

STATE OF ALABAMA )  
SHELBY COUNTY )

DURABLE POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS which are intended to constitute a durable power of attorney, that I, FRANK C. ELLIS, JR. of the City of Columbiana, County of Shelby, State of Alabama, do hereby make, constitute and appoint JOHN <sup>(JL)</sup> BENNER of Birmingham, Alabama as my true and lawful attorney-in-fact, for me and in my name, place and stead, and on my behalf and for my use and benefit as follows:

To execute on my behalf with my full intent to be completely bound, notes, mortgages, deeds, closing statements, loan documents and closing documents of all kinds, varieties and descriptions, necessary to consummate:

(i) The acquisition of that certain real property described on Exhibit "A" attached hereto and incorporated by reference herein (the "Property") from Addie Smith, Mary Cline Martin, Jean Cline Pryor, Rollin L. Johnson, Jr. and James Thomas Johnson; and

(ii) To create and secure to Union State Bank, Birmingham, Alabama, a valid first mortgage lien on the Property; and

(iii) To convey a portion of the Property to Union State Bank, Birmingham, Alabama; and

(iv) To execute on my behalf any and all instruments or documents necessary in order to acquire my interest in funds held by Cahaba Title, Inc. as intermediary under Deferred Exchange Agreement dated December 29, 1994, it being expressly understood that funds held by Cahaba Title, Inc. under such Deferred Exchange Agreement are necessary in the acquisition of the Property.

On this date, I have executed a mortgage note in the principal amount of \$500,000.00, said note being payable to Union State Bank, Birmingham, Alabama. My attorney-in-fact is instructed to deliver said note to Union State Bank, Birmingham, Alabama on the date that I, together with Interstate Restaurant Investors, an Alabama General Partnership have acquired the Property. Although such note is undated, I hereby authorize my attorney-in-fact to insert the

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actual date of delivery of such note to Union State Bank, Birmingham, Alabama on such note at the time of such delivery, and after such delivery, I intend to fully be bound by the terms of said note.

My interest in the Property is to be an undivided 25% interest, which interest shall apply to the acquisition, encumbering and sale of all or a portion of the Property. Notwithstanding the foregoing, it is my express understanding that my liability as to any mortgage loan for the Property shall be joint and several.

I am a married man, however, the Property does not now, nor never has constituted the homestead of me or my wife.

The authority created by this instrument, unless earlier terminated by me in writing to my attorney-in-fact, shall expire on FEB. 25, 1995.

I grant to my said attorney-in-fact full power and authority to do, take, and perform all and every act and thing whatsoever requisite, proper, or necessary to be done, in the exercise of any of the rights and powers herein granted, as fully to all intents and purposes and I might or could do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that my said attorney-in-fact shall lawfully do or cause to be done by virtue of this power of attorney and the rights and powers herein granted.

The rights, powers and authority of my said attorney-in-fact herein granted shall commence and be in full force and effect on the date I execute this Durable Power of Attorney. This instrument is to be construed and interpreted as a Durable Power of Attorney, accordingly, the authority conferred herein shall not be affected by my disability, incompetency, or incapacity, and such rights, powers and authority shall remain in full force and effect until my death, or until revoked in writing by me, or until the same terminates by its own terms. Any action taken in good faith pursuant to the foregoing authority without actual knowledge of my death shall be binding upon me, my heirs, assigns and personal

representatives.

IN WITNESS WHEREOF, as principal, I have executed this Durable Power of Attorney at Pelham, Alabama, this 9 day of February, 1995 in the presence of two witnesses, and I have directed that photographic copies of this Durable Power of Attorney be made which shall have the same force and effect as an original.

William R. Robertson  
Witness

Frank C. Ellis, Jr.  
Frank C. Ellis, Jr.

Jean Sides  
Witness

STATE OF ALABAMA )

Shelby COUNTY )

I, the undersigned authority, a Notary Public, in and for said County and in said State, hereby certify that FRANK C. ELLIS, JR., is signed to the foregoing Durable Power of Attorney, and who is known to me, acknowledged before me on this date, that, being informed of the contents of said Durable Power of Attorney, he has executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 9 day of FEB., 1995.

Christi L. Hendrix  
Notary Public  
My Commission Expires: 2/10/96

EXHIBIT A  
FRANK C. ELLIS JR. DURABLE POWER OF  
ATTORNEY

A parcel of land located in the Southwest Quarter of Section 31, Township 19 South; Range 2 West and the Northwest Quarter of Section 6, Township 20 South, Range 2 West, Shelby County, Alabama; more particularly described as follows:

Commence at the Southeast corner of the Southwest Quarter of Section 31; thence run North along the Quarter line 506.79 feet; thence left  $121^{\circ}25'36''$ , 1325.96 feet; thence right  $129^{\circ}39'13''$ , 359.51 feet to the point of beginning; thence left  $90^{\circ}00'$ , 319.00 feet to the easterly right of way of U.S. Highway 31; thence right  $90^{\circ}00'$ , 271.39 feet northerly along said right of way; thence right  $45^{\circ}59'33''$ , 110.03 feet to the right of way of Alabama Highway No. 119; thence an interior angle left of  $140^{\circ}45'20''$  to the chord of a curve to the left with a radius of 1949.89 feet and a central angle of  $7^{\circ}04'37''$ ; thence run along the arc of said curve 240.84 feet along the Highway 119 right of way; thence an interior angle left from said chord of  $85^{\circ}14'14''$ , 367.82 feet to the point of beginning.

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03:55 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
004 MCD 16.00