to the exclusion of other remedies provided in contract, law or equity.

(i) Small Business Administration. The Loan secured by this lien was made under a United States Small Business Administration (SBA) nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then under SBA regulations.

(a) When SBA is the holder of the Note, this document and all documents evidencing or securing this Loan will be construed in accordance with federal law.

(b) Lender or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. No Borrower or Guarantor may claim or assert against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to this Loan.

Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument.

[SIGNATURES BEGIN ON FOLLOWING PAGE]



20190515000163740 6/10 \$43.00
Shelby Cnty Judge of Probate, AL
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IN WITNESS WHEREOF, Assignor has executed this Assignment as of the date first hereinabove written.

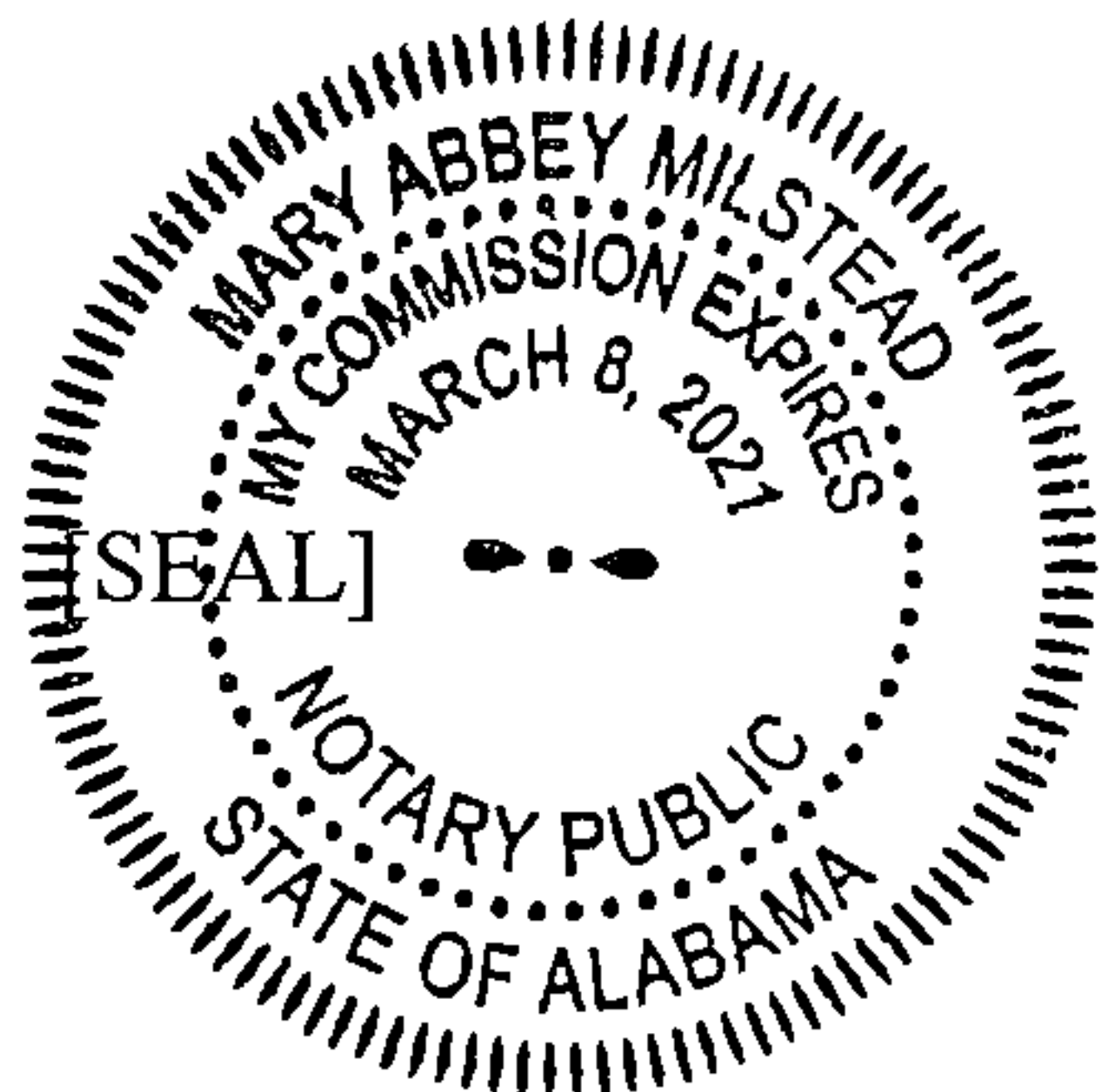
ASSIGNOR:

Bezshan M. Dolatabadi (SEAL)
BEZSHAN M. DOLATABADI

STATE OF ALABAMA)
COUNTY OF Jefferson)

I, Mary Abbey Milstead Notary Public in and for said County, in said State, do hereby certify that BEZSHAN M. DOLATABADI, whose name is signed to the foregoing instrument, and who is known by me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and seal on this the 1st day of May, 2019.



Mary Abbey Milstead
Notary Public
My Commission Expires: 03/08/2021

[SIGNATURES CONTINUED ON FOLLOWING PAGE]



20190515000163740 7/10 \$43.00
Shelby Cnty Judge of Probate, AL
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Andrea D Dolatabadi
(SEAL)
ANDREA DRIVER RUSSELL, now known as
ANDREA D. DOLATABADI

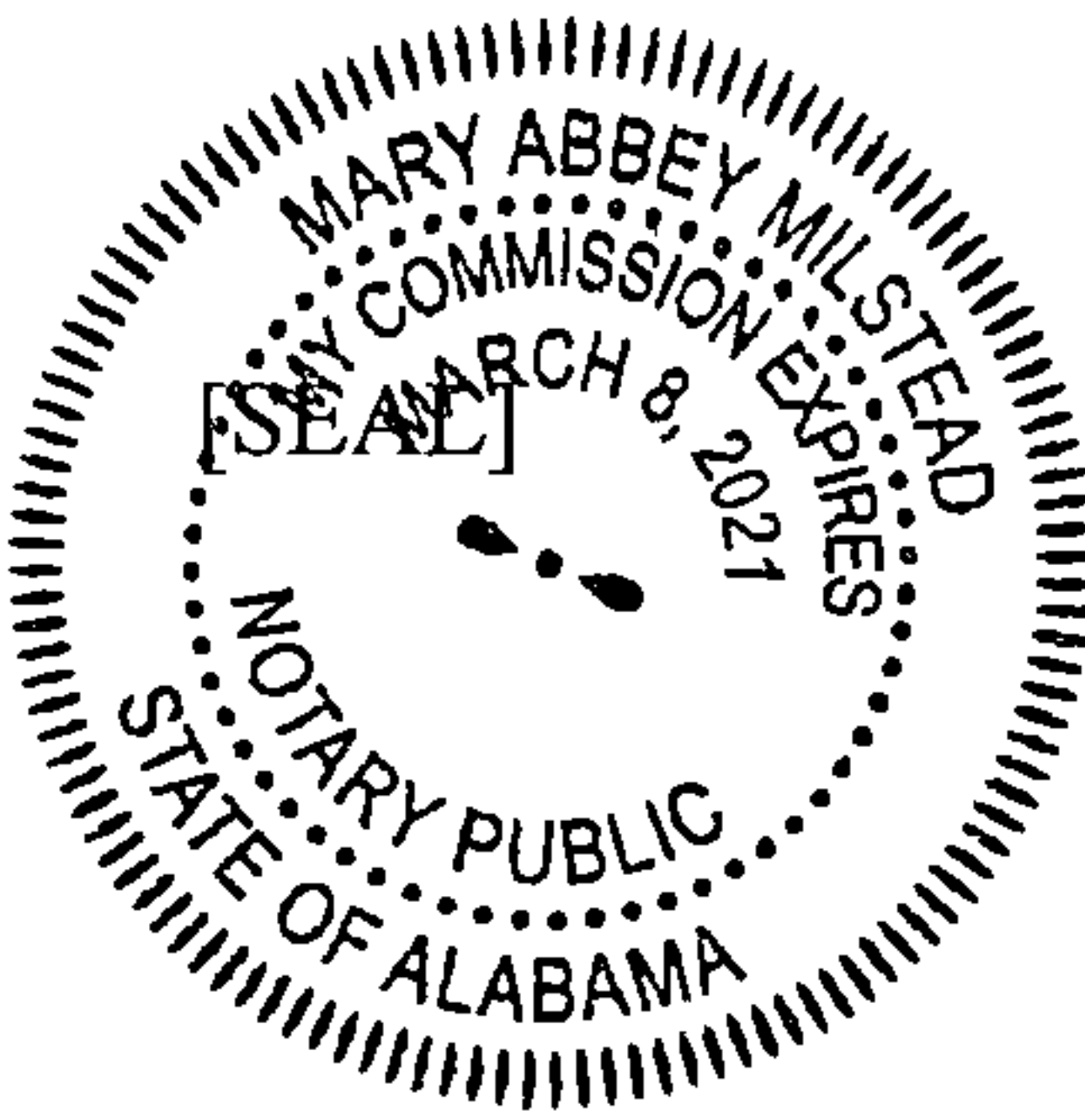
STATE OF ALABAMA)

COUNTY OF Jefferson)

I, Mary Abbey Milstead Notary Public in and for said County, in said State, do hereby certify that appeared ANDREA DRIVER RUSSELL, now known as ANDREA D. DOLATABADI, whose name is signed to the foregoing instrument, and who is known by me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and seal on this the 1st day of May, 2019.

Mary Abbey Milstead
Notary Public
My Commission Expires: 03/08/2021



[SIGNATURES CONTINUED ON FOLLOWING PAGE]



20190515000163740 8/10 \$43.00
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By its execution hereof, the Borrower hereby consents to, and agree to be bound by, each and every provision of this Assignment.

BORROWER'S ADDRESS:

271 Rele Street
Birmingham, Alabama 35223

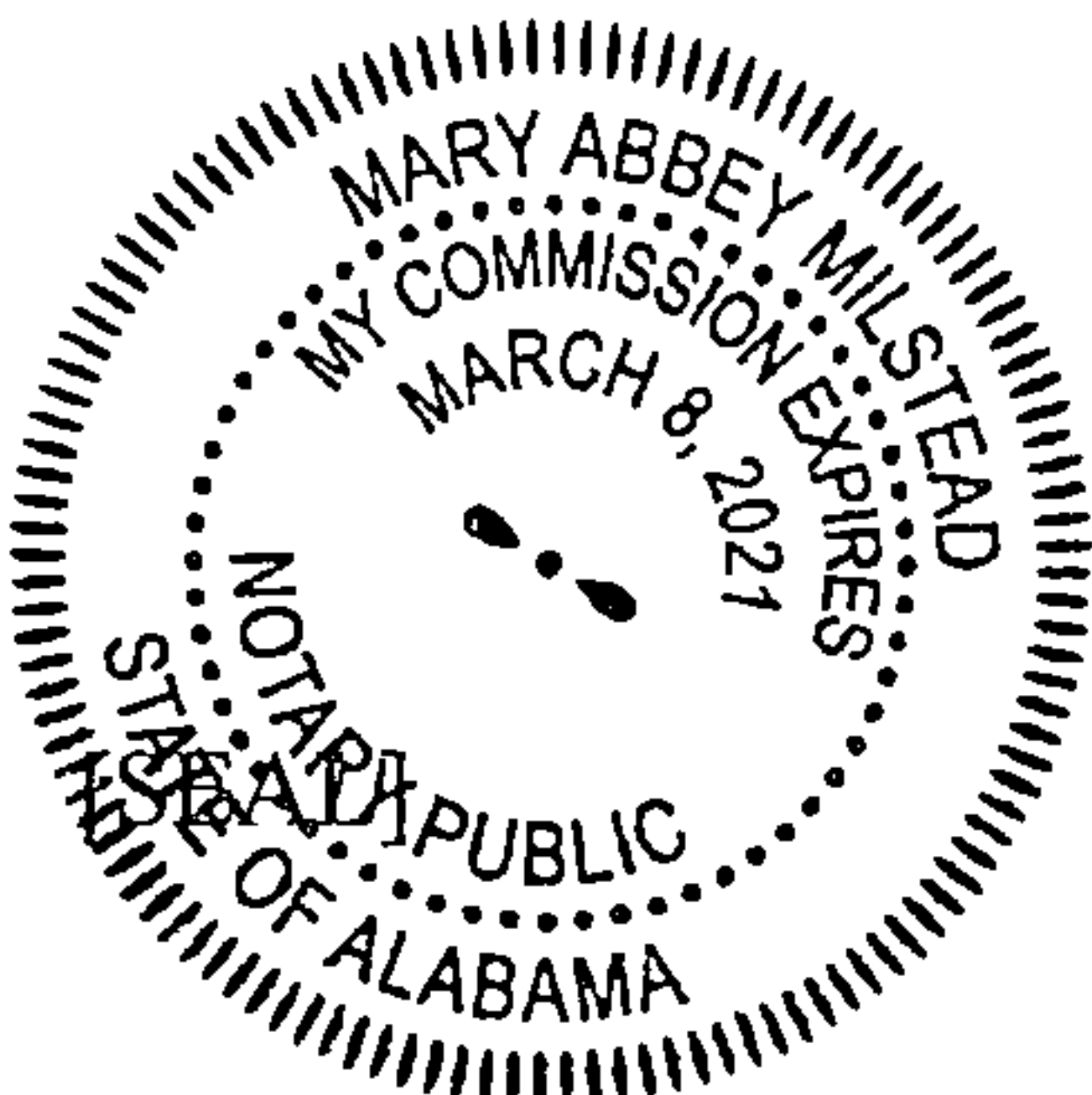
BEZSHAN, LLC, an Alabama limited liability
company

By: *Bezshan M. Dolatabadi* (SEAL)
Bezshan M. Dolatabadi, Manager

STATE OF ALABAMA)
COUNTY OF Jefferson)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that BEZSHAN M. DOLATABADI, whose name as Manager of BEZSHAN, LLC, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such managing member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

GIVEN under my hand and seal on this the 1st day of May, 2019.



Mary Abbey Milstead
Notary Public

My Commission Expires: 03/08/2021

THIS INSTRUMENT PREPARED BY:
Amy L. Baker
STITES & HARBISON, PLLC
303 Peachtree Street, NE, Suite 2800
Atlanta, Georgia 30308
Telephone: (404) 739-8800

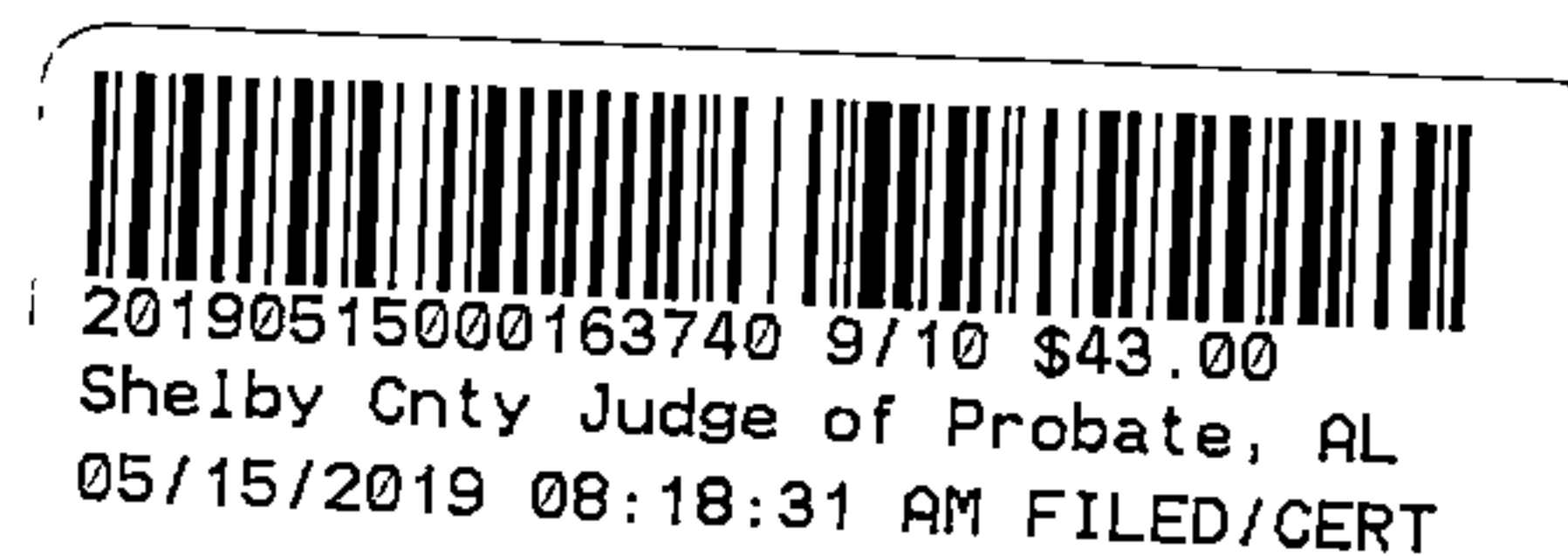


EXHIBIT "A"
LEGAL DESCRIPTION

Land lying and being in Shelby County, Alabama being more particularly described as follows:

Lot 126, according to the Survey of Hillsboro Subdivision, Phase III, as recorded in Map Book 39, Page 123 A, B, and C, in the Probate Office of Shelby County, Alabama.

Tax Parcel: 13-5-16-4-001-046.000

Being the same property conveyed to Andrea Driver Russell by virtue of that certain deed recorded as Instrument No. 20161108000411780, and by virtue of that certain deed recorded as Instrument No. 20140626000194270.

