

Last Will and Testament

OF

162207

DEWEY CHARLES BATES

STATE OF ALABAMA)

JEFFERSON COUNTY)

FILED IN OFFICE THIS THE 22 DAY
OF January, 19 98
PROBATE AND RECORD

Deane K. Reynolds
JUDGE OF PROBATE

I, DEWEY CHARLES BATES, a resident of Jefferson County, State of Alabama, being of sound mind and disposing memory, do make, publish, and declare this instrument as and for my Last Will and Testament, hereby revoking any and all other Wills and Codicils thereto heretofore made by me.

ITEM ONE

I give and bequeath all of my wearing apparel, jewelry, books, any automobile I may own, and all other objects of my personal use to my wife, LORENE T. BATES, to be hers, absolutely, if she be living at the time of my death. If my wife be not living at that time, then the above-mentioned articles shall be divided between my children then living, SANDRA L. MILLER and DEBRA L. JONES, share and share alike, per stirpes. I make no disposition of the household furniture, furnishings, and automobile used in and about our home, inasmuch as these are the property of my wife, having been given to her. I hereby vest in my Executors full power and authority to determine what objects of property are included in the foregoing description contained in this item of my Will.

ITEM TWO

(a) If my wife survives me, my Executor shall divide all the rest, residue, and remainder of my estate into two parts, hereinafter designated as the "Marital Share" and the "Family Share."

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JEFFERSON COUNTY JUDGE OF PROBATE
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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, after taking into account all other available credits, including without limitation thereto the unified credit allowed under Section 2010 of the Internal Revenue Code of 1954, as amended to the date of my death. In making the computations necessary to determine the amount of this gift and bequest, the final determination for Federal Estate Tax purposes shall control whether my Executors chooses the date of death or alternate valuation date. In the sole power and discretion of my Executors, acting in a fiduciary capacity, the payment of this amount may be made wholly or partly in cash or property as selected by my Executors; 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 Executors 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; further provided, that so far as is possible, there shall not be included in this gift and bequest 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
- (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

allocate my entire residuary estate to the Family Share.

ITEM THREE

(a) It is my intention that the property allocated to the Marital Share under this Will and held and distributed pursuant to ITEM FIVE hereof shall constitute "qualified terminable interest property" as defined in Section 2056 (b)(7)(B) of the Internal Revenue Code of 1954, as amended, as to which the marital deduction provided by the Internal Revenue Code will be allowed if my Executors so elect. My Executors are authorized to make any election permitted by said Section with respect to such property as they, in their 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 Executors shall not be liable to my estate, the Trustees 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 their having made or declined to make any election with respect to such property, unless such election is made or not made due to gross negligence or bad faith on the part of the Executors.

(b) If my Executors elect to treat the property of the Marital Share as qualified terminable interest property qualifying for the marital deduction permitted by the Internal Revenue Code of 1954, as amended, then:

(i) The Marital Share shall not include, and my Executors shall not allot 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 1954, as amended; and

(ii) My Executors, regardless of any adverse interest,

for my estate.

ITEM FOUR

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 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 residuary estate, or, if my said wife does not survive me, be paid out of my residuary estate, and in either event, such payment shall be made without apportionment.

ITEM FIVE

The Marital share, hereinafter referred to as the "QTIP Marital Trust," shall be transferred and paid over to my Trustees, hereinafter named, to be held in trust, administered and distributed as hereinafter provided:

(a) If my Executors make a valid and effective election to have the property in the QTIP Marital Trust qualify for the federal estate tax marital deduction in my estate, then

(i) the Trustees 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, and

(ii) my wife shall have the power to compel the Trustees 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 delivered to the Trustees, and the Trustees shall take any action required by the exercise of said power within a reasonable time.

terminate, and the Trustee shall transfer and pay over the property then constituting said Trust and any accrued or unpaid income thereof to such person or persons, including the estate of my wife, as she may, by her last Will and Testament, appoint and direct, making specific reference to this power of appointment. This general power of appointment shall be exercisable by my wife alone and in all events. The Trustee shall transfer and pay over any unappointed portion of the property then constituting such Trust to the Trustee of the Family Trust and such property shall thereafter follow the disposition of said Family Trust in all respects as to both principal and income.

(c) Upon the death of my wife, the QTIP Marital Trust shall terminate, and the Trustee shall distribute said assets in accordance with the provisions of Item Six hereof.

ITEM SIX

For all purposes of this will, the children of our marriage, SANDRA L. MILLER and DEBRA L. JONES, and any child hereafter born of our marriage, shall be considered my children for benefits under this will.

I give, bequeath, and devise that portion of my residuary estate hereinabove designated as the Family Share, hereinafter referred to as the "Family Trust," to my Trustees hereinafter named, in trust, to be held, administered, and distributed as hereinafter provided:

(a) If my wife shall survive me, the Trustees shall pay to or apply for the benefit and use of my said wife all of the net income of the Family Trust in quarterly or more frequent installments during her lifetime.

If at any time during such period the net income from said trust is insufficient, in the opinion of the trustees, other than my wife, for the health, maintenance and support of my wife, taking into account other resources available to her and known to the other trustee,

divided into as many equal shares as I shall then have children living and children dead with descendants surviving, per stirpes, and the Trustees shall pay over, deliver, assign, transfer and convey to such child or his or her descendants such portion absolutely, free and discharged of trust; provided, however, that 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 Trustees shall continue to hold the same in trust with all of the powers and authority given them 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, support, education and maintenance such part of the income and principal of such share as the Trustees deem necessary or desirable for said purposes, accumulating and adding to principal any income not so used, and at such time as said descendants shall attain the age of twenty-one years, or sooner die, then the Trustees shall transfer and pay over the principal and any undistributed income, free of trust, to such descendant, or his or her estate, as the case may be.

ITEM SEVEN

(a) I hereby nominate and appoint BARRY STANTON JEFFERY and my wife, LORENE T. BATES, as Co-Executors of this, my Last Will and Testament and as Co-Trustees of any trust which may become active hereunder. If my said wife shall fail to qualify, die, resign, become incompetent, or otherwise fail or cease to serve as Executor or Trustee, then I nominate and appoint my son-in-law, SHANE M. JONES, as Co-Executor and Co-Trustee hereunder with BARRY STANTON JEFFERY. If BARRY STANTON JEFFERY shall fail to qualify, die, resign, become

required to give bond or to file an inventory or accounting in any court upon final settlement of its acts as Executor or Trustee, although it 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) During the administration of my estate, I hereby authorize and empower my Executor to exercise all powers conferred upon my Trustee in ITEM EIGHT of this Will regardless of whether or not any trust authorized by this Will shall become operative.

(d) To the extent permitted by law, my Executor and Trustee are each hereby authorized to delegate at any time or from time to time, any or all of the rights, powers, duties, and authority granted to Executors and Trustees herein, whether discretionary or ministerial, to any other Executor or Trustee, by an instrument in writing signed by the delegating party; provided, however, that any such delegating instrument shall be revocable at any time.

ITEM EIGHT

(a) Without limitation of the powers conferred by statute or general rules of law, my Trustees 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:

(1) To allot to any trust created hereunder an undivided interest in any property transferred hereunder; to make joint investments for such trusts; to make any division or distribution in kind or partly in kind and partly in money; and to determine the value of any property so allotted, divided or distributed;

(2) To hold and continue to hold as an investment the property received hereunder, and any additional property which may be received by them, so long as they deem proper, and to invest and reinvest in any securities or property, whether or not income-producing, deemed by them to be for the best interest of the trust and the beneficiaries hereunder, without being limited to trusts or chancery investments or so-called

affiliate or successor except upon the exercise of rights given to stockholders thereof;

(3) To rent or lease any property of the trust for such time (including any lease for a period extending beyond the term of the trust) not exceeding ninety-nine (99) years, and upon such terms and for such rental or price as in their discretion and judgment may seem just and proper and for the best interest of the trust and the beneficiaries hereunder;

(4) To sell, transfer, assign and convey any of the property of the trust or any interest therein, or to exchange the same for other property, in a public or private sale or transaction, for such price or prices and upon such terms and conditions as in their discretion and judgment may be deemed for the best interest of the trust and the beneficiaries hereunder, and to execute and deliver any deeds or conveyances (with or without warranty), receipts, releases, contracts, or other instruments necessary in connection therewith;

(5) To subdivide and develop real estate; to partition, vacate, and abandon real estate; to adjust the boundaries of any real estate; to grant easements, servitudes, rights-of-way, licenses and other interests in real estate; to dedicate real estate for any purpose in connection with the development of any real estate and to change the use of any real estate to residential, recreational, commercial, cemetery or other usage;

(6) To make all repairs and improvements at any time partly in kind and partly in money; and to determine the value of any property so allotted, divided or distributed;

(7) To deduct, retain, expend, and pay out of any money belonging to the trust any and all necessary and proper expenses in connection with the operation and conduct of the trust, and to pay all taxes, insurance premiums, and other legal assessments, debts, claims, or charges which at any time may be due and owing by, or which may exist against, the trust;

(8) To vote upon all securities belonging to the trust, and to become a party to any stockholders' agreements deemed advisable by them in connection with such securities; provided, however, that in voting any stock or security of any corporate Trustee, its holding company, affiliate or successor, such corporate Trustee shall vote said stock or security as the individual Trustee may direct, or if there is no individual Trustee then serving, as a majority in interest of the then income beneficiaries may direct.

(9) To consent to the reorganization, consolidation, merger, liquidation, readjustment of, or other change in any corporation, company or association, or to the sale, mortgage, 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 by them hereunder, and to do any act or exercise any power with reference thereto that may be legally exercised by

(10) To vote any corporate securities held hereunder in person, or by special, limited or general proxy, with or without power of substitution, or to refrain from voting; provided, however, that in voting any stock or security of any corporate Trustee, its holding company, affiliate or successor, such corporate Trustee shall vote said stock or security as the individual Trustee may direct, or if there is no individual Trustee then serving, as a majority in interest of the then income beneficiaries may direct;

(11) To engage in business with the property of the trust as sole proprietor, or as a general or limited partner, with all the powers customarily exercised by an individual so engaged in business, and to hold an undivided interest in any property as tenant in common or as tenant in partnership;

(12) To continue any business (whether in the form of a sole proprietorship, partnership, corporation or otherwise) for such time and under such management and conditions as in the discretion of the Trustee may be expedient; to contribute capital to such business; to expand or alter such business; to incorporate, reorganize, merge or consolidate such business; to incorporate such business; to incorporate, reorganize, merge or consolidate such business; to amend the charter or name of such business; to appoint directors and employ officers, managers, employees or agents (including any directors, officers or employees of any corporate Trustee of the trust); to compensate and offer stock options and other employee or fringe benefits to the employees of such business (including the establishment or operation of employee retirement plans, profit-sharing plans, pension plans and employee stock ownership plans); and to liquidate or dissolve any such business at such time and upon such terms and conditions as in the judgment of the Trustee is for the best interest of the trust and the beneficiaries hereunder;

(13) To cause any security or other property which may at any time constitute a portion of any of the trusts to be issued, held or registered in their individual names or in the name of a nominee or in such form that title will pass by delivery.

(14) To appoint, employ, remove and compensate such accountants, attorneys, agents, investment advisors, investment managers, investment counselors, financial consultants, 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;

(15) To act hereunder through an agent or attorney-in-fact (including, without limitation, a bank or the trust department of a bank as an agent or custodian for the Trustee), by and under power of attorney or other instrument duly executed by the Trustee, in carrying out any of the powers and duties herein authorized.

(16) To borrow money for any purposes of the trust, or incidental to the administration thereof, upon their bond or

deem advisable for the best interest of the trust and beneficiaries hereunder.

(18) To institute and defend any and all suits or legal proceedings relating to the trust in any court, and to employ counsel and to compromise or submit to arbitration all matters of dispute in which the trust may be involved, as in the judgment of the Trustee may be necessary or proper; to compromise, settle, arbitrate or defend any claim or demand in favor of or against the trust; to enforce any bonds, mortgages, security agreements, or other obligations or liens held hereunder; and to enter upon such contracts and agreements and to make such compromises or settlements of debts, claims or controversies as the Trustee may deem necessary or advisable;

(19) To foreclose mortgages and to bid in any property under foreclosure or to acquire mortgaged property in any other manner and for such consideration as the Trustee may determine.

(20) To acquire as an asset of the trust (other than the Marital Trust) a life insurance policy on the life of any person to whom the income of the trust is payable, or on the life of any person in whom such income beneficiary has an insurable interest, from such companies and in such amounts as the Trustee may deem advisable; to pay premiums on all such insurance policies, from income or principal, or both, as the Trustee may determine; and all such insurance shall be payable to, and all incidents of ownership vested in, the Trustee;

(21) To engage in ranching and farming, including the purchasing, leasing, operating, encumbering, selling, producing, and generally dealing in and with farms, ranches, timber, timber lands, water rights, machinery and equipment, livestock, wool, fiber, fertilizer, seed, crops and products of every kind;

(22) To drill, mine and otherwise operate for the development of gas, oil and other minerals, to enter into contracts relating to the installation and operation of absorption and repressuring plants; to place and maintain pipe lines, telephone and telegraph lines, and to execute oil, gas and mineral leases, division and transfer orders, grants and other instruments of every kind and character containing such provisions as the Trustee considers appropriate with full power to lease or sell any asset;

(23) To allocate all deductions for depletion under Federal and State income tax statutes, in each tax year, among a group consisting of the Trustee and those persons to whom trust income may in such tax years have been distributed, in such shares and proportions as the Trustee may determine, to the extent permissible under the applicable statute. In the absence of a valid allocation so made, all such deductions for any tax year shall be divided among the members of such group in proportion to the amounts distributed to or retained by each during such tax year; and the Trustee shall not be

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 their proper agents the right to sign checks against the aforementioned account or accounts for the purposes 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 deposited with the said bank or trust company by the Trustee;

(25) to do all other acts which in the Trustee's judgment are necessary or desirable, for the proper and advantageous management, investment and distribution of any of the trusts;

(26) In any contract or agreement made by the Trustee on behalf of any trust created herein, the Trustee may, and is hereby authorized to stipulate and provide against personal liability and all rights created under and by virtue of such contracts or agreements shall belong to the trust for which the same is made and the obligations thereunder shall be the obligations of such trust.

(27) To make, execute and deliver deeds, leases, mortgages, conveyances, options, receipts, releases, satisfactions and other quitclaims or disclaimers of liability, contracts, voting trusts, stock purchase agreements, buy-sell agreements, stock redemption agreements, or other instruments, sealed or unsealed, to any person or corporation with respect to the property of any of the trusts, or with reference to any matter involved in the administration thereof, or for the accomplishment of any of the powers vested in the Trustee, all of the foregoing upon such terms, provisions and conditions existing within or beyond the duration of any trust created hereunder, as to the Trustee shall seem reasonable; to create reserves for depreciation, depletion or such other purposes to the extent the Trustee deems necessary or desirable;

(28) To incur and pay the ordinary and necessary expenses of administration, including (but not by way of limitation) reasonable attorneys' fees, accountants' fees, investment counsel fees, agents' fees, custodian fees, and the like;

(29) Except as otherwise expressly provided in this instrument, to determine as the Trustee may deem just and equitable the manner of ascertainment of income and principal and the apportionment between income and principal of all receipts and disbursements;

(30) To invest all or any part of any of the trust estate in any common trust fund at any time maintained by any bank or trust company (including a corporate Trustee hereunder);

(31) To transfer the situs of any trust estate to such other place as in their opinion shall be for the best interests of the trust estate and of the several beneficiaries thereof;

(b) All references in this ITEM to any property contained in my estate or in any trust created hereunder shall be deemed to include specifically, without limitation, stock or other securities of any corporate Trustee, its holding company, affiliate or successor and, except as otherwise provided herein, the Executors and Trustees are authorized to deal with such stock or securities in the same manner as provided with respect to any other property contained in my estate or any trust.

(c) No person or corporation dealing with the Trustees shall be required to inquire into the terms of this instrument or any trust hereunder, nor shall any purchaser therefrom be required to see to the application of the purchase money.

(d) A majority in interest of the adult and otherwise legally competent beneficiaries then entitled to receive income of any trust established hereunder, or if there shall be no such beneficiaries, then a majority of the guardians or conservators of such beneficiaries of any such share, may without liability to any present or future beneficiary of any such trust, approve the annual or other current account of the Trustee hereunder.

(e) The powers herein granted to the Trustee may be exercised in whole or in part, from time to time, and shall be deemed to be supplementary to and not exclusive of the general powers of trustees pursuant to law, and shall include all powers necessary to carry the same into effect.

ITEM NINE

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

should die simultaneously or in circumstances which make it difficult to determine which of us died first, I direct that such devisee or legatee shall be deemed to have predeceased me for the purpose of this Will, and I direct further that the provisions of this Will shall be construed upon that assumption.

ITEM TEN

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 ELEVEN

To the extent permitted by law, the interest of any beneficiary in principal or income of any trust under this Will (other than the marital share) shall not be subject to assignment, alteration, pledge, attachment, alimony, or to the claims or creditors of such beneficiary.

ITEM TWELVE

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 THIRTEEN

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 its 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; 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 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 vice versa, and both shall be deemed to include the neuter and vice versa, and the singular shall be deemed to include the plural, and vice versa, whenever the context admits such construction.

IN WITNESS WHEREOF, I, DEWEY CHARLES BATES, have hereunto set my hand and seal this 4 day of Aug, 1991.


DEWEY CHARLES BATES

execute it as my free and voluntary act for the purposes therein expressed, and that I am nineteen years of age or older, of sound mind, and under no constraint or undue influence.

Dewey Charles Bates
DEWEY CHARLES BATES

We, the undersigned witnesses, Attlee B. Glor and John W. Byrum, 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 that he signs it willingly, 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 nineteen years of age or older, of sound mind, and under no constraint or undue influence.

Attlee B. Glor
WITNESS

John W. Byrum
WITNESS

STATE OF ALABAMA,)

JEFFERSON COUNTY.)

SUBSCRIBED, sworn to and acknowledged before me by DEWEY CHARLES BATES, the testator, and subscribed and sworn to before me by Attlee B. Glor and John W. Byrum, witnesses, this 4 day of August, 1991.

John W. Glor
Notary Public

(SEAL)

CERTIFICATE TO THE PROBATE OF WILL

162207

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 ha S 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 DEWEY CHARLES BATES Deceased and that said Will _____

together with the proof thereof have been recorded in my office in Judicial Record, Volume JA1584, Page 221-235.

In witness of all which I have hereto set my hand, and the seal of the said Court, this date 1/22/98.

PROBATE - 33

George R. Reynolds, Judge of Probate.

The State of Alabama
JEFFERSON COUNTY

PROBATE COURT

162207

I, Carol K. Johnson, Provisional 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 OF DEWEY CHARLES BATES

CERTIFICATE TO PROBATE OF THE WILL

in the matter of THE ESTATE OF DEWEY CHARLES BATES

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

Given under my hand and seal of said Court, this
the 7th day of May, 20 01


Provisional Chief Clerk

Inst # 2001-19224

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SHELBY COUNTY JUDGE OF PROBATE
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