

# IN THE PROBATE COURT OF SHELBY COUNTY, ALABAMA

IN THE MATTER OF THE ESTATE OF  
EUNICE TAMBORREL,  
A PROTECTED PERSON.

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CASE NO.: 42-157



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Shelby Cnty Judge of Probate, AL  
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## ORDER ON PETITION FOR SALE OF REAL PROPERTY

This matter came to be heard upon the Petition to Approve Sale of Real Property and Petition to Determine Validity of Deed heretofore filed by Sidney C. Summey as conservator for Eunice Tamborrel and upon the Motion to Intervene heretofore filed by Bill Heck and Melanie Heck. A hearing upon these matters was held on April 27, 2006, at which the equity jurisdiction of this court had been invoked, and which was attended by Sidney C. Summey, the conservator for Eunice Tamborrel; William T. Harrison, retained attorney for Susan Tamborrel; Ramona Morrison, Guardian *ad Litem* for Susan Tamborrel; Jill Karle, Guardian *ad Litem* for Eunice Tamborrel; John R. Holliman, attorney for Intervenors, Bill and Melanie Heck; James Burford, attorney for prospective purchaser, Fred Nunnelly; together with other prospective purchasers and their representatives. There is a Petition for Letters of Conservatorship now pending in this court alleging that Susan Tamborrel is a person in need of protection. Out of an abundance of caution for her rights in this matter, the court appointed a Guardian *ad Litem* for Susan Tamborrel in addition to her retained counsel. Susan Tamborrel's retained counsel stated that she was at his office during the proceedings, but elected not to attend. All persons entitled to notice of these proceedings appeared to have been properly notified and were represented at the hearing in person or by counsel. There was no objection to the Motion to Intervene by the Hecks and it is due to be granted. Many issues



were raised, addressed with testimony and arguments of counsel. The court finds it in the best interest of the estate to enter two orders addressing the various matters now presented to the Court. This is the first of those two orders.

The record in this case, by stipulation of counsel and by recognition of the court, consists of the entire court file together with documents and reports heretofore filed in addition to the testimony taken *ore tenus* in open court, stipulations of counsel and representations made to the court by officers of the court. The court finds that Carlos and Eunice Tamborrel were joint owners of the real property which is the subject of that certain deed here in question and which is Instrument # 20021210000617730 in the Shelby County Probate Office and that on June 28, 2002, this court appointed James M. Tingle as conservator for Eunice Tamborrel and thereafter on August 28, 2002, the said Eunice Tamborrel together with her husband, Carlos Tamborrel attempted to convey the said real property to their daughter, Susan Tamborrel, but that any attempted conveyance of the undivided one half interest of Eunice Tamborrel by Eunice was ineffective and void. The Court further finds that the said real property cannot be equitably partitioned in kind and that it is necessary and in the best interest of the estate of Eunice Tamborrel, an incapacitated person, that any and all interest owned by Eunice Tamborrel be sold in order to pay the debts of Eunice Tamborrel and for investment of any remaining proceeds. The Court finds an urgency to the sale of said property due to the threatened seizure of said property by the Internal Revenue Service to enforce certain liens upon said real property. The Court further finds that the proposed sales contract between Sidney C. Summey, as Conservator for Eunice Tamborrel and Lay Bay, LLC, Fred Nunnelley, president, is fair and reasonable and in the best interest of the estate, and that the sales price is in excess of the appraised price of the said real property and the same is due to be




and the same is hereby approved by this Court.

Accordingly, the Court, sitting in equity, is of the opinion that the following order should be entered, to wit:

**IT IS ORDERED, DECREED, and ADJUDGED,** by the Court as follows:

1. The Motion to Intervene filed by Bill Heck and Melanie Heck is hereby granted.
2. The Court declares and decrees that any and all property, real and personal, owned by Eunice Tamborrel vested in her Conservator on June 28, 2002 pursuant to Code of Alabama (1975) § 26-2A-148.
3. The court declares that since the interest of Eunice Tamborrel was vested in her conservator on August 28, 2002, and the conservator did not join in the August 28, 2002 conveyance, the instrument naming Susan Tamborrel as grantee did not and could not have conveyed away the interest of Eunice Tamborrel to Susan Tamborrel.
4. The court declares that Eunice Tamborrel owns an interest in the real property described in Instrument # 20021210000617730 in the Shelby County Probate Office which interest is, at least, an undivided one half interest. If there are any other interests in the said real property, other than liens and easements, they would be owned by either Susan Tamborrel and/or Bill and Melanie Heck which are parties to this proceeding and are subject to the jurisdiction and rulings of this court.
5. The court finds and declares that it is in the best interest of the Estate of Eunice Tamborrel, an incapacitated person, that the real property owned by her be sold for payment of debts and for division of the proceeds among the other owners, if indeed there be any other owners. The contract proposed by the conservator between the said conservator and Lay Bay, LLC, Fred Nunnelley, president, is found and declared to be fair and reasonable and in the best interest of the said Eunice Tamborrel and the same is hereby approved and ratified upon the terms as amended in open court to reflect a sales price of \$2,050,000.00.
6. The Court hereby authorizes and approves the conservator to execute the said contract, to clear all liens and encumbrances from the proceeds of said sale and to convey all interests in said real property to the purchaser thereunder. The said conservator is hereby directed and authorized to hold the net proceeds of said sale in the conservatorship of Eunice Tamborrel, a protected person, until further order of this court and to report the sale to the court within 14 days of closing. The conveyance from the said Sidney C., Summey, as conservator of

  
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Eunice Tamborrel is hereby authorized and ratified and shall constitute a full and complete transfer of all interests in the said real property to the grantee/purchaser of said real property.

7. Costs of this matter shall be taxed against the estate.

**DONE AND ORDERED** this the 19<sup>th</sup> day of May, 2006.



Patricia Fuhrmeister,  
**Probate Judge** in equity sitting

cc: Sidney C. Summey, Petitioner, *pro se*  
William T. Harrison, Attorney for Susan Tamborrel  
Ramona Morrison, GAL for Susan Tamborrel  
Jill Karle, GAL for Eunice Tamborrel  
John Holliman, Attorney for Bill and Melanie Heck  
James Burford, Attorney for Lay Bay, LLC

ENTERED AND FILED

MAY 19 2006

Kimberly Melton, Chief Clerk  
Probate Court  
Shelby County, Alabama

I certify this to be a true and  
correct copy Patricia Fuhrmeister  
Probate Judge  
Shelby County



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