

Original letter sent to Greg Ferguson on 4/17/02 via registered mail.

Copies sent to:

Lucius Jones  
60 Timothy Lane  
Waynesville, NC 28786

Gayna Woody  
P.O. Box 116  
Leicester, NC 28748

July 10, 2001

STATE OF NORTH CAROLINA

COUNTY/CITY OF Haywood

I, William M. Howell Notary Public for Haywood County, hereby certify that William Lucius Jones the declarant, appeared before me and swore to me and to the witnesses in my presence that this instrument is a last will and testament, and that he willingly and voluntarily made and executed it as his free act and deed for the purposes expressed in it.

I further certify that Greg Rydelek and Sarah Rydelek witnesses, appeared before me and swore that they witnessed William Lucius Jones declarant, sign the attached declaration, believing him to be of sound mind; and also swore that at the time they witnessed the signing they were not related within the third degree to the declarant, and they did not know or have a reasonable expectation that they would be entitled to any portion of the estate of the declarant upon the declarant's death under any will of the declarant or codicil thereto then existing or under the Intestate Succession Act as it provided at that time and they did not have a claim against the declarant. I further certify that I am satisfied as to the genuineness and due execution of the instrument.

I, William Lucius Jones, do hereby will said property, as listed below to Rufus Dennis Hall Rufus Dennis Hall

House, property and contents of said location-  
60 Timothy Lane  
Waynesville, North Carolina 28786

Debt for house and property  
located on Boyd Ave.  
Book 412, Page 2444  
Will be erased upon declarant  
death.

Acreage property of said location-  
Property on Dellwood Road  
Consisting of One and A half Acres.  
Waynesville, North Carolina

Annuity held through  
American General Annuity  
Agent: First Union Mortgage  
Contract # FD018250

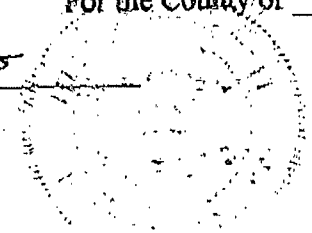
Greg Rydelek  
Witness

Sarah B. Rydelek  
Witness

This is the 10th day of July

William M. Howell  
Notary Public  
For the County of Haywood

My Commission expires 2.14.2005



# LAST WILL AND TESTAMENT

OF

WILLIAM LUCIUS JONES

I, WILLIAM LUCIUS JONES, a citizen of Haywood County, North Carolina, being of sound mind and disposing memory, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking any and all former Wills, codicils and letters of testamentary import by me made.

## ITEM ONE

I desire and direct my Executor herein named and appointed, to pay from my probate estate all of the expenses of my last illness, funeral expenses, costs of administration, legal expenses, and other proper charges against my estate.

## ITEM TWO

I hereby give, devise, and bequeath all that real property located in Jonathan Creek Township to Dennis Hall subject to a lease to Greg Ferguson for and during his lifetime, to be leased in an amount to be determined in the discretion of Dennis Hall or fair market value whichever is less.

## ITEM THREE

I hereby give, devise and bequeath all of my estate and property, including all property of which I shall die seized and possessed, and all property to which I shall be otherwise entitled at the time of my decease, of whatsoever kind and nature and wheresoever situated, be it real, personal or mixed, to DENNIS HALL, as his sole and absolute property, per stirpes.

## ITEM FOUR

I hereby nominate and appoint DENNIS HALL, as Executor of this my Last Will and Testament. I direct that no bond or security of any kind be required of my said Executor, his substitutes or successors, the same being specifically waived hereby.

W L J

incorporated by reference and granted to my Executor his successors or substitutes, subject to the restrictions of General Statutes Sec. 32-26(b).

I, WILLIAM LUCIUS JONES, the Testator, sign my name to this instrument this 23 day of July, 2001, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly (or willingly direct another to sign it for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

William Lucius Jones (SEAL)  
WILLIAM LUCIUS JONES, Testator

We, J.W. Kirkpatrick III and Linda Correal, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testator signs and executes this instrument as his Last Will in our presence and that he signs it willingly (or willingly directs another to sign it for him), and that each of us, at the request of the Testator, and in the presence and hearing of the Testator, and in the presence and hearing of each other, hereby signs this Last Will as witness to the Testator's signing, and to the best of our knowledge the Testator is eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

J.W. Kirkpatrick III of WAYNESVILLE, NC  
Linda Correal of Waynesville, NC.

STATE OF NORTH CAROLINA, COUNTY OF HAYWOOD

Subscribed, sworn to and acknowledged before me by WILLIAM LUCIUS JONES, the Testator, and subscribed and sworn to before me by J.W. Kirkpatrick III and Linda Correal, witnesses, this 23 day of July, 2001.

My commission expires:

8-11-04

Jonathan Muel (Cerman)  
Notary Public



# Last Will and Testament

OF

WILLIAM LUCIUS JONES

I, WILLIAM LUCIUS JONES, a citizen of Haywood County, North Carolina, being of sound mind and disposing memory, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking any and all former Wills, codicils and letters of testamentary import by me made.

## ITEM ONE

I desire and direct my Executor herein named and appointed, to pay from my probate estate all of the expenses of my last illness, funeral expenses, costs of administration, legal expenses, and other proper charges against my estate.

## ITEM TWO

I hereby give, devise and bequeath all of my estate and property, including all property of which I shall die seized and possessed, and all property to which I shall be otherwise entitled at the time of my decease, of whatsoever kind and nature and wheresoever situated, be it real, personal or mixed, to DENNIS HALL, as his sole and absolute property, per stirpes.

## ITEM THREE

I hereby nominate and appoint DENNIS HALL, as Executor of this my Last Will and Testament. I direct that no bond or security of any kind be required of my said Executor, his substitutes or successors, the same being specifically waived hereby.

## ITEM FOUR

The powers enumerated in North Carolina General Statutes Sec. 32-27 are hereby incorporated by reference and granted to my Executor his successors or substitutes, subject to the restrictions of General Statutes Sec. 32-26(b).

I, WILLIAM LUCIUS JONES, the Testator, sign my name to this instrument this 6 day of February, 2002, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly (or willingly direct another to sign it for me), that I execute it as my free and voluntary act for the

William Lucius Jones (SEAL)  
WILLIAM LUCIUS JONES, Testator

We, C. Anthony Sexton and Linda Correal, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testator signs and executes this instrument as his Last Will in our presence and that he signs it willingly (or willingly directs another to sign it for him), and that each of us, at the request of the Testator, and in the presence and hearing of the Testator, and in the presence and hearing of each other, hereby signs this Last Will as witness to the Testator's signing, and to the best of our knowledge the Testator is eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

C. Anthony Sexton of Chapel Hill, N.C.  
Linda Correal of Waynesville, N.C.

STATE OF NORTH CAROLINA, COUNTY OF HAYWOOD

Subscribed, sworn to and acknowledged before me by WILLIAM LUCIUS JONES, the Testator, and subscribed and sworn to before me by C. Anthony Sexton and Linda Correal, witnesses, this 6 day of February, 2002.

My commission expires:  
8-11-06

Kathleen Muel (Kearney)  
Notary Public

BK 0502 PG 0203

Haywood County--Register of Deeds  
Amy R. Murray  
Inst #553735 Book 502 Page 203  
09/13/2001 09:24:48am

**HAYWOOD COUNTY  
NORTH CAROLINA**

**LEASE AGREEMENT**

**THIS LEASE** is made this the 5th day of September, 2001, between Gregory Todd Ferguson, herein referred to as "Tenant", and William Lucius Jones, herein referred to as "Owner" (the designations Owner and Tenant shall include the parties, their heirs, successors and assigns. As used herein, the singular shall include the plural and gender shall be interchangeable.)

**IN CONSIDERATION** of the mutual covenants contained herein, the parties agree as follows:

1) **SUBJECT AND PURPOSE.** Owner leases the buildings, dairy equipment, and approximately 207 acres of land located in Jonathan Township, Haywood County, North Carolina, that property acquired by Owner in Will Book 6, Page 431 of the Haywood County Registry, to Tenant for Tenant's use as an operating farm.

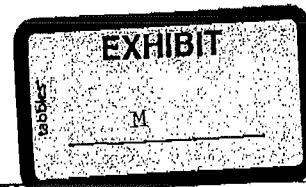
2) **TERM AND RENT.** Owner leases the above premises for a term of twelve (12) years, commencing June 15, 2001, and terminating on June 15, 2013 at 1:00 o'clock P.M. or sooner as provided herein, at the annual rental of Eleven Thousand dollars (\$11,000.00) payable in equal monthly installments of Nine Hundred Sixteen Dollars and Sixty Six Cents (\$916.66) in advance on the twentieth (20th) day of each month for that month's rental, during the term of this lease. All rental payments shall be made to owner at 106 Timothy Lane, Waynesville, North Carolina 28786.

3) **ADDITIONAL RENT.** All taxes, charges, costs and expenses that Tenant agrees to pay hereunder together with all interest and penalties that may accrue thereon and all other costs that Owner may suffer by reason of any failure by Tenant to comply with the terms of this lease shall be deemed to be additional rent, and, in the event of nonpayment, Owner shall have all the rights and remedies as herein provided for failure to pay rent.

4) **ALTERATIONS, ADDITIONS AND IMPROVEMENTS.** Subject to the limitations that no substantial portion of the building on the leased premises shall be demolished or removed by Tenant without the prior written consent of Owner, Tenant may at any time during the lease term, at his own expense, make any alterations to the leased premises and the building. Alterations shall be performed in a workmanlike manner and shall not weaken or impair the structural length, or lessen the value, of the building on the premises, or change the purposes for which the building, or any part thereof, may be used.

All alterations on or in the leased premises at the commencement of the term, and that may be erected or installed during the term, shall become part of the leased premises and the sole property of Owner. All moveable trade fixtures installed by Tenant shall be and remain the property of Tenant.

5) **REPAIRS.** Tenant shall at all times during the lease and at his own cost and



expense, repair, replace, and maintain in a good, safe and substantial condition, all buildings and any improvements, additions, and alterations thereto, on the leased premises, and shall use all reasonable precaution to prevent waste, damage, or injury to the leased premises.

6) TAXES. Owner shall be responsible for all taxes on said property.

7) UTILITIES. All applications and connections for necessary utility services on the leased premises shall be made in the name of the Tenant only, and Tenant shall be responsible for sewer, water, gas, electricity, and telephone services.

8) INSURANCE. During the term of the lease and for any further time that Tenant shall hold the leased premises, Tenant shall obtain and maintain at his expense the following types and amount of insurance.

a) FIRE INSURANCE. Tenant shall keep all building, improvements, and equipment on the leased premises, including all alterations, additions, and improvements, insured against loss or damage by fire. The insurance shall be in an amount sufficient to prevent Owner and Tenant from becoming co-insurers under provisions of applicable policies of insurance, but in any event in an amount not less than 100% of the full insurable value of the leased premises, including the cost of excavation of foundations.

b) PERSONAL INJURY AND PROPERTY DAMAGE INSURANCE. Insurance against liability for bodily injury and property damage and machinery insurance, all to be in amounts and in forms of insurance policies as may from time to time be required by Owner, shall be provided by Tenant.

c) OTHER INSURANCE. Tenant shall provide and keep in force other insurance in amounts that may from time to time be required by Owner against other insurable hazards as are commonly insured against for the type of business activity that Tenant will conduct.

9) UNLAWFUL OR DANGEROUS ACTIVITY. Tenant shall neither use nor occupy the leased premises or any part thereof for any unlawful, disreputable, or ultrahazardous business purpose nor operate or conduct his business in a manner constituting a nuisance of any kind. Tenant shall immediately, on discovery of any unlawful, disreputable, or ultrahazardous use, take action to halt such activity.

10) INDEMNITY. Tenant shall indemnify Owner against all expenses, liabilities, and claims of every kind, including reasonable counsel fees, by or on behalf of any person or entity arising out of either (1) a failure by Tenant to perform any of the terms or conditions of this lease, (2) any injury or damage happening on or about the leased premises, (3) failure to comply with any law of any governmental authority, or (4) any mechanic's lien or security interest filed against the leased premises or equipment, materials, or alterations of buildings or improvements thereon.

11) **DEFAULT OR BREACH.** Each of the following events shall constitute a default or breach of this lease by Tenant:

- (A) If Tenant shall fail to pay Owner any rent or additional rent when the rent shall become due and shall not make the payment within fifteen (15) days after notice thereof by Owner to Tenant.
- (B) If Tenant shall fail to perform or comply with any of the conditions of this lease and if the nonperformance shall continue for a period of fifteen (15) days after notice thereof by Owner to Tenant or, if the performance cannot be reasonably had within the fifteen (15) day period, Tenant shall not in good faith have commenced performance with the fifteen (15) day period and shall not diligently proceed to completion of performance.
- (C) If Tenant shall vacate or abandon the leased premises.

12) **EFFECT OF DEFAULT.** In the event of any default hereunder, as set forth in Paragraph Eleven, the rights of Owner shall be as follows:

- (a) Owner shall have the right to cancel and terminate this lease, as well as all of the right, title, and interest of Tenant hereunder, by giving the Tenant not less than fifteen (15) days' notice of the cancellation and termination. On expiration of the time fixed in the notice, this lease and the right, title and interest of Tenant hereunder, shall terminate in the same manner and with the same force and effect, except as to Tenant's liability, as if the date fixed in the notice of cancellation and termination were the end of the term herein originally determined.
- (b) Owner may elect, but shall not be obligated, to make any payment required of Tenant herein or comply with any agreement, term, or condition required hereby to be performed by Tenant, and Owner shall have the right to enter the leased premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied, by an expenditure for the correction by Owner shall not be deemed to waive or release the default of Tenant or the right of Owner to take any action as may be otherwise permissible hereunder in the case of any default.

13) **DESTRUCTION OF PREMISES.** In the event of a partial or total destruction of the leased premises during the term from any cause, Tenant shall forthwith repair the same. Any destruction of the leased premises during the term from any cause, Tenant shall forthwith repair the same. Any destruction shall neither null or void this lease.

14) **CONDEMNATION.** Rights and duties in the event of condemnation are as follows:

- a) If the whole or the leased premises shall be taken or condemned by any competent



terms and conditions hereof shall be deemed a waiver of the rights or remedies that Owner may have regarding that specific instance only, and shall not be deemed a waiver of any subsequent breach or default in any terms and conditions.

21) **NOTICE.** All notices to be given with respect to this lease shall be in writing. Each notice shall be sent by certified mail, postage prepaid and return receipt requested, to the party to be notified as follows:

Owner: William Lucius Jones  
 106 Timothy Lane  
 Waynesville NC 28786

Tenant: Gregory Todd Ferguson  
 Post Office Box 1976  
 Maggie Valley, NC 28751

and also to be mailed to:

Gregory Todd Ferguson  
 3131 Rabbit Skin Road  
 Waynesville, NC 28785

Every notice shall be deemed to have been given at the time it shall be deposited in the United States mails in the manner prescribed herein. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

22) **ASSIGNMENT, MORTGAGE, OR SUBLEASE.** Neither Tenant nor his successors or assigns shall assign, mortgage, pledge, or encumber this lease or sublet the leased premises in whole or in part, or permit the premises to be used or occupied by others, nor shall this lease be assigned or transferred by operation of law, without the prior consent in writing of Owner in each instance.

23) **SURRENDER OF POSSESSION.** Tenant shall, on the last day of the term, or on earlier termination and forfeiture of the lease, peaceably and quietly surrender and deliver the leased premises to Owner free of subtenancies, including all buildings, additions, and improvements constructed or placed thereon by Tenant, including trade fixtures, all in good condition and repair.

24) **REMEDIES OF OWNER.**

a) In the event of a breach or threatened breach by Tenant of any of the terms or conditions hereof, Owner shall have the right of injunction to restrain Tenant and the right to invoke any remedy allowed by law or in equity, as if the specific remedies of indemnity or reimbursement were not provided herein.

b) The rights and remedies given to Owner in this lease are distinct, separate and cumulative, and no one of them, whether or not exercised by Owner, shall be deemed to be in exclusion of any of the others herein, by law, or by equity provided.

25) TOTAL AGREEMENT, APPLICABLE TO SUCCESSORS. This lease contains the entire agreement between the parties and cannot be changed or terminated except by a written instrument subsequently execute by the parties hereto. This lease and the terms and conditions hereof apply to and are binding on the heirs, legal representatives, successors, and assigns of both parties.

IN WITNESS WHEREOF, the parties have set their hands and seals this the 5 of ~~Aug~~ Sept, 2001.

William Lucius Jones  
William Lucius Jones, Owner

Gregory Todd Ferguson  
Gregory Todd Ferguson, Tenant

Sworn to and subscribed before me this the 5<sup>th</sup> day of September, 2001.

C. Colleen Williamson, Notary Public

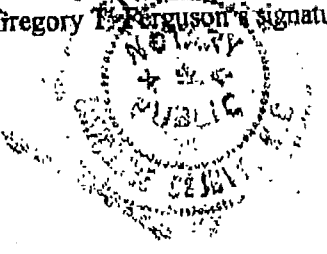
My Commission Expires: 09-21-2003



scribed before me this the 10 day of Septmeber, 2001

Bridget Walker Notary Public

My Commission Expires 03-22-05  
(Notarizing Gregory T. Ferguson's signature)





GENERAL AGREEMENT Inst # 553735 Book 502 Page: 209

BE IT KNOWN, for value received, the undersigned William Lucius Jones of 106 Timothy Lane, Waynesville, North Carolina 28786 hereby unconditionally and irrevocably assigns and transfers full ownership upon my (William Lucius Jones) death unto Gregory Todd Ferguson for the purpose of a farm to be handed down to his child (at the time of signing one living child Colton Wyatt Ferguson) and to their heirs to remain farm property, not to be sold or mortgaged, etc. of 3131 Rabbit Skin Road, Waynesville, North Carolina 28786, (alternate mailing address Post Office Box 1976, Maggie Valley, NC 28751) all rights, titles and interest in and to the following: The real property described in the Lease Agreement between William Lucius Jones and Gregory Todd Ferguson executed the 5 day of Sept, 2001 which is presently leased by Gregory Todd Ferguson until June 15, 2013 at 1:00 o'clock P.M. This property is located on Jonathan Creek Road, Waynesville, N.C. 28786.

The undersigned fully warrants that he, William Lucius Jones is the sole owner and has full rights and authority to enter into this agreement and that the rights and benefits assigned hereunder are free and clear of any lien, encumbrance, adverse claim or interest by any third party.

This Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

This Agreement was entered while I, William Lucius Jones, was in my sound mind and body.

This Agreement shall be enforced under the laws of the State of North Carolina.

Executed this the 5 day of August, 2001.

Sworn to and subscribed before me this the 10 day of September, 2001

Notary Public *Battaglia*  
My Commission Expires: 2005

Lessee: Gregory Todd Ferguson

Owner: William Lucius Jones

*William Lucius Jones*

*Gregory J. Ferguson*

Sworn to and subscribed before me this the 5th day of Sept., 2001.

Notary Public: *C. Colleen Williams* My commission expires: 09-21-2003

NOTICE OF LEASE Inst # 553735 Book 502 Page: 210

The undersigned Lessor and Lessee do hereby provide public notice of the following lease entered into on the 5 day of August <sup>Sunt</sup> 2001, by and between William Lucius Jones and Gregory Todd Ferguson.

1. Lessor: William Lucius Jones
2. Lessees: Gregory Todd Ferguson
3. Leased Premises: Refer to paragraph (1) in attached lease.
4. Term of Lease: Lease expires on June 15, 2013 at 1:00 o'clock P.M.
5. Options to renew and / or extend lease: William Lucius Jones, being of sound mind and body agrees to renew and/or extend said aforementioned lease at the end of the terms mentioned in item (4) upon conditions of the same term..
6. Option to Acquire Property: William Lucius Jones, being of sound mind and body agrees upon his death that the ownership of the property described in paragraph (3) above be transferred to Gregory Todd Ferguson for the purpose of a farm, not to be mortgaged, sold, etc. to remain in Gregory's family for said farm after Gregory Todd Ferguson's death (at the time of this signing one living child born to Gregory Todd Ferguson, Colton Wyatt Ferguson).

[Signature]  
Lessor, William Lucius Jones

[Signature]  
Lessee: Gregory Todd Ferguson

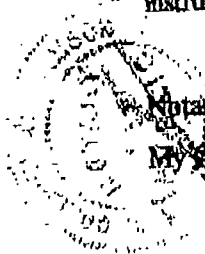
State of North Carolina, County of Haywood

On, 09-05-01, before me, William Lucius Jones, and Gregory Todd Ferguson personally appeared and proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities and that their signatures on the instrument the persons or the entity upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.

Notary Public Signature: C. Colleen Williamson

My Commission Expires: 09-21-2003

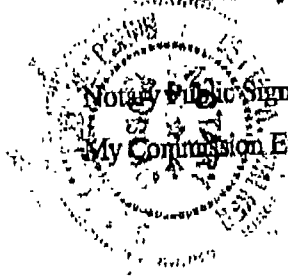


Notary Affidavit for Notice of Lease between Lucius Jones and Gregory Todd Ferguson

State of North Carolina, County of Haywood

On, 9/10/01, before me, Gregory Todd Ferguson, personally appeared and proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities and that their signatures on the instrument the persons or the entity upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.



Notary Public Signature: Betty A Walker  
My Commission Expires: 2-22-05

State of North Carolina, Haywood County  
The Foregoing Certificate(s) of C COLLEEN WILLIAMSON, BETTY A WALKER

Is (are) Certified to be Correct.  
This instrument was filed for Registration on this 13th Day of September, 2001 in the Book and Page shown on the First Page hereof.

~~\_\_\_\_\_~~  
Register of Deeds  
By Colleen Williamson

File No. **78 CVM 198**

**COMPLAINT  
IN SUMMARY EJECTMENT**

G.S. 7A-216, 7A-232; Ch. 42, Art. 3 and 7

Name And Address Of Plaintiff  
**William Lucius Jones  
60 Timonkey Lake  
Waynesville N.C. 28786**

Social Security No./Taxpayer ID No.

County **Haywood** Telephone No.

**VERSUS**

Name And Address Of Defendant 1  
**Gregory Todd Ferguson  
Rt 4 Box 266  
Waynesville N.C. 28786**

County **Haywood** Telephone No.

Name And Address Of Defendant 2

County **Haywood** Telephone No.

Name And Address Of Plaintiff's Attorney Or Agent  
**FILED  
02 APR AM 8:41  
HAYWOOD COUNTY C.S.C.  
BY**

**STATE OF NORTH CAROLINA**

**Haywood** County

In The General Court Of Justice  
District Court Division-Small Claims

1. The defendant is a resident of the county named above.

2. The defendant entered into possession of premises described below as a lessee of plaintiff.

Description Of Premises (include location)  
**Farm - Tractor on Lucias Jones Dairy Farm on Jonathan's Creek**

Rate Of Rent **\$ 850.00** per  Month  Week Date Rent Due **12th each month** Date Lease Ended **12/1/01**

3.  The defendant failed to pay the rent due on the above date and the plaintiff made demand for the rent and waited the 10-day grace period before filing the complaint.

The lease period ended on the above date and the defendant is holding over after the end of the lease period.

The defendant breached the condition of the lease described below for which re-entry is specified.

Criminal activity or other activity has occurred in violation of G.S. 42-63 as specified below.

Description Of Breach/Criminal Activity (give names, dates, places and illegal activity)

4. The plaintiff has demanded possession of the premises from the defendant, who has refused to surrender it, and the plaintiff is entitled to immediate possession.

5. The defendant owes the plaintiff the following:

Description Of Any Property Damage

Amount Of Damage (if known)	Amount Of Rent Past Due	Total Amount Due
\$	\$ <b>7,150.00</b>	\$

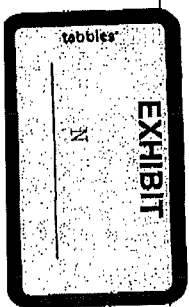
6. I demand to be put in possession of the premises and to recover the total amount listed above and daily rental until entry of judgment plus interest and reimbursement for court costs.

Date **4-10-02** Signature Of Plaintiff/Attorney/Agent **Lucius Jones**

**CERTIFICATION WHEN COMPLAINT SIGNED BY AGENT OF PLAINTIFF**

I certify that I am an agent of the plaintiff and have actual knowledge of the facts alleged in this Complaint.

Date \_\_\_\_\_ Signature \_\_\_\_\_



Summary Ejectment

C 20021266

STATE OF NORTH CAROLINA  
 Haywood County  
 RECEIVED In The General Court Of Justice  
 District Court Division-Small Claims  
 APR 01 2008  
 File No. 02 CVM 198

Plaintiff(s)  
 William Dennis Jones

MAGISTRATE SUMMONS  
 ALIAS AND PLURIES SUMMONS  
 G.S. 7A-217, -232; 1A-1, Rule 4

VERSUS  
 Defendant(s)  
 Gregory Todd Ferguson

Date Last Summons Issued

TO:  
 Name And Address Of Defendant 1  
 Gregory Todd Ferguson  
 Rt 4 box 266  
 Waynesville N.C. 28786

TO:  
 Name And Address Of Defendant 2  
 off J creek

A Small Claim Action Has Been Commenced Against You!

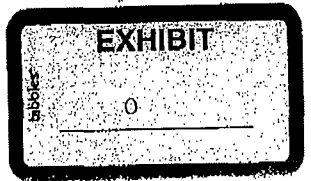
You are notified to appear before the magistrate at the specified date, time and location of trial listed below. You will have the opportunity at the trial to defend yourself against the claim stated in the attached complaint.

You may file a written answer, making defense to the claim, in the office of the Clerk of Superior Court at any time before the time set for trial. Whether or not you file an answer, the plaintiff must prove the claim before the magistrate.

If you fail to appear and defend against the proof offered, the magistrate may enter a judgment against you.

Date of Trial Apr 02, 2008	Time Of Trial 9:00	<input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	Location Of Court Magistrate Courtroom
Name And Address Of Plaintiff Or Plaintiff's Attorney			Date Issued 4-1-08
			Signature Risa Hannah
			<input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

FILED  
 02 APR -2 PM 2:31  
 HAYWOOD COUNTY C.S.C.  
 BY \_\_\_\_\_



RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served Name Of Defendant

- By delivering to the defendant named above a copy of the summons and complaint.
By leaving a copy of summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copy Left (If Corporation, Give Title Of Person Copy Left With)

Other manner of service: (specify).

Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served Name Of Defendant

- By delivering to the defendant named above a copy of the summons and complaint.
By leaving a copy of summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copy Left (If Corporation, Give Title Of Person Copy Left With)

Other manner of service: (specify).

Defendant WAS NOT served for the following reason:

FOR USE IN SUMMARY EJECTMENT CASES ONLY

Service was made by mailing by first class mail a copy of the summons and complaint to the defendant(s) and by posting a copy of the summons and complaint at the following premises.

Form with handwritten entries: Date Served 4-1-08, Names of Defendant(s) Served by Posting Gregory Todd Ferguson, Address of Premises Where Posted 104 Wap Hill Way, Service Fee \$5.00, Date Received 4-1-08, Name of Sheriff R. E. Alexander, County Wagoner, Deputy Sheriff Making Return R. E. Alexander.

STATE OF NORTH CAROLINA

In The General Court Of Justice  
District Court Division-Small Claims

Haywood County

File No. 02 CVM 198  
Film No. 2002-7-60

Judgment Docket Book And Page No.

JUDGMENT  
IN ACTION FOR  
SUMMARY EJECTMENT

G.S. 7A-210(2), 7A-224; 42-30

Name And Address Of Plaintiff

William Lucius Jones  
60 Timothy Lane  
Waynesville, N.C. 28786

Social Security No./Taxpayer ID No.

Telephone No.

County Haywood

VERSUS

Name And Address Of Defendant 1

Gregory Todd Ferguson  
Rt.4, Box 266  
Waynesville, N.C. 28786

Telephone No.

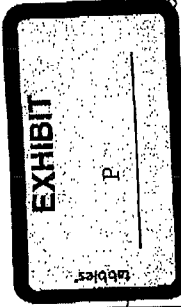
County Haywood

Name And Address Of Defendant 2

Telephone No.

County

Name And Address Of Plaintiff's Attorney



This action was tried before the undersigned on the cause stated in the complaint. The record shows that the defendant was given proper notice of the nature of the action and the date, time and location of trial.

FINDINGS

The Court finds that:

- 1.  a. the plaintiff has proved the case by the greater weight of the evidence.
- b. the plaintiff has failed to prove the case by the greater weight of the evidence.
- 2. the defendant(s)  was  was not present at trial. (Posted 4/1/02)
- 3.  a. there is no dispute as to the amount of rent in arrears, and the amount is \$ 7650.00.
- b. there is an actual dispute as to the amount of rent in arrears. The defendant(s) claims the amount of rent in arrears is \$ \_\_\_\_\_, and this amount is the undisputed amount of rent in arrears.
- 4. Other:

ORDER

It is ORDERED that:

- 1. the defendant(s) be removed from and the plaintiff be put in possession of the premises described in the complaint.
- 2. this action be dismissed with prejudice.
- 3. this action be dismissed with prejudice because the defendant tendered the rent due and the court costs of this action.
- 4. the plaintiff recover rent of the defendant(s) at the rate listed below, plus damages in the amount indicated. The plaintiff is also entitled to interest on the total principal sum from this date until the judgment is paid.
- 5. Other: (specify)

6. Costs of this action are taxed to the  plaintiff.  defendant.

FILED  
APR 12 AM 11:00  
WOOD COUNTY CO

Rate Of Rent \$	Mo. <input type="checkbox"/>	per <input type="checkbox"/>	Wk. <input type="checkbox"/>	\$	Am't. Of Rent In Arrears (Owed To Date)	\$
Amount Of Other Damages				\$		
TOTAL AMOUNT				\$		

Judgment Announced And Signed In Open Court

Date 4/12/02

Signature Of Magistrate

CERTIFICATION

(NOTE: To be used when magistrate does not announce and sign this judgment in open court at the conclusion of the trial.)  
I certify that this Judgment has been served on each party named by depositing a copy in a post-paid properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Date

Signature Of Magistrate

of the Courts

STATE OF NORTH CAROLINA

File No.

02 CVM 198

Film No.

Haywood County

FILED

In The General Court Of Justice

Name And Address Of Plaintiff

William Lucius Jones  
led Timothy Lane  
Waynesville N.C. 28786

02 APR 23 AM 10:50

HAYWOOD COUNTY N.C.

WRIT OF POSSESSION

REAL PROPERTY

G.S. 1-313(4); 42-36.2

VERSUS

BY

Name And Address Of Defendant 1

Gregory Judd Ferguson  
Rt 4 Box 260  
Waynesville N.C. 28786

Name And Address Of Defendant 2

To The Sheriff Haywood County:

A judgment in favor of the plaintiff was rendered in this case for the possession of the real property described below; and you are commanded to remove the defendant(s) from, and put the plaintiff in possession of those premises.

Description Of Property (include location)

Lucius Jones Dairy Farm on Jonathan Creek.  
all wood house vacated, Trailer removed from property,  
and any farm equipment owned by Gregory Judd Ferguson

Date Of Judgment

4-12-02

Date Writ Issued

4-23-02

Signature

*Cassidy S. Osborne*



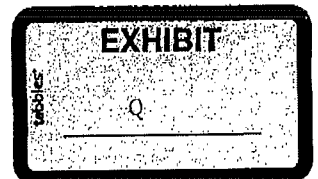
Deputy CSC



Assistant CSC



Clerk Of Superior Court





HAYWOOD COUNTY SHERIFF'S OFFICE

R. Tom Alexander  
Sheriff

File # 02 CVM 198

NOTICE

To: Gregory Todd Ferguson  
Rt. 1 Box 266  
Waynesville, NC 28786

The Haywood County Sheriff's Office has received a Writ of Possession from the Court that requires us to take possession of the property listed on the attached copy.

Please call or come by the Sheriff's Office within the next week so that we can make arrangements to take possession of this property with a minimum of inconvenience to you.

EVICTIION NOTICE

You should move from the premises immediately. If you have not removed yourself and all your property by April 30, 2002

at 1:30, a deputy from this office will come at approximately that time and remove you and all your property from the premises or lock the premises. Any questions may be directed to the deputy handling this writ at 452-6666.

\*\*\*\*\*You must request the landlord to return any of your property left on the premises within 10 days after this office carries out the writ. If you fail to request possession of your property within 10 days, the landlord may throw away, dispose of or sell the property.

Date Notice Given: April 23, 2002

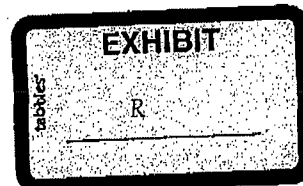
R. T. Alexander

Sheriff, Haywood County

Deputy: Lt. Bob Suttlers

or

Sgt. Tim Nelson



4-29-02

To be known that this is a legal & binding agreement between Dennis Ball & Lucius Jones to lease the farm & house on Jonathan Creek across the mountain to Wellwood at \$600.00 a month (as is) for ten years beginning 5-1-2002 - 2012 with the understanding the lease can be renewed.

X Lucius Jones

X Dennis Ball

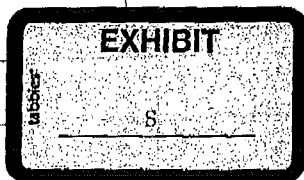
THE ABOVE PERSONS KNOWN TO ME PERSONALLY APPEARED BEFORE ME AND SIGNED THIS DOCUMENT THIS 29TH DAY OF APRIL 2002, I GRADY LEATHERWOOD A NOTARY PUBLIC OF HAYWOOD COUNTY NC. MY COMMISSION EXPIRES 1-20-2007

Grady Leatherwood

Notary Public

My Commission Expires

1-20-2007



STATE OF NORTH CAROLINA

File No. 03 SP 120

HAYWOOD

County

FILED

In the General Court of Justice  
Superior Court Division  
Before The Clerk

IN THE MATTER OF: 2003 MAY - 8 PM 4:44

PETITION FOR ADJUDICATION  
OF INCOMPETENCE AND  
APPLICATION FOR  
APPOINTMENT OF GUARDIAN

AND INTERIM GUARDIAN

Name And Address Of Respondent  
WILLIAM LUCIUS JONES  
60 Timothy Lane  
Waynesville, NC 28786

HAYWOOD COUNTY, C.S.C.

BY \_\_\_\_\_

G.S. 35A-1105, 35A-1114, 35A-1210

County Of Residence Of Respondent  
Haywood

Age  
63

Name And Address Of Attorney For Petitioner  
Wm. I. Millar  
144 Montgomery St., Waynesville, NC 28786

Name And Address Of Petitioner  
New Years  
81 Jefferson St.  
Waynesville, NC 28786

Telephone No.  
456-9582

Telephone No.  
456-7353

Petitioner's Relationship To Respondent Or Interest In Proceeding  
Haywood  
1st Cousin

Respondent Indigent  
 Jury Trial Requested

Name And Address Of Treatment Facility If Respondent Is An Inpatient In This County  
Haywood Regional Medical Center, 262 Leroy George Dr., Clyde, NC 28721

The undersigned, being duly sworn, requests that the Court, after notice and hearing, adjudicate the respondent named above to be incompetent, and also applies for the appointment of the person(s) named below to serve, in the capacity indicated, as guardian(s) of the respondent.

In support of this Petition, the undersigned states:

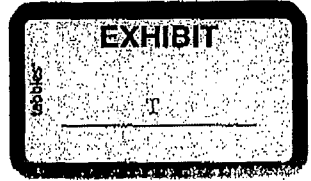
1. The respondent is  a resident of this county  domiciled in this county  an inpatient in the facility named above or  present in this county, it being impossible to determine his county of residence or domicile.

2. The respondent is incompetent in that:  
 he lacks sufficient capacity to manage his own affairs or to make or communicate important decisions concerning his person, family or property, as shown by the following facts: (Set forth the facts which tend to show that the respondent is incompetent. Include cause of incompetence, which may be mental illness, mental retardation, epilepsy, cerebral palsy, autism, inebriety, senility, disease, injury, or other cause, and give facts demonstrating lack of capacity. Be specific.)

Cerebral Hemorrhage leaving Respondent confused, unable to sit up or walk.  
Confused speech.

he was adjudicated incompetent in another state in the proceeding identified below:  
(NOTE: Attach certified copy of order to this Petition.)

Date Of Adjudication \_\_\_\_\_ State And County \_\_\_\_\_ File Or Other ID No. \_\_\_\_\_



3. The respondent's next of kin, if any, and other persons known to have an interest in this proceeding are:

<b>Name And Address</b> Billy Jones 203 Dayton Dr. Waynesville, NC 28786		<b>Name And Address</b> Evelyn Jones Ketner 45 Crowfield Rd. Maggie Valley, NC 28751	
<b>County Of Residence</b> Haywood	<b>Telephone No.</b> 926-1778	<b>County Of Residence</b> Haywood	<b>Telephone No.</b> 926-1560
<b>Relationship To Respondent Or Interest In Proceeding</b> 1st Cousin		<b>Relationship To Respondent Or Interest In Proceeding</b> 1st Cousin	
<b>Name And Address</b> Margaret Jones Stamey 70 Stamey Rd. Candler, NC 28715		<b>Name And Address</b> Shirley Jones Myers Oak Park Dr. Clyde, NC 28721	
<b>County Of Residence</b> Buncombe	<b>Telephone No.</b> 667-3809	<b>County Of Residence</b> Haywood	<b>Telephone No.</b> 627-1360 627-3190
<b>Relationship To Respondent Or Interest In Proceeding</b> 1st Cousin		<b>Relationship To Respondent Or Interest In Proceeding</b> 1st Cousin	

4. General statement of respondent's assets and liabilities, including any income and receivables to which he is entitled:

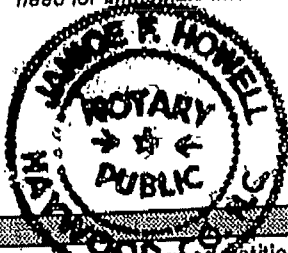
Assets		Liabilities		Income And Receivables	
House and Real Property 200+ acre	\$ 223,293	Mortgage Loans	\$ none	Wages And Salaries	\$ unk
Tangible Personal Property	\$ unk	Other Secured Loans	\$ unk	Rents	\$
Other Personal Property	\$ unk	Unsecured Loans	\$ unk	Pensions	\$
				Allowances	\$
				Insurance And Compensation	\$
				Other	\$

5. The applicant recommends that the guardian(s) be:

<b>Name And Address Of Proposed Guardian</b> Ned Jones 81 Jones Dr. Waynesville, NC 28786	<b>Name And Address Of Proposed Guardian</b> _____ _____
<input type="checkbox"/> Of The Estate <input type="checkbox"/> Of The Person <input checked="" type="checkbox"/> General Guardian	<input type="checkbox"/> Of The Estate <input type="checkbox"/> Of The Person <input type="checkbox"/> General Guardian

**MOTION FOR APPOINTMENT OF INTERIM GUARDIAN**

The petitioner also moves that the Court appoint an interim guardian because there is reasonable cause, as shown by the following facts, to believe that the respondent is incompetent, and needs an interim guardian to intervene on his behalf prior to the adjudication hearing in that:  he is in a condition that constitutes or reasonably appears to constitute an imminent or foreseeable risk of harm to his physical well being and requires immediate intervention.  there is or reasonably appears to be an imminent or foreseeable risk of harm to his estate that requires immediate intervention in order to protect the respondent's interest. (Set forth facts, in addition to those above, which demonstrate need for immediate intervention. Be specific.)



**VERIFICATION**

I, the undersigned petitioner, have read this Petition and state that its contents are true to my own knowledge except those matters stated on information and belief, which I believe are true.

<b>SWORN AND SUBSCRIBED TO BEFORE ME</b>		<b>Date</b> 5/8/03
<b>Date</b> 5/8/03	<b>Signature Of Person Authorized To Administer Oath</b> <i>James F. Howell</i>	<b>Signature Of Petitioner</b> <i>Ned Jones</i>
<b>Title</b> Notary Public	<b>Date Commission Expires</b> 2/2/08	<b>Name Of Petitioner (Type Or Print)</b> _____



2. For such other and further relief as the Court may deem just and proper.

This the 4<sup>th</sup> day of May, 2003.

McLEAN LAW FIRM, P.A.

---

Russell L. McLean III  
Attorney for Petitioner  
244 North Main Street  
Waynesville, North Carolina 28786  
(828) 452-2896

STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

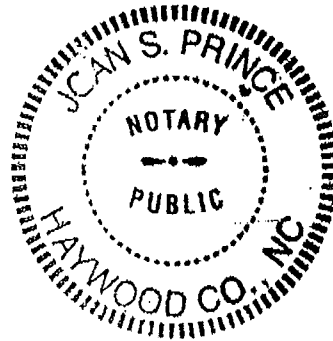
DENNIS R. HALL, being first duly sworn, upon his oath, deposes and says:  
That he is the Petitioner in the foregoing action and as such has read or heard read the foregoing  
Application for Appointment of Guardian Ad Litem; that the same is true of his own knowledge  
except as to matters and things therein stated upon information and belief, and as to those matters  
he believes it to be true.

Dennis R. Hall  
DENNIS R. HALL

SWORN TO and SUBSCRIBED  
before me this 14<sup>th</sup> day of May, 2003.

Joan S. Prince  
Notary Public

My commission expires:  
7-9-7



CERTIFICATE OF SERVICE

This is to certify that I have this day served:

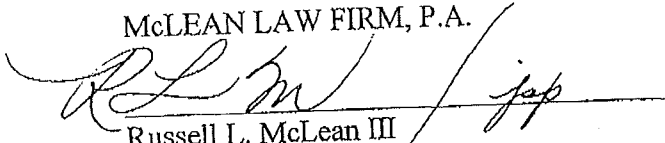
William I. Millar, Esq.  
Attorney for Petitioner Ned Jones  
144 Montgomery Street  
Waynesville, North Carolina 28786

T. Michael Jordan  
Attorney for Guardian Ad Litem  
154 North Main Street  
Waynesville, North Carolina 28786

with a copy of Application for the Appointment of Guardian by depositing same in the United States mail with adequate postage thereon.

This 4<sup>th</sup> day of May, 2003.

McLEAN LAW FIRM, P.A.

  
Russell L. McLean III  
244 North Main Street  
Waynesville, North Carolina 28786  
(828) 452-2896



STATE OF NORTH CAROLINA

HAYWOOD County

File No.

03 SP 120

In The General Court Of Justice  
Superior Court Division  
Before The Clerk

FILED

IN THE MATTER OF:

2003 MAY 16 AM 10:02

ORDER ON MOTION FOR  
APPOINTMENT OF  
INTERIM GUARDIAN

Name Of Respondent(s)

WILLIAM LUCIUS JONES

HAYWOOD COUNTY, NC

BY

G.S. 35A-1114

A hearing on the petitioner's Motion for the Appointment of an Interim Guardian was held before me on this day. From the evidence presented at the hearing, the Court makes the following specific findings of fact:

(Set forth facts which support conclusion that grounds for immediate intervention exist.)

That Respondent is unable to care for himself due to a stroke. That this Court is advised that he no longer needs acute hospital care and is ready for immediate transfer to a long term healthcare facility.

- 1. Based on these specific findings of fact, the Court concludes that there is reasonable cause to believe that the respondent is incompetent, and that:
  - a. the respondent is in a condition that constitutes or reasonably appears to constitute an imminent or foreseeable risk of harm to the respondent's physical well-being, and there is immediate need for a guardian to provide consent or take other steps to protect the respondent.
  - b. there is or reasonably appears to be an imminent or foreseeable risk of harm to the respondent's estate, and immediate intervention is required in order to protect the respondent's interest.
- 2. The Court does not find that grounds exist for the appointment of an interim guardian.

It is ORDERED that:

- 1. the person named below is appointed interim guardian of the  person  estate for the respondent. Upon qualifying, the interim guardian shall have the powers and duties specifically set forth below. These powers and duties shall extend only so long as is necessary to meet the condition necessitating this appointment. In any event, this interim guardianship shall terminate on the earliest of the following: the expiration date specified below, if any; 45 days from the date of this Order; when any guardian is appointed following an adjudication of incompetence; or when the petition in this case is dismissed by the Court.
- 2. the motion for the appointment of an interim guardian is denied.

Name And Address Of Interim Guardian

Dennis Hall  
1326 Jonathan Creek Road, Waynesville, NC 28786

Relationship To Respondent

NONE

Telephone No.

(828) 506-4079

Powers And Duties Of Interim Guardian

Admit Respondent to a long-term healthcare facility as arranged by Haywood Regional Medical Center personnel in discretion of the attending physician.

Date Of Order

05-16-2003

Signature

Assistant CSC

Clerk Of Superior Court

Expiration Date

06-02-2003

EXHIBIT

7  
ice of the Courts

(See reverse side for Order Extending Interim Guardianship)

STATE OF NORTH CAROLINA

File No. 03--E-219

HAYWOOD County

In The General Court Of Justice  
Superior Court Division  
Before the Clerk

IN THE MATTER OF THE ESTATE OF:

Name Of Ward

WILLIAM LUCIUS JONES

LETTERS OF APPOINTMENT  
GUARDIAN OF THE ESTATE

G.S. 35A-1203, -1208, -1251; 34-2.1

Incompetent Person

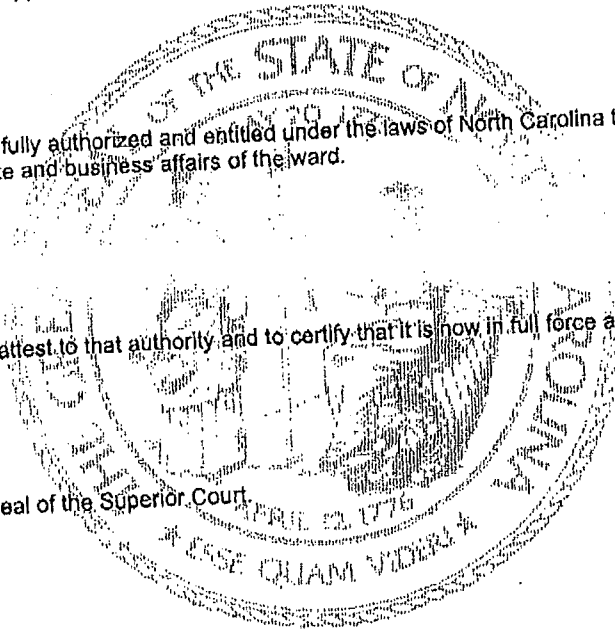
Minor

The Court in the exercise of its jurisdiction for the appointment of guardians of incompetent persons and minors, and upon proper application, has appointed the person named below as Guardian of the Estate of the ward named above and has ordered that these Letters Of Appointment be issued.

The guardian of the estate is fully authorized and entitled under the laws of North Carolina to receive, manage and administer the property, estate and business affairs of the ward.

These Letters are issued to attest to that authority and to certify that it is now in full force and effect.

Witness my hand and the Seal of the Superior Court



Name And Address Of Guardian Of The Estate  
SAM M UNDERWOOD, CPA  
154 N MAIN  
WAYNESVILLE, NC 28786

Date Of Qualification 06-24-2003

Clerk Of Superior Court  
JUNE L. RAY

EX OFFICIO JUDGE OF PROBATE

Date Of Issuance 05-10-2006

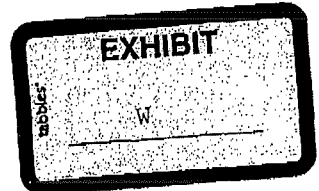
Signature

*Jammi G. Lowe*

Deputy CSC

Assistant CSC

SEAL



STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

FILED IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
BEFORE THE CLERK

2007 MAY -1 P 3: 39 FILE NO. 03-SP-285

07SP135

IN THE MATTER OF THE ESTATE OF WILLIAM LUCIUS JONES,  
HAYWOOD COUNTY, C.S.C.  
INCOMPETENT BY \_\_\_\_\_

**PETITION BY GUARDIAN OF THE  
ESTATE TO SELL REAL PROPERTY  
BELONGING TO THE WARD**

Now comes Sam M. Underwood, the duly appointed and acting Guardian of the Estate of William Lucius Jones, and respectfully shows the Court:

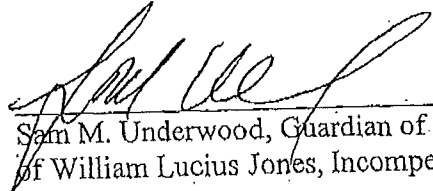
1. That the cash assets of the Estate as reported by your Guardian of the Estate have been substantially depleted by the payment of hospital and medical bills for services rendered to his Ward, and only \$13,592.50 remains on hand;
2. That approximately \$3,000 - \$3,500 is required each month to pay nursing care for his Ward;
3. That other bills accrue, including ad valorem taxes, other medical bills, legal fees, and court costs;
4. That his Ward's monthly income from all sources is \$1,133.10;
5. That based upon the foregoing the cash assets will be exhausted in about 4 months, at which time his Ward is likely to become a charge upon the County's welfare roll;
6. That his Ward owns a parcel of real property in Haywood County, namely, 207.2 acres of farmland, pastureland, and mountain land (PIN 8607-42-9859) stretching from Jonathan Creek Valley over a mountain to Dellwood Road which has a tax valuation of \$731,190; the Jonathan Creek property is desirable and highly marketable, particularly those acres adjacent to the farm of Dick Medford; that none of this property is being effectively utilized to produce income.

WHEREFORE, your Guardian of the Estate petitions the Court to find that a sale of 22.091 acres (legal description and plat attached) of the Ward's property on Jonathan Creek, Waynesville, NC (portion of PIN 8607-42-9859) by the Guardian of the Estate is in the best interests of the Ward and that the Court order a sale of said Jonathan Creek property at public or private sale upon such terms as may be most advantageous to his



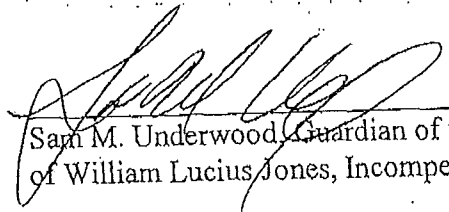
Ward, such sale to be conducted as provided by Article 29A of Chapter 1 of the General Statutes.

This the 1st day of May, 2007.

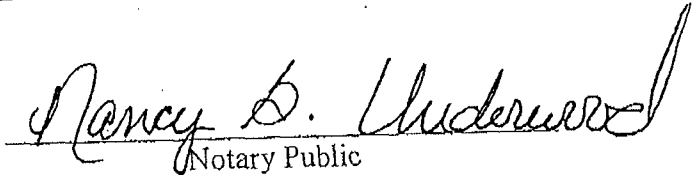
  
Sam M. Underwood, Guardian of the Estate  
of William Lucius Jones, Incompetent

NORTH CAROLINA  
HAYWOOD COUNTY

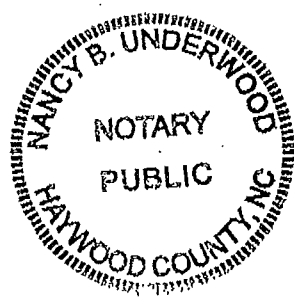
Sam M. Underwood, being first duly sworn, deposes and say that he is the duly appointed and acting Guardian of the Estate of William Lucius Jones, Incompetent; that he has read the foregoing Petition by Guardian of the Estate to Sell Real Property Belonging to the Ward; that the contents thereof are true of his own knowledge, except as to matters stated on information and belief, and as to those matters he believes them to be true.

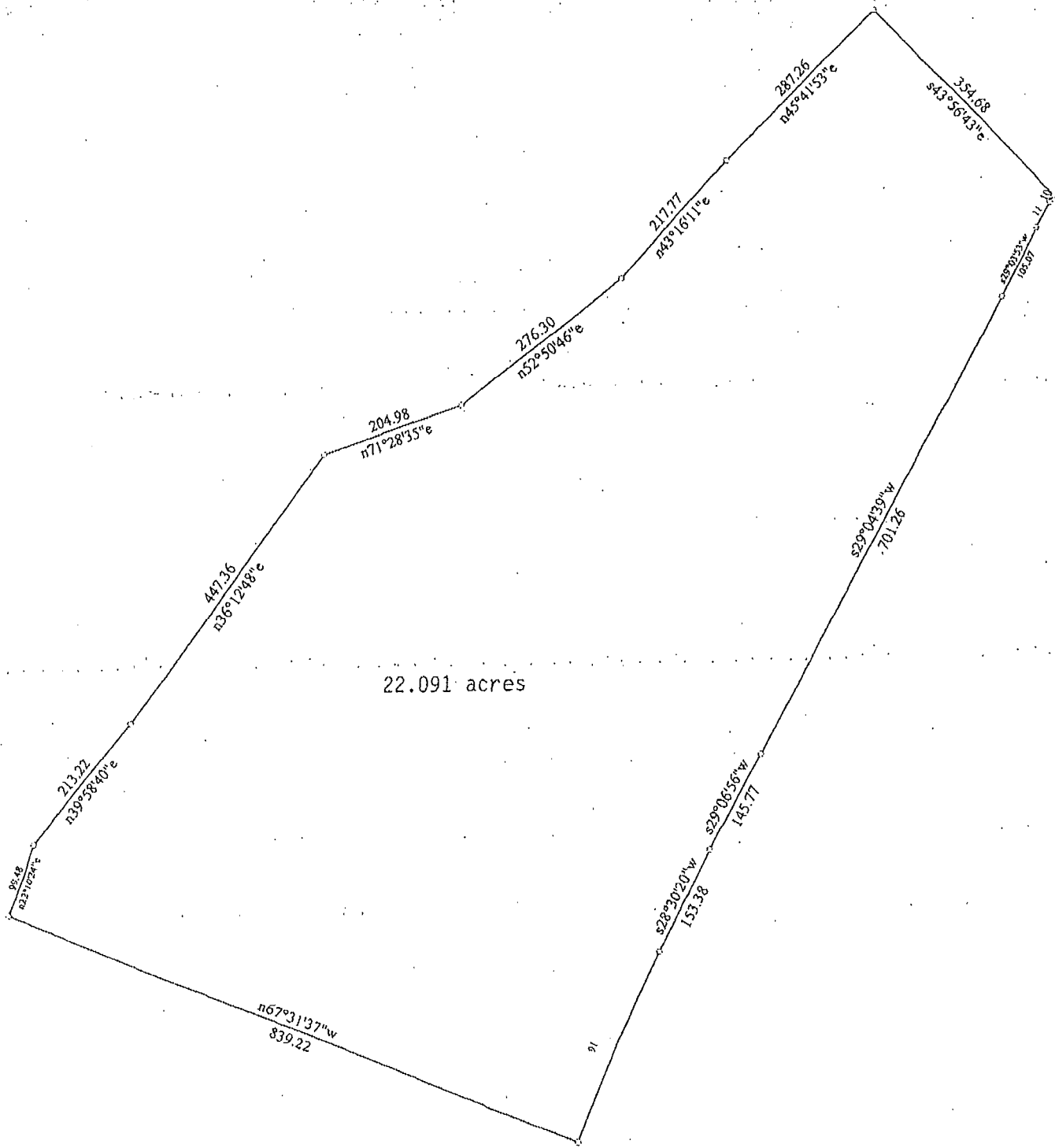
  
Sam M. Underwood, Guardian of the Estate  
of William Lucius Jones, Incompetent

Sworn to and subscribed before me, this 1 day of May, 2007.

  
Nancy B. Underwood  
Notary Public

My Commission Expires: 5-23-2011





22.091 acres

Title: Lucius Jones J Creek		Date: 05-01-2007
Scale: 1 inch = 200 feet	File: Lucius Jones J Creek.des	

WILLIAM LUCIUS JONES property on Jonathan Creek Road

## EXHIBIT "A"

BEGINNING at an iron stake set (being a metal fence post) at the Western right-of-way of Jonathan Creek Road (U.S. Hwy. 276) which iron stake lies North 17-12-52 East 98.39 feet from NCGS Monument "TRIT" (NCGS Monument "MULE" lies North 28-55-44 East 2,988.07 feet from "TRIT") and runs North 67-31-37 West 839.22 feet (passing through a new iron stake [metal fence post] at 793.82 feet) to a point in the center of Jonathan Creek; thence with Jonathan Creek, as it meanders, seven calls: (1) North 22-10-24 East 99.48 feet, (2) North 39-58-40 East 213.22 feet, (3) North 36-12-48 East 447.36 feet, (4) North 71-28-35 East 204.98 feet, (5) North 52-50-46 East 276.30 feet, (6) North 43-16-11 East 217.77 feet, and (7) North 45-41-53 East 287.26 feet to a point on the Northern edge of a steel and timber bridge spanning the creek, being the Westmost corner of the Thomas Bryan Medford lot described in Deed Book 327 at Page 50; thence with the Southerly margin of that Lot and his adjoining Lot described in Deed Book 419 at 1163, and a tract belonging to John Michael Medford (461/82) South 43-56-43 East 354.68 feet (running generally along Pitts Drive) to an iron pin set in the Westerly margin of the right-of-way of Jonathan Creek Road where Potts Drive intersects with said Road; thence with said right-of-way seven calls: (1) South 29-03-53 West 10.12 feet to the South edge of Potts Drive; (2) continuing South 29-03-53 West 41.23 feet, crossing a 40-foot Drainage Easement belonging to the N.C.D.O.T. as described in Deed Book 238, Page 596, said easement running parallel with Potts Drive, (3) continuing South 29-03-53 West 105.07 feet to a concrete R/W Monument; (4) South 29-04-39 West 701.26 feet to another concrete R/W Monument, (5) South 29-06-56 West 145.77 feet, (6) South 28-30-20 West 153.38 feet, and (7) a curve to the left (Radius 2,661.48 feet a linear distance of 286.88 feet (Chord South 24-17-56 West 286.74 feet) to the BEGINNING, containing 22.091 acres, per survey and plat of L. Kevin Ensley, PLS, dated March 23, 2007, entitled "Survey for William Lucius Jones" and identified as Job B-005-07.

SUBJECT TO the aforesaid USDOT Drainage Easement and the easement for Potts Drive as the same exists, and the rights of various persons, if any, to take water from Jonathan Creek.

This property is located within a Flood Zone.

Reference: Will Book 4 Page 431; Deed Book 75 Page 184 Tract 1; Deed Book 122, Page 637

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

FILED

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

2007 MAY -1 P 3: 39

BEFORE THE CLERK

FILE NO. ~~03-SP-285~~

07 SP 135

HAYWOOD COUNTY, C.S.C.

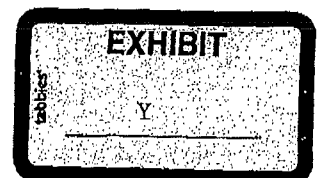
IN THE MATTER OF THE ESTATE  
OF WILLIAM LUCIUS JONES,  
INCOMPETENT

ORDER ALLOWING SALE OF LAND  
BY GUARDIAN OF THE ESTATE

This matter coming on to be heard and being heard before the Clerk upon the Petition of the Guardian of the Estate to sell real property belonging to the Ward, the Clerk, upon satisfactory proof, makes the following

**FINDINGS OF FACT**

1. The Ward's personal estate has been substantially consumed by nursing, hospital and medical bills to the point where only \$13, 592.50 remains;
2. Taxes, other medical bills, legal and court expense will require approximately \$5 - 10,000.00 additionally;
3. Continuing nursing care runs \$3,000 -3,500 per month;
4. The Ward's monthly income is \$1,133.10;
5. That the Ward owns a parcel of real property in Haywood County, namely 207.2 acres of farmland, pastureland, and mountain land (PIN 8607-42-9859) stretching from Jonathan Creek Valley over a mountain to Dellwood Road which has a tax valuation of \$731, 190; the Jonathan Creek property is desirable and highly marketable, particularly those acres adjacent to the farm of Dick Medford; that none of this property is being effectively utilized to produce income.
6. The Ward's estate will be exhausted in about four months and the Ward will become a charge upon the welfare roll of Haywood County unless some of the Ward's real property is sold.

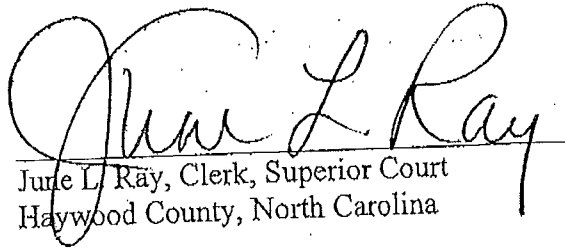


Based upon the foregoing Findings of Fact, the Clerk enters the following.

**ORDER OF SALE**

A. That the Guardian of the Estate sell at public auction or private sale the Jonathan Creek property, more particularly described in Exhibit "A" attached hereto, to provide funds for the care and maintenance of his Ward; that if sold as a public sale such sale shall be held as a public auction, and conducted as provided by Article 29A of Chapter 1 of the General Statutes.

This the 1 day of May, 2007

  
June L. Ray, Clerk, Superior Court  
Haywood County, North Carolina



STATE OF NORTH CAROLINA

File No. 07 SP 135

HAYWOOD COUNTY

2007 AUG 14 P 5: 16 In the General Court of Justice

In the matter of the Estate of William Lucious Jones, incompetent

HAYWOOD COUNTY, C.S.C.

BY JMR ORDER OF CONFIRMATION OF SALE

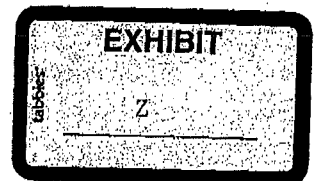
This matter coming on upon the Petition of the Guardian of the Estate of William Lucious Jones to sell real property of the Ward to provide funds for his care and upkeep; and upon the Order of the Clerk of Superior Court of Haywood County permitting such sale, and after due advertisement of the sale, a public auction was held on the premises on June 2, 2007 at which time and place the advertised parcel of land containing 22.091 acres lying along Jonathan Creek was sold to the highest bidder as set forth in the Report of Sale dated June 4, 2007, as filed herein; that thereafter several upset bids were filed with the Clerk of Court; that the last and highest upset bid is that of Haywood County, a body politic, in the amount of \$1,114,921.50; that said bid of Haywood County lay open for 10 days without additional upset bid and thus is the Final Bid.

NOW THEREFORE, pursuant to North Carolina General Statute 1-339.28, said Clerk of Superior Court finds that the sale is in the best interests of the Incompetent and does hereby CONFIRM said sale to Haywood County;

AND WHEREAS this matter has been reviewed by the Resident Superior Court Judge, who finds that the sale is in the best interests of the Incompetent and does hereby CONFIRM said sale to Haywood County.

June L. Ray  
June L. Ray, Clerk Superior Court  
Haywood County, North Carolina  
Date: August 14, 2007

J. Marlene Hyatt  
J. Marlene Hyatt, Senior Resident Superior  
Court Judge for Judicial District 30B  
Date: August 14, 2007



TRANSFER MADE ON RECORD

Date 8-31-07

By SR  
8607-42-9859

HAYWOOD COUNTY TAX CERTIFICATION  
There are no delinquent taxes due that are a lien  
against parcel number(s) 8607-42-9859  
David B. Francis, Haywood County Tax Collector  
Date: 10/21/07 By: [Signature]



2007666051  
HAYWOOD CO, NC FEE \$23.00  
STATE OF NC REAL ESTATE EXTX  
\$2230.00  
PRESENTED & RECORDED:  
08-31-2007 11:37:27 AM  
AMY R. MURRAY  
REGISTER OF DEEDS  
BY: AMY MURRAY  
REGISTER OF DEEDS  
BK: RB 715  
PG: 657-660

Excise Tax \$2,230.00

Tax Lot No. 8607-42-9859 Parcel Identifier No. \_\_\_\_\_  
Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_

Mail after recording to Leon M. Killian, P.O. Box 30519, Raleigh, NC 27622-0519  
This instrument was prepared by William I. Miller  
Brief Description for the index 22.091 acres Jonathan Creek

### NORTH CAROLINA NON-WARRANTY DEED

THIS DEED made August 30, 2007, by and between \_\_\_\_\_

**GRANTOR**  
WILLIAM LUCIUS JONES, by and through  
SAM M. UNDERWOOD, the duly appointed and  
Acting Guardian of the Estate of WILLIAM  
LUCIUS JONES, an incompetent adult

**GRANTEE**  
HAYWOOD COUNTY,  
a body politic (a subdivision of the State of North  
Carolina), whose address is:  
215 N. Main Street  
Waynesville, NC 28786

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

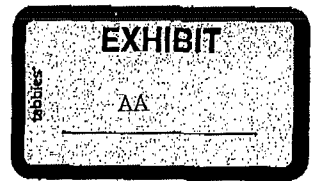
The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Ivy Hill Township, Haywood County, North Carolina and more particularly described as follows:

See Exhibit A attached hereto and made a part hereof by reference incorporated herein as if fully set forth.

Doc. #97604  
NC Bar Association Form No. 3 • 1976, Revised • 1977, 2002  
Printed by Agreement with the NC Bar Association - 1981

Exhibit B



This deed is made pursuant to an Order of Confirmation executed by the Clerk of Superior Court of Haywood County and executed by the Senior Resident Superior Court Judge for Judicial District 30-B in the matter of the Real Property of William Lucius Jones File No. 07-SP-135 where in SAM M. UNDERWOOD was authorized by the Clerk of Superior Court on May 1, 2007, to make the sale of the property described herein; that the sale was duly advertised for sale, that the sale was by public auction on June 2, 2007, that the final high bidder was Haywood County at the sum of \$1,114,921.50.

The property hereinabove described was acquired by Grantor by instrument recorded in Book \_\_\_\_\_ page \_\_\_\_\_.

A map showing the above described property is recorded in Book \_\_\_\_\_, page \_\_\_\_\_.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

The Grantor makes no warranty, express or implied, as to title to the property hereinabove described. IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed and delivered.

\_\_\_\_\_  
(Entity Name)  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

*William Lucius Jones*  
WILLIAM LUCIUS JONES (SEAL)  
*Sam M. Underwood, Guardian*  
By: Sam M. Underwood  
Guardian of the Estate of William  
Lucius Jones, Incompetent (SEAL)  
\_\_\_\_\_  
(SEAL)

State of North Carolina - County of HAYWOOD

I, the undersigned Notary Public of the County and State aforesaid, certify that SAM M. UNDERWOOD, Guardian of the Estate of William Lucius Jones, Incompetent, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purpose therein expressed. Witness my hand and Notarial stamp or seal this 30th day of AUGUST, 2007.

My Commission Expires: 08-02-2011  
\_\_\_\_\_  
Notary Public

William I. Miller  
Notary Public  
Haywood County, NC

State of North Carolina - County of \_\_\_\_\_

I, the undersigned Notary Public of the County and State aforesaid, certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is the \_\_\_\_\_ of \_\_\_\_\_, a North Carolina or \_\_\_\_\_ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, he/she signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_  
\_\_\_\_\_  
Notary Public

State of North Carolina -- County of \_\_\_\_\_

I, the undersigned Notary Public of the County and State aforesaid, certify that

Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

My Commission Expires: \_\_\_\_\_

The \_\_\_\_\_ Notary Public of \_\_\_\_\_ Certificate(s) \_\_\_\_\_ is/are certified to be correct.

This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By: \_\_\_\_\_ Register of Deeds for \_\_\_\_\_ County  
Deputy/Assistant - Register of Deeds

Exhibit B

NORTH CAROLINA  
HAYWOOD COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO: 08 Cvs 51

FILED

02 JUN 12 PM 10:51

HAYWOOD COUNTY, NORTH, )  
CAROLINA and WILLIAM LUCIUS JONES )  
JONES BY HIS GUARDIAN SAM )  
UNDERWOOD, BY PH )

Plaintiffs, )

vs )

GREGORY TODD FERGUSON, )


Defendant. )

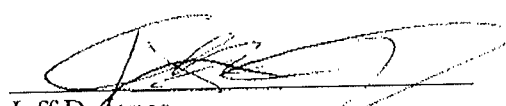
NOTICE OF LIS PENDENS

Notice is hereby given that an action entitled *Haywood County, North Carolina and William Lucius Jones by his Guardian Sam Underwood vs. Gregory Todd Ferguson* has been commenced and is now pending in the Superior Court of the County of Haywood, State of North Carolina, by the above-named Plaintiffs against the above-named Defendant based on the ownership interest in the property and the following is a description of the real estate affected by the action: the property described in Deed Book 75 at Page 184 and Deed Book 122 at Page 637 Haywood County Registry and the Last Will and Testament of L. H. Bramlett found of record in Will Book 6, page 431, in the Clerk of Court of Haywood County.

This the 12 day of June, 2008.

McLEAN LAW FIRM, P.A.

  
\_\_\_\_\_  
Russell L. McLean, III  
Attorney for Defendant  
244 North Main Street  
Waynesville, North Carolina 28786  
(828) 452-2896  
State Bar Number 7220

  
\_\_\_\_\_  
Jeff D. Jones  
Attorney for Defendant  
232 North Main Street  
Waynesville, NC 28786

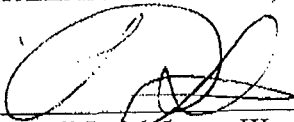
CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel of record or the opposing party/parties in the foregoing matter with a copy of this pleading by:

- Depositing it in the United States Postal Service in a properly addressed envelope with adequate postage attached thereto.  
OR  
 Sending by telefacsimile transmittal for receipt by 5:00 p.m. Eastern Time on a regular business day, as evidenced by a telefacsimile receipt confirmation.  
OR  
 Leaving it at his or her office with a responsible partner or employee.  
OR  
 Depositing a copy hereof with a nationally recognized overnight courier service, for overnight delivery, addressed to the attorney for each.

This the 12 day of June, 2008.

McLEAN LAW FIRM, P.A.

  
\_\_\_\_\_  
Russell L. McLean, III  
Attorney for Defendant  
244 North Main Street  
Waynesville, North Carolina 28786  
(828) 452-2896  
State Bar Number 7220

T. Michael Jordan  
154 North Main Street, Suite 1  
Waynesville, NC 28786

Leon M. Killian  
Reed J. Hollander  
4140 Parklake Avenue/GlenLake One  
Second Floor  
Raleigh, NC 27612

File No. 08-CVS-000051

STATE OF NORTH CAROLINA

HAYWOOD COUNTY

In the General Court of Justice  
Superior Court Division

MAY 29 PM 4:07

Name Of Plaintiff(s)  
COUNTY OF HAYWOOD NC  
JONES, WILLIAM, LUCIUS  
UNDERWOOD, SAM

Name Of Plaintiff's Attorney(s)  
JORDAN, T, MICHAEL  
KILLIAN, LEON, M  
HOLLANDER, REED, J

ORDER FOR MEDIATED SETTLEMENT  
CONFERENCE IN SUPERIOR COURT AND  
TRIAL CALENDAR NOTICE

G.S. 7A-38.1; Rules 1 and 2 of Mediated Settlement Conferences

Deadline For Completion Of Mediated Settlement Conference  
09/24/2008

VERSUS

Tentative Trial Date  
11/03/2008

Name Of Defendant(s)  
FERGUSON, GREGORY, TODD

Name And Address Of Other Interested Party(ies) And Possible Lienholders

Name Of Defendant's Attorney(s)  
JONES, JEFF, DOUGLAS  
MCLEAN, RUSSELL, L, III

Name And Address Of Attorney(s), If Applicable

In accordance with the Rules Implementing Mediated Settlement Conferences, it is ORDERED that this case be referred to a mediated settlement conference, which shall be completed before the deadline shown above.

Within twenty-one (21) days after the date of this Order, the parties may, by agreement, select a certified mediator to conduct their mediated settlement conference. Within twenty-one (21) days after the date of this Order, the plaintiff or plaintiff's attorney shall notify the Court of the selection of a certified mediator. Notice shall be on form AOC-CV-812. (Fillable form <http://www.nccourts.org/Forms/Documents/313.pdf>)

As an aid to mediator selection, the NC Dispute Resolution Commission maintains a list of certified superior court mediators on its website: [www.nccourts.org/Citizens/Cprograms/MS/Mediators/Default.asp](http://www.nccourts.org/Citizens/Cprograms/MS/Mediators/Default.asp) (You may search for mediators by name of mediator, by city, or by court district. Once a mediator's name appears on your screen, click on it for a complete contact and availability listing.)

A mediator selected by agreement of the parties shall be compensated at the rate agreed upon between the mediator and the parties. A court-appointed mediator shall be compensated at the rate of \$125 per hour for time spent in the mediated settlement conference, to be billed in quarter-hour segments. The conference fee shall be paid as provided for in Rule 7.F. In addition, a \$125 administrative fee shall be paid pursuant to Rule 7.B.

All persons required by Rule 4.A(1) to attend the conference shall be physically present unless such physical presence is excused pursuant to the agreement of all parties and persons required to attend and the mediator or by an order of the Senior Resident Superior Court Judge, upon motion of a party and with notice to all parties and persons required to attend and the mediator.

The mediator shall schedule the date, time and location of the conference and timely notify all attorneys and unrepresented parties. The conference shall be completed by the deadline for completion set forth above and the mediator shall report the results on form AOC-CV-813 to the court within ten (10) days after the conference is completed.

Date Of Order  
5/27/2008

Name Of Senior Resident Superior Court Judge (Type Or Print)  
J. Marlene Hyatt

Signature Of Senior Resident Superior Court Judge  
*J. Marlene Hyatt*

TENTATIVE CALENDARING NOTICE

[This section is optional, to be used at the discretion of the Senior Resident Superior Court Judge; however, mediated settlement not delay other proceedings, including trial (Rule 3E).]

Parties notified of the following tentative calendaring schedule adopted by the Court. Final calendar notice will be provided through a published calendar, should settlement not be reached.

Tentative Date For Hearing Of Motions

Original -File Copy-Plaintiff Copy-Defendant Copy-Mediator

**CASE NO. 08-CVS-51**

**ATTORNEYS FOR PLAINTIFFS:**

Mr. T. Michael Jordan  
154 N. Main Street, Suite 1  
Waynesville, NC 28786  
Telephone: 828-452-5871

Mr. Leon M. Killian  
Mr. Reed J. Hollander  
Nelson, Mullins, Riley & Scarborough  
Glen Lake One  
4140 ParkLake Avenue  
Raleigh, NC 27612  
Telephone: 919-877-3800

**ATTORNEYS FOR DEFENDANT:**

Mr. Jeff D. Jones  
232 North Main Street  
Waynesville, NC 28786  
Telephone: 828-452-2220

Mr. Russell L. McLean, III  
244 N. Main Street  
Waynesville, NC 28786  
Telephone: 828-452-2896



STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
08 CVS 51

HAYWOOD COUNTY, NORTH  
CAROLINA AND WILLIAM LUCIUS  
JONES, BY HIS GUARDIAN, SAM  
UNDERWOOD,

Plaintiffs,

vs.

GREGORY TODD FERGUSON,

Defendant.

**MOTION FOR LEAVE TO FILE  
AMENDED COMPLAINT**

APR 28 11:19:50  
C.S.C.

NOW COME the Plaintiffs Haywood County, North Carolina, and William Lucius Jones, incompetent, by guardian of his estate, Sam Underwood, by and through their respective undersigned counsel, and respectfully submit this Motion for Leave to File Amended Complaint.

1. Plaintiffs filed their Complaint against Defendant on January 14, 2008.
2. Defendant filed a Motion to Transfer to Superior Court Division on March 19, 2008.
3. Defendant filed an Answer, Counterclaims, & Demand for Trial by Jury on March 19, 2008.
4. Plaintiffs' Reply to the Counterclaims was filed on May 23, 2008.
5. Pursuant to Rule 15(a) of the North Carolina Rules of Civil Procedure, Plaintiffs now seek leave of Court to file the Amended Complaint attached hereto as **Exhibit A** as counsel has obtained additional information since the time of filing of the original complaint which information gives rise to additional causes of action. According to Rule 15(a), leave to amend a party's pleading "shall be freely given when justice so requires." *See also* Mauney v. Morris,

316 N.C. 67, 72, 340 S.E.2d 397, 400 (1986) (“amendments should be freely allowed unless some material prejudice to the other party is demonstrated.”).

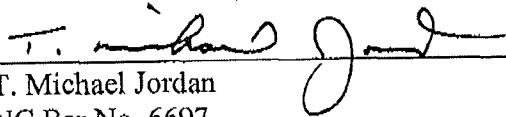
6. According to the North Carolina Court of Appeals, “[r]easons warranting a denial of leave to amend include ‘(a) undue delay, (b) bad faith, (c) undue prejudice, (d) futility of amendment, and (e) repeated failure to cure defects by previous amendments.’” Walker v. Sloan, 137 N.C. App. 387, 402, 529 S.E.2d 236, 247 (2000).

7. Furthermore, “[t]he burden is upon the opposing party to establish that that party would be prejudiced by the amendment.” See Mauney, 316 N.C. at 72, 340 S.E.2d at 400 (holding that the defendants failed to establish that they were prejudiced by the filing of an amended complaint and the addition of a new cause of action.).

8. As it is still very early in this case and no discovery has been taken by any of the parties, Plaintiffs’ motion is not unduly delayed and will not result in undue prejudice to defendant.

WHEREFORE Plaintiffs hereby request that this Court enter an Order granting Plaintiffs leave to file their Amended Complaint, and that upon entry of such Order, Plaintiffs’ Amended Complaint shall be deemed filed with the Court and served upon Defendant.

Respectfully submitted, this the 28<sup>th</sup> day of May, 2008.

By:   
T. Michael Jordan  
NC Bar No. 6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786  
Telephone: (828) 452-5871  
Facsimile: (828) 452-5872

Attorney for the Plaintiff, William Lucius Jones, by his  
Guardian, Sam Underwood

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: Leon M. Killian

Leon M. Killian

NC Bar No. 2526

E-Mail: [chip.killian@nelsonmullins.com](mailto:chip.killian@nelsonmullins.com)

Reed J. Hollander

NC Bar No. 23405

E-Mail: [reed.hollander@nelsonmullins.com](mailto:reed.hollander@nelsonmullins.com)

4140 Parklake Avenue / GlenLake One

Second Floor

Raleigh, NC 27612

(919) 877-3800

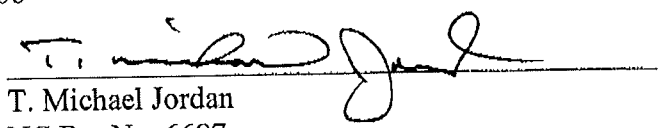
Attorneys for the Plaintiff, Haywood County, North Carolina

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has served a copy of the foregoing Motion upon counsel of record by mailing a true copy thereof, through the United States Mail, first class, postage prepaid, on this the 28<sup>th</sup> day of May, 2008, and addressed as follows:

Jeff D. Jones  
232 North Main Street  
Waynesville, NC 28786

Russell L. McLean, III  
244 North Main Street  
Waynesville, NC 28786



T. Michael Jordan  
NC Bar No. 6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786  
Telephone: (828) 452-5871  
Facsimile: (828) 452-5872

RECEIVED  
MAY 29 2008  
U.S. MAIL  
WAYNESVILLE, N.C.

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
08 CVS 51

HAYWOOD COUNTY, NORTH  
CAROLINA AND WILLIAM LUCIUS  
JONES, BY HIS GUARDIAN, SAM  
UNDERWOOD,

Plaintiffs,

vs.

GREGORY TODD FERGUSON,

Defendant.

AMENDED COMPLAINT

This complaint seeks to prevent Defendant from taking 200+ acres of property from an elderly, infirm dairy farmer. In 2001, Defendant and his accomplice purportedly obtained the signature of 62 year old farmer Lucius Jones on a "General Agreement" document that was slipped into a lease agreement. The General Agreement purports to require Jones to give his entire property to Defendant upon Jones' death or, as Defendant would have this court believe, Jones allegedly gave up his entire property to Defendant back in 2001. There are numerous reasons why Defendant's position that he is the present or future fee simple owner of Jones' property is utterly without merit: the purported agreement was terminated by Defendant's breach of the lease, no consideration was given for the purported agreement, the purported agreement was not acknowledged, there was no meeting of the minds on the purported agreement, the purported agreement is a will that does not meet the legal requirements of a will, the purported agreement was obtained through fraud and misrepresentation, and the purported agreement was obtained through undue influence and duress. Defendant's attempt to strip a senile elderly man of his one remaining valuable asset should be rejected by this Court.



NOW COME the Plaintiffs Haywood County, North Carolina ("Haywood County"), and William Lucius Jones, incompetent, by guardian of his estate, Sam Underwood ("Jones"), by and through their respective undersigned counsel, and for their Verified Amended Complaint against Gregory Todd Ferguson ("Ferguson"), state as follows:

**PARTIES AND JURISDICTION**

1. Plaintiff Haywood County is a county under N.C. Gen. Stat. § 153A-10 and by virtue of N.C. Gen. Stat. § 153A-11 brings this action.
2. William Lucius Jones is an individual residing in Haywood County.
3. On or about May 16, 2003, Jones was adjudicated incompetent.
4. On or about June 24, 2003, Sam Underwood was duly appointed as the guardian of the estate of William Lucius Jones.
5. Sam Underwood brings this action solely in his capacity as guardian of the estate of William Lucius Jones and not in his individual capacity.
6. Upon information and belief, Defendant Ferguson is an individual residing in Haywood County.
7. All of the events and activities complained of herein occurred in Haywood County, North Carolina.
8. The real property which is the subject of this matter is located in Haywood County, North Carolina.
9. Jurisdiction and venue are proper in the Superior Court of Haywood County, North Carolina.

## FACTUAL ALLEGATIONS

10. At all times relevant to this matter, prior to August 30, 2007, Jones was the fee simple owner of a parcel of real property comprising approximately 200 acres, more or less, and located in Haywood County. This parcel of property is more particularly described as set forth in Exhibit A (hereinafter, the "Property").

11. The Property had been in Jones' family for many years. On the Property, Jones and his father had operated a dairy farming operation for many years.

12. Jones' father passed away on January 30, 1996.

13. After Jones' father passed away, Jones became less interested in personally operating and managing the dairy farm on the Property.

### JONES LEASES THE PROPERTY TO FERGUSON TO RUN THE DAIRY FARM

14. Some time on or about February 19, 1996, Jones was introduced to and got to know Ferguson and his wife, Shannon Price Ferguson ("Shannon").

15. Upon information and belief, Ferguson told Jones that Ferguson wanted to lease the Property from Jones with the intent of continuing the operation of the dairy farm on the Property.

16. On or about March 2, 1996, Ferguson and Jones entered into an oral lease for Ferguson to rent from Jones the Property to run the dairy farm.

17. On or about November 5, 1997 Jones signed a lease with Ferguson and Shannon, titled "Lease Agreement", whereby Jones leased to Ferguson and Shannon the Property for the purpose of operating the dairy farm, a true and accurate copy of which is attached hereto as Exhibit B (the "First Lease").

18. The term of the First Lease was for twelve (12) years, commencing on March 1, 1996 and concluding on March 2, 2008. The rent under the First Lease was Nine Hundred Sixteen and 66/100 Dollars (\$916.66) per month.

19. The First Lease was not recorded with the Haywood County Register of Deeds.

20. The First Lease was not notarized or acknowledged.

FERGUSON BORROWED SUBSTANTIAL SUMS FROM JONES  
WHICH WERE NOT REPAYED

21. On or about February 19, 1996 Ferguson and Shannon borrowed Twelve Thousand Seven Hundred Fifty Dollars and No/100 (\$12,750.00) from Jones purportedly to purchase a tractor as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. See promissory note attached hereto as Exhibit C.

22. Upon information and belief, Ferguson did not repay all of the principal and interest owed under the Promissory Note attached as Exhibit C.

23. On or about February 19, 1996 Ferguson and Shannon borrowed Thirty-Six Thousand One Hundred Dollars and No/100 (\$36,100.00) from Jones purportedly to purchase one hundred twenty-four (124) dairy cattle as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. See promissory note attached hereto as Exhibit D.

24. Upon information and belief, Ferguson did not repay all of the principal and interest owed under the Promissory Note attached as Exhibit D.

25. On or about January 9, 1998 Ferguson and Shannon borrowed Seven Thousand Dollars and No/100 (\$7,000.00) from Jones as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. See promissory note attached hereto as Exhibit E.



26. Upon information and belief, Ferguson did not repay all of the principal and interest owed under the Promissory Note attached as Exhibit E.

27. On or about March 11, 1998 Ferguson borrowed Six Thousand Five Hundred Dollars and No/100 (\$6,500.00) from Jones as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. See Promissory Note attached hereto as Exhibit F.

28. Upon information and belief, Ferguson did not repay all of the principal and interest owed under the Promissory Note attached as Exhibit F.

29. To date, Ferguson still owes to Jones substantial sums under these promissory notes.

FERGUSON'S FAILURE TO COMPLY WITH STATE ENVIRONMENTAL REGULATIONS FOR ANIMAL WASTE MANAGEMENT ILLUSTRATES HIS POOR EFFORTS TO OPERATE AND UPKEEP THE DAIRY FARM ON THE PROPERTY

30. On or about July 27, 1998, Jones received a letter from the North Carolina Department of Environmental and Natural Resources offering a Special Agreement under the Certified Animal Waste Management Plan for the "Greg Ferguson Dairy", a true and accurate copy of which is attached hereto as Exhibit G.

31. On or about May 17, 2000, Ferguson as applicant and Leslie Smathers as Technical Representative executed the North Carolina Agriculture Cost Sharing Program Conservation Plan of Operation whereby One Hundred Thirty-Three Thousand Nine Hundred One Dollars and No/100 (\$133,901.00) were allocated to be paid to Greg Ferguson Dairy upon compliance with program requirements, a true and accurate copy of which is attached hereto as Exhibit H.

32. Between 2000 and 2002, Ferguson received several Notices of Violation from Leslie Smathers regarding violations of DENR regulations at the dairy farm on the Property.

33. Ferguson failed to meet the program requirements for the North Carolina Agriculture Cost Sharing Program because his operation of the dairy farm on the Property was so sub-standard.

34. After Shannon left Ferguson (as detailed below), Ferguson essentially abandoned operation of the dairy farm, leaving fences unrepaired, cows to starve and wander the property unrestrained, and otherwise utterly failing to conduct any ongoing dairy farming operations on the Property.

35. During the 2000 to 2002 time frame, Leslie Smathers had occasion to visit the home of Lucius Jones and found it in filthy condition.

36. During the 2000 to 2002 time frame, Leslie Smathers had occasion to talk with Lucius Jones and found that Mr. Jones' statements often did not make sense.

37. On or about April 13, 2002, Carlyle Ferguson, the Chairman of the Haywood Soil & Water Conservation District, wrote a letter to Ferguson cancelling the North Carolina Agriculture Cost Share Program contract stating "since you are no longer operating the dairy at that location" and notifying Ferguson that the funds were being returned to the North Carolina Agriculture Cost Share Program. A true and accurate copy of the letter is attached hereto as

**Exhibit I.**

**FERGUSON'S PURPORTED INTEREST IN OBTAINING THE PROPERTY FOR THE BENEFIT OF HIS SON WAS INCONSISTENT WITH FERGUSON'S FAILURE TO PROVIDE FOR THE SUPPORT OF HIS SON.**

38. On or about December 27, 2000, Shannon separated from Ferguson and moved out of their home with Colton Wyatt Ferguson, the son of Ferguson and Shannon.

39. On or about March 21, 2001, Ferguson and Shannon executed a Separation Agreement, requiring a Three Hundred and No/100 Dollars (\$300.00) monthly child support payment and allowing Ferguson supervised visitation with his son.

40. Upon information and belief, Ferguson never paid child support to Shannon and rarely visited his son.

41. However, on page 209 of the Second Lease (as defined herein below), Ferguson purported to be acquiring the Property "for the purpose of a farm to be handed down to his child (at the time signing one living child Colton Wyatt Ferguson) and to their heirs to remain farm property...."

BOTH BEFORE AND AFTER THE PURPORTED TRANSFER OF AN INTEREST IN THE PROPERTY TO FERGUSON, JONES EXECUTED WILLS LEAVING THE PROPERTY TO DENNIS HALL.

42. On or about July 10, 2001, Jones executed a will leaving certain property to Rufus Dennis Hall ("Hall"), a true and accurate copy of which is attached hereto as Exhibit J.

43. On or about July 23, 2001, Jones executed a will revoking any and all former Will, codicils and letters of testamentary intent previously made and expressly declared his intention of leaving all of his estate and property to Dennis Hall ("Hall"), a true and accurate copy of which is attached hereto as Exhibit K ("July 23 Will").

44. In the July 23 Will, Jones expressly granted "all that real property located in Jonathan Creek Township to Dennis Hall subject to a lease to Greg Ferguson for and during his lifetime, to be leased in an amount to be determined in the discretion of Dennis Hall or fair market value whichever is less."

45. On or about February 6, 2002, Jones executed a will revoking any and all former Will, codicils and letters of testamentary intent previously made and expressly declared his

54. Upon information and belief, C. Colleen Williamson was not present in the home of Jones when the Lease, including the General Agreement, was purportedly signed by Jones.

55. Upon information and belief, Jones was not represented by an attorney with reference to the Second Lease at any time prior to or at the signing of the Second Lease.

56. Upon information and belief, Jones was of weak mind and not possessed of his full mental faculties at the time of signing of the Second Lease.

57. Upon information and belief, Jones was pressured or coerced into signing the General Agreement as part of the Second Lease.

58. Upon information and belief, Jones was tricked or deceived into signing the Second Lease.

JONES EVICTED FERGUSON FROM THE PROPERTY FOR FAILURE TO PAY RENT ON  
FERGUSON'S LEASE OF THE PROPERTY, AND THEREAFTER LEASED THE  
PROPERTY TO DENNIS HALL

59. On or about April 1, 2002, Jones brought a Summary Ejectment action against Ferguson and filed a Complaint in Summary Ejectment in the Haywood County District Court, 02 CVM 198 alleging Ferguson was delinquent with rent in the amount of \$7,650.00, a true and accurate copy of which is attached hereto as Exhibit N (the "Summary Ejectment Complaint").

60. On or about April 1, 2002, the Summary Ejectment Complaint was served upon Ferguson, as evidenced by the Magistrate Summons issued on even date, a true and accurate copy of which is attached hereto as Exhibit O.

61. On or about April 12, 2002, the Judgment In Action for Summary Ejectment was entered by the Court finding that Ferguson was delinquent in rent on the Property in the amount of \$7,650 and ordering that Ferguson be ejected from the Property, a true and accurate copy of which is attached hereto as Exhibit P.

62. On or about April 23, 2002, the Writ of Possession was issued and served on Ferguson requiring Ferguson to leave the Property and to remove any and all of Ferguson's personal property from the Property, a true and accurate copy of which is attached hereto as Exhibit Q.

63. A Notice of eviction was served on Ferguson on April 23, 2002, notifying him that he was evicted from the Property. A true and accurate copy of the Notice is attached hereto as Exhibit R.

64. On or about April 29, 2002, Jones and Hall executed a lease whereby Jones leased Hall the "farm and house" in return for monthly rent of \$600.00 for a term of ten years, beginning on May 1, 2002. A true and accurate copy of the lease is attached hereto as Exhibit S.

JONES SUFFERS FROM SEVERE DEMENTIA AND WAS DECLARED INCOMPETENT

65. Upon information and belief, sometime in or around March of 2003 Jones suffered a cerebral hemorrhage.

66. On May 5, 2003 Jones was examined by a physician who diagnosed him as having severe dementia.

67. On May 8, 2003, Jones' first cousin, Ned Jones, filed a Petition for Incompetency, seeking Jones to be declared incompetent and a guardian to be appointed. A true and accurate copy of the petition is attached hereto as Exhibit T.

68. On or about May 14, 2003, an Application for Appointment of Guardian was filed seeking to appoint Hall as guardian of Jones. A true and accurate copy of the petition is attached hereto as Exhibit U.

69. On or about May 16, 2003, the Court found Jones incompetent and appointed Hall as the Interim Guardian and the Guardian of the Person of Jones, a true and accurate copy of which is attached hereto as Exhibit V.

70. On or about June 24, 2003, the Court appointed Sam Underwood as Guardian of the Estate of Jones ("Underwood"), a true and accurate copy of which is attached hereto as Exhibit W.

JONES' GUARDIAN SOLD A PORTION OF THE PROPERTY TO HAYWOOD COUNTY TO OBTAIN FUNDS TO PAY FOR THE COSTS OF CARE FOR JONES

71. On or about May 1, 2007, Underwood filed a Petition by Guardian of the Estate to Sell Real Property Belonging to the Ward to use assets to pay support of Jones. A true and accurate copy of the petition is attached hereto as Exhibit X.

72. On or about May 1, 2007, the Court granted an Order Allowing Sale of Land by Guardian of the Estate whereby Underwood as Guardian was permitted to sell a portion of the Property, a true and accurate copy of which is attached hereto as Exhibit Y.

73. On or about June 2, 2007, Underwood conducted a public sale of a portion of the Property.

74. Between June 2, 2007 and August 2, 2007, there were nine upset bids made on the Property.

75. On or about August 14, 2007, the Court entered into an Order of Confirmation of Sale confirming the sale of a portion of Jones' Property to Haywood County, a true and accurate copy of which is attached hereto as Exhibit Z.

76. On or about August 30, 2007, Jones sold approximately 22 acres of the Property to Haywood County in fee simple, pursuant to a judicial sale. A true and accurate copy of the Non-Warranty Deed is attached hereto as Exhibit AA.

77. From August 30, 2007 to the present, Haywood County continues to own approximately 22 acres of property it acquired from Jones in fee simple.

78. From August 30, 2007 to the present, Jones continues to own in fee simple the remaining portion of the Property not sold to Haywood County consisting of approximately 180 acres of land.

79. Sam Underwood, as Guardian of the Estate of Jones, may have need in the future to sell additional portions of the Property in order to provide for Jones' care and maintenance.

### ***GROUNDS FOR RELIEF***

#### **A. DEFAULT UNDER THE SECOND LEASE**

80. The Second Lease purports to have been entered into by and between Jones as Owner or Lessor and Ferguson as Tenant or Lessee, on or about September 5, 2001.

81. The rights and obligations of the parties to the Second Lease affect the Property which is the subject of this action.

82. The Second Lease is a document which is purportedly comprised of three separate instruments, consisting of an instrument titled "Lease Agreement", an instrument titled "General Agreement", and an instrument titled "Notice of Lease".

83. Book 502, Page 209 of the Second Lease, captioned "General Agreement", purports to require that Jones convey the Property to Ferguson upon Jones' death.

84. The "Notice of Lease" instrument purportedly summarizes the terms of the lease entered into between Jones and Ferguson.

85. The "Notice of Lease" instrument states that the "undersigned Lessor and Lessee to hereby provide public notice of the following lease entered into on the 5 day of Sept. 2001, by and between [Jones] and [Ferguson]".

86. The "Notice of Lease" instrument identifies that the Second Lease contains an "Option to Acquire Property" defined as follows:

William Lucius Jones, being of sound mind and body agrees upon his death that the ownership of the property described in paragraph (3) above be transferred to Gregory Todd Ferguson for the purpose of a farm, not to be mortgaged, sold, etc. to remain in Gregory's family for said farm after Gregory Todd Ferguson's death (at the time of this signing one living child born to Gregory Todd Ferguson, Colton Wyatt Ferguson).

87. Book 502, Page 205 of the Second Lease identifies situations constituting a breach of the Second Lease, as follows:

11) DEFAULT OR BREACH. Each of the following events shall constitute a default or breach of this lease by Tenant: (A) If Tenant shall fail to pay Owner any rent or additional rent when the rent shall become due and shall not make the payment within fifteen (15) days after notice thereof by Owner to Tenant ... [or] (C) If Tenant shall vacate or abandon the leased premises.

88. In the event of a default under the Second Lease, the Second Lease states at Book 502, Page 205 that "Owner shall have the right to cancel and terminate this lease, as well as all of the right, title, and interest or [sic] Tenant hereunder, by giving the Tenant not less than fifteen (15) days' notice of the cancellation and termination...."

89. Ferguson failed to pay rent as required by the Second Lease.

90. After Ferguson failed to pay rent as required by the Second Lease, Jones evicted Ferguson from the Property.

91. On April 12, 2002, Ferguson was ordered ejected from the Property for failure to pay rent and was ordered to pay nine months' back rent to Jones.

92. Since at least April 23, 2002 and continuing to the date of filing of this Complaint, Ferguson has not resided on the Property.



93. Since at least April 23, 2002 and continuing to the date of filing of this Complaint, Ferguson has not paid to Jones any of the judgment entered against Ferguson for unpaid rent under the Second Lease.

94. Ferguson breached his obligations under the Second Lease by failing to pay rent and by vacating the premises.

95. Jones was within his contractual rights to terminate the lease and to cancel all of Ferguson's right, title and interest under the Second Lease, including all right, title and interest under the General Agreement instrument contained in the Second Lease.

96. To the extent Ferguson at any time held any right, title or interest in the Property, which is specifically denied, then Ferguson no longer holds and does not now hold any right, title or interest in the Property.

97. The ownership of Plaintiffs in their respective portions of the Property is free and unencumbered by any right, title, interest or claims of Ferguson.

**B. FAILURE TO PROPERLY ACKNOWLEDGE THE "GENERAL AGREEMENT"**

98. Ferguson and Jones both failed to properly acknowledge the Lease.

99. Upon information and belief, on September 5, 2001, C. Colleen Williamson ("Williamson") executed a statement on the last page of the General Agreement portion of the Second Lease stating "Sworn to and subscribed before me this the 5<sup>th</sup> day of September, 2001."

100. There is an arrow drawn from Jones' purported signature to the signed statement by Williamson.

101. Upon information and belief, on September 10, 2001, Betty A. Walker ("Walker"), a purported Notary Public, executed a statement on the last page of the Lease stating "Sworn to and subscribed before me this the 10<sup>th</sup> day of September, 2001."

102. There is an arrow drawn from Ferguson's purported signature to the signed statement by Walker.

103. The signed statements made by Williamson and Walker amount to nothing more than an affirmation (otherwise known as a jurat).

104. The signed statements made by Williamson and Walker do not constitute an acknowledgement.

105. The only acknowledgements in the Second Lease are on the Notice of Lease instrument.

106. The purported acknowledgement by C. Colleen Williamson of the signature of William Lucius Jones shown on Book 502, Page 210 in the Notice of Lease instrument was only an acknowledgement of Jones' execution of the Notice of Lease.

107. The purported acknowledgement by Betty A. Walker of the signature of Gregory Todd Ferguson shown on Book 502, Page 211 in the Notice of Lease instrument was only an acknowledgement of Ferguson's execution of the Notice of Lease.

108. N.C. Gen. Stat. § 47-17 mandates that "[a]ll deeds, contracts or leases, before registration ... shall be acknowledged by the grantor, lessor or the person executing the same...."

109. A deed, contract or lease which is not acknowledged by the grantor or lessor is ineffective to provide actual or constructive notice to subsequent purchasers for value.

110. Haywood County is a subsequent purchaser for value of a portion of the Property.

111. Haywood County did not have legally effective actual or constructive notice of any purported intent by Jones to convey an interest by deed to Ferguson, since Jones' signature on the General Agreement instrument was not acknowledged as required by law.

112. The Non-Warranty Deed attached hereto as Exhibit AA has record priority over any purported real property interest contained in the Second Lease or any instrument contained therein.

**C. DEFECTS IN RECORDATION**

113. Upon information and belief, Ferguson or Woody caused the Lease, General Agreement and the Notice of Lease to be recorded at the Haywood County Register of Deeds office.

114. Upon information and belief, Ferguson or Woody submitted the Lease, General Agreement and the Notice of Lease as one document to be recorded in the Haywood County Register of Deeds office.

115. The Haywood County Register of Deeds office indexed the Lease, General Agreement and Notice of Lease altogether as "Lease".

116. Neither the General Agreement nor the Notice of Lease are separately indexed so as to provide any record notice that those documents purport to contain any conveyance other than a lease.

117. Under North Carolina law, if the recorded document is not registered correctly it will be treated as ineffective against innocent purchasers for value.

118. As the Lease and the General Agreement were not properly acknowledged they are not properly registered and import no actual or constructive notice to Haywood County.

119. Haywood County is an innocent purchaser for value of the portion of the Property set forth in the Non-Warranty Deed attached hereto as Exhibit AA.

120. Under N.C. Gen. Stat. § 47-17.1 there is a requirement that "the register of deeds of any county in North Carolina shall not accept for registration ... any deeds or deeds of trust,

executed after January 1, 1980, unless the first page of the deeds or deeds of trust bears an entry showing the name of either the person or law firm who drafted the instrument”.

121. To the extent that the General Agreement instrument is given legal effect as a deed, which is specifically denied, the first page of the General Agreement instrument does not bear an entry showing the name of either the person or law firm who drafted the General Agreement instrument.

122. To the extent that the General Agreement instrument is given legal effect as a deed, which is specifically denied, the General Agreement instrument fails to meet the requirements of proper recordation.

123. To the extent that the Notice of Lease instrument is given legal effect as a deed, which is specifically denied, the first page of the Notice of Lease instrument does not bear an entry showing the name of either the person or law firm who drafted the Notice of Lease instrument.

124. To the extent that the Notice of Lease instrument is given legal effect as a deed, which is specifically denied, the Notice of Lease instrument fails to meet the requirements of proper recordation.

**D. NO MEETING OF THE MINDS OF THE PARTIES**

125. Jones and Ferguson did not have a meeting of the minds in the purported execution of the Second Lease.

126. To the extent that the Second Lease has any validity, Jones' intent was to lease his Property to Ferguson under the same general terms of the First Lease.

127. Jones did not intend to grant Ferguson any type of interest in his Property other than a simple leasehold interest.

128. In the alternative, to the extent Jones intended to grant Ferguson any type of interest in the Property, Jones did not intend to (a) divest himself of his own Property during the term of his own life, nor to (b) grant the Property to Ferguson in perpetuity when Ferguson demonstrated that he was totally unable or unwilling to operate the Property as a dairy farm.

129. Before and after the date of purported execution of the Second Lease, Jones executed several wills all unequivocally leaving his entire estate and his real property to Hall, not Ferguson.

130. There is internal inconsistency with the General Agreement and Notice of Lease in that the General Agreement uses present tense to purportedly convey an interest in the Property, whereas the Notice of Lease uses future, testamentary language.

131. The Notice of Lease calls the purported requirement of the General Agreement for Jones to convey an interest in the Property to Ferguson upon his death an "Option to Acquire Property", whereas the General Agreement purports to make a future conveyance by will.

132. Different titles are used in the Lease, General Agreement, and Notice of Lease to describe Jones as either "Owner" or "Lessor".

133. Different titles are used in the Lease, General Agreement, and Notice of Lease to describe Ferguson as either "Tenant" or "Lessee".

134. At no time in the Lease, General Agreement, or Notice of Lease do the purported parties thereto identify themselves as "Grantor" or "Grantee".

#### **E. INSUFFICIENT CONSIDERATION**

135. At the time the Second Lease was purportedly executed, Ferguson owed Jones thousands of dollars as evidenced by multiple promissory notes.

136. At the time the Second Lease was purportedly executed, Ferguson gave nothing of value to Jones in exchange for the interest allegedly created by the General Agreement.

137. The terms of the Lease called for Ferguson to pay Jones monthly rent of \$916.66.

138. Ferguson failed to pay any rent to Jones from the date the Lease began to the present date.

139. Ferguson failed to upkeep and maintain the dairy farm on the Property.

140. Shannon, rather than Ferguson, ran the day-to-day operations of the dairy farm on the Property until the time she left Ferguson on or about December 27, 2000.

141. Ferguson allowed the dairy farm, including equipment, facilities and cattle, to deteriorate and go to waste after December 27, 2000.

142. Ferguson did not provide care to Jones sufficient to amount to consideration for the purported conveyance of an interest in the Property.

143. At no time before, during or after the purported execution of the Second Lease did Ferguson pay any valuable consideration to Jones for the interest allegedly created by the General Agreement.

144. There was insufficient consideration given by Ferguson in connection with the General Agreement.

145. There was no consideration given by Ferguson in connection with the General Agreement.

**F. FAILURE TO COMPLY WITH STATUTORY REQUIREMENTS**

146. The General Agreement and Notice of Lease documents contained within the Second Lease purport to transfer to Ferguson an interest in real property "upon [Jones] death".

147. A transfer of an interest in property upon death may only be accomplished by means of a properly executed will.

148. The General Agreement and Notice of Lease documents were not properly attested by at least two witnesses.

149. The General Agreement and Notice of Lease documents do not comply with N.C. Gen. Stat. § 31-3.3.

150. Accordingly, the General Agreement and Notice of Lease documents cannot effect any transfer of an interest in the Property to Ferguson "upon [Jones] death".

#### **G. UNDUE INFLUENCE AND DURESS**

151. Upon information and belief, Ferguson exercised undue influence on Jones to procure Jones' signature on the Second Lease, including the General Agreement and the Notice of Lease.

152. At the time of the execution of the Second Lease Jones was approximately 62 years old.

153. Upon information and belief, at the time of the execution of the Second Lease Jones was mentally weak and susceptible to influence.

154. Upon information and belief, near in time and at the time of the execution of the Second Lease others had little opportunity to see Jones.

155. The Second Lease was drafted at the direction of Ferguson by a person who was not a licensed attorney.

156. The Second Lease was made in favor of Ferguson, with whom Jones had no ties of blood.

157. The Second Lease goes directly against Jones' demonstrated testamentary intent in the multiple wills he executed before and after the date of execution of the Second Lease leaving his Property to Dennis Hall.

158. The Second Lease disinherits the natural objects of Jones' bounty, consisting of Jones' cousins and other relatives.

159. Ferguson, as the beneficiary under the Second Lease, was the one that procured the execution of the Second Lease.

160. Jones did not have an attorney present when he purportedly executed the Second Lease.

161. In and about the time of the purported execution of the Second Lease, Ferguson had a propensity toward violent and threatening behavior.

162. In and about the time of the purported execution of the Second Lease, Ferguson had a reputation in the community as a violent and threatening individual.

163. Ferguson's reputation and propensity toward violence at and around the time of the execution of the Second Lease intimidated Jones and placed Jones under duress when he was confronted by Ferguson to sign the Second Lease, including the General Agreement.

**H. FRAUD OR MISREPRESENTATION REGARDING**  
**"GENERAL AGREEMENT"**

164. In the alternative, upon information and belief, Jones may have intended to execute a new Lease with Ferguson so long as the terms were the same terms used in the First Lease.

165. Upon information and belief, Ferguson and Woody conspired between themselves to prepare the Second Lease, consisting of the Lease, General Agreement, and Notice of Lease.



166. Upon information and belief, Ferguson and Woody intended to trick Jones into signing the General Agreement by giving Jones all three instruments as one document to sign.

167. Upon information and belief, Ferguson presented Jones with one document consisting of the Lease, General Agreement, and Notice of Lease under the guise that it consisted of the same terms as the First Lease.

168. Upon information and belief, Ferguson misrepresented to Jones the nature of the document consisting of the Lease, General Agreement, and Notice of Lease instruments, attempting to convince Jones that it consisted of the same terms as the First Lease.

169. Upon information and belief, Jones did not intend to sign the General Agreement, which purports to require that Jones convey the Property to Ferguson upon Jones' death.

#### **I. UNLICENSED PRACTICE OF LAW**

170. Upon information and belief Woody drafted the Second Lease and provided it to Ferguson.

171. Woody is not a licensed attorney in the state of North Carolina nor in any other state.

172. The Second Lease is a document created by a nonlawyer and is the product of the unlicensed practice of law.

#### **CLAIMS FOR RELIEF**

#### **FIRST CLAIM FOR RELIEF (DECLARATORY JUDGMENT)**

173. The Plaintiffs restate the allegations set forth in paragraphs 1 through 172 as if fully set forth herein.

174. For the reasons set forth above, Defendant has never had and does not presently have any interest, contingent or otherwise, in the Property.

175. In the alternative, for the reasons set forth above, any purported interest, contingent or otherwise, of Defendant is invalid, void, or voidable.

176. Plaintiffs seek a declaratory judgment stating that Defendant does not have any interest, contingent or otherwise, in the Property and clarifying the public record regarding the status of Plaintiffs' ownership of the Property.

177. Pursuant to N.C. Gen. Stat. § 1-253 and Rule 57 of the North Carolina Rules of Civil Procedure, the Plaintiffs request that this Court enter a declaratory judgment decreeing that:

A. Defendant has no present or future right, title or interest to the Property under the Second Lease or otherwise; and

B. The ownership of Plaintiffs in their respective portions of the Property is free and unencumbered by any right, title, interest or claims of Defendant.

**SECOND CLAIM FOR RELIEF**  
**(FRAUD AND MISREPRESENTATION)**

178. The Plaintiffs restate the allegations set forth in paragraphs 1 through 177 as if fully set forth herein.

179. Upon information and belief, Ferguson made false statements to Jones as described herein.

180. Upon information and belief, Ferguson knew that his statements to Jones regarding the Second Lease and the General Agreement were false.

181. Upon information and belief, Ferguson made the false statements with the intention that they should be relied upon and acted on by Jones.

182. Upon information and belief, Jones reasonably relied upon the representations by Ferguson.

183. Jones has suffered a substantial injury by being tricked into purportedly executing the General Agreement.

184. Jones' estate has suffered substantial legal fee costs, in an amount to be proven at trial, in bringing this action to quiet title to the Property so that portions of the Property may be sold to provide for the care of Jones in his old age.

185. Ferguson's conduct in attempting to defraud an elderly man out of his property is reprehensible and outrageous conduct which should be deterred through the imposition of punitive damages in an amount to be proven at trial.

**THIRD CLAIM FOR RELIEF**  
**(DEFAULT ON PROMISSORY NOTES – Plaintiff Jones only)**

186. The Plaintiffs restate the allegations set forth in paragraphs 1 through 185 as if fully set forth herein

187. On or about February 19, 1996 Ferguson and Shannon borrowed Twelve Thousand Seven Hundred Fifty Dollars and No/100 (\$12,750.00) from Jones as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. Upon information and belief, Ferguson did not repay the principal and interest owed under that Promissory Note attached as **Exhibit C**.

188. On or about February 19, 1996 Ferguson and Shannon borrowed Thirty-Six Thousand One Hundred Dollars and No/100 (\$36,100.00) from Jones as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. Upon information and belief, Ferguson did not repay the principal and interest owed under that Promissory Note attached as **Exhibit D**.

189. Defendant Ferguson has failed to pay these two promissory notes when due and is therefore in default on both of these promissory notes.

190. The entire balance is due and payable, and Plaintiff Jones does hereby demand payment of same. Defendant Ferguson presently owes Plaintiff Jones the unpaid portions of these two promissory notes, and 5% interest on that amount, as specified in the notes, as of February 19, 1996, together with all costs of collection and reasonable attorney's fees.

WHEREAS, the Plaintiffs pray that this Court enter relief as follows:

1. a declaratory judgment that Defendant has no present or future right, title or interest to the Property under the Second Lease or otherwise;
2. a declaratory judgment that the ownership of Plaintiffs in their respective portions of the Property is free and unencumbered by any right, title, interest or claims of Defendant;
3. an award of actual damages to the Jones' estate in an amount to be proven at trial for the costs of bringing this action to quiet title to the Property;
4. an award of judgment in favor of William Lucius Jones, by his guardian Sam Underwood, against Defendant for unpaid amounts due on two promissory notes, which total the sum of Forty-Eight Thousand Eight Hundred Fifty (\$48,850.00) Dollars, plus accrued interest on the unpaid amounts, from February 19, 1996, at the 5% rate specified in those notes;
5. an award of punitive damages to both Plaintiffs in an amount to be proven at trial to punish and deter the reprehensible and outrageous conduct of the Defendant; and
6. an order granting the Plaintiffs such other and further relief as the Court deems just and proper.

Respectfully submitted, this the \_\_\_ day of \_\_\_\_\_, 2008.

By: T. Michael Jordan

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Attorneys for the Plaintiff Haywood County, North Carolina

WILLIAM LUCIUS JONES property on Jonathan Creek Road

**EXHIBIT "A"**

BEGINNING at an iron stake set (being a metal fence post) at the Western right-of-way of Jonathan Creek Road (U.S. Hwy. 276) which iron stake lies North 17-12-52 East 98.39 feet from NCGS Monument "TRIT" (NCGS Monument "MULE" lies North 28-55-44 East 2,988.07 feet from "TRIT") and runs North 67-31-37 West 839.22 feet (passing through a new iron stake [metal fence post] at 793.82 feet) to a point in the center of Jonathan Creek; thence with Jonathan Creek, as it meanders, seven calls: (1) North 22-10-24 East 99.48 feet, (2) North 39-58-40 East 213.22 feet, (3) North 36-12-48 East 447.36 feet, (4) North 71-28-35 East 204.98 feet, (5) North 52-50-46 East 276.30 feet, (6) North 43-16-11 East 217.77 feet, and (7) North 45-41-53 East 287.26 feet to a point on the Northern edge of a steel and timber bridge spanning the creek, being the Westmost corner of the Thomas Bryan Medford lot described in Deed Book 327 at Page 50; thence with the Southerly margin of that Lot and his adjoining Lot described in Deed Book 419 at 1163, and a tract belonging to John Michael Medford (461/82) South 43-56-43 East 354.68 feet (running generally along Pitts Drive) to an iron pin set in the Westerly margin of the right-of-way of Jonathan Creek Road where Pitts Drive intersects with said Road; thence with said right-of-way seven calls: (1) South 29-03-53 West 10.12 feet to the South edge of Pitts Drive; (2) continuing South 29-03-53 West 41.23 feet, crossing a 40-foot Drainage Easement belonging to the N.C.D.O.T. as described in Deed Book 238, Page 596, said easement running parallel with Pitts Drive, (3) continuing South 29-03-53 West 105.07 feet to a concrete R/W Monument; (4) South 29-04-39 West 701.26 feet to another concrete R/W Monument, (5) South 29-06-56 West 145.77 feet, (6) South 28-30-20 West 153.38 feet, and (7) a curve to the left (Radius 2,661.48 feet a linear distance of 286.88 feet (Chord South 24-17-56 West 286.74 feet) to the BEGINNING, containing 22.091 acres, per survey and plat of L. Kevin Ensley, PLS, dated March 23, 2007, entitled "Survey for William Lucius Jones" and identified as Job B-005-07.

SUBJECT TO the aforesaid USDOI Drainage Easement and the easement for Pitts Drive as the same exists, and the rights of various persons, if any, to take water from Jonathan Creek.

This property is located within a Flood Zone.

Reference: Will Book 4 Page 431; Deed Book 75 Page 184 Tract 1; Deed Book 122, Page 637

Exhibit B



This instrument prepared by:  
James H. Moore, Jr., Attorney

HAYWOOD COUNTY  
NORTH CAROLINA

LEASE AGREEMENT

THIS LEASE is made this the 5<sup>th</sup> day of November, 1997, between Gregory Todd Ferguson and wife, Shannon Price Ferguson, herein referred to as "Tenant", and William Lucius Jones, herein referred to as "Owner" [the designations Owner and Tenant shall include the parties, their heirs, successors and assigns. As used herein, the singular shall include the plural and gender shall be interchangeable.].

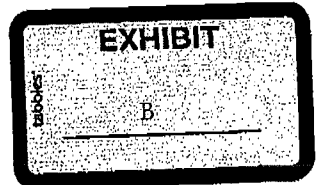
IN CONSIDERATION of the mutual covenants contained herein, the parties agree as follows:

1) SUBJECT AND PURPOSE. Owner leases the buildings, dairy equipment, and approximately 207 acres of land located in Jonathan Township, Haywood County, North Carolina, that property acquired by Owner in Will Book 6, page 431 of the Haywood County Registry, to Tenant for Tenant's use as a dairy farm.

2) TERM AND RENT. Owner leases the above premises for a term of twelve (12) years, commencing March 1, 1996, and terminating on March 2, 2008 at 1:00 o'clock p.m., or sooner as provided herein, at the annual rental of Eleven Thousand dollars (\$11,000.00) payable in equal monthly installments of Nine Hundred Sixteen dollars and Sixty Six cents (\$916.66) in advance on the twentieth (20<sup>th</sup>) day of each month for that month's rental, during the term of this lease. All rental payments shall be made to Owner at 106 Timothy Lane, Waynesville, N.C. 28786.

3) ADDITIONAL RENT. All taxes, charges, costs, and expenses that Tenant agrees to pay hereunder together with all interest and penalties that may accrue thereon and all other costs that Owner may suffer by reason of any failure by Tenant to comply with the terms of this lease shall be deemed to be additional rent, and, in the event of nonpayment, Owner shall have all the rights and remedies as herein provided for failure to pay rent.

4) ALTERATIONS, ADDITIONS, AND IMPROVEMENTS. Subject to the limitations that no substantial portion of the building on the leased premises shall be demolished or removed by Tenant without the prior written consent of Owner, Tenant may at any time during the lease term, at his own expense, make any alterations to the leased premises and the building. Alterations shall be performed in a workmanlike manner and shall not weaken or impair the structural strength, or lessen the value, of the building



on the premises, or change the purposes for which the building, or any part thereof, may be used.

All alterations on or in the leased premises at the commencement of the term, and that may be erected or installed during the term, shall become part of the leased premises and the sole property of Owner. All moveable trade fixtures installed by Tenant shall be and remain the property of Tenant.

5) **REPAIRS.** Tenant shall, at all times during the lease and at his own cost and expense, repair, replace, and maintain in a good, safe, and substantial condition, all buildings and any improvements, additions, and alterations thereto, on the leased premises, and shall use all reasonable precaution to prevent waste, damage, or injury to the leased premises.

6) **TAXES.** Owner shall be responsible for all taxes on said property.

7) **UTILITIES.** All applications and connections for necessary utility services on the leased premises shall be made in the name of the Tenant only, and Tenant shall be responsible for sewer, water, gas, electricity, and telephone services.

8) **INSURANCE.** During the term of the lease and for any further time that Tenant shall hold the leased premises, Tenant shall obtain and maintain at his expense the following types and amount of insurance:

- a) **FIRE INSURANCE.** Tenant shall keep all buildings, improvements, and equipment on the leased premises, including all alterations, additions, and improvements, insured against loss or damage by fire. The insurance shall be in an amount sufficient to prevent Owner and Tenant from becoming co-insurers under provisions of applicable policies of insurance, but in any event in an amount not less than 100% of the full insurable value of the leased premises, including the cost of excavation of foundations.
- b) **PERSONAL INJURY AND PROPERTY DAMAGE INSURANCE.** Insurance against liability for bodily injury and property damage and machinery insurance, all to be in amounts and in forms of insurance policies as may from time to time be required by Owner, shall be provided by Tenant.
- c) **OTHER INSURANCE.** Tenant shall provide and keep in force other insurance in amounts that may from time to time be required by Owner against other insurable hazards as are commonly insured against for the type of business activity that Tenant will conduct.



9) UNLAWFUL OR DANGEROUS ACTIVITY. Tenant shall neither use nor occupy the leased premises or any part thereof for any unlawful, disreputable, or ultrahazardous business purpose nor operate or conduct his business in a manner constituting a nuisance of any kind. Tenant shall immediately, on discovery of any unlawful, disreputable, or ultrahazardous use, take action to halt such activity.

10) INDEMNITY. Tenant shall indemnify Owner against all expenses, liabilities, and claims of every kind, including reasonable counsel fees, by or on behalf of any person or entity arising out of either (1) a failure by Tenant to perform any of the terms or conditions of this lease, (2) any injury or damage happening on or about the leased premises, (3) failure to comply with any law of any governmental authority, or (4) any mechanic's lien or security interest filed against the leased premises or equipment, materials, or alterations of buildings or improvements thereon.

11) DEFAULT OR BREACH. Each of the following events shall constitute a default or breach of this lease by Tenant:

- a) If Tenant shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of any such act by answer or otherwise, or shall make an assignment for the benefit of creditors.
- b) If involuntary proceedings under any bankruptcy law or insolvency act shall be instituted against Tenant, or if a receiver or trustee shall be appointed for all or substantially all of the property of Tenant.
- c) If Tenant shall fail to pay Owner any rent or additional rent when the rent shall become due and shall not make the payment within fifteen (15) days after notice thereof by Owner to Tenant.
- d) If Tenant shall fail to perform or comply with any of the conditions of this lease and if the nonperformance shall continue for a period of fifteen (15) days after notice thereof by Owner to Tenant or, if the performance cannot be reasonably had within the fifteen (15) day period, Tenant shall not in good faith have commenced performance with the fifteen (15) day period and shall not diligently proceed to completion of performance.
- e) If Tenant shall vacate or abandon the leased premises.

12) EFFECT OF DEFAULT. In the event of any default hereunder, as set forth in Paragraph Eleven, the rights of Owner shall be as follows:

a) Owner shall have the right to cancel and terminate this lease, as well as all of the right, title, and interest of Tenant hereunder, by giving the Tenant not less than fifteen (15) days' notice of the cancellation and termination. On expiration of the time fixed in the notice, this lease and the right, title, and interest of Tenant hereunder, shall terminate in the same manner and with the same force and effect, except as to Tenant's liability, as if the date fixed in the notice of cancellation and termination were the end of the term herein originally determined.

b) Owner may elect, but shall not be obligated, to make any payment required of Tenant herein or comply with any agreement, term, or condition required hereby to be performed by Tenant, and Owner shall have the right to enter the leased premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied, by any expenditure for the correction by Owner shall not be deemed to waive or release the default of Tenant or the right of Owner to take any action as may be otherwise permissible hereunder in the case of any default.

13) **DESTRUCTION OF PREMISES.** In the event of a partial or total destruction of the leased premises during the term from any cause, Tenant shall forthwith repair the same. Any destruction shall neither null or void this lease.

14) **CONDEMNATION.** Rights and duties in the event of condemnation are as follows:

- a) If the whole of the leased premises shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, this lease shall cease and terminate as of the date on which title shall vest thereby in that authority, and the rent reserved hereunder shall be apportioned and paid up to that date.
- b) If only a portion of the leased premises shall be taken or condemned, this lease and the term hereof shall not cease or terminate.
- c) In the event of any taking or condemnation in whole or in part, the entire resulting award of consequential damages shall belong to Tenant. Owner assigns to Tenant all his right, title, and interest in any and all such awards.
- d) In the event of a partial taking, Tenant, at Tenant's expense, shall promptly proceed to restore the remainder of the building on the leased premises to a self-contained architectural unit.

15) **ACCESS TO PREMISES; SIGNS POSTED BY OWNER.** Tenant shall permit Owner, or his agents, to enter the leased premises at all reasonable hours to

inspect the premises or make repairs that Tenant may neglect or refuse to make in accordance with the provisions of this lease, and also to show the premises to prospective buyers.

16) EASEMENTS, AGREEMENTS, OR ENCUMBRANCES. The parties shall be bound by all existing easements, agreements, and encumbrances of record relating to the leased premises, and Owner shall not be liable to Tenant for any damages resulting from any action taken by a holder of an interest pursuant to the rights of that holder thereunder.

17) QUIET ENJOYMENT. Owner warrants that Tenant shall be granted peaceable and quiet enjoyment of the leased premises free from any eviction or interference by Owner if Tenant pays the rent and other charges provided herein, and otherwise fully and punctually performs the terms and conditions imposed on Tenant.

18) LIABILITY OF OWNER. Tenant shall be in exclusive control and possession of the leased premises, and Owner shall not be liable for any injury or damages to any property or to any person on or about the leased premises nor for any injury or damage to any property of Tenant. The provisions herein permitting Owner to enter and inspect the leased premises are made to insure that Tenant is in compliance with the terms and conditions hereof and makes repairs that Tenant has failed to make. Owner shall not be liable to Tenant for any entry on the premises for inspection purposes.

19) REPRESENTATIONS BY OWNER. At the commencement of the term, Tenant shall accept the buildings and improvements and any equipment in their existing condition and state of repair, and Tenant agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf of Owner in respect thereto except as contained in the provisions of this lease, and Owner shall in no event be liable for any latent defects.

20) WAIVERS. The failure of Owner to insist on a strict performance of any of the terms and conditions hereof shall be deemed a waiver of the rights or remedies that Owner may have regarding that specific instance only, and shall not be deemed a waiver of any subsequent breach or default in any terms and conditions.

21) NOTICE. All notices to be given with respect to this lease shall be in writing. Each notice shall be sent by certified mail, postage prepaid and return receipt requested, to the party to be notified as follows:

Owner: William Lucius Jones  
Address: 106 Timothy Lane  
Waynesville, N.C. 28786

Tenant: Gregory Todd Ferguson and Shannon Price Ferguson  
Address: Route 4, Box 266  
Waynesville, N.C. 28786

Every notice shall be deemed to have been given at the time it shall be deposited in the United States mails in the manner prescribed herein. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

22) ASSIGNMENT, MORTGAGE, OR SUBLEASE. Neither Tenant nor his successors or assigns shall assign, mortgage, pledge, or encumber this lease or sublet the leased premises in whole or in part, or permit the premises to be used or occupied by others, nor shall this lease be assigned or transferred by operation of law, without the prior consent in writing of Owner in each instance.

23) SURRENDER OF POSSESSIN. Tenant shall, on the last day of the term, or on earlier termination and forfeiture of the lease, peaceably and quietly surrender and deliver the leased premises to Owner free of subtenancies, including all buildings, additions, and improvements constructed or placed thereon by Tenant, including trade fixtures, all in good condition and repair.

#### 24) REMEDIES OF OWNER.

a) In the event of a breach or threatened breach by Tenant of any of the terms or conditions hereof, Owner shall have the right of injunction to restrain Tenant and the right to invoke any remedy allowed by law or in equity, as if the specific remedies of indemnity or reimbursement were not provided herein.

b) The rights and remedies given to Owner in this lease are distinct, separate and cumulative, and no one of them, whether or not exercised by Owner, shall be deemed to be in exclusion of any of the others herein, by law, or by equity provided.

25) TOTAL AGREEMENT; APPLICABLE TO SUCCESSORS. This lease contains the entire agreement between the parties and cannot be changed or terminated except by a written instrument subsequently execute by the parties hereto. This lease and the terms and conditions hereof apply to and are binding on the heirs, legal representatives, successors, and assigns of both parties.

IN WITNESS WHEREOF, the parties have set their hands and seals this the 5<sup>th</sup>  
day of November, 1997.

Lucius Jones (seal)

Wesley T. Reynolds (seal)

Shannon P. Ferguson (seal)

SATISFACTION: Debt evidenced by this Note has been satisfied in full this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
Signed: \_\_\_\_\_

# PROMISSORY NOTE

Waynesville, N.C.

February 19, 1996

\$ 12,750.00

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to William Lucius Jones

\_\_\_\_\_ or order,

the principal sum of Twelve Thousand, Seven Hundred Fifty and 00/100

DOLLARS (\$ 12,750.00 ), with interest from March 1, 1996, at the rate of Five

per cent ( 5 %) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at

the office of William Lucius Jones, 106 Timothy Lane, Waynesville, N.C. 28786

or at such place as the legal holder hereof may designate in writing. It is understood and agreed that additional amounts may be advanced by the holder hereof as provided in the instruments, if any, securing this Note and such advances will be added to the principal of this Note and will accrue interest at the above specified rate of interest from the date of advance until paid. The principal and interest shall be due and payable as follows:

see attached amortization schedule  
equal yearly installments beginning in December, 1996

If not sooner paid, the entire remaining indebtedness shall be due and payable on December 31, 2000

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial prepayments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust, if any, shall bear interest at the rate of eight per cent ( 8 %) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorney's fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given for the purchase of equipment, and is secured by a 6610 Ford Tractor; Gehl silage feed wagon; and a 6 foot Gill scraper

\_\_\_\_\_ which is a \_\_\_\_\_ lien upon the property therein described.

IN TESTIMONY WHEREOF, each corporate maker has caused this instrument to be executed in its corporate name by its \_\_\_\_\_ President, attested by its \_\_\_\_\_ Secretary, and its corporate seal to be hereto affixed, all by order of its Board of Directors first duly given, the day and year first above written.

By: \_\_\_\_\_ (Corporate Name)  
ATTEST: \_\_\_\_\_ President  
\_\_\_\_\_ Secretary (Corporate Seal)

By: \_\_\_\_\_ (Corporate Name)  
ATTEST: \_\_\_\_\_ President  
\_\_\_\_\_ Secretary (Corporate Seal)

By: \_\_\_\_\_ (Corporate Name)  
ATTEST: \_\_\_\_\_ President  
\_\_\_\_\_ Secretary (Corporate Seal)

By: \_\_\_\_\_ (Corporate Name)  
ATTEST: \_\_\_\_\_ President  
\_\_\_\_\_ Secretary (Corporate Seal)

By: \_\_\_\_\_ (Corporate Name)  
ATTEST: \_\_\_\_\_ President  
\_\_\_\_\_ Secretary (Corporate Seal)

Gregory Todd Ferguson (SEAL)  
Gregory Todd Ferguson

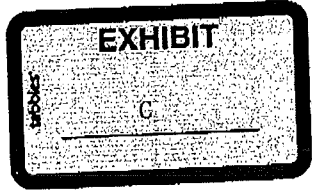
Shannon Price Ferguson (SEAL)  
Shannon Price Ferguson

\_\_\_\_\_ (SEAL)

\_\_\_\_\_ (SEAL)

\_\_\_\_\_ (SEAL)

\_\_\_\_\_ (SEAL)



Equipment

Interest Vision

Amortization Schedule

SPE  
REVISED

Loan or Annuity Variables:

Start Date:	Feb 7, 1996	End Date:	Feb 7, 2001
Start Payment:	Feb 7, 1996	No. of Payments:	5
Start Interest:	Feb 7, 1996	Interest Rate:	5.000%
Payment Freq.:	Annual	Initial Principal:	\$12750.00
Compound Freq.:	Monthly	Payment Amount:	\$2954.45
Days in Mo./Yr.:	Actual No.	Balloon:	\$0.00
Payment Mode:	In Arrears	Amortization Method:	Simple Int.

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
	Feb 7, 1996	0.00	0.00	0.000	0.00	12750.00
	Mar 7, 1996	0.00	50.51	5.000	-50.51	12800.51
	Apr 7, 1996	0.00	54.21	5.000	-54.21	12854.72
	May 7, 1996	0.00	52.68	5.000	-52.68	12907.41
	Jun 7, 1996	0.00	54.66	5.000	-54.66	12962.07
	Jul 7, 1996	0.00	53.12	5.000	-53.12	13015.19
	Aug 7, 1996	0.00	55.12	5.000	-55.12	13070.31
	Sep 7, 1996	0.00	55.35	5.000	-55.35	13125.66
	Oct 7, 1996	0.00	53.79	5.000	-53.79	13179.46
	Nov 7, 1996	0.00	55.81	5.000	-55.81	13235.27
	Dec 7, 1996	0.00	54.24	5.000	-54.24	13289.51
	Jan 7, 1997	0.00	56.43	5.000	-56.43	13345.95
1	Feb 7, 1997	2954.45	56.67	5.000	2897.77	10448.17
	Mar 7, 1997	0.00	40.08	5.000	-40.08	10488.25
	Apr 7, 1997	0.00	44.54	5.000	-44.54	10532.79
	May 7, 1997	0.00	43.29	5.000	-43.29	10576.07
	Jun 7, 1997	0.00	44.91	5.000	-44.91	10620.99
	Jul 7, 1997	0.00	43.65	5.000	-43.65	10664.63
	Aug 7, 1997	0.00	45.29	5.000	-45.29	10709.92
	Sep 7, 1997	0.00	45.48	5.000	-45.48	10755.40
	Oct 7, 1997	0.00	44.20	5.000	-44.20	10799.60
	Nov 7, 1997	0.00	45.86	5.000	-45.86	10845.46
	Dec 7, 1997	0.00	44.57	5.000	-44.57	10890.04
	Jan 7, 1998	0.00	46.25	5.000	-46.25	10936.28
2	Feb 7, 1998	2954.45	46.44	5.000	2908.01	8028.27 + 6.50t
	Mar 7, 1998	0.00	30.79	5.000	-30.79	8059.07
	Apr 7, 1998	0.00	34.22	5.000	-34.22	8093.29
	May 7, 1998	0.00	33.26	5.000	-33.26	8126.55
	Jun 7, 1998	0.00	34.51	5.000	-34.51	8161.06
	Jul 7, 1998	0.00	33.54	5.000	-33.54	8194.60
	Aug 7, 1998	0.00	34.80	5.000	-34.80	8229.40
	Sep 7, 1998	0.00	34.95	5.000	-34.95	8264.35
	Oct 7, 1998	0.00	33.96	5.000	-33.96	8298.31
	Nov 7, 1998	0.00	35.24	5.000	-35.24	8333.55
	Dec 7, 1998	0.00	34.25	5.000	-34.25	8367.80
	Jan 7, 1999	0.00	35.53	5.000	-35.53	8403.33

3/11/98

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
					614.95	15527.33
36	Jul 1, 1999	681.29	66.34	5.000	615.35	14911.98
37	Aug 1, 1999	681.29	65.94	5.000	617.96	14294.02
38	Sep 1, 1999	681.29	63.32	5.000	622.54	13671.48
39	Oct 1, 1999	681.29	58.74	5.000	623.23	13048.25
40	Nov 1, 1999	681.29	58.06	5.000	627.66	12420.59
41	Dec 1, 1999	681.29	53.62	5.000	628.68	11791.90
42	Jan 1, 2000	681.29	52.60	5.000	631.35	11160.56
43	Feb 1, 2000	681.29	49.94	5.000	637.07	10523.49
44	Mar 1, 2000	681.29	44.22	5.000	636.72	9886.77
45	Apr 1, 2000	681.29	44.57	5.000	640.77	9246.00
46	May 1, 2000	681.29	40.52	5.000	642.13	8603.87
47	Jun 1, 2000	681.29	39.16	5.000	646.02	7957.85
48	Jul 1, 2000	681.29	35.26	5.000	647.58	7310.26
49	Aug 1, 2000	681.29	33.70	5.000	650.33	6659.94
50	Sep 1, 2000	681.29	30.96	5.000	653.99	6005.95
51	Oct 1, 2000	681.29	27.29	5.000	655.85	5350.10
52	Nov 1, 2000	681.29	25.44	5.000	659.36	4690.74
53	Dec 1, 2000	681.29	21.93	5.000	661.37	4029.37
54	Jan 1, 2001	681.29	19.92	5.000	664.17	3365.20
55	Feb 1, 2001	681.29	17.11	5.000	668.38	2696.82
56	Mar 1, 2001	681.29	12.91	5.000	669.83	2026.99
57	Apr 1, 2001	681.29	11.45	5.000	672.96	1354.03
58	May 1, 2001	681.29	8.33	5.000	675.54	678.50
59	Jun 1, 2001	681.29	5.75	5.000	678.50	0.00
60	Jul 1, 2001	681.29	2.79	5.000		



SATISFACTION: The debt evidenced by this Note has been satisfied in full this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
Signed: \_\_\_\_\_

# PROMISSORY NOTE

Waynesville, N.C.  
February 19, 19 96

\$ 36,100.00

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to William Lucius Jones

\_\_\_\_\_ or order,  
the principal sum of Thirty-six Thousand One Hundred and 00/100  
DOLLARS (\$ 36,100.00), with interest from July 1, 1996, at the rate of Five  
per cent (5 %) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at  
the office of William Lucius Jones, 106 Timothy Lane, Waynesville, N.C. 28786

or at such place as the legal holder hereof may designate in writing. It is understood and agreed that additional amounts may be advanced by the holder hereof as provided in the instruments, if any, securing this Note and such advances will be added to the principal of this Note and will accrue interest at the above specified rate of interest from the date of advance until paid. The principal and interest shall be due and payable as follows:

see attached amortization schedule

If not sooner paid, the entire remaining indebtedness shall be due and payable on July 1, 2001  
If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial prepayments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust, if any, shall bear interest at the rate of eight per cent (8 %) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorney's fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.  
This Note is given for the purchase of 124 dairy cattle for the total and is secured by a  
price of \$51,100.00. A payment of \$15,000.00 has already been received

by the seller, William Lucius Jones  
IN TESTIMONY WHEREOF, each corporate maker has caused this instrument to be executed in its corporate name by its  
\_\_\_\_\_  
President, attested by its

\_\_\_\_\_  
IN TESTIMONY WHEREOF, each individual maker has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.

\_\_\_\_\_  
Secretary, and its corporate seal to be  
\_\_\_\_\_  
Lent to effect, all by order of its Board of Directors first duly given.

01 9.11 2



*Cow*

Interest Vision

Amortization Schedule

32,632.93

Loan or Annuity Variables:

Start Date:	Jul 1, 1996	End Date:	Jul 1, 2001
Start Payment:	Jul 1, 1996	No. of Payments:	60
Start Interest:	Jul 1, 1996	Interest Rate:	5.000%
Payment Freq.:	Monthly	Initial Principal:	\$36100.00
Compound Freq.:	Monthly	Payment Amount:	\$681.29
Days in Mo./Yr.:	Actual No.	Balloon:	\$0.00
Payment Mode:	In Arrears	Amortization Method:	Simple Int.

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
	Jul 1, 1996	0.00	0.00	0.000	0.00	36100.00
1	Aug 1, 1996	681.29	152.88	5.000	528.40	35571.60
2	Sep 1, 1996	681.29	150.64	5.000	530.64	35040.96
3	Oct 1, 1996	681.29	143.61	5.000	537.67	34503.28
4	Nov 1, 1996	681.29	146.12	5.000	535.16	33968.12
5	Dec 1, 1996	681.29	139.21	5.000	542.07	33426.05
6	Jan 1, 1997	681.29	141.95	5.000	539.34	32886.71
7	Feb 1, 1997	681.29	139.66	5.000	541.63	32345.08
8	Mar 1, 1997	681.29	139.66	5.000	557.22	31787.85
9	Apr 1, 1997	681.29	124.06	5.000	546.30	31241.56
10	May 1, 1997	681.29	134.99	5.000	546.30	30688.66
11	Jun 1, 1997	681.29	128.39	5.000	552.90	30137.70
12	Jul 1, 1997	681.29	130.32	5.000	550.96	30137.70
13	Aug 1, 1997	681.29	123.85	5.000	557.43	29580.27
14	Sep 1, 1997	681.29	125.61	5.000	555.67	29024.60
15	Oct 1, 1997	681.29	123.26	5.000	558.03	28466.57
16	Nov 1, 1997	681.29	116.99	5.000	564.30	27902.27
17	Dec 1, 1997	681.29	118.49	5.000	562.80	27339.47
18	Jan 1, 1998	681.29	112.35	5.000	568.93	26770.54
19	Feb 1, 1998	681.29	113.68	5.000	567.60	26202.94
20	Mar 1, 1998	681.29	111.27	5.000	570.01	25632.93
21	Apr 1, 1998	681.29	98.32	5.000	572.97	25049.96
22	May 1, 1998	681.29	106.38	5.000	574.91	24475.05
23	Jun 1, 1998	681.29	100.58	5.000	580.70	23894.35
24	Jul 1, 1998	681.29	101.47	5.000	579.82	23314.53
25	Aug 1, 1998	681.29	95.81	5.000	585.47	22729.06
26	Sep 1, 1998	681.29	96.52	5.000	584.76	22144.29
27	Oct 1, 1998	681.29	94.04	5.000	587.25	21557.05
28	Nov 1, 1998	681.29	88.59	5.000	592.69	20964.35
29	Dec 1, 1998	681.29	89.03	5.000	592.26	20372.09
30	Jan 1, 1999	681.29	83.72	5.000	597.56	19774.53
31	Feb 1, 1999	681.29	83.97	5.000	597.31	19177.22
32	Mar 1, 1999	681.29	81.44	5.000	599.85	18577.37
33	Apr 1, 1999	681.29	71.26	5.000	610.03	17967.34
34	May 1, 1999	681.29	76.30	5.000	604.99	17362.35
35	Jun 1, 1999	681.29	71.35	5.000	609.93	16752.42
			71.14	5.000	610.14	16142.28

*WILLIAM S. BENT*

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
36	Jul 1, 1999	681.29	66.34	5.000	614.95	15527.33
37	Aug 1, 1999	681.29	65.94	5.000	615.35	14911.98
38	Sep 1, 1999	681.29	63.32	5.000	617.96	14294.02
39	Oct 1, 1999	681.29	58.74	5.000	622.54	13671.48
40	Nov 1, 1999	681.29	58.06	5.000	623.23	13048.25
41	Dec 1, 1999	681.29	53.62	5.000	627.66	12420.59
42	Jan 1, 2000	681.29	52.60	5.000	628.68	11791.90
43	Feb 1, 2000	681.29	49.94	5.000	631.35	11160.56
44	Mar 1, 2000	681.29	44.22	5.000	637.07	10523.49
45	Apr 1, 2000	681.29	44.57	5.000	636.72	9886.77
46	May 1, 2000	681.29	40.52	5.000	640.77	9246.00
47	Jun 1, 2000	681.29	39.16	5.000	642.13	8603.87
48	Jul 1, 2000	681.29	35.26	5.000	646.02	7957.85
49	Aug 1, 2000	681.29	33.70	5.000	647.58	7310.26
50	Sep 1, 2000	681.29	30.96	5.000	650.33	6659.94
51	Oct 1, 2000	681.29	27.29	5.000	653.99	6005.95
52	Nov 1, 2000	681.29	25.44	5.000	655.85	5350.10
53	Dec 1, 2000	681.29	21.93	5.000	659.36	4690.74
54	Jan 1, 2001	681.29	19.92	5.000	661.37	4029.37
55	Feb 1, 2001	681.29	17.11	5.000	664.17	3365.20
56	Mar 1, 2001	681.29	12.91	5.000	668.38	2696.82
57	Apr 1, 2001	681.29	11.45	5.000	669.83	2026.99
58	May 1, 2001	681.29	8.33	5.000	672.96	1354.03
59	Jun 1, 2001	681.29	5.75	5.000	675.54	678.50
60	Jul 1, 2001	681.29	2.79	5.000	678.50	0.00

To be known to all that this is a legal & binding agreement between Greg Ferguson and his wife, Shannon Ferguson, as borrowers and Lucius Jones as lender as of the 9<sup>th</sup> day of

January 1998. Borrowers owe lender the sum ~~7~~<sup>1.7</sup> 000<sup>00</sup> to be paid in monthly installments as per attached amortization schedule until repaid, beginning February 1998

signed & notarized on the 9<sup>th</sup> day of January, 1998.

By witnessing  
notary attests  
signed that  
all members  
present placed  
witness seal  
on agreement

Notary Seal \_\_\_\_\_

Notary name Vickey L. Edwards  
Notary Signature Vickey L. Edwards

Notary Expires 10-28-2002

Lender seal Lucius Jones  
borrower Greg & Shannon  
borrower Shannon K. Ferguson

