

Send tax notice to:  
IHM Properties, LLC  
44 Vann Drive  
Birmingham, AL 35242  
c/o Jackie Harless

This Instrument Prepared By:  
Dale B. Stone, Esq.  
Dominick Feld Hyde, P.C.  
1130 22<sup>nd</sup> Street South  
Ridge Park, Suite 4000  
Birmingham, Alabama 35205

20160926000352710  
09/26/2016 03:45:15 PM  
CORDEED 1/8

**THIS INSTRUMENT HAS BEEN PREPARED IN ACCORDANCE WITH THE INFORMATION SUPPLIED BY THE PARTIES HERETO. NO TITLE EXAMINATION AND/OR OPINION WAS REQUESTED OF DOMINICK FELD HYDE, P.C. BY EITHER GRANTOR OR GRANTEE, AND NONE WAS CONDUCTED AND/OR RENDERED.**

**CORRECTIVE TRUSTEE'S DEED**

STATE OF ALABAMA     )

**KNOW ALL MEN BY THESE PRESENTS:**

SHELBY COUNTY         )

WHEREAS, the real property described as Parcel I in ***Exhibit "A"*** attached hereto was transferred by the Industrial Board of Vincent to Ileana H. Matthews by deed dated March 4, 1994 and recorded as Instrument #1998-17047 in the records of the Judge of Probate of Shelby County, Alabama, and the real property described as Parcel II in said ***Exhibit "A"*** was transferred by Joe A. Scotch and wife, Peggy P. Scotch, to Ileana H. Matthews by deed dated July 25, 1977 and recorded as Instrument #19770725000075980 in the records of the Judge of Probate of Shelby County, Alabama; and

WHEREAS, Ileana H. Matthews died on June 20, 1999 and her Last Will and Testament was admitted to probate by the Judge of Probate of Shelby County, Alabama, in the matter of said decedent's estate, being Case No. 38-254; and

WHEREAS, upon the death of Ileana H. Matthews, the real property described in ***Exhibit "A"*** attached hereto devolved, pursuant to Code of Alabama §43-2-830 (1975), to the persons to whom such real property was devised by the Last Will and Testament of Ileana H. Matthews, namely to Charles W. Matthews and James H. Weaver, as Trustees of the Testamentary Trust under the Will of Ileana H. Mathews (the "Testamentary Trust"); and

WHEREAS, on September 30, 2015, Charles W. Matthews died, at which time Charles W. Matthews ceased to serve as a Trustee of the Testamentary Trust; and

WHEREAS, by instrument dated December 8, 2015 and recorded as Instrument #20160128000028700 in the records of the Judge of Probate of Shelby County, Alabama, Jackie Harless was appointed to serve as a co-Trustee of the Testamentary Trust with James H. Weaver; and

WHEREAS, by order of the Judge of Probate of Shelby County, Alabama dated May 6, 2016, a copy of which is attached hereto as ***Exhibit "B"***, James H. Weaver was removed as a Trustee of the Testamentary Trust and Jackie Harless was named as sole Trustee of the Testamentary Trust; and

WHEREAS, the Testamentary Trust is the single member of IHM Properties, LLC, an Alabama limited liability company (the "LLC"), and the Trustee desires to convey the real property described in ***Exhibit "A"*** to the LLC.

NOW THEREFORE, in consideration of the foregoing recitals and pursuant to the terms of the Testamentary Trust, the undersigned Grantor, Jackie Harless, in her capacity

as Trustee of the Testamentary Trust, with the general authority to execute conveyances conferred upon the Trustee, does grant, bargain, sell and convey unto IHM Properties, LLC, an Alabama limited liability company (hereinafter referred to as "Grantee"), all of the following described real estate situated in Shelby County, Alabama, to-wit:

*See Exhibit "A" attached hereto and made a part hereof by reference*

This conveyance is made subject to the following:

1. The lien for ad valorem taxes due in the current year or any subsequent year but not yet payable.
2. Transmission line permits to Alabama Power Company recorded in Deed Book 124, Page 570; Deed Book 124, Page 555; Deed Book 135, Page 54; Deed Book 146, Page 391; Deed Book 145, Page 304; and Deed Book 216, Page 91 in the Probate Office of Shelby County, Alabama.
3. All other easements, liens, encumbrances, restrictions, rights-of-way, any reservations of mineral rights, and other matters of record in the Probate Office of Shelby County, Alabama, together with any deficiencies in quantity of land, easements, discrepancies as to boundary lines, overlaps, etc., which would be disclosed by a true and accurate survey of the property conveyed herein.

**This deed is given to correct an error in the legal description of that certain Trustee's Deed recorded on September 22, 2016 as Instrument Number 20160922000347170 in the Probate Court of Shelby County, Alabama.**

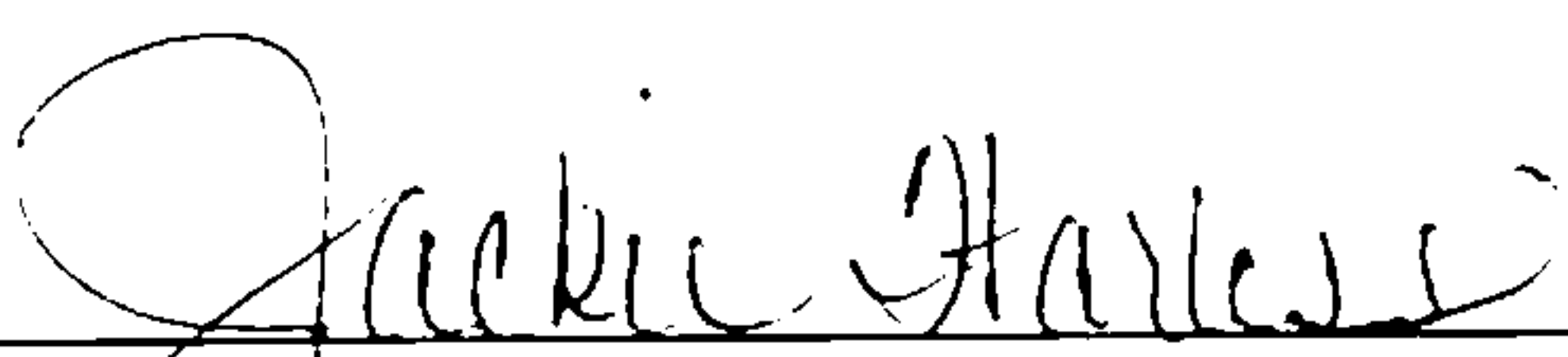
TO HAVE AND TO HOLD to said Grantee, her heirs, successors and assigns forever.

No warranty or covenant respecting the nature of the quality of the title to the property hereby conveyed is made by the Grantor other than that the Grantor has neither permitted or suffered any lien, encumbrance or adverse claim to the property described herein since the date of acquisition thereof by the Grantor.

This instrument is executed by the Grantor solely in her representative capacity named herein, and neither this instrument nor anything contained herein shall be construed as creating any indebtedness or obligation on the part of the Grantor in her individual capacity, and the liability of the Grantor is expressly limited to Grantor's representative capacity named herein.

**IN WITNESS WHEREOF**, the Grantor has hereunto set her hand and seal on

September 24, 2016.

  
\_\_\_\_\_  
Jackie Harless, as Trustee of the Testamentary  
Trust under the Last Will and Testament of  
Ileane H. Matthews, deceased

I, the undersigned authority, a Notary Public in and for the State of Alabama at Large, hereby certify that Jackie Harless, whose name as Trustee of the Testamentary Trust under the Last Will and Testament of Ileane H. Matthews, deceased, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that being informed of the contents of the conveyance, she, in her said capacity and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand on September 26, 2016.

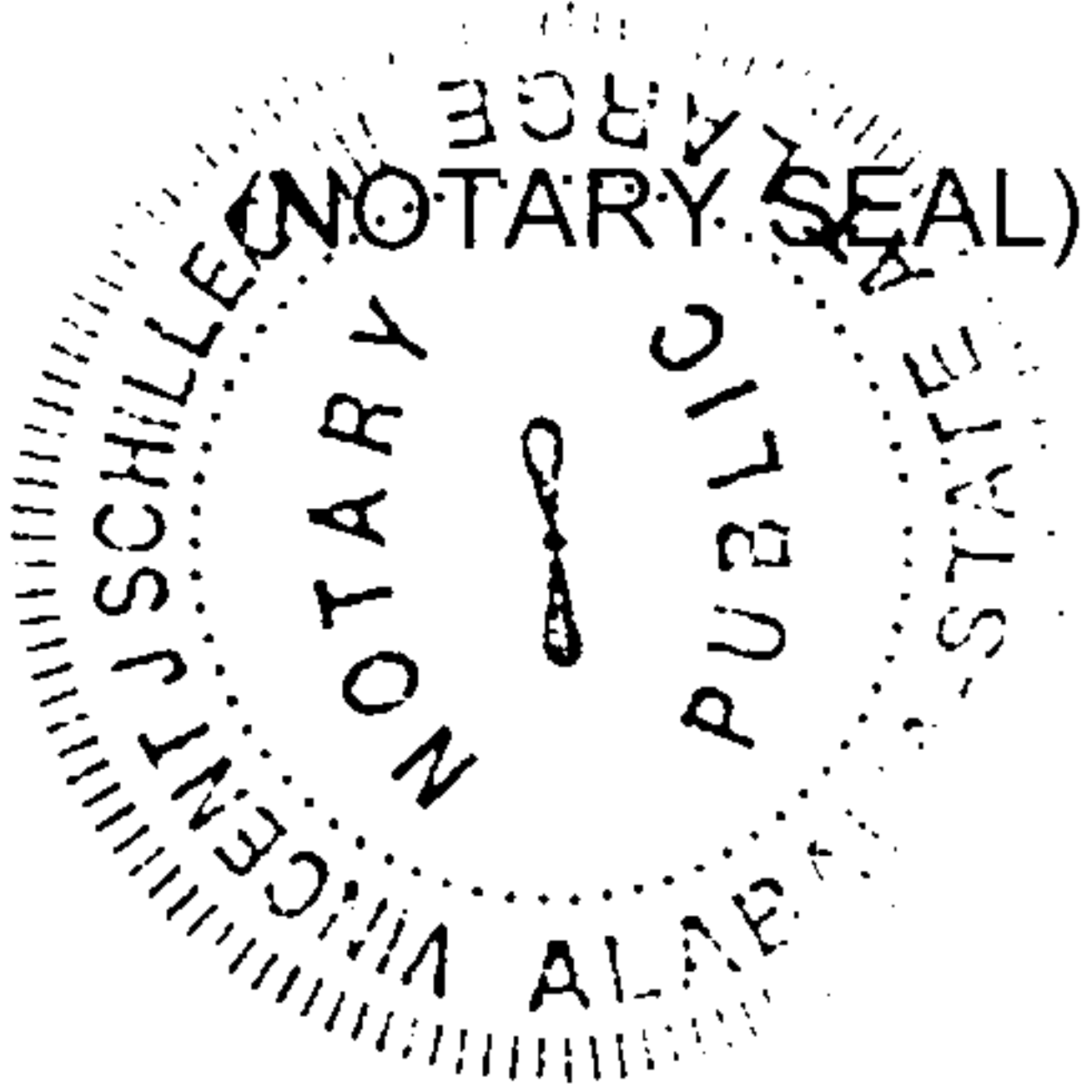


Notary Public

Vincent J. Schilleci III

Printed Name

My Commission Expires: 9/26/18





## Exhibit "A"

### Parcel I:

Commence at the Northeast corner of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 6, Township 19 South, Range 1 West, Shelby County, Alabama, and run in a Westerly direction along the North line of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section a distance of 202.48 feet to the point of beginning of the herein described Tract 2; thence deflect 90 degrees 00 minutes 20 seconds and run to the left in a Southerly direction a distance of 328.45 feet to a point on the South line of the North  $\frac{1}{2}$  of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section; thence turn an interior angle of 90 degrees 00 minutes 00 seconds and run to the right along the South line of the North  $\frac{1}{2}$  of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section and in a Westerly direction a distance of 200.00 feet to a point; thence turn an interior angle of 90 degrees 00 minutes 00 seconds and run to the right in a Northerly direction a distance of 328.47 feet to a point on the North line of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section; thence turn an interior angle of 89 degrees 59 minutes 40 seconds and run to the right in an Easterly direction and along the North line of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section a distance of 200.00 feet, more or less, to the point of beginning of the herein described Tract 2. Also an easement to provide access to the property hereinabove conveyed, being a 60 foot easement along approximately the present roadway going from the Cahaba Valley Road to the property herein conveyed.

### Parcel II:

The North 10 Acres of the SW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 6, Township 19 South, Range 1 West, Shelby County, Alabama. Also a 60-foot easement along approximately the present roadway going from the Cahaba Valley Road to the above described property. Less and except the following: Commence at the Northeast corner of the SW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 6, Township 19 South, Range 1 West, Shelby County, Alabama, and run in a Westerly direction along the North line of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section a distance of 202.48 feet to the point of beginning of the herein described Tract 2; thence deflect 90 degrees 00 minutes 20 seconds and run to the left in a Southerly direction a distance of 328.45 feet to a point on the South line of the North  $\frac{1}{2}$  of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section; thence turn an interior angle of 90 degrees 00 minutes 00 seconds and run to the right along the South line of the North  $\frac{1}{2}$  of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section and in a Westerly direction a distance of 200.00 feet to a point; thence turn an interior angle of 90 degrees 00 minutes 00 seconds and run to the right in a northerly direction a distance of 328.47 feet to a point on the North line of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section; thence turn an interior angle of 89 degrees 59 minutes 40 seconds and run to the right in an Easterly direction and along the North line of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section a distance of 200.00 feet, more or less, to the point of beginning of the herein described Tract 2.

PARCEL I.D. #s:09-3-06-0-001-002.000, 09-3-06-0-001-002.001 & 09-3-06-0-001-002.002

ASSESSOR'S MARKET VALUE: \$1,382,070

GRANTOR'S MAILING ADDRESS: 44 Vann Drive, Birmingham, AL 35242  
(Grantee's mailing address appears at the top of the first page of this deed)

Exhibit "B"

IN THE PROBATE COURT OF SHELBY COUNTY, ALABAMA

IN THE MATTER OF:	)	
	)	
TESTAMENTARY TRUST U/W/O	)	PR-2016-000067
ILEANE H. MATTHEWS	)	
	)	
JAMES H. WEAVER, JR., TRUSTEE	)	

ORDER ON PETITION FOR ACCOUNTING  
PETITION FOR REMOVAL OF TRUSTEE, AND  
PETITION FOR APPOINTMENT OF SUCCESSOR TRUSTEE

This cause came before the Court on April 26, 2016 under authority of the Alabama Uniform Trust Code, Ala. Code § 19-3B-101 (1975) et seq. and Ala. Const. Amend. No. 758. The petitioner, Cynthia M. Mitchell ("Mitchell" or "Petitioner"), is a qualified beneficiary under the Last Will and Testament of Ileane H. Matthews dated June 5, 1999 (the "Will"), her mother.<sup>1</sup> This matter is before the Court on Mitchell's Petition for Accounting, Petition for Removal of Trustee and Petition for Appointment of Successor Trustee. Proper notice was given to all necessary parties. Present in court were: Mitchell and her attorneys, Dale B. Stone, Esq. and Ashley L. Neese, Esq.; James H. Weaver, Jr., Esq. ("Weaver"), a co-trustee, and his attorney, Kenneth Joe Wilson, Esq.; and Jackie Harless ("Harless"), a successor co-trustee designated by Mitchell. On the day of, but prior to the hearing, Weaver filed a response to Mitchell's petitions and a Final Settlement. The case was called and the Court proceeded to take ore tenus testimony and receive exhibits that were properly admitted in evidence. At the conclusion of the testimony and in open court, the Court instructed the parties to refrain from transferring or disposing of any assets of the trust pending further order of the Court.

<sup>1</sup> The Will was probated in Shelby County Probate Court in case number 38-254.

In her Will, the decedent established a Family Trust for the benefit of her spouse, if surviving, and her descendants. The decedent was survived by her husband, Charles Matthews ("Charles"), and her daughter, the Petitioner. Pursuant to the terms of decedent's Will, Charles and Weaver were appointed co-trustees of the Family Trust. Charles passed away in 2015 and Mitchell, as sole beneficiary of the Family Trust, appointed Harless as his successor co-trustee.

Mitchell now seeks to have Weaver removed. Although her petition alleges a broad range of reasons for removal, at the hearing she represented to the Court and parties that she is relying on Ala. Code § 19-3B-706(4) which provides that a beneficiary may request removal of a trustee if:

- "(4)(A) there has been a substantial change of circumstances or removal is requested by all of the qualified beneficiaries;
- (B) the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust; and
- (C) a suitable co-trustee or successor trustee is available."<sup>2</sup>

Weaver, a member of the Alabama State Bar for over 50 years and longtime friend and counsel to the decedent and her family, denies Mitchell's allegations and is obviously personally hurt by many of the allegations in the petition. He suggested that the best resolution is for the Court to approve his Final Settlement and give him a discharge. Under the law, that cannot be accomplished at this time without first setting a hearing on the Final Settlement or accepting it by consent of all necessary parties.

It is apparent from the testimony that there has been a breakdown in communication between Mitchell and Weaver. Weaver has the books and records of the

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<sup>2</sup> The Court notes, and the attorneys in this case who regularly engage in litigation, will recognize that it is common practice to make "shotgun" alternative allegations in a first complaint or pleading against a respondent or defendant and the issues then narrow as the litigation progresses.



Family Trust and Mitchell and Harless have been unable to access them in spite of several letters of request from Mitchell's attorney. It is also appears that this trust is almost ready to terminate and disburse according to its terms.

Based on the testimony, exhibits and pleadings and papers on file, the Court FINDS:

(1.) Mitchell is the sole qualified beneficiary of the Family Trust and she has requested removal of Weaver as co-trustee;

(2.) Decedent's designation of Weaver as a co-trustee of the Family Trust was not a material purpose of the trust;

(3.) Removal of Weaver best serves the interests of the sole qualified beneficiary and is not inconsistent with a material purpose of the Family Trust; and

(4.) A suitable co-trustee, Harless, is available.

Harless is a certified public accountant and testified that she is ready, willing and able to perform the duties of trustee according to the terms of the Family Trust and Alabama law. Considering this, the Court FURTHER FINDS that the vacancy created by Weaver's removal need not be filled. *See*, Code § 19-3B-704.

It is, therefore, ORDERED, ADJUDGED and DECREED that:

(A.) The Petition for Removal of Trustee is GRANTED and James H. Weaver, Jr. is removed as co-trustee of the Family Trust on the basis of the grounds set forth herein;

(B.) Jackie Harless, the remaining trustee, shall assume all of the duties and obligations of the Family Trust as a sole trustee;

(C.) The prior verbal instructions of the Court to Weaver and Harless regarding disposition of trust property are modified so that they only apply to Weaver except that Weaver shall comply with Code § 19-3B-707;

(D.) By agreement of the parties, the Petition for Accounting is MOOT and is therefore DENIED;

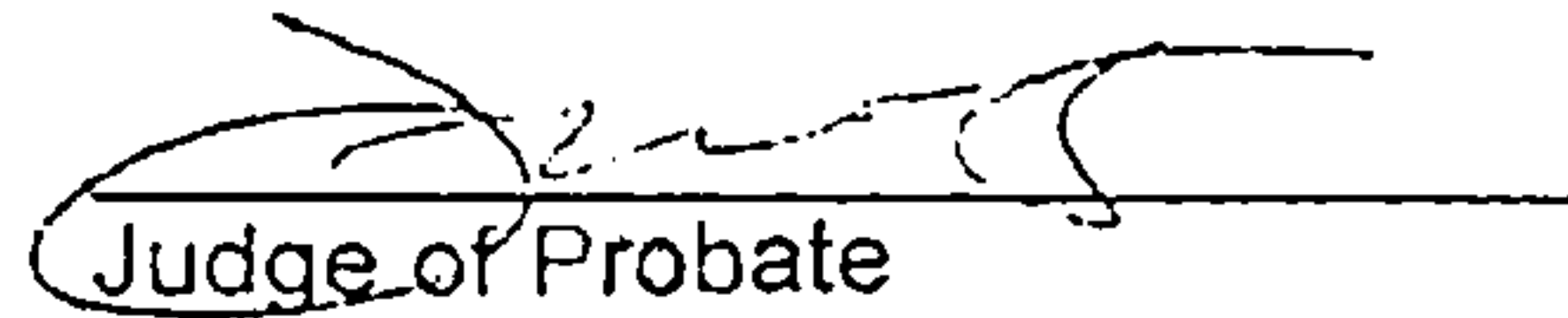
(E.) There being a duly appointed successor co-trustee who will remain in office, the Petition for Appointment of Successor Trustee is DENIED;

(F.) Harless shall perform all duties and obligations of the Family Trust and Alabama law as sole remaining trustee;

(G.) The Court retains jurisdiction to pass on Weaver's Final Settlement and reserves judgment on Petitioner's demand for damages and fees pending further order of the Court.

Costs of court are taxed to the Family Trust, for which execution may issue.

DONE and ORDERED this 6th day of May, 2016.

  
Judge of Probate

cc: Dale B. Stone, Esq.  
Ashley L. Neese, Esq.  
Kenneth Joe Wilson, Esq.

ENTERED AND FILED

MAY 06 2016

RIMDELY WELTON CHIEF CLERK  
PROBATE COURT  
SHELBY COUNTY ALABAMA



Filed and Recorded  
Official Public Records  
Judge James W. Fuhrmeister, Probate Judge,  
County Clerk  
Shelby County, AL  
09/26/2016 03:45:15 PM  
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