

**The State of Alabama**  
JEFFERSON COUNTY

**PROBATE COURT**

I, Peggy A. Proctor, Chief Clerk of the Court of Probate, in and for said County in said State hereby certify that the foregoing contains a full, true and correct copy of the LAST WILL AND TESTAMENT; ALONG  
WITH THE CERTIFICATE TO THE PROBATE OF WILL, PETITION FOR PROBATE OF WILL  
AND LETTERS TESTAMENTARY WHICH ARE NO LONGER IN FULL FORCE AND EFFECT

009410 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE  
013 CRR 38.50

09/10/1998-35533  
01:41 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE  
CASE #011985 38.50

in the matter of JAMES M ROWE

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

Given under my hand and seal of said Court, this  
the 4TH day of AUGUST, 19 98

*Peggy A. Proctor*

Chief Clerk

Inst # 1998-35533



## IN THE MATTER OF THE ESTATE OF

PROBATE COURT OF JEFFERSON COUNTY, ALABAMA

JAMES M. ROWE, deceased

Case No. 119255

Deceased.

## PETITION FOR PROBATE OF WILL

TO THE HONORABLE O. H. FLORENCE, JUDGE OF PROBATE OF JEFFERSON COUNTY, ALABAMA

Come S your petitioner Lois E. Rowe, and upon information and belief, respectfully show S unto your Honor the following facts:

1. James M. Rowe died at Brookwood Medical Center on or about the 28th day of June, 1980, and, at the time of such death, was an inhabitant of Jefferson County, Alabama.

2. Surrendered herewith is said decedent's last will and testament naming petitioner as Executrix thereof, which was duly signed by said decedent when over twenty-one years of age, and was attested by the following witnesses: namely,

Name	Present Address
Thomas R. Ritchie	Ritchie & Rediker, 312 North 23rd St., Birmingham, Al. 35203
Virginia Dodd	Gardendale, Al.

3. The following is a true, correct, and complete list of the names, ages, conditions, relationships, and addresses of said decedent's widow, and next-of-kin; namely,

Name, age, condition, relationship	Address
Lois E. Rowe, Widow, sound mind, over 21	P. O. Box D, Vincent, Al. 35178
✓ James M. Rowe, Jr. Son, sound mind, over 21	P. O. Box D, Vincent, Al. 35178

Therefore, your petitioner pray S that your Honor will take jurisdiction of this petition, will cause all such notices or citations to issue to the said widow, next-of-kin, and attesting witnesses as may be proper in the premises; and will cause such proceedings to be had and done, 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 said deceased.

Attorney for petitioner:

Morris J. Princiotta, Jr.

(name)

2130 Highland Ave., Suite 202

Birmingham, Al. 35205

(address)

X Lois E. Rowe

Lois E. Rowe

Petitioner

Address: P. O. Box D, Vincent, Alabama 35178

STATE OF ALABAMA )  
JEFFERSON COUNTY )Before me, Vicki Jean Little

a notary public in and for said county in said state, personally appeared Lois E. Rowe, who, being first duly sworn, make S oath that she has read the foregoing petition and know the contents thereof, and that she is informed and believe S, and, upon such information and belief, aver S that the facts alleged therein are true and correct.

Subscribed and sworn to before me this

10th day of March, 1986X Lois E. Rowe

Lois E. Rowe

Affiant-Petitioner

Notary Public My commission expires 2/9/89

Filed in the office of the Judge of Probate of Jefferson County, Alabama this 25 day of March, 1986, and was bearing this day 14 day of March, 1986

Judge of Probate

PETITION FOR PROBATE OF WILL

(C-15 1975 (1-15-75 of 204))

B'HAM BAR ASS'N. FORM NO. 150  
(Revised May, 1978)

STATE OF ALABAMA)  
)  
JEFFERSON COUNTY)

119255

LAST WILL AND TESTAMENT  
OF  
JAMES M. ROWE

JUD 955-688

KNOW ALL MEN BY THESE PRESENTS, That I, James M. Rowe, of Jefferson County, Alabama, being of sound mind and disposing memory, do hereby make, declare and publish this my Last Will and Testament, hereby revoking any and all Wills and Codicils heretofore made by me.

ITEM I

I give and bequeath all of my wearing apparel, jewelry, books, pictures, any automobiles I may own and all other objects of my personal use to my wife, Lois E. Rowe, absolutely, if she be living at the time of my death. In the event my said wife should predecease me, I give and bequeath all of my said objects of property to my son, James M. Rowe, Jr. I have specifically refrained from making any disposition of household furniture and furnishings which are located in the residence which I occupy for the reason that these items of personal property are already owned by my said wife having been given to her by me at the time they were purchased.

ITEM II

Division of Residue. If my wife, Lois E. Rowe, survives me, the Executrix shall divide the residue of my estate into two parts, herein designated as Share #1 and Share #2, the amounts of each share to be ascertained as follows:

(a) There shall first be determined the value of my gross estate. By gross estate I do not mean to include property transferred to my said wife during my lifetime, but I do mean to include all property passing to my said wife at my death other than by this Will such as jointly owned property and the proceeds of any insurance policies owned by me at the time of my death wherein my wife is named as beneficiary.

Filed in office this the 25<sup>th</sup>  
day of March, 1986  
The Probate and Record.

*[Signature]*  
Notary Public

*[Signature: James M. Rowe]*



(b) There shall be deducted from such value the amount, to the extent allowable as a deduction in the computation of the Federal estate tax, any funeral and administration expenses, claims against my estate including unpaid subscriptions at the time of my death, unpaid mortgages upon or any indebtedness in respect to property includible in my gross estate; but there shall not be deducted any estate, inheritance, transfer, legacy or succession taxes.

(c) Share #1 shall be equal in amount to fifty per cent (50%) of the difference so computed; except that if there shall be includible in my estate for the purpose of Federal estate tax any interest in property not administered in my estate, which passes at the time of my death to my said wife, an amount equal to the taxable value of such interest shall be deducted from the amount of Share #1. There shall not be deducted the value of any interest in property which I gave to my wife during my lifetime that may be includible in my estate for the purposes of the Federal estate tax.

(d) Share #2 shall be equal in amount to the balance of my residuary estate after deducting the amount allocated to Share #1 and after deducting all estate, inheritance and other death taxes.

(e) In making those computations necessary to determine the amount of Share #1, the final determinations for the Federal estate tax shall control. In making distributions in payment of Share #1 the Executrix shall distribute assets, including cash, fairly representative of appreciation or depreciation in the value of all property then available for distribution.

(f) In the event that my said wife shall fail to survive my death, my Executor shall not make a division of my residue but shall dispose of the entire residue as is provided herein for the disposition of Share #2. If my wife and I are killed in a common disaster or die as the result of such disaster so that it is difficult or impossible to determine who died first, it shall be presumed that my wife survived me and this devise and bequest shall be in full force and effect and my estate shall be divided accordingly, provided that if it is established that my wife predeceased me, her estate shall receive nothing hereunder.

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*James M. Rowe*

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ITEM III

After dividing my residuary estate as provided in Item II herein, the Executrix shall dispose thereof in accordance with the following directions:

(a) I give Share #1 and Share #2 to my Trustee, hereinafter named, to be held in two separate trusts upon the terms and conditions and with the powers and discretion hereinafter provided. My Trustee shall have discretion to administer the trust estate jointly without making a physical division of the property, but each share shall constitute the corpus of a separate and distinct trust estate.

(b) The Trustee shall hold Share #1 for the exclusive use and benefit of my wife, Lois E. Rowe. Share #1 shall be known as the "JAMES M. ROWE MARITAL TRUST." The net income from the trust estate of Share #1 shall be paid to my said wife currently, from time to time not less than semi-annually

I direct that the Trustee shall pay over to my said wife such additional sum or sums out of the principal of said trust estate as my Trustee shall deem necessary or proper for her health, comfort, support and maintenance, taking into consideration additional expenses arising from any extraordinary or unusual circumstances and taking into consideration any other income my said wife may be receiving from whatever source, keeping in mind that I desire that my wife maintain the standard of living to which she was accustomed during my lifetime. All payments made by the Trustee to my said wife hereunder shall fully discharge the Trustee as to the amounts so paid without obligation on the part of my said wife to account therefor.

If at any time my said wife should become incompetent or incapacitated or for any other reason be unable to act in her own behalf, the Trustee may in his absolute discretion pay to or apply for the benefit of my said wife, in addition to the income payments hereinabove provided for her, such amounts from the principal of the trust estate, up to the whole thereof, as the Trustee may from time to time deem necessary or advisable for the use and benefit of my said wife.

Upon the death of my wife, Lois E. Rowe, the trust estate of Share #1 shall terminate and the Trustee

*James M. Rowe*

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shall thereupon transfer and pay over the property then constituting said trust estate to such person or persons (including the estate of my said wife), in such manner and in such proportion as my said wife may by her Last Will and Testament designate and appoint. To exercise this power of appointment, my said wife shall specifically refer to this power of appointment and express an intention to exercise it. In the event, however, that my said wife shall die having left no Last Will, or having left such Last Will shall have failed to exercise the foregoing power of appointment, then from and after the death of my said wife, the property constituting said marital trust shall be distributed in accordance with the provisions provided for the property in Share #2. I authorize my Trustee to provide sufficient funds to pay the estate, succession or legacy taxes imposed upon the estate of my wife occasioned by her possession of this power of appointment.

(c) Share #2 shall be known as the "JAMES M. ROWE FAMILY TRUST." My Trustee shall hold the trust estate of Share #2 in trust upon the following terms and conditions:

For and during the lifetime of my wife, Lois E. Rowe, she shall receive the net income currently, from time to time, not less than semi-annually.

After the death of my said wife, this trust shall terminate and the then remaining trust estate shall be transferred and paid over to my son, James M. Rowe, Jr., free from trust.

If at the death of my wife my said son shall also be dead, the then remaining trust estate is to be divided among my said son's children as follows: James M. Rowe, III, forty per cent (40%), Lois Marilyn Rowe thirty per cent (30%), and Debbra Lynn Rowe thirty per cent (30%), provided that if any of my said grandchildren are not then surviving, then my surviving grandchildren shall receive the share that my deceased grandchild would have otherwise received, to be divided among them equally.

If at the death of my wife my said son shall also be dead, then the share of the trust estate of any of my grandchildren that are then under twenty-five (25) years of age shall remain in trust for such grandchild until he or she obtains the age of twenty-five (25) years. The Trustee shall distribute so much of the income and/or

*James M. Rowe*

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principal of the trust estate as is in the opinion of the Trustee necessary or proper for the support, maintenance and education of my said grandchildren.

The Trustee may make payments directly to the beneficiaries even though they may be minors, or it may make payments to the person or persons who have custody or control of such minor beneficiaries to be expended by such person or persons for the benefit of such beneficiaries who are minors, or the Trustee may make payments directly for the benefit of such minor beneficiaries.

At such time as each grandchild for whom a trust estate is being administered under this Item of my Will attains the age of twenty-five (25) years, then his remaining trust estate shall be transferred and paid over to him free from trust.

(d) I claim for each beneficiary of this my Last Will and Testament the exemptions and benefits of Section 1 of Title 58 of the 1940 Code of Alabama, as amended, and any and all laws now or hereafter in effect for a similar purpose, and I provide and direct that no part of my estate or the income thereof, up to the sum of eighteen hundred and no/100 (1,800.00) dollars per year, for each such beneficiary, shall be liable for or subject to be seized or taken in any manner for the debts or obligations of any beneficiary of this my Last Will and Testament, regardless of when contracted or incurred.

(e) If the happening of any future event may cause the ultimate vesting of any trust estate herein created 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 and in such event the trust as to said trust estate or as to such 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 estate or as to such share therein shall terminate. In such case said trust or such share therein shall thereupon be vested in and distributed to such persons at the expiration of such period enjoying the use and benefit of said trust estate or such share therein, in the proportion in which they are so enjoying the same, irrespective of their attained age.

(f) The trusts created under my Will shall be

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treated as operating from the date of my decease, whether the trust property shall then be actually paid over to the Trustee and set aside or not, and I hereby direct, authorize and empower my Executrix to make any payment which the Trustee is herein authorized to make after the actual establishment of these trusts.

ITEM IV

In addition to the powers conferred by the common law, by statute, or by the other provisions of this Will, the Trustee is hereby empowered:

(a) To invest and reinvest all or any part of the trust estate in such bonds, stocks and securities or other property, real or personal, as may be to him advisable and proper, without regard to any law or rule of court limiting the property which a trustee may purchase, and to invest in common trust funds having investments in such property. To reinvest and carry securities in the name of a nominee or nominees. To invest in a partnership interest and become a general or limited partner. To incorporate sole proprietorship or partnership interests owned by me at the time of my death.

(b) To sell, exchange or otherwise dispose of all or any part of the property at any time forming a part of the corpus of the trust estate, at such time, upon such terms, with or without security, in such manner and at such prices as to him shall seem advisable and proper and to execute good and sufficient deeds and bills of sale thereon. In selling trust property the Trustee need not have a public sale or auction, and the Trustee may make a private sale without notice to other prospective purchasers.

(c) To lease any real estate held hereunder for any term notwithstanding the duration of this trust.

(d) In his sole discretion to apportion between principal and income, any receipt or expenditure which in his opinion should be so apportioned; provided that whenever the principal or any part thereof of the trust estate is invested in securities purchased at a premium or a discount, any such premium shall be charged against principal and any such discount shall be credited to principal; and provided further, that

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*James M. Love*

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ordinary and extraordinary stock dividends and rights to purchase additional stock issued on securities held in the trust estate shall be treated as principal and not as income.

(e) To enforce any bonds, mortgages or other obligations or liens held in the trust estate, to enter upon such contracts and agreements and to make such compromise or settlement of debts, claims or controversies arising therefrom, including the government of the United States or any state or any political subdivision thereof for or on account of any tax, as in his sole discretion is necessary or desirable.

(f) To consent to the reorganization, consolidation, merger, liquidation, readjustment of, or other change in any corporation, company or association, or the sale or lease of the property thereof or any part thereof, any of the securities or other property of which may at the time be held in the trust estate, and to do any act or exercise any power with reference thereto that may be legally exercised by any person owning similar property in his own right, including the exercise of options, deposit or exchange of securities, entrance into voting trusts, making of agreements or subscriptions which he may deem necessary or advisable in connection therewith, all without applying to any court for permission so to do, and to do, and to hold and redeem or sell or otherwise dispose of any securities or other property which he may so acquire irrespective of whether the same be authorized for the investment of trust funds by the laws of the State of Alabama or otherwise.

(g) To exercise any subscription right in connection with any security held in the trust estate. To vote in person or by proxy on any shares of stock held in the trust estate.

(h) To employ legal counsel and such other agents as the Trustee may deem necessary in the administration of the trust estate (including professional investment counsel) and to pay the expenses of such counsel and agents out of the income or principal of the trust estate as he may determine.

(i) To incur indebtedness in the name of the trust obligating trust funds for repayment of such indebtedness. To execute any and all instruments, deeds and mortgages that are necessary and proper in the

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*John M. Rice*

furtherance of the power to incur indebtedness and exercise any and all other powers granted hereunder. To repay such indebtedness.

(j) To employ and to pay the salaries of domestic servants or any person necessary to care for any minor or incompetent beneficiary.

(k) To permit any beneficiary of the trust hereunder to enjoy the use and benefit of any residence, real estate, household goods, chattels, or other tangible personal property which the Trustee may receive in kind and the Trustee shall not be liable for any consumption, damage, injury to or loss of any property so used, or for holding such non-productive or wasting assets. The beneficiaries of the trust hereunder or their executors or administrators shall not be liable for any non-negligent consumption, damage, injury to or loss of any property or security originally received by him as part of the said trust estate, so long as he shall consider the retention thereof for the best interests of said trust estate, regardless of whether such property or securities are in law a proper investment of trust funds.

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ITEM V

I hereby nominate and appoint my son, James M. Rowe, Jr., as Trustee of the trusts created under my Will. In the event my said son should predecease me or be unable to qualify as Trustee or cease to serve for any reason, then I nominate and appoint my grandson, James M. Rowe, III, as Trustee hereof, provided that he be twenty-five (25) years of age at the time of my death. In the event both my said son and my said grandson shall fail to qualify or cease to serve for any reason, then I nominate The First National Bank of Birmingham, (or its successors) as Trustee hereof. In the event the said bank becomes Trustee, then it shall be entitled to receive reasonable compensation for its services hereunder. The said bank or any other bank serving as successor Trustee hereunder shall not be liable for the acts or omissions of a predecessor Trustee hereunder.

The Trustee shall not be required to give bond as Trustee under this instrument unless ordered so to do for cause shown in a court having jurisdiction, in which event the cost and expense of the said bond shall be paid

*James M. Rowe*

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from the trust estate. My Trustee is hereby exempted from filing any report in any court in connection with serving as such Trustee.

ITEM VI

I hereby nominate and appoint my wife, Lois E. Rowe, as Executrix of this my Last Will and Testament. In the event that my said wife shall fail to qualify or cease to serve as Executrix hereunder, I nominate and appoint my son, James M. Rowe, Jr., as Executor of this my Last Will and Testament. Should both my said wife and my said son fail to qualify or cease to serve as Executor hereunder, I nominate The First National Bank of Birmingham (or its successors) as Executor of this my Last Will and Testament. I hereby exempt my Executrix or Executor from giving any bond or filing any report or account in any court as such.

I hereby grant to my Executrix or Executor the rights, powers, discretion and authority herein granted to my Trustee. My Executrix or Executor shall specifically have power to sell any or all of the property of my estate at public or private sale without order of court.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this the 10th day of October, 1966, and have set my hand on the eight (8) preceding pages along the bottom thereof, hereby declaring the instrument contained on this and the preceding pages to be my Last Will and Testament.

James M. Rowe (SEAL)  
JAMES M. ROWE

The foregoing instrument was signed, sealed, published and declared by James M. Rowe to be his Last Will and Testament, in our joint 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.

NAME

ADDRESS

Virginia Road

Northdale, Alabama

Thomas P. Cuthbert

Birmingham, Ala

119255

JUD 955 PAGE 697

CERTIFICATE TO THE PROBATE OF WILL

The State of Alabama

JEFFERSON COUNTY

I, O. H. Florence, Judge of the Court of Probate, in and for said State and County, do hereby certify that the foregoing instrument — of writing ha .8— 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 James M. Rowe Deceased and that said Will —

together with the proof thereof have been recorded in my office in Judicial Record, Volume 955, Page 688-697.

In witness of all which I have hereto set my hand, and the seal of the said Court, this date March 25, 1986.

PROBATE-94

*O. H. Florence* Judge of Probate.



IN THE MATTER OF THE ESTATE OF

IN THE PROBATE COURT OF  
JEFFERSON COUNTY,  
ALABAMA

JAMES M. ROWE

Deceased

MARCH TERM 1986

CASE NO. 119255

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 LOIS E. ROWE

Executrix named in said will, who has complied with the requisitions of law and who is authorized to take upon herself the execution of such will.

Witness my hand this date, March 25, 1986

*C. H. Torrence*  
Judge of Probate

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

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

Chief Clerk

PROBATE-68

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JEFFERSON COUNTY, ALABAMA