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STATE OF ALABAMA)  
JEFFERSON COUNTY)

105873

I, Joseph Thomas Robino, a resident of Jefferson County, State of Alabama, do make, publish and declare this instrument as and for my Last Will and Testament, hereby revoking all and any other wills and codicils thereto made by me.

ITEM ONE: (A) I give and bequeath all of my wearing apparel, jewelry, books, pictures, automobiles, and all other objects of my personal use, including household furniture and furnishings, together with any insurance thereon, to my wife, Esther Romano Robino, absolutely, if she survives me, and if not, to my children equally. I hereby vest in my executor full power and authority to determine what objects of property are included in the foregoing descriptions.

ITEM ONE: (B) I devise to my wife, Esther Romano Robino, my residence located at <sup>1821 87R</sup> 1831 Cabala Road, Birmingham, Alabama, if she shall survive me, if not to my children equally. If at the time of my death, I shall no longer be using said property as my residence, then this devise shall be void and of no effect; provided, however, that if at the time of my death I shall own and be using any other real estate as my residence, then and in such event I devise such other real estate to my said wife, Esther Romano Robino, if she shall survive me, and if not, to my children equally.

ITEM TWO: All of the rest, residue and remainder of my property, of whatever kind and character and wherever situated, shall be disposed of by my executor as hereinafter provided:

(a) If my wife survives me, my executor shall, as soon as practicable after my death, divide the property constituting said residue of my estate into two fractional shares, one of which shall be referred to as the Marital Share and the other as the Family Share.

The Marital Share shall be held or disposed of in accordance with the provisions of Item Three hereof and shall consist of that fractional

*Joseph Thomas Robino*

Filed in office this the 23<sup>rd</sup>  
day of March, 1982  
for Probate and Record.

*J. H. Florence*  
Judge of Probate

MALCOLM L. WHEELER  
ATTORNEY AT LAW  
2230 THIRD AVENUE NORTH  
BIRMINGHAM, ALABAMA 35203-3877

share of said residue of my estate as determined by a fraction derived as follows:

The numerator thereof shall be one-half of the value of my adjusted gross estate minus the value of all other property or interests in property passing to my wife under this will or otherwise which are taxable as part of my estate and which qualify for the marital deduction but which are not a part of said residue and the denominator thereof shall be the value of said residue of my estate. The values referred to herein shall be the values as finally determined for Federal Estate Tax purposes.

The Family Share shall consist of the remaining fractional share of said residue of my estate. Said share, after deducting therefrom all estate or other tax levied against my estate by reason of my death, shall be held or disposed of in accordance with the provisions of Item Four hereof.

(b) If my wife does not survive me, then the entire residue of my estate shall constitute the Family Share and shall be held or disposed of in accordance with the provision of Item Four hereof.

ITEM THREE: The Marital Share, hereinafter referred to as the Marital Trust, I give, devise and bequeath to my trustee, who shall hold the same in trust for the use and benefit of my wife as hereinafter provided:

(a) During the lifetime of my wife, the trustee shall pay to her the entire net income from said trust in convenient installments, but at least annually. If at anytime during such period the net income from said trust is insufficient, in the opinion of the trustee, for the health, maintenance and support of my wife taking into account other resources available to her and known to the trustee, the trustee shall pay to her such additional sum or sums out of the principal of said trust as the trustee may deem necessary or desirable.

(b) Upon the death of my wife the Marital Trust shall terminate, and the trustee shall transfer and pay over the property then constituting

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person or persons, including the estate of my wife, as she may by her last will and testament appoint and direct, making specific reference to this general power of appointment hereby granted. The trustee shall hold or dispose of any unappointed portion of the Marital Trust as part of the Family Share in accordance with the provisions of Item Four hereof, the share of any person entitled thereto to be merged with such other share, if any, as may then be held thereunder for the benefit of such person.

ITEM FOUR: The Family Share, hereinafter referred to as the Family Trust, I give, devise and bequeath to my trustee, who shall hold the same in trust for the uses and purposes as hereinafter provided:

(a) During the lifetime of my wife, the trustee shall pay to her the entire net income from said trust in convenient installments. If at any time during such period the net income from said trust is insufficient, in the opinion of the trustee, for the health, maintenance and support of my wife, taking into account other resources available to her and known to the trustee, the trustee shall pay to her such additional sum or sums out of the principal of said trust as the trustee may deem necessary or desirable, provided, however, that no principal shall be paid from the Family Trust for her benefit until the Marital Trust shall have been exhausted.

(b) Upon the death of my wife, or upon my death if she shall not survive me, the trustee shall apportion the Family Trust into so many equal parts that there will be one share for each child of mine then living, or if any of my said children shall predecease me, then to the survivor or survivors of them; provided, that the then living issue of any deceased beneficiary shall take per stirpes and in fee the share of their deceased ancestor.

The trustee shall transfer and pay over, subject to subsection (c) of this item any share set aside for a child of mine or for the living descendants of a deceased child of mine to such child or to such descendants, per stirpes.

If my wife is not survived by any descendants of mine, the trustee

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shall transfer and payover the property constituting said trust to the following persons and in the following proportions: one-half (1/2) to my family, and one-half (1/2) to my wife's family.

(c) Upon the death of my wife, the trustee shall transfer and pay over the share allocated to any child of mine to such child free of trust, or if my said beloved wife shall predecease me, then upon my death.

(d) If I am survived by neither my wife nor by any descendant of me, I give, devise and bequeath my entire estate to such persons as would be entitled to inherit the same, from me under the laws of Alabama had I died a resident of Alabama intestate.

(e) It is my intention that any reference herein made to child or children shall include any child or children born to my wife and me after the execution of this will.

(f) Any adopted person, including any person adopted by me, and his or her descendants, shall be considered to be descendants of the adoptive parents and of the ancestors of such adoptive parents, for all purposes hereunder, whether such adoption occurs before or after the execution of this will.

ITEM FIVE: The trustee shall hold and manage the said trust or trusts and all shares thereof, with all of the powers and authority they would have if they were the absolute owners thereof, including but not limited to the following powers:

1. To collect the income therefrom.
2. To compromise, adjust and settle in their discretion any claim in favor of or against the trust.
3. To hold any property or securities originally received by them as a part of the trust or to which they become entitled by virtue of incorporation, liquidation, reorganization, merger, consolidation, or change of charter or name, so long as they shall consider the retention for the best interest of the trust.

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4. To sell, auction, convey, exchange, lease or rent for a period beyond the possible termination of the trust (or for a less period) for improvement or otherwise, or to grant options for in connection with such purposes, or otherwise dispose of, all or any portion of the trust, in such manner and upon such terms and conditions as the trustees may approve.

5. To invest and reinvest the trust and proceeds of sale or disposal of any portion thereof, in such loans, bonds, stocks, mortgages, common trust funds, securities, or other property, real or personal, or to purchase options for such purposes, or to exercise options, rights or warrants, to purchase options for such purposes, or to exercise options, rights or warrants, to purchase securities or other property, as to the trustees may seem suitable, provided, however, that the corporate trustee, acting alone, is authorized to make temporary investments in interest bearing securities and notes, and to purchase and sell fractional shares and subscription rights to which the trust may become entitled.

6. To hold, retain or acquire property or securities which in their opinion is for the best interests of the trust, without regard to any statutory or constitutional limitation applicable to the investment of trust funds.

7. To vote any corporate stock held hereunder in person, or by special, limited or general proxy, with or without power of substitution, or to refrain from voting the same, and to waive notice of any meeting and to give any consent for or with respect thereto.

8. To subdivide or otherwise develop, and to change the use or purpose of, any real estate constituting a part of the trust into residential, recreational, commercial, cemetery, or other usage, to construct, alter, remodel, repair or raze any building or other improvement located thereon, to release, partition, vacate, abandon, dedicate or adjust the boundaries as to any such property.

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9. To borrow money for such time and upon such terms as the trustees see fit, without security or on mortgage of any real estate or upon pledge of any personal property held hereunder, and to execute mortgages or collateral agreements therefor as necessary.

10. To advance money to any trust for any purpose of the trust, and the trustees shall reimburse themselves for the money so advanced with reasonable interest thereon from the trust or from any funds belonging thereto.

11. To hold money in their custody while awaiting distribution or investment under the terms hereof, even though such money be commingled with their funds (in which case the trustees shall keep a separate account of the same on their books), and the trustees shall not be required to pay interest thereon.

12. To appoint, employ, remove and compensate such attorneys, agents, and representatives, individual or corporate, as the trustees deem necessary or desirable for the administration of the trust, and to treat as an expense of the trust any compensation so paid.

13. To hold property or securities in bearer form, in the name of the trustees, or in the name of their nominee, without disclosing any fiduciary relation.

14. To keep all property constituting a part of said trust properly insured against hazards, to pay all taxes or assessments, mortgages or other liens now or hereafter resting upon said property, and to create reserves for depreciation, depletion or such other purposes as the trustees deem necessary or desirable.

15. To determine whether any money or property coming into their hands shall be treated as a part of the principal of the trust or a part of the income therefrom, and to apportion between principal and income any loss or expenditure in connection with the trust as the trustees may deem just and equitable; provided, however, that such power shall be exercised in accordance with the provisions of the Alabama Principal and Income Act.

16. To pay from income any expenses reasonably necessary for the administration of the trust, and in the event the income is

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insufficient for such payments, the same shall be paid from the principal thereof.

17. To exercise any power hereunder, either acting alone or jointly with others.

18. To pay the funeral and burial expenses of any beneficiary from the principal of the trust from which income has been payable to such beneficiary.

ITEM SIX: It is my intention that, if my wife survives me, my estates shall become entitled to the marital deduction provided for by the United States Internal Revenue Code, as amended to the date of my death, with respect to the value of the Marital Trust. Accordingly, the Marital Trust shall be a separate trust for the sole benefit of my wife and shall be set aside and treated as such, effective from my death. It shall not include, and my executor shall not allocate to it, if avoidable, any property with respect to which a credit against the Federal Estate Tax would be forfeited by such allocation, or any income in respect of decedent.

My executor and trustee regardless of any adverse interest, shall construe all provisions of my will which may require construction in order that my estate may become and remain entitled to said marital deduction, and they are hereby authorized to adopt, agree to or acquiesce in, such construction thereof as they may from time to time deem necessary or advisable in order to obtain such deduction for my estate.

My wife shall have the general power of appointment over the Marital Trust as is provided for in Item Three to be exercised by her last will and testament in favor of such person or persons, including her estate, as she may appoint and direct, whether she dies before, during or after a division of my property into the Marital Share and the Family Share. The Marital Share shall vest in the trustee immediately upon my death, and income therefrom shall be distributed at least annually.

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ITEM SEVEN: I direct that all estate or other tax levied against my estate by reason of my death shall be paid by my executor solely out of the property designated as the Family Share, and that none of such taxes shall be paid out of the property designated as the Marital Share or property otherwise qualifying for the marital deduction for federal estate tax purposes.

ITEM EIGHT: If an election is available to take certain deductions as income tax deductions or as estate tax deductions, such election shall be made as the trustee, in its discretion, may determine, and no adjustment between principal and income shall be required as a result of such elections.

ITEM NINE: Additional property of any kind and character may be added to any trust hereunder, with the consent of the trustee, by me or any person or fiduciary, by will or otherwise, and such property so received by my trustee shall be added to, merged with and become a part of the property held in such trust hereunder, and thereafter shall be administered and disposed of in accordance with the terms of such trust.

ITEM TEN: The following provisions shall govern for all purposes of this will, wherever they may be applicable:

(a) Any payment of income or discretionary payment of principal from any trust other than the Marital Trust to or for any beneficiary may, in the discretion of the trustee, be made to any person or organization (including the beneficiary or anyone having custody of him or her), who shall apply such payment for the use and benefit of the beneficiary as provided for hereunder.

(b) Upon making any payment or transfer hereunder, the executor and trustee shall be discharged as to such payment or transfer without liability for the subsequent application thereof, and when the final payment or transfer is made from the principal of any trust, such trust shall terminate and the trustee shall be fully discharged as to such trust.

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ITEM ELEVEN: I hereby designate and appoint my nephew,  
Michael Antonio, as executor and trustee hereunder.

I direct that my executor and trustee shall not be required to give bond or to file an inventory or appraisal of my estate or of any trust or share thereof in any court, though it shall make out and keep an inventory and shall exhibit the same to any party in interest at any reasonable time, and I direct that it shall be free from the control and supervision of any court. I hereby vest in my executor the same full powers of management, control and disposition of my estate as are given to the trustee under Item Five with respect to the trust or trusts hereunder. My said nephew shall be entitled to reasonable compensation for his services as executor and trustee.

ITEM TWELVE: In the event that my wife and I shall die in a common accident or disaster, or under any circumstances creating any doubt as to which of us survive the other, my wife shall be presumed to have survived me for all purposes under this will.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this

18<sup>th</sup> day of November, 1980.

Joseph Thomas Robino  
JOSEPH THOMAS ROBINO

We, the undersigned, hereby certify that the above named testator subscribed his name to the foregoing instrument in our presence, and published and declared the same to be his last will and testament, and we, at the same time, at his request, in his presence and in the presence of each other, have hereunto signed our names as subscribing witnesses.

<u>Robert C. Suttly</u>	<u>2344 Regent Lane, B'ham, AL.</u>
<u>Brenda Kerkyn Hastings</u>	<u>1472 Linda Vista, B'ham, AL.</u>
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CERTIFICATE TO THE PROBATE OF WILL

The State of Alabama

JEFFERSON COUNTY

I, O. H. Florence, Judge of the Court of Probate, in and for said State and

County, do hereby certify that the foregoing instrument \_\_\_ of writing ha <sup>S</sup> \_\_\_ this day, in said Court, and before me as

the Judge thereof, been duly proven by the proper testimony to be the genuine last Will and Testament \_\_\_\_\_

of Joseph Thomas Robino Deceased and that said Will \_\_\_\_\_

together with the proof thereof have been recorded in my office in Judicial Record, Volume 753 , Page 438-447

In witness of all which I have hereto set my hand, and the seal of the said Court, this date July 8, 1982 .

PROBATE-98

O. H. Florence , Judge of Probate.

IN THE MATTER OF:

THE ESTATE OF:

JOSEPH THOMAS ROBINO,  
DECEASED

IN THE PROBATE COURT OF  
JEFFERSON COUNTY, ALABAMA

JUNE TERM 1982

CASE NO. 105873

ORDER PROBATING LAST WILL AND TESTAMENT

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This matter coming on to be heard upon the petition as amended of Michael J. Antonio, Jr., which was heretofore filed in this Court for the probate of an instrument of writing purporting to be the Last Will and Testament of Joseph Thomas Robino, deceased;

Comes now the said petitioner and moves the Court to grant said petition as amended; and also comes Gregory D. Cotton who was heretofore duly appointed by the order of this Court and who now consents to act as Guardian ad Litem for John Robino, who is of unsound mind and heir of said deceased; and it appearing to the Court that the acceptances of service and waivers of notice by Esther Romano Robino and Joe Robino, next of kin of said decedent have been filed in this Court, and the Court having ascertained by sufficient evidence that the signatures affixed thereto are the genuine signatures of said next of kin; and it further appearing to the satisfaction of the Court that notice of the filing of said petition and of the time appointed for hearing the same has been given in pursuance of law and in strict accordance with the former order of this Court made and entered in this cause; now, on motion of said petitioner, the Court proceeds to hear said petition as amended; and, after due proof and hearing had according to the laws of this state, the Court is satisfied and is of the opinion that said instrument is the genuine Last Will and Testament of said deceased, and that such instrument should be probated as the Last Will and Testament of said deceased. It is, therefore,

ORDERED, ADJUDGED AND DECREED by the Court that said instrument be duly admitted to probate as the Last Will and Testament of Joseph Thomas Robino, deceased, and ordered to be recorded together with the proof thereof and all other papers on file relating to this proceeding. It is further ordered that petitioner pay the costs of this proceeding.

DONE this date, July 8, 1982.

O. H. Florence  
Judge of Probate

IN THE MATTER OF THE ESTATE OF

IN THE PROBATE COURT OF  
JEFFERSON COUNTY,  
ALABAMA

JULY TERM 1982

JOSEPH THOMAS ROBINO

Deceased

CASE NO. 105873

LETTERS TESTAMENTARY

BE IT REMEMBERED AND MADE KNOWN TO ALL WHOM IT MAY CONCERN:

That the will of the above-named deceased having been duly admitted to record in said County, Letters Testamentary are hereby granted to Michael J. Antonio, Jr.

Execut or named in said will, who ha s complied with the requisitions of law and who is authorized to take upon himself the execution of such will.

Witness my hand this date, July 26, 1982

*O. H. Lorenc*

Judge of Probate

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I, \_\_\_\_\_, Chief Clerk of the Court of Probate of Jefferson County, Alabama, hereby certify that the foregoing is a true, correct and full copy of the Letters Testamentary issued in the above-styled cause as appears of record in said Court. I further certify that said Letters are \_\_\_\_\_ in full force and effect.

Witness my hand and seal of said Court this date, \_\_\_\_\_

Chief Clerk

**The State of Alabama**  
**JEFFERSON COUNTY**

**PROBATE COURT**

I, Peggy A. Proctor, Chief Clerk of the Court of Probate,

in and for said County in said State hereby certify that the foregoing contains a full, true and correct copy of the

Last Will and Testament of Joseph Thomas Robino; Deceased

together with the certificate to the probate thereof; Order

Probating Last Will and Testament; I further certify that said

Letters Testamentary are still in full force and effect.

In the matter of Estate of Joseph Thomas Robino; Deceased;

as the same appears on file and of record, in this office.

1984 OCT 16 AM 9:10

Given under my hand and seal of said Court, this  
the 12 day of October, 1984

Peggy A. Proctor

Chief Clerk

Rec. 32.50

1.00

33.50

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