

FIRST MODIFICATION TO
MORTGAGE AND
SECURITY AGREEMENT

Drawn by and return to:
Kennedy Covington Lobdell & Hickman, L.L.P. (CCH)
Hearst Tower
214 North Tryon Street, 47th floor
Charlotte, North Carolina 28202-4006
Attention: Stephanie Greer Fulcher
1-704-331-7400

STATE OF ALABAMA

COUNTY OF SHELBY

FIRST MODIFICATION TO MORTGAGE AND SECURITY AGREEMENT (the "Modification"), dated as of October 18, 2006, between O'CHARLEY'S INC., a Tennessee corporation (the "Borrower") and WACHOVIA BANK, NATIONAL ASSOCIATION, a national banking association, in its capacity as administrative agent for the benefit of the "Lenders" party to the Credit Agreement (as hereinafter defined and as such terms are defined in such instrument (in such capacity, the "Administrative Agent").

WITNESSETH:

WHEREAS, the Borrower has granted in favor of the Administrative Agent a lien upon and a security interest in certain real and personal property and rights therein owned by the Borrower, pursuant to that certain Mortgage and Security Agreement dated as of January 27, 2003 and recorded in Instrument No. 20030131000062080, in the Probate Office of Shelby County, Alabama (the "Mortgage"); and

WHEREAS, the Mortgage was executed in connection with and as a condition to that certain Credit Agreement dated as of January 27, 2003 among Borrower, the Administrative Agent and the Lenders, as amended and restated pursuant to that certain Amended and Restated Credit Agreement dated as of November 4, 2003 (collectively, the "Existing Credit Agreement"); and

WHEREAS, Borrower, the Administrative Agent and the Lenders desire to amend and restate the Existing Credit Agreement pursuant to that certain Second Amended and Restated Credit Agreement of even date herewith among the Borrower, the Administrative Agent and the Lenders (as so amended and restated, and as it may further be amended, modified, extended, renewed, replaced or restated from time to time, the "Credit Agreement"); and

WHEREAS, as so amended, the maximum principal amount of the credit facilities secured by the Mortgages is Three Hundred Million Dollars (\$300,000,000.00).

WHEREAS, a specific condition to the willingness of the Administrative Agent and the Lenders to amend and restate the Existing Credit Agreement pursuant to the Credit Agreement, and to continue to extend the credit facilities evidenced thereby in favor of the Borrower, is the modification by the Borrower of the Mortgage as more particularly set forth herein;

NOW, THEREFORE, in consideration of the premises and agreements both contained herein and elsewhere recited, and for other good and valuable consideration, the parties hereto hereby agree as follows:

1. All capitalized terms used herein and not otherwise defined herein shall have the respective meanings provided to such terms in the Mortgage, as amended hereby.

2. The parties hereto agree as follows:

(a) The following paragraph contained in Page 1 of the Mortgage:

"Pursuant to the terms of that certain Credit Agreement dated as of January 27, 2003, as amended, restated or otherwise modified (the "Credit Agreement") among Borrower, Mortgagee and the lenders who are or may become a party to the Credit Agreement (as therein defined, "Lenders"), Lenders have agreed to extend certain credit facilities to Borrower of up to Three Hundred Million Dollars (\$300,000,000). All of the promises, terms, conditions, agreements and obligations imposed on Borrower under the Notes, the Letters of Credit, the Credit Agreement and the other Loan Documents are to be secured by this Mortgage. Defined terms used herein, as indicated by the initial capitalization thereof, shall have the meanings ascribed to such terms in the Credit Agreement, unless otherwise provided herein. The indebtedness secured by this Mortgage has a final maturity date of January 27, 2009."

is hereby deleted in its entirety and the following paragraph is hereby substituted in lieu thereof:

"Pursuant to the terms of that certain Credit Agreement dated as of January 27, 2003, as amended, restated or otherwise modified (the "Credit Agreement") among Borrower, Mortgagee and the lenders who are or may become a party to the Credit Agreement (as therein defined, "Lenders"), Lenders have agreed to extend certain credit facilities to Borrower of up to Three Hundred Million Dollars (\$300,000,000). All of the promises, terms, conditions, agreements and obligations imposed on Borrower under the Notes, the Letters of Credit, the Credit Agreement and the other Loan Documents are to be secured by this Mortgage. Defined terms used herein, as indicated by the initial capitalization thereof, shall have the meanings ascribed to such terms in the Credit Agreement, unless otherwise provided herein. The indebtedness secured by this Mortgage has a final maturity date of October 18, 2011."

3. This Modification shall become effective as of the date hereof.

4. The Borrower represents and warrants that as of the effective date hereof, there exists no Event of Default and that, to the best of its knowledge, the Borrower has no claim or cause of action against the Administrative Agent or the Lenders arising out of or relating in any way to the Mortgage (as modified hereby) or the other Loan Documents. The Borrower hereby represents and warrants that all representations and warranties previously made by the Borrower in the Mortgage and in the other Loan Documents (including without limitation the Guaranty) remain true, complete and accurate (except to the extent expressly amended or supplemented by this Modification, the Credit Agreement or the other documents, instruments and agreements executed as of the date hereof in connection therewith).

5. This Modification is limited and, except as set forth herein, shall not constitute a modification, acceptance or waiver of any provision of the Mortgage, or any other document or instrument entered into in connection therewith.

6. This Modification may be executed in any number of counterparts by the different parties hereto on separate counterparts, each of which counterparts when executed and delivered shall be an original, but all of which together shall constitute one and the same instrument. A complete set of counterparts shall be lodged with the Borrower and the Administrative Agent.

7. From and after the date hereof, all references in the Mortgage, and any other document or instrument entered into in connection therewith, to the Mortgage shall be deemed to be references to the Mortgage as amended hereby.

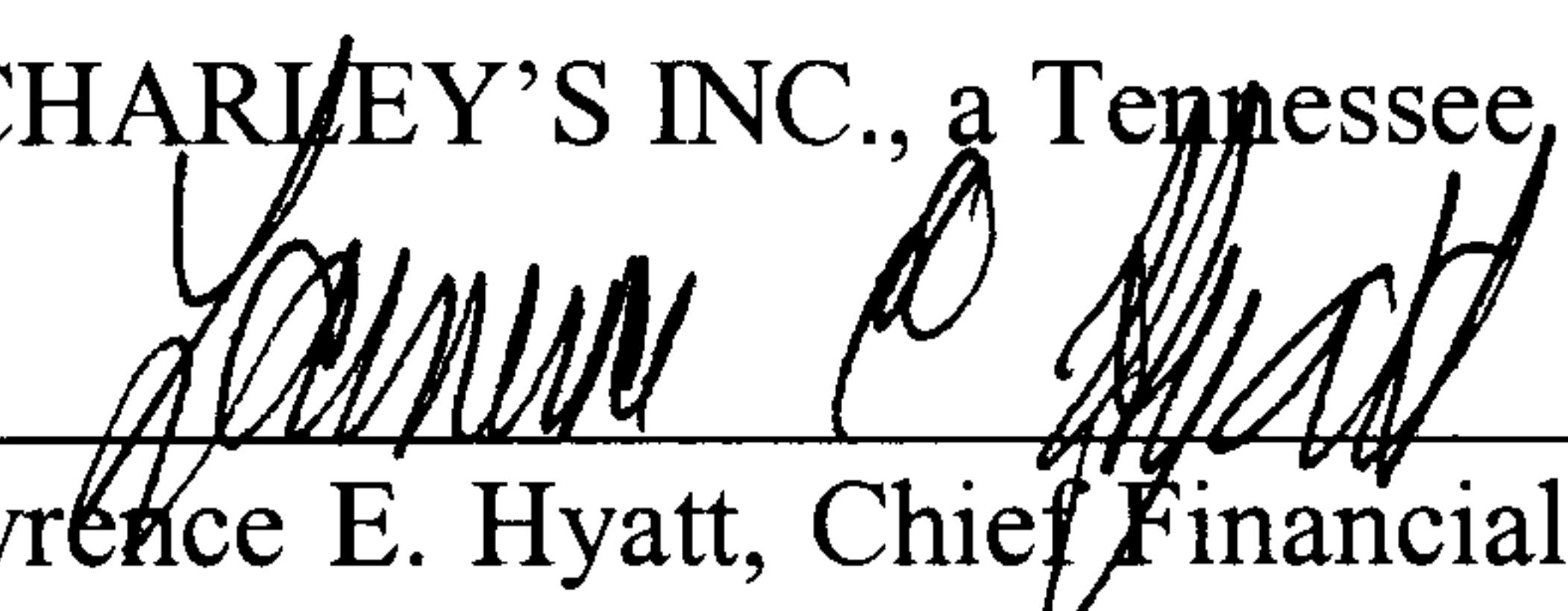
8. EACH OF THE BORROWER AND THE ADMINISTRATIVE AGENT HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MODIFICATION AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY RELATING HERETO OR THERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE BORROWER AND THE ADMINISTRATIVE AGENT TO ENTER INTO THIS MODIFICATION.

[Remainder of page intentionally left blank; signatures begin on following page]

IN WITNESS WHEREOF, the parties hereto have caused this Modification to be executed as of the day and year first above written.

BORROWER:

O'CHARLEY'S INC., a Tennessee corporation

By 
Lawrence E. Hyatt, Chief Financial Officer, Secretary and
Treasurer

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Lawrence E. Hyatt, whose name as Chief Financial Officer, Secretary and Treasurer of O'Charley's Inc., a Tennessee corporation, 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 foregoing instrument, he, as such Secretary and Treasurer and with full authority, executed the same voluntarily for and as the act of the said O'Charley's Inc., a Tennessee corporation, on the day the same bears date.

GIVEN UNDER MY HAND and official seal on this the 18 day of October, A.D., 2006.



Notary Public
State of _____
County of _____ [SEAL]

My Commission Expires:

[Signatures continued on following page]



ADMINISTRATIVE AGENT:

WACHOVIA BANK, NATIONAL ASSOCIATION, a
national banking association

By Martha M. Winters
Name Martha M. Winters
Title Director

STATE OF PENNSYLVANIA)
COUNTY OF MONTGOMERY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Martha M. Winters, whose name as Director of Wachovia Bank, National Association, a national banking association, 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 foregoing instrument, he, as such _____ and with full authority, executed the same voluntarily for and as the act of the said Wachovia Bank, National Association, a national banking association, on the day the same bears date.

GIVEN UNDER MY HAND and official seal on this the 18 day of October, A.D., 2006.

My Commission Expires:

Donna L. Smith
Notary Public
State of PA
County of MONTGOMERY [SEAL]

[End of Signatures]

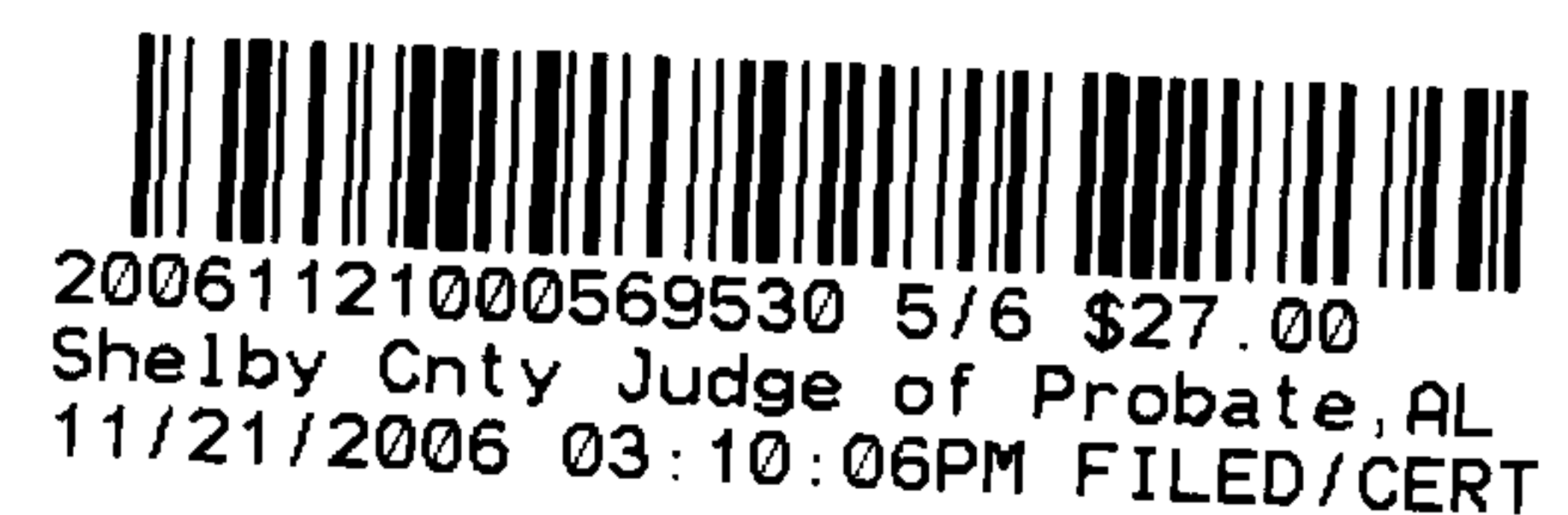
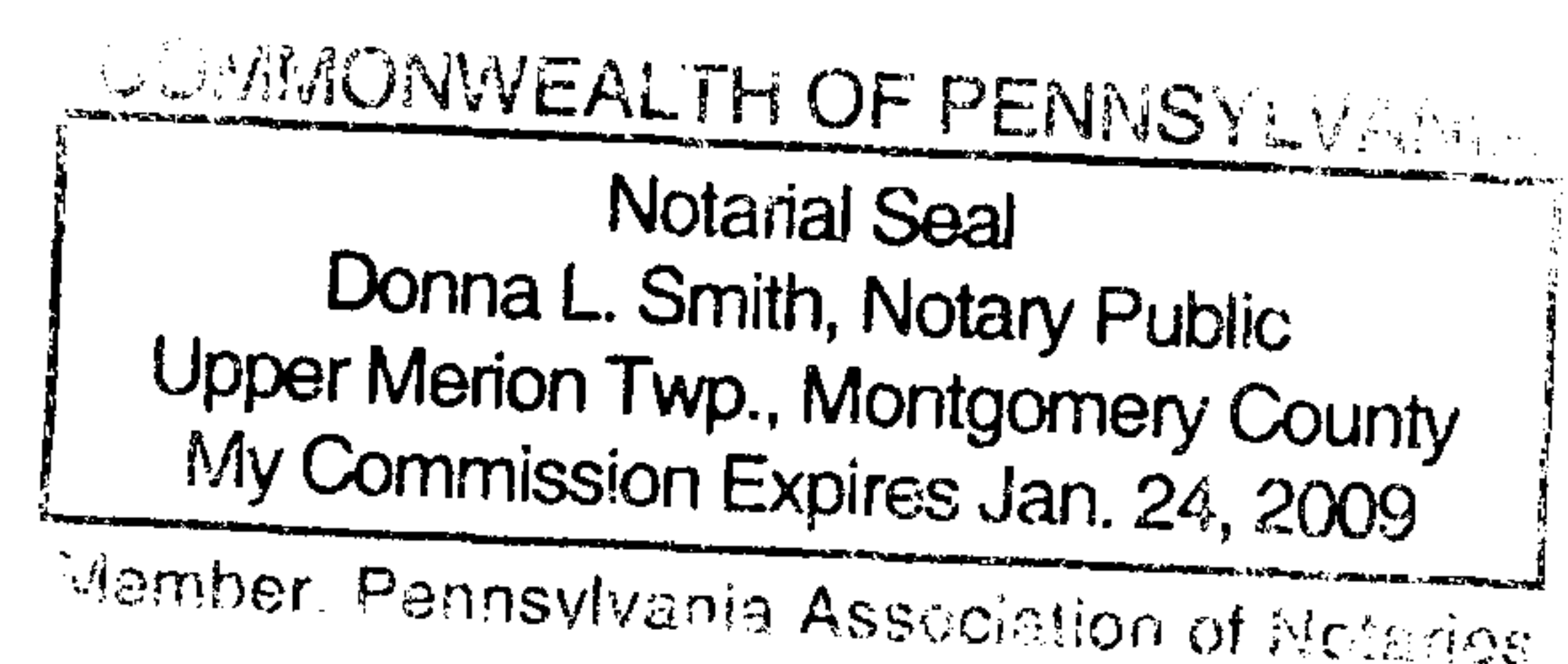


EXHIBIT A

A parcel of land located in Section 31, Township 19 South, Range 2 West, Shelby County, Alabama and being more particularly described as follows:

Commence at the northeast corner of the Southwest one-quarter of Section 31, Township 19 South, Range 2 West; thence run in a westerly direction along the northern line of said quarter section for a distance of 301.28 feet; thence turn an angle to the left of $51^{\circ}49'38''$ and run in a southwesterly direction for a distance of 524.90 feet; thence turn an angle to the right of $15^{\circ}42'53''$ and run in a southwesterly direction for a distance of 15.00 feet; thence turn an angle to the left of $102^{\circ}10'58''$ run in a southeasterly direction for a distance of 195.60 feet; thence turn an angle to the right of $13^{\circ}53'06''$ and run in a southeasterly direction for a distance of 185.50 feet; thence turn an angle to the right of $03^{\circ}06'00''$ and run in a southeasterly direction for a distance of 201.40 feet; thence run an angle to the right of $03^{\circ}14'59''$ and run in a southeasterly direction for a distance of 894.19 feet to the northwesterly right of way line of Alabama Highway No. 119; thence turn an angle to left of $93^{\circ}41'50''$ and run in a northeasterly direction and along said right of way for a distance of 175.97 feet to the point of beginning; thence continue along the previous course and along said right of way line for a distance of 42.10 feet; thence turn an angle to the left of $30^{\circ}20'28''$ and run in a northeasterly direction and along said right of way line for a distance of 115.40 feet; thence turn an angle to the right of $30^{\circ}28'26''$ and run in a northeasterly direction and along said right of way line for a distance of 99.38 feet; thence turn an angle to the left of $88^{\circ}06'12''$ and, leaving said right of way line, run northwesterly for a distance of 250.00 feet; thence turn an angle to the left of $91^{\circ}53'48''$ and run southwesterly for a distance of 239.00 feet; thence turn an angle to the left of $88^{\circ}06'12''$ and run southeasterly for a distance of 308.66 feet to the point of beginning, being situated in Shelby County, Alabama.

Less and except any part of subject property lying within a road right of way.