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by: Susan Rector  
Register of Deeds

*NOTE: THIS DOCUMENT CONTAINS TRANSFER FEE AND NOTICE PROVISIONS  
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DESCRIBED HEREUNDER. SEE PARAGRAPHS 9 AND 21 BELOW.*

## **DEED OF CONSERVATION EASEMENT**

### **Big Laurel Property**

Prepared by and return to: Carl Silverstein, Southern Appalachian Highlands Conservancy, 34 Wall St., Ste. 502, Asheville, NC 28801

THIS CONSERVATION EASEMENT is made this 29th day of December, 2008 by and between Charles E. Ball and Troylyn W. Ball, husband and wife; K.W. Michael Chambers and Rosemary de Juan Chambers, husband and wife; Eugene de Juan Jr. and Elizabeth R. de Juan, husband and wife, Elizabeth Anna de Juan 2000 Irrevocable Trust, Elizabeth R. de Juan Trustee; Eugene de Juan, III 2000 Irrevocable Trust, Elizabeth R. de Juan Trustee; Emily Rose de Juan 2000 Irrevocable Trust, Elizabeth R. de Juan Trustee; Elena Vaughan de Juan 2000 Irrevocable Trust, Elizabeth R. de Juan Trustee; with addresses as shown on Exhibit A attached hereto ("Grantors"); and the **SOUTHERN APPALACHIAN HIGHLANDS CONSERVANCY** ("Grantee"), a Tennessee non-profit corporation, with an address of 34 Wall Street, Suite 502, Asheville, NC 28801.

The designation "Grantors" and "Grantee," wherever used herein, and any pronouns or similar words used in place thereof, shall include, respectively, the above-named Grantors and their personal representatives, agents, heirs, successors, and assigns, and the above-named Grantee and its successors and assigns; and shall also include singular, plural, masculine, feminine, or neuter, as required by context.

### **RECITALS**

- A. Grantors are the sole owners in fee simple of that certain real property consisting of 400 acres more or less, located in No.1 Township, Madison County, North Carolina, 28753, being a portion of Madison County PIN number 9812-40-3795 more specifically described in attached Exhibit B, (hereinafter the "Property").
- B. Grantee is a nonprofit corporation whose purposes include the conservation and protection of significant natural areas, wildlife habitat, scenic resources, and open lands, for aesthetic, scientific, charitable, and educational purposes.

- C. Grantee has represented to Grantors that it is a tax exempt public charity under Sections 501(c)(3) and 509(a)(2) of the Internal Revenue Code, is authorized by the laws of the State of North Carolina to accept, hold, and administer conservation easements, possesses the authority to accept and is willing to accept this Conservation Easement under the terms and conditions hereinafter described, has the resources to enforce the Conservation Easement, and is a "qualified organization" and an "eligible donee" within the meaning of Section 170(h)(3) of the Internal Revenue Code and regulations promulgated thereunder.
- D. Grantors and Grantee recognize that the Property in its present state possesses natural, scenic, open space, recreational, historic, and educational values (collectively, the "Conservation Values") of great importance to Grantors, Grantee, and the general public that have not been subject to significant development. In furtherance of Section 170(h) of the Internal Revenue Code of 1986, as amended ("Code"), the Conservation Purposes of this Conservation Easement are defined in Section 11 of this Conservation Easement. The Conservation Values of the Property include:
1. Open Space (defined herein as undeveloped land), which offers relief from sprawl-type development pressure, and which is enhanced through this Conservation Easement because of its proximity to other protected lands, including the Pisgah National Forest, Sugarloaf Significant Natural Heritage Area (SNHA), Big Flat/Rice Gap SNHA, Sam's Gap/High Rock SNHA, and the Gott Family Farm Conservation Easement held by the Grantee;
  2. Scenic views into the Property from Spillcorn Road and other public roads, and from the Appalachian National Scenic Trail located approximately 2.5 miles east of the Property;
  3. A variety of scenic forest types, predominantly Southern & Central Appalachian Oak Forest, containing mixed hardwoods in different stages of succession, as well as Montane Oak Forest found at higher elevations within the Property, and Southern & Central Appalachian Cove Forest along riparian areas, and some Hemlock forests;
  4. Diverse plant habitats, including understory plant communities of rhododendron, mountain laurel, and annual and perennial herbs;
  5. Seeps, springs, streams and ponds, including Spillcorn Creek and eight of its unnamed tributaries, and three unnamed tributaries of Cutshall Branch (itself a tributary of Shelton Laurel Creek);
  6. Wildlife habitat for large mammal species such as black bear and deer; smaller mammal species such as squirrels and rabbits; large birds such as wild turkey, ruffed grouse, and birds of prey; woodpeckers and small birds, including migratory species; and a variety of species of amphibians and reptiles; and aquatic life.

- E. The protection of the natural and open space characteristics of the Property will yield significant public benefits and is pursuant to a clearly delineated governmental conservation policy, as evidenced by:
1. The goals of the North Carolina Division of Water Quality in its French Broad River Basinwide Water Quality Plan, which include encouraging preservation of open spaces in the basin in order to protect water quality, and retaining vegetated stream buffers on headwaters;
  2. The policies and purposes of the North Carolina Clean Water Management Trust Fund, N.C.G.S. Section 113-145.1 et seq., which recognizes the importance of preserving riparian buffers in protecting and conserving clean surface water;
  3. The policies and purposes of the North Carolina Historic Preservation and Conservation Agreements Act, N.C.G.S. Section 121-34 et seq., which provides for the enforceability of restrictions, easements, covenants or conditions "appropriate to retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, horticultural, farming or forest use," and which provides for tax assessment of lands subject to such agreements "on the basis of the true value of the land and improvements less any reduction in value caused by the agreement";
  4. The policies and purposes of the special North Carolina Conservation Tax Credit Program which encourages contributions of land that provides habitat for fish and wildlife and other similar land conservation purposes as set forth in N.C.G.S. Section 105-130.34 and Section 105-151.12;
  5. The purposes of the North Carolina Wildlife Action Plan, completed by the North Carolina Wildlife Resources Commission in 2005, which goals include conserving and enhancing habitats and communities supporting North Carolina's species diversity, and supporting educational efforts to improve understanding of wildlife resources among the general public and conservation stakeholders;
  6. The "Million Acres Initiative," enacted in June 2000, in N.C.G.S. 113A-240, which provides that the state shall encourage, facilitate, plan, coordinate, and support appropriate federal, state, local, and private land protection efforts so that an additional one million acres of farmland, open space, and conservation lands are permanently protected by December 31, 2009;
  7. The One North Carolina Naturally initiative of the NC Department of Natural Resources, Office of Conservation & Community Affairs, the mission of which includes maintaining functional ecosystems, biological diversity, and working landscapes through the stewardship of land and water resources.
- F. The Property would be extremely desirable land for substantial residential development because of its size, location and topographical orientation. In the absence of this

Conservation Easement, the Property could be developed in a manner that would destroy its Conservation Values.

- G. The biological, wildlife, scenic, natural, rural, open space, and other Conservation Values of the Property, and its current use and state of improvements, are described in the Baseline Documentation Report, titled "Big Laurel Property Conservation Easement Baseline Documentation Report" dated December, 2008 (the "Baseline Report"), prepared by Grantee, and acknowledged by Grantors and Grantee to be complete and accurate as of the date hereof. Both Grantors and Grantee have copies of this Report. It will be used by the parties to assure that any future changes in the use of the Property will be consistent with the terms of this Conservation Easement. However, this Report is not intended to preclude the use of other evidence to establish the past or present condition of the Property if there is a controversy over its use.
- H. Grantors and Grantee have the common purposes of preserving the Conservation Values described generally in Paragraph D above, and more specifically in the Baseline Report, by placing voluntary restrictions upon the use of the Property and by providing for the transfer from Grantors to Grantee of affirmative rights for the protection of the Property.
- I. Grantors own the entire fee simple interest in the Property, including the entire mineral estate.
- J. The North Carolina Historic Preservation and Conservation Agreements Act, N.C.G.S. Section 121-34 et seq., provides for the enforceability of restrictions, easements, covenants or conditions appropriate to retaining land or water areas predominantly in their natural, scenic, or open condition or in agricultural, horticultural, farming, or forest use.
- K. The parties have identified four (4) Buildable Areas within the Property, which are designated on the attached Exhibit C, Map of the Property with Buildable Areas, in which the Grantors retain the right to construct and maintain residences and associated structures, as set forth below in Paragraph 3.13.

NOW, THEREFORE, in consideration of the premises and the mutual benefits recited herein, together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, Grantors unconditionally and irrevocably grant and convey to Grantee, its successors, and assigns, forever and in perpetuity, a Conservation Easement over the Property, together with the right to preserve and protect the Conservation Values of the Property, subject to the terms and conditions set forth herein.

To achieve these Conservation Purposes, the following conditions and restrictions are set forth:

**1. DURATION OF EASEMENT.** This Conservation Easement shall be perpetual. It is an easement in gross, runs with the land, and is enforceable by Grantee against Grantors, and their representatives, agents, successors, lessees, licensees, and assigns.

**2. PURPOSE.** The purposes of this Conservation Easement are, in order of priority, to permanently preserve and protect the Conservation Values of the Property through (1) maintaining the Open Space values of the Property, including the dominant woodland and natural character of the Property, water resources, native plant populations, animal populations, and natural communities; (2) protecting the quality of water resources originating on or flowing through the Property; (3) maintaining permanently the scenic values of the Property; and (4) preventing any other use of the Property that will significantly impair or interfere with the Conservation Values of the Property (the "Purposes").

To the extent a Conservation Value is in actual conflict with another Conservation Value, such as conducting an agricultural activity that harms woodlands, Grantor and Grantee agree to, cooperatively and utilizing good scientific and technical information, establish guidelines to avoid, reduce, or mitigate such conflict, such as establishing a season of use or further limits on grazing; if no guidelines can be developed, resolution of such conflicts shall be based on protecting the open space, woodlands, rivers and creeks, and other wildlife habitat over protecting the Property for agricultural purposes.

**3. PROPERTY USES.** Any activity on or use of the Property inconsistent with the Purpose of this Conservation Easement is prohibited. The Property shall be maintained in its natural, scenic, and open condition and restricted from any development or resource extraction that would significantly impair or interfere with the Conservation Values of the Property. The Parties acknowledge that this Deed of Conservation Easement permanently extinguishes certain development rights as hereinafter set forth.

All rights reserved by Grantors are considered to be consistent with the Purpose of this Conservation Easement and, except as specifically stated otherwise herein, require no prior notification to or approval by Grantee. Notwithstanding the foregoing, Grantors and Grantee have no right to agree to any activity that would result in the termination of this Conservation Easement or would cause it to fail to qualify as a "qualified conservation contribution" as described in section 170(h) of the Internal Revenue Code, or any regulations promulgated thereunder.

Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, restricted, or reserved, as the case may be.

**3.1 Disturbance of Natural Features.** Any significant change, disturbance, alteration or impairment of the natural and scenic features of the Property is prohibited. The use of chemical herbicides, pesticides, rodenticides, fungicides, fertilizers, and other toxic agents is prohibited, except as used in accordance with an ecologically sound management plan (including the Forest Management Plan described herein). In all events, such use on the Property is subject to any relevant laws and regulations, and must be limited to prevent any material adverse impact on the Conservation Values.

**3.2 Industrial and Commercial Use.** "Commercial" means any use or activity engaged in with the intent to obtain money and/or any other item of economic value in exchange for any product or service produced by such use or activity, or that results

in the receipt of money and/or any other item of economic value from the exchange of any product or service produced by such use or activity, notwithstanding the absence of any profit from such use or activity. Industrial or commercial use of the Property is prohibited, except that the uses and activities listed in subparagraphs 3.2.1 and 3.2.2 are allowed; provided, however, that any permitted commercial or industrial activities must be conducted in a manner protective of the Conservation Values of this Conservation Easement. No right of passage across or upon the Property shall be allowed or granted if that right of passage is in conjunction with industrial or commercial activity, unless that activity is specifically permitted herein. No utility towers, cellular or digital telephone towers, microwave relay stations, satellite towers, commercial wind turbines, or related or similar structures of a commercial nature shall be constructed on the Property. Permitted commercial uses and activities are:

3.2.1 Forest management, agricultural and horticultural activities permitted under Paragraphs 3.3 and 3.8.6;

3.2.2 The commercial leasing and licensing of hunting, fishing, hiking, nature study, historic tours, horseback riding and similar ecologically sound, passive, "eco-tourist" type commercial recreational activities and uses of the Property. More than a *de minimus* use for a commercial recreational activity, as such terms are defined by Section 2031(c)(8)(B) of the Code, is prohibited.

**3.3 Agricultural and Horticultural Use.** Agricultural and horticultural uses of the Property, including grazing and pasturage, are not permitted, unless these uses are conducted in a manner protective of the Conservation Values of this Conservation Easement, and provided further that:

3.3.1 No industrial or factory-type agricultural or livestock operation is allowed, including but not limited to intensive livestock operations or animal husbandry characterized by the continuous confinement of livestock in tightly confined environments for the purpose of raising, feeding, and fattening for market, nor any slaughtering facility structures;

3.3.2 Any agricultural or horticultural use shall be in accordance with Best Management Practices of the State of North Carolina and applicable federal, state, and local laws;

3.3.3 Horticultural use for the purpose of growing plants commonly recognized as non-native invasive species is not permitted on the Property;

3.3.4 No ditching or draining of wetlands or watercourses is allowed for the purpose of converting non-agricultural property to row-crops;

3.3.5 Subject to the provisions of this Paragraph 3.3, Grantors reserve the right to cultivate the surface of the Property in order to conduct permitted agriculture and horticulture and the right to graze animals in sufficiently limited numbers

to prevent overgrazing and the risk of erosion and such activities may be undertaken only within existing and permitted open areas permitted under Paragraph 3.8.4 of this Conservation Easement.

- 3.3.6 In the event that the Grantee determines that overgrazing is occurring, or that the contamination of surface water on the Property by livestock becomes a management issue, or the Conservation Values of the Property are not being protected, then the Grantors and the Grantee shall promptly update and implement a Conservation Plan prepared in consultation with Natural Resources Conservation Service (NRCS) and approved by the Madison County Soil and Water District. NRCS shall work with the Grantors and Grantees to explore methods of compliance and give the Grantors a reasonable amount of time, not to exceed 12 months, to take corrective action;
- 3.3.7 Existing fences may be repaired and replaced, and new fences may be built on the Property for purposes of reasonable and customary management of livestock and wildlife or to fence the perimeter of the Property.
- 3.4 **Wildlife.** Hunting and fishing on the Property are allowed, at the discretion of Grantors, provided that all such activity is conducted in accordance with local, state and federal regulations and provided that there shall be no material impairment of any Conservation Value of the Property. Except as specifically provided herein, there shall be no systematic disturbance of animal populations and/or their habitat.
- 3.5 **Signage.** Display of billboards, signs or advertisements is prohibited on or over the Property, except signs relating to the Property's management or marketing, the existence and nature of the Conservation Easement, ownership of the Property, or the Property's recreational or other Conservation Values.
- 3.6 **Changes to Topography.** There shall be no filling, excavating, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, minerals or other materials; nor any dumping or changing of the topography of the land in any manner, except as reasonably necessary to construct and maintain the improvements allowed under this Conservation Easement, including the construction of the roads and driveways to the Buildable Areas as provided herein, and for the purpose of combating erosion or flooding.
- 3.7 **Dumping.** Dumping of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, or machinery, or other similar materials on the Property is prohibited, except where soil, ashes, or other materials are used for gardening, farming, or landscaping, and except as otherwise provided in this Conservation Easement. Composting of biodegradable material is permitted, and such materials may be deposited and spread on the Property as fertilizer. Disposal of storm debris, dead leaves, vegetative matter from agricultural, horticultural, landscaping, and gardening activities, and other biodegradable matter by depositing or burning these materials in appropriate places is allowed, if it does not impair the Conservation Values of the

Property. Any permitted use shall be carried out in a manner consistent with any applicable federal, state, and local laws and regulations.

### 3.8 Vegetation Management.

- 3.8.1 **Generally.** As of the date of this deed, the Property is in a substantially natural, predominantly forested condition, with approximately twelve (12) acres allocated to the Grantors' residences, associated structures and yard. Vegetation may not be cut, disturbed, altered, or removed from the Property, except that Grantors reserve the rights listed in this Paragraph 3.8. In addition to the rights listed below in the subparagraphs, Grantors reserve the right to cut firewood for Grantor and Grantor's family's personal use on the Property; to mow lawns, garden and landscape; and to combat disease and infestation in a manner that meets the Purposes of this Conservation Easement to the maximum extent possible, and in accordance with any current, relevant guidelines provided by the U.S. Department of Agriculture or the North Carolina Division of Forest Resources.
- 3.8.2 **As Necessary for Other Reserved Rights.** Grantors reserve the right to clear, selectively cut, prune, and manage vegetation and forest cover to the extent necessary to exercise the reserved rights of Grantors at paragraphs 3.1, 3.2, 3.3, 3.6, 3.8, 3.9, 3.10, 3.13, and 3.14, with prior written consent of the Grantee, and provided that in every case all disturbed areas must be restored as soon as possible to a state protective of the Conservation Values to be protected by this Conservation Easement.
- 3.8.3 **Non-native Invasive Species.** Grantors specifically reserve the right to control plants commonly recognized as non-native, invasive plants in accordance with ecologically sound prescriptions, if all such use is done in a manner consistent with (a) any applicable federal, state, and local laws and regulations, and (b) maximizing protection of the Conservation Values described herein.
- 3.8.4 **Existing Fields and Open Areas.** Grantors reserve the right to maintain existing and historically open areas, as shown on Exhibit C, in an open and un-forested condition, by mowing, bush hogging, grazing, and removal of woody regeneration, and the right to use such open areas for agricultural purposes, including growth and harvest of gardens, cover crops, forage, hay, orchards, horticulture, floriculture, Christmas trees, and bush crops, and including the right to use controlled burning as a cultivation or ecological restoration method, provided that no land within fifteen (15) feet (slope measurement) of the upper bank or upland edge of any creek or any streams, springs, or other wetlands may be plowed or planted with new crops.
- 3.8.5 **Commercial Forestry Operations.** Commercial forestry, as defined herein at paragraph 3.8.6 below, is prohibited.

3.8.6 **"Forest Management" Defined.** As used in this Conservation Easement, "forest management" or "forestry" is defined as forest management activities, including (unless restricted herein) the gathering of forest products; the growing and stocking of Christmas trees or forest trees of any size capable of producing forest products; commercial and pre-commercial treatments related to the production of forest products, including thinning activities and the lawful use of biocides; the processing and sale of products produced on the Property with equipment designed for in-woods processing; the cutting and sale of timber, firewood, non-timber forest products including understory plants and other forest products; road and bridge construction; and generally accepted forest management activities to support the growing, gathering, and harvesting of forest products. "Commercial forestry" is defined as any of the foregoing activities that result or are intended to result in the sale, trade, or other transfer of ownership of forest products from the Property.

3.9 **Roads and Vehicles.** New roads, all-terrain vehicle trails, and other trails and footpaths are prohibited, except that Grantors specifically reserve the right to do the following:

3.9.1 Maintain, re-grade, relocate, improve, pave and widen existing roads to provide vehicular access, consistent with the Purpose of this Conservation Easement described in Paragraph 2, through the Property to all areas on or adjacent to the Property that are currently accessible by vehicles on the paved, gravel, dirt, grass, and logging road beds existing at the time of this grant. Grantors will use best effort to construct new roads or improvements to the existing roads so that they parallel or follow the natural contour of the landscape as much as possible, or follow the existing road bed locations, and such roads will be maintained to minimize visibility from the Appalachian Trail.

3.9.2 If approved in advance and in writing by Grantee (which shall be granted at Grantee's sole discretion based on the Purposes of this Conservation Easement in protecting the Conservation Values of the Property), establish and maintain additional woods roads with associated erosion control devices, and all-terrain vehicle trails to exercise permitted uses of the Property, if conducted in accordance with Best Management Practices and *Forest Practices Guidelines Related to Water Quality* for such activities, and subject to the minimization of impact provision of Paragraph 3.15; and

3.9.3 Establish and maintain unpaved footpaths and horse trails, provided that they are located and designed in a manner to prevent soil erosion and prevent damage to fragile plant communities and wildlife habitat.

3.10 **Water Quality and Drainage Patterns.** Other than the continued maintenance of the existing ditches, dams, and ponds on the Property or those permitted under the terms

of this Conservation Easement, there shall be no other alteration of natural drainage patterns. Diking, draining, filling or removal of wetlands and pollution or discharge into waters, springs, seeps or wetlands is prohibited, as is the creation of ponds by human activity, except pursuant to an ecologically sound management plan for the purpose of habitat improvement. Provisions in this Conservation Easement protecting specific riparian zone widths shall not be interpreted as including riparian zones around intermittent streams. Grantors reserve the right to use water from streams and springs on the Property for personal use, for the limited agricultural and horticultural activities permitted in paragraph 3.3 herein.

- 3.11 **Subdivision.** The Property shall remain in unified ownership, which may be joint or undivided, but without division, partition, subdivision, or other legal or *de facto* creation of lots or parcels in separate ownership except that Grantors reserve the right to subdivide the Property into four (4) parcels, as depicted on the map attached hereto as Exhibit D, all subject to the terms of this Conservation Easement. Notwithstanding the foregoing, any portion of the Property may be conveyed to an entity that meets the qualifications set forth in Paragraph 14, for permanent conservation ownership by such a qualified entity, subject to the prior written consent of Grantee and continuation of the terms of this Conservation Easement; and Grantors may enter into boundary line agreements to resolve bona fide boundary disputes with the prior written consent of Grantee, which shall not be unreasonably withheld, provided that the total acreage of land protected under this Conservation Easement shall not materially be reduced thereby.

3.11.1 **Notice of Subdivision.** Grantors may subdivide the property, in accordance with the provisions of this Paragraph 3.11 and as depicted on Exhibit D, with 15 days written notice provided to Grantee prior to recording a subdivision plat with Madison County. Provided Grantor subdivides the Property into four (4) or fewer parcels, Grantor shall not require approval from Grantee to subdivide. Grantor shall also have the right to recombine any or all of the subdivided parcels into larger parcels with 15 days written notice provided to Grantee prior to recording of a recombination plat with Madison County.

3.11.2 **Subdivided Parcels.** The individual size of Parcels 1-4 as depicted on Exhibit D is approximately One Hundred (100) Acres. Grantee acknowledges that a final subdivision survey may vary slightly from the area depicted on Exhibit D.

3.11.3 **Buildable Areas in Subdivided Parcels.** Grantor shall provide that each of the four (4) Subdivided Parcels encompass one of the four (4) Buildable Areas as shown in Exhibit D, Subdivision Map, and further described in Paragraph 3.13 and subparagraphs 3.13.1 and 3.13.2 herein. Grantor shall have the right to aggregate the Buildable Areas into combined Subdivision Parcels, with Grantors approval, such approval not to be unreasonably withheld, as outlined in the example below:

**Subdivision into Two (2) - Two Hundred (200) acre Parcels:** Each 200 acre Parcel would contain a Buildable Area of not more than six (6) acres as shown on Exhibit E, Example Aggregate Subdivision Map

- 3.12 **Quiet Enjoyment.** Grantors reserve to themselves, their agents, personal representatives, heirs, successors and assigns, all rights accruing from their ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited or restricted herein and are not inconsistent with purposes of this Conservation Easement. Without limiting the generality of the foregoing, Grantors expressly reserve the right of access to the Property and the right of quiet enjoyment of the Property, subject to the terms of this Conservation Easement.
- 3.13 **Residential Use, Improvements, and New Construction.** Four (4) areas within the Property are designated as Buildable Areas on the attached Exhibits C, D and E. As of the effective date of this Conservation Easement, there is one existing barn on the Property consisting of 600 square feet of unheated space. No additional structures of any kind, temporary or permanent, may be constructed, located, placed, or installed on the Property; except, however the Grantors reserve the following rights.
- 3.13.1 **Buildable Areas.** The Grantors reserve the right to construct four (4) residential sites, with each site defined as a Buildable Area of not more than three (3) acres. Each Buildable Area may include a main house and additional support buildings (such as a guest house, office, greenhouse, barn, shed or stable to house horses, materials and equipment necessary for the utilization of, or associated with, the above-described structures), the sum of which shall not exceed 7,500 square feet ground area; and fences, storage tanks for water (including rainwater collection), propane, driveways, roads, trails, parking areas to accommodate private residential use, water wells and septic system and other improvements reasonably necessary to serve and/or for the utilization and enjoyment of the above (collectively, a "**Buildable Area**"). The overall height of any structure shall not exceed thirty (30) feet and is further limited to a maximum of two (2) stories. The main house in each of the four Buildable Areas shall not exceed 3,200 square feet in enclosed area (defined as heated space). Porches, garages or carports shall not be included in the 3,200 square foot limit for the main houses, but will be included in the overall 7,500 square foot limit for each Buildable Area. The new construction must be sited within the three (3)-acre areas as depicted on the maps attached hereto as **Exhibits C, D and E** and as approved by Grantee, which approval shall not be unreasonably withheld. All such additional buildings must be constructed with predominantly dark or natural color exterior sheathing and non-reflective roofing that blends with the natural surrounds. Grantor will make best efforts to site the additional buildings to minimize visibility from the Appalachian Trail and to use indigenous vegetation to screen structures from the Appalachian Trail viewshed.
- 3.13.2 **Minor Structures.** Grantors reserve the right to install additional boundary markers and minor, small-scale structures to enhance the opportunity for

traditional "non-intensive outdoor recreation", and as necessary for the management of such recreation not detrimental to the conservation values of the Property, including but not limited to trail markers, small unlighted interpretive signs, boundary signs, trail improvements such as steps, bog bridges, water bars, footbridges, platforms, railings, springs for freshwater supply; primitive camp sites, fire rings, pit toilets, picnic tables, temporary tents for camping, tent platforms, registration boxes; wildlife observation stations; study markers and grids; gates, and barriers, or low fences to control unauthorized use, prevent access by motor vehicles, or protect fragile areas, however, such construction shall occur in a manner that does not impair or interfere with the Conservation Values, and in accordance with all zoning, governmental and permitting standards. All such minor structures must be set back at least ten (10) feet from the upper bank or upland edge of any creek or any streams, springs, or other wetlands.

**3.13.3 Notice to Grantee.** Prior to commencement of site preparation, construction, substantial alteration, replacement, relocation, of any structure described in this Paragraph 3.13 (or subparagraphs), Grantors must notify Grantee in writing in accordance with the provisions of Paragraph 21, including at a minimum sufficient information to enable Grantee to determine whether the proposed plans are consistent with the terms of this Conservation Easement.

**3.14 Storage Tanks and Utility Systems.** The installation of underground storage tanks or the installation of new utility systems or extensions of existing utility systems, including but not limited to water, sewer, power, fuel, and communication lines and related facilities, is prohibited, except as specifically described in Paragraphs 3.13 or 3.14 (or subparagraphs), or otherwise with Grantee's prior written approval, which shall be given only if Grantee determines in its sole discretion that the Purpose of protecting the Conservation Values described in this Conservation Easement will not be adversely impacted.

**3.14.1 Utilities for Buildable Areas.** Grantors reserve the right to maintain, replace, install and extend underground or above-ground utilities to the Buildable Areas as specifically described in Paragraph 3.13 (or subparagraphs), which include water, septic, power, telephone/communications, and buried propane tanks. If possible, septic drainfields will be constructed within the Buildable Area. If a practicing soil scientist or civil engineer duly licensed and in good standing in North Carolina determines that it is not feasible to locate septic drainfields within the Buildable Areas, then the septic drainfields may be constructed outside of the Buildable Areas.

**3.14.2 Water Supply Wells.** The Grantors reserve the right to construct drinking water wells on the Property, and to install water pipes to transport water from these wells to residential structures in Buildable Areas. If possible, the wells will be constructed within the Buildable Area. If a professional geologist, civil engineer or well driller duly licensed and in good standing in North Carolina determines

that locating wells outside of the Buildable Areas is necessary in order to provide water to the allowed residences, then the wells may be constructed outside of the Buildable Areas. Water supply wells may be shared among Building Areas, provided that such sharing does not significantly negatively impact the Purpose of this Conservation Easement.

- 3.15 **Minimization of Impact.** The limited reserved rights allowed under Paragraph 3 and its subparagraphs shall occur in a manner that minimizes impairment of and interference with the Conservation Values, and in accordance with all zoning, governmental and permitting standards. In performing any land-disturbing or timber-cutting and removal activities permitted under this Conservation Easement, particular emphasis will be placed on protecting: (1) water quality in any creek or tributary streams, seeps, springs, and other wetlands on or adjacent to the Property; (2) steep slopes and ridge tops; (3) areas containing rare natural communities, plants, or animals and (4) scenic and view shed qualities of the property.

#### **4. ENFORCEMENT AND REMEDIES.**

- 4.1 **Notification and Enforcement.** Upon any breach of the terms of this Conservation Easement by either party (the "Breaching Party") that comes to the attention of the other party (the "Non-Breaching Party"), the Non-Breaching Party shall notify the Breaching Party in writing of such breach and whether it considers such breach to be material. The Breaching Party shall have thirty (30) days after receipt of such notice to undertake actions that are reasonably calculated to correct promptly the conditions constituting such breach. If a breach alleged to be a material breach by the Grantee remains uncured after thirty (30) days, the Non-Breaching Party may (1) institute legal action to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction, either prohibitive or mandatory; and/or (2) require that the Property be restored promptly to the condition required by this Conservation Easement.
- 4.2 **Remedies.** The Non-Breaching Party's remedies shall be cumulative and shall be in addition to any other rights and remedies available to the Non-Breaching Party at law or equity. If the Non-Breaching Party, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, the Non-Breaching Party may pursue its remedies without prior notice to the Breaching Party, but shall exercise reasonable efforts to notify the Breaching Party.
- 4.3 **Costs.** Any costs incurred by the Non-Breaching Party in enforcing the terms of this Conservation Easement against the Breaching Party, including, without limitation, reasonable costs and attorney's fees, and any reasonable and necessary costs of restoration necessitated by the Breaching Party's acts or omissions in violation of the terms of this Conservation Easement, shall be borne by the Breaching Party.

- 4.4 **Failure or Delay in Enforcement.** No failure on the part of Grantee to enforce any covenant or provision hereof shall discharge or invalidate such covenant or any other covenant, condition, or provision hereof, or affect the right of either party to enforce the same in the event of subsequent breach or default.
- 4.5 **Acts of God.** Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantors for any injury or change in the Property resulting from causes beyond the Grantors' control, including, but not limited to, fire, flood, storm, and earth movement; the sole actions of third parties; or from any prudent action taken in good faith by the Grantors under emergency conditions to prevent, abate, or mitigate significant injury to life, damage to property, or harm to the Property resulting from such acts or causes.
5. **PUBLIC ACCESS.** Grantors may from time to time grant physical access to groups, organizations, and individuals studying the Conservation Values of the Property or enjoying its recreational values, or for other purposes not prohibited by this Conservation Easement. Nothing herein shall require Grantors to allow physical access to the general public.
6. **EXHIBITS.**
  - 6.1 **Addresses of Grantors.** Exhibit A, Addresses of the Grantors, is attached hereto and made a part hereof by reference.
  - 6.2 **Legal Description of the Property.** Exhibit B, Legal Description of the Property, is attached hereto and made a part hereof by reference. In case of any conflicting information among the exhibits to this Conservation Easement, Exhibit "B" shall control as to identification of the boundaries of the Property.
  - 6.3 **Maps of the Property.**
    - 6.3.1 Exhibit C, Map of Property with Buildable Areas, is attached hereto and made a part hereof by reference.
    - 6.3.2 Exhibit D, Subdivision Map, is attached hereto and made a part hereof by reference.
    - 6.3.3 Exhibit E, Example Aggregate Subdivision Map, is attached hereto and made a part hereof by reference.
7. **BASELINE DOCUMENTATION REPORT.** The parties acknowledge that the Conservation Easement Baseline Documentation Report acknowledged by the Grantors and on file at the offices of the Grantee accurately establishes the uses, Conservation Values, and condition of the Property as of the date of this Easement.

8. **TITLE.** Grantors covenant and represent that Grantors are the sole owners and are seized of the Property in fee simple, as more specifically stated in Recital A above, and have good right to grant and convey this Conservation Easement; that the Property is free and clear of any and all encumbrances; and Grantors covenant that Grantee shall have the use of and enjoy all of the benefits derived from and arising out of this Conservation Easement.
9. **TRANSFER OF PROPERTY.** All transfers of any interest in the Property or any portion thereof shall be subject to a transfer fee of One Dollar and No Cents (\$1.00), payable to Grantee. Grantors shall notify Grantee in writing of the names and addresses of any party to whom they transfer the Property, or any part thereof, at or prior to the time the transfer is consummated. Grantors and their successors, personal representatives, agents, administrators, heirs, successors, and assigns, further agree to make specific reference to this Conservation Easement in a separate paragraph of any subsequent lease, deed or other legal instrument by which any interest in the Property is conveyed. The failure of Grantors and their successors, personal representatives, agents, administrators, heirs, successors, and assigns to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.
10. **SUCCESSORS IN INTEREST.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Property.
11. **CONSERVATION PURPOSE.** Grantors and Grantee, for themselves, their agents, successors, personal representatives, heirs, and assigns, agree that this Conservation Easement shall be held exclusively for conservation purposes, as defined in Section 170(h)(4)(a) of the Internal Revenue Code and reproduced below.
- a. The protection of relatively natural habitat of fish, wildlife, plants, and ecosystems; and
  - b. The preservation of open space – including farmland and forestland- for the scenic enjoyment of the general public, or pursuant to clearly delineated governmental policies, so as to yield a significant public benefit.
12. **TERMINATION OF AGREEMENT.** If it is determined that conditions on or surrounding the Property have changed so much that it is impossible to fulfill the conservation purposes set forth above, a court with jurisdiction may, at the joint request of both the Grantors and Grantee, terminate this Conservation Easement.

If condemnation of a part of the Property or of the entire Property by public authority renders it impossible to fulfill any of these conservation purposes, the Conservation Easement may be terminated through condemnation proceedings.

At the time of the conveyance of the Conservation Easement to the Grantee, this Conservation Easement gives rise to a real property right, immediately vested in the Grantee. If the Agreement is terminated and the Property is sold or taken for public use, then, as required by Sec. 1.170A-14(g)(6) of the IRS regulations, the Grantee shall be entitled to a percentage of the gross sale proceeds or condemnation award (minus any amount attributed to new improvements made after the date of the conveyance, which amount shall be reserved to Grantors), equal to the ratio of the appraised value of this Agreement to the unrestricted fair market value of the Property, as these values are determined on the date of this Conservation Easement. The Grantee shall use the proceeds consistently with the conservation purposes of this Conservation Easement.

13. **MERGER.** Grantors and Grantee agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interests in the Property.
14. **TRANSFER OF AGREEMENT.** The parties hereto recognize and agree that the benefits of this Conservation Easement are in gross and assignable by Grantee to **the Conservation Trust for North Carolina, P.O. Box 33333, Raleigh, North Carolina, 27636-3333**, or to another assignee designated by Grantee; provided, however, that Grantee hereby covenants and agrees that in the event it transfers or assigns this Conservation Easement, the organization or agency receiving the interest will be a qualified organization and an eligible donee as those terms are defined in Section 170(h)(3) of the Internal Revenue Code of 1986 (or any successor section) and the regulations promulgated thereunder, which is organized or operated primarily for one of the conservation purposes specified in Section 170(h)(4)(A) of the Internal Revenue Code; and Grantee further covenants and agrees that the terms of the transfer or assignment will be such that the transferee or assignee will be required to continue to carry out in perpetuity the Conservation Purposes which the contribution was originally intended to advance, set forth in this Deed of Conservation Easement.
15. **GRANTEE'S ACCESS.** Grantee, its employees and agents and its successors and assigns, have the right, with ten (10) days prior written notice to Grantors, to enter the Property at reasonable times, but no more frequently than once per year unless additional visits are approved by Grantors, to inspect the Property to determine whether the Grantors, their agents, personal representatives, successors or assigns are complying with the terms, conditions and restrictions of this Conservation Easement. Notwithstanding the foregoing, in cases where Grantee determines that immediate entry is required to prevent, terminate, or mitigate a violation of this Easement, such entry shall be upon prior reasonable notice to Grantors and may be made with such frequency as is reasonably necessary for the prevention, termination, or mitigation of the violation; but Grantee shall not in any case unreasonably interfere with Grantors' use and quiet enjoyment of the Property that is consistent with this Easement.
16. **INDEMNIFICATION.** Grantors hereby release and agree to hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them

(collectively "Indemnified Parties") from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, but not limited to, reasonable attorneys' fees, arising from or in any way connected with any of the following: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation, or requirement, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq., by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Property; and (3) the presence or release in, on, from, or about the Property, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, unless caused solely by any of the Indemnified Parties.

17. **CONSTRUCTION OF TERMS.** This Conservation Easement shall be construed to promote the purposes of N.C.G.S. Section 121-34 *et seq.*, the Historic Preservation and Conservation Agreements Act, which authorizes the creation of Conservation Easements for purposes that include those set forth in the Recitals herein, and the Conservation Purposes of this Conservation Easement, including such purposes as are defined in Section 170(h)(4)(A) of the Internal Revenue Code.
18. **ENTIRE AGREEMENT.** This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement. If any provision is found to be invalid, the remainder of the provisions of this Conservation Easement, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.
19. **RECORDING.** Grantee shall record this instrument in timely fashion in the official records of Madison County, North Carolina, and may re-record it at any time as may be required to preserve its rights under this Conservation Easement.
20. **AMENDMENT AND DISCRETIONARY CONSENTS.** Grantors and Grantee recognize that circumstances could arise which justify amendment of certain of the terms, covenants, or restrictions contained in this Conservation Easement, and that some activities may require the discretionary consent of Grantee. To this end, Grantors and Grantee have the right to agree to amendments and discretionary consents to this Easement without prior notice to any other party, provided that in the sole and exclusive judgment of the Grantee, such amendment or discretionary consent furthers or is not inconsistent with the purpose of this grant. Amendments require the written consent of both Grantors and Grantee and shall be effective upon recording in the public records of

Avery County, North Carolina. Notwithstanding the foregoing, the Grantee and the Grantors have no right or power to consent to any action or agree to any amendment that (1) will affect the qualification of this Conservation Easement as a qualified conservation contribution or the status of Grantee under any applicable laws, including Section 170(h) or 501(c)(3) of the Internal Revenue Code, or N.C.G.S. Section 121-34 et seq. and Sections 105-130.34 or 105-151.12, and any successor provisions thereof and regulations issues pursuant thereto; (2) is inconsistent with the Purposes of this Conservation Easement as set forth in the Recitals herein; or (3) affects the perpetual duration of this Conservation Easement.

## 21. NOTICES TO GRANTEE.

- 21.1. **Notices for Reserved Rights.** Grantors agree to notify Grantee prior to undertaking any activity or exercising any reserved right that may have a material adverse effect on the Conservation Purposes of this grant, as required in Treasury Regulations §1.170A-14(g)(5)(ii), as amended, and as specifically required in paragraphs 3.8.3, 3.8.6, 3.9.3, 3.11, 3.13, and 3.14.
- 21.2. **Means of Notice.** Any notices to Grantee required in this Conservation Easement shall be sent by registered or certified mail, or other courier providing reliable proof of delivery, to SAHC Conservation Easement Steward, at Grantee's addresses shown above, or to such other person and address as may be hereafter specified by notice in writing to Grantors by Grantee. All other communication shall be made by reasonable means under the circumstances, provided that facsimile and other electronic communication will not be deemed received unless accompanied by delivery by one of the foregoing methods. All notices shall be deemed delivered and effective upon deposit with the U.S. Postal Service or other courier permitted under this paragraph, or otherwise upon hand delivery or actual receipt.
- 21.3. **Content of Notice.** The purpose of requiring Grantors to notify Grantee prior to undertaking certain permitted activities, as provided in Paragraph 21.1 above, is to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are designed and carried out in a manner consistent with the terms and Purpose of this Conservation Easement. Such notices to Grantee or requests for Grantee consent, required or contemplated hereunder, must include, at a minimum, sufficient information, including the nature, scope, design, location, timetable, and any other material aspect of the proposed activity, in sufficient detail to enable Grantee to determine whether the proposed plans are consistent with the requirements of this Conservation Easement and the Purpose hereof.
- 21.4. **Process of Notice and Approval.** Whenever notice to Grantee is required, Grantors shall notify Grantee in writing not less than thirty (30) days prior to the date Grantors intend to undertake the activity in question except with respect to

Paragraphs 3.8.6 and 3.13, for which the relevant period shall be forty-five (45) days. The notice shall describe the activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the requirements and purpose of this Easement. Where Grantee's approval is required, as in paragraphs 3.8.3, 3.9.3, 3.11, and 3.14, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantors' written request therefore.

- 21.5. **Failure of Grantee to Respond.** If Grantee approval is required under the terms of this Conservation Easement prior to the exercise of a reserved right that is the subject of the notification and request for approval, failure of Grantee to respond by the end of the applicable notice period shall be deemed to be approval of any activity not specifically prohibited or not inconsistent with the limitations on such activities in this Conservation Easement.

## 22. NOTICES TO GRANTORS.

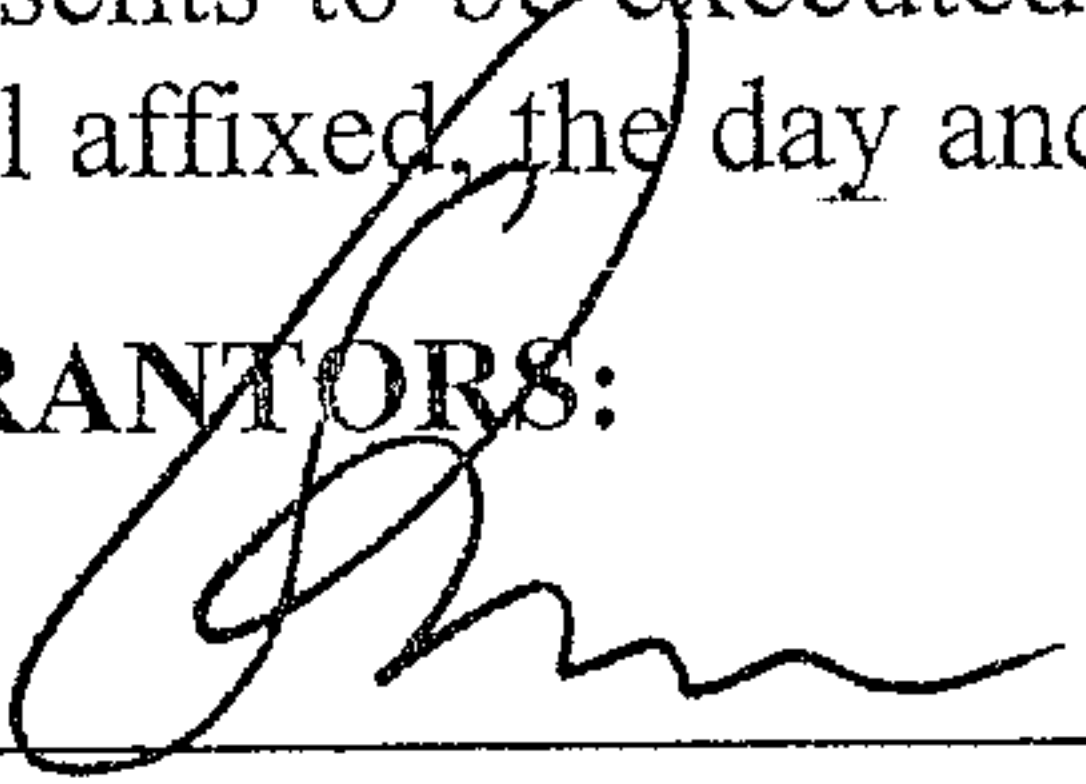
- 22.1. **Means of Notice.** Any notices to Grantors required by this Conservation Easement shall be sent by registered or certified mail, or other courier providing reliable proof of delivery, to the Grantors at their addresses shown above, or to such other person and address as may be hereafter specified by notice in writing to Grantee. Notwithstanding the foregoing, the notice required under Paragraph 15 will be deemed valid if delivered in writing by any reasonable means. All other communication shall be made by reasonable means under the circumstances. All notices shall be deemed delivered and effective upon deposit with the U.S. Postal Service or other courier permitted under this paragraph, or otherwise upon hand delivery or actual receipt.

- 22.1.1. **Notice to Representative of Grantors.** In the event that the Property is owned by a trust, business entity, or any common or jointly held ownership, the Grantors shall provide Grantee with written notice of a designated representative, who shall be responsible for the receipt of notices on behalf of Grantors hereunder. The approval of, or notice to, the designated representative shall be deemed the approval of, or notice to, the entity or all owners, as the case may be.

TO HAVE AND TO HOLD unto the Southern Appalachian Highlands Conservancy, its successors and assigns, forever. The covenants agreed to and the terms, conditions, restrictions, and purposes imposed as aforesaid shall be binding upon Grantors, their representatives, agents, successors and assigns, and shall continue as a servitude running in perpetuity with the Property.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals and caused these presents to be executed in their respective names by authority duly given, and their corporate seal affixed, the day and year above written.

GRANTORS:

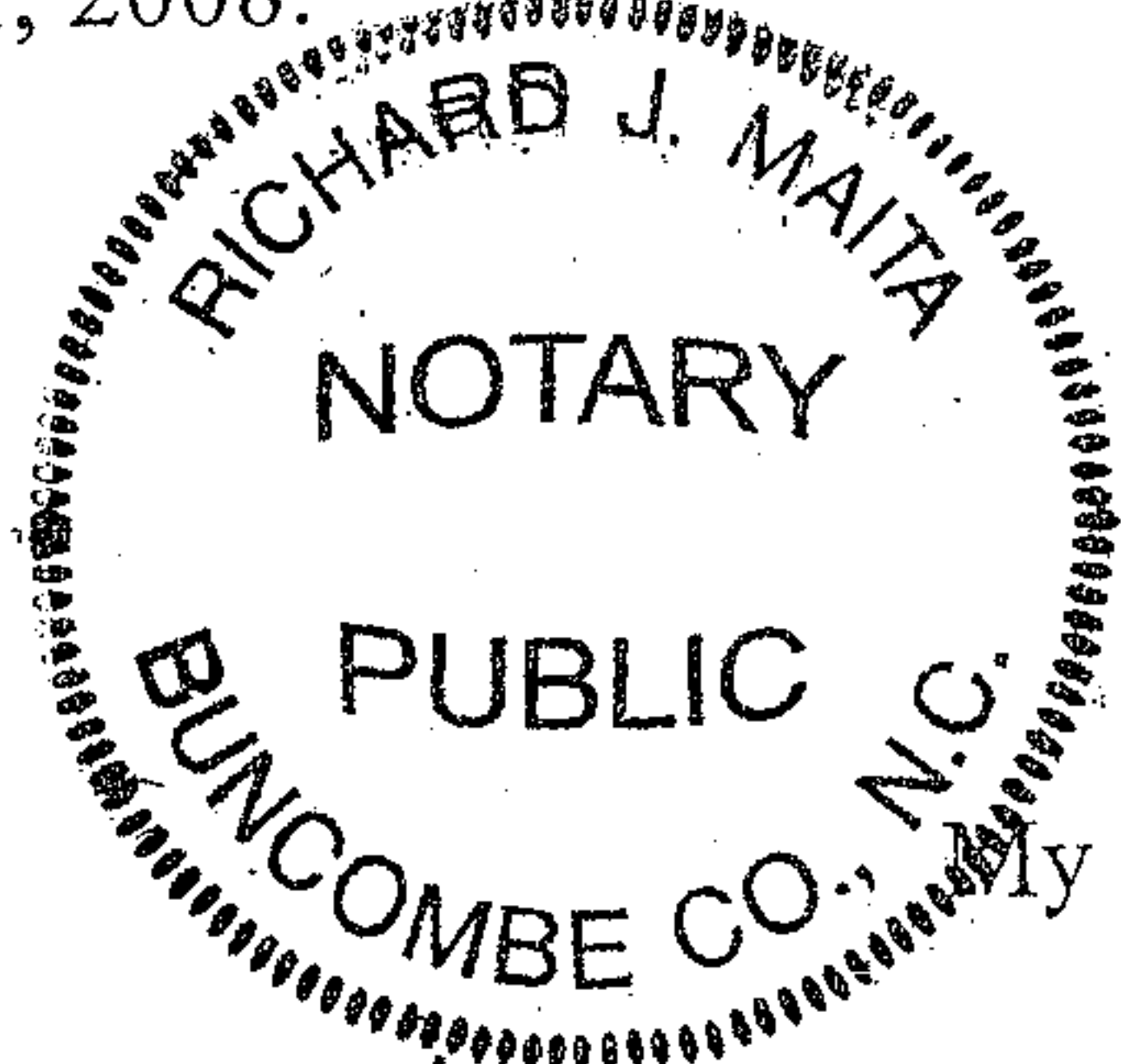
  
\_\_\_\_\_  
CHARLES E. BALL

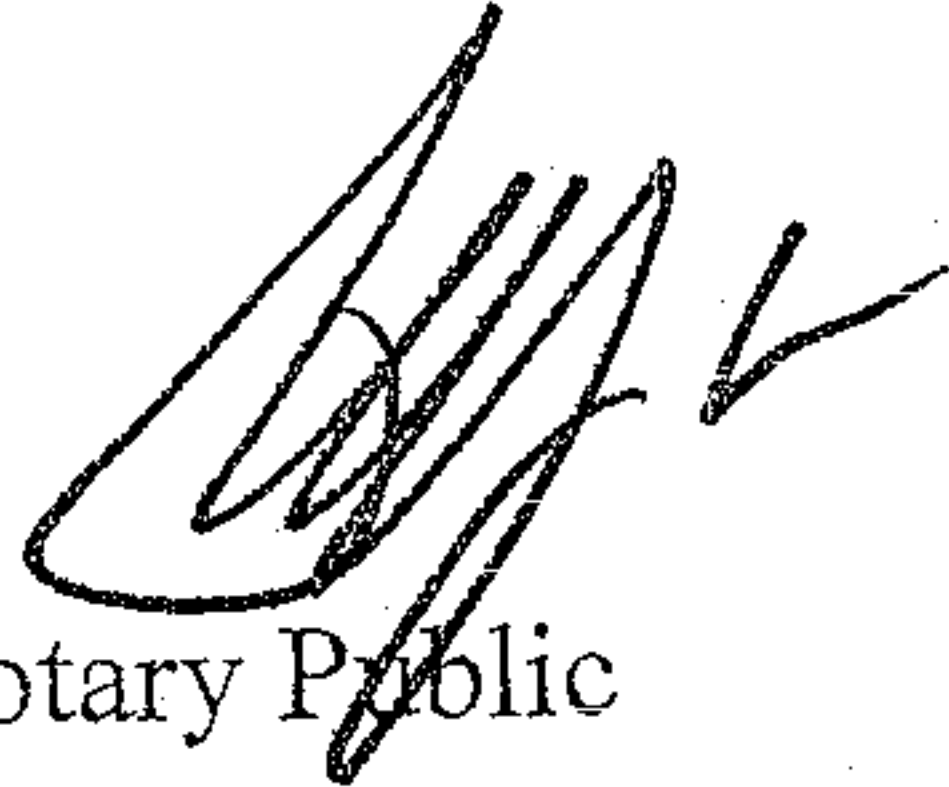
  
\_\_\_\_\_  
TROYLYN W. BALL

STATE OF NORTH CAROLINA, COUNTY OF BUNCOMBE

I, Richard J. Maiba, a Notary Public of said County and State, certify that **CHARLES E. BALL** personally came before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, This the 29 day of December, 2008.

(stamp or seal)

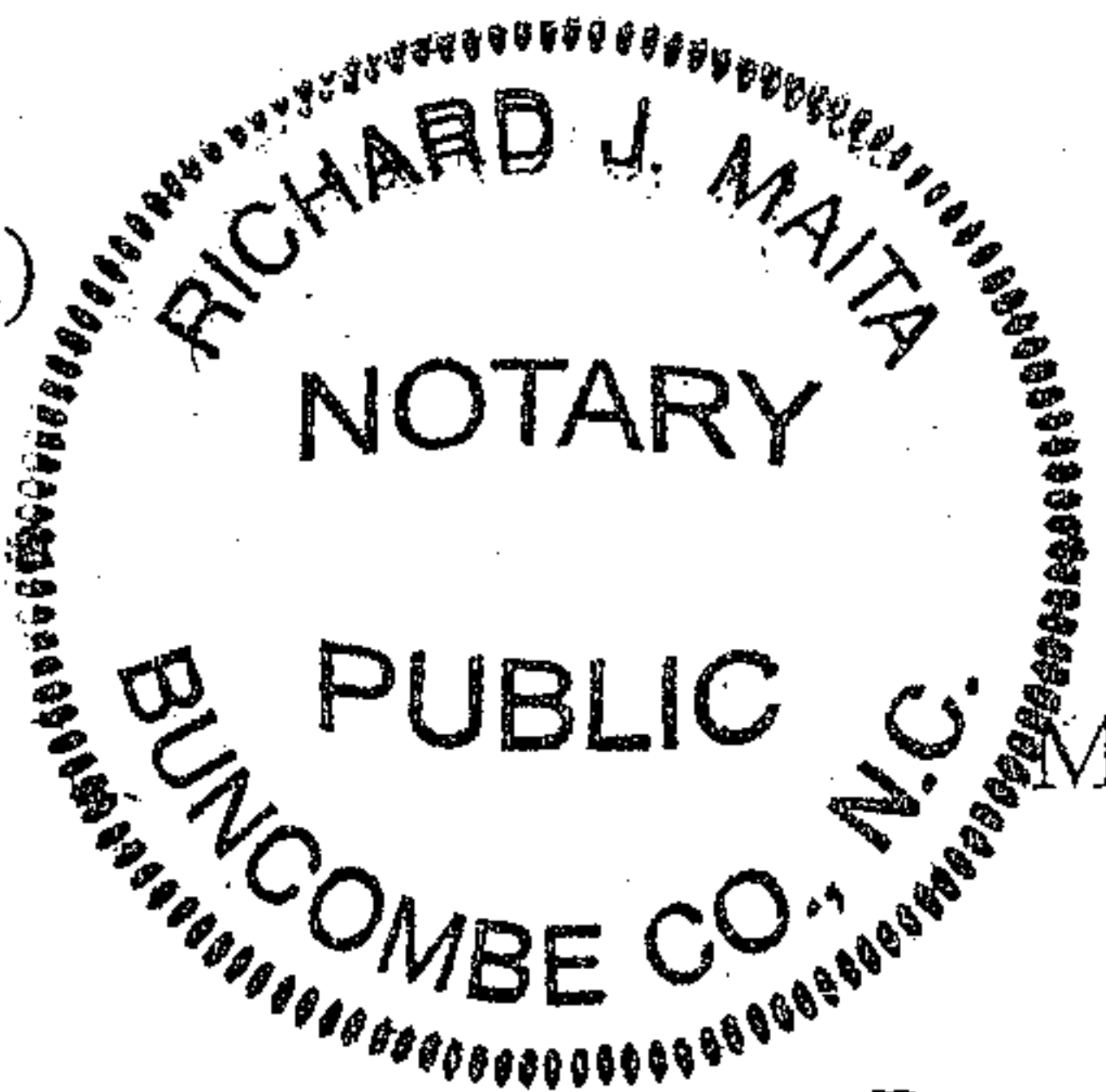


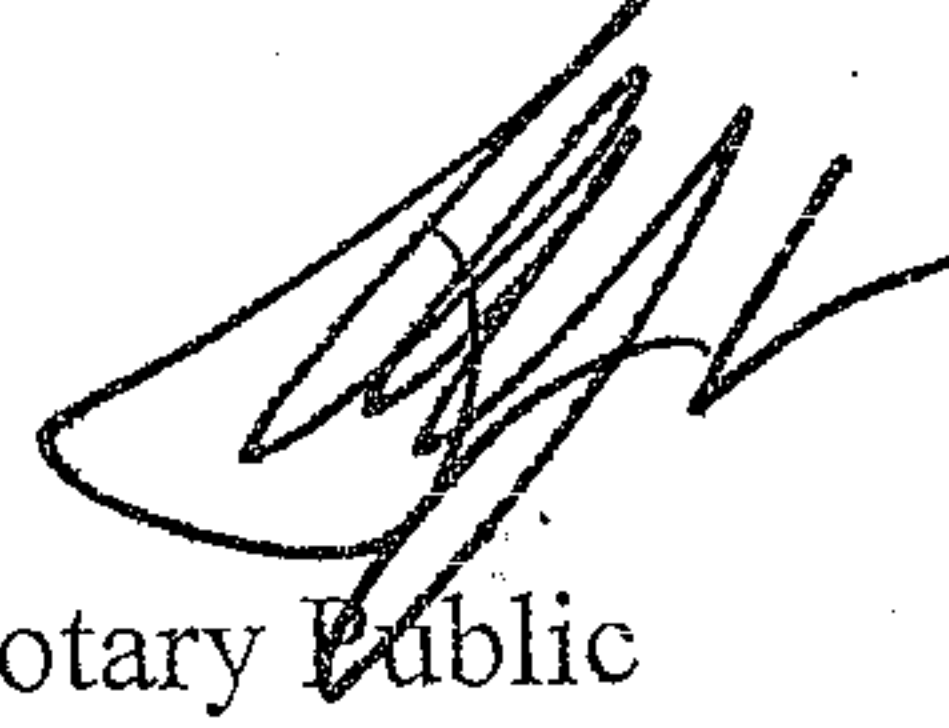
  
Notary Public

My Commission Expires: 2/22/13

I, Richard J. Maiba, a Notary Public of said County and State, certify that **TROYLYN W. BALL** personally came before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, This the 29 day of December, 2008.

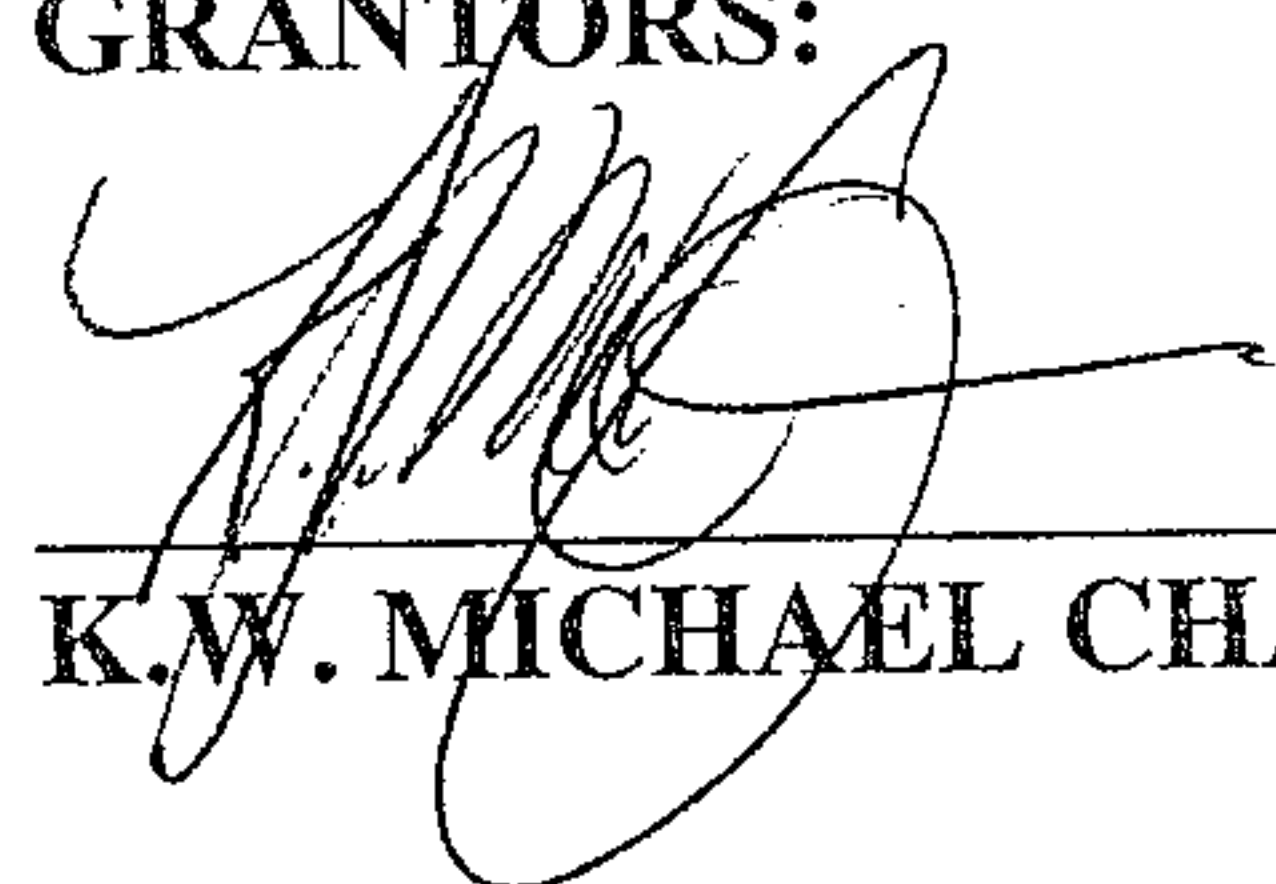
(stamp or seal)

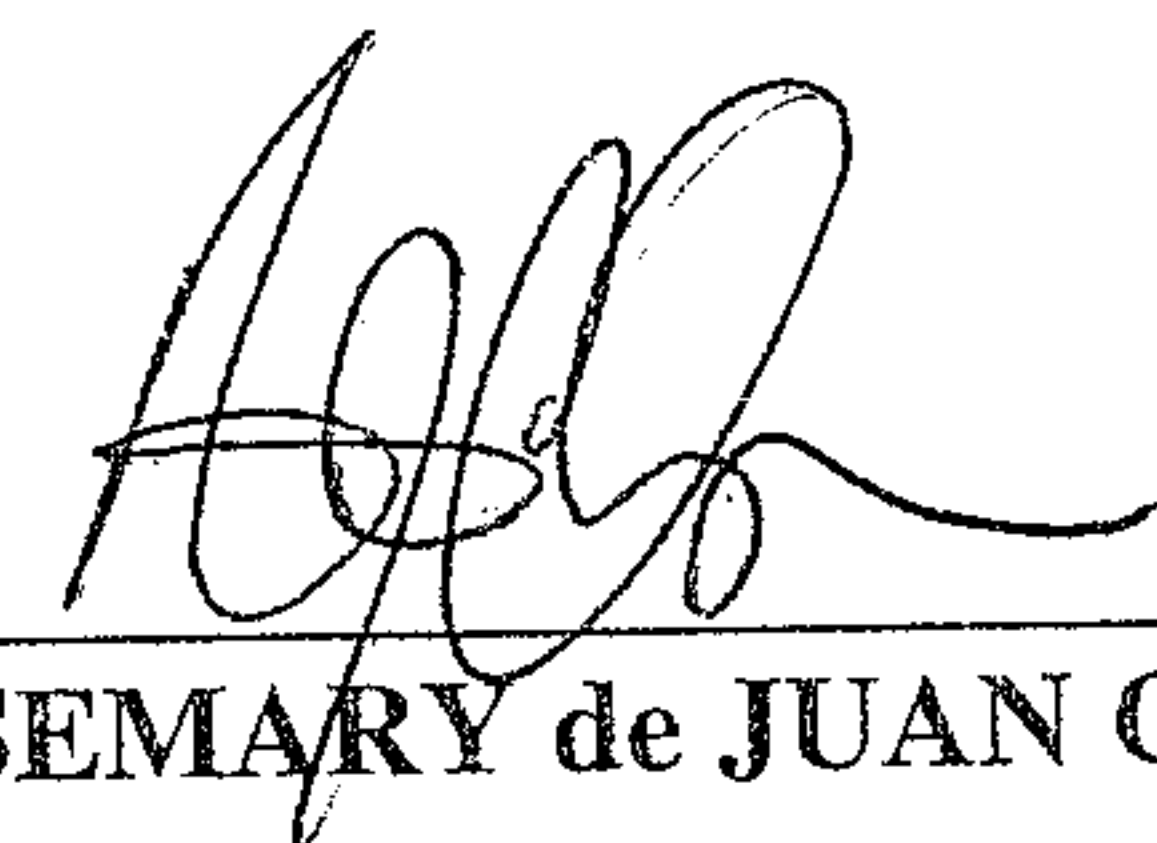


  
Notary Public

My Commission Expires: 2/22/13

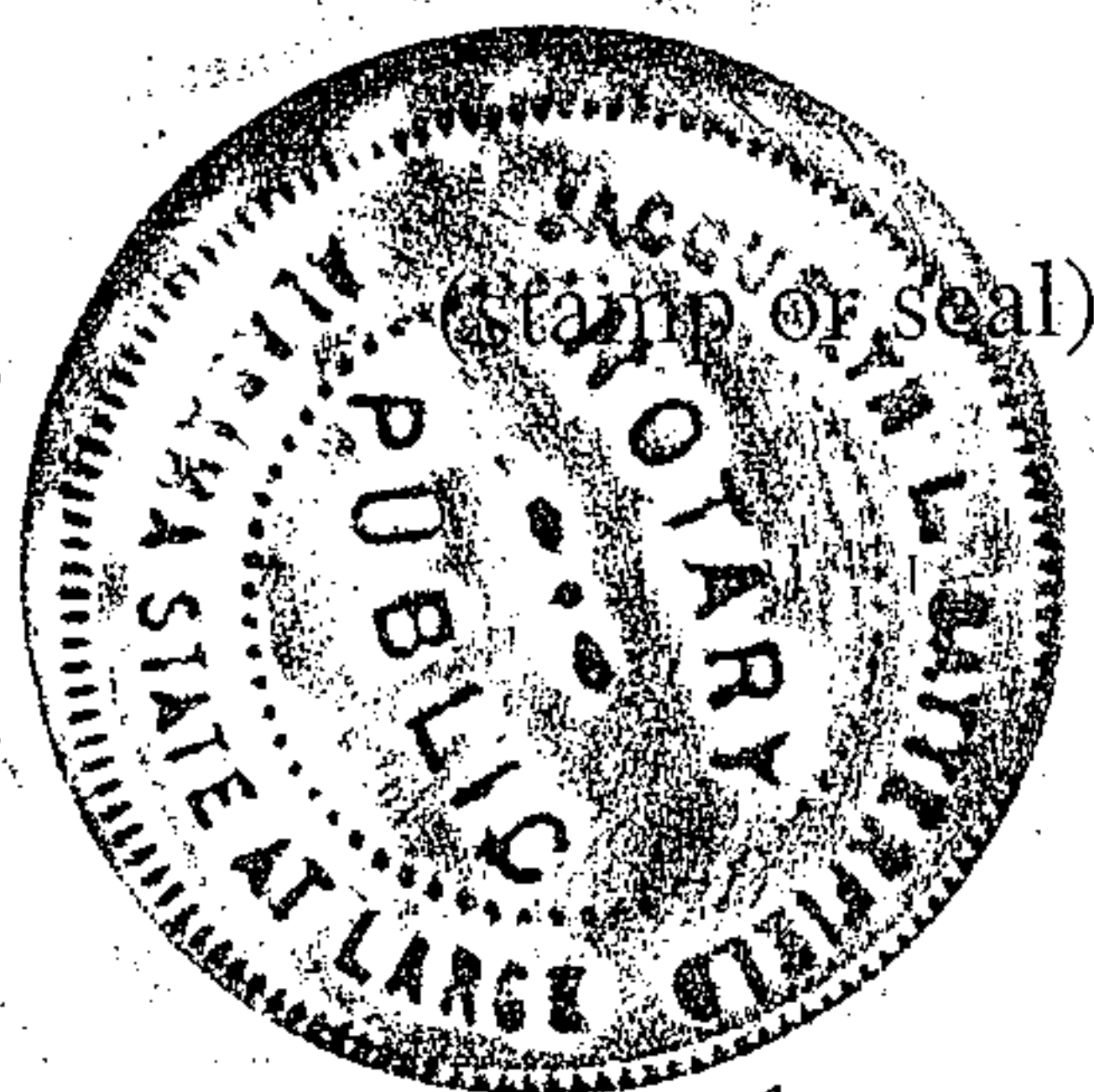
GRANTORS:

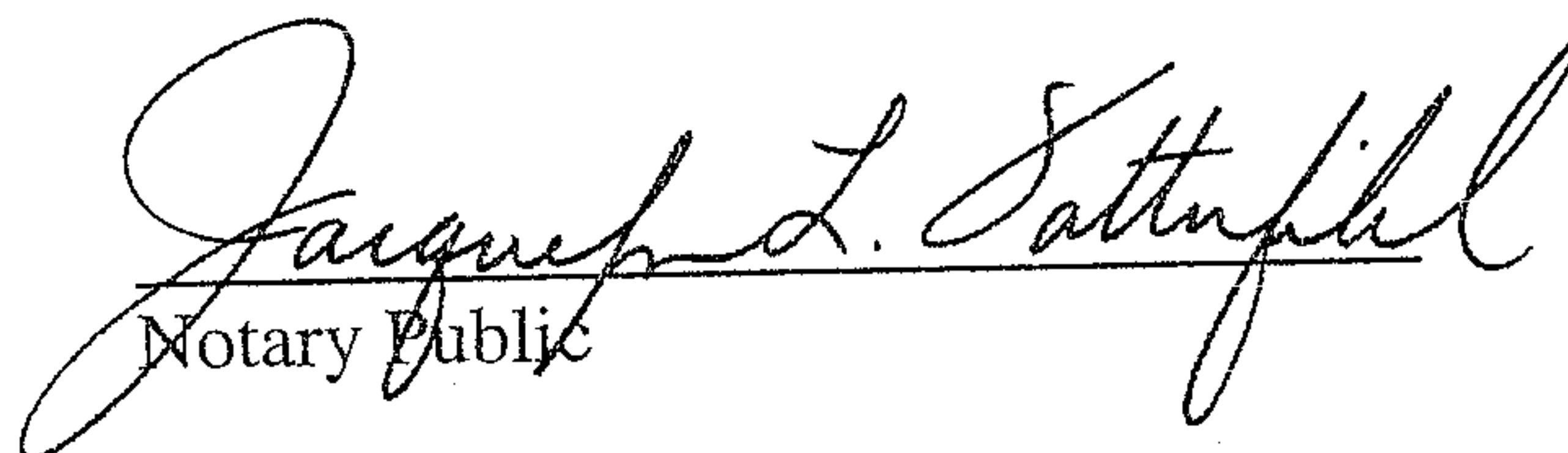
  
K.W. MICHAEL CHAMBERS

  
ROSEMARY de JUAN CHAMBERS

STATE OF ALABAMA, COUNTY OF MOBILE

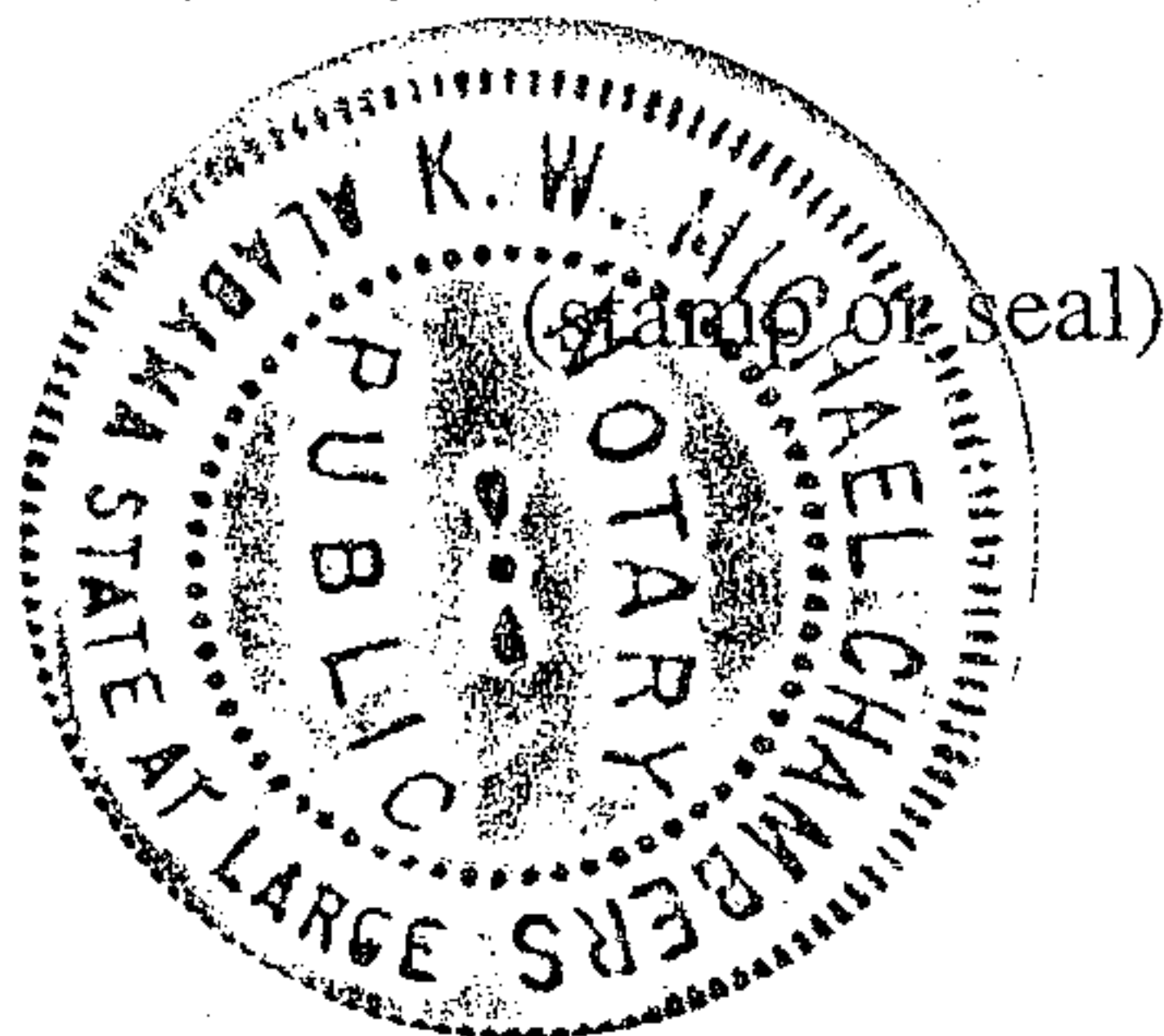
I, Jacquelyn L. Satterfield, a Notary Public of said County and State, certify that  
**K.W.MICHAEL CHAMBERS** personally came before me this day and acknowledged the  
execution of the foregoing instrument. Witness my hand and official stamp or seal, This the  
23 day of December, 2008.

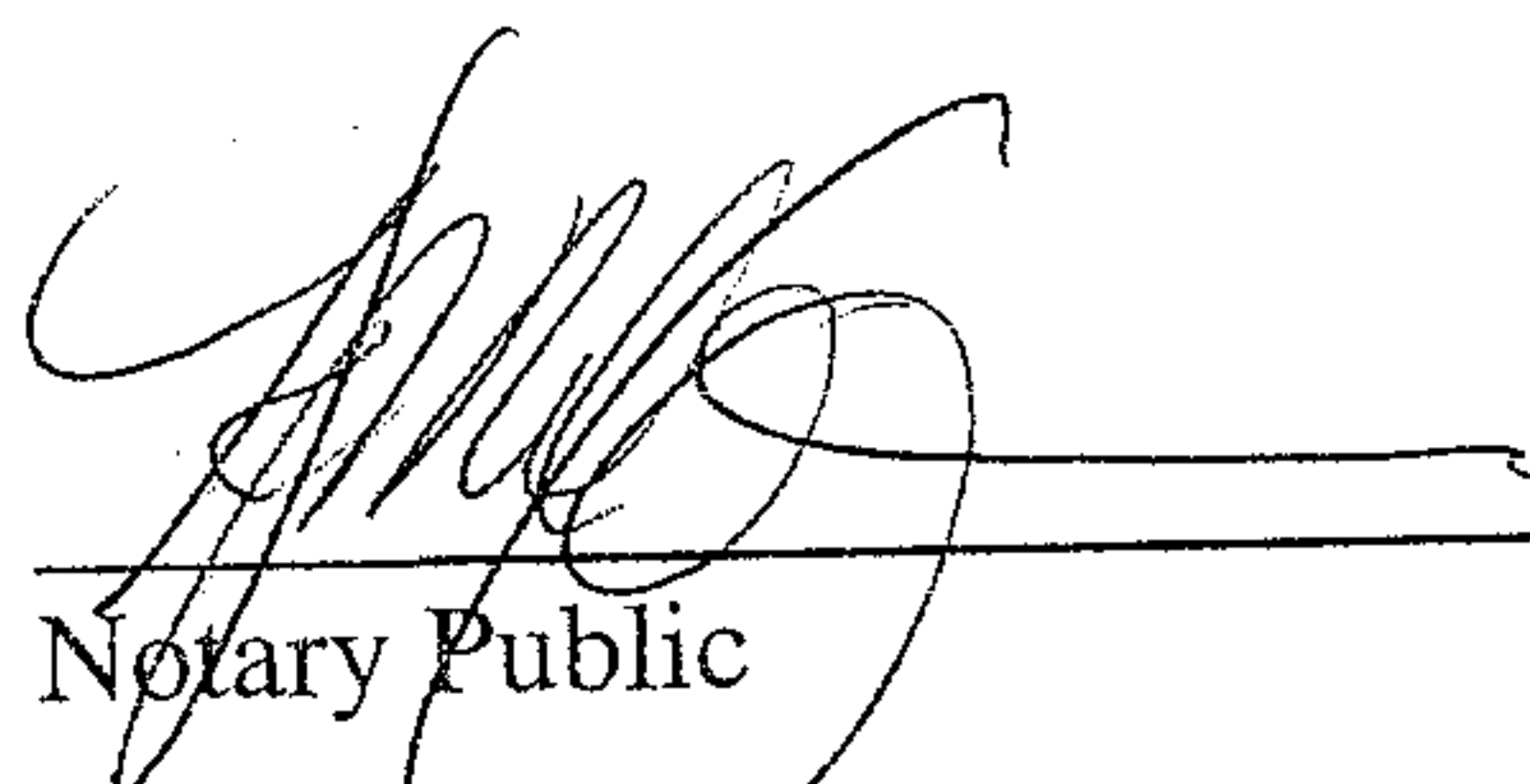


  
Notary Public

My Commission Expires: NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: May 23, 2009  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

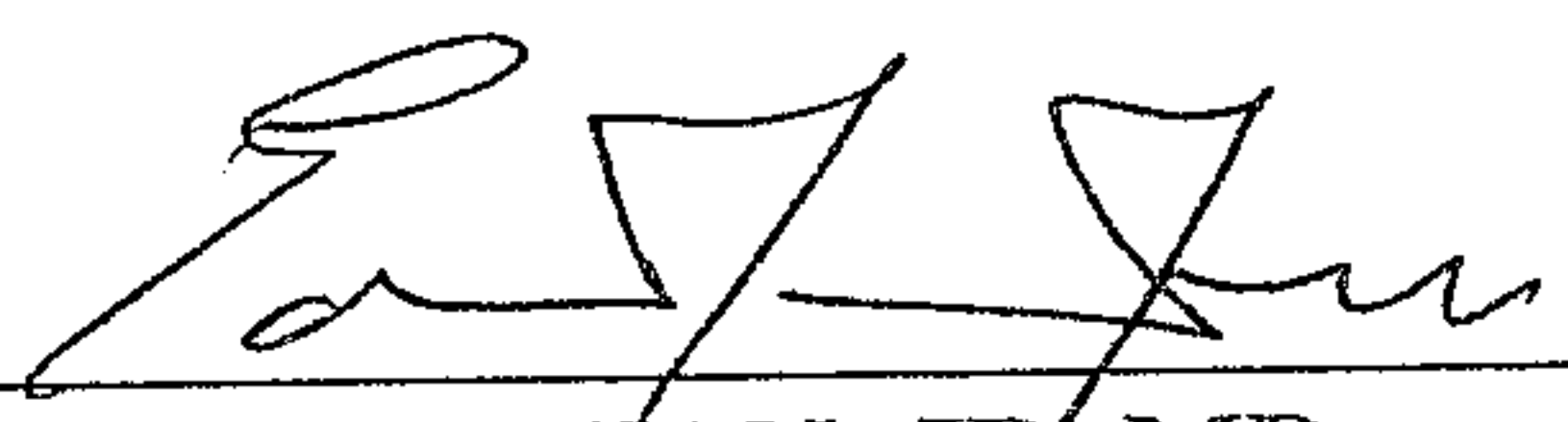
I, K.W. Michael Chambers, a Notary Public of said County and State, certify that  
**ROSEMARY de JUAN CHAMBERS** personally came before me this day and acknowledged  
the execution of the foregoing instrument. Witness my hand and official stamp or seal, This the  
23rd day of December, 2008.

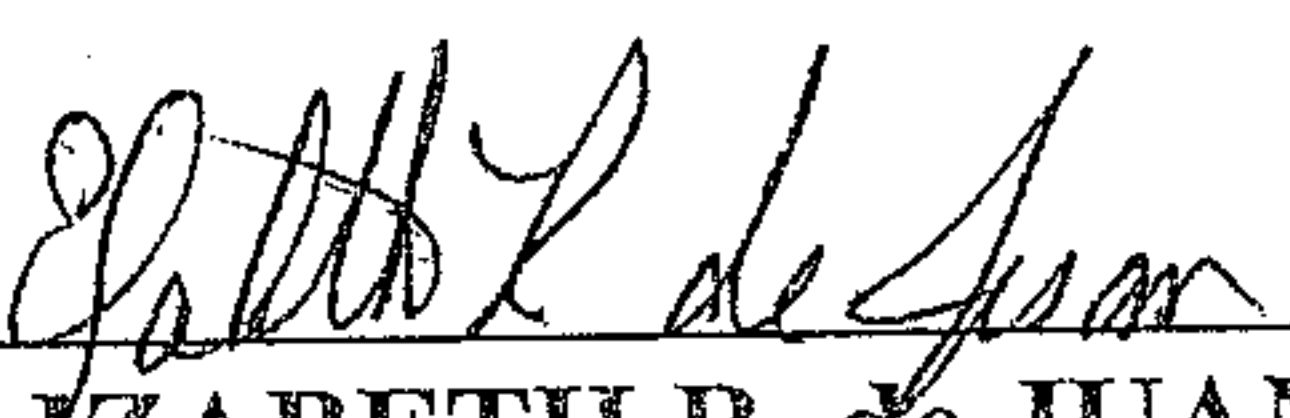


  
Notary Public

My Commission Expires: April 2009

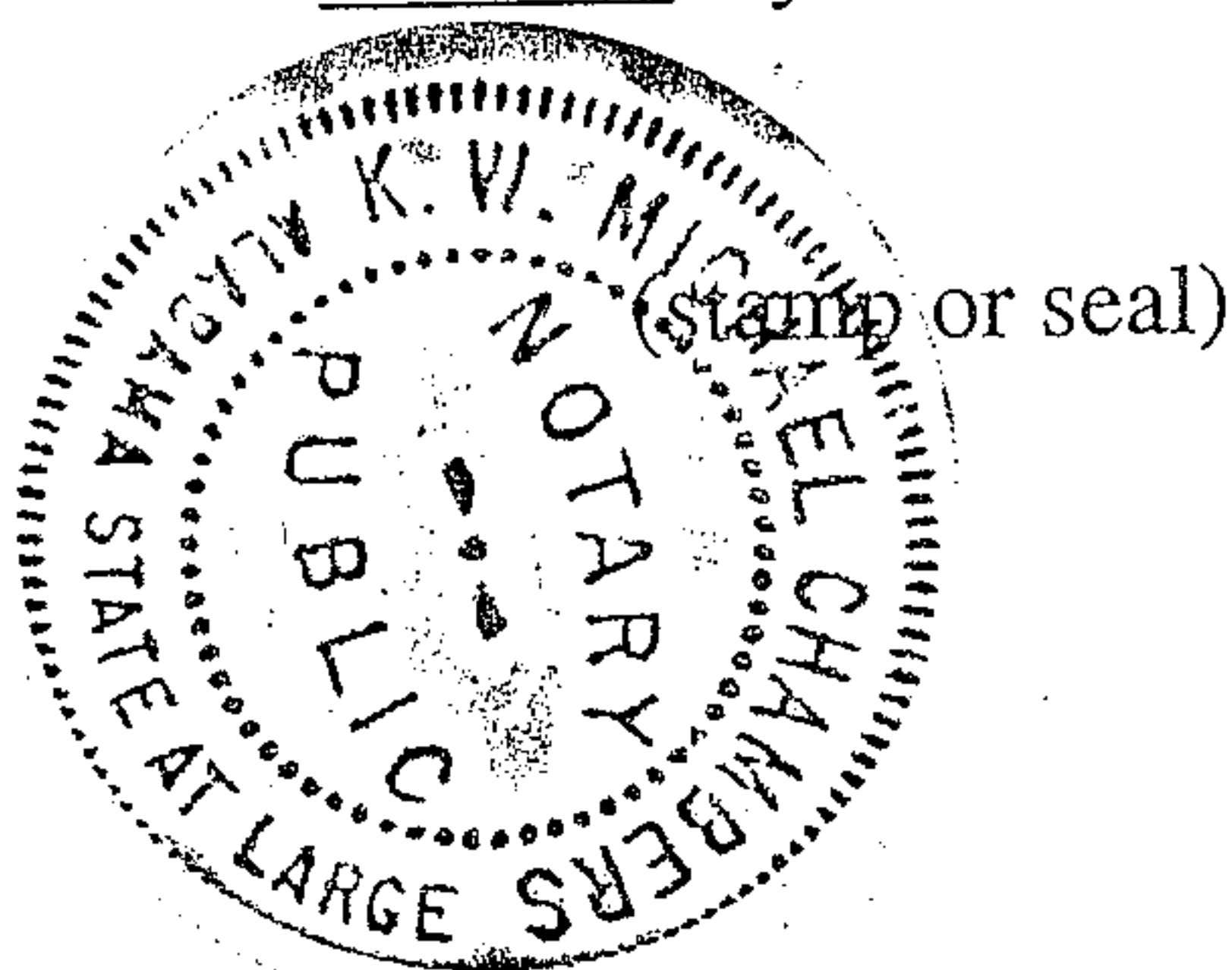
GRANTORS:

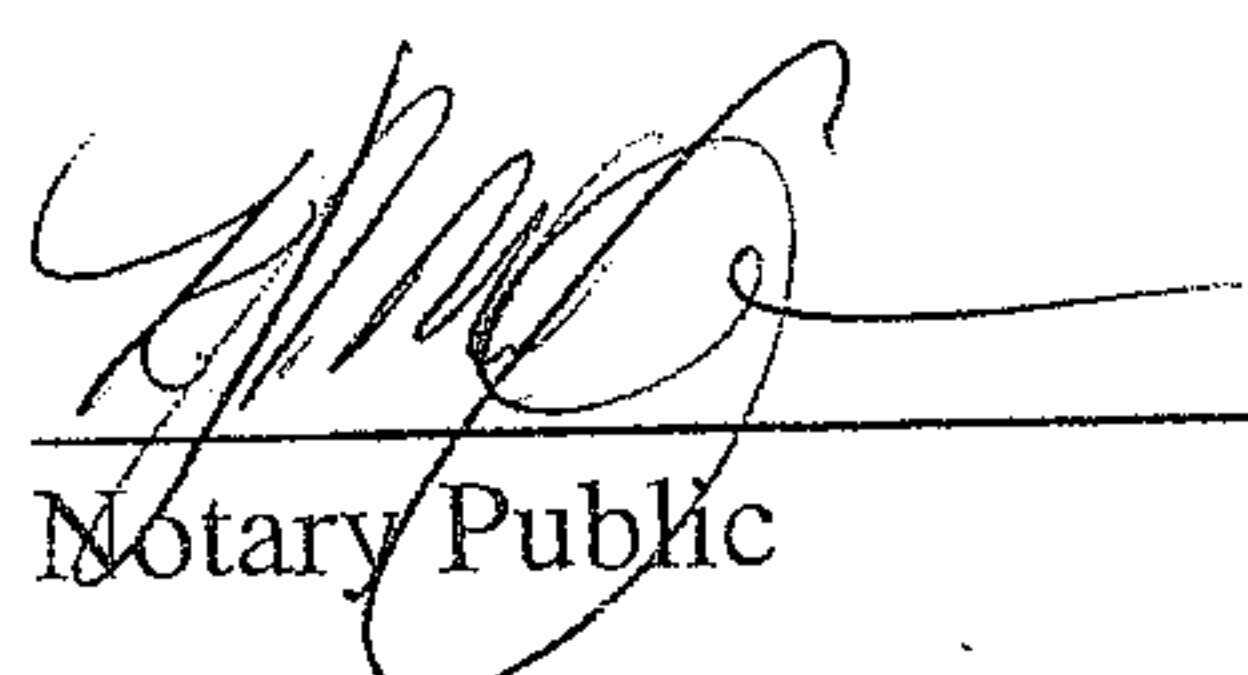
  
EUGENE de JUAN, JR. MD

  
ELIZABETH R. de JUAN

STATE OF ALABAMA, COUNTY OF MOBILE

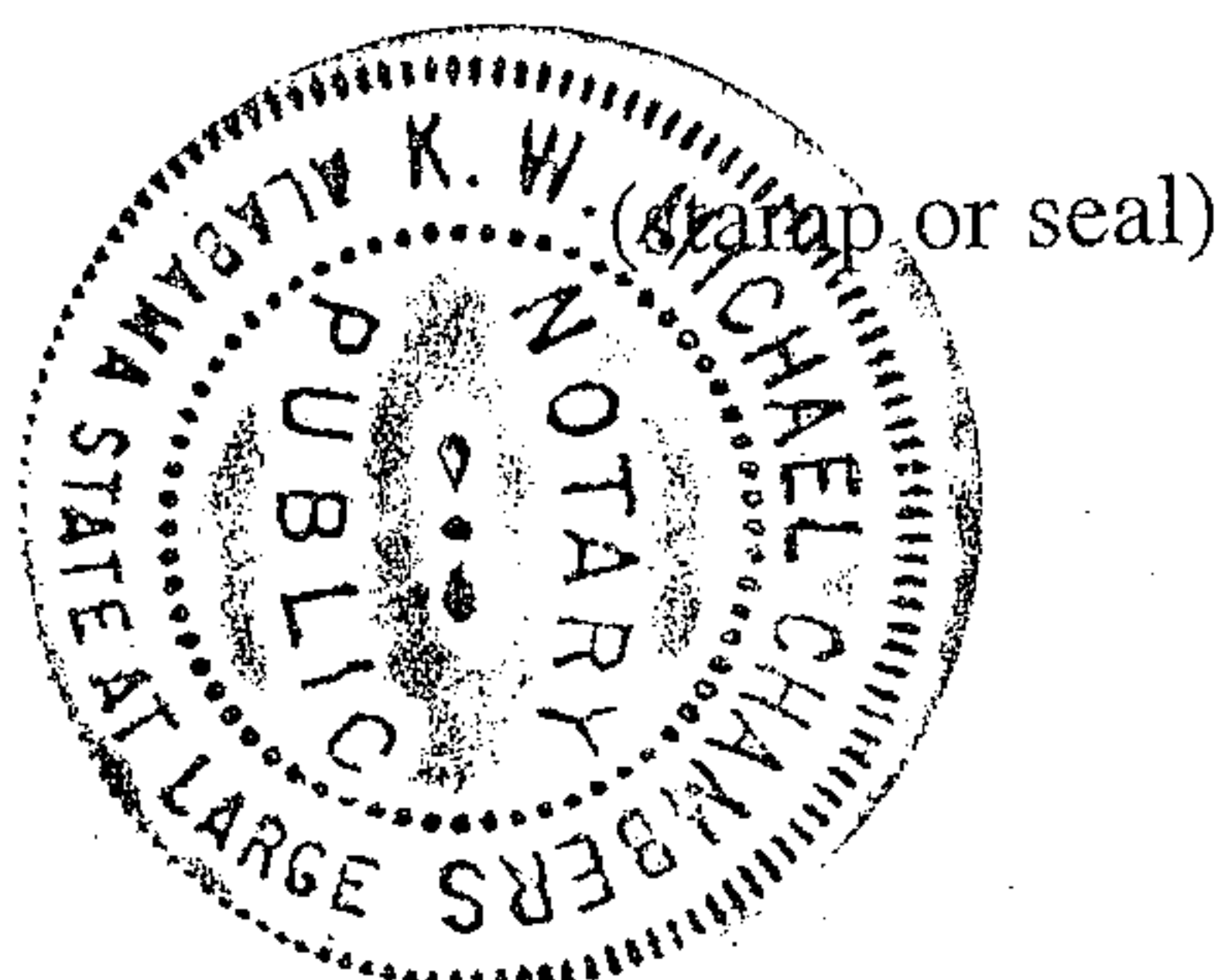
I, K.W. Michael Chambers, a Notary Public of said County and State, certify that  
EUGENE de JUAN, JR. MD personally came before me this day and acknowledged the  
execution of the foregoing instrument. Witness my hand and official stamp or seal, This the  
23<sup>rd</sup> day of December, 2008.

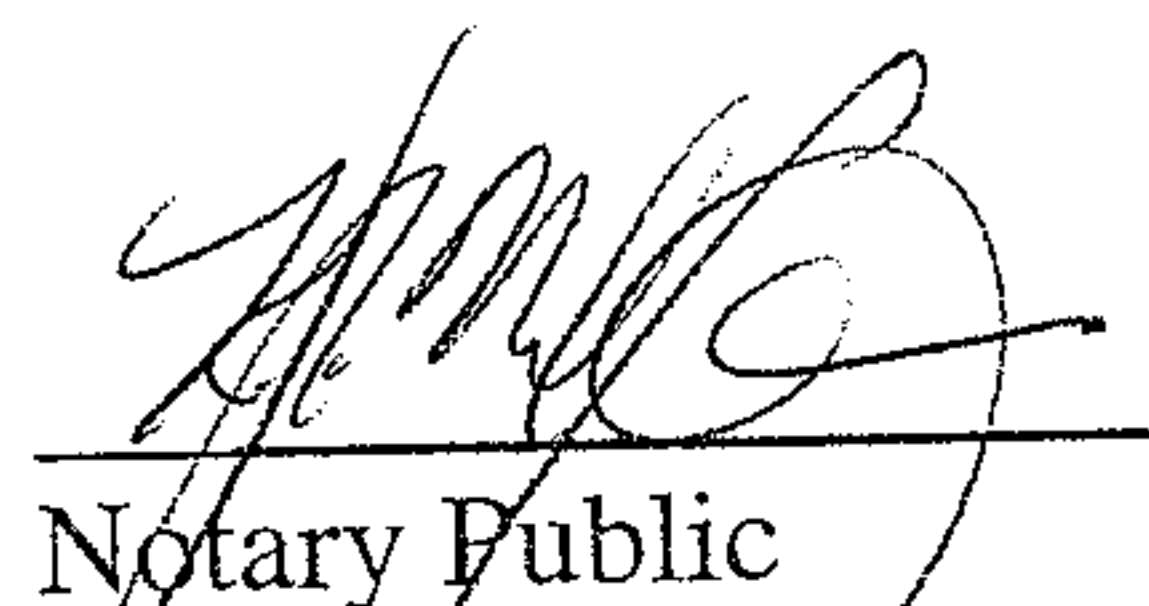


  
Notary Public

My Commission Expires: April 2009

I, K.W. Michael Chambers, a Notary Public of said County and State, certify that  
ELIZABETH R. de JUAN personally came before me this day and acknowledged the  
execution of the foregoing instrument. Witness my hand and official stamp or seal, This the  
23<sup>rd</sup> day of December, 2008.



  
Notary Public

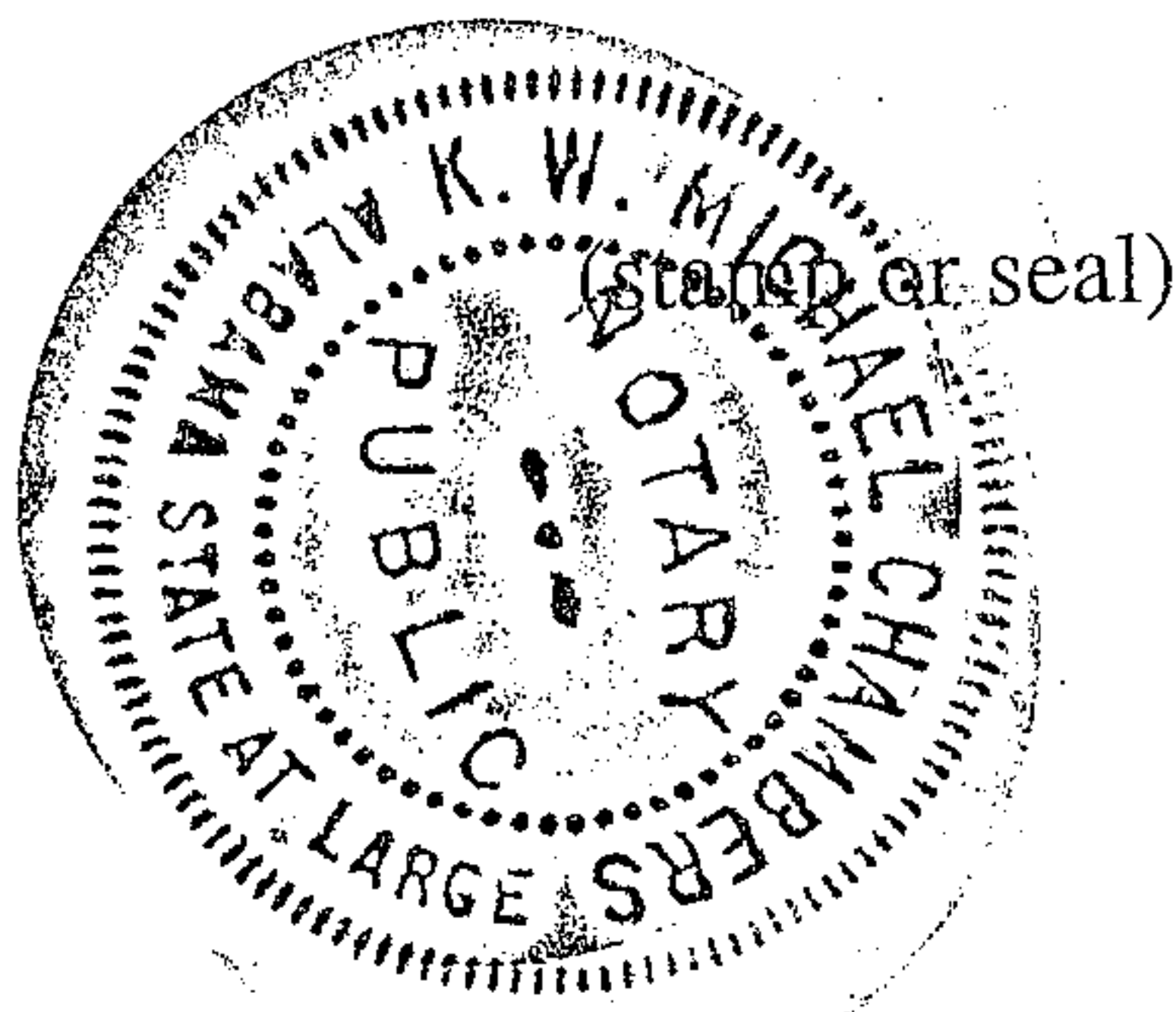
My Commission Expires: April 2009

*Elizabeth R. de Juan, Trustee*

ELIZABETH R. de JUAN, Trustee for the Elizabeth Anna de Juan 2000 Irrevocable Trust

STATE OF ALABAMA, COUNTY OF MOBILE

I, K.W. Michael Chambers, a Notary Public of said County and State, certify that  
ELIZABETH R. de JUAN, Trustee for the Elizabeth Anna de Juan 2000 Irrevocable Trust  
personally came before me this day and acknowledged the execution of the foregoing instrument.  
Witness my hand and official stamp or seal, This the 23<sup>rd</sup> day of December, 2008.



*[Signature]*  
Notary Public

My Commission Expires: April 2009

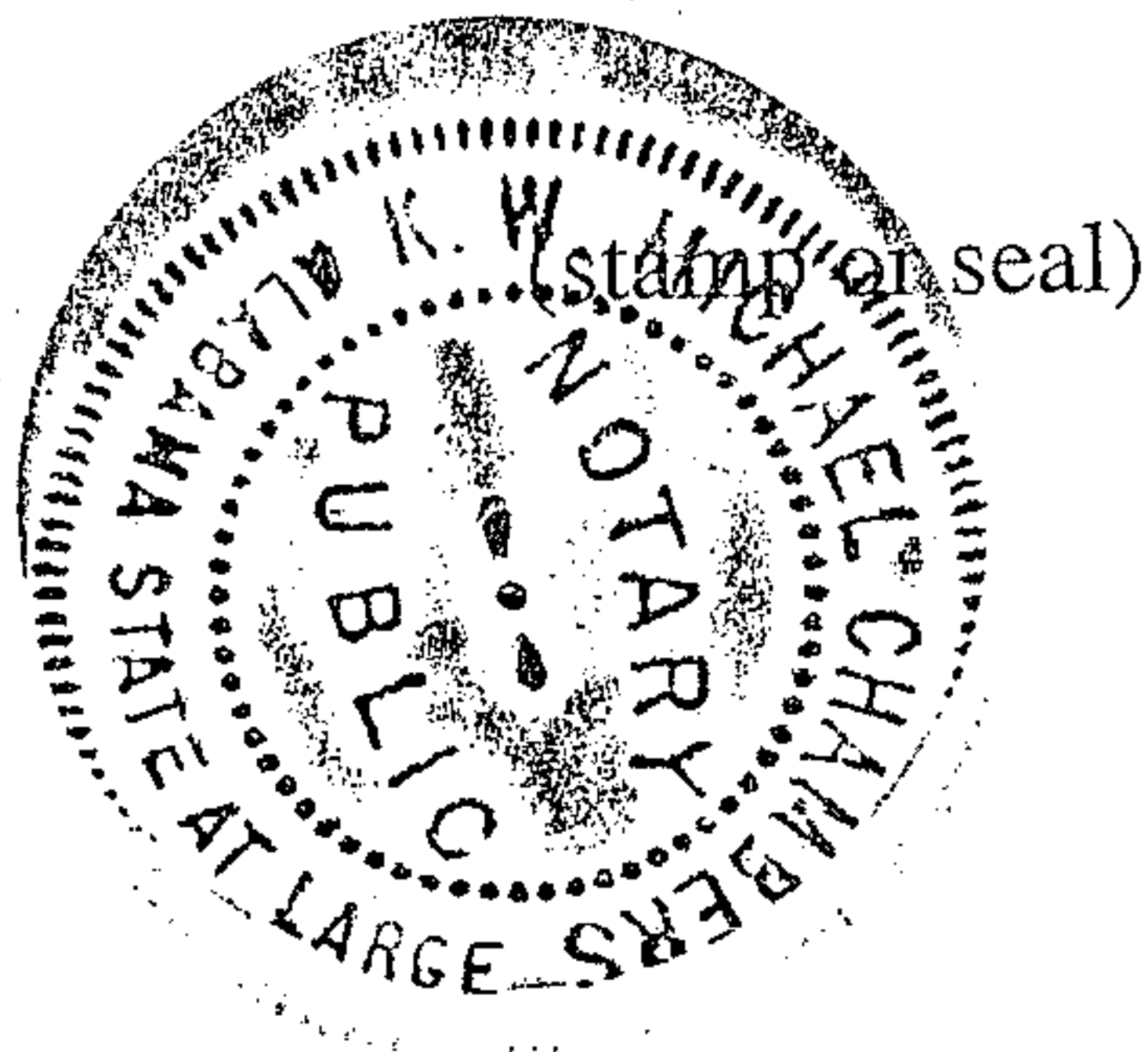
GRANTOR:

*Elizabeth R. de Juan, Trustee*

ELIZABETH R. de JUAN, Trustee for the Eugene de Juan, III 2000 Irrevocable Trust

STATE OF ALABAMA, COUNTY OF MOBILE

I, K.W. Michael Chambers, a Notary Public of said County and State, certify that  
ELIZABETH R. de JUAN, Trustee for the Eugene de Juan, III 2000 Irrevocable Trust  
personally came before me this day and acknowledged the execution of the foregoing instrument.  
Witness my hand and official stamp or seal, This the 23<sup>rd</sup> day of December, 2008.



*[Signature]*  
Notary Public

My Commission Expires: April 2009

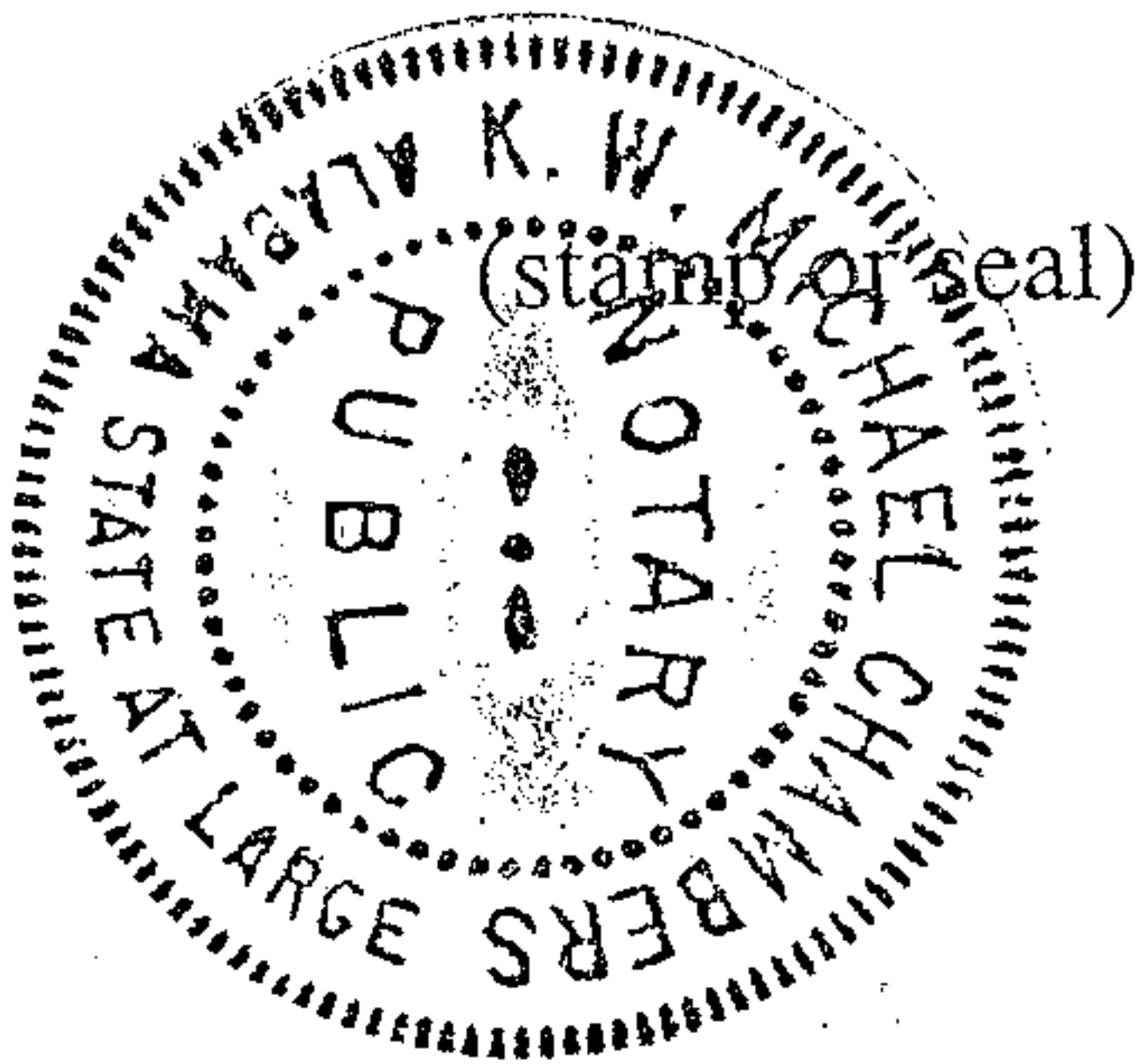
GRANTOR:

BOOK 473 PAGE 381

Elizabeth R. de Juan, Trustee  
ELIZABETH R. de JUAN, Trustee for the Emily Rose de Juan 2000 Irrevocable Trust

STATE OF ALABAMA, COUNTY OF MOBILE

I, K.W. Michael Chambers, a Notary Public of said County and State, certify that  
ELIZABETH R. de JUAN, Trustee for the Emily Rose de Juan 2000 Irrevocable Trust  
personally came before me this day and acknowledged the execution of the foregoing instrument.  
Witness my hand and official stamp or seal, This the 23<sup>rd</sup> day of December, 2008.



[Signature]  
Notary Public

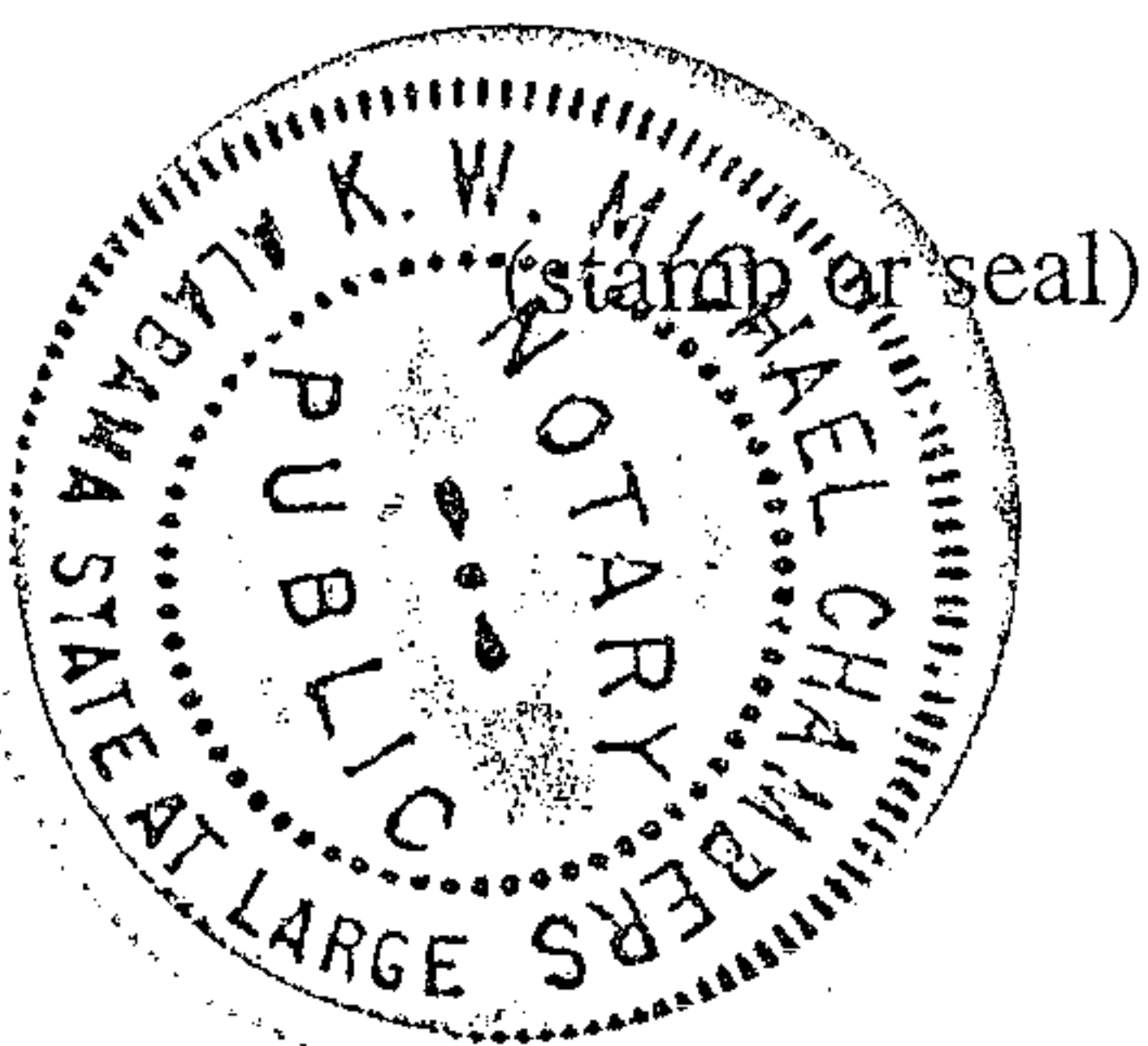
My Commission Expires: April 2009

GRANTOR:

Elizabeth R. de Juan, Trustee  
ELIZABETH R. de JUAN, Trustee for the Elena Vaughan de Juan 2000 Irrevocable Trust

STATE OF ALABAMA, COUNTY OF MOBILE

I, K.W. Michael Chambers, a Notary Public of said County and State, certify that  
ELIZABETH R. de JUAN, Trustee for the Elena Vaughan de Juan 2000 Irrevocable Trust  
personally came before me this day and acknowledged the execution of the foregoing instrument.  
Witness my hand and official stamp or seal, This the 23<sup>rd</sup> day of December, 2008.



[Signature]  
Notary Public

My Commission Expires: April 2009

GRANTEE:

SOUTHERN APPALACHIAN HIGHLANDS CONSERVANCY

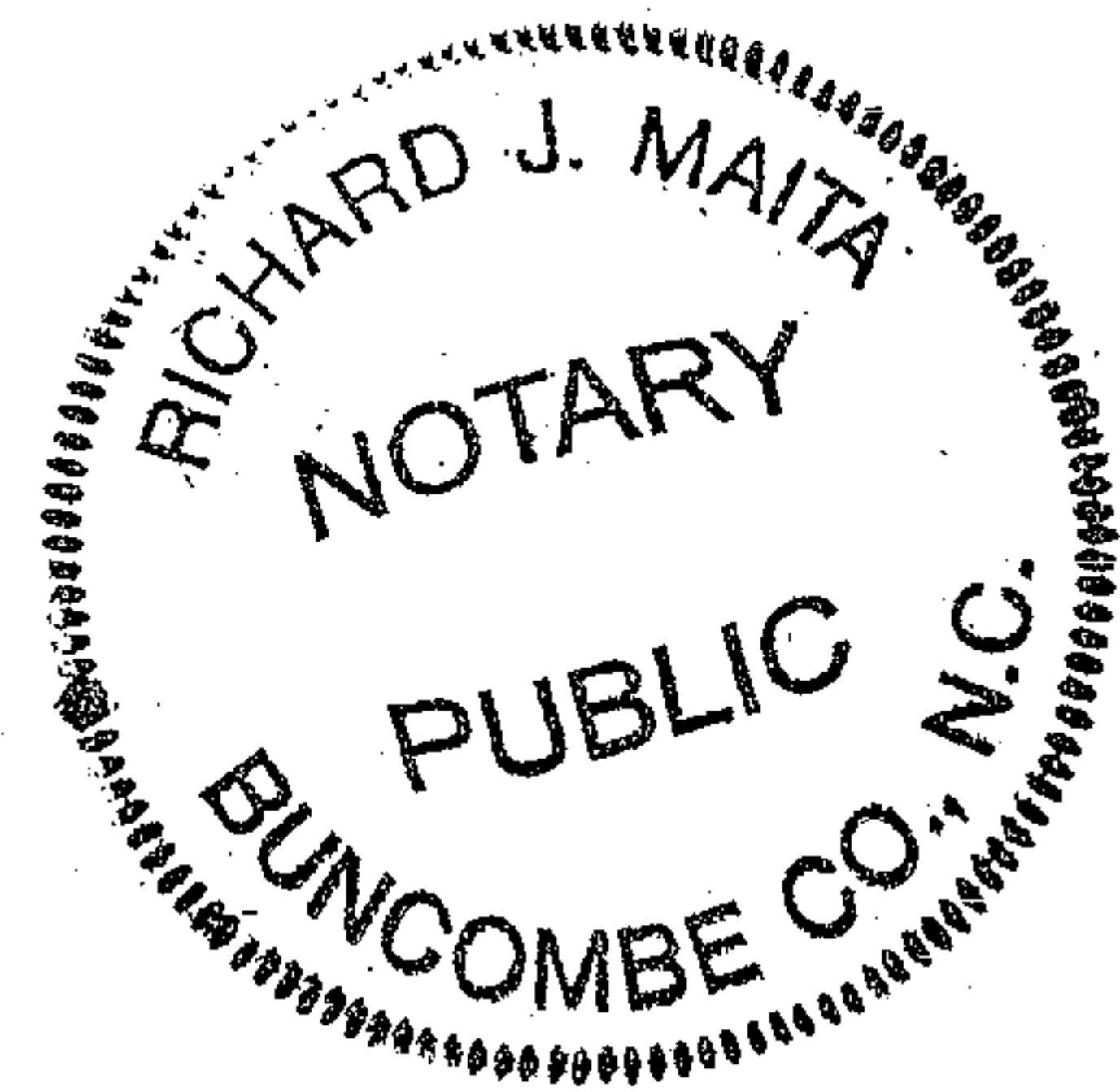
By: Carl J. Silverstein  
CARL J. SILVERSTEIN  
Its Executive Director

STATE OF NORTH CAROLINA, COUNTY OF Buncombe

I, Richard J. Maita, a Notary Public in and for said County and State do hereby certify that **CARL J. SILVERSTEIN** personally appeared before me this day and duly acknowledged that he is the Executive Director of the Southern Appalachian Highlands Conservancy, a Tennessee corporation, and that by authority duly given and as the act of the Company, the foregoing instrument was signed in its name.

WITNESS my hand and notarial seal, this 29<sup>th</sup> day of December, 2008.

[Signature]  
Notary Public  
My commission expires: 2/22/2013



ATTACHMENTS:

- Exhibit A: Addresses of Grantors
- Exhibit B: Legal Description of the Property
- Exhibit C: Map of the Property with Buildable Areas
- Exhibit D: Subdivision Map
- Exhibit E: Example Aggregate Subdivision Map

EXHIBIT "A"

Addresses of Grantors

Charles E. Ball and Troylyn W. Ball  
41 Hilltop Rd. Asheville, NC 28803

K.W. Michael Chambers and Rosemary de Juan Chambers  
5817 Fairfax, Mobile, AL 36608

Eugene de Juan Jr. and Elizabeth R. de Juan  
1598 Shrader Street, San Francisco, CA 94117-4236

Eugene de Juan III 2000 Irrevocable Trust  
Trustee: Elizabeth Robison de Juan  
1598 Shrader Street, San Francisco, CA 94117-4236

Elizabeth Anna de Juan 2000 Irrevocable Trust  
Trustee: Elizabeth Robison de Juan  
1598 Shrader Street, San Francisco, CA 94117-4236

Emily Rose de Juan 2000 Irrevocable Trust  
Trustee: Elizabeth Robison de Juan  
1598 Shrader Street, San Francisco, CA 94117-4236

Elena Vaughan de Juan 2000 Irrevocable Trust  
Trustee: Elizabeth Robison de Juan  
1598 Shrader Street, San Francisco, CA 94117-4236

EXHIBIT "B"

**Legal Description of the Property**

BEING all that 400 acre (more or less) parcel, as set forth in Deed recorded in Deed Book 472, at Page 655, Madison County Registry, reference to said Deed being hereby made for a more particular description.

TOGETHER WITH AND SUBJECT TO easements, restrictions and rights of way of record.

ALSO TOGETHER WITH AND SUBJECT TO those easements set forth in those 2 Deeds recorded in Deed Book 472, at Page 644, and Deed Book 472, at Page 655, Madison County Registry. Nothing in this instrument shall be deemed to terminate or limit said easements.

EXHIBIT "C"  
Map of the Property with Buildable Areas

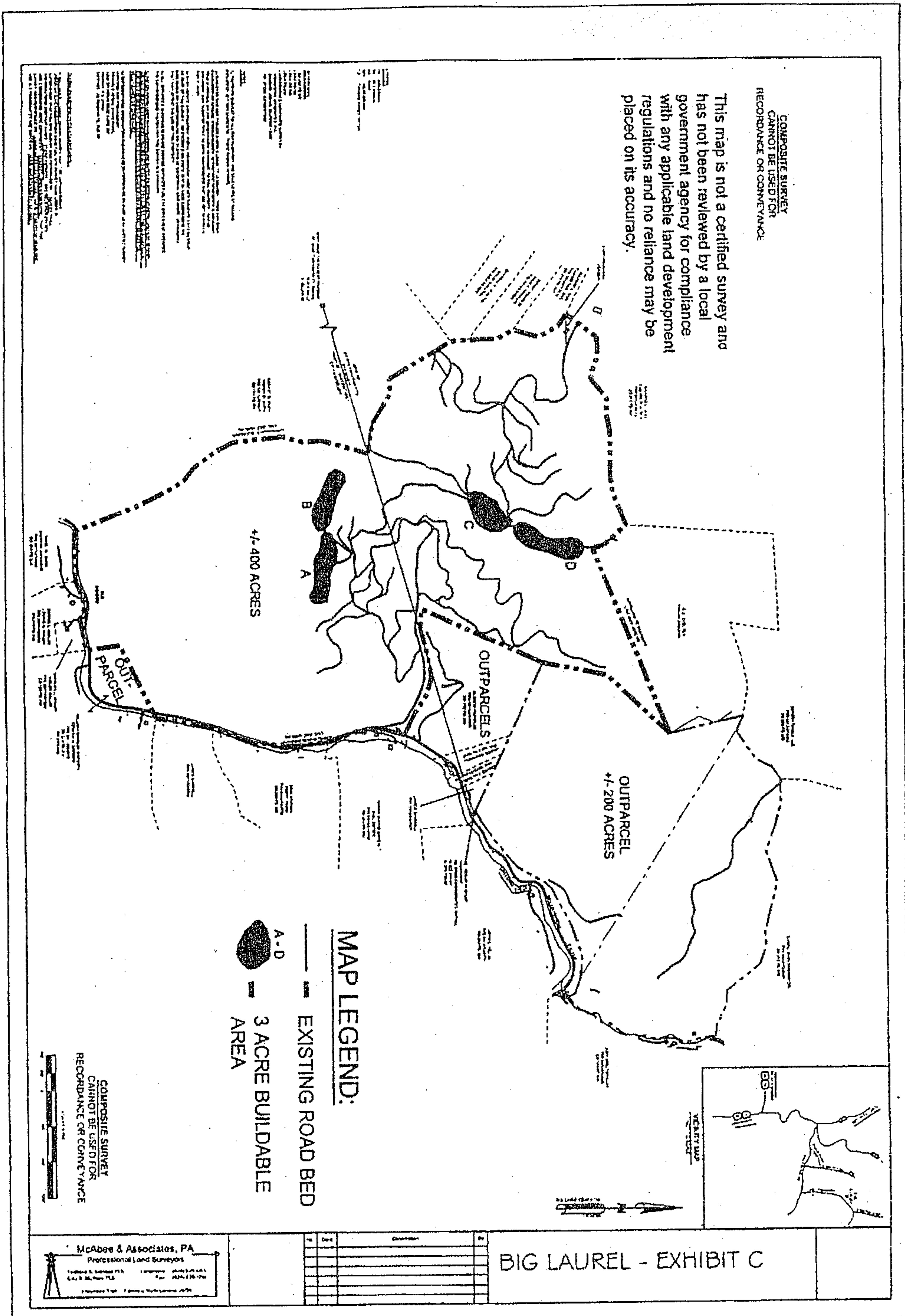




EXHIBIT "E"  
Example Aggregate Subdivision Map

