

FORBEARANCE AGREEMENT

THIS AGREEMENT is entered into this 9th day of October, 2015 (the "Effective Date"), by and between **USAMERIBANK F/K/A ALIANT BANK** ("USAMERIBANK" or "bank"), **PRICKETT PARTNERS, LLLP** ("Borrower"), **CANNON PRICKETT** ("Guarantor"), **JOHN PRICKETT** ("Guarantor"), **CINDY PRICKETT** ("Guarantor"), **JACQUELYN MARONEY** ("Guarantor") and **CHRISTY MCCAIN** ("Guarantor"). Collectively, **CANNON PRICKETT, JOHN PRICKETT, CYNTHIA PRICKETT, JACQUELYN MARONEY** and **CHRISTY MCCAIN** are referred to as "Guarantors" within the context of this agreement.

Recitals

A. **USAMERIBANK** has two loans ("Loan # 402075600" and Loan # 401986200", "loans" or "Loans") outstanding to the Borrower that are encompassed by this agreement, (the "Indebtedness"). Said Loans are in the name of **PRICKETT PARTNERS, LLLP**. Loan # 402075600 and is in the principal amount of \$1,192,000.00. This balance does not include interest, late charges and/or attorney fees and is not a payoff. Loan # 401986200 and is in the principal amount of \$275,515.00. This balance does not include interest, late charges and/or attorney fees and is not a payoff. Collectively, Loan # 402075600 and Loan # 401986200 make up the Indebtedness that is part of this agreement. The repayment of the Indebtedness to the bank is personally guaranteed by **CANNON PRICKETT** ("Guarantor"), **JOHN PRICKETT** ("Guarantor"), **CYNTHIA PRICKETT** ("Guarantor"), **JACQUELYN MARONEY** ("Guarantor") and **CHRISTY MCCAIN** ("Guarantor"). The guaranty agreements of **JACQUELYN MARONEY** and **CHRISTY MCCAIN** are limited to 30% of the outstanding indebtedness (of any type whatsoever) of **PRICKETT PARTNERS, LLLP** to the bank.

B. The Borrower is currently in default in the payments on its Indebtedness with regards to Loan # 74003855 as this loan has matured. Also, Guarantor **CANNON PRICKETT** is in default with the bank in the payments on Loan # 74015802 and Loan # 74013836. The Borrower and all the Guarantors have requested that **USAMERIBANK** enter into a forbearance agreement in order to restructure the Borrower's and **CANNON PRICKETT'S** indebtedness and allow them more time to payoff their Indebtedness at the bank. The bank is willing to restructure the Indebtedness and give the Borrower/Guarantors more time to payoff their Indebtedness at **USAMERIBANK** but only upon strict compliance with the terms and conditions contained herein.

Agreement

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the parties agree as follows:

1. **Acknowledgement of Indebtedness.** The Borrower acknowledges that it is indebted to **USAMERIBANK** for repayment of the Indebtedness, plus all accruing interest, late fees, costs, attorney fees and any other expenses related to the Indebtedness.

The Borrower ^{2/11} hereby reaffirms the Notes and other related Security Documents, and acknowledges that they are strictly enforceable in accordance with their terms.

2. **Acknowledgement of Lack of Defenses.** The Borrower acknowledges that it has no defense, counterclaim, offset, cross complaint, claim or demand of any kind or nature whatsoever (collectively, the "Claims") that can be asserted to reduce or eliminate all or any part of Borrower's liability to repay the Indebtedness to USAMERIBANK or to seek affirmative relief or damages of any kind or nature from USAMERIBANK, which Claims arise out of or are related to the Indebtedness. To the extent that any such Claim exists, it is fully, forever and irrevocably released as provided in Paragraph 6, hereof.

3. **Forbearance.** Based on USAMERIBANK (1) receiving on or before 9/30/15 all of the following: a fully executed copy of this agreement, the corresponding notes, the corresponding guaranty agreements and collateral documents plus payment of all closing costs associated with the restructure the Indebtedness inclusive of attorney fees as set out in the closing statement, (2) receiving monthly principal and interest payments on the Loans in the accordance with the terms of the respective notes and (3) provided there are no other defaults by the Borrower under the terms of the notes or other related financing documents, including without limitation, this Agreement, then USAMERIBANK shall move forward with the Borrower under the terms as detailed above.

PRICKETT PARTNERS, LLLP ("Borrower"), promises to pay USAMERIBANK, its successors and/or assigns, with regards to Loan # 402075600, the sum of ONE MILLION ONE HUNDRED AND NINETY TWO THOUSAND AND 00/100 (\$1,192,000.00) DOLLARS, plus interest at fixed rate of 5.5%.

Borrower promises to make monthly principal and interest payments in the amount of \$8,050.79 (due on the 1st day of each month with the first payment due on 11/1/15) and one final payment of the balance due at maturity on 10/1/2018. This loan is due and payable in full upon maturity at 10/1/2018.

This loan is secured by a first mortgage dated September 30, 2015 on a Dairy Queen located at 780 Promenade Parkway, Alabaster, Alabama, a monetary judgment on John Creel, and Cannon Prickett's 25% ownership interest in Red Mountain Restaurant Group, LLC and any and all income distributions due Cannon Prickett from the Red Mountain Restaurant Group, LLC. Repayment of the Indebtedness to the bank is personally guaranteed by CANNON PRICKETT, JOHN PRICKETT, CYNTHIA PRICKETT, JACQUELYN MARONEY and CHRISTY MCCAIN. The guaranty agreements of JACQUELYN MARONEY and CHRISTY MCCAIN are limited to 30% of the outstanding indebtedness (of any type whatsoever) of PRICKETT PARTNERS, LLLP to the bank.

The bank, Borrower and Guarantors all agree that the loan proceeds with regards to Loan # 402075600 will be used as follows: the first mortgage on the Dairy Queen held at Mutual Savings Credit Union will be paid off, First Partners Bank will be paid \$100,000.00 in order to subordinate its mortgage on the Dairy Queen so that USAMERIBANK will be in a first mortgage position, loan # 74015802 at

USAMERIBANK (of which CANNON PRICKETT is a Guarantor) will be paid off, to pay all closing costs associated with the restructure of Borrower's Indebtedness at the bank and lastly to pay the outstanding interest on loan # 74003855 at USAMERIBANK which is in the name of PRICKETT PARTNERS, LLLP.

PRICKETT PARTNERS, LLLP ("Borrower"), promises to pay USAMERIBANK, its successors and/or assigns, with regards to Loan # 401986200, the sum of TWO HUNDRED AND SEVENTY FIVE THOUSAND FIVE HUNDRED AND FIFTEEN AND 00/100 (\$275,515.00) DOLLARS, plus interest at fixed rate of 5.65%.

Borrower promises to make monthly principal and interest payments on Loan # 401986200 in the amount of \$2,651.18 (due on the 15th day of each month with the first payment due on 11/15/15) and one final payment of the balance due at maturity on 10/15/2018. This loan is due and payable in full upon maturity at 10/15/2018.

This loan is secured by a first mortgage dated July 27, 2005 on a single family residence in the Mt Laurel subdivision located at 59 Hawthorn Street, Birmingham, Alabama 35242 which is recorded in the Shelby County, Alabama Judge of Probate's Office at Instrument # 20060720000351980 and corrected in Instrument # 2007061100027165. Repayment of the Indebtedness to the bank is personally guaranteed by **JOHN PRICKETT** and **CYNTHIA PRICKETT**.

The bank, Borrower and Guarantors all agree that the loan proceeds with regards to Loan # 401986200 will be used to payoff loan # 74003855 and pay all closing costs associated with the closing of the restructure of Borrower's Indebtedness to the bank.

4. **Financial, Leases and Tax Return Information.** Borrower and Guarantors plus Related Entities Cymbols, Inc., J. Prickett, Inc., Punta Gorda Corral, Inc., Red Mountain Restaurant Group, LLC, Tiger Foods, Inc. and Villages Corral, LLC (collectively, Cymbols, Inc., J. Prickett, Inc., Punta Gorda Corral, Inc., Red Mountain Restaurant Group, LLC, Tigers Foods, Inc. and Villages Corral, LLC are referred to as the "Related Entities" within the context of this agreement) agree to submit to the bank on an annual basis (within 30 days of April 15th of each calendar year), copies of each individual guarantor's personal Federal Income Tax Return, as well as the corporate Federal Income Tax Returns on all corporate entities submitted and filed with the IRS. Borrower and Guarantors also agree to submit, both upon request and on an annual basis (within 30 days of each calendar year end) a current signed Personal Financial Statement on each individual guarantor and a Financial Statement on the Borrower. (The Related Entities will submit financial statements when and if requested by the bank within 30 days of said request.) Said Personal Financial Statement must be signed and submitted on an approved bank Personal Financial Statement form and clearly show all current balances of all assets, liabilities (direct and contingent) of the individual guarantors, including all sources of income. Furthermore, Borrower and Guarantors will be required to submit copies of all checking, savings, brokerage, mutual funds, and life insurance statements which correspond to and confirm the Personal Financial Statement balances shown on each individual or corporate entity financial statement as requested and received from time to time by the bank. Prickett Partners, LLLP agrees to maintain a minimum debt service coverage ratio of 1.2% tested annually beginning on 12/31/2015.

(EBITDA is defined as net profit before interest, income taxes, depreciation and amortization. EBITDAR is also before rent expense. NOI is defined as net operating income and is equal to EBITDA.) Also, the Borrower will remit to the bank copies of all leases in effect for any property that serves as collateral for the Indebtedness. Borrower will also keep current insurance in force with USAMERIBANK named as loss payee on all of the bank's collateral along with coverage for loss of rents and liability insurance.

The Borrower, Guarantors and the Related Entities further certify and warrant that all financial information submitted to the bank will be true and correct in every respect, and will represent a complete and accurate disclosure of the Borrower, Guarantors and Related Entities financial position and condition regardless of whether any financial statement or tax return has been prepared and submitted by the CPA or bookkeeper of the Borrower, Related Entities and/or Guarantors or said financial statements were prepared by the Borrower, Related Entities and/or Guarantors themselves. It is the sole responsibility of the Borrower, Related Entities and Guarantors to ensure that all information on their financial statements is true and correct as of the date the information is submitted and USAMERIBANK has no responsibility to verify the accuracy the financial information given to it. It is understood by the Borrower, Related Entities and/or Guarantors that the bank is relying solely on the good faith of the Borrower, Related Entities and/or Guarantors to truthfully and accurately disclose their respective financial condition from time to time as requested by the bank. Should it later be determined that any financial information of the Borrower, Related Entities and/or Guarantors submitted to USAMERIBANK is inaccurate, misleading, or false, then the bank may, at its sole discretion, immediately declare an event of default and declare the entire balance owing on the Indebtedness immediately due and payable in full.

5. **Legal Fees.** Borrower and/or Guarantors will pay all legal fees incurred by USAMERIBANK in connection with the preparation and execution of this Agreement and any other reasonable legal/collection costs associated with the collection of the Indebtedness up to 33% of the amount of the Indebtedness.

6. **Default.** Should the Borrower default in its obligations under the terms of this Agreement, the Notes, or other financing documents, the terms of which are incorporated by reference herein and made a material part of this Agreement (except as modified herein), the Indebtedness shall become immediately due and payable in full. Also, a default rate of interest of 18% will immediately become effective in the event the Borrower defaults in any of its obligations under the terms of this Agreement, the Notes, or other financing documents. ***The Borrower must return an executed and acknowledged original of this Agreement by not later than 9/30/2015 or this offer to forbear will be withdrawn and considered null and void.*** Nothing in this Agreement shall be construed to waive any default by the Borrower, or to limit or waive any rights that USAMERIBANK may have against the Borrower as a consequence of such defaults, including without limitation prior payment defaults by Borrower, except as expressly set forth herein. Bank has a right of setoff in all of Borrower and/or the Guarantors accounts with USAMERIBANK (whether checking, savings or some other type of account). This includes all account Borrower and/or the Guarantors hold jointly with someone else and also all accounts the Borrower and/or Guarantors open in the future. The Borrower and

Guarantors authorize USAMERIBANK to setoff all sums in any such deposit accounts and apply the funds to the Borrower's and/or Guarantors Indebtedness at the bank.

7. **Release By the Borrower and Guarantors.** The Borrower and Guarantors, for their successors, heirs and assigns, affiliates, subsidiaries, officers, agents, and employees do hereby release and forever discharge USAMERIBANK, its successors and assigns, officers, agents, employees, and attorneys, from any and all claims, demands, actions, causes of actions, suits, damages, and loss, of whatsoever kind and nature, for or on account of anything that has heretofore occurred up to and including the date of this Agreement. Any disputes arising after the date of this Agreement shall be resolved by Arbitration. (See paragraph 13)

8. **Integration.** This Agreement constitutes the entire agreement of the parties pertaining to the subject matter hereof and all prior negotiations and representations relating thereto are merged herein. This Agreement is not intended to modify and does not modify the obligations of the Borrower pursuant to any loan or security agreement, guaranty or debt instrument except to the extent expressly set forth herein. This Agreement shall inure to the benefit of, and be binding upon, the representatives, successors and assigns of the parties thereto, respectively. The parties each acknowledge that they have read and understood this Agreement, that they have had the ability to consult with an attorney of their own choosing, and that they execute this Agreement voluntarily. This Agreement may be executed in whole or in counterparts, each of which shall be an original but all of which, when taken together, shall constitute but one agreement.

9. **Cross-Collateralization.** The collateral of Borrower and/or Guarantors in which USAMERIBANK has a security interest in secures the principal and interest on all the Indebtedness, obligations (including obligations of performance), and liabilities of Borrower to USAMERIBANK of every kind and description whatsoever, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, contracted or arising, or acquired by USAMERIBANK from any source, joint or several, liquidated or unliquidated, regardless of how they arise and/or were incurred or by what agreement or instrument they may be evidenced or whether they are evidenced by agreement or instrument, and whether incurred as maker, endorser, surety, guarantor, or otherwise, and any and all extensions, forbearances, or renewals of any of the same, including without limitation any reimbursement obligations incurred in connection with the issuance of a letter of credit. Bank has a lien interest in and a right of offset on all deposit accounts of any type whatsoever of the Borrower and Guarantors.

10. **Correction Agreement.** The undersigned Borrower and Guarantors for and in consideration of USAMERIBANK agree, if requested by USAMERIBANK or closing agent for USAMERIBANK, to fully cooperate and adjust for clerical errors on any or all of the loan closing documentation including but not limited to this agreement if deemed necessary at the reasonable discretion of USAMERIBANK. The undersigned Borrower and Guarantors do hereby so agree and covenant in order to assure among other things that the loan documentation will reflect the agreement of the parties and that the loan documentation will also be acceptable in the market place in the instance of sale, transfer, or conveyance by USAMERIBANK of its interest in said loan documentation.

6/11

The undersigned Borrower and Guarantors agree that the failure of Borrower and/or Guarantors to cooperate, adjust, and/or replace any such loan documentation as provided herein, upon the reasonable request of USAMERIBANK, will constitute a default under the loan documentation.

11. **Course of Dealing.** No course of dealing between USAMERIBANK and Borrower shall be effective to amend, modify or change any provision of this agreement. This agreement may not be amended, modified or changed in any respect except by agreement in writing signed by all parties hereto.

12. **State Law of Alabama.** This agreement shall be governed by and construed in accordance with the laws of the State of Alabama. Whenever possible, each provision of this agreement shall be interpreted in such a manner to be effective and valid under applicable law. If any provision shall be deemed ineffective and/or invalid, this will not invalidate the remainder of this agreement. The proper venue for any civil litigation between the parties shall be the Circuit Court of Jefferson County, Alabama.

13. **Cross-Default.** In the event of the failure of Borrower to make the payments when due as called for in this agreement or the failure of the Borrower to make the payments on any of its other obligations to USAMERIBANK ("Obligations" meaning thereby this agreement and any and all renewals and extensions thereof and all other liabilities of the Borrower to USAMERIBANK, now existing or hereafter incurred or arising, direct or indirect, and however incurred), or if the Borrower defaults on any credit obligation to any lending institution whatsoever, USAMERIBANK shall have the right at its election and without notice to the Borrower to declare all obligations of the Borrower immediately due and payable in full.

14. **Arbitration.** All disputes shall be resolved by binding arbitration in accordance with Title 9 of the U.S. Code and the Arbitration Rules for Commercial Financial Disputes of the American Arbitration Association. Borrower and Guarantors expressly waive their right to a trial by jury. All defenses, including those defenses based on statutes of limitation, estoppel, waiver, laches and similar doctrines, that would otherwise be applicable to an action brought by a party, shall be applicable in such arbitration proceeding. Notwithstanding the foregoing, the Borrower and Guarantors agree that USAMERIBANK shall have the right, but not the obligation, to submit and pursue in a court of law any claim against Borrower and/or Guarantors for a debt due. No provision of, nor the exercise of any rights under this section, shall limit USAMERIBANK'S right to foreclose against any real or personal property by exercise of a power of sale under a mortgage, to exercise self-help remedies such as repossession or set-off, or to obtain provisional or ancillary remedies such as injunctive relief, attachment or the appointment of a receiver from a court having jurisdiction either before, during or after the pendency of any arbitration. The arbitrator may not award punitive damages, treble damages, penalties, or attorney's fees. Each party shall bear its own costs associated with any arbitration proceeding.

15. **Non-Waiver.** No failure or delay on the part of the bank in exercising any right, power, or privilege under this agreement or any of the other loan documents shall operate as a waiver thereof. In addition, a single and/or partial exercise of any right,

power, or privilege under this agreement or any of the other loan documents does not preclude any other and/or future exercise of any right, power, or privilege granted the bank in this agreement or any of the other loan documents. No modification, amendment, and/or waiver of any provision of this agreement or any of the other loan documents shall be effective unless in writing and signed by a duly authorized officer of the bank, and then only in the specific instance and for the purpose for which given.

IN WITNESS WHEREOF, the parties have hereunto set their names and seals, all as of the day and year first above written.

USAMERIBANK

By: _____

Its: SA Vice-President

STATE OF ALABAMA

COUNTY OF Shelby

SWORN TO AND SUBSCRIBED before me this the 9th day of

October, 2015.

Jennifer Choi
Notary Public

My Commission expires: _____

Jennifer Choi
Notary Public Alabama State at Large
My Commission Expires October 4, 2016

BORROWER: PRICKETT PARTNERS, LLLP

By: _____

JOHN R. PRICKETT, JR., TRUSTEE OF
THE JOHN R. PRICKETT, JR. FAMILY
TRUST dated December 19, 2002

Its: General Partner

STATE OF Alabama

COUNTY OF Shelby

SWORN TO AND SUBSCRIBED before me this the 9th day of

October, 2015.

Jennifer Choi
Notary Public

My Commission expires: _____

Jennifer Choi
Notary Public Alabama State at Large
My Commission Expires October 4, 2016

BORROWER: PRICKETT PARTNERS, LLLP

By: Cynthia C. Prickett
CYNTHIA C. PRICKETT, TRUSTEE OF
THE CYNTHIA C. PRICKETT FAMILY
TRUST dated December 19, 2002
Its: General Partne

STATE OF Alabama

COUNTY OF Shelby

SWORN TO AND SUBSCRIBED before me this the 9th day of
October, 2015.

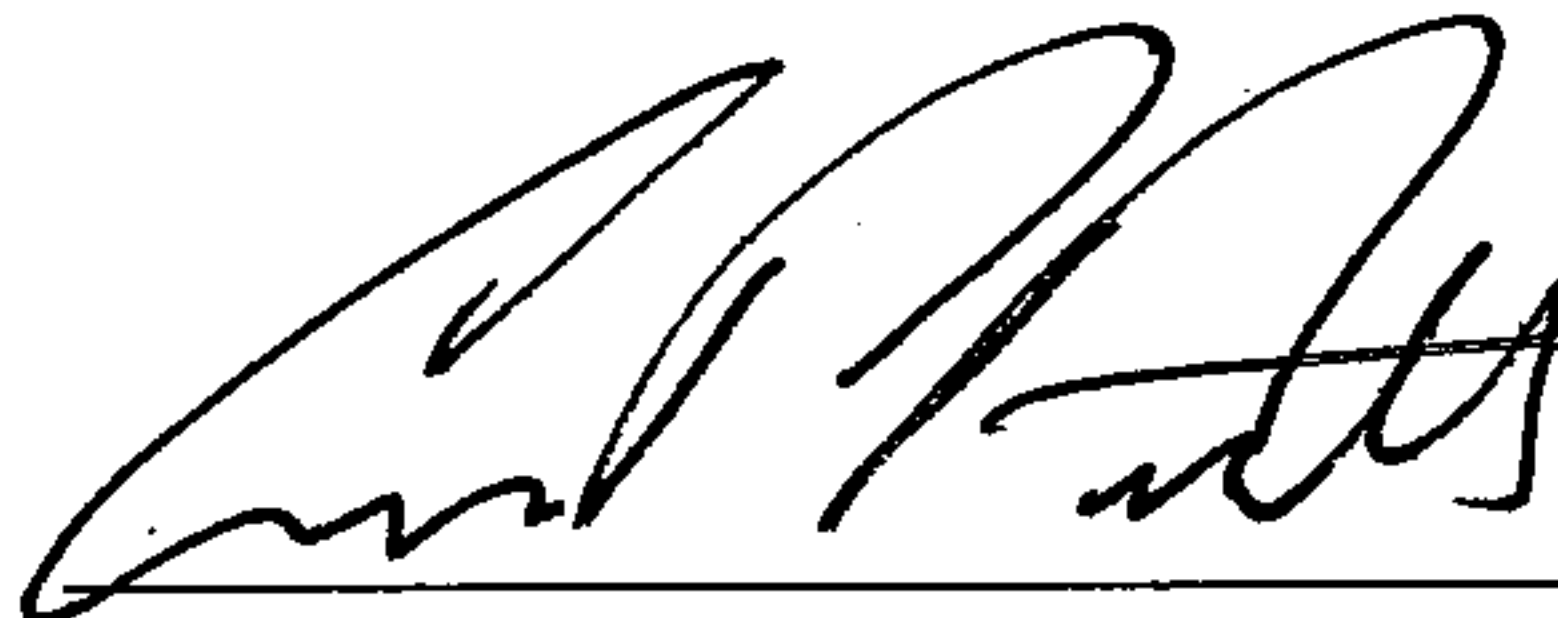


Notary Public

My Commission expires:

Jennifer Choi

Notary Public Alabama State at Large
My Commission Expires October 4, 2016



CANNON PRICKETT

STATE OF Alabama

COUNTY OF Shelby

SWORN TO AND SUBSCRIBED before me this the 9th day of
October, 2015.

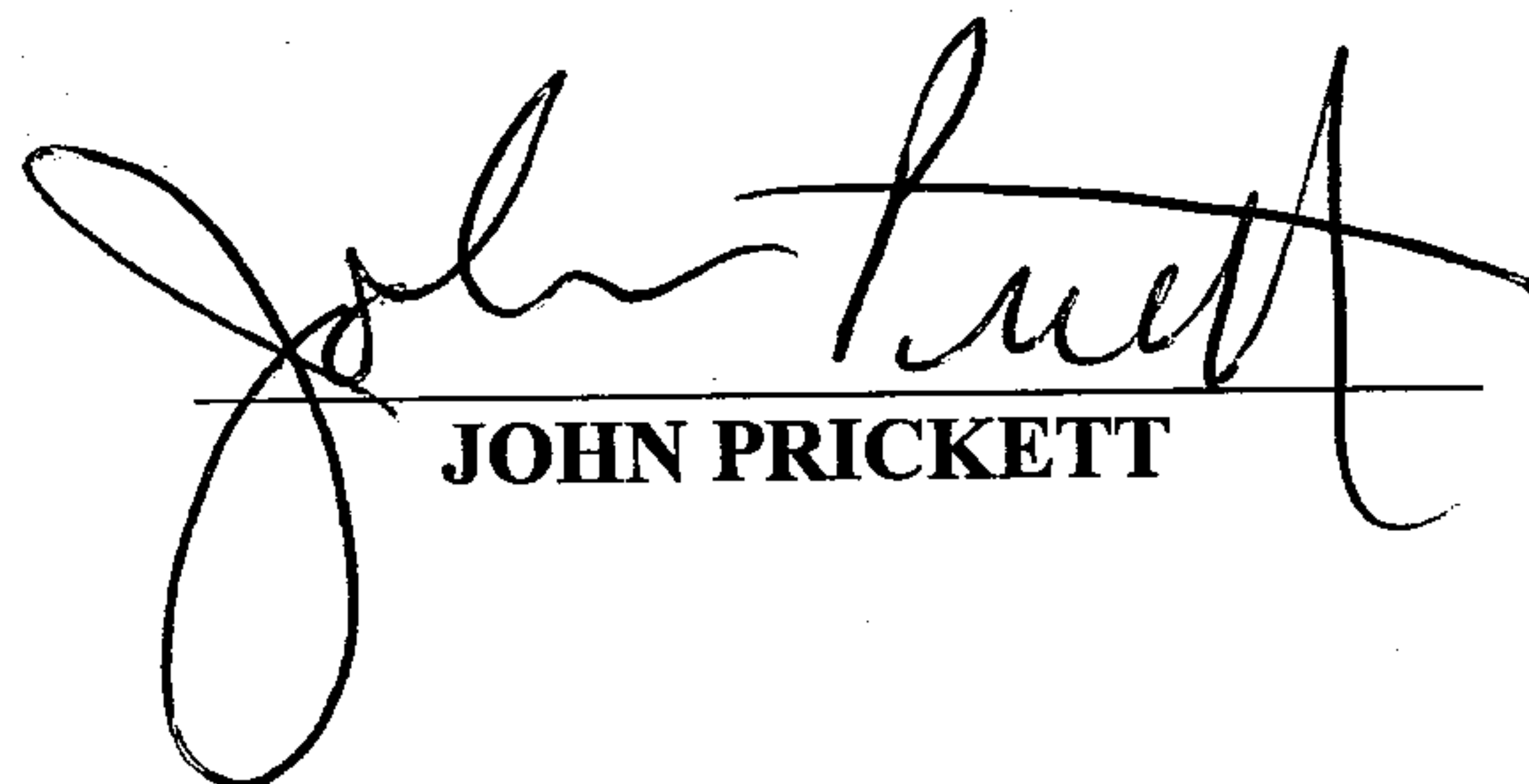


Notary Public

My Commission expires:

Jennifer Choi

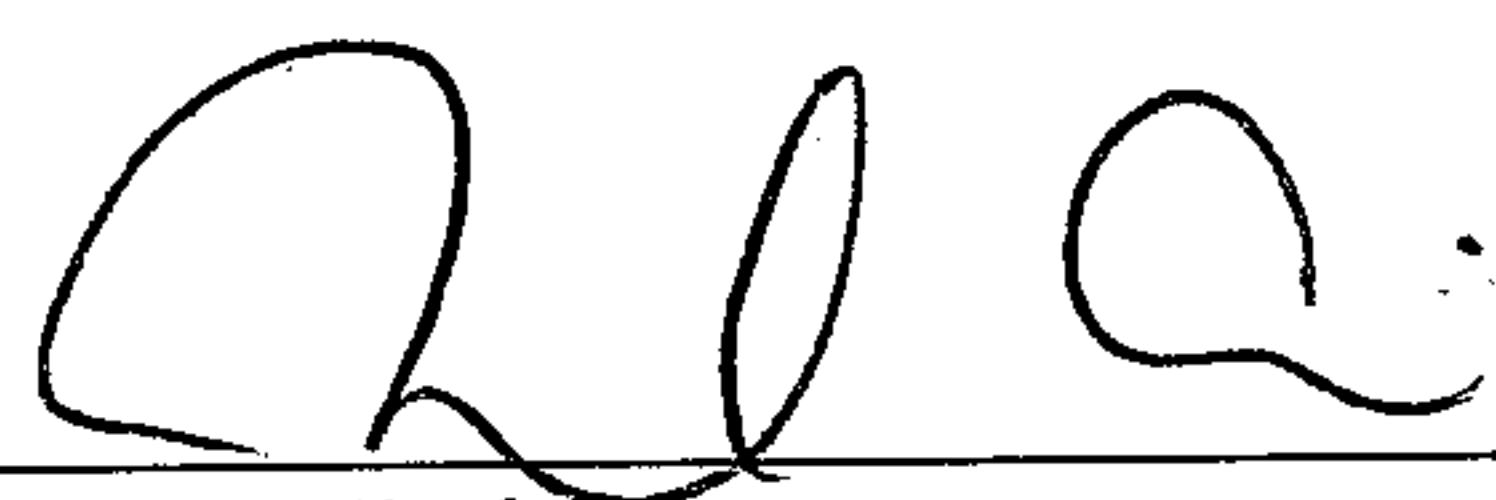
Notary Public Alabama State at Large
My Commission Expires October 4, 2016


JOHN PRICKETT

STATE OF Alabama

COUNTY OF Shelby

SWORN TO AND SUBSCRIBED before me this the 9th day of
October, 2015.



Notary Public
My Commission expires: October 4, 2016
Jennifer Choi
Notary Public Alabama State at Large
My Commission Expires October 4, 2016


CYNTHIA PRICKETT

STATE OF Alabama

COUNTY OF Shelby

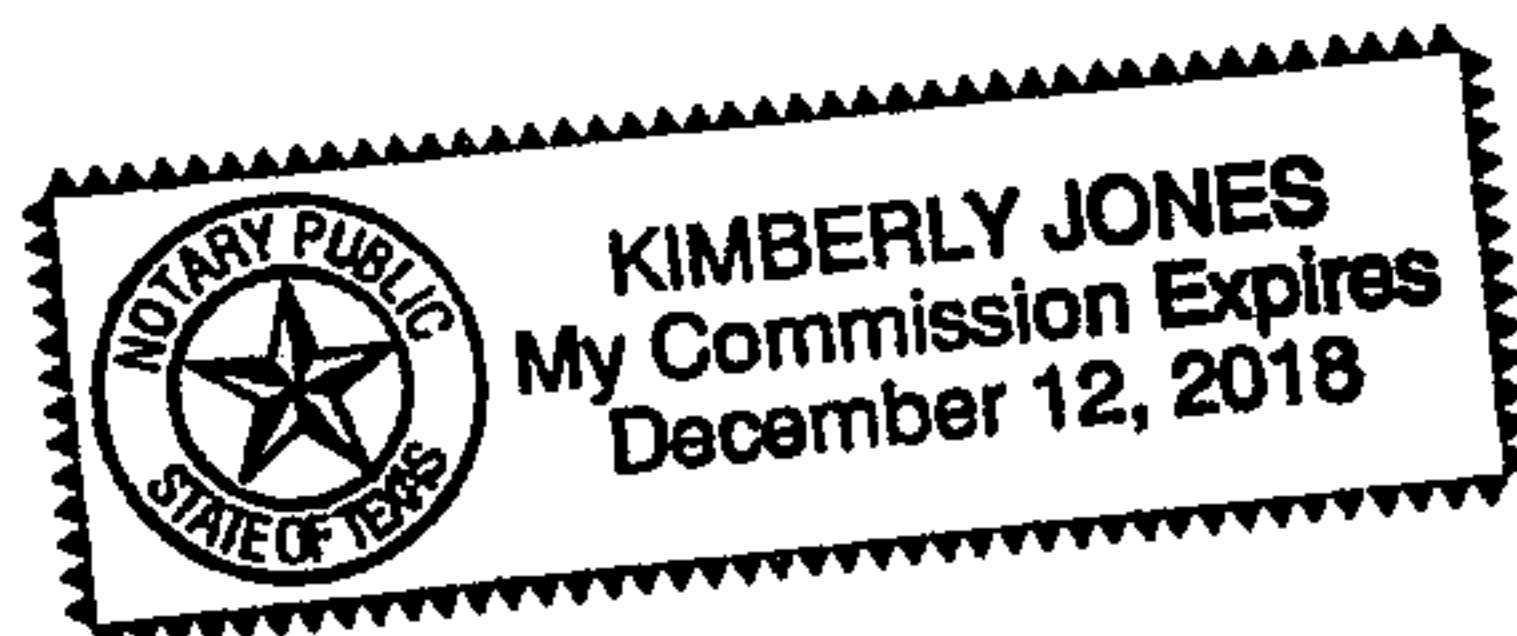
SWORN TO AND SUBSCRIBED before me this the 9th day of
October, 2015.



Notary Public
My Commission expires: October 4, 2016
Jennifer Choi
Notary Public Alabama State at Large
My Commission Expires October 4, 2016

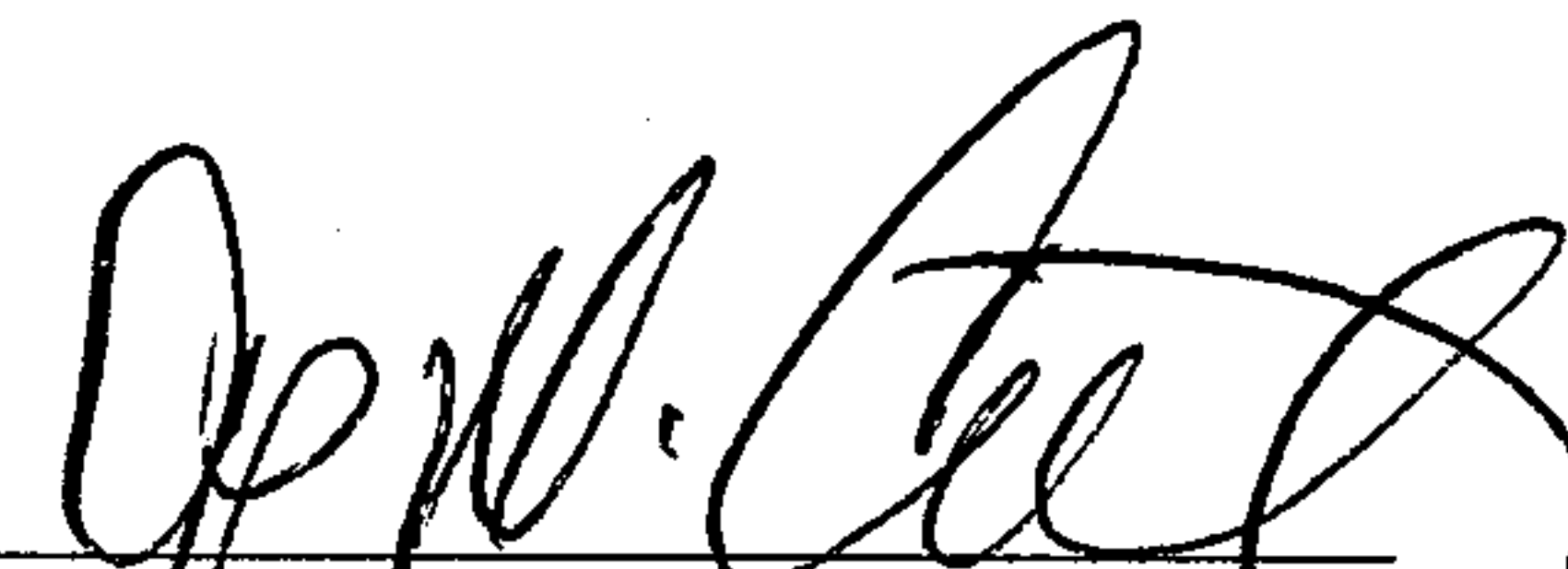

JACQUELYN MARONEY

STATE OF Texas
COUNTY OF Travis

SWORN TO AND SUBSCRIBED before me this the 8th day of
October, 2015.

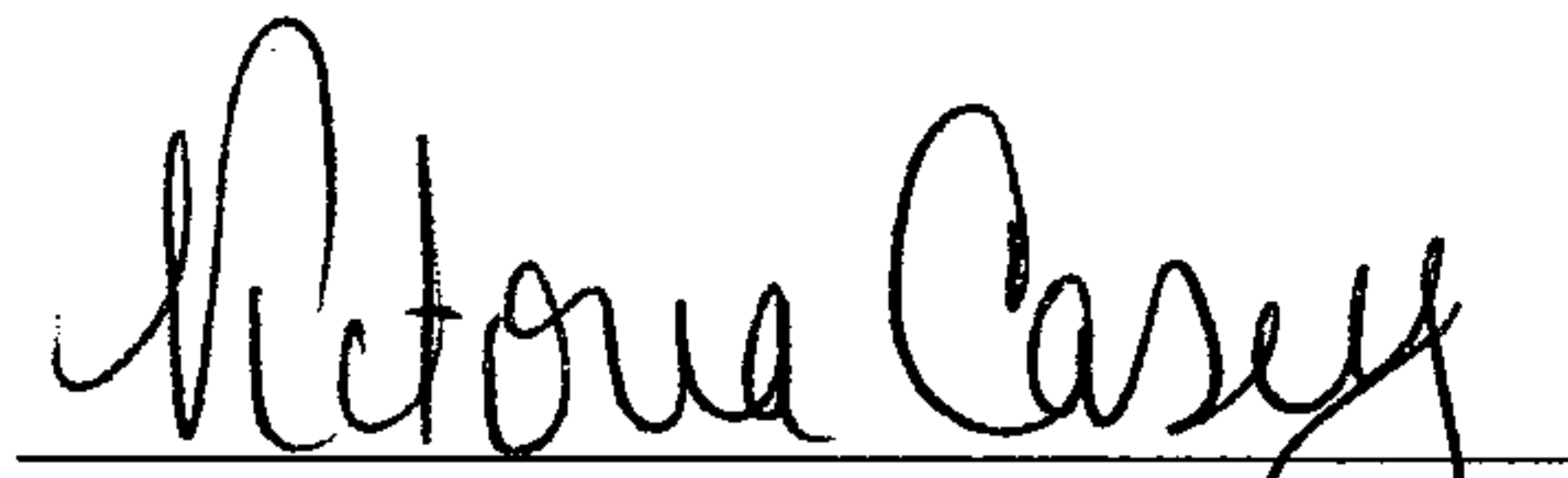


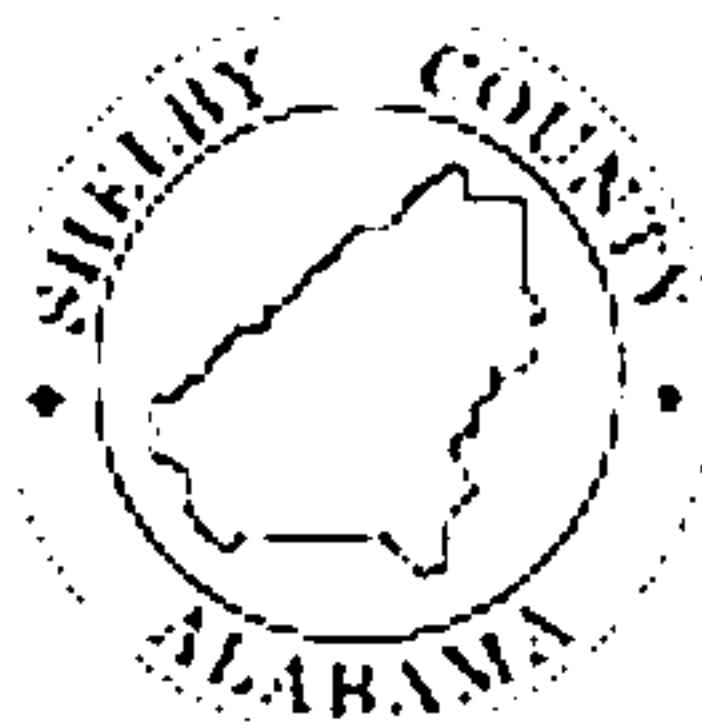

Notary Public
My Commission expires: 12-12-2018


CHRISTY MCCAIN

STATE OF Virginia
COUNTY OF Calverton

SWORN TO AND SUBSCRIBED before me this the 8th day of
October, 2015.


Notary Public
My Commission expires: My Commission Expires March 31, 2018



Filed and Recorded
Official Public Records
Judge James W. Fuhrmeister, Probate Judge,
County Clerk
Shelby County, AL
10/09/2015 01:25:53 PM
\$47.00 DEBBIE
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