

#2895

STATE OF ALABAMA

Inc. 56 page 560

JEFFERSON COUNTY

PARTNERSHIP AGREEMENT

This indenture made the 31 day of December, 1940, between William Albert Belcher, party of the first part, Nell Vandergrift Belcher, party of the second part, and Nell Vandergrift Belcher as trustee respectively for each of the following: Mary Earnestine Belcher, William Albert Belcher, Jr., Van Elam Belcher, and Katherine Anne Belcher, party of the third part. All of Birmingham, Jefferson County, Alabama:

Witnesseth that the said parties hereto do hereby mutually agree to become partners in the Lumber business, including the manufacture, sale and transportation of all kinds of lumber and timber, being that business which has heretofore been operated by party of the first part individually, under the trade name of W. A. Belcher Lumber Company, for the period of time and upon the terms hereinafter expressed, that is to say:

1. The partnership shall commence on the day next succeeding the date this instrument is signed and shall continue for the term of seven years from that date, unless previously determined as hereinafter provided.

2. The style or firm name of the partnership shall be W. A. Belcher Lumber Company.

3. The death or retirement of any partner shall not dissolve the partnership as to the other partners.

4. Subject to the provisions hereof, the partners shall be entitled to the capital and property of the partnership, and during the term of the partnership, in the following shares, to-wit, party of the first party thirty-four per cent, and party of the second part thirty-four per cent, and party of third part a total of thirty-two per cent.

5. The capital of the partnership shall be the aggregate interest which all partners now own in mills, machinery, equipment, tools, trucks, tractors, and all rolling stock heretofore used in the manufacture, processing and transportation of lumber or timber by W. A. Belcher doing business under the trade name of W. A. Belcher Lumber Company, an inventory of which is marked exhibit A and attached to this partnership agreement and made a part hereof the same as if set out herein in full, but no timber, lumber or real estate now owned individually by party of the first part shall be deemed to be a part of the partnership's assets except and unless said property shall be acquired by the partnership by purchase as hereinafter provided.

6. If any further capital shall at any time or times be considered by the partners to be necessary or desirable for efficiently carrying on the business, it shall be contributed by the partners in the shares of which they shall be for the time being, entitled to the existing capital of the partnership.

7. In lieu of additional capital, as provided for in number six of this instrument, any partner may, with the oral or written consent of the other partners, lend or advance any sum or sums of money to the firm over and above due contribution to the capital, and the same shall be a debt due from the firm to such partner, and shall carry interest at the rate of six per cent per annum. Any partner making any such advances or loans shall have the right at his or her option to have such loans or advances repaid by the firm before any profits are declared or paid to the other partners.

8. The bank or banks of the partnership shall be one or both of the following (at the option of the general manager hereinafter provided for) The First National Bank of Birmingham, Alabama and/or The Birmingham Trust & Savings Company of Birmingham, Alabama or any other bank which the partners may agree upon.



9. All partnership money not required for current expenses, and all notes, bills, checks and other negotiable securities for money shall, as and when received, be paid into or deposited with the bank to the credit of the partnership account. All checks on such account shall be drawn in the firm name and may be drawn only by the general manager hereinafter provided, or by the bookkeeper of the firm upon his authorization.

10. All wages, rents, taxes, costs of repairs, alternations, improvements, insurance, and all services, salaries, expenses for equipment and machinery replacements: and other expenses incurred in the manufacture, transportation, processing, storing, handling and sale or purchase of lumber and timber, or expenses which shall be incurred in or about the conduction of the partnership business, including any necessary traveling expenses incurred by any partner or any employee of the partnership firm, shall be paid out of the income or capital of the partnership by the general manager hereinafter provided for without any further authorization from the partners to this agreement.

11. The net profits of the partnership after payment of the expenses thereof which are hereinbefore or hereinafter provided for and the interest on any loans and debts due by the partnership, if any (and subject to the creation and maintenance of the reserved fund hereinafter provided for) shall belong to the partners in the following shares: party of the first part thirty-four per cent, party of the second part thirty-four per cent, and party of the third part the total of thirty-two per cent.

12. For the purpose of building a reserve fund to meet any and all contingencies ~~which may~~ which may arise in the future, including the purchase of lumber, timber, machinery, equipment and real estate, and for the expense of the firms business, it is hereby agreed that all profits accruing to the partnership (except salaries to be paid to certain partners) shall be maintained in the partnership's assets except such part or parts of the net profits as shall from time to time be agreed by all parties to the partnership to be dispersed to the respective partners. In which event each partner is to receive as his or her share of the profits so dispersed a sum in the ration which his interest in the partnership bears to the other partners' interest: but nothing contained herein shall be contrued as preventing the partners from withdrawing all the net profits from the partnership at any time if they unanimously agree to do so. In the event that the partners agree at any time, or from time to time to divide and withdraw a part or all of the accrued or accumulated net profits, and in the further event that any one or more partners shall desire not to withdraw his or their share he or they may leave his or their share in the firm, in which event it shall be treated as a loan to the partnership from such partners or partners, and bear interest, and be subject to priority of payment as provided in number 7 hereof.

13. Party of the first part shall act as general manager of the partnership firm with the following powers and duties and shall receive as compensation for his services in his capacity as general manager a salary of four hundred dollars (\$400.00) per month, which salary shall be treated as any other expense of the firm and shall be paid monthly (or in weekly installments at his option) the same as salaries are paid to other employees of the firm.

14. Party of the first part shall have all of the general powers and duties ordinarily conferred or imposed upon a manager of a firm or like or similar nature, and in addition shall have the following powers and duties:

(A). To sell any and all lumber manufactured or owned by the firm at any price which he, in his sole discretion, may consider reasonable at any time, and to collect the same in cash, or extend credit upon any terms to the buyer for the payment of same, which he may deem best, regardless of whether the sales price may be secured or unsecured.



(B). To buy or sell any lumber, finished or unfinished, and any timber standing or cut from or to any person, firm or corporation at any time and to pay therefor (if a purchase) or sell for (if a sale) any price and upon any terms which he, in his sole discretion, deems proper or advisable; provided, however, that purchase of lumber or timber from party of the first part individually shall be made and paid for as hereinafter provided.

(C) To buy, sell, trade or exchange for cash or terms any machinery, equipment, tools, trucks, tractors, rolling stock or any material used in or about the manufacture, transportation, processing or sale of lumber or timber including any books, office supplies or equipment, and to fix or agree upon the price thereof.

(D). To operate or close down any sawmill or planer mill in operation at any time and to buy or sell any such mill or mills as from time to time he deems advisable in the regular course of business and to install any new mill or move any mill in operation at any time as he may deem it advisable to promote the best interest of the firm.

(E). To hire or fire any and all employees or agents of or for the firm and to fix the amount of compensation to be paid them as wages or salaries (except as herein provided for the salaries of certain partners, which salaries can only be changed by the written consent of all the partners). And to make loans and advances at any time to employees of the firm.

(F). To rent or lease any real estate or personal property deemed by him necessary in the conduct or operation of the firm's business and to agree to and pay whatever rentals he may deem reasonable for such properties.

(G). To purchase any real estate to be used in connection with the firm's business, such as timber land, storage space or mill sites, but for the purchase of real estate for any other purpose it shall be necessary to obtain the written consent of all parties to this contract. Title to all real estate purchased with the firm assets shall be taken in the name of the partnership; but nothing contained herein shall be construed as preventing party of the first part of any other partner from purchasing real estate with his or her own individual assets and taking title in his or her name, even though it may later be sold to the partnership.

(H). To contract for the sale or purchase of lumber, timber, machinery, equipment, tools, rolling stock or materials to be sold or purchased for future delivery; provided, however that no such contract shall be made for a period of time extending beyond the utmost duration of this contract.

(I). To make contract in the firm's name, either oral or in writing, to carry out the provisions of any power or duty granted to him.

(J). It shall be his duty to keep or cause to be kept records of all transactions made by the firm and to furnish the partners to this contract with a full and complete account of the financial and business affairs of the partnership at any time that any one of them request it of him in writing. It shall be his duty to make or cause to be made all tax reports to the State and Federal Government which are required of the partnership. The records and books of the firm shall be open to the inspection by the other partners at any reasonable time they desire to do so.

15. For the mutual benefits of all parties, and for purposes of enabling the partnership to begin and to continue to operate said lumber business as a going concern until the partnership can acquire sufficient timber and manufacture a stock of lumber; and for the further purpose of enabling party of the first part to market all lumber hereto manufactured by him and timber now owned by him individually, and at the same time to devote his full time and energy to the partnership firm it is agreed as follows:

(A). That party of the first part agrees to sell to the partnership and the partnership agrees to buy all lumber, finished or unfinished, and regardless of grade or condition, which party of the first part now owns individually, at the fixed price of \$17.50 per thousand board feet; Payable



as said lumber is resold and collected for by the partnership; and

(B). The party of the first part agrees to sell and the partnership agrees to buy all timber standing or cut, owned individually by party of the first part at the time this contract is signed at the price of \$2.50 per thousand feet. Payable as said timber is processed into lumber.

(C). All sums of money due party of the first part for such lumber and timber shall be subject to his withdrawal at any time, but in the event he shall elect to leave any such money in the hands of the partnership for more than a month after becoming due he shall be entitled to treat it as a loan to the partnership with the right to interest and priority as provided in number 7 hereof.

16. Party of the second part is to act as secretary and head-bookkeeper for the firm. For these services she shall receive a salary of two hundred and fifty dollars (\$250.00) per month (payable in weekly installments at her option) which salary shall be treated and paid the same as a salary for any other employee of the firm and shall be charged to the general expense of the firm. It shall be her duty to ascertain and require that adequate records and books of partnership transactions are kept and for this purpose she is authorized to employ, from time to time, a Certified Public Accountant to audit the records and books of the firm and to agree upon and pay from the partnership assets reasonable compensation for such services. For the purpose of enabling her to properly discharge her duties in this capacity, the records and books of the firm shall be open to her at any and all times, and it shall be her duty to check such books and records and regularly each month, but she shall not be required to give her full time to this work.

17. Each partner shall at all times duly and punctually pay and discharge his or her separate and private debts and engagements, and keep the partnership indemnified therefrom and save the partnership harmless from all private or personal actions, proceedings, costs, claims and demands in respect thereof.

18. As soon as practical after the first day of January in each year during the continuance of the partnership a general account and valuation shall be taken and made up to said date of the stock in trade, credits, property, effects, debts, and liabilities of the partnership, and of all transactions, matters and things usually comprehended in a general account of the like nature. Such account and valuation shall be balanced, and agreed to and signed by all the partners, and, when so signed, shall be binding on all of the partners except that if any manifest error be detected and pointed out by any partner to the others within twelve months after such signature, such error shall be forthwith corrected.

19. The partnership may be terminated at any time prior to the final date of termination by all parties agreeing in writing to do so.

20. A sale in bulk of all of the partnership firm's assets, not made in the usual course of the partnership's business, including good will of the firm, can only be made with the written consent of all partners.

21. Any partner may, at the end of the first full year or subsequent year of the partnership retire therefrom on giving not less than six months previous notice in writing to the other partners or partner, and at the expiration of such year the partnership shall terminate accordingly as to the partner giving such notice and he shall be entitled to receive his or her share of the accumulated profits of the partnership in the ratio which his or her interest in the partnership bears to the other partners. The remaining partner or partners shall have the option to purchase such retiring partner's interest in the partnership firm at a price to be agreed upon between them. If no price can be agreed upon for the purchase of the retiring partner's interest, the matter shall be submitted to a board of arbitrators composed of three members, one being selected by the retiring partner and one being selected by the remaining partner or partners and the third being selected by the two members so selected, who shall fix a fair valuation on the entire partnership assets, including good will, and the remaining partner or partners shall have the option to purchase such retiring partner's interest at the sum which his per-



centage of interest in the firm bears to the total valuation fixed by such board of arbitration.

22. In the event of death of any partner the surviving partner or partners agree to renew this partnership agreement with the personal representative of such deceased partner, or with the trustee appointed instead of party of the third part (in the event that party of the third part be such partner deceased), or with the trustee named in the will of the deceased partner (if any), should such personal representative or trustee desire to enter into such renewal. In the event of such renewal, this partnership shall be conducted thereafter as a co-partnership between the surviving partners and the estate of the deceased partner.

23. Upon the death of the last surviving partner of the original partners under this agreement the partnership shall be finally terminated with no right of renewal thereafter. The business shall then be liquidated in accordance with the provisions of the will of the last surviving party hereto.

24. This agreement shall be binding, not only upon the parties hereto, but also upon their heirs, executors, administrators, and assignees, and the parties hereto agree for themselves and their respective heirs, executors, administrators, and assignees, to execute any instrument in writing which may be necessary for proper to carry out and effectuate the intent of this agreement.

IN WITNESS WHEREOF, the parties hereto do hereby affix their signature and seal on this the 31 day of December, 1940, at Birmingham, Alabama, in triplicate.

William Albert Belcher, Sr.

W.A.B.  
Seal

Nell Vandergrift Belcher

N. V. B.  
Seal

Nell Vandergrift Belcher  
Trustee respectively for each of the  
following: Mary Earnestine Belcher,  
William Albert Belcher, Jr., Van Elam  
Belcher, and Katherine Anne Belcher.

N.V.B.  
Seal

Witnesses:

Nora Vandergrift

C. M. Dendy

EXHIBIT A

Inc. 56 page 570

INVENTORY

Of mills, machinery, equipment, tools, trucks, tractors, and rolling stock effected by the instrument to which this inventory is attached:

Equity in:

1 Moore Cross Circulation Dry Kiln, complete.

Equity in:

2 Planing Mills Complete with 3 Band Resaws, trimmers, one Yates A 20 Planer and Matcher  
one Yates A 63 Planer and Matcher, one Yates Moulding Machine #505, together with all  
tools and equipment.

The following items all fully paid for:

River equipment, which includes one tow boat and six barges, all tools and equipment.

Eight mules

Two Saw mills complete with all tools and equipment

Twenty Trucks and Trailers Complete

Two Caterpillar Tractors.

Valuation:

All of the aggregate estimated value as of December, 1940, of EIGHTY THOUSAND DOLLARS (\$80,000.00).

EXHIBIT A

Filed in office for record this the Dec. 31, 1940 and duly  
recorded in Vol. 56 page 560 Eugene H. Hawkins, Judge of Probate

## Certified Copy of Certificate

THE STATE OF ALABAMA

PROBATE COURT

JEFFERSON COUNTY

I, the Undersigned as Judge of Court of Probate, in and for said County, in said State, hereby certify that the foregoing contains a full, true and correct copy of the Partnership Agreement between William Alabert Belcher and Nell Vandergrift et als with the filing of same as appears of record in this office in Vol. 56 Record of Inc. on page 560.

Given under my hand and official seal, this  
the 19th day of March, 1948.

Seal

Tom C. Garner  
Judge of Probate

Filed for record in this office on the 15th day of April 1948 at 3 P.M. and recorded in deed book 133  
page 447 on this the 20th. day of April, 1948.

L. C. Walker, Probate Judge.

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