

JR 12296442

LETTERS TESTAMENTARY

PROBATE -- 60

IN THE MATTER OF THE ESTATE OF

IN THE PROBATE COURT OF
JEFFERSON COUNTY,
ALABAMA

CHARLES E. HOWARD

Deceased

CASE NO.

149616

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 HORRA RICE and Charles E. Howard

Executors named in said will, who have complied with the requisitions of law and who are authorized to take upon themselves the execution of such will.

Witness my hand this date, July 2, 1993

George A. Reynolds
Judge of Probate

I, Peggy A. Proctor, 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 still in full force and effect.

Witness my hand and seal of said Court this date, _____

Inst # 1994-34139

Chief Clerk

11/15/1994-34139
03:25 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
021 NCD 58.50

1994-34139

IN THE MATTER OF THE ESTATE OF	)	PROBATE COURT OF JEFFERSON
CHARLES E. HOWARD,	)	COUNTY, ALABAMA
Deceased	)	CASE NO. <u>144616</u>

PETITION FOR PROBATE OF WILL
(Self-Proved Will)

Comes the Petitioners, NORMA RICE and CHARLES E. HOWARD, III, and show this Court the following facts:

1. Charles E. Howard (the "decedent") died testate at Birmingham, Jefferson County, Alabama on or about June 21, 1993, and, at the time of such death, was an inhabitant of Jefferson County, Alabama.

2. Surrendered herewith is the decedent's last will and testament naming the Petitioners as executors thereof, which was duly signed by the decedent when over eighteen (18) years of age, and was attested by the following witnesses:

<u>NAME</u>	<u>PRESENT ADDRESS</u>
Gayla K. Griffin	2125 Morris Avenue Birmingham, Al 35203
Jane Self	2125 Morris Avenue Birmingham, Al 35203

3. The decedent's last will and testament, as identified in paragraph 2 hereof, was self-proved in a manner substantially in accordance with the requirements of Ala. Code §43-8-132. The name and present address of the officer authorized to administer oaths before whom said will was acknowledged are as follows:

<u>NAME</u>	<u>PRESENT ADDRESS</u>
Faye Perkins	2125 Morris Avenue Birmingham, Al 35203

4. The following is a true, correct and complete list of the names, ages, conditions, relationships, and addresses of the decedent's surviving spouse and next-of-kin (as determined by application of Ala. Code §43-8-42):

NAME, AGE, CONDITION,
AND RELATIONSHIP

ADDRESS

Charles E. Howard, III, son over 21 of sound mind Robert Christopher Howard, son over 21 of sound mind Lester Ann Howard Eddy, daughter over 21 of sound mind	907 Third Avenue North Birmingham, Al 35203 907 Third Avenue North Birmingham, Al 35203 141 Cedar Grove Park Maylene, Al 35114
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WHEREFORE, the Petitioners pray that this Court will take jurisdiction of this petition; will cause all such notice or citations to issue to the next-of-kin, attesting witnesses, and oath-administering officer, as may be proper in the premises; and will cause such proceedings to occur and such proof to be taken, and render such orders and decrees as will duly and legally effect the probate and record in this Court of said will as the last will and testament of the decedent. This petition is deemed to be verified pursuant to Ala. Code §43-8-22.

Attorney for Petitioners:

Thomas C. Najjar, Jr.
THOMAS C. NAJJAR, JR.
NAJJAR DENABURG, P.C.
2125 Morris Avenue
Birmingham, Al 35203
(205) 250-8400

Norma Rice
NORMA RICE, Petitioner
Trust Department
Central Bank of the South
P O Box 10566
Birmingham, Alabama 35296

Charles E. Howard, III
CHARLES E. HOWARD, III, Petitioner
907 Third Avenue North
Birmingham, Al 35203

BENCH NOTE

Filed in the Probate Court of Jefferson County, Alabama, on the 2nd day of July, 1993 and set for hearing the 2nd day of July, 1993, at _____ M. Prayer granted and ordered recorded

George R. Reynolds
Judge of Probate

Last Will and Testament

OF

CHARLES E. HOWARD

144616

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, Charles E. Howard, a resident of the State of Alabama, Jefferson County, being of sound mind and disposing memory, do hereby make, publish and declare this instrument as and for my Last Will and Testament and hereby expressly revoke all prior wills and codicils that I have made.

ITEM ONE: Introduction. My name is Charles E. Howard. I am married to Barbara E. Howard, hereinafter sometimes referred to as my wife. I have three children, whose names are Lester Ann Howard; Robert Christopher Howard; and Charles E. Howard, III. For the purposes of this Will, references to my "children" shall mean the children named herein and any child adopted by me after the execution of this Will.

ITEM TWO: Payment of Debts; Non-Exoneration. I direct that all my debts and funeral expenses, including the costs of an appropriate marker for my grave, be paid as soon after my death as may be practicable. In the event that any property or interest in property passing under this Will or by operation of law or otherwise by reason of my death shall be encumbered by a mortgage or lien, or shall be pledged to secure any obligation (whether the property or interest in property so encumbered or pledged shall be owned by me jointly or individually), it is my intent that such indebtedness shall not be charged to or paid from my estate, but that the devisee, legatee, joint owner taking by survivorship or beneficiary shall take the property or interest in property subject to all encumbrances existing at the time of my death.

ITEM THREE: Personal Property and Specific Devise.

(a) I give and devise to my wife, Barbara E. Howard, if she survives me, all my jewelry, wearing apparel, automobile or automobiles, books, pictures, art objects, hobby equipment, club memberships and stadium certificates, and all other articles of personal and household use together with any insurance thereon. I hereby vest in my Executor full power and authority to determine what objects of property are included in the foregoing description contained in this Item. For the benefit of my Executor, I hereby

WITNESSED by me this 2nd

day of July, 1993
For Probate and Record.

George R. Reynolds
Judge of Probate

state that all of the household furniture, furnishings, china, silverware and other articles of household use located in our home are the property of my wife, and I confirm her title thereto.

(b) If my wife, Barbara E. Howard, does not survive me, then I give and devise all of the property hereinabove described in paragraph (a) of this Item to my descendants who survive me in equal shares, per stirpes. In the absence of agreement of my descendants as to the division of said property, my Executor shall make such division in my Executor's absolute discretion, having due regard for the personal preference of such beneficiaries, and such division shall be conclusive and binding. If any descendant entitled to a share of the property disposed of by this said paragraph shall be under the age of twenty-one (21) years at the time of my death, I authorize my Executor, in the sole discretion of my Executor and, in any case, without requiring bond, either to:

(1) retain for such descendant all or any part of such descendant's share of said property until such descendant attains the age of twenty-one (21) years; or

(2) deliver all or any part of any such descendant's share of such property directly to such descendant, or to any person deemed suitable by my Executor for the benefit of such descendant; or

(3) sell all or any part of any such descendant's share of such property, publicly or privately, and add the net proceeds thereof to the principal of the trust hereinafter referred to or directed to be set apart for such descendant.

Upon making any payment or transfer hereunder, my Executor shall be discharged as to such payment or transfer without liability for the subsequent application thereof. Storage, insurance and other carrying charges incurred in retaining any such property for any descendant shall be paid out of funds held for the benefit of such descendant under this Will.

9314 (c) As of the date of this Will, I own a majority interest of the outstanding stock of Howard's Uniform Rental Service, Inc., an Alabama corporation hereinafter referred to as the "Corporation." In the event that I am survived by my son, Charles E. Howard, III, and in the event that the Corporation is still actively engaged in the business of selling or renting uniforms at the time of my death, then in both such events I give and devise the sum of \$150,000 to my said son, Charles E. Howard, III, absolutely, such amount to be charged to the Family Share referred

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(i) The Marital Share shall consist of an amount which, after taking into account all property passing to my wife outside of this Will, by operation of law, through life insurance policies or otherwise, but only to the extent that such interests are included in determining my gross taxable estate and are allowable as a marital deduction for federal estate tax purposes, and all property passing to my wife pursuant to the prior provisions of this Will, shall be necessary to obtain the minimum marital deduction necessary to eliminate any federal estate tax in my estate, or to reduce such tax to the lowest possible amount, after taking into account all other available credits, including without limitation the unified credit allowed under Section 2010 of the Internal Revenue Code of 1986, as amended to the date of my death. In making the computations necessary to determine the amount of this gift and devise, the final determination for federal estate tax purposes shall control whether my Executor chooses the date of death or alternate valuation date. In the sole power and discretion of my Executor, acting in a fiduciary capacity, the payment of this amount may be made wholly or partly in cash or property as selected by my Executor; provided, however, that all such property so selected shall be valued at fair market value at the date or dates of distribution; provided further, that in exercising this power and discretion, my Executor shall first allot to this gift and bequest the more liquid and salable assets of my estate, taking into account the necessity, however, of having sufficient liquid funds for the payment of my debts, administration expenses and taxes; provided further, that so far as is possible, there shall not be included in this gift and devise any assets or the proceeds of any assets:

- (1) which do not qualify for the marital deduction for federal estate tax purposes; or
- (2) with respect to which any estate or death taxes are paid to any foreign country or any of its possessions or subdivisions; or

(3) with respect to which any tax credit or deduction shall be available because it shall be subject to both federal estate and federal income tax.

(ii) The Family Share shall consist of the balance of my residual estate after deducting the amount allocated to the Marital Share, plus any portion of my estate with respect to which my wife shall make a qualified disclaimer pursuant to the Internal Revenue Code of 1986, as amended.

(b) If my said wife does not survive me, my Executor shall allocate my entire residual estate to the Family Share.

ITEM FIVE: Qualified Terminable Interest Property.

(a) It is my intention that the property allocated to the Marital Share under this Will and held and distributed pursuant to Item Eight hereof shall constitute "qualified terminable interest property" as defined in Section 2056(b)(7)(B) of the Internal Revenue Code of 1986, as amended, as to which the marital deduction provided by the Internal Revenue Code will be allowed if my Executor so elects. My Executor is authorized to make any election permitted by said section with respect to such property as my Executor, in my Executor's sole discretion, shall deem to be in the best interests of my estate, the beneficiaries of said share and the other beneficiaries of my estate, or to make no election with respect to such property, taking into consideration the circumstances prevailing after my death. My Executor shall not be liable to my estate, the Trustee of the trust established to hold the Marital Share, or any current or future beneficiary or creditor of such trust or my estate on account of my Executor having made or declined to make any election with respect to such property, unless such election is made or not made due to the gross negligence or bad faith on the part of my Executor.

(b) If my Executor elects to treat the property of the Marital Share as qualified terminable interest property qualifying for the marital deduction permitted by Internal Revenue Code of 1986, as amended, then the following shall apply:

(1) The Marital Share shall not include, and my Executor shall not allocate to it, if avoidable, any property with respect to which no marital deduction would be allowed under the terms of the Internal Revenue Code of 1986, as amended; and

(2) My Executor, 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 my Executor is hereby authorized to adopt, agree to or acquiesce in, such construction thereof as my Executor may from time to time deem necessary or advisable in order that such deduction may be obtained for my estate.

ITEM SIX: Payment of Estate Taxes. All estate and inheritance taxes which may be assessed or imposed with respect to my estate, or any part thereof, wherever situated, whether or not passing under my Will, including the taxable value of all policies of insurance on my life of which I am the owner, and of all transfers, powers, rights, or interests in my estate for the purposes of estate taxes, shall, if my said wife survives me, be paid out of the Marital Share of my residual estate; or, if my said wife does not survive me, be paid out of my residual estate, and in either event such payment shall be made without apportionment.

ITEM SEVEN: Subchapter "S" Shares. In the event that any trust created under the terms of this Will shall consist of any shares of stock of a corporation which is being taxed as a Subchapter "S" corporation under the Internal Revenue Code of 1986, as amended from time to time, then in such event the Trustee shall be authorized to exercise the powers specifically described in Item Twelve (25) with respect to such shares of stock.

ITEM EIGHT: Distribution of Marital Share. The Marital Share, hereinafter referred to as the QTIP Marital Trust, I give and devise to my Trustee, who shall hold the same in trust for the use and benefit of my wife hereinafter provided:

(a) The Trustee shall pay to or apply for the benefit of my wife all of the net income of the trust in convenient installments, but at least annually, during her lifetime. In addition, if the Trustee determines that the net income so distributed to my wife is not sufficient for her support, health, maintenance and education, the Trustee may pay to or for her benefit so much of the principal as the Trustee deems necessary for such purposes during her lifetime. My wife shall have the power to compel the Trustee to make all or any part of the principal of this trust productive or income producing or to convert any unproductive or non-income producing property into productive or income producing property. Said power shall be exercised by a written instrument signed by my wife and delivered to the Trustee, and the Trustee shall take any action required by the exercise of said power within a reasonable time.

(b) Upon the death of my wife, the QTIP Marital Trust shall terminate and the Trustee shall distribute the principal and accrued income as follows:

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(1) Any accrued income shall be paid to such person or persons, including without limitation the estate of my wife, as she may appoint and direct in her Last Will and Testament making specific reference to this general power of appointment, which shall be exercisable by her alone in all events.

(2) The principal, and any accrued income which is not appointed as hereinabove provided, shall be distributed to the Trustee of the Family Trust as constituted under the following Item, to be disposed of and administered in accordance with the terms of this Item.

ITEM NINE: Distribution of Family Share. The Family Share, hereinafter referred to as the Family Trust, I give and devise 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, support and education 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. However, 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 "apportionment date"), 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, and one share for the then living descendants of each deceased child of mine. The Trustee shall transfer and pay over, subject to subsection (e) of this Item, any share set aside for the living descendants of a deceased child of mine, to such descendants, per stirpes.

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(c) The Trustee shall transfer and pay over the share allocated to any child of mine to such child free of trust when he or she attains his or her "age of distribution," or upon the "apportionment date," whichever later occurs. For the purposes of this Item, the term "age of distribution" for my children shall be as follows: Charles E. Howard, III, thirty (30) years of age; Robert Christopher Howard, thirty-five (35) years of age; and Lester Ann Howard, forty (40) years of age. During the continuance of the trust for any child of mine, the Trustee shall pay to or for the benefit of such child so much of the income and principal of such child's share as the Trustee deems necessary or desirable to provide for the health, maintenance, support and education of such child. Any part of the net income not so used shall be accumulated

and added to the principal of said share, being thereafter invested and treated in all respects as a part thereof, or may be distributed in such manner as the Trustee deems to be in the best interests of such child.

(d) Upon the death of any child of mine prior to the latter of the age of distribution of his or her share or the "apportionment date," the Trustee shall transfer and pay over said share to the descendants of such child in such manner and proportions as he or she may by last will and testament appoint and direct, making specific reference to this limited power of appointment hereby granted. The Trustee shall transfer and pay over, subject to subsection (e) of this Item, any unappointed portion of such child's share to his or her then living descendants, per stirpes, or if none, then to my living descendants, per stirpes, the share of any such descendant to be merged with, administered and disposed of as a part of such other share, if any, as may then be held hereunder for the benefit of such descendant. If any such child is not survived by descendants of him or her, or of me, the Trustee shall transfer and pay over the share of said trust then held for such child to such persons as would be entitled to inherit the property constituting said share and in the proportions in which they would be entitled to inherit the same from me under the laws of Alabama then in force, had I died at said time a resident of Alabama intestate and owned said property.

(e) If any share of this trust becomes distributable, other than by exercise of a power of appointment granted hereunder, to a descendant of mine who is under the age of twenty-one years and for whom no other share is then being held in trust, then though his or her share shall be vested in him or her, the Trustee shall continue to hold the same in trust with all of the powers and authority given the Trustee with respect to other trust property held hereunder, until he or she shall attain the age of twenty-one years, using and applying for his or her health, maintenance, support and education such part of the income and principal of such share as the Trustee deems necessary or desirable for said purposes, accumulating and adding to principal any income not so used or distributing the same in such manner as the Trustee deems to be in the best interests of such descendant. When such descendant shall attain the age of twenty-one years, the Trustee shall transfer and pay over said share to him or her free of trust. If any such descendant shall die prior to attaining the age of twenty-one years, the Trustee shall transfer and pay over said share to his or her executor or administrator.

ITEM TEN: Appointment of Executors.

(a) I hereby nominate and appoint Charles E. Howard, III, and Norma Rice to serve as Executors under this my Last Will and

Testament. In the event that either shall fail to qualify, die, resign, become incompetent, or otherwise fail or cease to serve as Executor, then I appoint the other as my sole Executor, with all of the rights, title, powers and exemptions granted to my Executors hereunder. For the purposes of this Will, the term "Executor" shall refer collectively to any and all fiduciaries serving in such capacity.

(b) No Executor named herein shall be required to give bond or other security; or to file an inventory, accounting or appraisal in any court; or to render any report in court upon final settlement of my estate. Notwithstanding the foregoing, my Executor shall make out and keep an inventory and maintain records of all transactions relating thereto, and shall exhibit the same to any party in interest at any reasonable time.

(c) During the administration of my estate, I hereby authorize and empower my Executor to exercise all powers conferred upon my Trustee in Item Twelve of this Will, regardless of whether or not any trust authorized by this Will shall become operative.

ITEM ELEVEN: Appointment of Trustees.

(a) I hereby nominate and appoint Charles E. Howard, III, and Norma Rice, to serve as Trustees under this my Last Will and Testament. In the event that either shall fail to qualify, die, resign, become incompetent, or otherwise fail or cease to serve as Trustee, then I appoint the other as my sole Trustee, with all of the rights, title, powers and exemptions granted to my Trustees hereunder. For the purposes of this Will, the term "Trustee" shall refer collectively to any and all fiduciaries serving in such capacity.

(b) No Trustee named herein shall be required to give bond or other security; or to file an inventory, accounting or appraisal in any court; or to render any report in court upon the final settlement of the trust estate or any share thereof. Notwithstanding the foregoing, my Trustee shall make out and keep an inventory and maintain records of all transactions relating thereto, and shall exhibit the same to any party in interest at any reasonable time.

ITEM TWELVE: Powers of Trustee. The Trustee shall hold and manage the said trust or trusts and all shares thereof, with all of the powers and authority the Trustee would have if the Trustee was the absolute owner thereof, including but not limited to the following powers:

1. To collect the income therefrom.

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2. To compromise, adjust and settle in the Trustee's discretion any claim in favor of or against the trust.

3. To hold any property or securities originally received by the Trustee as a part of the trust or to which the Trustee becomes entitled by virtue of incorporation, liquidation, reorganization, merger, consolidation or change of charter or name, including any stock or interest in any family corporation, partnership or enterprise, so long as the Trustee shall consider the retention for the best interests of the trust.

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 or in connection with such purposes, or otherwise dispose of, all of any portion of the trust, in such manner and upon such terms and conditions as the Trustee may approve.

5. To invest and reinvest the trust and the 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 securities or other property, as to the Trustee may seem suitable and to make temporary investments in securities of the United States or any agency thereof, 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 my Trustee's opinion is in the best interest 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.

8. To continue or dispose of any business enterprise without liability therefor, whether such enterprise be in the form of a sole proprietorship, partnership, corporation or otherwise, and to develop, add capital to, expand or alter the business of such enterprise, to liquidate, incorporate, reorganize, manage or consolidate the same, or change its charter or name, to appoint directors and employ officers, managers, employees or agents (including any trustee or directors, officers or employees thereof) and to compensate and offer stock options and other employee or fringe benefits to them, and in exercising Trustee's powers in relation to such business enterprise, to receive extra or extraordinary compensation therefor.

9. 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.

10. To operate farms and woodlands with hired labor, tenants or sharecroppers, to acquire real estate, crop allotments, livestock, poultry, machinery, equipment, materials, and any other items of production in connection therewith, to clear, drain, ditch, make roads, fence and plant part or all of such real estate, and to employ or enter into any practices or programs to conserve, improve or regulate the efficiency, fertility and production thereof, to improve, sell, auction or exchange crops, timber or other product thereof, to lease or enter into other management, cutting, production or sales contracts for a term beyond the possible termination of the trust or for a less period, to employ the methods of carrying on agriculture, animal husbandry and silviculture which are in use in the vicinity of any of such real estate or which the Trustee deems otherwise appropriate, to make loans or advances at interest for production, harvesting, marketing or any other purpose hereunder, in such manner and upon such terms and conditions as the Trustee may approve, and in general to take any action which the Trustee deems necessary or desirable in such operations of farms and woodlands.

11. To drill, explore, test, mine or otherwise exploit oil, gas, or other mineral or natural resources, to engage in absorption, repressuring, and other production, processing or secondary recovery operations, to install, operate and maintain storage plants and pipelines or other transportation facilities, to engage in any of the above activities directly under such business form as the Trustee may select or to contract with others for the performance of them, and to enter into and execute oil, gas and mineral leases, division and transfer orders, grants, farm-out, pooling or unitization agreements, and such other instruments or agreements in connection therewith as the Trustee deems necessary or desirable.

03A 12. To borrow money for such time and upon such terms as the Trustee sees 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.

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

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

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

16. To hold property or securities in bearer form, in the name of the Trustee, or in the name of the Trustee's nominee, without disclosing any fiduciary relation.

17. To keep any 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 Trustee deems necessary or desirable.

18. To determine whether any money or property coming into the Trustee's 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 Trustee may deem just and equitable.

19. To pay from income any expenses reasonably necessary for the administration of the trust, and in the event the income is insufficient for such payments, the same shall be paid from the principal thereof.

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

21. 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.

22. To divide or distribute the trust property as provided for hereunder in cash or in kind, or partly in each, and for such purposes, to determine the value of the trust property, and to determine the share and identity of persons entitled to take hereunder.

23. To deal with the fiduciary or fiduciaries of any other trust or estate, even though the Trustee is also the fiduciary or one of the fiduciaries of the other trust or estate.

24. To receive any property, real or personal, to be added to the trust, if the Trustee consents in writing, from any person, by lifetime or testamentary transfer or otherwise.

25. If at any time during the term of any trust hereunder there exists a trust with respect to which there is more than one current beneficiary or the Trustee has the power to accumulate income (the "primary trust"), but the transfer of property ("tax-sensitive property") to, or the holding of tax-sensitive property in, the primary trust would, in the opinion of the trustee, result in adverse tax consequences to the primary trust or its principal beneficiary (the principal beneficiary being the person so indicated in this Will with respect to the primary trust or, if no person is so indicated, the eldest income beneficiary of the primary trust), the Trustee is authorized and directed to transfer the tax-sensitive property to a separate trust (the "subtrust"), with respect to which the principal beneficiary, during his lifetime or the term of the subtrust, will be the sole income and principal beneficiary. During the lifetime of the principal beneficiary, all income of the subtrust will be distributed currently to the principal beneficiary and the principal of the subtrust will be distributed to the principal beneficiary in the discretion of the Trustee (or, if the Trustee's discretion is limited with respect to the primary trust, as so limited). Upon the death of the principal beneficiary, all undistributed income of the subtrust will be distributed to his estate and all of the remaining principal of the subtrust will be distributed as provided by the terms of the primary trust. As an example of the property to which this Section applies, I intend and direct the Trustee to transfer to a subtrust all shares of stock of an S corporation that, if distributed according to the provisions of the primary trust would be held in a trust that would not be permitted as an S corporation shareholder, unless the holders of a majority of the outstanding shares of stock of the corporation (including the Trustee) determine that the termination of the corporation and its shareholders' S corporation election would be in the best interests of the corporation and its shareholders (including the Trustee). It is my intention that, in the event the Trustee does so transfer shares of stock of an S corporation to such a subtrust, that said subtrust shall constitute a qualified subchapter S trust under the Internal Revenue Code of 1986, as amended from time to time, as currently defined in Section 1361(d) of the Code (or as defined in any future comparable statute of similar import).

ITEM THIRTEEN: Miscellaneous Tax Provisions.

(a) I authorize my Executor to join with my wife in making a joint income tax or gift tax return or to execute a consent to any gift made by my wife for any taxable year that includes the date of my death or for any periods prior thereto, and in connection therewith, to pay such amounts of tax, interest and

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penalties as my Executor may deem advisable, even though not attributable entirely to my own income or gifts.

(b) Furthermore, I direct my Executor to make such elections under the tax laws as my Executor shall deem advisable, without regard to the relative interests of the beneficiaries, and my Executor shall have no liability for, or obligation to make compensating adjustments between principal and income or in the interests of the beneficiaries by reason of, the effects of those elections. Any decision made by my Executor with respect to compensating adjustments or the exercise of any tax election shall be binding and conclusive on all persons. Without limiting the foregoing, I authorize my Executor, to the extent permitted by law, to deduct administration expenses and commissions whether against the gross estate in computing the estate tax or against the estate income in computing estate income tax, as my Executor shall elect, in the sole discretion of my Executor; and my Executor shall not be required to make any adjustment on account thereof in setting up any of the trusts herein provided for.

ITEM FOURTEEN: Simultaneous Death. If my wife and I should die simultaneously or in circumstances which make it difficult to determine which of us died first, I direct that my wife shall be deemed to have survived me for the purpose of this Will, and I direct further that the provisions of this Will shall be construed upon that assumption, irrespective of any provisions of law establishing a contrary presumption. If any legatee or devisee under this Will, other than my wife, and I should die simultaneously or in circumstances which make it difficult to determine which of us died first, or if any legatee or devisee under this Will other than my wife shall not be living on the thirtieth (30th) day after the date of my death, then in either such event I direct that such other legatee or devisee other than my wife shall be deemed to have predeceased me for the purposes of this Will, and I direct further that the provisions of this Will shall be construed upon that assumption.

ITEM FIFTEEN: Operational Date of Trust. Any trust created under this Will shall be treated as operating from the date of my death, whether the trust property shall then be actually paid over to the Trustee and set aside or not, and I hereby authorize and empower my Executor to make any payment which the Trustee is herein authorized to make.

ITEM SIXTEEN: Miscellaneous. The following provisions shall govern for all purposes of this Will, wherever they may be applicable:

(a) If any beneficiary of my estate or of any trust created hereunder shall be a minor, or under any legal disability, or in the sole judgment of the Trustee, or Executor, shall otherwise be

unable to apply the proceeds of his or her trust or share of my estate to his or her own best interests and advantage, the Trustee or Executor may, in said Trustee's or Executor's sole discretion, pay or apply income or principal which the Trustee or Executor is authorized or directed to pay to or for the benefit of such beneficiary in any one or more of the following ways:

(1) directly to such beneficiary;

(2) to the legal guardian, conservator, or custodian of such beneficiary under the Alabama Uniform Transfers to Minors Act for the use and benefit of such beneficiary, and if no custodian has been nominated, my Trustee or Executor may designate a custodian from those eligible to serve under the Alabama Uniform Transfers to Minors Act;

(3) to a relative of such beneficiary to be expended by such relative for the benefit of such beneficiary; or

(4) by the Trustee or Executor expending any such income or principal for the benefit of such beneficiary.

(b) Upon making any payment or transfer hereunder, the Executor and Trustee shall be discharged as to such payment 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.

(c) Throughout this Will, the masculine gender shall be deemed to include the feminine and the singular the plural, and vice-versa, whenever the context admits such construction.

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(d) In this Will, references to "child" or "children" mean lawful blood descendants in the first degree of the parent designated, and references to "issue" or "descendants" mean lawful blood descendants in the first, second or any other degree of the ancestor designated; provided always, however, that an adopted child, whether of myself, my descendants or any other person, shall, for all purposes under this Will, whether for the determination of relationship or otherwise, be considered to have and shall be given exactly the same status as natural born children.

(e) All headings and captions contained in this Will have been included for convenience of reference only, shall not be construed as part of this Will and shall in no way be construed as

defining, limiting or affecting the scope or intent of the provisions of this Will.

(f) The provisions herein made for my wife are in lieu of dower, distributive share, homestead allowance, exempt property, family allowance, and any and all other rights in my estate, statutory or otherwise.

(g) If the happening of any future event may cause the ultimate vesting of any trust or of any share therein to be extended under the provisions hereof to a time beyond that within which the same is required by law to become vested, then such trust or share therein shall continue only for as long a period of time as is allowed by law, at the end of which period the said trust or share therein shall terminate. In such case said trust or share therein shall be vested in and distributed to those persons enjoying the use and benefit of said trust or share therein at the expiration of such period, in the proportion in which they are so enjoying the same, irrespective of their attained ages.

IN WITNESS WHEREOF, I, the said Charles E. Howard, do hereunto set my hand and seal to this, my Last Will and Testament (containing in all sixteen (16) pages,) on this, the 5th day of November, 1991; and I also affix my initials on the margin of each of the pages hereof.

Charles E. Howard
Charles E. Howard, Testator

024 I, Charles E. Howard, the Testator, sign my name to this instrument this 5th day of November, 1991 and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and Testament and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am nineteen (19) years of age or older, of sound mind and under no constraint or undue influence.

Charles E. Howard
Charles E. Howard, Testator

We, the undersigned 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

JB 1226 PG 434

instrument as his Last Will and Testament and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the Testator, hereby signs this will as witness to the Testator's signing, and that to the best of our knowledge, the Testator is nineteen (19) years of age or older, of sound mind and under no constraint or undue influence.

Gayla K. Griffin
Address: 2125 Morris Avenue
Birmingham, AL 35203

Jane Self
Address: 2125 Morris Avenue
Birmingham, AL 35203

STATE OF ALABAMA)
JEFFERSON COUNTY)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Charles E. Howard, the Testator, and subscribed and sworn to before me by GAYLA K. GRIFFIN and JANE SELF witnesses, this the 5th day of November, 1991.

Faye Perkins
Notary Public

(NOTARIAL SEAL)

JB 1230 PG 435

CERTIFICATE TO THE PROBATE OF WILL

The State of Alabama**JEFFERSON COUNTY**

I, George R. Reynolds, 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 Charles E. Howard _____ Deceased and that said Will _____ together with the proof thereof have been recorded in my office in Judicial Record, Volume 1239 _____, Page 420-436 _____.

In witness of all which I have hereto set my hand, and the seal of the said Court, this date July 2, 1993 _____.

George R. Reynolds _____, Judge of Probate.

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 _____
LETTERS TESTAMENTARY, PETITION FOR PROBATE OF WILL, AND THE LAST WILL AND
TESTAMENT OF CHARLES E. HOWARD, DECEASED, TOGETHER WITH THE CERTIFICATE TO
THE PROBATE THEREOF,,

in the matter of THE ESTATE OF CHARLES E. HOWARD, DECEASED,

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

Given under my hand and seal of said Court, this
the 3rd day of November, 19 94

Peggy A. Proctor

Chief Clerk

Inst # 1994-34139

11/15/1994-34139
03:25 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
021 MCD 58.50