

STATE OF ALABAMA
COUNTY OF SHELBY


20130326000125480 1/8 \$34.00
Shelby Cnty Judge of Probate, AL
03/26/2013 11:53:45 AM FILED/CERT

BOUNDARY LINE AGREEMENT

This Boundary Line Agreement ("Agreement") is made between the Fred and Brenda Friedman Family Partnership, Ltd. ("Friedman") and Robert A. Wanninger ("Wanninger") and is effective on the date of the later to sign as shown below.

Recitals

A. Friedman owns real property in Shelby County, Alabama, by virtue of a deed recorded as Instrument # 1996-42576 in the Probate Office of Shelby County, Alabama. The portion of the Friedman property which is the subject of this Agreement is described as follows:

That portion of the West 10 acres of the NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 2, Township 20 South, Range 1 West, lying North of Quinn Cemetery Road except such portion of said West 10 acres heretofore conveyed to Randy Coleman and Wanda Coleman north of private road located in said West 10 acres.

B. Wanninger owns real property in Shelby County, Alabama, adjoining that of Friedman, by virtue of a deed recorded as Instrument # 20110620000180440 in the Probate Office of Shelby County, Alabama. The Wanninger property is described in the deed as follows:

A parcel of land situated in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 2, Township 20 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Northeast corner of Section 2, Township 20 South, Range 1 West, Shelby County, Alabama, and run in a Westerly direction and along the North line of said Section, a distance of 925.31 feet to the point of beginning of the herein described parcel; thence deflect 87 degrees 36 minutes 02 seconds to the left and run in a Southerly direction a distance of 1331.03 feet to a point; thence turn an interior angle of 92 degrees 11 minutes 13 seconds and run to the right in a Westerly direction a distance of 107.28 feet to a point; thence turn an interior angle of 87 degrees 48 minutes 47 seconds and run to the right in a Northerly direction a distance of 793.46 feet to a point on a private road; thence turn an interior angle of 231 degrees 16 minutes 16 seconds and run to the left in a Northwesterly direction along the centerline of said private road a distance of 49.18 feet to a point; thence turn an interior angle of 194 degrees 24 minutes 30 seconds and run to the left and along the centerline of said private road a distance of 146.80 feet to a point; thence turn an interior angle of 133 degrees 00 minutes 15 seconds and run to the right in a Northwesterly direction and along the centerline of said private road a distance of

216.33 feet to a point; thence turn an interior angle of 146 degrees 01 minutes 05 seconds and run to the right in a Northeasterly direction along the centerline of said private road a distance of 124.64 feet to a point, thence turn an interior angle of 206 degrees 51 minutes 40 seconds and run to the left in a Northwesterly direction along the centerline of said private road a distance of 65.88 feet to a point; thence turn an interior angle of 210 degrees 58 minutes 30 seconds and run to the left in a Northwesterly direction and along the centerline of said private road a distance of 56.12 feet to a point on the north line of said Section; thence turn an interior angle of 50 degrees 29 minutes 17 seconds and run to the right in an Easterly direction along the North line of said Section and a distance of 367.41 feet, more or less, to the point of beginning of herein described parcel; being situated in Shelby County, Alabama.

C. The real property of the parties shares a common boundary line, a portion of which runs along a private road. The Friedman property lies to the west and the Wanninger property lies to the east.

D. Fred H. Friedman and wife, Brenda Friedman, at one time owned both the Friedman property and the Wanninger property. On September 13, 1977, Fred H. Friedman and wife, Brenda Friedman, conveyed the Wanninger property to Randy Coleman and Wanda Coleman, by deed recorded in Deed Book 307, page 784, later corrected by deed recorded in Deed Book 332, page 601, both in the Probate Office of Shelby County, Alabama. The property conveyed to the Colemans lay north of the Quinn Cemetery Road and is described in the corrective deed as follows:

PARCEL I: A tract of land in the West 10 acres of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 2, Township 20 South, Range 1 West, Shelby County, Alabama, more particularly described as follows: That portion of said West 10 acres of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ lying North of that certain existing private road which runs in a Northerly direction from the Quinn Cemetery Road from a point on said Quinn Cemetery Road just East of the East line of the West 10 acres of said NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, and which private road turns West to cross into the said West 10 acres of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ at a point which is approximately 572.0 feet South of the Northeast corner of said West 10 acres of said NE $\frac{1}{4}$ of the NE $\frac{1}{4}$. Said private road continues in a Northwesterly direction and crosses the North line of said $\frac{1}{4}$ - $\frac{1}{4}$ Section at a point which is approximately 366 feet West of the Northeast corner of said West 10 acres of said $\frac{1}{4}$ - $\frac{1}{4}$ Section. The parcel of land hereby conveyed consists of all of said West 10 acres of said $\frac{1}{4}$ - $\frac{1}{4}$ Section **lying North of said private road.**

PARCEL II: ALSO conveyed hereby, but without warranty of title, is all of the grantors' right, title, interest and claim in and to all of that portion of the following described property which **lies North of the Quinn Cemetery Road:**

A tract of land in the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 2, Township 20 South, Range 1 West,

particularly described as follows: Commence at the Northeast corner of said $\frac{1}{4}$ - $\frac{1}{4}$ Section; thence run West along the North line of said $\frac{1}{4}$ - $\frac{1}{4}$ Section a distance of 946.65 feet to the point of beginning of the tract herein described, which point is also the Northwest corner of the E.D. Hutson tract (described in Deed Volume 131, on Page 123, in the Probate Office of Shelby County, Alabama); thence West along the North line of said $\frac{1}{4}$ - $\frac{1}{4}$ Section 86.19 feet, which said point is the Northeast corner of the West 10 acres of said $\frac{1}{4}$ - $\frac{1}{4}$ Section; thence an angle to the left of 87 degrees 38 minutes 45 seconds, and run Southerly a distance of 1330.04 feet to a point in the South line of said $\frac{1}{4}$ - $\frac{1}{4}$ Section; thence an angle to the left of 92 degrees 05 minutes 45 seconds and run East along South line of said $\frac{1}{4}$ - $\frac{1}{4}$ Section a distance of 85.56 feet; thence an angle to the left of 87 degrees 52 minutes and run Northerly a distance of 1330.5 feet to point of beginning. Situated in Shelby County, Alabama.

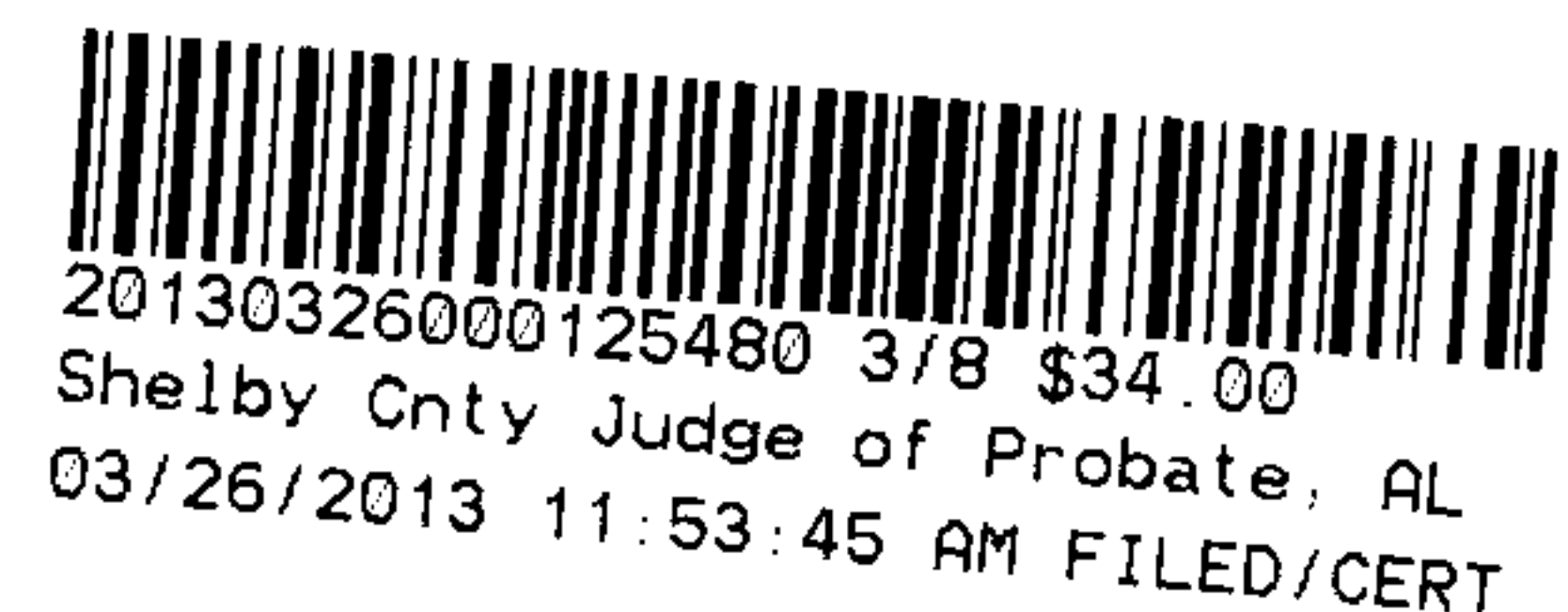
The private road mentioned in the Coleman deeds was an existing private road leading northerly from the Quinn Cemetery public road (now also known as Shelby County Highway No. 337 or Whisenhunt Road) across the portion of the Fred and Brenda Friedman tract conveyed to the Colemans, which later became the Wanninger property, and which then led to and continued across what is now the Friedman property. It is hereinafter referred to as the "Private Road." In the deed to the Colemans, the Friedmans specifically reserved for themselves and for their heirs and assigns, and granted the Colemans and their grantees, the right to use the Private Road in the following terms:

Fred H. Friedman and wife, Brenda Friedman reserve for themselves and for their heirs and assigns the unrestricted right and privilege to use the private road or roads located within Parcel II hereinabove conveyed, but hereby grant an equal right to use said private road or roads to the grantees, their heirs and assigns.

E. On August 5, 1983, Randy Coleman and wife, Wanda Coleman, conveyed the Wanninger property to Thomas C. Lee and Sherry L. Lee by deed recorded in Deed Book 348, page 933, in the Probate Office of Shelby County, Alabama, with the same description as that in the Coleman corrective deed as described in paragraph D above. This deed also specifically set out the Friedmans' reservation of the right to use the Private Road and the right of the Colemans' grantees to use the Private Road.

F. On April 1, 1991, Thomas C. Lee and wife, Sherry L. Lee, conveyed the Wanninger property to Defendant Robert A. Wanninger and Carol M. Wanninger by deed recorded in Real Book 336, page 645, in the Probate Office of Shelby County, Alabama, although the property description differed from that in the prior deeds by running along the centerline of the Private Road, which is the same description as shown in paragraph B above, and by omitting the provision stating that the property lay north of the Quinn Cemetery Road. This description is in conflict with the prior deeds described above.

G. Fred and Brenda Friedman then conveyed the Friedman property as shown in paragraph A above, and Robert and Carol Wanninger then conveyed the Wanninger property as shown in



paragraph B above. The conflict in the legal descriptions in the deeds continued following these conveyances.

H. Friedman has caused a survey to be done of the common boundary of the Friedman and Wanninger properties along the Private Road, with the boundary running along the easterly and northeasterly margin of the Private Road rather than along the centerline. A copy of the surveyor's drawing showing the dimensions and directions of that boundary is attached hereto as Exhibit A. Both Friedman and Wanninger have agreed and confirm that the portion of the boundary line running along the Private Road as shown on Exhibit A is and shall be the correct boundary for the portions of their respective properties adjoining said Private Road. They have further agreed that the Wanninger property does not extend south of the Quinn Cemetery Road.

THEREFORE, in consideration of these premises and to settle any disputes they might have concerning the location of said boundary, the parties for themselves and for their grantees, heirs, successors, and assigns covenant and agree as follows:

Boundary Line

1. The portion of the boundary line between the Friedman property and the Wanninger property along the Private Road is as shown on the attached Exhibit A prepared by Rodney Y. Shiflett, registered land surveyor, and is described as follows:

Commence at the NE corner of Section 2, Township 20 South, Range 1 West, Shelby County, Alabama, and run in a Westerly direction along the North line of said Section a distance of 1284.10 feet, more or less, to a point on the Easterly margin of a private road and the point of beginning of the boundary line herein described; then turn left and run S 49 deg. 23 min. 3 sec. E along the Easterly margin of said private road for a distance of 6.23 feet to a point on a curve to the right with a radius of 110.00 feet and a delta angle of 43 deg. 44 min. 20 sec.; then run Southerly along said curve and along the Easterly margin of said private road an arc distance of 83.91 feet; thence run S 5 deg. 38 min. 43 sec. along the Easterly margin of said private road a distance of 14.20 feet to a point on a curve to the right with a radius of 80.00 feet and a delta angle of 23 deg. 22 min. 55 sec.; then run Southerly along said curve and along the Easterly margin of said private road an arc distance of 32.85 feet; then run S 17 deg. 44 min. 13 sec. W along the Easterly margin of said private road a distance of 50.06 feet to a point on a curve to the left with a radius of 195.00 feet and a delta angle of 32 deg. 34 min. 32 sec.; then run Southerly along said curve and along the Easterly margin of said private road an arc distance of 110.87 feet; then run S 14 deg. 50 min. 20 sec. E along the Easterly margin of said private road a distance of 96.77 feet to a point on a curve to the left with a radius of 130.00 feet and a delta angle of 48 deg. 33 min. 51 sec.; then run Southeasterly along said curve and along the Northeasterly margin of said private road an arc distance of 110.19 feet; then run S 63 deg. 24 min. 11 sec. E along the Northeasterly margin of said private road a

distance of 49.35 feet to a point on a curve to the right with a radius of 405.00 feet and a delta angle of 11 deg. 50 min. 10 sec.; then run Southeasterly along said curve and along the Northeasterly margin of said private road an arc distance of 83.66 feet to the end of the boundary line herein described.

Friedman makes no claim of adverse possession or otherwise to the Wanninger real property situated on the East side of said boundary line, and Wanninger makes no claim of adverse possession or otherwise to the Friedman property situated on the West side of said boundary line. Furthermore, Wanninger makes no claim to any property lying south of the Quinn Cemetery Road.

Conveyance

2. Wanninger is a married man and the Wanninger property is the homestead of Wanninger and his spouse. Therefore, his spouse, Carol M. Wanninger, executes this agreement solely to comply with the provisions of § 6-10-3, Code of Ala. 1975, and not otherwise as a party to this Agreement. Friedman quitclaims to Wanninger any interest it may have to any real property to the East of said boundary line, and Wanninger and his wife, Carol M. Wanninger, quitclaim to Friedman any interest they may have to any real property to the West of said boundary line and south of the Quinn Cemetery Road.

Use of Private Road

3. Friedman and Wanninger recognize and affirm each other's unrestricted right and privilege to use the Private Road as such rights and privileges are reserved or conveyed in the deeds described in the recitals above.

Binding Effect

4. Friedman and Wanninger mutually covenant and agree that this Agreement shall run with the land and shall be binding upon them and binding upon and enure to the benefit of their respective grantees, heirs, personal representatives, successors and assigns.

Recording

5. Friedman and Wanninger agree that the executed copy of this Agreement is to be recorded in the real property records in the Probate Office of Shelby County, Alabama, and indexed under both of their names.

Executed by the parties on the date of the later to sign as shown by their signatures below.

[signatures on following pages]

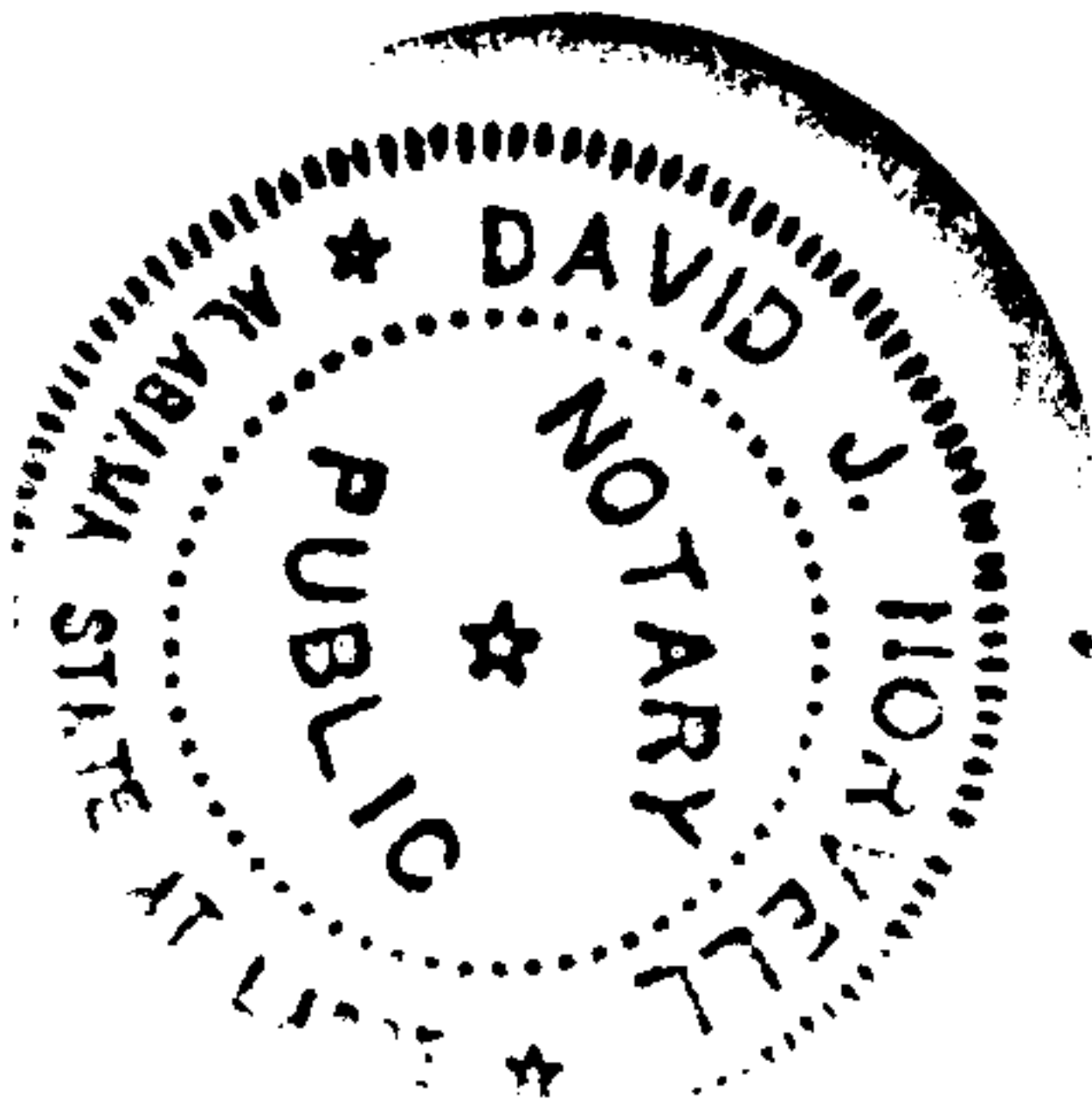
Fred and Brenda Friedman Family Partnership, Ltd.

By Fred Friedman 3-12-13
as general partner date

STATE OF ALABAMA
COUNTY OF Jackson

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Fred Friedman, whose name as general partner the of Fred and Brenda Friedman Family Partnership, Ltd., 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 or she, as such general partner and with full authority, executed the same voluntarily for and as the act of said limited partnership.

Given under my hand and official seal, this the 12 day of March, 2013.



[Signature]
Notary Public

MY COMMISSION EXPIRES NOVEMBER 10, 2016

Robert A. Wanninger 3/22/13
Robert A. Wanninger date

Carol M. Wanninger 3/22/13
Carol M. Wanninger date

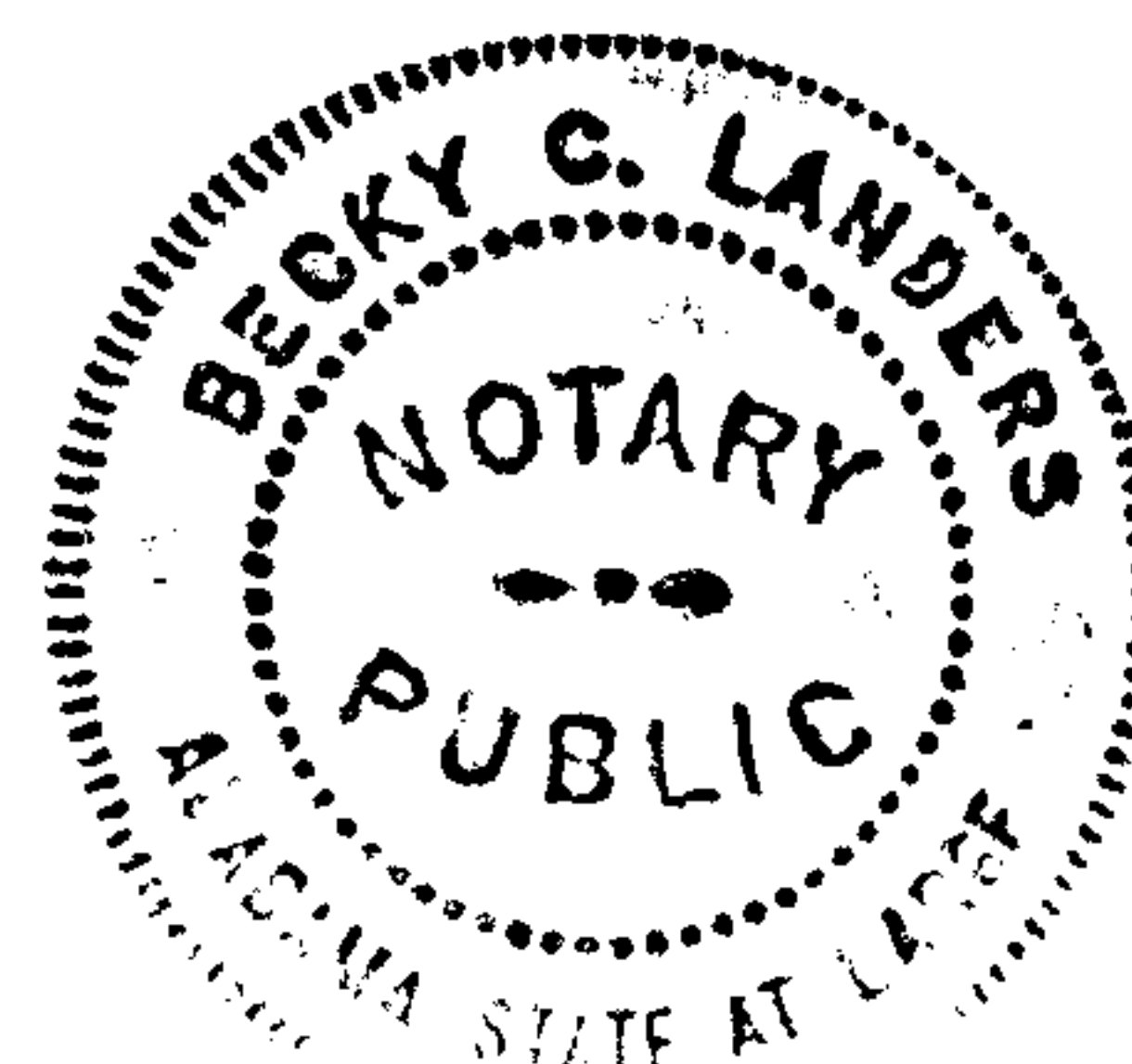
STATE OF ALABAMA
COUNTY OF Shelby

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Robert A. Wanninger and Carol M. Wanninger, whose names are signed to the foregoing agreement, and who are known to me, acknowledged before me on this day, that, being informed of the contents of the agreement, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 22nd day of March, 2013.

Becky C. Landers
Notary Public

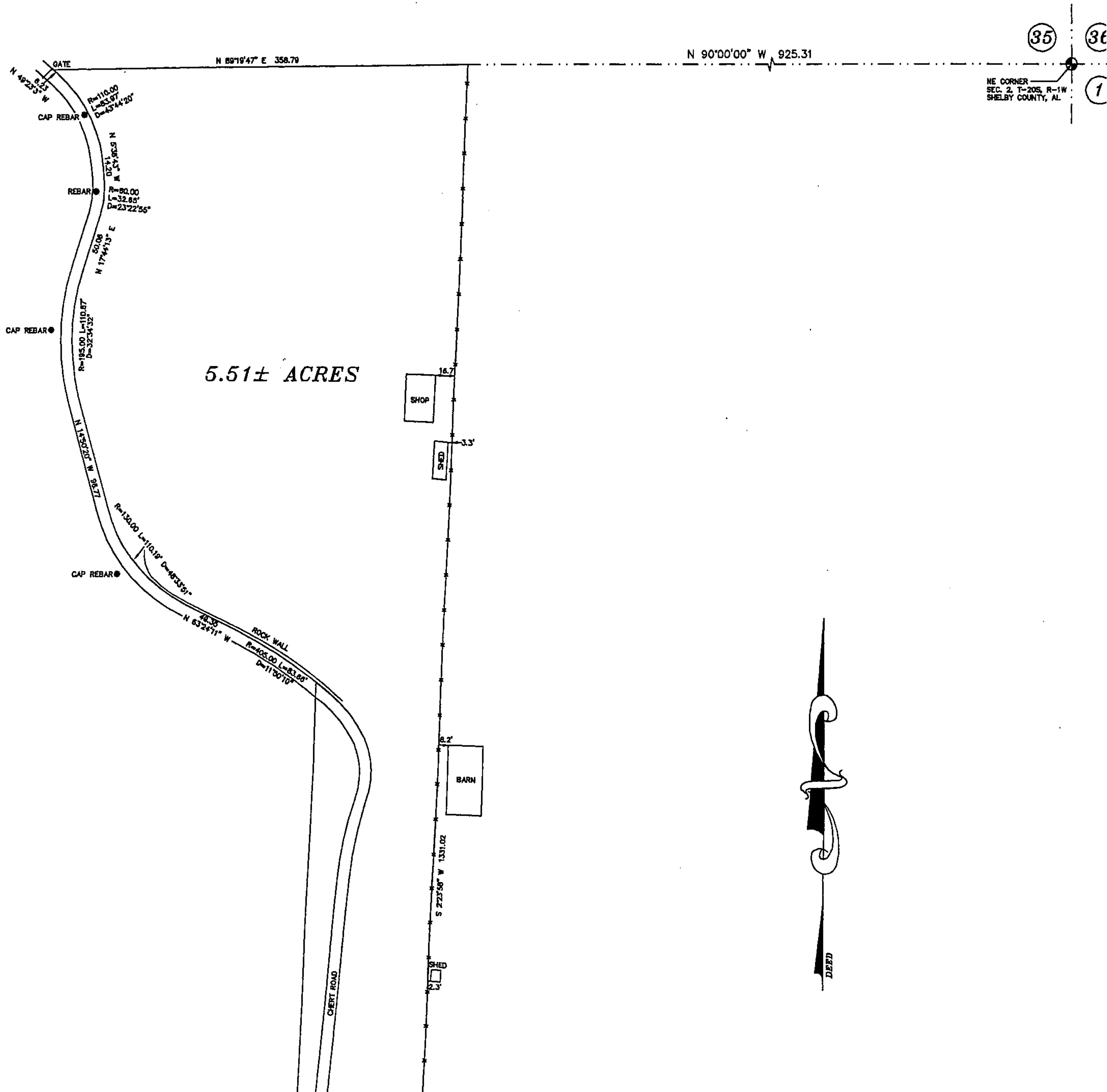
NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: March 6, 2017
BONDED THRU MERCHANTS BONDING CO. (MUTUAL)



SKETCH BASED ON THE WAY THE SURVEY
SHOULD HAVE BEEN DONE BASED ON A LEGAL
DESCRIPTION RECORDED IN DEED BOOK 307,
PAGE 785. (LEGAL FOR FRIEDMAN TO LEE)

RODNEY SHIFLETT SURVEYING

P.O. BOX 204
COLUMBIANA, ALABAMA 35051
TEL. 205-669-1205 FAX. 205-669-1298
JOB NO 12252B



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