

STATE OF ALABAMA )  
:  
SHELBY COUNTY )

20150210000043240 1/9 \$48.00  
Shelby Cnty Judge of Probate, AL  
02/10/2015 11:05:12 AM FILED/CERT

**AFFIDAVIT OF J. MICHAEL SCHOR, JR.**

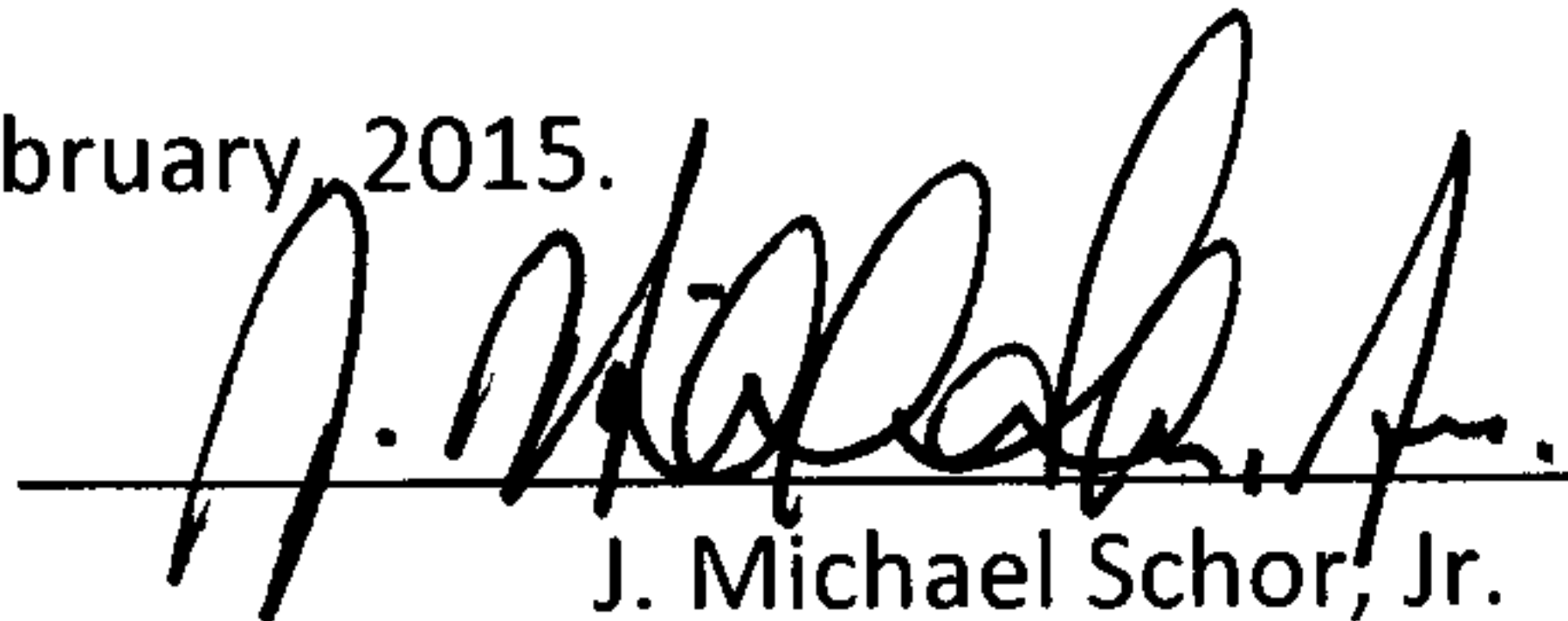
Before me, the undersigned notary public, personally appeared J. Michael Schor, Jr., who being known to me and being duly sworn, deposes and says as follows:

1. My name is J. Michael Schor, Jr. I am over the age of nineteen (19) years and I am competent to make this affidavit. I have personal knowledge of the facts recited herein. I am a resident of Shelby County, Alabama, and am married to Susan E. Schor.

2. In an affidavit dated October 10, 2014, and filed in the Office of the Judge of Probate of Shelby County, Alabama, and recorded as Instrument No. 20141015000325730 in said Probate Office (the "Affidavit"), a copy of which is attached hereto as Exhibit A, I referred to a real estate sales contract attached as Exhibit 1 to the Affidavit.

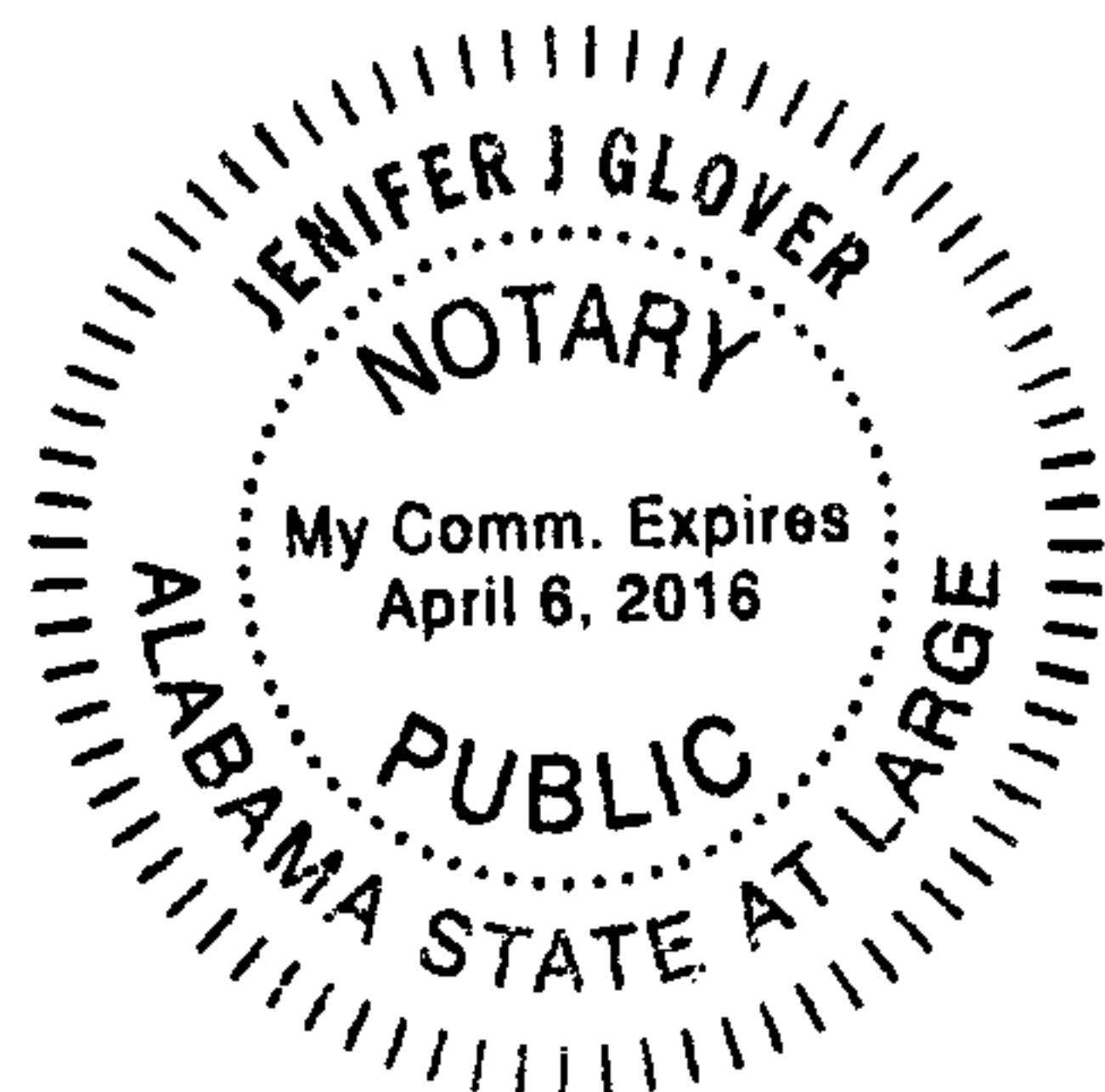
3. As shown by the fully executed document entitled "Termination of Contract Rights" attached hereto as Exhibit B, such contract has been terminated.

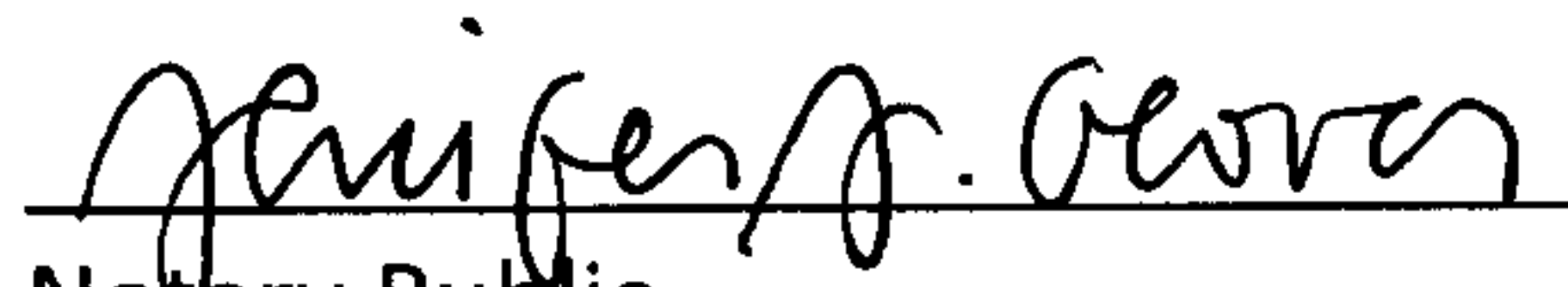
Sworn to by me this 6<sup>th</sup> day of February, 2015.

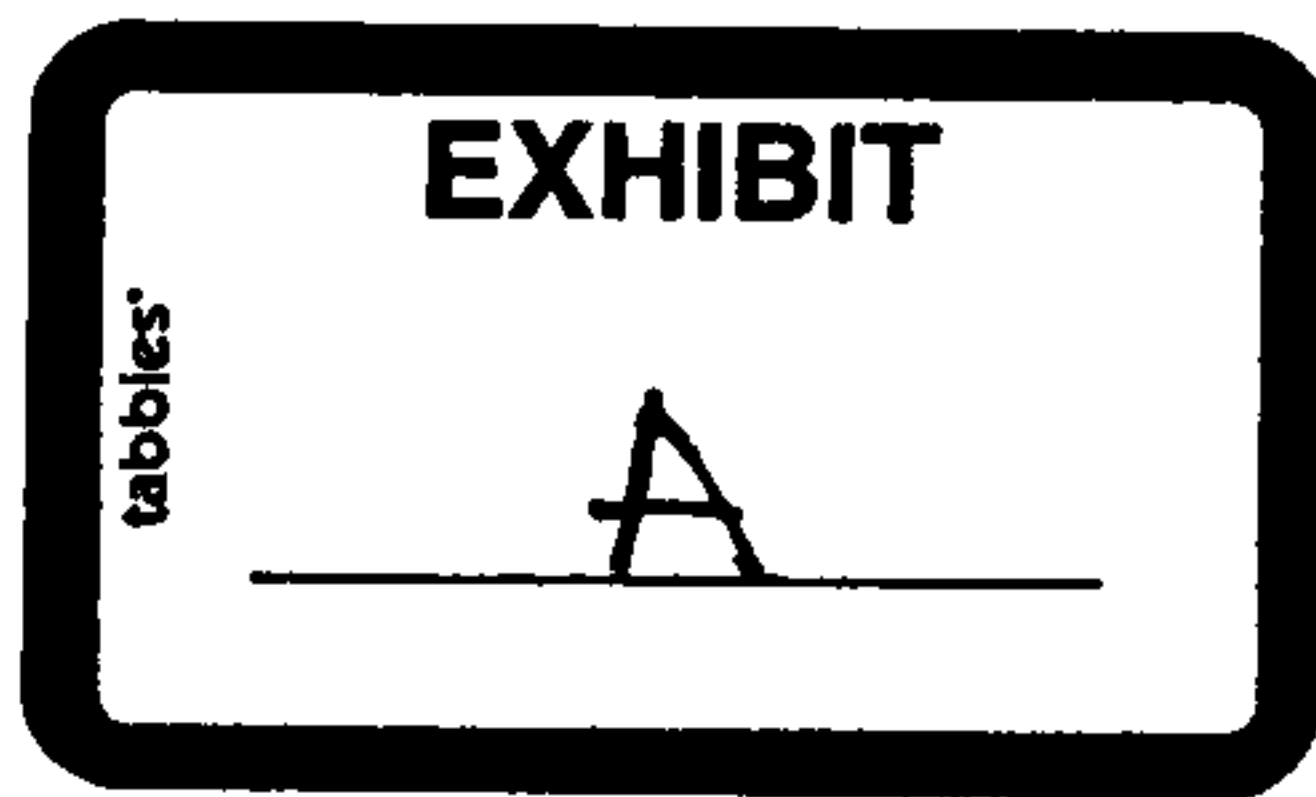
  
J. Michael Schor, Jr.

STATE OF ALABAMA )  
:  
JEFFERSON COUNTY )

Sworn to before me this 6<sup>th</sup> day of February, 2015.



  
Notary Public  
My commission expires: 4-6-16



STATE OF ALABAMA )  
:  
SHELBY COUNTY )

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**AFFIDAVIT OF J. MICHAEL SCHOR, JR.**

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BEFORE ME, the undersigned Notary Public, personally appeared J. Michael Schor, Jr. who being known to me and being duly sworn, deposes and says as follows:

1. My name is J. Michael Schor, Jr. I am over the age of nineteen (19), and I am competent to make this affidavit. I have personal knowledge of the facts recited herein. I am a resident of Shelby County, Alabama and am married to Susan E. Schor.

2. As shown by the attached Exhibit 1, which is a copy of the body and the exhibits that constitute the Real Estate Sales Contract between my wife and myself as purchasers, and Harold L. Smyer as seller (the "Contract"), the real property that is the subject of the Contract is located in Shelby County, Alabama and is depicted on the two maps collectively attached to the Contract as Exhibit A (the property outlined in blue on the first page of Exhibit A and the remainder of the portion shown in red and designated as "Smyer" on the second page of Exhibit A – collectively the "Property").

3. My wife and I signed the Contract on July 14, 2014 after Harold L. Smyer had previously signed it and sent it to us.

4. Based upon communications with counsel for Harold L. Smyer, it is my understanding that Mr. Smyer takes the position that the Contract is unenforceable. I disagree with this assessment and view the contract to be enforceable and hereby set forth in this affidavit an affirmation of my contention that the Contract is enforceable. I also hereby affirm of my intent to perform fully my obligations under the Contract.

SWORN TO by me this 10<sup>th</sup> day of October, 2014.

J. Michael Schor, Jr.

STATE OF ALABAMA )  
:  
JEFFERSON COUNTY )

SWORN TO and subscribed before me on this 10<sup>th</sup> day of October, 2014.

Notary Public:  
My commission expires:



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# EXHIBIT 1



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## LAND CONTRACT

This agreement is made and entered into by and between:



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**Harald L Smyer**

(Seller)

And

**J. MICHAEL SCHOR, Jr. & Susan E. Schor**

(Buyer)

The undersigned (herein "Purchaser") hereby offers to purchase from the owner (herein "Seller") the real estate as shown in Exhibit A and to be referred to as "Smyer Property and Smyer Ridge, in the County of Shelby, State of Alabama upon the following terms and conditions:

**1. Purchase Price**

The purchase price shall be One Million Four Hundred Forty Thousand Dollars (\$1,440,000) subject to revision based on future negotiations.

**2. Terms of payment to be determined based on a mutual agreement between Seller and Purchaser.**

**3. Seller agrees to provide purchaser a 60 day period for Due Diligence. The Due Diligence period is to begin on 7/15/2014 and end on 9/13/2014.**

**4. Earnest Money in the amount of \$10,000 is to be held by the seller for the period of due diligence. The earnest money is refundable within the Due Diligence Period should the buyer forego the final purchase of the property. At the end of the 60 day Due Diligence the Earnest Money shall be applied to the purchase price at the time of closing the sale. In the event that this offer is not accepted by Seller this earnest money deposit shall be promptly refunded to Purchaser by the Seller.**

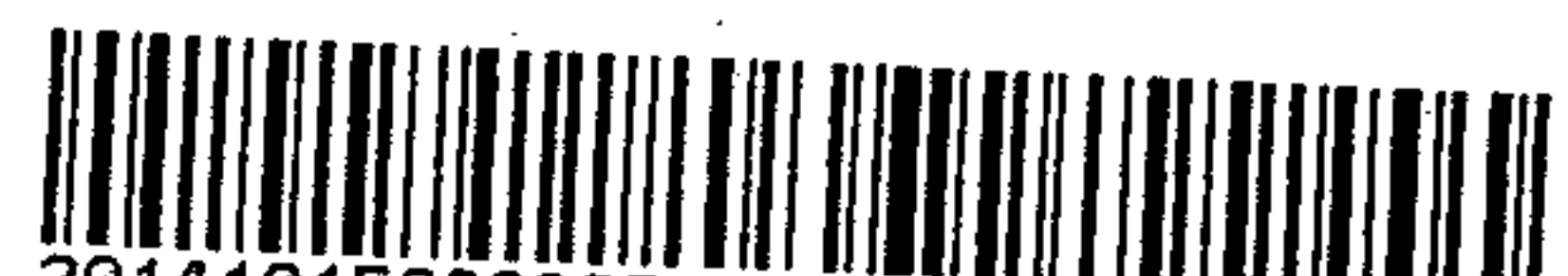
**5. At the end of the Due Diligence period the Buyer and Seller will agree upon a reasonable time period for the final negotiations and closing date.**

**6. The seller reserves the right to exclude a tract of 20 acres, mutually agreed upon by the purchaser and the seller, which would reduce the purchase price by \$250,000.**

**7. The sale of this property is subject to the Seller's receipt of \$700,000 for the conservation easement on the ridge (240 acres, known as Smyer Ridge).**

**8. Title to the Property**

Seller shall provide purchaser prior to the closing at Seller's expense and at Seller's option an abstract of title to the property brought down to date or an owner's policy of title insurance in an



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amount equal to the purchase price, said abstract of policy to show marketable or insurable title to the real estate in the name of Seller subject only to easements, zoning and restrictions of record and free and clear of all other liens and encumbrances except as stated in this offer. If the abstract or title policy fails to show marketable or insurable title in Seller a reasonable time shall be permitted to cure or correct defects. Seller shall convey title to Purchaser at the time of closing by a good and sufficient general warranty deed free and clear of all liens and encumbrances except as otherwise provided in this offer and subject to easements, zoning and restrictions of record.

#### 9. Risk of Loss

The risk of loss by destruction or damage to the property by fire or otherwise prior to the closing of the sale is that of Seller. If all or a substantial portion of the improvements on the property are destroyed or damaged prior to the closing and transfer of title this agreement shall be voidable at Purchaser's option. In the event Purchaser elects to void this agreement the earnest money deposited shall be promptly refunded.

#### 10. General Conditions

It is expressly agreed that this agreement to purchase real estate includes the entire agreement of Purchaser and Seller. This agreement shall be binding upon the heirs, personal representatives, successors and assigns of both Purchaser and Seller. This agreement shall be interpreted and enforced in accordance with the laws of the State of Alabama.

This agreement is entered into on 7/14/2014, 2014 and expires on 9/13/2014.

[Signature]  
(PURCHASER)

[Signature]  
(PURCHASER)

#### Acceptance by Seller

The foregoing offer to purchase real estate is hereby accepted in accordance with the terms and conditions specified above.

Dated this day of 7/7/14, 2014.

[Signature]  
(SELLER)

\_\_\_\_\_  
(SELLER)

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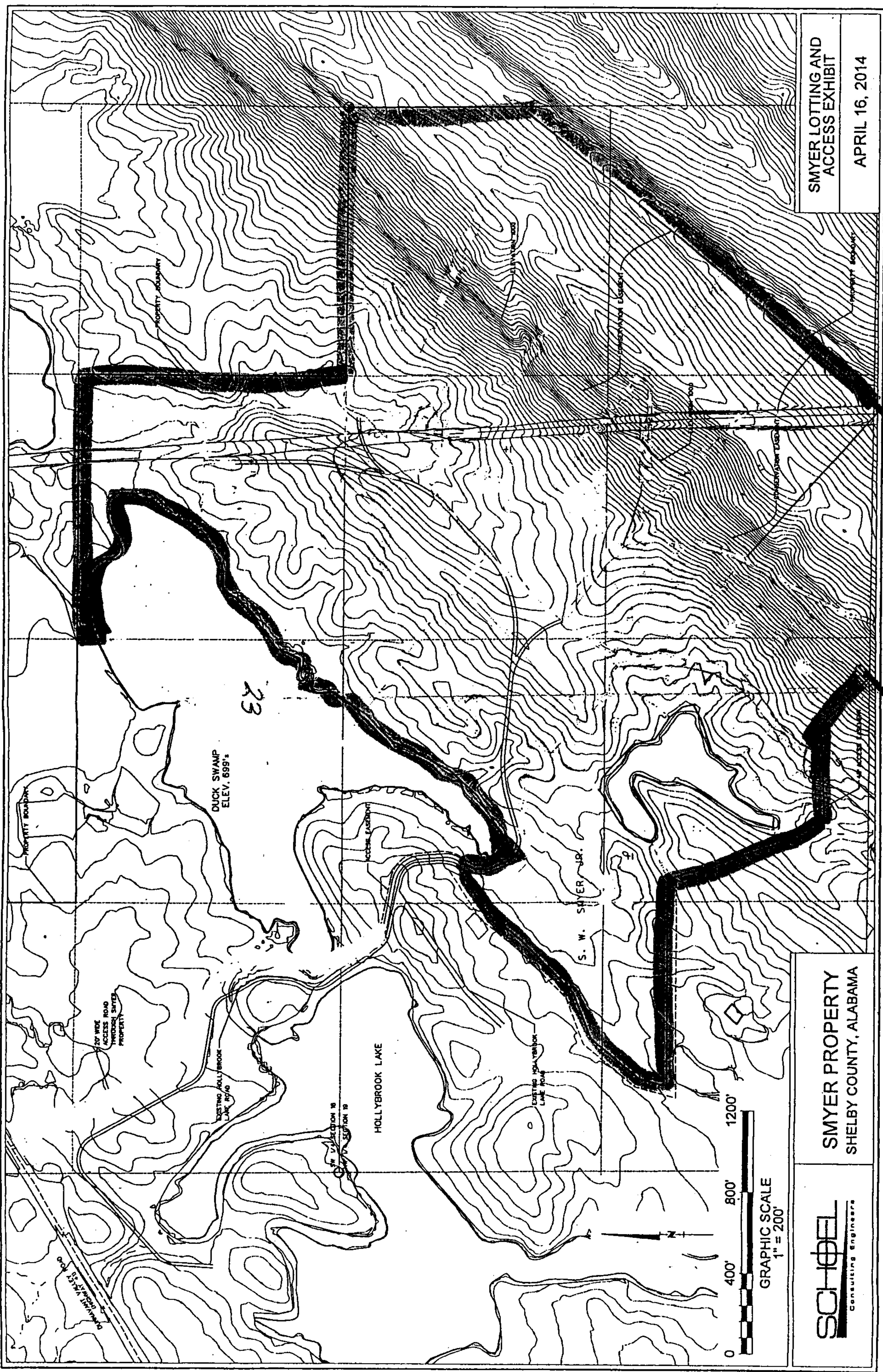
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# EXHIBIT A



20141015000325730 5/7 \$32.00  
Shelby Cnty Judge of Probate, AL  
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SMYER LOTTING AND  
ACCESS EXHIBIT  
APRIL 16, 2014

**SCHUBEL**  
CONSULTING ENGINEERS  
SMYER PROPERTY  
SHELBY COUNTY, ALABAMA

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**EXHIBIT B**

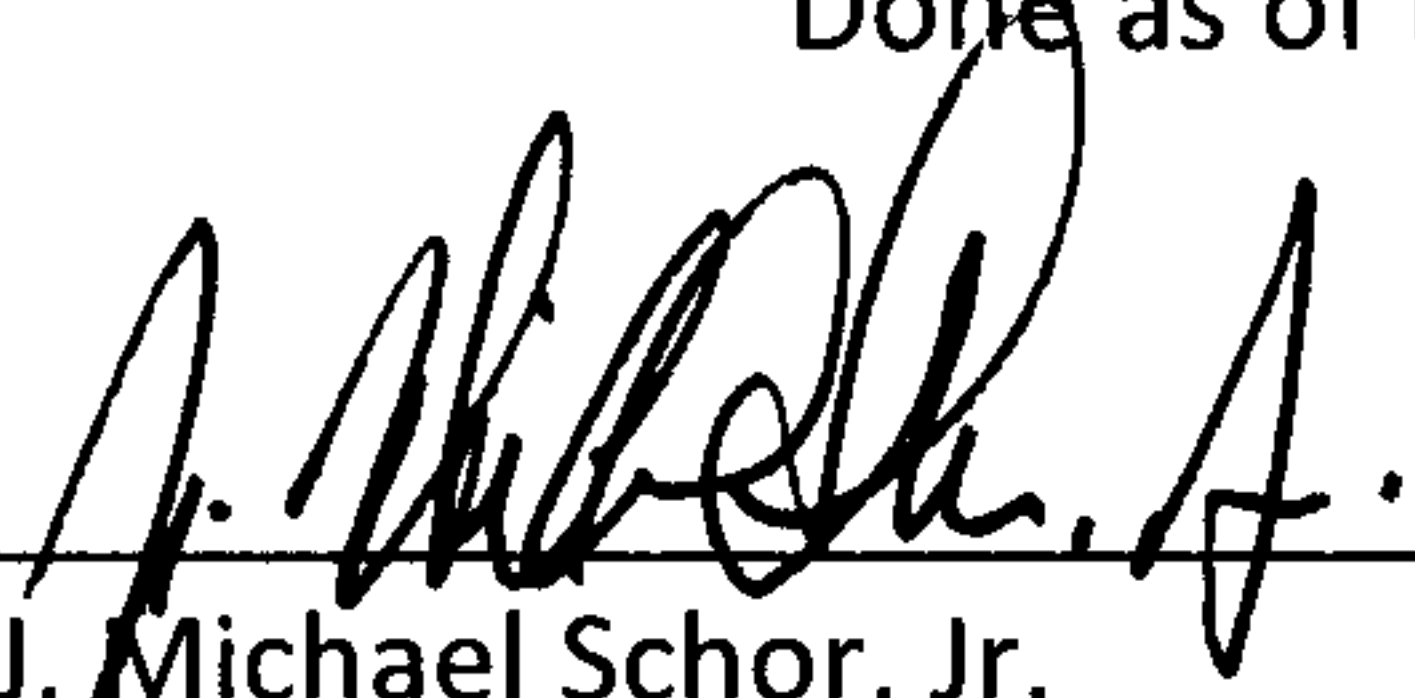
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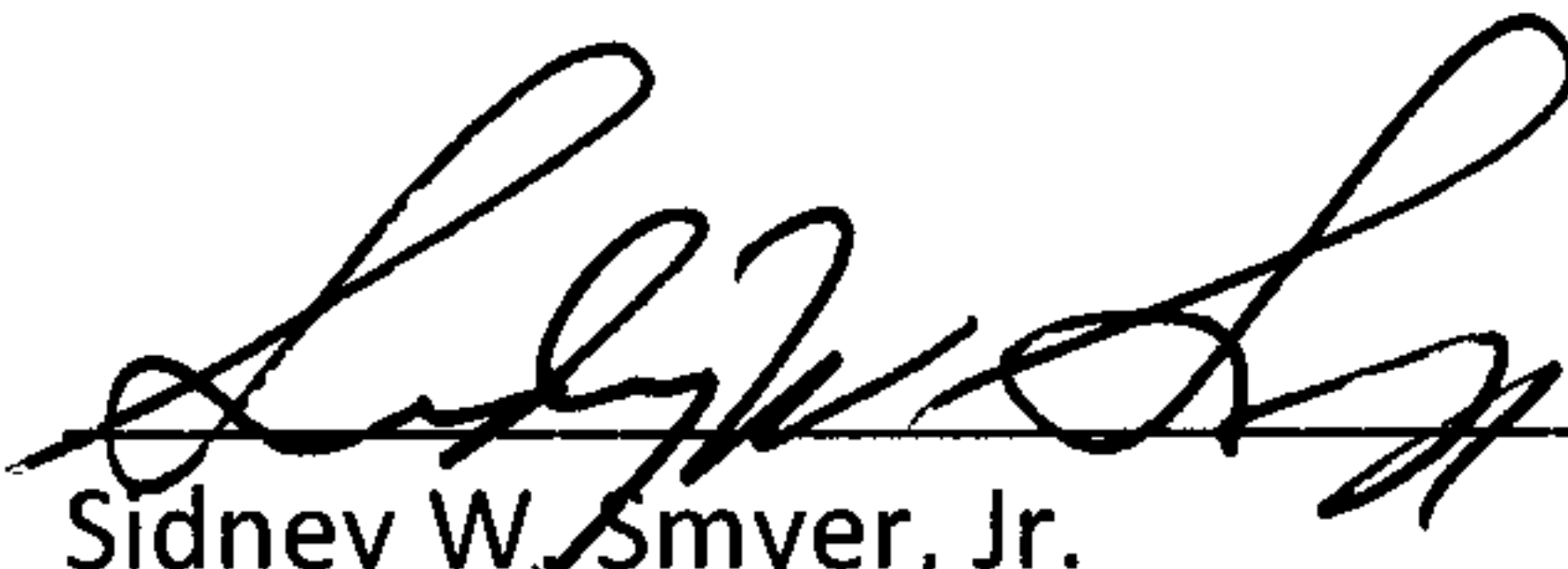
  
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**TERMINATION OF CONTRACT RIGHTS**

COME NOW, the undersigned J. Michael Schor, Jr. and Susan E. Schor and Sidney W. Smyer, Jr. on behalf of the Smyer ownership/sellers' interests in the below-referenced contract, and agree that as per the real estate sales contract (the "Contract") which is referenced in the Affidavit of Susan E. Schor, which affidavit is recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument # 20141009000320230, and which Contract is also referenced in the Affidavit of J. Michael Schor, Jr., which affidavit is recorded in the Office of the Judge of Probate of Shelby County, Alabama at Instrument # 20141015000325730, is hereby agreed to be TERMINATED and thus deemed to be void and of no effect.

Done as of this 6<sup>th</sup> day of February, 2015.

  
\_\_\_\_\_  
J. Michael Schor, Jr.

  
\_\_\_\_\_  
Sidney W. Smyer, Jr.

  
\_\_\_\_\_  
Susan E. Schor