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STATE OF ALABAMA)

COUNTY OF SHELBY)

AFFIDAVIT

Before me, the undersigned authority, this day personally appeared Emily Jones Rushing, who is known to me and who, being first by me duly sworn did depose and say as follows:

My name is Emily Jones Rushing. I am a resident of Jefferson County, Alabama. I am over the age of twenty-one years and of sound mind. I am the current owner of the property described in Exhibit "A".

This purpose of this affidavit is to clear up any misunderstanding concerning the use of a dirt road by the predecessors in title, Rosella M. Williams and husband Jack R. Williams. The deed from the Williams to my mother, Emily P. Jones discusses the relinquishment of any right to use the road by the Williams. Said deed is recorded in Deed Book 344, page 57, in the Probate Office of Shelby County, Alabama. Based upon the language set forth in the aforementioned deed, an exception was placed in the deed from my mother, Emily P. Jones, to me. Said deed was prepared by Frank C. Galloway, Jr., Esquire. The exception is listed as item no. 9 and the deed is recorded in Instrument No. #1997-23035 in the Office of the Judge of Probate of Shelby County, Alabama. The use of the phrase "vacated" in connection with said deeds is a misnomer. There never was a public road which could be vacated. The following recitation of facts sets forth the history of these two listed exceptions and hopefully will put to rest any further discussion of the "dirt road."

My mother, Emily P. Jones, purchased the property described as Parcel I at the end of 1982 (Title policy dated December 15, 1982) as a piece of land some 12 acres in size and consisting only of pasture. The sellers were Rosella M. Williams and Jack R. Williams, who were then living in a house on an adjacent seven-acre parcel. Over the years, the Williams had reached the house on a dirt road that extended through one corner of the 12-acre parcel, so my mother granted them continued access.

As my father remembers, she was happy to just own the corner, but our real estate agent, Roger Pugh, knew that she might be interested in buying the remaining acreage if it became available. In fact, that is what happened the following year.

The Williams decided to sell the house and seven acres so that they could build another house on another site. My mother then purchased the seven-acre piece of land described as Parcel II (Title policy dated February 3, 1983). Thus, the two parcels were put together again, as they are in the Conn and Allen survey, so the issue of the driveway no longer pertains.

05/09/2000-15215
10:48 AM CERTIFIED
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003 NWS 13.50

Inst # 2000-15215

Cahaba Title, Inc.


The Williams continued to live in the house located on Parcel II while they completed construction of their new house, renting their former home from my mother. Roger Pugh served as the rental agent for that transaction, as he continued to do for subsequent tenants. There is not now any current tenant and has not been since December of 1999.

After the Williams use ended no other persons have attempted to use said road. No other persons have made any claim that the road was an easement by prescription or otherwise.

Further affiant saith not.


Emily Jones Rushing

Sworn to and subscribed before me by Emily Jones Rushing, on this the 8th day of may, 2000.


Notary Public

My commission expires: 7/11/02

This Instrument Prepared By:

R. Shan Paden
Attorney at Law
5 Riverchase Ridge, Suite 100
Birmingham, AL 35244
(205) 987-7210

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EXHIBIT "A"

Parcel I

A parcel of land located in the East 1/2 of the SW 1/4 and the West 1/2 of the SE 1/4 of Section 33, Township 21 South, Range 2 West, Shelby County, Alabama, described as follows:

Commence at the Northeast corner of the SE 1/4 of the SE 1/4 of said Section 33; thence run North along the East Section line a distance of 679.11 feet; thence turn left 88 deg. 09 min. 26 sec. a distance of 2,340.02 feet to the point of beginning; thence continue last course a distance of 707.25 feet to a point on the Easterly right of way of Highway No. 31, said point being on a curve to the left having a central angle of 16 deg. 08 min. 40 sec. and a radius of 1,432.39 feet; thence turn left 117 deg. 18 min. 44 sec. to the chord of said curve and run along said chord a distance of 402.28 feet to the P. T. of said curve; thence turn left from said chord 05 deg. 24 min. 36 sec. along said right of way a distance of 794.35 feet; thence turn left 42 deg. 43 min. 03 sec. along the right of way of the intersection of Highway No. 31 and No. 70 a distance of 100.00 feet; thence turn left 49 deg. 25 min. 45 sec. along the right of way Highway No. 70 a distance of 193.65 feet to the P. C. of a curve to the right having a central angle of 00 deg. 52 min. 44 sec. and a radius of 1,484.21 feet; thence turn right 01 deg. 13 min. 14 sec. to the chord of said curve and run along said chord a distance of 22.77 feet; thence turn left from said chord 68 deg. 11 min. 51 sec. a distance of 505.19 feet; thence turn right 01 deg. 40 min. 54 sec. a distance of 440.02 feet to the point of beginning; being situated in Shelby County, Alabama.

Parcel II

A parcel of land located in the SE 1/4 of Section 33, Township 21 South, Range 2 West, Shelby County, Alabama, described as follows:

Commence at the Northeast corner of the SE 1/4 of the SE 1/4 of said Section 33; thence run North along the East Section line a distance of 679.11 feet; thence turn left 88 deg. 09 min. 26 sec. a distance of 1,925.55 feet to the point of beginning; thence continue last course a distance of 414.47 feet; thence turn left 100 deg. 09 min. 51 sec. a distance of 440.02 feet; thence turn left 01 deg. 40 min. 54 sec. a distance of 505.19 feet to a point on the Northerly right of way of Highway No. 70, said point being on a curve to the right having a central angle of 12 deg. 45 min. 06 sec. and a radius of 1,484.21 feet; thence turn left 104 deg. 59 min. 04 sec. to the chord of said curve and run along said chord a distance of 329.64 feet; thence turn left from said chord 67 deg. 39 min. 06 sec. a distance of 781.14 feet to the point of beginning; being situated in Shelby County, Alabama.

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