

**Affidavit**

**\*\*\*Please Index Under the Following Names:**

— Daniel Rudd  
— Robert W. McKinnon  
— Jose R. Rivera  
— Steve W. Statkewicz  
— James W. Blackmon

— Carol Ann Blackmon Chapin  
— James Walter Blackmon, Jr.  
— Jonathan W. Davis  
— E.L. McCarty, III

**This Instrument Prepared By:**

M. Lee Johnsey, Jr., Esq.  
BALCH & BINGHAM LLP  
Post Office Box 306  
Birmingham, Alabama 35201  
(205) 251-8100

STATE OF ALABAMA                    )  
  )  
COUNTY OF SHELBY                 )

**AFFIDAVIT**

Before me, the undersigned, a Notary Public in and for said county in said state, personally appeared M. Lee Johnsey, Jr., whose name is signed to this Affidavit and who is known to me, and who being by me first duly sworn, deposes and says as follows:

1. My name is M. Lee Johnsey, Jr. and I am over the age of nineteen years. I make the statements contained in this Affidavit based on my personal knowledge.
2. I am one of the attorneys of record for Daniel Rudd ("**Rudd**") in Civil Case Number **CV-2018-900097** in the Circuit Court of Shelby County, Alabama (the "**Civil Action**").
3. On November 15, 2018, the attached Order and Final Judgment was entered in the Civil Action (the "**Order**"). A certified copy of the Order is attached to this Affidavit as **Exhibit "1"** and incorporated herein by reference.
4. The Order holds, among other things, that Rudd holds the entire, undivided, fee simple interest in the real property and improvements commonly known as Parcel Number 19-3-06-2-001-007.003 and as more particularly described as follows (collectively, the "**Property**"):

Commence at the Northeast corner of the NW 1/4 of the NW 1/4 in Section 6, Township 21 South, Range 2 East, Shelby County, Alabama and run South 01 degrees 01 minutes 21 seconds West, along the East line thereof a distance of 31.39 feet to the Northwest R/W line of Alabama Highway No. 25; thence South 31 degrees 05 minutes 44 seconds West, along said R/W a distance of 129.98 feet

to an existing 3/4" steel rod; thence South 31 degrees 37 minutes 12 seconds West, along said R/W a distance of 269.52 feet; thence North 58 degrees 22 minutes 48 seconds West, leaving said R/W a distance of 20.00 feet to the point of beginning; thence continue North 58 degrees 22 minutes 48 seconds West, a distance of 115.00 feet; thence North 31 degrees 37 minutes 12 seconds East, a distance of 90.00 feet; thence South 58 degrees 22 minutes 48 seconds East, a distance of 115.00 feet; thence South 31 degrees 37 minutes 12 seconds West, a distance of 90.00 feet to the point of beginning.

ALSO a 40' wide ingress, egress, and utility easement, lying 20' on each side of the centerline herein described:

Commencing at the NE corner of the NW 1/4 of the NW 1/4 in Section 6, Township 21 South, Range 2 East, Shelby County, Alabama and run South 01 degrees 01 minutes 21 seconds West along the East line thereof a distance of 31.39 feet to the NW right of way of Alabama Highway No. 25; thence South 31 degrees 05 minutes 44 seconds West along said right of way a distance of 129.98 feet to an existing 3/4" inch steel rod; thence South 31 degrees 37 minutes 12 seconds West along said right of way a distance of 289.52 feet to the point of beginning of the centerline herein described; thence from the point of beginning thus established run North 58 degrees 22 minutes 48 seconds West leaving said right of way a distance of 165 feet to a point; thence North 31 degrees 37 minutes 12 seconds East a distance of 20 feet to the point of termination of the centerline herein described.

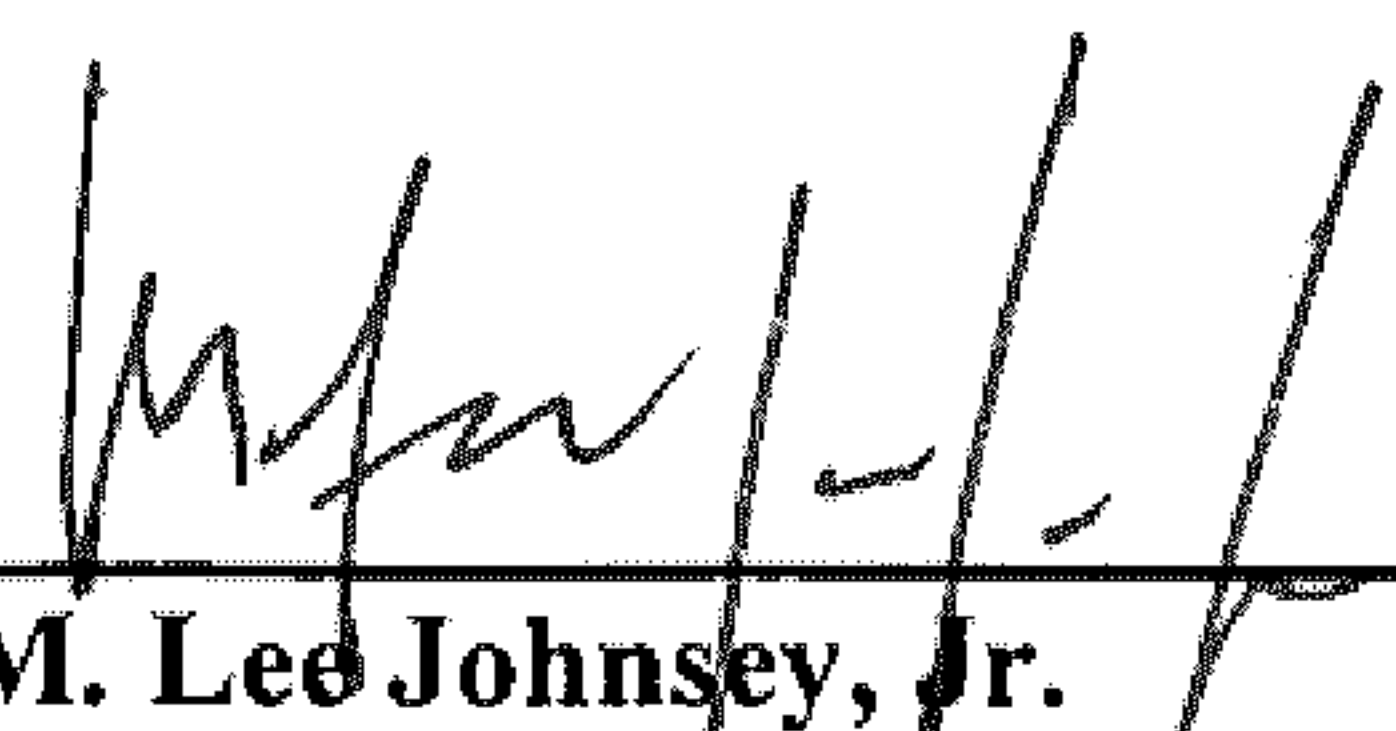
ALSO:

Commence at the NE corner of the NW 1/4 of the NW 1/4 in Section 6, Township 21 South, Range 2 East, Shelby County, Alabama, and run South 01 degrees 01 minutes 21 seconds West along the East line thereof a distance of 31.39 feet to the NW right of way line of Alabama Highway No. 25; thence South 31 degrees 05 minutes 44 seconds West along said right of way a distance of 129.98 feet to the existing 3/4" steel rod; thence South 31 degrees 37 minutes 12 seconds West along said right of way a distance of 269.52 feet to a point; thence North 58 degrees 22 minutes 48 seconds West leaving said right of way a distance of 20 feet to a point; thence continue North 58 degrees 22 minutes 48 seconds West a distance of 115 feet to the point of beginning; from the point of beginning thus established continue the last described course a distance of 20 feet to a point; from said point run thence North 31 degrees 37 minutes 12 seconds East a distance of 90 feet to a point; from said point run thence South 58 degrees 22 minutes

48 seconds East a distance of 20 feet to a point; from said point run thence South 31 degrees 37 minutes 12 seconds West a distance of 90 feet to a point, subject to an easement 20 feet wide and of uniform width across the SE side of said parcel for ingress and egress.

LESS AND EXCEPT that portion shown in Lis Pendens recorded in Inst. #20130222000075930 and Inst. #2012116000439570.

5. This Affidavit and the attached Order are being recorded in the Office of the Judge of Probate of Shelby County, Alabama, for the purpose of giving notice of the terms of the Order.

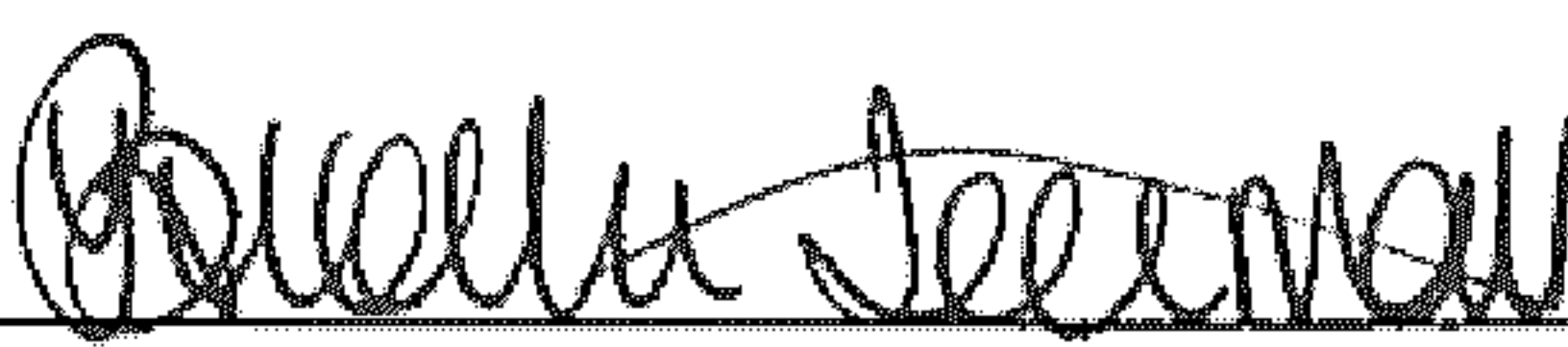
  
\_\_\_\_\_  
M. Lee Johnsey, Jr.

Executed on the 31<sup>st</sup> day of December, 2018.

STATE OF ALABAMA                    )  
  )  
COUNTY OF JEFFERSON            )

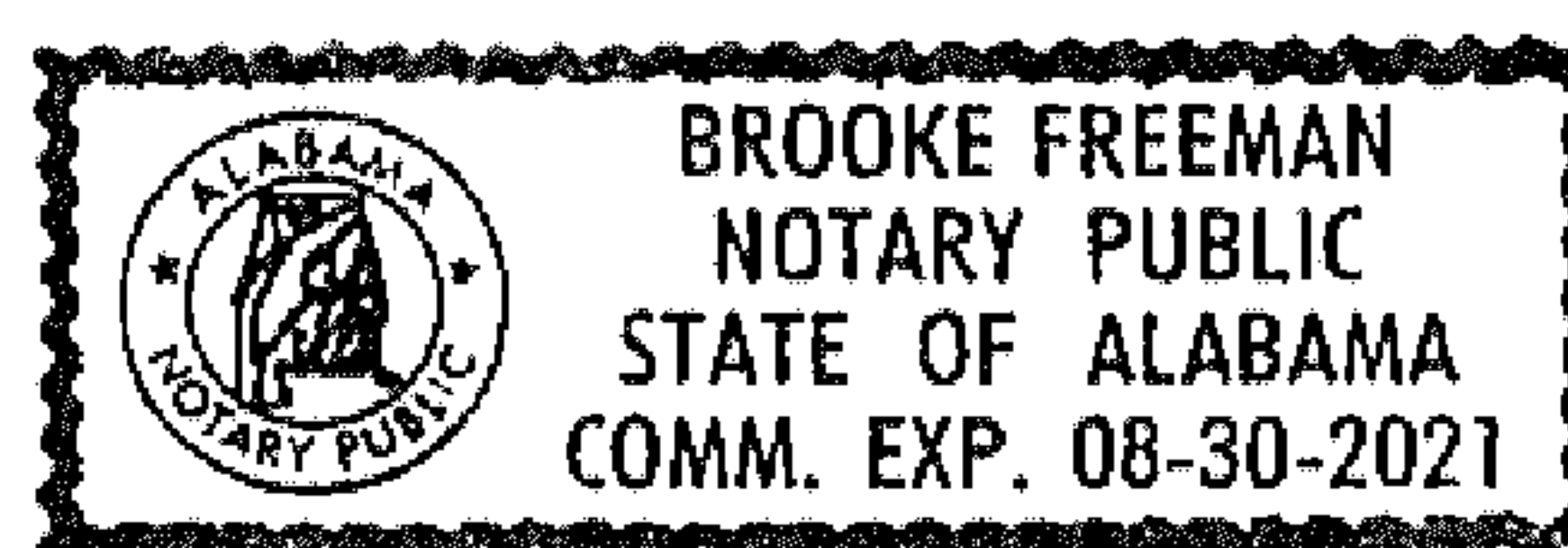
I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **M. Lee Johnsey, Jr.**, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand this 31 day of December, 2018.

  
\_\_\_\_\_  
Notary Public

[SEAL]

My commission expires: \_\_\_\_\_



## **Exhibit “1”**

## **The Order**



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Commence at the Northeast corner of the NW 1/4 of the NW 1/4 in Section 6, Township 21 South, Range 2 East, Shelby County, Alabama and run South 01 degrees 01 minutes 21 seconds West, along the East line thereof a distance of 31.39 feet to the Northwest R/W line of Alabama Highway No. 25; thence South 31 degrees 05 minutes 44 seconds West, along said R/W a distance of 129.98 feet to an existing 3/4" steel rod; thence South 31 degrees 37 minutes 12 seconds West, along said R/W a distance of 269.52 feet; thence North 58 degrees 22 minutes 48 seconds West, leaving said R/W a distance of 20.00 feet to the point of beginning; thence continue North 58 degrees 22 minutes 48 seconds West, a distance of 115.00 feet; thence North 31 degrees 37 minutes 12 seconds East, a distance of 90.00 feet; thence South 58 degrees 22 minutes 48 seconds East,

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a distance of 115.00 feet; thence South 31 degrees 37 minutes 12 seconds West, a distance of 90.00 feet to the point of beginning.

ALSO a 40' wide ingress, egress, and utility easement, lying 20' on each side of the centerline herein described:

Commence at the Northeast corner of the NW 1/4 of the NW 1/4 in Section 6, Township 21 South, Range 2 East, Shelby county, Alabama and run South 01 degrees 01 minutes 21 seconds West along the East line thereof a distance of 31.39 feet to the Northwest R/W line of Alabama Highway No. 25; thence South 31 degrees 05 minutes 44 seconds West, along said R/W a distance of 129.98 feet to an existing 3/4" steel rod; thence South 31 degrees 37 minutes 12 seconds West, along said R/W a distance of 289.52 feet to the point of beginning of the centerline herein described; thence North 58 degrees 22 minutes 48 seconds West, leaving said R/W a distance of 64.00 feet; thence North 31 degrees 37 minutes 12 seconds East, a distance of 20.00 feet to the point of termination of the centerline herein described.

ALSO:

Commence at the NE corner of the NW 1/4 of the NW 1/4 in Section 6, Township 21 South, Range 2 East, Shelby County, Alabama, and run South 01 degrees 01 minutes 21 seconds West along the East line thereof a distance of 31.39 feet to the NW right of way line of Alabama Highway No. 25; thence South 31 degrees 05 minutes 44 seconds West along said right of way a distance of 129.98 feet to the existing 3/4" steel rod; thence South 31 degrees 37 minutes 12 seconds West along said right of way a distance of 269.52 feet to a point; thence North 58 degrees 22 minutes 48 seconds West leaving said right of way a distance of 20 feet to a point; thence continue North 58 degrees 22 minutes 48 seconds West a distance of 115 feet to the point of beginning; from the point of beginning thus established continue the last described course a distance of 20 feet to a point; from said point run thence North 31 degrees 37 minutes 12 seconds East a distance of 90 feet to a point; from said point run thence South 58 degrees 22 minutes 48 seconds East a distance of 20 feet to a point; from said point run thence South 31 degrees 37 minutes 12 seconds West a distance of 90 feet to a point, subject to an easement 20 feet

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wide and of uniform width across the SE side of said parcel for ingress and egress.

LESS AND EXCEPT that portion shown in Lis Pendens recorded in Inst. #20130222000075930 and Inst. #2012116000439570.

2. On or about May 24, 2004 and December 29, 2004, Robert W. McKinnon ("McKinnon") obtained title to the Property, pursuant to (i) that certain deed recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument Number 20040524000273120 and (ii) that certain Warranty Deed recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument Number 20041229000705380.

3. McKinnon subsequently obtained an access and utilities easement for the benefit of the Property (the "Easement") pursuant to that certain Warranty Deed recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument Number 20051208000635750 (the "Easement Deed"). The Easement is more particularly described as follows:

**A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS  
AND UTILITIES OVER AND ACROSS THE FOLLOWING  
DESCRIBED PROPERTY:**

A 40 foot wide ingress, egress and utility easement lying 20 feet on each side of the centerline herein described:

Commencing at the NE corner of the NW 1/4 of the NW 1/4 in Section 6, Township 21 South, Range 2 East, Shelby County, Alabama and run South 01 degrees 01 minutes 21 seconds West along the East line thereof a distance of 31.39 feet to the NW right of way of Alabama Highway No. 25; thence South 31 degrees 05 minutes 44 seconds West along said right of way a distance of 129.98 feet to an existing 3/4" inch steel rod; thence South 31 degrees 37 minutes 12 seconds West along said right of way a distance of 289.52 feet to the point of beginning of the centerline herein described; thence from the point of beginning thus



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established run North 58 degrees 22 minutes 48 seconds West leaving said right of way a distance of 165 feet to a point; thence North 31 degrees 37 minutes 12 seconds East a distance of 20 feet to the point of termination of the centerline herein described.

4. On or about April 2, 2012, the Shelby County Tax Collector sold the Property for delinquent taxes (the "Tax Sale"), which was purchased by Joseph Shepherd ("Shepherd").

5. On or about April 16, 2015, the Shelby County Judge of Probate issued Shepherd a tax deed to the Property, which is recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument No. 20150421000129160 (the "Tax Deed").

6. On or about November 13, 2017, Shepherd conveyed all of his interest in the Property and the Tax Deed to Rudd, pursuant to that Quitclaim Deed recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument No. 20180124000022450 (the "Quitclaim Deed").

7. Rudd filed this lawsuit to quiet title to the Property in Rudd's name, to eject any Defendants that may be in possession of the Property, and to establish that Rudd is entitled to all rights in the Easement previously held McKinnon.

8. McKinnon, James. W. Blackmon, Carol Ann Blackmon Chapin, James Walter Blackmon, Jr. and Jonathan Davis have consented to the relief sought by Rudd.

9. Jose R. Rivera, Steve W. Statkewicz and E.L. McCarty, III have failed to answer the Complaint or otherwise appear in this action, and are therefore in default.

NOW, THEREFORE, based on the foregoing findings of fact and conclusions of



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law, it is hereby **ORDERED, ADJUDGED**, and **DECREED** that:

10. The Motion is GRANTED.
11. The Court hereby declares that (i) Rudd holds the entire, undivided, fee simple interest in the Property, and (ii) Rudd has succeeded to all of McKinnon's rights in the Easement and is entitled to exercise such easement rights to the full extent set forth in the Easement Deed. For the avoidance of doubt, nothing in this Order shall divest or otherwise diminish (a) any non-exclusive rights that Jose R. Rivera, Steve W. Statkewicz, and/or E.L. McCarty, III may have in the Easement or (b) any right or title of James. W. Blackmon, Carol Ann Blackmon Chapin, James Walter Blackmon, Jr. and Jonathan Davis in and to the property burdened by the Easement.
12. The Clerk is directed to record this judgment in the records of the Office of the Judge of Probate of Shelby County, Alabama.

DONE this 15<sup>th</sup> day of November, 2018.

Certified a true and correct copy  
 /s/ LARA M ALVIS Date: 11/30/18  
 CIRCUIT JUDGE Mary H. Harris  
 Mary H. Harris, Circuit Clerk  
 Shelby County, Alabama



Filed and Recorded  
 Official Public Records  
 Judge of Probate, Shelby County Alabama, County  
 Clerk  
 Shelby County, AL  
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*Allie S. Bayl*