

STATE OF ALABAMA)
 :
SHELBY COUNTY)

20130513000198030 1/5 \$24.00
Shelby Cnty Judge of Probate, AL
05/13/2013 01:43:15 PM FILED/CERT

AFFIDAVIT REGARDING LEASE TERMINATION

Before me personally appeared **MICHAEL E. STEPHENS**, who, being first duly sworn on oath, states as follows:

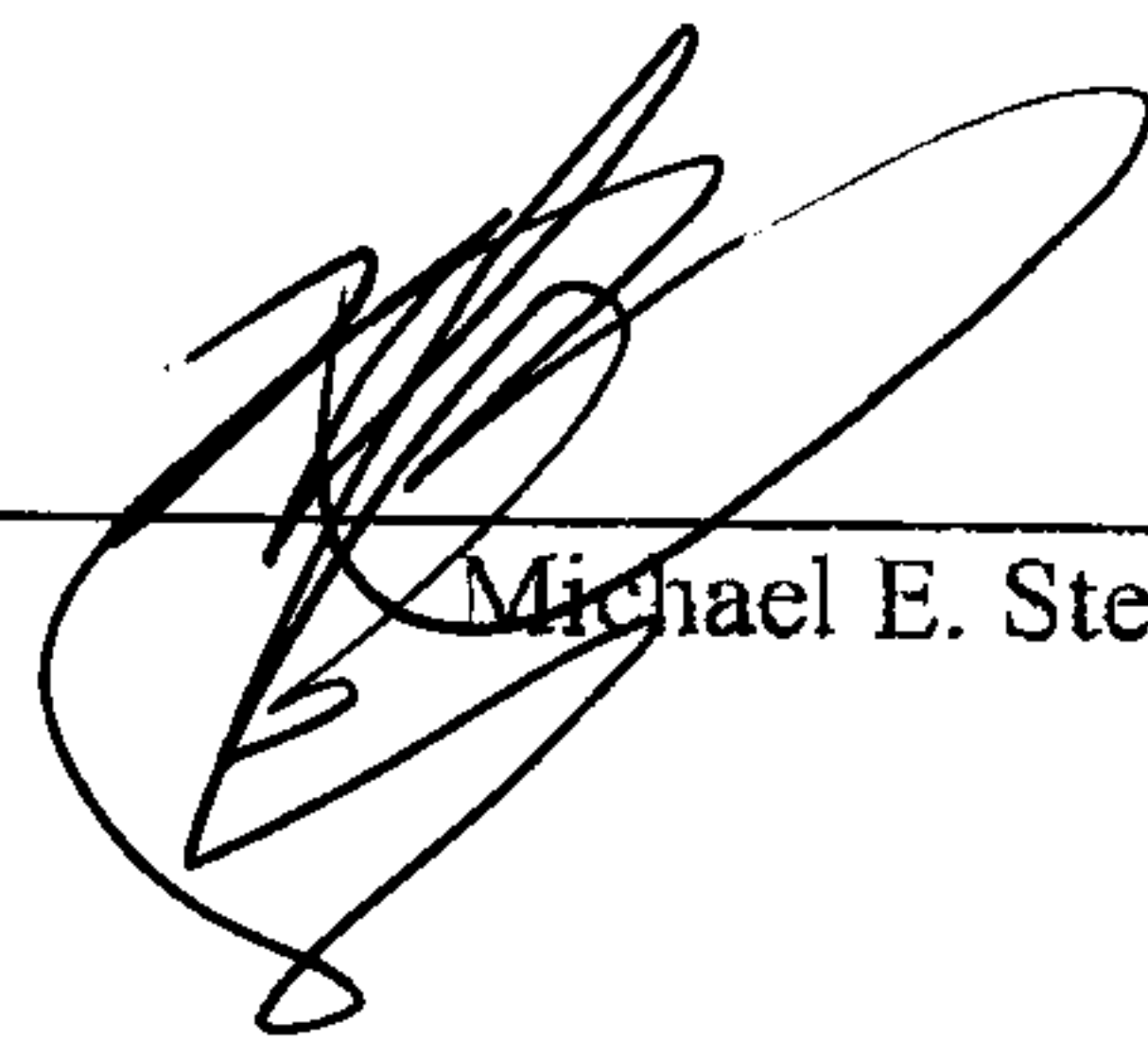
1. My name is Michael E. Stephens, and I am the Trustee of the Michael E. Stephens Charitable Remainder Unitrust dated December 31, 1992.

2. On April 1, 2008, I, in my capacity as such Trustee, ("Landlord") entered into that certain Memorandum of Lease with Superior Bank ("Tenant") recorded as Instrument No. 20080401000132160 in the Probate Office of Shelby County, Alabama evidencing that certain Lease Agreement (the "Lease") for the lease of premises in Shelby County, Alabama (the "Property").

3. On April 15, 2011, Tenant was closed and Federal Deposit Insurance Corporation ("FDIC") was appointed as Receiver of Tenant. On October 3, 2011, I was notified by letter that FDIC had disaffirmed the Lease effective as of November 30, 2011. A copy of the letter is attached hereto as *Exhibit A*. On November 21, 2011, I was notified by letter that an assignment of the Lease had been rejected. A copy of the letter is attached hereto as *Exhibit B*.

4. Pursuant to the foregoing, the Lease terminated effective as of November 30, 2011.

Dated the 20th day of February, 2013.



Michael E. Stephens

Sworn to and subscribed before me
the 20th day of February, 2013.

Natalea N Schmitt
Notary Public

My commission expires: 4-12-16

[NOTARIAL SEAL]



Federal Deposit Insurance Corporation
7777 Baymeadows Way West, Jacksonville, FL 32256

EXHIBIT A

Division of Resolutions and Receiverships

October 3, 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT NO. 7010 3090 0000 7725 5624

Michael E Stephens Charitable Remainder Unitrust
3230 Cahaba Valley Road
Pelham, AL 35124-3518

Subject: FIN #: 10358 – Superior Bank
Tampa, FL - In Receivership
Closing Date: April 15, 2011
Deadline to file claims: Ninety (90) days from date of this letter
Lease: Lease Agreement for land and improvements located at 420 Old
Highway 280, Hoover, AL 35242

Dear Sir or Madam:

The above-captioned depository institution (the "Institution") was closed on the Closing Date referenced above and the Federal Deposit Insurance Corporation was appointed as receiver of the Institution (the "Receiver"). Under the laws of the United States, the Receiver is charged with the duty of winding up the affairs of the Institution. In order to achieve this goal, the Receiver is given the right under 12 U.S.C. Section 1821(e) to repudiate undertakings entered into by the Institution where it finds such undertakings to be burdensome and where such repudiation will promote the orderly administration of the Institution's affairs.

The Institution's records indicate that you may be a party to the above-referenced lease. The Receiver has determined that the above-described lease is burdensome and that disaffirmance of said lease will promote the orderly administration of the Institution's affairs. The purpose of this letter is to inform you that the Receiver has elected to disaffirm the above-referenced lease to the full extent, if any, that it represents an enforceable obligation of the Institution or the Receiver. This disaffirmance shall only affect an obligation of the Institution or the Receiver, and is not a disaffirmance on behalf of other parties, if any, to the lease. This disaffirmance shall be effective as of November 30, 2011.

You may determine that the Receiver's decision to disaffirm the subject lease gives you a claim against the receivership estate. If so, you must complete, sign and file with the Receiver a Proof of Claim form, together with supporting documentation by ninety (90) days from the date of this letter. Under federal law, with certain limited exceptions, failure to file claims by such date, will result in disallowance by the Receiver, and disallowance will be final (12 U.S.C.


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Section 1821 (d)(5)(C). A proof of claim form may be obtained by calling 904-256-3925 or sending a request to the Receiver at the address set forth below.

Before such deadline, deliver the completed and signed Proof of Claim form, together with the supporting documentation, to the following address:

Federal Deposit Insurance Corporation
Receiver: Superior Bank
7777 Baymeadows Way W
Jacksonville, FL 32256
Attention: Claim Agent

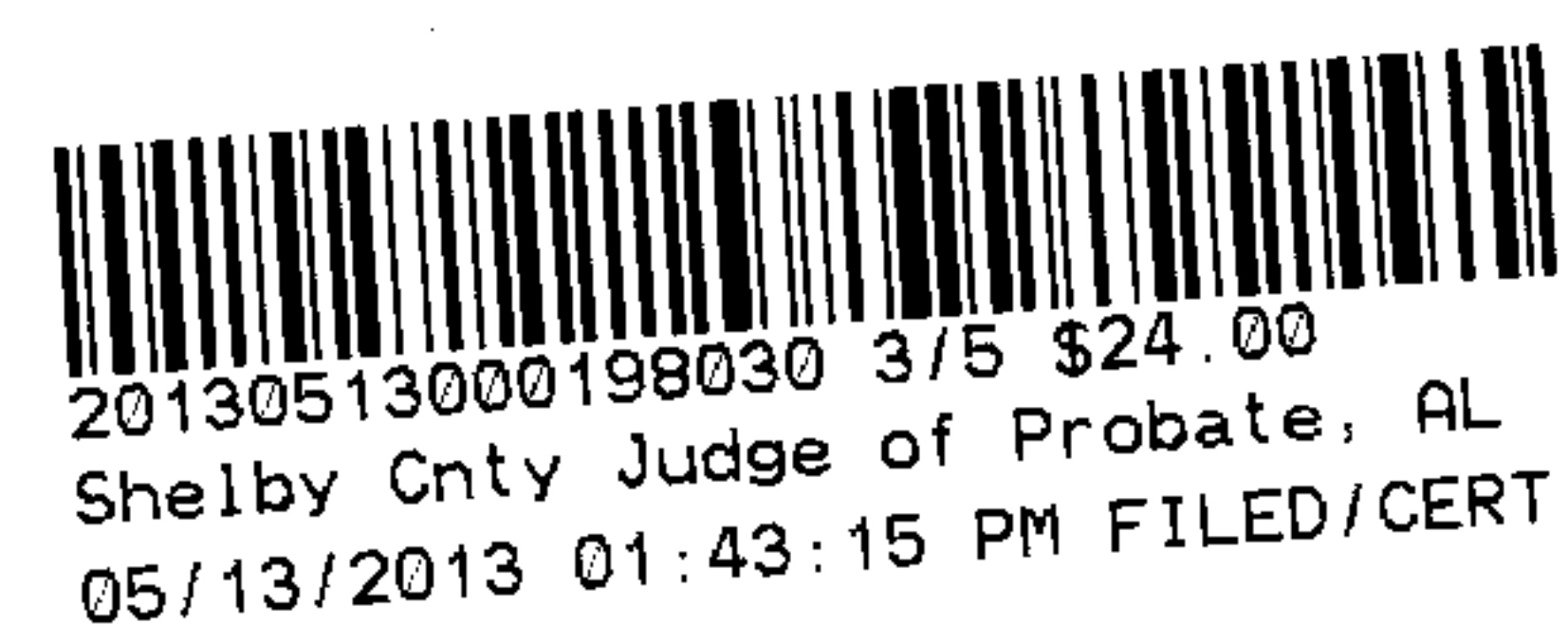
If you have any questions concerning any of the matters discussed above, you may contact the Receiver at the address provided.

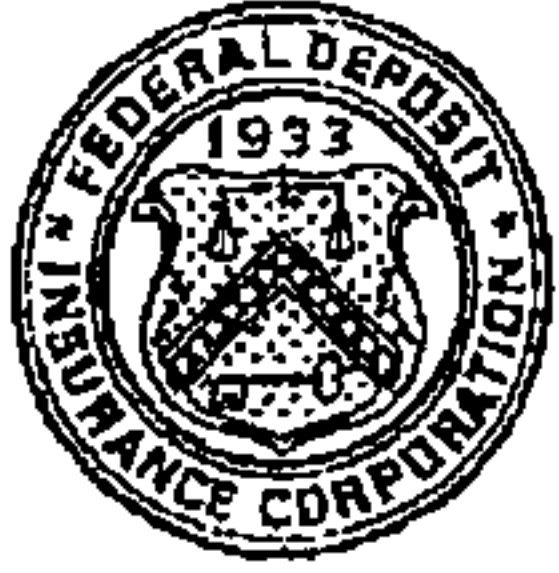
Federal Deposit Insurance Corporation as
Receiver of Superior Bank

By: Betty Trawick
Betty Trawick

Title: DRR Specialist

Bcc: Claims Manager,
Settlement Manager,
Lead Closing Attorney





FDIC

Federal Deposit Insurance Corporation
7777 Baymeadows Way West, Jacksonville, FL 32256

EXHIBIT B

Legal Division

November 21, 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT NO. 7010 2780 0002 1132 9685

Michael E. Stephens, Trustee
Michael E. Stephens Charitable Remainder Unitrust
3230 Cahaba Valley Road
Pelham, AL 35124-3518

Re: FIN # 10358 – Superior Bank
Repudiation of Lease for Premises Located at
420 Old Highway 280, Hoover, Alabama 35242

Dear Mr. Stephens:

On April 15, 2011 the Office of Thrift Supervision closed Superior Bank, Birmingham, Alabama (the "Failed Institution") and appointed the Federal Deposit Insurance Corporation ("FDIC") as its Receiver. On that date, the FDIC, in its corporate capacity and as Receiver for the Failed Institution, entered into a Purchase and Assumption Agreement (the "P&A") with Superior Bank, N.A. (the "Assuming Institution") whereunder the Assuming Institution acquired certain assets and assumed certain liabilities of Superior Bank. The P&A gave the Assuming Institution an option to accept or reject an assignment from the Federal Deposit Insurance Corporation as Receiver for Superior Bank (the "Receiver") of leases to locations from which the Failed Institution conducted its banking business. One such location was at 420 Old Highway 280, Hoover, Alabama (the "Premises"). The Assuming Institution elected to reject the assignment of the lease for the Premises and notified the Receiver of its decision.

On October 3, 2011 the Receiver notified you that, pursuant to 12 U.S.C. § 1821 (e), it had elected to repudiate the lease agreement for the Premises dated December 31, 1992, between the Michael E. Stephens Charitable Unitrust and the Failed Institution (the "Lease"). The repudiation of the Lease was effective as of November 30, 2011.

It has come to the Receiver's attention that the Assuming Institution may be negotiating or may have negotiated terms with you, as landlord, to remain in possession of the Premises beyond November 30, 2011. The purpose of this letter is to

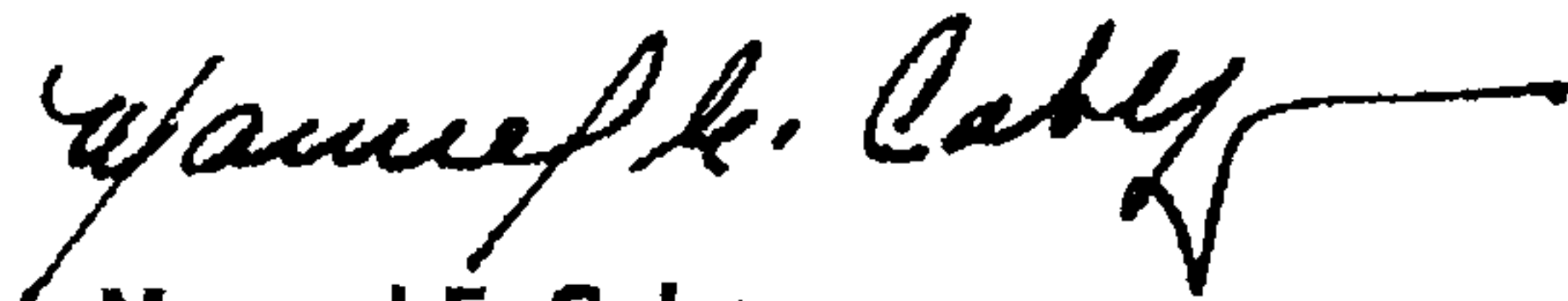


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Michael E. Stephens, Trustee
November 21, 2011
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confirm the effective date of the Receiver's repudiation of the Lease and to reiterate that the Receiver's rights and obligations under the Lease **will end on November 30, 2011.** In the event the Assuming Institution remains in possession of the Premises beyond that date, any such continued possession will not be by any right obtained by or through FDIC's powers as Receiver. **The Receiver is not responsible and will not be accountable for the Assuming Institution remaining in possession of the Premises beyond November 30, 2011.**

Sincerely,



Manuel E. Cabeza
Senior Attorney
Asset Management and Disposition Section

Telephone/Telefax No.: (904) 256-3621
Email: mcabeza@fdic.gov

MEC/

Copies to: Mr. Douglas Hutt, President & CEO, Superior Bank, N.A.
Mr. Jordan P. Traverson, Manager, FDIC Asset Management
Mr. William Higginbotham, Manager, FDIC Other Owned Assets
Mr. John Prusch, Manager, FDIC Receivership Oversight and Settlements
George I. de Verges, Esquire, FDIC Legal Division
James P. Sheesley II, Esquire, FDIC Legal Division



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