<u>Ast Mill and Testament</u>

OF

THOMAS J. O'CONNOR

I, THOMAS J. O'CONNOR, a resident of the State of Alabama, Shelby 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 any and all Wills, Codicils and other testamentary dispositions heretofore made by me.

ITEM I DEBTS

I direct that all my debts and funeral expenses be paid as soon after my death as may be practicable. In the event there is any indebtedness owing by me, whether secured or unsecured, which has not matured at the time of my death, I authorize my Executor to pay such indebtedness either in full or according to the terms and tenor of any instrument evidencing such indebtedness as my Executor may deem best advisable under the then existing circumstances. I further direct that all estate and inheritance taxes which may be asserted or levied with respect to my estate, or any part paid out of my residuary estate may be charged as an expense of administration and without apportionment.

ITEM II PERSONAL PROPERTY

- (a) I give and bequeath to my son, Benjamin J. O'Connor, if he survives me, forty-five percent (45%) of all my jewelry, wearing apparel, automobile or automobiles, books, 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.
- (b) I give and bequeath to my son, Kenneth M. O'Connor, if he survives me, forty-five percent (45%) of all my jewelry, wearing apparel, automobile or automobiles, books, 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.
- O'Connor, if he survives me, the 1963 Marlin Model 88 .22 caliber rifle, all power tools, mechanical, or any other tools that are my personal property. 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.

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SHELBY COUNTY JUDGE OF PROBATE
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- Ballard, if she survives me, ten percent (10%) of all my jewelry, wearing apparel, automobile or automobiles, books, 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.
- O'Connor and Kenneth M. O'Connor, does not survive me, I give, devise and bequeath all of my property hereinabove described in ITEM II (a) to my children, in equal share, per stirpes. In the absence of agreement of my descendants as to the division of said property, the Executor shall make such division in his absolute discretion, having due regard for the personal preference of such beneficiaries, and such division shall be conclusive and binding. If any descendants 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 the Executor, in his discretion and, in any case, without requiring bond, either to:
 - (1) Retain for such descendants 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 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 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.

ITEM III RESIDUARY ESTATE

- estate, of whatever kind and character and wheresoever situated, I hereby give, bequeath and devise to my sons and sister, Benjamin J. O'Connor, Kenneth M. O'Connor, and Donna O. Ballard, absolutely, irrespective of there being any children born of our marriage after the execution of this Will.
- (b) If any or all of the devisees named herein, shall predecease me, I give, bequeath and devise all of said rest, residue and remainder of my estate to my children, in equal shares per stirpes, absolutely, except as hereinafter provided:
 - (1) In the event that any of said beneficiaries have not attained the age of twenty-five (25) years at the time of my death, I give, bequeath and

82% 126 devise unto the trustee hereinafter named the share to which said beneficiary would be entitled if he or she had attained the age of twenty-five (25) years at the time of my death, to be held in trust for the use and benefit of said beneficiary and to be distributed under the following terms and conditions:

- (i) Until such beneficiary shall attain the age of twenty-five (25) years, the trustee shall pay to or apply for the benefit of said beneficiary in monthly or in other convenient installments but not less often than annually, so much of the net income and so much of the principal from his share of the trust estate as the trustee in his discretion deems necessary for his proper health, support, maintenance, and education. At the end of the year the trustee shall accumulate and add to the principal any net income not distributed to the beneficiary hereunder.
- (ii) When the beneficiary shall turn twenty-one (21) years, then said trustee shall pay to or apply for the benefit of said beneficiary one half (1/2) of the principal and interest of said trustee estate.
- shall obtain the age of twenty-five (25) years, the trustee shall immediately distribute to him all of the remaining balance of his share in the trust estate, including any undistributed income.
- If any of said beneficiaries, having (2) survived me, shall die before attaining the age of twenty-five (25), the entire remaining share of such beneficiary shall be paid or distributed absolutely to his or her descendants living at the time of distribution in equal shares, per stirpes, or, if there are none, then to my descendants then living in equal shares, per stirpes; provided, however, that if any of such descendants of mine shall then have other property in trust for him or her under any provision of this Will, then his or her share in the share of such beneficiary so dying shall be added to, merged in and administered and disposed of like such other property so held in trust for him or her.

ITEM IV TRUST FOR BENEFICIARY UNDER THEMTY-FIVE

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Except as otherwise provided in ITEM II of this will, if any share of my estate or of any trust created hereunder becomes distributable to any beneficiary who is under the age of twenty-five (25) years and for whom no other share is then being held in trust, then though his or her share shall be vested in such beneficiary, the Trustee shall hold the same in trust with all of the powers and authority given it with respect to other trust property held hereunder, until he or she shall attain the age of twenty-five (25) years, using and applying for such beneficiary's support, education and welfare 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, and when said beneficiary attains the age of twenty-five (25) years, the Trustee shall pay over the

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principal, together with any accumulated and undistributed income to such beneficiary; and if such beneficiary shall die before attaining the age of twenty-five (25) years, the principal, together with any accumulated and undistributed income, shall be paid over to the estate of such beneficiary.

ITEM V DISSOLUTION OF TRUST

Any trust created hereunder may, but need not be, terminated in the sole discretion of the Trustee when the income of such trust shall become too low to cover all fees and expenses of administration and also to yield a reasonable return to the beneficiaries. In such event, the Trustee shall distribute the assets thereof in its possession to the then current beneficiary or beneficiaries of the income and if more than on beneficiary is so entitled, in the proportions in which they are beneficiaries. If any such beneficiary shall be a minor at the date of such distribution, then his or her share of such trust shall be paid to a parent or relative of such beneficiary as custodian under the Alabama Uniform Gifts to Minors Act.

ITEM VI APPOINTMENT OF EXECUTOR

- (a) I hereby nominate and appoint my brother-inlaw, John Ballard, to serve as Executrix under this my Last Will and Testament. In the event that he shall fail to qualify, die, resign, become incompetent, or otherwise fail or cease to serve as Executrix, then I appoint Joe Ballard, to serve as Executor hereunder.
- (b) No Executor named herein shall be required to give bond or to file an inventory or accounting in any Court, or render any report in Court upon final settlement of his acts as Executor, though he shall make out and keep an inventory and maintain records of all transactions relating hereto and shall exhibit the same to any party in interest at any reasonable time.
- (c) Any Executor appointed hereunder shall serve without compensation, except that he shall be entitled to reasonable compensation for extraordinary expenses.
- (d) During the administration of my Estate, I hereby authorize and empower my Executor to exercise all powers conferred upon my Trustee in ITEM VIII of this will, regardless of whether or not any trust authorized by this will shall become operative.

ITEM VII APPOINTMENT OF TRUSTEE

- (a) With respect to any trust created under the provisions of this Will, I hereby nominate and appoint John Ballard as Trustee hereunder. If he should die, resign, become incompetent, or otherwise fail or cease to serve, I hereby appoint Joe Ballard, as Trustee hereunder.
- (b) No Trustee appointed herein shall be required to give bond or to file an inventory or accounting in any Court or render any report in Court upon final settlement of his acts as Trustee, although he shall make out and keep an inventory and maintain records of all transac

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(c) Any trustee appointed herein shall serve without compensation, except that he shall be entitled to reasonable compensation for extraordinary services.

ITEM VIII TRUSTEE POWERS

without limitation of the powers conferred by statute or general rules of law, my Trustee shall have the following powers and authorities in addition to others now or hereafter conferred by law, with respect to any property contained in my estate:

- (a) To retain any property owned by me at the time of my death;
- (b) To invest any funds in any corporate shares, bonds, or other securities or property, real or personal (including any common or commingled fund or funds), notwithstanding that such investments may not be of the character allowed to trustees by statute or general rules of law and without any duty to diversify investments, it being my intention to confer the broadest investment powers and discretion upon the Trustee;
- application to any court) or otherwise dispose of any property, real or personal, for case or upon credit, in such manner and on such terms and conditions as he may deem best and no person dealing with him shall be bound to see to the application of any monies paid;
- (d) To manage, operate, repair, improve, mortgage, and lease for any term (whether longer or shorter than the duration of any trust hereunder) any real estate;
- (e) Except to the extent prohibited by law, to cause any securities to be registered in the names of its nominees, or to hold any securities in such condition that same will pass by delivery;
- (f) To employ such attorneys, accountants, custodians, investment counsel, and other persons as he may deem advisable and to pay them such reasonable compensation as he may deem proper;
- (g) To distribute in case or in kind upon termination of any trust hereunder;
- To open and maintain one or more bank, custodian or other accounts in any bank or trust company (including a Corporate Trust hereunder), and to deposit to the credit of such account or accounts all of the funds belonging to the trust which may at the time be in the possession of the Trustee; from time to time to withdraw a portion or all of said funds so deposited by check signed by the Trustee, and any such bank or trust company is hereby authorized to pay such checks and also to receive the same for deposit, to the credit of any holder thereof who so signed or endorsed; to delegate to any one or more of its proper agents the right to sign checks against the aforementioned account or accounts for the purpose of the trust, and any bank or trust company in which said account or accounts are maintained is hereby authorized and directed to pay such checks, provided, however, that prior thereto such delegation is evidenced by an appropriate instrument in writing

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deposited with the said bank or trust company by the Trustee; and

(i) In general, to exercise all powers in the management of any trust hereunder which any individual could exercise in the management of similar property owned in his own right, upon such terms and conditions as it may seem best, and to execute and deliver all instruments and to do all acts which it may deem necessary or advisable in connection with the administration of any trust established hereunder.

ITEM IX APPOINTMENT OF GUARDIAN

In the event one or more of my children shall be minors at the time of the death of the survivor of my wife and me, then and in that event, I do hereby designate and appoint as guardian of the person and property of my said minor child or children, Donna O. Ballard, or If she should predecease me, the survivor thereof. decline or fail to qualify or cease to act after qualifying before completion of his duties, then I designate and appoint Joe Ballard, or the survivor thereof, as guardian of the person and property of said minor child or I do hereby exempt said guardian from the necessity of giving bond or of filing an inventory or of being answerable, as an incident of such guardianship, to any court. It is my intention by the appointment of such guardian that the guardian shall have custody of the person of said minor child, being responsible for furnishing a proper home environment and seeing to the education of such minor. Nothing contained in this ITEM shall be construed as a limitation upon the rights and powers or the duty and responsibility of such guardian.

ITEM X 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 period prior thereto, and in connection therewith, to pay such amounts of tax, interest and penalties as he may deem advisable, even though not attributable entirely to my own income or gifts.
- (b) Furthermore, my Executor is hereby authorized, to the extent permitted by law, to deduct administration expenses and commissions whether against the gross estate in computing estate income tax, as my Executor, in his sole discretion, shall elect, 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 XI PERPETUITIES - TERMINATION

Each trust under this Will shall in any event terminate twenty-one (21) years after the death of the last survivor of such of the beneficiaries thereunder as shall be living at the time of my death, and thereupon the property held in that trust shall be distributed, discharged of trust, to the persons then entitled to the income and in the proportions to which they are entitled to the income.

ITEM XII MISCELLANEOUS

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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 his 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 for the use and benefit of such beneficiary;
 - (3) To a relative of such beneficiary to be expended by such relative for the benefit of such beneficiary;
 - (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 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.
- (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.
- Benjamin J. O'Connor and Kenneth M. O'Connor and any other children born to or adopted by me after the date of this Will. References to "descendants" mean legitimate descendants of the ancestor designated, provided always, however, that an adopted child, whether of myself or of any other person, shall, for all purposes under this Will, whether for the determination of relationships or otherwise, be considered to have and shall be given exactly the same status as a legitimately born child.
- (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.
- I, Thomas J. O'Connor, the testator, sign my name to this instrument, (containing in all eight (8) pages, including the attestation clause) this the ________ day of _________, 1996, 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 herein expressed, and that

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I am 19 years of age or older, of sound mind, and under no constraint or undue influence.

THOMAS JA O' CONTHON

We, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testator signs and executes this instrument as his Last Will 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 signing, and that to the best of our knowledge the testator is 19 years of age or older, of sound mind, and under no constraint or undue influence.

N. Caroline Bullard Witness Columbiana, AL

Witness Callin

Alabaster Al 35007
Address

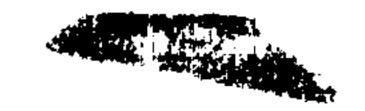
STATE OF ALABAMA)
SHELBY COUNTY)

Subscribed, sworn to and acknowledged before me by THOMAS J. O'COMMOR, the testator, and subscribed and sworn to before me by N. Areline Bullare and and Market L. Callibas, witnesses, this the 3 day of 1996.

Given under my hand and official seal this the 3

NOTARY PUBLIC

MY COMMISSION EXPIRES: 2/



STATE OF ALABAMA)
SHELBY COUNTY

DURABLE POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, which are intended to constitute a Durable Power of Attorney, that I, THOMAS J. O'COMMOR, the undersigned, of Shelby County, State of Alabama, do hereby make, constitute and appoint my sister, DONNA O. BALLARD, of Shelby County, State of Alabama, my true and lawful Attorney-in-Fact for me and in my name, place and stead, and on my behalf and for my use and benefit.

To exercise or perform any act, power, duty, right, or obligation whatsoever that I now have, or may hereafter acquire the legal right, power, or capacity to exercise or perform, on connection with, arising from, or relating to any person, item, transaction, thing, business property, real or personal, tangible or intangible, or whatsoever;

To request, ask, demand, sue for, recover collect, receive, and hold and possess all such sums of money, debts, dues, commercial paper, checks, drafts, accounts, deposits, legacies, bequests, devises, notes, interests, stock certificates, bonds, dividends, certificates of deposit, annuities, pension and retirement benefits, insurance benefits, insurance benefits and proceeds, any and all documents of title, choses in action, personal and real property, tangible and intangible property and property rights, and demands whatsoever, liquidated or unliquidated, as now are, or shall hereafter become, owned by me, or due, owing, payable, or belonging to me, or in which I have or may hereafter acquire interest, to have, use, and take all lawful means and equitable and legal remedies, procedures, and writs in my name for the collection and recovery thereof, and to adjust, sell, compromise, and agree for the same, and to make, execute, and deliver for me, on my behalf, and in my name all endorsements, acquittances, releases, receipts, or other sufficient discharges for the same;

To lease, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, purchase, exchange and acquisition of, and to accept, take, receive and possess any real or personal property whatsoever, tangible or intangible, or interest thereon, on such terms and conditions, and under such covenants, as my said Attorney-in-Fact shall deem proper;

To maintain, repair, improve, manage, insure, rent, lease, sell, convey, subject to liens, mortgage, subject to deeds of trust, and hypothecate, and in any way or manner deal with all or any part of any real or personal property whatsoever, tangible or intangible, or any interest therein, that I now own or may hereafter acquire, for me, on my behalf, and in my name and under such terms and conditions, under such covenants, and my said Attorney-in-Pact shall deem proper;

To conduct, engage in, and transact any and all lawful business of whatever nature or kind for me, on my behalf, and in my name;

To make, receive, sign, endorse, execute, acknowledge, deliver, and possess such applications, contracts, agreements, options, covenants, conveyances, deeds, trust deeds, security agreements, bills of sale leases, mortgages, assignments, insurance policies, bills of lading, warehouse receipts, documents of title, bills, bonds, debentures, checks, drafts, bills of exchange, letters of credit, notes, stock certificates, proxies, warrants, commercial paper, receipts, withdrawal receipts and deposit instruments relating to accounts or deposits in, or certificates of deposits of, banks, savings and loan associations, proofs of loss, evidences of debts, releases, and satisfaction of mortgages, liens, judgments, security agreements and other debts and obligations and such other instruments in writing of whatever kind and nature as may be necessary or proper in the exercise of the rights and powers herein granted;

And if the estate is ample to provide for the purposes implicit herein, to make gifts to my family, to charity, and other objects as I might have been expected to make, in amounts which do not exceed in total for any year twenty percent (20%) or the income to my estate for that year.

I grant to my said Attorney-in-Fact full power and authority to do, take and perform all and every act and thing whatsoever requisite, proper, or

necessary to be done, in exercise of any of the rights and powers herein granted, as fully to all intents and purposes as I might or could do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that my said Attorney-in-Fact, or his substitute, shall lawfully do or cause to be done by virtue of this Power of Attorney and the rights and powers herein granted.

This instrument is to be construed and interpreted as a Durable and General Power of Attorney. The enumeration of specific items, rights, acts, or powers herein is not intended to nor does it limit or restrict, and is not to be construed or interpreted as limiting or restricting, the general powers herein granted to my Attorney-in-Fact.

The rights, powers and authority of my said Attorney-in-Fact herein granted shall commence and be in full force and effect upon the disability incompetency, or incapacity, or incarceration by legal authorities, of the said principal, THOMAS J. O'COMMOR, and such rights, powers, and authority shall remain in full force and effect thereafter until the death of the principal, THOMAS J. O'COMMOR, or until his disability, incompetency, or incapacity, or incarceration by legal authorities or is otherwise terminated. For purposes of this Power of Attorney, the principal, THOMAS J. O'COMMOR, shall be deemed disabled, incompetent, or incapable, or incarcerated by legal authorities upon the happening of one of the following events:

- A. The principal, THOMAS J. O'COMMOR, is adjudicated, disabled, incompetent, or incapable, by a court of law in the State of Alabama; or
- B. The principal, THOMAS J. O'COMMOR, is determined to be disabled, incompetent, or incapable in writing by two physicians qualified to practice under the laws of the State of Alabama; or
- C. Confinement by legal authorities under arrest, plea or guilty, verdict.

For purposes of this Power of Attorney, said disability, incompetency or incapacity, shall be deemed terminate upon certification, in writing, by two physicians, qualified to practice under the laws of the State of Alabama. Any action taken in good faith pursuant to the foregoing authority without actual knowledge of my death shall be binding upon me, my estate, my heirs, assigns, and personal representatives.

If **DONNA O. BALLARD** ceases to act as Attorney-in-Fact by reason of death, incapacity or resignation, I appoint **JOHN BALLARD**, as Attorney-in-Fact. The resignation of the original Attorney-in-Fact may be evidenced by an instrument in writing delivered to the successor Attorney-in-Fact abovenamed. The incapacity of the original Attorney-in-Fact may be determined by a statement of a physician delivered to the successor Attorney-in-Fact.

IN WITNESS WHEREOF, as principal, I have signed this Durable Power of Attorney at Alabaster, Shelby County, State of Alabama, this the day of Nay, 1996, and I have directed that photographic copies of this Power be made which shall have the same force and effect as an original.

THOMAS J.--

V. QA. Witness

address

Witness

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STATE OF ALABAMA)
SHELBY COUNTY)

VERIFICATION

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that THOMAS J. O'COMMOR and the witnesses whose names are signed to the foregoing instrument before me came on the date and year aforesaid, and stated that the foregoing was true and accurate to the best of their knowledge, information and belief.

Given under my hand and seal this the 3 day of 1996.

NOTARY PUBLIC

MY COMMISSION EXPIRES:

AND THE STATE OF T

NATURAL DEATH DECLARATION LIVING WILL OF

Thomas J. O'Connor

I, Thomas J. O'Connor, a resident of SHELBY County, Alabama, being of sound mind and disposing memory, in order to willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the

circumstances set forth below, do hereby declare:

If at any time I should have an incurable injury, disease, or illness certified to be a terminal condition by two physicians who have personally examined me, one of whom shall be my attending physician, and the physicians have determined that my death will occur whether or not life-sustaining procedures are utilized, and where the application of life-sustaining procedure would serve only to artificially prolong the dying process, I direct that such procedure be withheld or withdrawn, and that I be permitted to die naturally, with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care.

In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this declaration shall be honored by my family and physician(s) as the final expression of legal right to refuse medical or surgical treatment and accept the conse-

quences from such refusal.

IN WITNESS WHEREOF, I, the said Thomas J. O'Connor do hereunto set my hand and seal to this Declaration on the ___ day of JULY, 1994, understanding its full import and being emotionally and mentally competent to make said Declaration.

(Seal)

The above Declaration has been signed, sealed, and published by the said Thomas J. O'Connor in my presence. I hereby state that the Declarant has been personally known to me and that I believe him to be of sound mind. I did not sign the Declarant's signature above for or at the direction of the Declarant. I am not related to the Declarant by blood or marriage, or entitle to any portion of the estate of the Declarant according to the laws of intestate succession or under any will of Declarant or codicil thereto, and I am not directly financially responsible for Declarant's medical care.

Address:

Inst # 1996-21649

07/08/1996-21649 10:27 AM CERTIFIED SHELBY COUNTY JUBGE OF PROBATE 36.00 O12 HCB

APPLICATION OF THE PROPERTY OF

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