


THIS DOCUMENT PREPARED BY AND
FOLLOWING RECORDING RETURN TO:
JAY F. PUMROY, ESQ.
WILSON, DILLON, PUMROY & JAMES, L.L.C.
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ANNISTON, ALABAMA 36202
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Shelby Cnty Judge of Probate, AL
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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT, dated as of August 10, 2012 ("Agreement"), is by and between 7 S&M Foods, LLC, an Alabama limited liability company, having an address of 3900 Montclair Road, Suite 300, Birmingham, Alabama 35213 ("Tenant"), 7 S&M Land, LLC, an Alabama limited liability company, having an address of 3900 Montclair Road, Suite 300, Birmingham, Alabama 35213, and Southern States Bank, an Alabama banking corporation ("Mortgagee"), having an address of 7 Office Park Circle, Birmingham, Alabama 35223.

WITNESSETH:

WHEREAS, Tenant has leased from Landlord that certain real property more particularly described on Exhibit "A" attached hereto with improvements to be constructed thereon (the "Demised Premises") located in the City of Chelsea, County of Shelby, State of Alabama, and more particularly described on Exhibit "A" attached hereto, pursuant to that certain Lease Agreement dated February 23, 2012 (as hereafter modified or amended, the "Lease");

WHEREAS, by an Assignment of Leases and Rents from Landlord to Mortgagee (the "Assignment"), Landlord has assigned or will assign its interest under the Lease to Mortgagee;

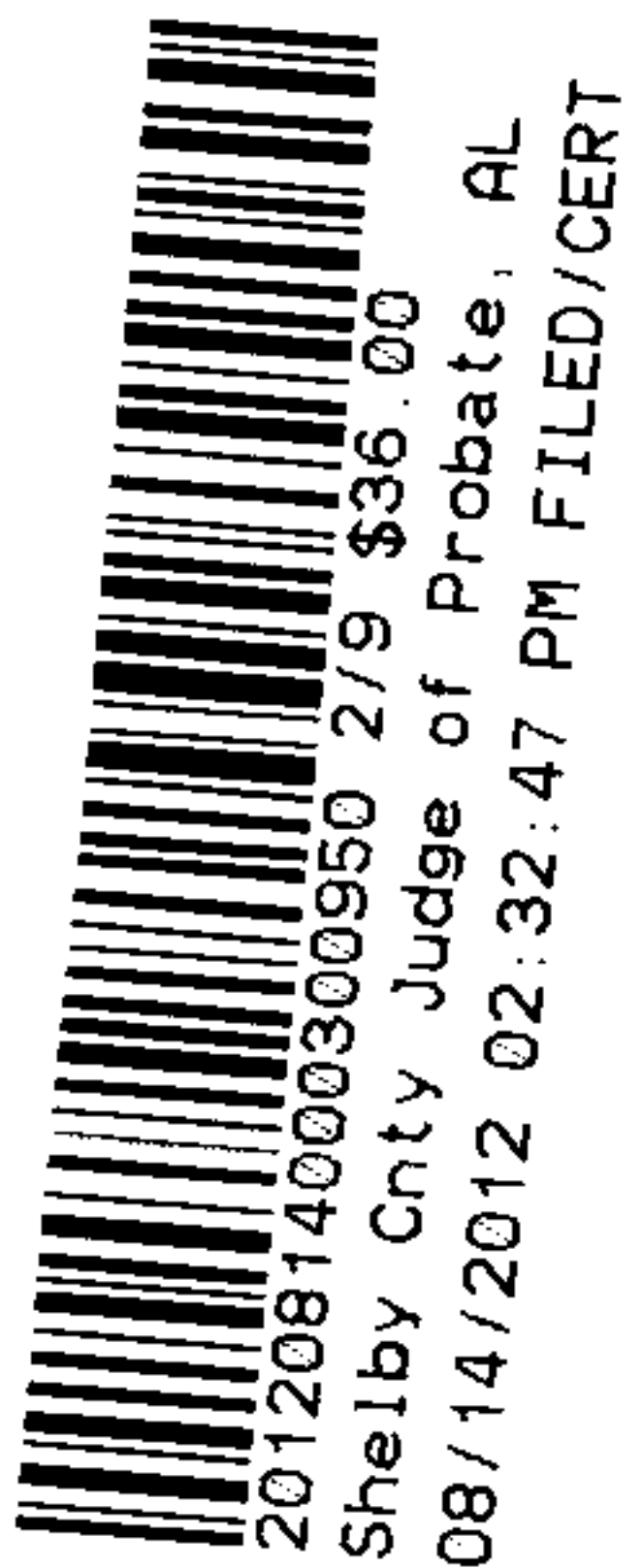
WHEREAS, Mortgagee is, or will be, the holder of a Mortgage and Security Agreement from Landlord to Mortgagee (the "Mortgage") relating to the Demised Premises;

WHEREAS, Tenant desires that Tenant's right of possession under the Lease shall not be disturbed upon deed in lieu of foreclosure, foreclosure of the Mortgage or Mortgagee's exercise of any remedy against Landlord provided for in the Mortgage or otherwise, and Mortgagee desires to have Tenant attorn to Mortgagee as landlord in such event.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt whereof is hereby acknowledged, Tenant, Landlord and Mortgagee mutually agree as follows:

1. Any capitalized terms contained herein and not defined herein shall have the meaning assigned to such term in the Lease.
2. Mortgagee acknowledges receipt of an executed copy of the Lease and consents to and approves the Lease and all terms and conditions contained therein.

3. Tenant's interest in the Lease and all rights of Tenant thereunder shall be and are hereby declared subject and subordinate to the Mortgage upon the Demised Premises and its terms, and the term "Mortgage" as used herein shall also include all advances made or to be made under the Mortgage and any amendment, supplement, modification, renewal, refinance or replacement thereof.
4. Landlord and Tenant represent and warrant that the Lease is in full force and effect as of the date hereof.
5. Tenant hereby agrees that if Mortgagee delivers a written notice to Tenant pursuant to the Assignment directing that all rents under the Lease be paid directly to Mortgagee, then Tenant shall pay all rents which become due under the Lease from and after the date of Tenant's receipt of such notice directly to Mortgagee at the address specified by Mortgagee from time to time. Landlord consents to this Section 5 and acknowledges that Tenant shall not be liable or responsible to Landlord for any rent paid by Tenant to Mortgagee pursuant to this Section 5.
6. If Mortgagee shall become the owner of the Demised Premises by reason of foreclosure of the Mortgage or otherwise, or if the Demised Premises shall be sold as a result of any action or proceeding to foreclose the mortgage or by a deed given in lieu of foreclosure, the Lease shall continue in full force and effect, without the necessity for executing any new lease, as a direct lease between Tenant, as tenant thereunder, and Mortgagee or the other then owner of the Demised Premises, as the landlord thereunder, upon all of the same terms, covenants and provisions contained in the Lease, and in such event:
 - a) Tenant shall be bound to Mortgagee or such other new owner under all of the terms, covenants and provisions of the Lease for the remainder of the Term (including any Extension Term, properly noticed) and Tenant hereby agrees to attorn to Mortgagee or such other new owner and to recognize Mortgagee or such other new owner as Landlord under the Lease; provided, however, Tenant shall be under no obligation to pay rent to Mortgagee or such other new owner until Tenant has received written notice from Mortgagee, or such other new owner, that it has succeeded to the interest of Landlord under the Lease together with such documentation as required to evidence Mortgagee's or such other new owner's right to collect rent; and
 - b) Mortgagee or such other new owner shall be bound to Tenant under all of the terms, covenants and provisions of the Lease for the remainder of the Term (including any extension term properly noticed) which terms, covenants and provisions Mortgagee or such other new owner agrees (or shall be deemed to have agreed) to assume and perform.
7. Mortgagee for itself, its successors and assigns, covenants and agrees with Tenant that, Tenant's possession of the Demised Premises, its right of possession and all



other rights of Tenant under the Lease will not be disturbed by virtue of or as a result of any foreclosure of the Mortgage, deed in lieu of foreclosure or upon the exercise of any remedy against Landlord provided for in the Mortgage by Mortgagee or otherwise. Mortgagee further covenants and agrees that Tenant shall not be made a party to any action brought by Mortgagee upon the exercise of any remedy against Landlord provided for in the Mortgage or otherwise; provided, however, Mortgagee may join Tenant as a party in any such action if such joinder is necessary under any statute or law for the purpose of effecting the remedies available to Mortgagee under the Mortgage but only for such purpose and not for the purpose of terminating the Lease, or affecting Tenant's possessory or other rights under the Lease.

8. Tenant for itself, its successors and assigns, covenants and agrees with Mortgagee that all condemnation awards and insurance proceeds paid or payable with respect to the Demised Premises shall be applied and paid in the manner set forth in the Mortgage.
9. Tenant agrees, that in the event of Landlord's default under the Lease, Tenant shall accept cure of such default by Mortgagee, within the time limits provided in the Lease, as cure by Landlord.
10. Mortgagee acknowledges and agrees that all personal property, merchandise, furniture, furnishings, signs, equipment, machinery, trade fixtures and trade uses (collectively, "Tenant Property"), whether owned by Tenant or leased by Tenant, installed in or on the Demised Premises, regardless of the manner or mode of attachment, shall remain the property of Tenant and may be removed by Tenant at any time. In no event (including, without limitation, upon a default under the Lease or Mortgage) shall Mortgagee have any liens, rights or claims in the Tenant Property and Mortgagee expressly waives all rights of levy, distraint or execution with respect to the Tenant Property. This provision shall be self-operative and effective without the execution of any further instruments on the part of any party hereto.
11. Tenant agrees that upon Mortgagee's obtaining title to the Demised Premises from Landlord under the Mortgage, Mortgagee shall not be bound by any rent which Tenant might have prepaid more than thirty (30) days in advance under the Lease to any prior landlord (including Landlord).
12. This Agreement may not be modified other than by an agreement in writing signed by Tenant and Mortgagee or by their respective successors in interest.
13. This Agreement shall be governed by the laws of the State of Alabama.
14. All information, notices or requests provided for or permitted to be given or made pursuant to this Agreement shall be deemed to be an adequate and sufficient notice if given in writing and service is made by any of the following methods:

<u>METHODS OF GIVING NOTICE:</u>	<u>RECEIPT DEEMED TO BE:</u>
Certified mail, return receipt requested	Date of delivery or rejection, or date notice is deemed unclaimed by carrier.
Hand-delivered	Date of personal delivery
Nationally recognized courier	Date of delivery or rejection, or date notice is deemed unclaimed by carrier.

All notices shall be addressed to the addresses set forth below, or to such other addresses as may from time to time be specified in writing by Tenant, Landlord or Mortgagee to the other parties hereto:

If to Tenant:

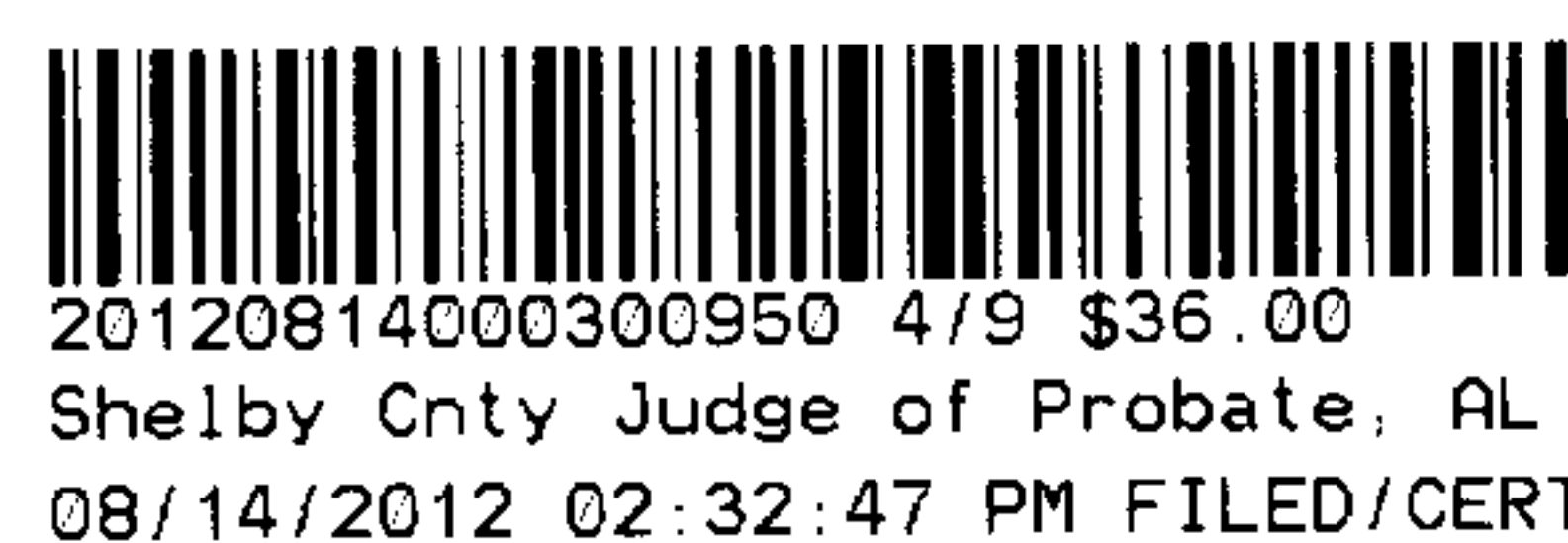
7 S&M Foods, LLC
Attn.: Manager
3900 Montclair Road, Suite 300
Birmingham, Alabama 35213

If to Landlord:

7 S&M Land, LLC
Attn.: Manager
3900 Montclair Road, Suite 300
Birmingham, Alabama 35213

If to Mortgagee:

Southern States Bank
Attn: President- Jefferson/Shelby County
7 Office Park Circle
Birmingham, Alabama 35223

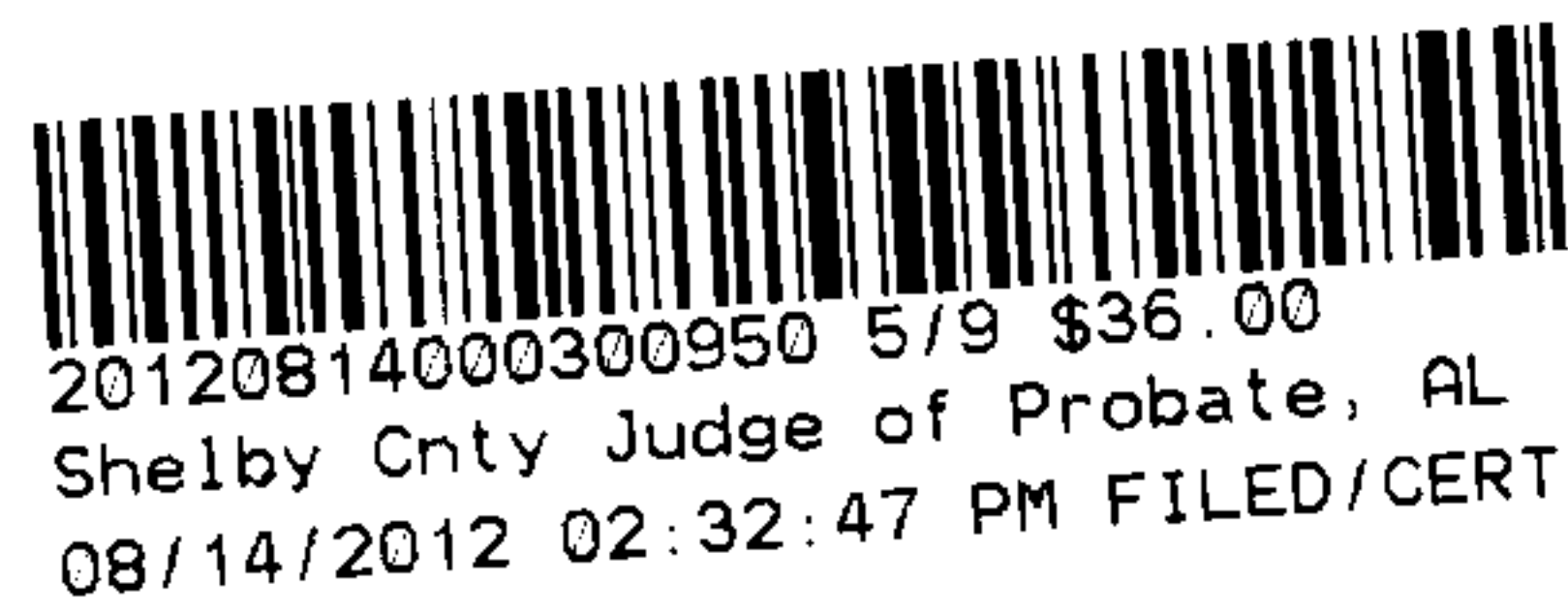


15. Notwithstanding any provision of this Agreement to the contrary, the liability of Mortgagee under and with respect to the Lease shall be limited to the interest of Mortgagee in the Demised Premises, and any judgment in favor of Tenant or any party claiming by, through or under Tenant against Mortgagee shall be collectible only out of its respective interest in the Demised Premises. In no event shall any judgment for damages be entered against Mortgagee which is in excess of the value of such interest.
16. This Agreement shall be binding upon and inure to the benefit of Tenant,

Landlord and Mortgagee, and their respective successors and assigns.

17. This Agreement may be executed in counterparts, each of which separately shall be considered an original but all of which together shall be considered one and the same Agreement.
18. Mortgagee may record this Agreement in the Probate Office of Shelby County, Alabama.
19. This Agreement shall automatically expire upon the occurrence of either of the following: (i) the Term of the Lease shall expire or the Lease shall be terminated, or (ii) the loan secured by the Mortgage shall be paid in full by Landlord such that neither Mortgagee nor anyone claiming by or through Mortgagee has an interest in the Demised Premises and the Mortgage shall be released of record.

[Signatures appear on following pages.]



IN WITNESS WHEREOF, the parties have executed this Agreement the day and year above written.

Tenant:

7 S&M Foods, LLC, an Alabama limited liability company

By: Rube Corporation, an Alabama corporation, as Manager

By: Stanley M. Rubenstein
Stanley M. Rubenstein, as President



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STATE OF ALABAMA

NOTARY ACKNOWLEDGEMENT

COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said State and County, hereby certify that Stanley M. Rubenstein whose name as President of Rube Corporation as Manager of 7 S&M Foods, LLC, an Alabama limited liability company, is signed to the foregoing Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, he, as President of Rube Corporation as Manager of 7 S&M Foods, LLC, an Alabama limited liability company, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 10th day of August, 2012.

(SEAL)

NOTARY PUBLIC

My Commission Expires: _____

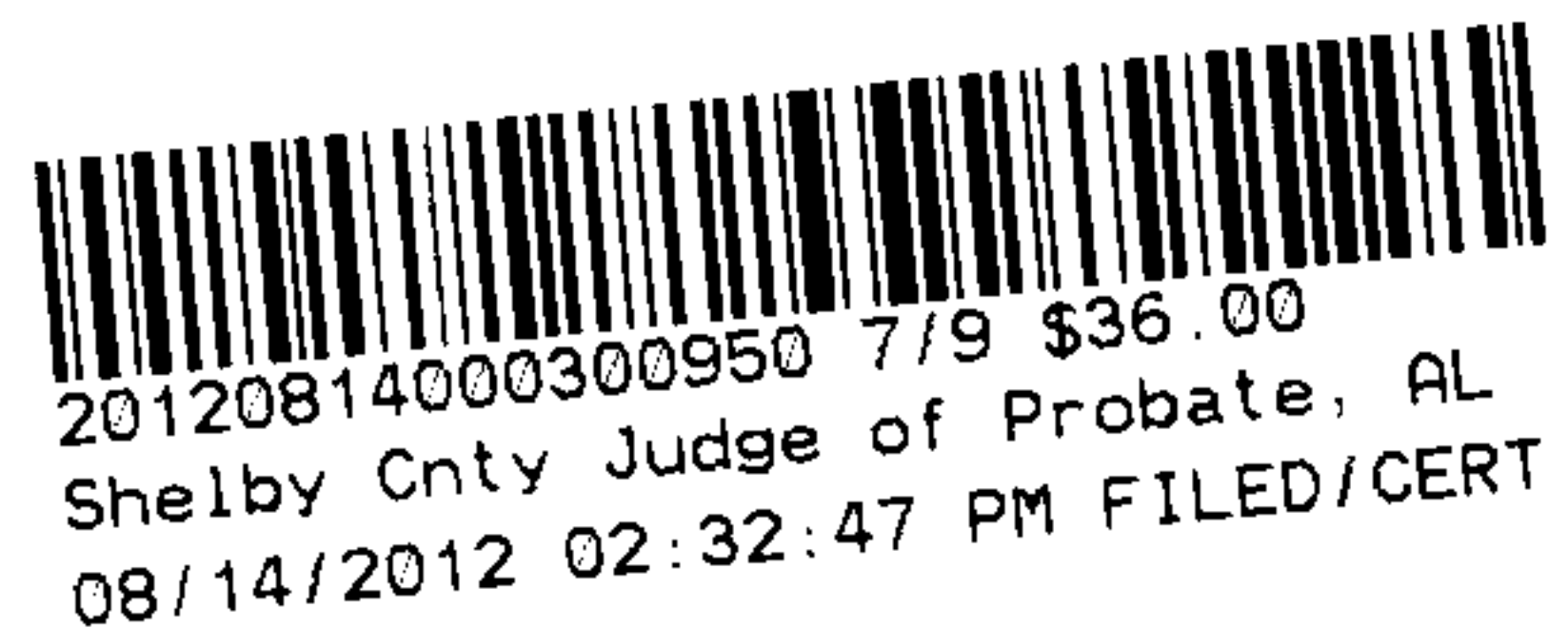
LORIAN M. HARRIS
Notary Public
ALABAMA
Commission Expires September 17, 2013

Landlord:

7 S&M Land, LLC, an Alabama limited liability company

By: Rube Corporation, an Alabama corporation, as Manager

By: Stanley M. Rubenstein
Stanley M. Rubenstein, as President



STATE OF ALABAMA

NOTARY ACKNOWLEDGEMENT

COUNTY OF Jefferson

I, the undersigned, a Notary Public in and for said State and County, hereby certify that Stanley M. Rubenstein whose name as President of Rube Corporation as Manager of 7 S&M Land, LLC, an Alabama limited liability company, is signed to the foregoing Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, he, as President of Rube Corporation as Manager of 7 S&M Land, LLC, an Alabama limited liability company, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 10th day of August, 2012.

(SEAL)


NOTARY PUBLIC


My Commission Expires: _____

LOUISIANA
ALABAMA
JULY 17, 2013

Lender:

Southern States Bank

By: 
Patrick Cushman
President-Jefferson & Shelby Counties


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STATE OF ALABAMA

NOTARY ACKNOWLEDGEMENT

COUNTY OF JEFFERSON

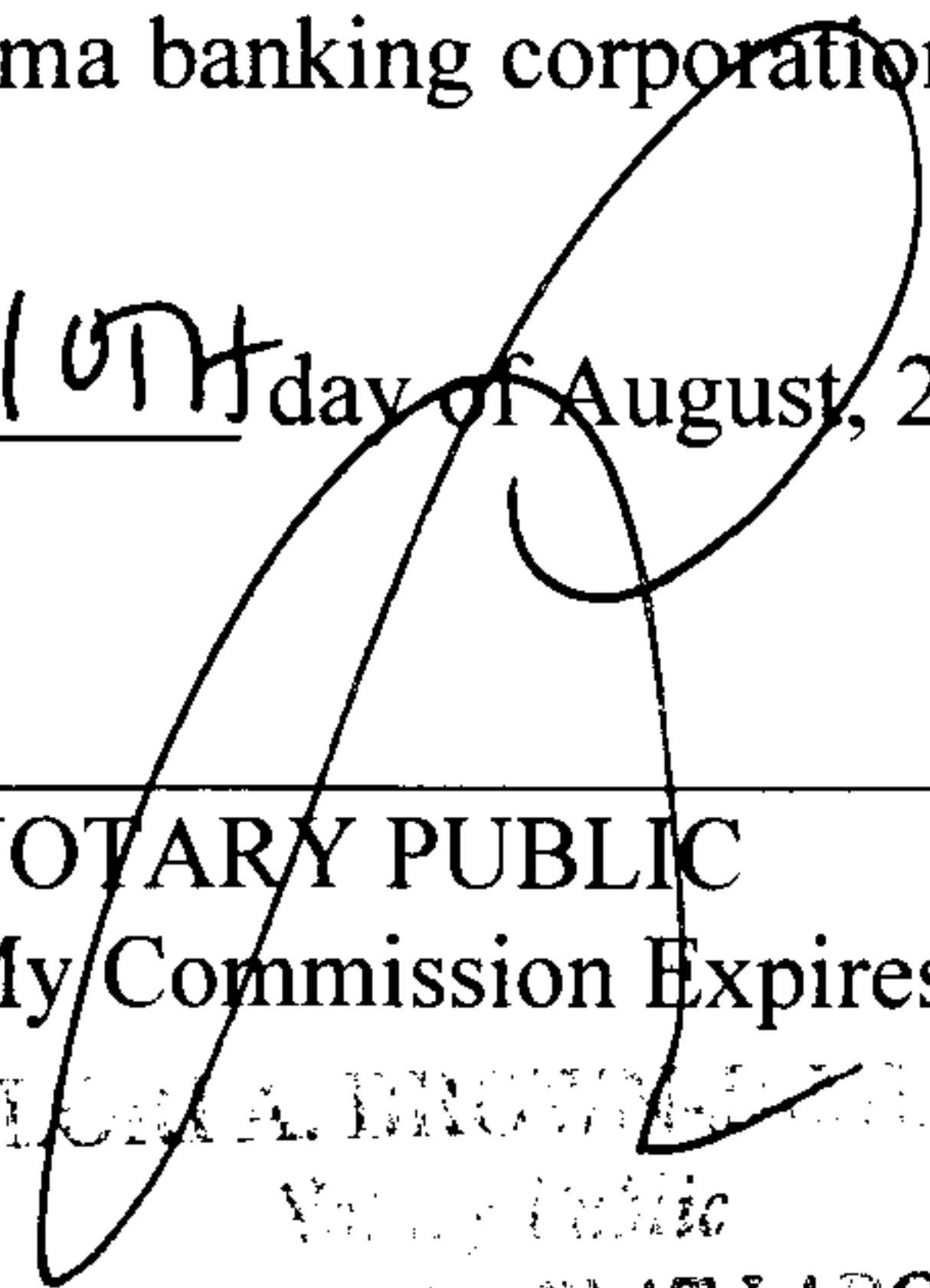
I, the undersigned, a Notary Public in and for said County and State, hereby certify that Patrick Cushman, whose name as President-Jefferson & Shelby Counties for Southern States Bank, an Alabama banking corporation, is signed to the foregoing Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, he, as such Officer and with full authority, voluntarily executed the same for and as the act of said Southern States Bank, an Alabama banking corporation, on the day the same bears date.

Given under my hand and seal this the 10th day of August, 2012.

[Affix Notary Seal]

NOTARY PUBLIC

My Commission Expires: _____


LORRA A. BROWNE, J.D.

Notary Public

AT LARGE

My Commission Expires November 17, 2013

EXHIBIT "A"

Lot 2, according to the plat or map of Chelsea Crossing Subdivision as recorded in Map Book 37, Page 49, in the Probate Office of Shelby County, Alabama.

