

STATE OF ALABAMA )

JEFFERSON COUNTY )

59557

LAST WILL AND TESTAMENT  
OF  
BESS K. MILLER

I, BESS K. MILLER, a resident of Jefferson County, Alabama, being of sound mind and disposing memory, and being over the age of twenty-one (21) years, do hereby make, publish and declare this instrument as and for my Last Will and Testament, and hereby revoke any and all other Wills, Codicils or other testamentary dispositions heretofore made by me.

ITEM I

I direct that all my just debts, including the expenses of my last illness and funeral, shall first be paid by my Executor as soon as practicable after my death.

ITEM II

If my son, Herbert Stanley Miller, survives me, I give and devise to him the following described real estate, including any improvements and appurtenances thereon, located near Leeds, Alabama, and situated in Shelby County, Alabama:

Commence at the Southwest corner of the SW $\frac{1}{4}$  of SW $\frac{1}{4}$ , Section 26, Township 17, Range 1 East; from said corner go East along the Section line 850 feet for the point of beginning; thence North parallel with the West boundary line of said Forty 990 feet; thence East parallel with the North boundary line of said Forty 850 feet; thence South parallel with the East boundary line of said Forty 990 feet until it intersects the Section line; thence West along the Section line 850 feet to the point of beginning; being a part of the SW $\frac{1}{4}$  of SW $\frac{1}{4}$  and of the SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , all in said Section 26, Township 17, Range 1 East in Shelby County, Alabama.

If my said son, Herbert, predeceases me, I give and devise the above-described real estate, including any improvements and appurtenances thereon, to his issue, in equal shares, per stirpes.

ITEM III

(a) I give and bequeath my four (4) piece silver service of hand-tooled Florence silver and my solid silver tray

Filed in office this the 14th day of March, 1966  
for Probate and Record.  
J. Paul Neale  
Judge of Probate

to my son, Herbert Stanley Miller, if he survives me, but if he does not survive me, then to my daughter, Barbara Jeanne Roth.

(b) I give and bequeath my gold china set of twelve (12) and all other silver, flatware and silverware to my daughter, Barbara Jeanne Roth, if she survives me, but if she does not survive me, then to her issue in substantially equal shares, per stirpes. In the absence of agreement among Barbara's issue to a division of any of the above-described items in this subparagraph which may be left to them, or in case of the minority of any of them, my Executor shall make such division as he, in his sole discretion, shall determine to be proper.

ITEM IV

I hereby give and bequeath my jewelry as follows:

(a) My engagement ring to my grandson, Mark Miller, if he survives me, but if he does not survive me, then to his father, Herbert Stanley Miller;

(b) My diamond wrist watch with diamond band to my grandson, Michael Miller, if he survives me, but if he does not survive me, then to his father, Herbert Stanley Miller;

(c) My gold and pearl pin to my daughter-in-law, Bernadette H. Miller, if she survives me, but if she does not survive me, then to my son, Herbert Stanley Miller;

(d) My pigeon blood star ruby to my granddaughter, Leigh Roth, if she survives me, but if she does not survive me, then to her mother, Barbara Jeanne Roth;

(e) My blue star sapphire ring to my granddaughter, Gloria Roth, if she survives me, but if she does not survive me, then to her mother, Barbara Jeanne Roth;

(f) My opal ring with diamonds to my granddaughter, Jennifer Roth, if she survives me, but if she does not survive me, then to her mother, Barbara Jeanne Roth; and

(g) All the rest of my jewelry to my daughter, Barbara Jeanne Roth, if she survives me, but if she does not survive me, then to her issue in substantially equal shares, per stirpes. In the absence of agreement among Barbara's issue to a division of any of said jewelry left to them, or in case of the minority of any of them, my Executor shall make such division as he, in his sole discretion, shall determine to be proper.

B. R. Miller



ITEM V

I direct that my son, Herbert Stanley Miller, and my daughter, Barbara Jeanne Roth, or the survivor of them, shall set aside a portion of the bric-a-brac in my home as they may see fit, from which portion so set aside one piece may be selected by each Jeannette Kapp, Eva Kapp, Harry Kapp, Odessa Kapp and Chloe Kapp.

ITEM VI

B. K. 771

I give and bequeath my remaining bric-a-brac, rugs, china, furniture and furnishings to my son, Herbert Stanley Miller, and my daughter, Barbara Jeanne Roth, in substantially equal shares, subject to my husband, Hyman S. Miller's, use of said personal property during his lifetime, or until he no longer desires said personal property. If either or both of my said children should not be living at the time of my death, I give and bequeath such deceased child's share of said bequests described in this ITEM VI to his or her issue living at the time of my death in substantially equal shares, per stirpes, subject to my said husband's use of said personal property during his lifetime, or until he no longer desires said personal property. I am confident that there will be no difficulty in my children or their issue reaching agreement as to the division of such property at the proper time.

ITEM VII

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All of the rest, residue and remainder of my estate of whatsoever kind and character, including real, personal and mixed property, wherever situated or located, of which I die seized or possessed or to which I shall be entitled at the time of my death, I give, bequeath and devise unto my husband, Hyman S. Miller, if he survives me by at least ninety (90) days, absolutely. For the specific information of my Executor, my oil royalties and mineral rights in Grady County, Oklahoma, lands are included in my residuary estate.

ITEM VIII

If my husband, Hyman S. Miller, should not survive me by at least ninety (90) days, I give, bequeath and devise all of my said residuary estate to my son, Herbert Stanley Miller, and my daughter, Barbara Jeanne Roth, in equal shares, but if either Herbert or Barbara or both should not be then living, I give, bequeath and devise the share of such deceased child to his or her issue, in equal shares, per stirpes.

ITEM IX

(a) I hereby nominate and appoint my husband, Hyman S. Miller, as Executor of my estate. In the event Hyman S. Miller predeceases me, fails to qualify, dies, resigns, or is incapable of acting as Executor, then, and in any of such events, I nominate and appoint my son, Herbert Stanley Miller, and my daughter, Barbara Jeanne Roth, and Arnold Lefkovits, an attorney of Birmingham, Alabama, as Alternate or Successor Executors of my estate. In the event that any said Alternate or Successor Executor predeceases me, fails to qualify, dies, resigns, or is incapable of acting as Executor, then, and in any of such events, the surviving or remaining Alternate or Successor Executors shall serve in such capacity.

(b) None of the above-named Executors shall be required to furnish any bond or other security and each is expressly exempted from filing an inventory or accounting of my estate in any court or making any report in court upon final settlement.

(c) In the administration of my estate, the Executor shall have the following powers and authority, in addition to others now or hereafter conferred by law to be exercised in a fiduciary capacity but without necessity of obtaining any court order:

(1) To continue and operate any business or interest therein which I may own at the time of my death, for such time as he shall deem advisable;



to become or remain a partner, general or limited; and to incorporate any such business and hold the stock thereof as an investment;

(2) To transfer, sell, exchange, lease, mortgage, pledge or otherwise dispose of all or any part of my estate, at public or private sale, at such price, for cash or other consideration or on credit, and upon such other terms and conditions, with or without security, as he may determine;

(3) To exercise all rights as the owner of corporate securities, including, among other, the right to vote by proxy and to participate in re-organizations and voting trusts;

(4) To compromise and arbitrate claims in favor of or against my estate;

(5) To borrow money and mortgage or pledge the property of my estate as security therefor, and to advance money for the protection of my estate;

(6) To execute and deliver any written instruments or documents which he may deem advisable to carry out any power, duty or discretion granted to him, and all persons shall be fully protected in relying upon his power to execute every such instrument and no one shall be obligated to see to the application by the Executor of any money or property received by him pursuant to the execution and delivery of any such instrument or document; and to generally exercise all powers in the management of my estate which any individual could exercise in the management of similar property owned in his own right, upon such terms and conditions as may seem best to him and to do all acts which he may deem necessary or proper to carry out the purposes of this Will.

(d) Any Executor may from time to time delegate to one or both of the other Executors any powers, duties or discretions. Every such delegation shall be in writing delivered to the delegate or delegates, and shall remain effective for the time therein specified or until earlier written revocation is similarly delivered. Everyone dealing with my Executors shall be absolutely protected in relying upon the certificate of any Executor as to who are the Executors for the time being acting, and to the extent of their authority by reason of any delegation or otherwise.

(e) All decisions affecting the administration of my estate shall be made by my Executors in the following manner

B. K. 777.

if there is more than one Executor then serving in such capacity: While three Executors are in office, the determination of a majority shall be binding. If only two Executors are in office, they must act unanimously.

(f) All rights, powers, duties and discretion conferred upon the Executor may be exercised by such of the Executors as shall qualify and be acting hereunder from time to time.

ITEM X

Should any child to whom any personal property is bequeathed hereunder pursuant to the provisions of ITEM III, ITEM IV and ITEM VI be under the age of twenty-one (21) years upon the date of distribution, payment or delivery of such bequest may be made by my Executor either to a parent, or the custodian or guardian of such minor, or directly to such minor, and the receipt of such parent, or custodian, or guardian, or minor, shall be a full and complete discharge of my Executor.

IN WITNESS WHEREOF, I, the said BESS K. MILLER, do hereunto set my hand and seal to this, my Last Will and Testament (including in all six pages), on this the 19<sup>th</sup> day of February, 1965; and I also affix my initials on the margin of each of the pages hereof.

Bess K. Miller (SEAL)  
Bess K. Miller

SIGNED, SEALED, PUBLISHED and DECLARED by the said BESS K. MILLER, as and for her Last Will and Testament in our presence, and we, in her presence and at her request and in the presence of each other, hereto subscribe our names as witnesses on the date and year above written.

Marjorie L. Miller  
ADDRESS Birmingham, Ala.

Louise Miller  
ADDRESS Birmingham, Ala.

Robert L. Miller  
ADDRESS Birmingham, Ala.

B. K. Miller



**CERTIFICATE TO THE PROBATE OF WILL**

**THE STATE OF ALABAMA,  
JEFFERSON COUNTY.**

I, J. PAUL WEEKS, 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 Bess K. Miller, Deceased and that said Will \_\_\_\_\_

together with the proof thereof, have been recorded in my office in Judicial Record, Vol. 115 Page 177-634

In witness of all which I have hereto set my hand, and the seal of the said Court, this date November 8, 196

Form No. 98

J. Paul Weeks Judge of Probate

THE STATE OF ALABAMA,  
JEFFERSON COUNTY.

PROBATE COURT

Judge

I, J. Paul Meeks ~~notary and register~~ 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 Bess K. Miller, Deceased, together with the Certificate to the  
Probate thereof;

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED  
1967 SEP - 8 PM 9:00  
U.C.C. FILE NUMBER OR  
REC. BK. & PAGE AS SHOWN ABOVE  
*Conrad M. DeLoach*  
JUDGE OF PROBATE

~~notary and register~~

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

Given under my hand and seal of said Court, this

the 31st day of August, 19 67

*J. Paul Meeks*

~~notary and register~~  
Judge of Probate

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