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Shelby Cnty Judge of Probate, AL
01/28/1977 12:00:00 AM FILED/CERT

IN THE MATTER OF THE ESTATE
OF THOMAS C. CAIRNS, DECEASED

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)
)

NO.
IN THE PROBATE COURT
OF SHELBY COUNTY, ALABAMA

AMENDED DECREE

WHEREAS, the day having been regularly set to hear and determine all matters relating to the Petition for Final Settlement and accounts as filed by Sara Kieffer Cairns and The First National Bank of Birmingham as co-executors of the Estate of Thomas C. Cairns, deceased, for a final settlement of their acts as executors of said deceased's estate, AND,

WHEREAS, in the Probate Court of Shelby County, Alabama, the said hearing on final settlement being held on October 24, 1974, AND,

WHEREAS, at said final settlement hearing, upon sufficient proof of the receipts and disbursements by the executors, the said court approved all such acts by the executors, and so ordered, adjudged, and decreed, AND,

WHEREAS, the court at said hearing further ordered, adjudged and decreed the distribution of certain described real property, to wit:

SE 1/4 of the SW 1/4 of the SW 1/4, lying East of
proposed Alabaster-Helena Road in Section 26,
Township 20 South, Range 3 West.

NE 1/4 of NW 1/4; N 1/2 of NW 1/4 of NE 1/4, less
a 2 acre tract upon which a house is situated in
the center of the North line of same; that part of
NE 1/4 of NE 1/4 lying West of Buck Creek and
North of County Blacktop Road in Section 35,
Township 20 South, Range 3 West.

AND,

WHEREAS, at the time of said final settlement, Brian D. Cairns, was a person over the age of 24 years, yet under the age of 30 years, and thereby entitled under the terms of the will of Thomas C. Cairns, dated 18 April 1969, to an outright distribution of only one half of his share of the assets, with the remainder of his share being placed into trust until such thirtieth birthday, AND,

WHEREAS, at the time of said final settlement, the court ordered, decreed, and adjudged that said one half of the assets devised or bequeathed to said Brian D. Cairns be placed in such a trust, AND,

WHEREAS, at said hearing, as shown by sufficient proof, the cash balance in the executor's hands amounted to nine thousand eight hundred twenty and 21/100 (\$9,820.21) dollars, the court ordered distribution of such funds after payment of executors commission, attorney's fees, and

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court costs, AND,

WHEREAS, the legal description of the real property as stated in the decree of final settlement ordered on October 24, 1974, has subsequently been discovered to be erroneous, AND,

WHEREAS, the correct legal description of said real property has been discovered to be as follows:

PARCEL ONE:

The N 1/2 of the NE 1/4 of the NW 1/4 and the N 1/2 of the NW 1/4 of the NE 1/4 of Section 35, Township 20 South, Range 3 West except rights of way of record, if any, and except a two acre tract of land improved with a house located near the North line of said 1/4-1/4 Section, which two acre tract was conveyed by Thomas C. Cairns to Sara Kieffer Cairns by deed recorded in the Probate Office of Shelby County, Alabama. Also, the SE 1/4 of the SW 1/4 of Section 26, Township 20 South, Range 3 West except easements of record, if any, being the same property conveyed by deed dated December 22, 1949 of J. W. Mathis and wife to Thomas C. Cairns and wife, Sarie Marie Cairns, recorded in the Probate Office of Shelby County, Alabama, in Book 141, Page 193.

PARCEL TWO:

All that part of the NW 1/4 of the NW 1/4 of Section 35, Township 20 South, Range 3 West lying east of the blacktop road now known as the Alabaster-Helena County Road No. 95, as presently located and lying north of the north line of County Road No. 66 (known as Industrial Road if extended westerly into said Highway No. 95) being the same property conveyed to First National Bank of Birmingham and Sara Kieffer Cairns as co-trustees under the will of Thomas J. Cairns by Martin Marietta Corporation by deed dated December 20, 1972 and recorded in the Shelby County Probate Office in Book 278 at page 171.

PARCEL THREE:

All that part of the SW 1/4 of SW 1/4, Section 26, Township 20 South, Range 3 West lying east of the Alabaster-Helena County Road No. 95, excepting therefrom the right of way for Shelby County Road No. 64 extending in a northeasterly direction from said County Road No. 95 and excepting that portion over which Plantation Pipeline Company was granted an easement as the same appears of record, being the same property conveyed by deed of W. M. Farris and wife to Thomas C. Cairns recorded in the Probate Office of Shelby County, Alabama, in Book 257 at Page 327.

PARCEL FOUR:

All that part of NE 1/4 of the NE 1/4 of Section 35, Township 20 South, Range 3 West lying west of Buck Creek and north of the north right of way line of Shelby County Road No. 66 (Industrial Road), excepting therefrom mineral mining rights, being the same property conveyed by George L. Scott, Jr. to Thomas C. Cairns by deed dated March 1, 1954, recorded in the Probate Office of Shelby County, Alabama, in Book 188 at Page 307.

PARCEL FIVE:

All that part of the NE 1/4 of the NW 1/4 of Section 35, Township 20 South, Range 3 West lying south of the southerly right of way line of Shelby County Road No. 66 (Industrial Road) containing 17.51 acres, being the same property described in deed recorded in Book 188, page 222 in the Probate Office of Shelby County, Alabama.

Subject, however, to the lien of ad valorem taxes for the years 1976 and 1977.

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AND,

WHEREAS, Brian D. Cairns is now over the age of 30 years, AND,

WHEREAS, certain monies have been expended by the executors subsequent to the said final settlement in the payment of executor's commissions, attorney's fees, court costs, rents, insurance, and taxes, leaving a current cash balance in the hands of the executors of three thousand six hundred sixty-two and 90/100 (\$3,662.90).

NOW COMES, Sara Kieffer Cairns and The First National Bank of Birmingham, as co-executors of the Estate of Thomas C. Cairns and move, upon the averments set out above, that said court amend its original decree, and insofar as the amended decree is inconsistent with the decree dated October 24, 1974, allow the amended decree to render null and void those inconsistencies found in the original decree.

WHEREUPON, it is hereby ordered, adjudged and decreed by the Court that the prayer of Petitioner be hereby granted as follows:

1. ITEM TWO of the original decree is hereby amended to read as follows: It appears to the Court and the Court finds that at his death Thomas C. Cairns was the owner of the following described real property:

PARCEL ONE:

The N 1/2 of the NE 1/4 of the NW 1/4 and the N 1/2 of the NW 1/4 of the NE 1/4 of Section 35, Township 20 South, Range 3 West except rights of way of record, if any, and except a two acre tract of land improved with a house located near the North line of said 1/4-1/4 Section, which two acre tract was conveyed by Thomas C. Cairns to Sara Kieffer Cairns by deed recorded in the Probate Office of Shelby County, Alabama. Also, the SE 1/4 of the SW 1/4 of Section 26, Township 20 South, Range 3 West except easements of record, if any, being the same property conveyed by deed dated December 22, 1949 of J. W. Mathis and wife to Thomas C. Cairns and wife, Sarie Marie Cairns, recorded in the Probate Office of Shelby County, Alabama in Book 141, Page 193.

PARCEL TWO:

All that part of the NW 1/4 of the NW 1/4 of Section 35, Township 20 South, Range 3 West lying east of the blacktop road now known as the Alabaster-Helena County Road No. 95, as presently located and lying north of the north line of County Road No. 66 (known as Industrial Road if extended westerly into said Highway No. 95) being the same property conveyed to First National Bank of Birmingham and Sara Kieffer Cairns as co-trustees under the will of Thomas J. Cairns by Martin Marietta Corporation by deed dated December 20, 1972 and recorded in the Shelby County Probate Office in Book 278 at page 171.

PARCEL THREE:

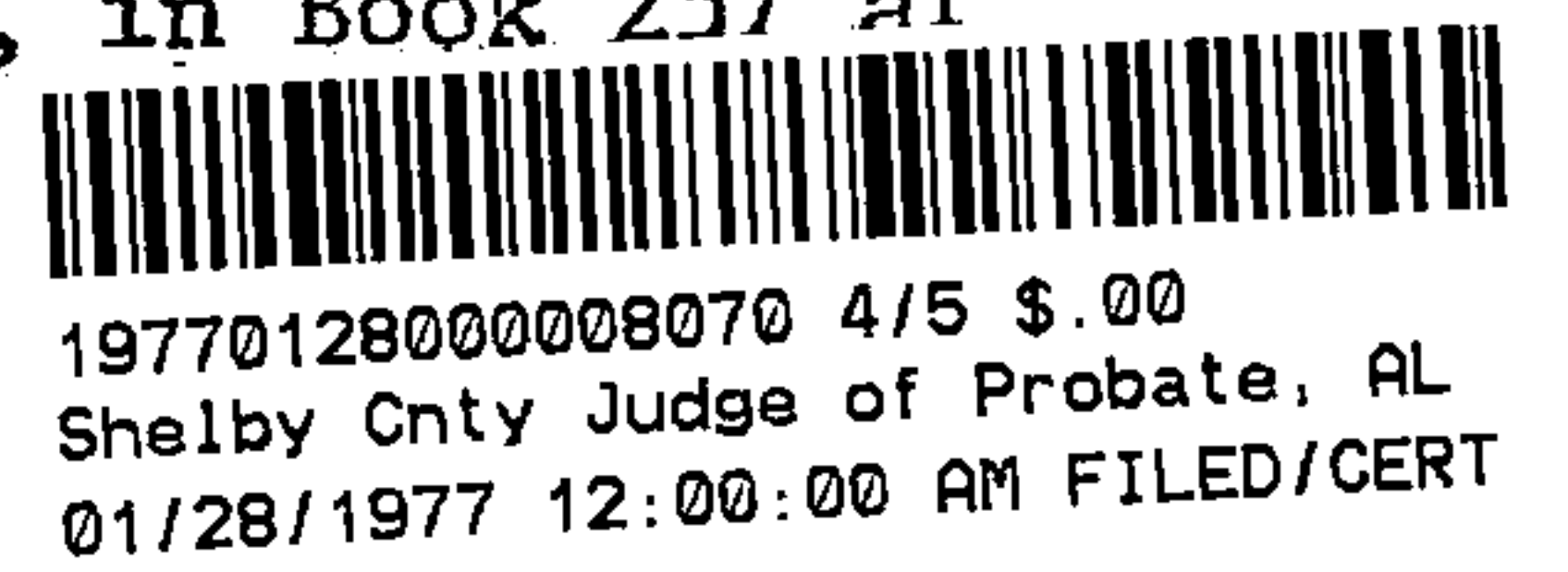
All that part of the SW 1/4 of SW 1/4, Section 26, Township 20 South, Range 3 West lying east of the Alabaster-Helena County Road No. 95, excepting therefrom the right of way for Shelby County Road No. 64 extending in a northeasterly direction from said County Road No. 95 and excepting that portion over which Plantation Pipeline Company was granted an easement as the same appears of record, being the same



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property conveyed by deed of W. M. Farris and wife to Thomas C. Cairns recorded in the Probate Office of Shelby County, Alabama, in Book 257 at Page 327.



PARCEL FOUR:

All that part of NE 1/4 of the NE 1/4 of Section 35, Township 20 South, Range 3 West lying west of Buck Creek and north of the north right of way line of Shelby County Road No. 66 (Industrial Road), excepting therefrom mineral and mining rights, being the same property conveyed by George L. Scott, Jr. to Thomas C. Cairns by deed dated March 1, 1954, recorded in the Probate Office of Shelby County, Alabama, in Book 188 at Page 307.

PARCEL FIVE:

All that part of the NE 1/4 of the NW 1/4 of Section 35, Township 20 South, Range 3 West lying south of the southerly right of way line of Shelby County Road No. 66 (Industrial Road) containing 17.51 acres, being the same property described in deed recorded in Book 188, page 222 in the Probate Office of Shelby County, Alabama.

Subject, however, to the lien of ad valorem taxes for the years 1976 and 1977.

2. ITEM TWO of the original final settlement decree is further amended to reflect that Brian D. Cairns is to receive a 21.828 undivided interest in said property, and the trust for Brian C. Cairns therein provided, with Sara Kieffer Cairns and The First National Bank of Birmingham as trustees, is hereby terminated, resulting in the above described property being hereby divided between the individuals as follows:

Sara Kieffer Cairns	12.688 undivided interest
Nicholas C. Cairns	21.828 undivided interest
Thomas C. Cairns, III	21.828 undivided interest
Christopher C. Cairns	21.828 undivided interest
Brian D. Cairns	21.828 undivided interest

3. ITEM FOUR of the original final settlement is amended to reflect that Brian D. Cairns is to receive a 21.828 undivided interest of the franchise interest in the business and assets of the business known as Dairy Queen of Alabaster, and that the trust for Brian D. Cairns therein provided, with Sara Kieffer Cairns and The First National Bank of Birmingham as trustees, is hereby terminated, resulting in the above described interest and assets being hereby divided between the individuals as follows:

Sara Kieffer Cairns	12.688 undivided interest
Nicholas C. Cairns	21.828 undivided interest
Thomas C. Cairns, III	21.828 undivided interest
Christopher C. Cairns	21.828 undivided interest
Brian D. Cairns	21.828 undivided interest

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

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Thomas A. Snowden, Jr.

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Shelby Cnty Judge of Probate, AL
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Thomas A. Snowden, Jr.
THOMAS A. SNOWDEN, JR.

I certify that this is a true and exact copy.

Probate Judge

Thomas A. Snowden, Jr.

DONE AND ORDERED THIS 28 DAY OF JANUARY, 1977.

issued.

accordance with the above, an Order discharging the executors will be

Upon submission of a final report to this Court of payments in

accordance with the interest of the heirs as above amended.

among those entitled, which amount is hereby ordered to be distributed in

amended decree there will remain a cash balance on hand for distribution

After the payment of the additional court costs involved in this

decree.

amendments mentioned herein shall remain in effect as stated in the original

the provisions of the original final settlement decree not affected by the

5. It is further ordered, adjudged and decreed by the Court that

six hundred sixty-two and 90/100 (\$3,662.90).

a cash balance in the hands of the executors in the amount of three thousand

4. The original decree of final settlement is amended to reflect