Samuel .

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THE STATE OF ALABAMA,)

JEFFERSON COUNTY.

PROBATE COURT

Petition of Birmingham Trust & Savings Company for the Probate of the Will of Paul H. Earle, deceased.

TO THE HON. J. P. Stiles JUDGE BROBATE COURT, JEFFERSON COUNTY;

The petition of the undersigned Birmingham Trust & Savings Company respectfully represents unto your Honor that Paul H. Earle who at the time of his death, an inhabitant of this county, departed this life at Birmingham, Alabama, on or about the 18th day of April, 1930, leaving assets in this State, and leaving a Last Will and Testament duly signed and published by him and attested by the witnesses named below.

That your petitioner as it verily believes, is named in said will as one of the Executors thereof and does now herewith surrender said Will to the Court and pray that after proper preceedings and proofs, it may be probated and admitted to record as the true Last Will and Testament of said deceased. Your petitioner further pepresents that Rosa Munger Earle is the widow of said deceased, and that the names, ages, residence and condition of the next of kin are as follows, to-wit; Mary Collett Earle, a daughter over the age of twenty-one years, Paul H. Earle, Jr., a son over twenty-one years of age, Rosa Earle, a daughter seventeen years of age, Katherine Earle, a daughter fifteen years of age, and Eugenia Earle, a daughter seven years of age, and all of whom reside with their mother, said Rosa Munger Earle, at 400 Cotton Avenue, in Birmingham, Jefferson County, Alabama. Your petitioner is informed and further represents that said widow, the mother of said minors, is possessed of a separate estate which is probably in excess of the value of the interest she would take in the estate and property of decedent the the event of intestacy and that accordingly her interest is probably adverse to that of the named minors.

Your petitioner further represents that Marion J. Richards, A. Key Foster and Festus C. Bridges are the attesting witnesses to said will and all reside in the City of Birmingham, Jefferson County, Alabama, your petitioner therefore further prays that your Honor will take jurisdiction of this its petition and cause all such notices or citations to issue to the said next of kin and to said witnesses, and cause all such proceedings to be had and done and render all necessary orders and decrees in the premises as will duly and legally effect the probate and record of said Will in this Court. BIRMINGHAM TRUST & SAVINGS COMPANY,

By Macklin F. Smith, Trust Officer.

THE STATE OF ALABAMA,

Jefferson County. ) Maclin F. Smith being duly sworn deposes and says that the facts alleged in the above petition are true according to the best of his knowleged, information and belief.

Subscribed and sworn to before me this the 28th day of April, 1930.

Mackin F. Smith.

Jack London, Notary Public, Jefferson County

WILL

STATE OF ALABAMA JEFFERSON COUNTY

I, Paul H. Earte, a resident citizen of Jefferson County, Alabama, being of sound mind and disposing memory, do hereby make and publish this, my last will and testament, hereby revoking any and all former wills made by me.

ITEM ONE. I desire and I hereby direct that all my just debts, including, my

funeral expenses and the expenses of my last illness, be paid by my executors hereinafter named, as soon after my death as convenient.

ITEM TWO. I hereby give and grant anto my said executors full power and authority to sell any or all property owned by me at the time of amy death, real, personal or mixed, at private or public sale without order of court.

ITEM THREE. I hereby give, devise and bequeath unto my beloved wife, Rosa Earle, all household furniture, furnishings, personal effects, automobiles and the home belonging to me at the time of my death, together with the land used in connection therewith, to be here absolutely.

Inasmuch as my beloved wife has adequate means in her separate estate for her support, maintenance and comfort and inasmuch as my entire estate is needed in order to furnish my children, sufficient income for their maintenance, support, Education and comfort, and, inasmuch as my part of my estate which I might be able to leave her, and at the same time provide the needed income to my children, would not materially increase the income which she enjoys from her separate estate, I, therefore, make no provision for my wife other than the provisions contained in this Item of my will.

ITEM FOUR. I hereby give, devise and bequeath unto the Birmingham Trust and Savings Company, a body corporate of Birmingham, Alabama, and unto Samuel L. Earle and M. P. Northington, or the survivor of them as joint trustees, and upon the death of the survivor of said persons, then unto the Birmingham Trust and Savings Company, as trustee, all the rest and residue of all property, real, personal and mixed, which I may own or to which I may be entitled at the time of my death, or to which my estate may become entitled after my death, in trust, however, for the uses and purposes and with the powers hereinafter set forth, to-wit:

- 1. The trustees shall take charge of, manage and control all of the trust property, leasing, selling, improving or otherwise handling the same as the trustees deem best and shall collect all income derived therefrom. The trustees shall more specifically have full power and authority to exchange property belonging to the trust estate, either real or personal, for other property, or interest in property, in such manner and upon such terms as the trustees may deem advisable. The trustees may execute leases of property for such terms as they may see fit, even though the same may extend beyond the termination of the trust hereby created.
- 2. The trustees shall have the power authority to sell at private sale, without order of court, and convey any and all of the trust property at such time or times as the trustees deem to be to the interest of the trust estate. The proceeds of all such sales, as well as any other funds belonging to the estate which are not necessary to be otherwise used in the administration of this trust, shall be by the trustees from time to time invested in such class of securities or investments as the trustees may in their discretion deem advisable whether such investments are authorized by the constitution or laws of the State of Alabam a or not. The trustees shall have the power and authority to participate in, and become parties to, any plan of reorganization of any corporation of which they may hold any securities, as trustees hereunder, and may without notice or order of court, exchange any such securities for any securities of any corporation which may be party to, or result from, any such reorganization.
- The trustees shall have full power and authority privately and without may order of court to borrow any money which they/deem advisable for the protection or proper administration of the trust estate, and as trustees to mortgage any of the trust property for the purpose of securing same, with full power and authority to renew or extend any indebtedness at any time existing against any of the trust estate.

- 4. Any and all distribution of capital stock of corporations issued to the estate as stock dividends and all dididends from partial or complete liquidation shall be treated by the trustees as part of the corpus of the trust estate and shall not be distributed as income, but all extraordinary cash dividends paid by going concerns shall be treated as income.
- 5. The trustees shall have power and authority at any time or from time to time to advance money to the trust estate from their funds for any purpose or purposes of the trust and may reimburse themselves for the money advanced and interest thereon from any funds belonging to the trust thereafter coming into their custody from any source.
- 6. The trustees shall pay from and out of the income of the trust property any and all expenses reasonably necessary for the administration of the trust, including interest, taxes, insurance and compensation to the trustee, as well as any other expense insurered for the benefit of the trust estate, and in the event the income from the trust property is insufficient for the purpose of paying such expenses, the same may be paid from the corpus of the trust estate.
- with the other stockholders of the Earle Real Estate Company with a view of conserving the best interest of said company and with a view of considering the wishes of the other stockholders in said company with regard to allowing any outside ownership of the stock in said company. In carrying out this idea, I suggest that my trustees give the other stockholders of the said Earle Reale Estate Company the privilege of purchasing any stock in said company at the then market price, which the trustees may elect to sell, before it is offered to anyone who is not then a stockholder in said company. The provisions of this paragraph are simple an expression of my wishes and are not binding upon the trustees in any respect.
- 8. Upon my death, the trustees shall then apportion the trust estate coming into their hands into so many equal parts that there will be one share for my daughter, Mary Collett Earle, one for my son, Paul Hamilton Earle, Junior, one for my daughter, Rosa Earle, one for my daughter, Katherine Earle, and one for my daughter, Eugenia Earle, or such of said children as are then living, or having died theretofore leaving lineal descendants who are then surviving, and each share be set aside and held by the trustees in trust for the use's and purposes as hereinafter provided. After the apportionment, the trustees, shall continue to hold the share of each of my daughters in trust and shall pay the net income therefrom over to said daughters monthly during their natural lives. In the event that my son shall be over the vage of forty years at the time of such apportionment, then the trustees shall as promptly thereafter as is practicable deliver over to him the share of said estate so set aside for him and the trustees shall to that extent be discharged. If my son shall be over the age of thirty five years but under the age of forty years at the time of such appointionment, then the trustees shall as promptly thereafter as is practicable deliver over to said son three-fourths of said trust estate so set aside for him, free from trust. In the event that said son shall be over the age of thirty years but under the age of thirty five years at the time of such apportionment, then the trustees shall as promptly thereafter as is practicable deliver over to said son one-half of the said trust estate so set aside for him, free from trust. In the event that said son shall be over the age of twenty-five years but under the age of thirty years at the time of such apportionment, then the trustees shall as promptly thereafter as is practicable deliver over to said son one-fourth of said trust estate so set aside for him, free from trust. The remaining protion of said share shall be delivered over to him as herein provided. In the event that said son shall be under the age of twenty-five years at the time of such apportionment, then the trustees shall continue to hold his entire share in trust until he attains the age of twenty-five years, at which time one-fourth of his share shall be delivered over to him; when he arrives at the age of thirty years, the second one-fourth of his share

shall be delivered over to him; when he arrives at the age of thirty-five years, the third onefourth of his share shall be delivered over to him, and when he arrives at the age of forty
years, the portion of the share set aside in trust for him, which remains in the hands of the
trustees, shall be delivered over to him, free from trust. Upon the delivery of any portion
or all of the share or shares, as herein provided, the trustees shall be discharged pro tanto.
After my said son shall have arrived at the age of twenty-one years, he shall be entitled to
receive the net income from the share of the trust estate set aside for him, or any portion of
such share, which remains in the hands of the trustees, which said net income shall be paid to
him in monthly installments.

Should any of my children be under the age of twenty-one years at the time of my death, then the trustees shall use such portion of the net income from the share of such child as it may deem necessary for the maintenance, support, education and comfort of such child, and any portion of the net income not so used shall be accumulated and added to the principal sum, being handled in all respects as a part of said principal sum, until such child attains the age of twenty-one years, after which time the entire net income shall be paid over to such child monthly until the principal of such share is payable hereunder. In the event of the death of any child prior to the apportionment of said trust estate, leaving lineal descendants surviving, then such lineal descendants shall take per stripes the share which would have been set aside for the parent, if living. Upon the death of any of said children after the apportionment of said trust estate, leaving lineal descendents of their surviving, then all or any portion of the share of the child so dying, remaining in the hands of the trustee, shall be paid, conveyed and delivered over to such lineal descendants per stirpes, free from trust. In the event that any lineal descendant of any deceased child of mine is a minor under the age of twenty-one years at the time he or she becomes entitled to a portion of the income or principal of the trust estate, then the trustees shall continue to hold in trust that portion of the trust property to which such minor may be entitled, and shall use such portion of the income therefrom and/or principal thereof as the trustees may deem advisable or proper for the support, maintenance, education and comfort of such minor until he or she reaches the age of twenty-one years. The bahance of the income not so used for such minor and the income from said income shall be added to and thereafter be deemed for all purposes hereunder a part of the principal of the portion apportioned to such minor until such minor becomes twenty-one years of age, at which time the principal so apportioned to him or her and the accumulations of income shall be distributed to him or her and the trustees shall to that extent be discharged. In the event that the aforesaid provisions for the accumulation of income not needed for the support, maintenance, education and comfort of such minor shall becontrary to law, in whole or in part, then such income as is directed to be accumulated contrary ot law shall be paid to the legal guardians of such minor during his or her minority, and in said event, it is my desire that the said Birmingham Trust and Savings Company, Samuel L. Earle and M. P. Northington shall be the guardians of my such minor, and so far as I lawfully may, I confer upon them as such guardians all powers conferred upon them as trustees under this will, and I exempt them from giving bond as such guardians. Each share of the said trust estate so set aside upon the apportionment of said trust estate, as herein provided, shall be held, taken charge of, managed and controlled by the Birmingham Trust and Savings Company, Samuel L. Earle and M. P. Northington, as trustees thereof, and said trustees shall have with respect thereto all and singular, the powers and authority herein conferred upon the Birmingham Trust and Savings Company, Samuel L. Earle and M. P. Northington, as trustees of my said estate, before such apportionment thereof; the income therefoom to be paid over or used as herein above provided in respect thereto.

During the time that my son shall be between the ages of thirty-five and forty years, the trustees may make advances from time to time to said son, upon his written request, to be used by him for investment or to establish him in any business or profession in which he may desire to become interested, in amounts not to exceed the approximate value of the portion of said son's share of the trust estate, which remains in the hands of the trustee. Such advances, however, shall be made within the sold and unqualified discretion and judgment of said trustee, and no person who may be or become beneficially interested in said trust estate shall have any right to complain of, or to interfere with, the exercise of such discretion by the trustees in the making of, or the refusal to make, any such advances. The fact that such investments may be, or may prove to be, see unsound shall not subject the trustee to any liability to any person, if the trustees make any such advances. Such advances as may be made hereunder shall be deemed to be pro rate distributions of the trust estate to my son, and he shall not thereafter be accountable to the trustees for any part thereof; and the trustees shall be discharged as to the amount of any and all such advances.

In the event any child of mine should die, leaving no lineal descendants surviving, or should all of the lineal descendants of a deceased child of mine die, then the share of the trust estate set aside for such child or belonging to such lineal descendants, which remains in the hands of the trustees, shall go to and vest in my surviving child or children (the child or children of any deceased child of mine to take per stirpes and not per capita the share which would have been set aside for their parent, if then living) upon the subject to the same terms as herein above prescribed as to the share of such child or children.

In the event that all of my children should die before the final disposition of said trust estate, as provided herein, leaving no lineal descendants surviving them, the trust estate then held, shall be distributed in such proportions and to such persons as would have been entitled to a share of my estate under the laws of intestacy of the State of Alabama, had I died without having made a will immediately after the death of my said wife.

When the final payment has been made from the corpus or principal of the trust estate, in accordance with the provisions of this will, this trust shall terminate and the trustees shall forthwith stand discharged.

9. In making any apportionment and/or distribution of principal as herein comtemplated, my trustees are authorized to themselves determine the total value of my estate and make selection of the items of property to be paid over and distributed to the party or parties entitled thereto with reference to the share of the trust estate to which such party or parties may be entitled, and without securing any valuation or determination of valuation or direction as to specific items of property to be paid over and distributed from any court; it being my intention that my trustees shall use their sold judgment and discretion in any such determination, without liability to anyone on account of the exercise of such judgment and discretion.

10. In the event the trustees for any reason should at any time deem the income from the share of the trust estate set aside for my children insufficient for the proper maintenance, support, education and comfort of the child for whom such share is held in trust, then said trustees may utilize for such purposes so much of the corpus or principal of the share set aside for such shild as they may deem advisable or proper, and the moneys so utilized shall be deemed to be partial distributions hereunder and not charges against the recipient or the estate of the recipient. Provided, however, that no share of stock of the said Earle Real Estate Company shall be used for such purposes, nor shall the proceeds from the sale thereof, until all of the other assets of the trusts estate held in trust for said childred have been exhausted.

- 11. Upon the death of any direct beneficiary hereunder, the trustees are authorized to pay the funeral and burial expenses and the expenses of the last illness of such beneficiary from the corpus of the trust estate.
- to receive fair and reasonable compensation for its services in administering this trust not to exceed five per cent of the gross income received from the trust estate, and upon distribution of any part or all of the principal of said estate two and one-half per cent of the value of the principal so distributed. Neither Samuel L. Earle nor M. P. Northington shall be entitled to receive any compensation for acting as trustees under my will. The trustees shall be entitled to reimbursement for all necessary or proper expense incurred in the administration of the trust estate, the same to be paid out of said estate.
- 13. Whenever in this instrument the word "trustee" is used, it is my intention that this word shall be construed either as singular or plural, whichever is proper in accordance with the context.
- ing the trust, nor shall they be liable for any acts of omission or commission, except the wilful disregard of duty, and they may act by agent or attorney and shall not be responsible for their acts of omission or negligence, but shall be held to the exercise of reasonable a care in selecting, retaining and discharging them, and shall be entitled to credit for any and all expenditures deemed necessary by the trustees in protecting or caring for the trust property.
- 15. The trustees shall not be required to pay any interest on any money in their custody while awaiting distribution and investment under the terms hereof.
- 16. The trustees shall not be required to give bond as trustees under this instrument, unless ordered so to do for cause shown by a court having jurisdiction, in which event the cost and expense of the bond shall be paid from the trust estate.
- 17. It is hereby expressly provided that all payments to the beneficiaries hereunder be made to such beneficiaries in person or directly for their maintenance and support and that no interest of any beneficiary be subject to assignment or be liable in any way for such beneficiary's debts.

THEM FIVE. During the period of administration of my estate, my executors hereinafter named shall have and may exercise all of the rights, powers and duties herein granted to or conferred upon the trustees.

ITEM SIX. The trust herein created shall in no event continue for a period longer than the lives of my children and the survivors or survivor of them and twenty-one years thereafter, at the end of which time distribution of the principal of the trust estate shall be made to the persons then entitled to receive the income from the trust estate, or the personal representative of such person, in the same manner and proportions as herein provided, irrespective of their attained ages.

ITEM SEVEN. The Birmingham Trust and Savings Company, herein referred to, shall mean the corporation existing by that name at the date of this will and any successor thereto by merger, consolidation or conversion under state or federal laws.

cline to act, resign, or for any other reason fail or cease to act as such trustee, as herein provided, the court, having jurisdiction, shall appoint some other corporation qualified
to discharge the duties thereof, and may exempt such corporate trustee from furnishing a bond
as such. Such substituted or successor trustee shall have and may exercise all the rights
and powers and shall be bound by all the duties and obligations herein prescribed for said
trustee herein named.

and testament, the Birmingham Trust and Savings Company, Samuel L. Earle and M. P. Northington, or the survivor of them, and upon the death of the survivor of said persons, then I hereby constitute and appoint the Birmingham Trust and Savings Company executor, hereby directing that, as such executors or executor, they or it shall not be required to make any bond or file any inventory of my estate in any court; and the said Samuel L. Earl and M. P. Northington shall not be entitled to receive any compensation for their services, as executors of my said estate.

In the event it is deemed necessary to have administration upon my estate in any other state than the State of Alabama and the Birmingham Trust and Savings Company does not see fit to qualify as executor in such state or states, then any person or corporation designated by the trust officer of the Birmingham Trust and Savings Company shall act as sole executor and, if necessary, also as trustee in said jurisdiction. It shall be the duty of such executor and trustee to complete the administration of my estate in such state or states as soon as practicable and to transmit all property and assets belonging to my estate to the Birmingham Trust and Savings Company, as trustee hereunder. Such executor and trustee shall have the right, with the consent and approval in writing of the Birmingham Trust and Savings Company, or the trust officer of the Birmingham Trust and Savings Company, to exercise any of the powers of sale herein conferred upon the trustees hereunder or the executors here—under.

ary should at any time, during the life of this trust, attempt to set aside this will or to avoid any of its provisions, by instituting or causing to be instituted legal proceedings with that end in view, or make any attempt to attack the validity of this instrument, then I do hereby direct that any and all provisions in this will with regard to said, beneficiary, shall be automatically revoked and canceled and that any interest of any character, which this will shall prescribe for said beneficiary, shall be automatically terminated and canceled, and said beneficiary shall be treated with regard to this will just as if he or she had died without leaving descendants surviving. It is my intention in making this provision to disinherit any of the beneficiaries entitled to share in the provisions of this will, who may attempt in any way to break this will or to disregard my wishes with regard to the handling of my estate, as herein above provided.

IN WITNESS WHEREOF I, the said Paul H. Earle, have hereunto set my signature and seal on this, the 23 day of August, 1929, hereby declaring the instrument contained on this and the six preceding pages to be my last will and testament.

Pawl H. Earle (Seal)

The foregoing was signed, sealed, published and declared by Paul H. Earle, to be his last will and testament in our presence and we, at his request and in his presence and in the presence of each other, have hereunto set our signatures, as attesting witnesses, on the day the said instrument bears date.

Marion J.Richards
Festus C. Bridges

A. Key Foster

## CERTIFICATE TO THE PROBATE OF WILL

THE STATE OF ALABAMA,)
Jefferson County. ) I, J. P. Stiles, Judge of the Court of Probate, in and for said State
and County, do hereby certify that the foregoing instrument of writing has 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 Paul H. Earle, deceased and that said Will together
with the proof thereof have been recorded in my office in Book of Wills, Vol.11 Page 337-344
In witness of all which I have hereto set my hand, and the seal
of the said Count, this the 12th day of May 1930

J. P. Stiles, Judge of
Probate

PAUL H. EARLE, DECEASED, ESTATE OF,)
IN THE MATTER OF PROBATE OF HIS

LAST WILL AND TESTAMENT.

PROBATE COURT.

May 12th, 1930

ORDER PROBATING WIDL

Earle and Eugenia Earle, who areminors and children andheirs of said decedent; And it appearing to the satisfaction of the Court that notice of the said application and of the time appointed for hearing the satisfaction of the Court that notice of the said application 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 there in amed; Now on motion of said Birmingham Trust & Savings Company the Court proceeds to hear said application.

And it appearing to the satisfaction of the Court from the testimony of Marion J. Richards and Festus 6. Bridges that said decedent did sign his name to the instrument of writing now shown to them and which bears date the 23rd day of August 1929, and which purports to be the last will and testament of said decedent, that they and A. Key Foster, the other witness did respectively sign the said instrument on the day of the date thereof, in the presence of the said testator and at his request as subscribing witnesses to the same; the said testator then declaring the said instrument constituted his last will; and it being also shown by proof which is satisfactory to the Court, that the said testator was of the full age of twenty-one years and upwards at the time of making said will; That he was of sound mind, and fully capable of making his said will at the time the same was so made as aforesaid. It seems to the court that said application should be granted.

It is therefore ordered, adjudged and decreed by the Court that said will of the said Paul H. Earle, deceased, be received and the same is hereby declared to be duly proven as the last will and testament of said decedent, and as such be admitted to probate, 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 cost of this proceeding.

Minutes Probate Court, Jefferson County, May Term 1930.

PAUL H. EARLE, DECEASED, ESTATE OF,
DECREE GRANTING LETTERS TESTAMENTARY

WITHOUT BOND.

MAY 13th 1930

It being known to the Court that the last will and testament of Paul H. Earle Dec eased has been duly proven and admitted to Probate and Record in this Court and that Birmiggham Trust & Savings Company, Samuel L. Earle and M. P. Northington are named as Executors thereof.

And it appearing to the Court from an inspection of said will, that said testator by an express provision in his will, to that effect, did exempt his Executors therein named from giving any bond as such Executors.

Now comes the said Birmingham Trust & Savings Company, Samuel L. Earle and M. P. Northing ton on this day and filed their application in writing and under oath, praying that Letters Testamentary upon said will be issued to them.

It is therefore ordered and decreed that Letters Testamentary upon said will be granted to said Birmingham Trust & Savings Company, Samuel L. Earle and M. P. Northington, and that said

Letters issue without bond or security being required, in accordance with the terms of said will, and agreeably to the provision of the law in such cases made. It is further ordered that the petition filed in this behalf be recorded.

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THE STATE OF ALABAMA,)

JEFFERSON COUNTY.

PROBATE COURT

I, Eugene H. Hawkins Judge 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 Petition for Probate of Will; Last Will and Testament of Paul H. Earle, deceased, together with the Certificate to the Probate thereof; Order Probating Will; Order Granting Letters Testamentary without—Bond

in the matter of the Estate of Paul H. Earle, deceased, as the same appears on file and of record, in this office.

Given under my hand and official seal, this the 18th day of May, 1936.

Eugene H. Hawkins, Judge of Probate.

Recorded in Deed Record #101, on page 24 to 32 inclusive and filed for record on the 3rd day of June, 1936 at 9 AM and examined.

L. C. Walker, Judge of Probate, Shelby County, Alabama.