

INTERIM FINANCING AND LEASE AGREEMENT among THE MEDICAL CLINIC BOARD OF THE CITY OF ALABASTER, a public corporation and instrumentality under the laws of Alabama (herein called "the Board"), ALABASTER DENTAL ASSOCIATES, a general partnership under the laws of the State of Alabama (herein called "the Partnership"), and THE FIRST NATIONAL BANK OF BIRMINGHAM, a national banking association under the laws of the United States, having its principal place of business in the City of Birmingham, Alabama (herein called "the Bank"),

R E C I T A L S:



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The Board has heretofore adopted a resolution (i) authorizing the financing of a medical clinic or clinical facilities in the City of Alabaster and the lease of said facilities by the Board to Drs. Allan Koplan, Theodore P. Beck, Newton Burton and Douglas M. Allan, and (ii) authorizing the acquisition of real property specifically described in Exhibit A attached hereto and made a part hereof (herein called the "Facility Site") which is located in the City of Alabaster, the construction thereon of said medical clinic facility (herein called the "Facility") and the installation therein of certain items of machinery and equipment (herein called the "Equipment") all for use and occupancy by and lease to Drs. Allan Koplan, Theodore P. Beck, Newton Burton and Douglas M. Allan through the Partnership.

The Partnership, on its part, has requested that the Board so acquire the Facility Site, acquire and construct the Facility thereon, and acquire and install therein the Equipment, and the Board is willing to agree so to do, provided that it can arrange the financing of the cost thereof in a manner satisfactory to it. The Board has indicated its willingness to issue long-term revenue bonds (herein called "the Long-Term Bonds") for the purpose of providing moneys for payment of such cost, but has been advised that it may require an extended period of time for the consummation of such financing under favorable terms. The Partnership has requested that the Board promptly commence the acquisition of the Facility Site, the construction of the Facility and the acquisition and installation of the Equipment (the Facility Site, the Facility and the Equipment being herein together called the "Clinical Facilities"). It will therefore be necessary for the Board to issue a short-term bond for the purpose of temporarily financing the cost of such acquisition, construction and installation at a rate per annum which is 67% of the Prime Rate as recalculated for each three-month period with interest only payable each quarter during the first twelve-month period and principal and interest payable monthly during an additional two-year period.

To provide such temporary financing, the Board proposes to borrow the sum of \$660,000 and to issue, in evidence of such borrowing, \$660,000 principal amount of its First Mortgage Medical Facility Revenue Bond (herein called "the Temporary Bond"), to be dated as of May 1, 1980,

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to bear interest at a rate per annum which is 67% of the Prime Rate as recalculated for each three-month period, with interest only payable each quarter during the first twelve-month period, and principal and interest payable monthly during an additional two-year period. The Temporary Bond shall mature on April 1, 1983 with the Board having the privilege of prepaying all or any part thereof at any time, without any prior notice or any penalty or premium, provided that prior to or simulatneously with each such prepayment, the Board pays the interest accrued on such Temporary Bond or portion thereof so prepaid. The Temporary Bond shall be issued pursuant to the resolution adopted by the Board of Directors of the Board at the meeting at which the execution and delivery of this Agreement by the Board was authorized. The Temporary Bond shall be payable solely out of the revenues derived by the Board from the leasing or sale of the Project and shall be secured by a First Mortgage Indenture (herein called "the Mortgage") from the Board to the Bank, covering the Medical Facilities and the Board's interest in this Agreement.

The Bank has indicated its willingness to lend the said sum of \$660,000 to the Board and to accept the Temporary Bond in evidence of such borrowing, provided that the Partnership will agree to purchase the Clinical Facilities from the Board, on the terms and conditions hereinafter set out, if the Temporary Bond has not been refunded by the issuance of the Long-Term Bond on or before the maturity of the Temporary Bond. The Partnership, recognizing

(a) that the Board will not have revenues available for payment of the Temporary Bond other than those derived from the leasing or sale of the Clinical Facilities,

(b) that, without the agreement of the Partnership to such an arrangement and its execution hereof, the Board would not be willing to agree to acquire the Facility Site, to acquire and construct the Facility thereon, and to acquire and install the Equipment therein, nor would the Bank be willing to lend to the Board the moneys needed to pay the cost thereof, and

(c) that the acquisition of the Facility Site, the acquisition and construction of the Facility thereon, and the acquisition and installation of the Equipment therein, and the subsequent lease thereof to the Partnership, will be of substantial benefit to the Partnership and will further the purposes for which it was organized,

has entered into this Agreement with the Board and the Bank (i) to induce the Board to agree to acquire the Facility Site, to acquire and construct the Facility thereon, and to acquire and construct the Facility thereon, and to acquire and install the Equipment therein, and to issue the Temporary Bond, (ii) to induce the Bank to agree to purchase the Temporary Bond, and (iii) to evidence its agreement so to lease or purchase the Medical Facilities from the Board under the terms and conditions hereinafter set out.

NOW, THEREFORE, in consideration of the respective agreements on the part of the Board, the Partnership and the Bank herein contained, the Board, the Partnership and the Bank do hereby agree as follows:

Section 1. Issuance and Sale of Temporary Bond. Acquisition, Construction and Installation of Medical Facilities. As promptly as practicable following the execution and delivery hereof, the Board (a) will issue and sell to the Bank the Temporary Bond at and for a purchase price equal to \$660,000, and (b) out of the proceeds derived from the sale of the Temporary Bond, will acquire good and marketable title to the Facility Site, subject only to such exceptions as are approved in writing by certificates signed by the Bank and by the Authorized Partnership Representative hereinafter referred to and delivered to the Board prior to the delivery to the Board of the deed or deeds conveying the Facility Site to the Board. The Board will, in addition, proceed continuously and with all reasonable dispatch (but only to the extent that the available proceeds from the sale of the Temporary Bond or moneys provided by the Partnership in accordance with the provisions of Section 3 hereof, are sufficient to pay the cost thereof) with the acquisition, construction and installation, wholly within the boundary lines of the Facility Site, of the Facility and the Equipment, strictly in accordance with plans and specifications therefore approved by the Partnership; provided, however, that the Board will not enter into any contract or purchase order for such construction or any part thereof or for the acquisition of any materials or supplies to be used in connection therewith unless such contract or purchase order is first approved in writing by the said Authorized Partnership Representative. The Board will complete said acquisition, construction and installation as promptly as practicable, delays incident to strikes, riots, acts of God and the public enemy, and other similar acts beyond the reasonable control of the Board only excepted.

Section 2. Demising Clauses. Rental Provision. Maintenance. Insurance Required. The Board hereby demises and leases to the Partnership and the Partnership hereby rents from the Board, so long as this Agreement shall remain in effect, the Clinical Facilities, subject to the terms and conditions hereinafter specified. The Partnership (a) shall have, until such time as the acquisition, construction and installation of the Facility and the Equipment have been completed, such rights of possession of the Clinical Facilities as are necessary and convenient to enable it to inspect and follow the progress of said acquisition, construction and installation and as shall not unreasonably interfere therewith and (b) shall have, after the completion of such acquisition, construction and installation, the sole and exclusive right of possession of the Clinical Facilities; provided, however, (i) that the Partnership shall have the aforesaid possessory rights only during such time as it is not in default hereunder, and (ii) that at all times subsequent to the execution and delivery of this Agreement, the risk of loss (as between the Board and the Partnership) with respect to any damage to or destruction or condemnation of the Clinical Facilities or any part thereof, shall be borne entirely by the Partnership, but any and all insurance or



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condemnation proceeds referable to any such damage, destruction or condemnation, whether payable to the Board or to the Partnership, shall be applied by the Board or the Partnership, as the case may be, to the rebuilding or restoration of the Clinical Facilities or shall be paid to the Bank for the account of the Board to be applied to the payment of the principal of and the interest on the Temporary Bond. The Board will cooperate fully with the Partnership in the handling and conduct of any prospective or pending insurance investigation or condemnation proceedings with respect to the Clinical Facilities or any prospective or pending investigation or condemnation proceedings with respect to the Clinical Facilities or any part thereof and will not voluntarily settle, or consent to the settlement of, any prospective or pending insurance investigation or condemnation proceeding with respect to the Clinical Facilities or any part thereof without the prior written consent of the Partnership.

So long as this Agreement shall remain in effect, the Partnership will pay to the Bank, or the then holders of the Temporary Bond, for the account of the Board, as rent for the use and occupancy of the Project, the following basic rent:

(i) On the first day of August and November, 1980, and on the first day of February and May, 1981, the interest that will accrue on the Bond during the immediately preceding three-month period shall be due and payable;

(ii) On June 1, 1981, and on the first day of each month thereafter until and including March, 1983, an amount equal to 1/240th of the principal amount of the Bond plus the interest that will accrue on the Bond during the immediately preceding month shall be due and payable,

(iii) On the first day of April, 1983, the unpaid balance of said principal sum with accrued interest thereon;

provided, however, that there shall be credited on the amounts required to be paid by the Partnership as rent hereunder any amounts paid to the Bank, or the then holders of the Temporary Bond, out of the Construction Fund pursuant to the Mortgage.

So long as this Agreement remains in effect, the Partnership will, at its own expense, keep the Clinical Facilities or such portion thereof as may then be in existence, in reasonable repair and operating condition (reasonable wear and tear excepted) making from time to time all necessary and proper renewals thereof and repairs and replacements thereto as may be necessary. The Partnership will also take out and continuously maintain in effect insurance against such risks as are customarily insured against by businesses of like size and type, paying as the same become due all premiums with respect thereto, including, but not necessarily limited to,

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(A) insurance against loss or damage to the Facility and the Equipment, if any, by fire and lightning, with uniform standard coverage endorsement limited only as may be provided in the standard form of extended coverage endorsement at the time in use in Alabama, to the extent of the full replacement value thereof; and

(B) insurance against liability for bodily injury to or death of persons and for damage to or loss of property occurring on or about the Facility Site or in any way related to the operations of the Facility, in the minimum amounts of \$500,000 for death of or bodily injury to any one person, \$1,000,000 for total death and bodily injury claims resulting from any one accident, and \$300,000 for property damage.

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All policies evidencing the insurance required by the terms of the preceding paragraph shall be taken out and maintained in generally recognized responsible insurance companies, qualified under the laws of Alabama to assume the respective risks undertaken. All such insurance policies, other than those evidencing the insurance required by clause (B) of the preceding paragraph shall name as insureds the Board, the Bank and the Partnership, as their respective interests shall appear. In the event the Partnership shall fail to take out or cause to be taken out insurance on the Project to the extent required by this Agreement, the Bank may take out any such insurance on the Project that the Partnership has failed to furnish or caused to be furnished and may pay the premiums thereon. The Bank, however, shall not be required to pay any such charge or take out any such insurance, and it shall not be liable in any manner for any failure to do so. All sums expended by the Bank shall be secured by the Mortgage and shall bear interest at the rate of 10% per annum from the date of payment thereof until payment therefor is made by the Partnership.

Section 3. Conditions to the Obligation of the Bank to Purchase the Temporary Bond. The Board will borrow from the Bank and the Bank will lend to the Board, on the terms and conditions specified in this Agreement, the sum of \$660,000 to provide for payment of the cost of the acquisition, construction and installation herein required to be undertaken by the Board; provided, however, that no moneys shall be borrowed hereunder by the Board except in accordance with written directions signed on behalf of the Partnership by the Authorized Partnership Representative hereinafter referred to. If, after the Board has borrowed \$660,000 from the Bank pursuant to the provisions hereof, additional funds are necessary to provide for full payment of all the costs of said acquisition, construction and installation, such additional funds will be provided by the Partnership.

Prior to or at the time of the delivery of the Temporary Bond, the Board will furnish to the Bank, or will



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cause to be so furnished the following, each of which must be in form and of content satisfactory to the Bank and its counsel:

(a) a certified copy of a resolution adopted by the Board of Directors of the Board authorizing (i) the execution and delivery of this Agreement on the part of the Board, (ii) the issuance and sale of the Temporary Bond in evidence of the loan from the Bank to the Board, and (iii) the execution and delivery of the Mortgage as security for the Temporary Bond;

(b) an opinion of Messrs. Bradley, Arant, Rose & White, of Birmingham, Alabama (who are acting as bond counsel) addressed to the Board and the Bank and approving the validity of the Temporary Bond, and stating in substance (i) that the interest income on the Temporary Bond is, under then existing statutes and regulations, as then construed, exempt from Federal income taxation, except with respect to such bond for any period during which it is held by a person who is a substantial user of the Facility or a "related person" as that term is defined in Section 103(b)(6)(C) of the Internal Revenue Code of 1954, as amended (herein called "the Code"), but that in the event the limit on certain capital expenditures and bonds issued that is specified in Section 103(b)(6) of the Code, is exceeded, the interest income on the Temporary Bond will, under existing statutes, become subject to Federal income taxation, and (ii) that this Agreement and the Mortgage have been duly authorized, executed and delivered by the Board and are valid, binding and enforceable against the Board in accordance with their terms except as the enforcement of either thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally;

(c) executed copies of incumbency, non-litigation, non-arbitrage and other closing and delivery certificates of the Board.

Section 4. Agreement to Enter Into Long-Term Lease.

The Board and the Partnership will, as promptly as practicable under the circumstances, enter into a lease agreement providing for the lease of the Clinical Facilities to the Partnership for a term not exceeding forty years from the date of this Agreement. The said lease agreement, which is herein called "the Long-Term Lease," (a) shall provide for the semi-annual payment by the Partnership of net rentals, during such lease term, sufficient to pay the principal of and the interest on the Long-Term Bonds, as and when such principal and interest respectively become due and payable, (b) will grant to the Partnership the option of purchasing the Clinical Facilities at any time during the lease term after full payment and retirement of the Long-Term Bonds and at the end of the



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lease term, at and for a purchase price of \$100.00, (c) will grant to the Partnership the option of terminating the Lease at any time after full payment and retirement of the Long-Term Bonds by giving the Board notice in writing not less than five days prior to the date on which such termination is to become effective, (d) will provide that upon the Partnership's furnishing to the Board moneys therefor, the Board will apply such moneys to prepayment of Long-Term Bonds in accordance with their terms at such time and in such manner as the Partnership shall direct, (e) will be freely assignable, and (f) will contain such other provisions as are customarily included in leases of similar nature -- all as shall be mutually agreeable to the Partnership, the Board and the prospective purchaser or purchasers of the Long-Term Bonds.

Section 5. Issuance of Long-Term Bonds. Simultaneously with or promptly following the execution of the Long-Term Lease, the Board will proceed with the aforesaid permanent financing and with the issuance and sale of the Long-Term Bonds in a principal amount mutually agreeable to the Board and the Partnership, but in any event at least sufficient to provide for payment of (a) the principal of and the interest accrued on the then outstanding Temporary Bond, and (b) the expenses incurred by the Board in connection with the sale and issuance of the Long-Term Bonds. The Board will, promptly following the sale and issuance of the Long-Term Bond, apply so much as may be necessary of the proceeds therefrom for payment of the principal of and the interest accrued on the then outstanding Temporary Bond.

Section 6. Sale of Clinical Facilities to Partnership. If, by April 1, 1983, the Board and the Partnership have not entered into the Long-Term Lease and the Temporary Bond has not been refunded by the issuance of the Long-Term Bonds, the Board will tender to the Partnership a deed and such bills of sale and other documents as shall be necessary to convey, sell and assign the Clinical Facilities (in its then condition, whatever it may be) to the Partnership, subject to such exceptions, reservations and encumbrances as to the title, and to such mechanics' and materialmen's liens, as may then exist with respect thereto, whereupon the Partnership will accept such deed, bills of sale and other documents and will pay to the Board in bankable funds an amount equal to the principal of and the accrued interest (and premium, if any) on the Temporary Bond then outstanding; provided (a) that if at such time part of the Clinical Facilities has theretofore been taken by condemnation, the Board shall be obligated to tender to the Partnership a deed transferring and conveying to the Partnership only such portion of the Clinical Facilities as has not been so taken, (b) that if at such time the entire Clinical Facilities has been taken by condemnation, the Board shall be obligated to tender to the Partnership only a notice stating that the entire Clinical Facilities has been so taken, and (c) that in either of such events the Partnership shall nonetheless be obligated to pay to the Board the total amount of moneys above specified, in the manner and at the time there specified. The Board will apply any and all moneys payable to it under and pursuant to the foregoing provisions of this Section 6



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to payment of the principal of and the interest (and premium, if any) on the Temporary Bond, and it does hereby expressly assign such moneys to the Bank or to the then holder or holders of the Temporary Bond.

The obligations of the Partnership contained in the first sentence of this Section 6 shall be absolute and unconditional, irrespective of any rights of set-off, recoupment or counterclaim it might otherwise have against the Board, and the Partnership will not fail to perform any of the agreements on its part contained in such sentence for any cause, including, without limiting the generality of the foregoing, any failure of the Board to comply with any of the agreements on its part contained in this Agreement.

The Partnership shall have the right and option, herein granted by the Board, to purchase the Project from the Board at any time during the term of this Agreement after the payment in full of the principal of, premium, if any, and the interest on the Temporary Bond and all reasonable fees, charges and disbursements of the Bank and the Depository, accrued and to accrue until the date of such full payment, at and for a purchase price equal to the sum of \$100.

Section 7. Mortgaging of Clinical Facilities by Board. The Board may mortgage the Clinical Facilities to the Bank as security for the payment of the Temporary Bond, and may assign its interest in and pledge any moneys receivable under this Agreement to the Bank as security for the payment of the principal of and the interest (and premium, if any) on the Temporary Bond. Otherwise, without the prior written consent of the Partnership, the Board will not, as long as any part of the principal of or the interest (and premium, if any) on the Temporary Bond remains outstanding and unpaid, sell, mortgage, lease or otherwise convey, or agree to sell, mortgage, lease or otherwise convey, any part of or interest in the Clinical Facilities (except to the extent otherwise provided in Sections 2 and 7 hereof), nor, without such prior written consent, will the Board grant any easements, create any restrictions, reserve any rights, or permit any liens or encumbrances to remain undischarged with respect to the Clinical Facilities or any part thereof or interest therein; provided that it may, simultaneously with the payment and retirement of the Temporary Bond, mortgage the Clinical Facilities as security for the Long-Term Bonds.

Section 8. Representations and Agreements Concerning Federal Income Tax Exemption For Interest on Temporary Bond. (a) The Partnership hereby warrants, represents and agrees as follows:

(i) that no state, territory or possession or the United States, nor any political subdivision of any such state, territory or possession, nor the District of Columbia, has, since April 30, 1968, issued any obligations, the proceeds of which are to be or have been used primarily

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with respect to any facilities (A) that are located in the City of Alabaster, Shelby County, Alabama, and (b) the principal user of which facilities was, is, or will be, the Partnership or a related person to the Partnership (as the term "related person" is defined in Section 103(b)(6)(C) of the Code);

(ii) that substantially all the proceeds from the borrowings evidenced by the Temporary Bond will be applied for the acquisition, construction, reconstruction or improvement of land or property or a character subject to the allowance for depreciation; and

(iii) that during the three-year period next preceding the date of issue of the Temporary Bond, there have been no capital expenditures, determined as provided in paragraph (D) of Section 103(b)(6) of the Code) made with respect to any facilities of the kind described in subparagraph (i) of this Section 8.

(b) The Board further represents, and the Partnership understands and agrees, that one of the principal inducements to the Bank to purchase the Bonds is that the interest income thereon will be so exempt from Federal income taxation, and the Partnership understands that, as the result of a mistake in any of the warranties and representations on its part contained in this Agreement or as a result of actions that may occur during the three years next succeeding the date of issue of the Temporary Bond (through circumstances beyond or within the Partnership's control), or as a result of the Temporary Bond being "arbitrage bonds" within the meaning of Section 103(c) of the Code, the interest income on the Temporary Bond may, under the provisions of Section 103(b)(6) of the Code, or Section 103(c) of the Code, as the case may be, be or become subject to Federal income taxation. The Partnership therefore agrees that if, as a result of the application of the provisions of paragraph 6 of Section 103(b), including particularly subparagraph (D) of said paragraph (6), or as a result of the application of the provisions of Section 103(c) of the Code, it shall be determined, by the Partnership or by final order of any administrative body or court having jurisdiction, that the interest income on the Temporary Bond is subject to Federal income taxation, the Partnership will promptly pay to the Board, as additional basic rent, the sum of the following:

(i) an amount which, when added to the amounts then on deposit in the Construction Fund, will be sufficient to redeem and retire, on the earliest practicable redemption date after such determination and at a redemption price equal to the principal amount of the Temporary Bond outstanding on such redemption date together with accrued interest thereon to the redemption date and a redemption premium equal to six months' interest on such principal amount for each six-month period or fraction thereof intervening



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between the date that, according to such determination, the interest income on the Temporary Bond became so subject to Federal income taxation and the date of such redemption, plus

(ii) an additional amount, with respect to the principal amount of the Temporary Bond that was outstanding and unpaid on the date on which, according to such determination, the interest income on the Temporary Bond became so subject to Federal income taxation, but that was not so outstanding and unpaid on the date of the redemption referred to in clause (i) above, equal to six months' interest thereon for each six-month period or fraction thereof intervening between the date that, according to such determination, the interest income on the Temporary Bond became so subject to Federal income taxation and the date such Temporary Bond was redeemed.

(c) The Partnership will file, or will cause to be filed, with the Internal Revenue Service, all statements and reports required, by Section 103(b) of the Code or rules or regulations issued thereunder, to be so filed as a condition to continued qualification of the Temporary Bond as an "exempt small issue" the interest on which is exempt from Federal Income taxation.

(d) The provisions of this Section 8 shall survive any termination of this Agreement.


(e) In the event that there is a determination as provided in this Section 8 that the interest income on the Temporary Bond is subject to Federal income taxation, payment by the Partnership of the amount required to be paid to the Board by this Section 8 shall entitle the Partnership to have the Clinical Facilities deeded to it without any further payment under Section 6 hereof.

Section 9. Events of Default. The following shall be "Events of Default" under this Agreement, and the terms "Event of Default" or "Default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) Failure by the Partnership to pay the rent hereinabove provided, including the amounts payable under Section 8 hereof, when such rent is due and payable;

(b) Failure by the Partnership to perform or observe any of its other agreements or covenants contained in this Agreement, which failure shall have continued for a period of thirty (30) days after receipt of written notice specifying, in

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reasonable detail, the nature of such failure and requiring the partnership to perform or observe the Agreement or covenant with respect to which it is delinquent given to the Partnership by the Bank or the Board, unless (i) the Board and the Bank shall agree in writing to an extension of such period prior to its expiration, or (ii) during such thirty (30) day period or any extension thereof, the Partnership has commenced and is diligently pursuing appropriate corrective action, or (iii) the Partnership is by reason of force majeure at the time prevented from performing or observing the Agreement or covenant with respect to which it is delinquent; or

(c) Any warrant, representation or other statement by or on behalf of the Partnership contained in this Agreement is false, untrue or misleading in any material respect and the same shall not be made good or remedied within thirty (30) days after notice thereof to the Partnership by the Bank or the Board.

As used in this Section 9, the term force majeure means acts of God or the public enemy, strikes, labor disputes, lockouts, work slow-downs or stoppages or other industrial disturbances, insurrections, riots or other civil disturbances, order of the United States of America, the State of Alabama or any department, agency or political subdivision of either thereof, or of other civil or military authority, or partial or entire failure of public utilities.

Section 10. Remedies. Whenever any such Event of Default shall have happened and be continuing, the Board and the Bank (or the Bank on behalf of the Board) may take any one or more of the following remedial steps:

(a) they or it may declare immediately due and payable all installments of rent thereafter coming due hereunder whereupon the same shall become immediately due and payable;

(b) they or it may accelerate the date in Section 6 hereof on which the Partnership is required to purchase the Clinical Facilities from the Board;

(c) they or it may re-enter and take possession of the Clinical Facilities, exclude the Partnership from possession thereof and lease the same for the account of the Partnership, holding the Partnership liable for the rent and other payments due hereunder up to the effective date of such leasing and for the excess, if any, of the rent and other amounts payable hereunder over the rents and other amounts which are payable by the lessee under such lease; and

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(d) they or it may take whatever other action at law or in equity which may appear necessary or desirable to collect the rent then due, or to enforce any obligation, covenant or agreement of the Partnership under this Agreement.


Section 11. Designation of Authorized Partnership Representative. The Partnership will, promptly following the execution and delivery hereof, by certificate in writing signed by any one of its partners and furnished to the Board and the Bank, designate one or more persons as the "Authorized Partnership Representative" as that term is used in this Agreement. The Partnership may at any time and from time to time designate a substitute Authorized Partnership Representative by a certificate in writing signed by one of its partners and furnished to the Board and the Bank.

Section 12. Limited Liability of Board. Anything herein or in the Temporary Bond to the contrary notwithstanding, it is hereby expressly agreed that any liability and obligation of the Board hereunder shall be limited solely to (a) the proceeds derived by the Board from the sale of the Temporary Bond, and (b) the revenues and receipts derived by the Board from any leasing or sale of the Clinical Facilities. Nothing contained herein or in the Temporary Bond shall ever be construed to constitute a personal or pecuniary liability or charge against the general credit of the Board, and in the event of breach of any agreement or covenant on the part of the Board contained herein or in the Temporary Bond, no personal or pecuniary liability or charge payable directly or indirectly from the general revenues of the Board shall arise therefrom.

Section 13. Representations of Bank Concerning Purchase of Temporary Bond. The Bank represents to the Board and the Partnership that it has received such financial, corporate and general information respecting the Partnership and its partners, and such material respecting the Board and the Temporary Bond as it deems necessary to enable it to make an informed investment judgment with respect to the purchase of the Temporary Bond, and that it is purchasing the Temporary Bond for its own account for the purpose of investment and not for resale and it has no present intention of reselling or otherwise redistributing the Temporary Bond. The Bank agrees that it will not resell the Temporary Bond except in a bona fide private placement to a bank, trust company, insurance company, pension fund or similar financial institution.

Section 14. Covenant of Partnership to Maintain Existence. The Partnership agrees that so long as this Agreement remains in effect, it will not permit any action to be taken by any of its partners to dissolve or otherwise terminate the existence of the Partnership as a general partnership under the laws of the State of Alabama.

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Section 15. Taxes, Other Governmental Charges and Utility Charges. The Board and the Partnership acknowledge (a) that under present law no part of the Clinical Facilities owned by the Board will be subject to ad valorem taxation by the State of Alabama or by any political or taxing subdivision thereof and that under present law no part of the receipts, income or profits (if any) of the Board from the Clinical Facilities are subject to either Federal or Alabama taxation, and (b) that these factors, among others, induced the Partnership to enter into this Agreement. However, the Partnership will pay, as the same respectively become due, (i) all taxes and governmental charges of any kind whatsoever that may lawfully be assessed or levied against or with respect to the Clinical Facilities or any machinery, equipment or other property installed or brought by the Partnership therein or thereon (including, without limiting the generality of the foregoing, any taxes levied with respect to any part of the receipts, income or profits of the Board from the Clinical Facilities and any other taxes levied upon or with respect to the Clinical Facilities which, if not paid, would become a lien on the Clinical Facilities prior to or on a parity with the lien of the Mortgage or a charge on the revenues and receipts therefrom prior to or on a parity with the charge thereon and pledge and assignment thereof to be created and made in the Mortgage), (ii) all utility and other similar charges incurred in the operation, maintenance, use, occupancy and upkeep of the Clinical Facilities, and (iii) all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Clinical Facilities; provided that with respect to special assessments or governmental charges that may lawfully be paid in installments over a period of years, the Partnership shall be obligated to pay only such installments as are required to be paid during the term of this Agreement.

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The Partnership may, at its own expense and in its own name and behalf or in the name and behalf of the Board, in good faith contest any such taxes, assessments and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless by such action the title of the Board to any part of the Clinical Facilities shall be materially endangered or if the Clinical Facilities or any part thereof shall become subject to loss or forfeiture, in which event such taxes, assessments or charges shall be paid prior to their becoming delinquent. The Board will cooperate fully with the Partnership in any such contest.

Section 16. Concerning the Investment Tax Credit. The Board will execute such documents as the Partnership may reasonably request in order to make available to the Partnership any investment tax credit provided for in the Code.

Section 17. Recordation. Further Assurances. The Board will file the Mortgage, and any supplemental mortgages hereafter executed, in such public office or offices in which said documents are required by law to be filed in order to constitute constructive notice thereof and to preserve and



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Shelby Cnty Judge of Probate, AL
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protect fully the rights and security afforded thereby to the Bank and any subsequent holders of the Temporary Bond. In addition, the Board and the Partnership will, upon reasonable request, (a) execute and deliver such further instruments and do such further acts as may be necessary or proper to carry out more effectually the purposes of this Agreement and the Mortgage, and in particular (without in any way limiting the generality of the foregoing) to make subject to the lien of the Mortgage any property hereafter acquired as a part of the Clinical Facilities, and (b) take all actions that at the time and from time to time may be necessary (or, in the opinion of the Bank, may be necessary) to perfect, preserve, protect and secure the interest of the Bank in and to the Clinical Facilities, including, without limitation, the filing of all financing and continuation statements that may at the time be required under the Alabama Uniform Commercial Code.

No failure to request such further instruments or further acts shall be deemed a waiver of any right to the execution and delivery of such instruments or the doing of such acts or be deemed to effect the interpretation of any provisions of this Agreement or the Mortgage .

Section 18. Notices. All notices hereunder shall be deemed sufficient and properly given if in writing and sent by United States registered or certified mail, postage prepaid, addressed, if to the Board, at c/o City Hall, Alabaster, Alabama _____; if to the Partnership, at Alabaster, Alabama 35007; if to the Bank, c/o Commercial Loan Department, P. O. Box 11007, Birmingham, Alabama 35288; and if to the Depository, c/o Corporate Trust and Escrow Department, P. O. Box 11426, Birmingham, Alabama 35202. The Board, the Partnership, the Bank and the Depository may, by like notice, designate any further or different addresses to which subsequent notices shall be sent.

Section 19. Severability. In the event any provision of this agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 20. Agreement Governed by Alabama Law. It is the intention of the parties hereto that this Agreement shall in all respects be governed by the laws of the State of Alabama.

Section 21. Third-Party Beneficiaries. The Bank and any future holder of the Temporary Bond shall be third-party beneficiaries of the covenants and agreements on the part of the Partnership herein contained and shall be entitled to enforce observance and performance of such covenants and agreements on the part of the Partnership herein contained as fully and completely as the Board.



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Section 22. Assignment Binding Upon Successors and Assigns. May Be Assigned. This Agreement shall be binding upon and shall inure to the benefit of, the Board, the Partnership, the Bank and their respective successors and assigns. This Agreement may be assigned by the Board to the Bank under the Mortgage as security for the payment of the Temporary Bond. This Agreement may also be assigned by the Partnership with the written consent of the Bank, provided that no such assignment shall in any way relieve the Partnership from primary liability for any of its obligations hereunder.

Section 23. Section Captions. The section headings and captions contained herein are included for convenience only and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.

IN WITNESS WHEREOF, the Board, the Partnership, and the Bank have caused this Agreement to be executed in their respective names, in eight counterparts, each of which will be deemed an original, have caused their respective seals to be hereunto affixed, have caused this Agreement to be attested, all by their duly authorized officers, and have caused this Agreement to be dated as of May 1, 1980, although actually executed by the Board on May 22, 1980, by the Partnership on May 22, 1980, and by the Bank on May 22, 1980.

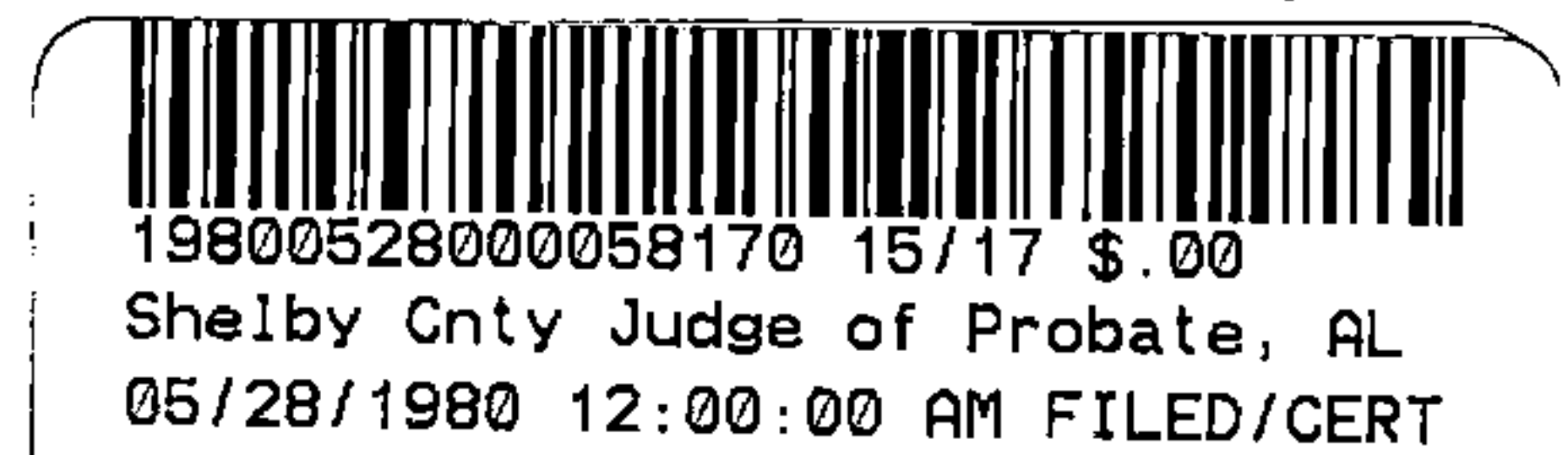
BOOK 36 PAGE 209

THE MEDICAL CLINIC BOARD OF THE CITY OF ALABASTER

By P. E. Lytle
Chairman of the Board of Directors

Attest:

Parathy Henry
Its Secretary



ALABASTER DENTAL ASSOCIATES

By [Signature]
Its General Partner

Witness:

[Signature]

THE FIRST NATIONAL BANK OF BIRMINGHAM

By John S. Mcintosh, Jr.
Its Assistant Vice President

Attest:

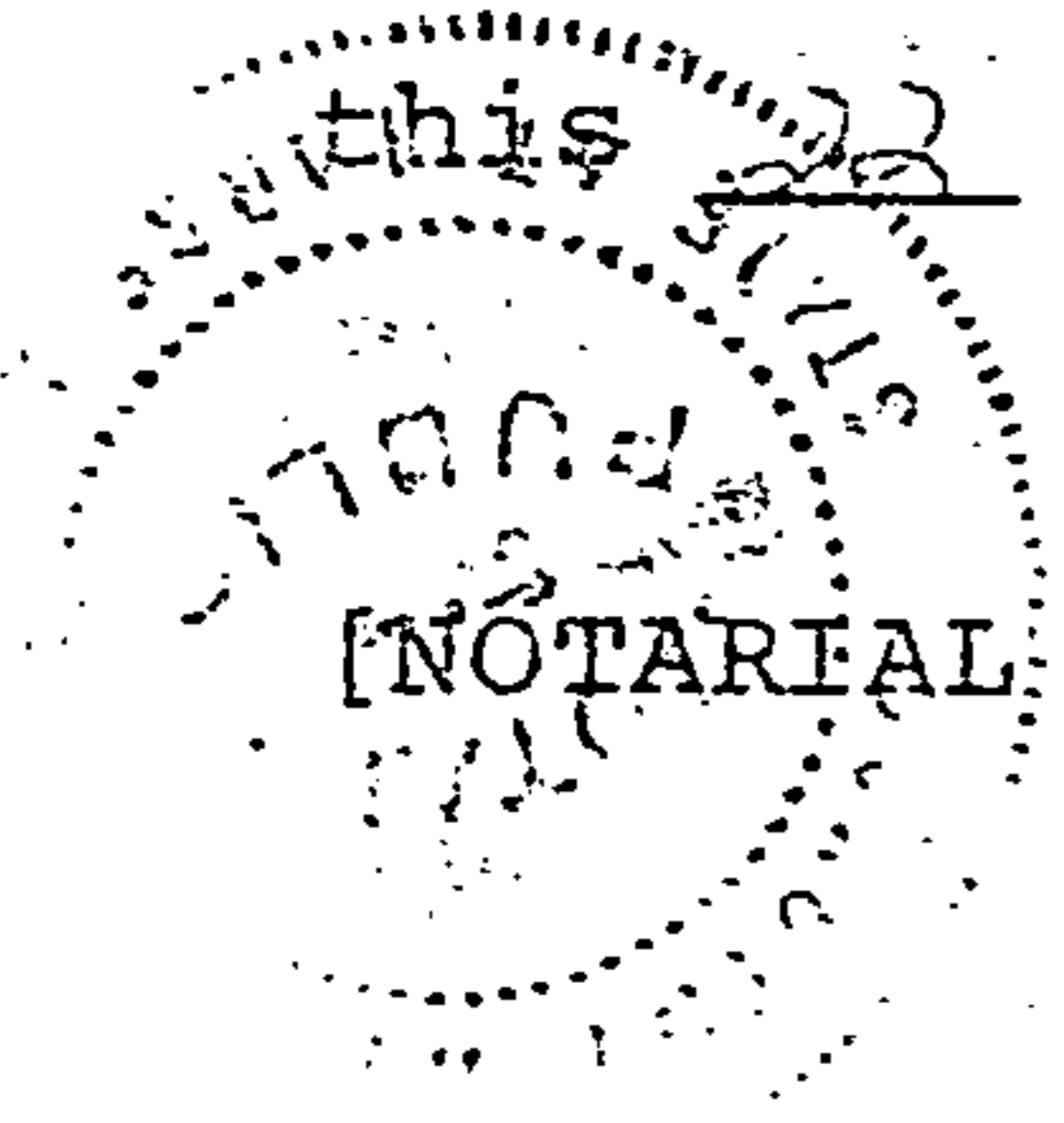
Thomas M. Davidson
Its Assistant Vice President



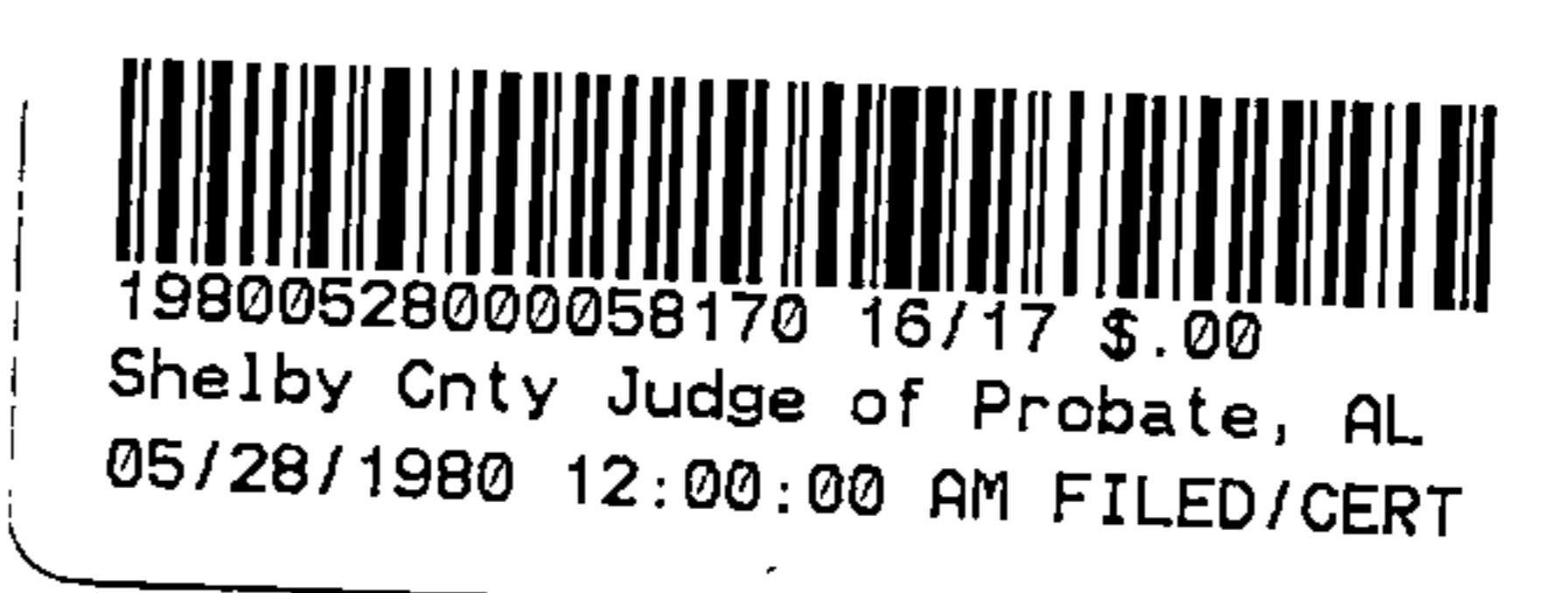
STATE OF ALABAMA)
COUNTY OF Shelby)

I, Narathy Henry, a Notary Public in and for said county in said state, hereby certify that P. E. Dambli, whose name as Chairman of the Board of Directors of THE MEDICAL CLINIC BOARD OF THE CITY OF ALABASTER, a public corporation and instrumentality under the laws of Alabama, 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 within instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

GIVEN under my hand and official seal of office this 22 day of May, 1980.



Narathy Henry
Notary Public
my Comm expires 5/1/84

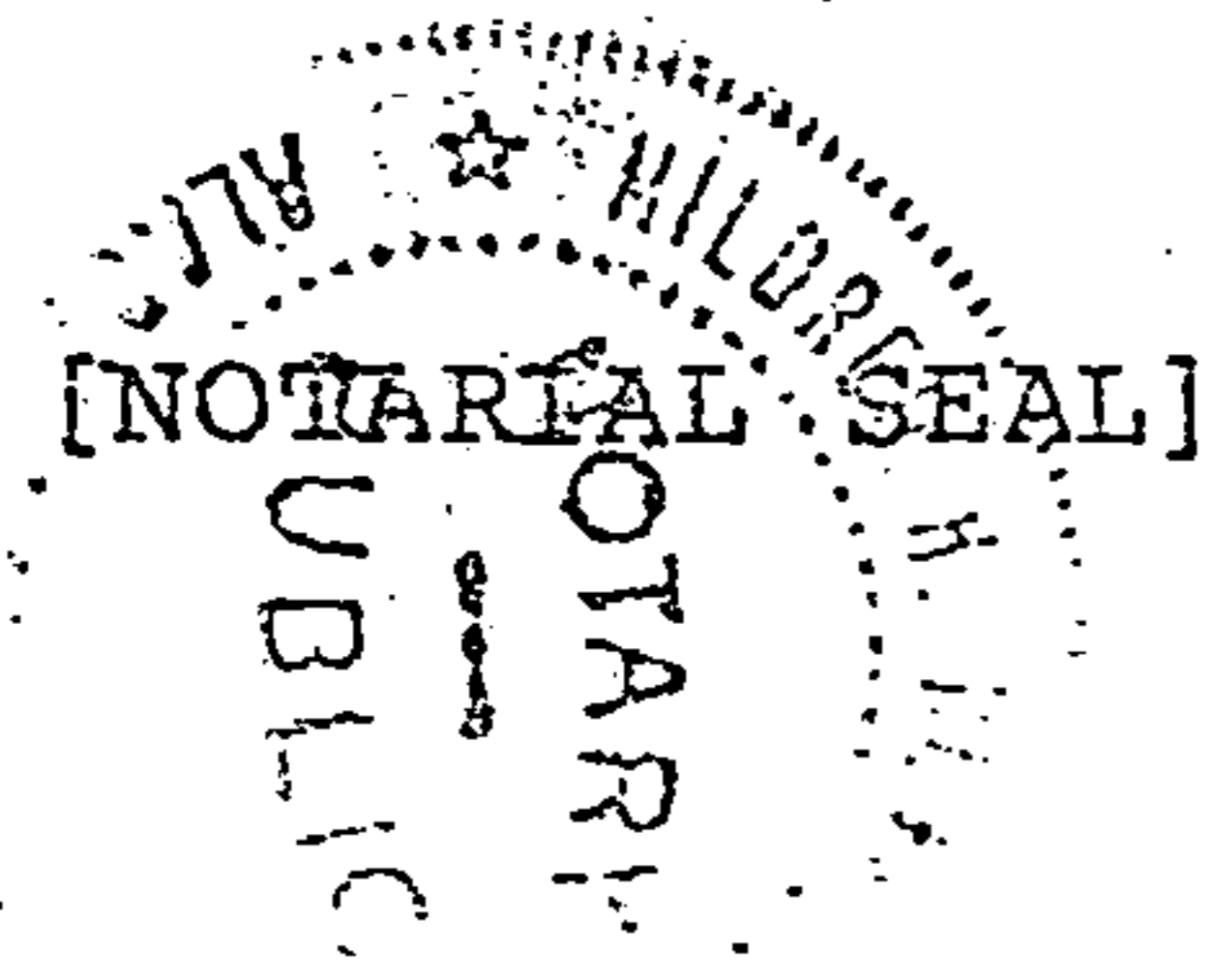


STATE OF ALABAMA)
COUNTY OF Jefferson)

BOOK 36 PAGE 210

I, Michael Redwood, a Notary Public in and for said county in said state, hereby certify that Frederic Best, whose name as a general partner of ALABASTER DENTAL ASSOCIATES, a general partnership organized under the laws of the State of Alabama, 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 within instrument, he, as such partner and with full authority, executed the same voluntarily for and as the act of said partnership.

GIVEN under my hand and official seal of office this 22 day of May, 1980.



Michael Redwood
Notary Public
Notary Public, Alabama State at Large
My Commission Expires April 26, 1981
Bonded by Home Indemnity Co. of N.Y.

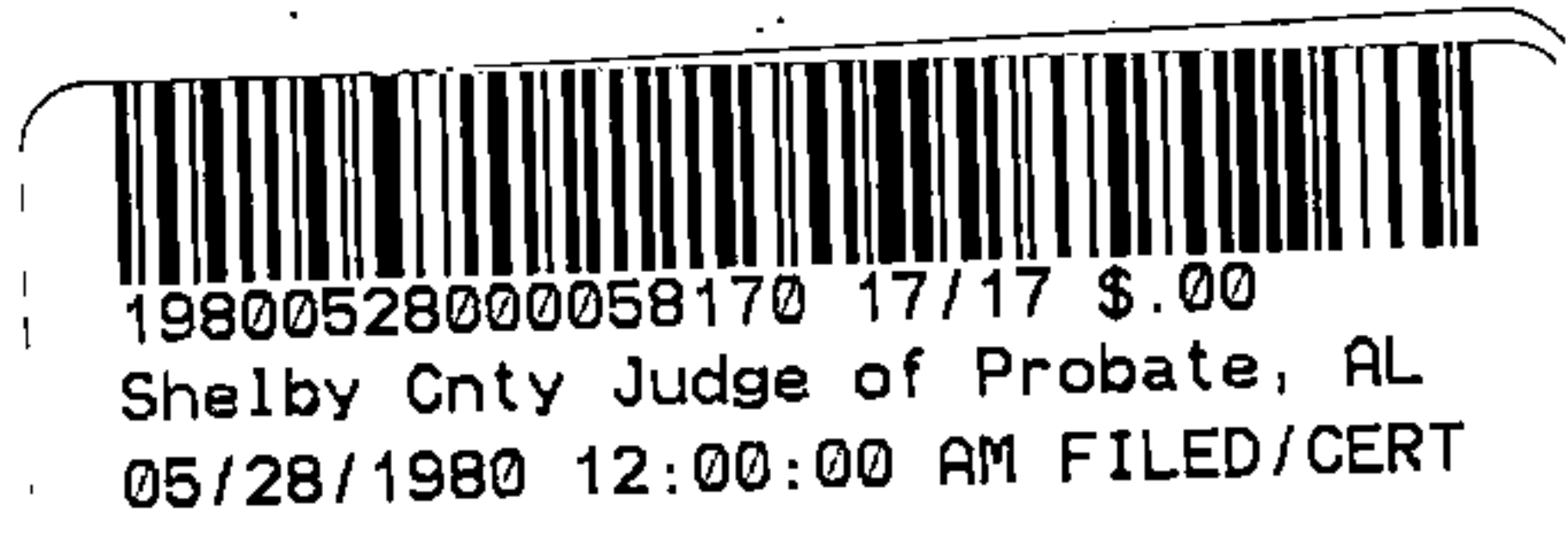
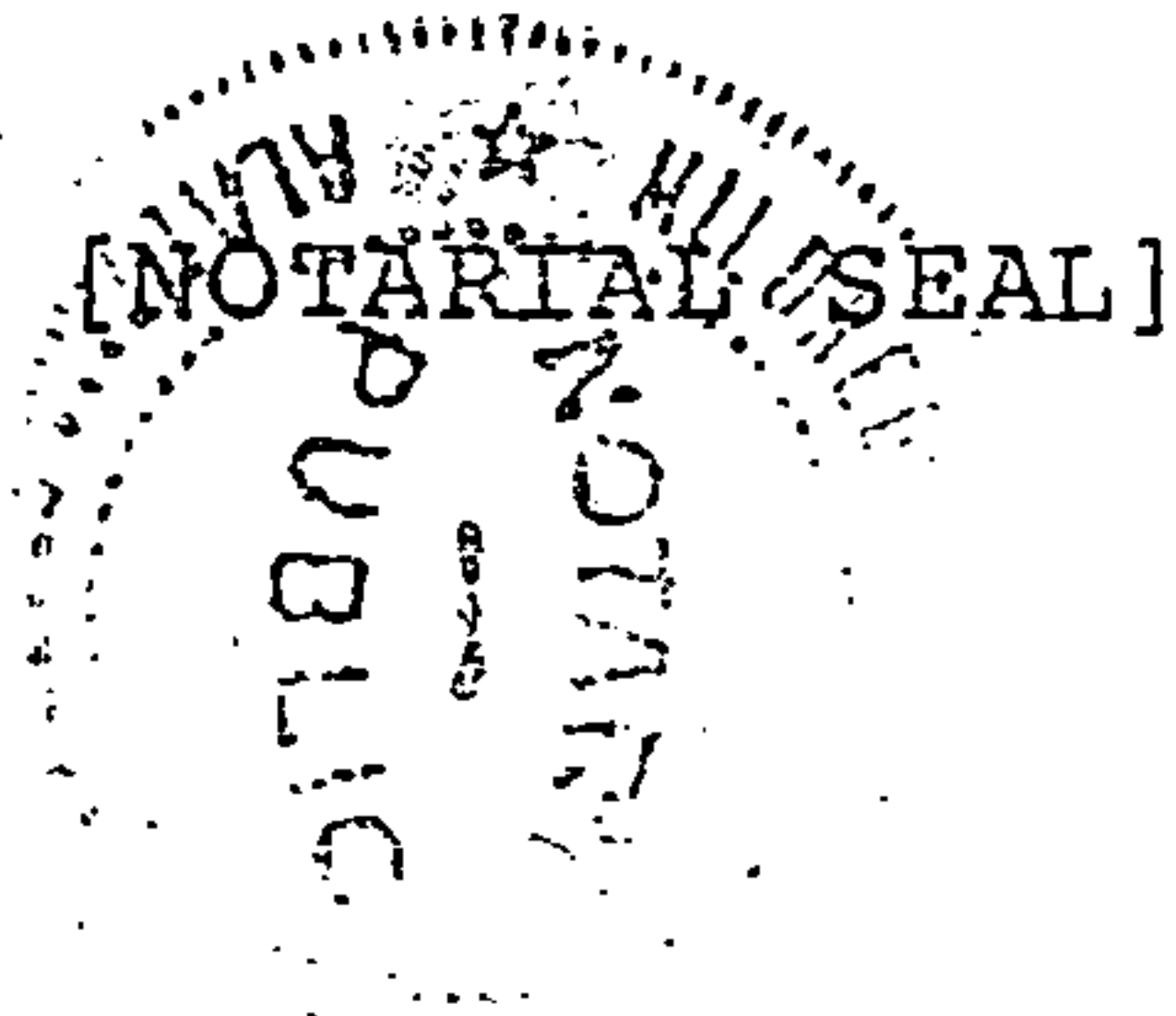
STATE OF ALABAMA)
COUNTY OF Shelby)

I, Richard B. Hedgcock, a Notary Public in and for said county in said state, hereby certify that John F. Wrentham, whose name as President of THE FIRST NATIONAL BANK OF BIRMINGHAM, a national banking association under the laws of the United States of America, 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 within instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said association.

GIVEN under my hand and official seal of office this 22 day of May, 1980.

Richard B. Hedgcock
Notary Public

Notary Public, Alabama State at Large
My Commission Expires April 26, 1981
Bonded by Home Indemnity Co. of N.Y.



BOOK 36 PAGE 211

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
1980 MAY 28 PM 1:57
Thomas A. Chandler, Jr.
JUDGE OF PROBATE

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Ord. 1⁰⁰/₁₀₀
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