



20080502000179980 1/12 \$44.00
Shelby Cnty Judge of Probate, AL
05/02/2008 09:11:39AM FILED/CERT

LETTERS TESTAMENTARY

PROBATE - 60

IN THE MATTER OF THE ESTATE OF

IN THE PROBATE COURT OF
JEFFERSON COUNTY, ALABAMA

JAMES MONTGOMERY BALLARD, JR.

Deceased

CASE NO.

-199307 - - -

LETTERS TESTAMENTARY

TO ALL WHOM IT MAY CONCERN:

The Will of the above-named deceased having been duly admitted to record in said county, **Letters Testamentary** are hereby granted to

MICHAEL STEVEN BALLARD AND DAVID HUGH BALLARD

the Personal Representative named in said will, who has complied with the requisitions of the law and is authorized to administer the estate. Subject to the priorities stated in §43-8-76, Code of Alabama (1975, as amended), the said Personal Representative, acting prudently for the benefit of interested persons, has all the powers authorized in transactions under §43-2-843, Code of Alabama (1975, as amended).

WITNESS my hand this date, JANUARY 31, 2008

(SEAL)

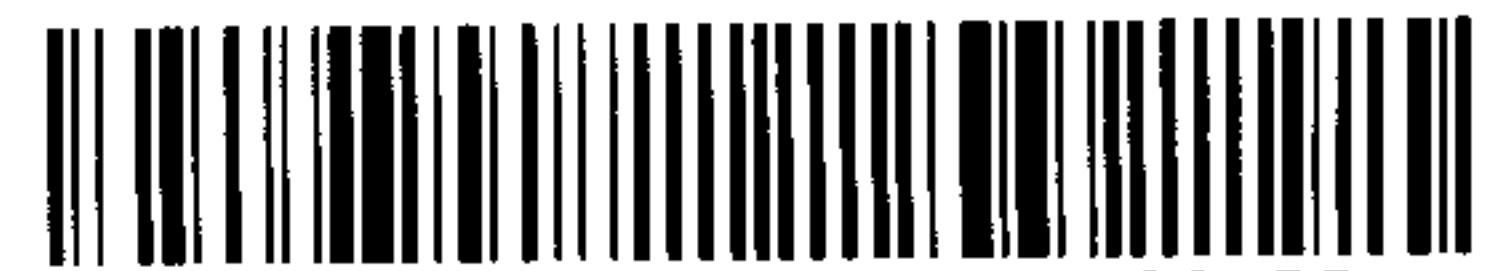
Alan L. King

Judge of Probate

I, Wanda L. McDaniel, 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, _____

Chief Clerk



20080502000179980 2/12 \$44.00
Shelby Cnty Judge of Probate, AL
05/02/2008 09:11:39AM FILED/CERT

IN THE MATTER OF THE ESTATE OF) PROBATE COURT OF
JAMES MONTGOMERY BALLARD, JR.) JEFFERSON COUNTY,
Deceased) ALABAMA
CASE NO. -199307 - - -

**PETITION FOR PROBATE OF WILL
(Self-Proved Will)**

Comes now the petitioners Michael Steven Ballard and David Hugh Ballard, and shows this court the following facts:

1. James Montgomery Ballard, Jr. (the "decedent") died testate in Jefferson County, Alabama, on or about the 10th day of December, 2007, 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 (and all codicils thereto) naming the petitioner as executor thereof, which was (were) duly signed by the decedent when over eighteen (18) years of age, and was (were) attested by the following witnesses:

Name	Present Address
Jacqueline Elaine Barnes	828 5 th Street West, Birmingham, AL 35204
Mattie J. Henderson	2812 Dowell Avenue, SW, Birmingham, AL 35211

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 which said will was acknowledged are as follows:

Deborah E. Hollingsworth 560 Duncan Road, Cullman, AL 35622

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, relationship	Address
------------------------------------	---------

Mr. Ballard was a widower at the time of his death

- W James Montgomery Ballard, III, over 19 years of sound mind, Son 1028 Pine Cliff Circle
Birmingham, Al 35242
- P Michael S. Ballard, over 19 years, of sound mind, Son 4179 Cliff Road,
Birmingham, AL 35222
- W Sandra Ballard Hayes, over 19 years, of sound mind Daughter 1100 Perry Lane
Normal, IL 61761
- P David Hugh Ballard, over 19 years, of sound mind Son 4401 Corinth Drive
Birmingham, AL 35213

WHEREFORE, the petitioner prays that this Court will take jurisdiction of this petition, will cause all such notice or citations to issue to the said surviving spouse, 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 (and all codicils thereto) 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 Petitioner:

Michael S. Ballard


Signature of Petitioner

2175 11th Court South
Address


Michael S. Ballard
(Name of Petitioner)

Birmingham, Alabama 35205
City/State/Zip Code

4179 Cliff Road
Address

Telephone: (205) 933-1727

Birmingham, AL 35222
City/State/Zip Code


Signature of Petitioner

David Hugh Ballard
(Name of Petitioner)

4401 Corinth Drive

Birmingham, AL 35213
City/State/Zip Code



20080502000179980 4/12 \$44.00
Shelby Cnty Judge of Probate, AL
05/02/2008 09:11:39AM FILED/CERT

BENCH NOTE

Filed in the Probate Court of Jefferson County, Alabama, on the _____ day of _____, 2008, and set for hearing the _____ day of _____, 2008, at _____ .M.

Judge of Probate

FILED IN OFFICE THIS 31st DAY OF
January, 2008, PRAYER
GRANTED AND PETITION ORDERED RECORDED
Alan L. King
JUDGE OF PROBATE

20080502000179980 6/12 \$44.00
Shelby Cnty Judge of Probate, AL
05/02/2008 09:11:39AM FILED/CERT

ARTICLE IV

1. I devise to my son, **JAMES MONTGOMERY BALLARD, III**, all my interest in the Joint Venture Condo 904 which owns Surfside Condo 904, Destin Florida, which I hereby devise said interest in kind to my said son, **JAMES MONTGOMERY BALLARD, III**.

2. I devise to my son, **MICHAEL STEVEN BALLARD**, all my interest in the Bay Hill condominium in Orlando, Florida, which I hereby devise said interest in kind to my said son, **MICHAEL STEVEN BALLARD**.

3. I devise to my son, **DAVID HUGH BALLARD**, all my interest in the Windward Condominium 500 Partnership which owns unit number 500 Windward, Edgewater Beach Resort, Panama City Beach, Florida, which I hereby devise said interest in kind to my son, **DAVID HUGH BALLARD**.

4. It is my intent under this Article that the value of the interest in the condominiums I am leaving to my three (3) sons be equal. In order to accomplish this each condominium shall be appraised at the time of my death, then if necessary, cash from my estate shall be applied to the appraised value in an amount that would make the value of each condominium equal.

5. **SANDRA BALLARD HAYES** has already received all her mother's, **NELDA M. BALLARD'S**, jewelry. This also includes the insurance proceeds from that jewelry that was previously stolen. The total value exceeds the value of my interest in any one of my condominiums listed above. Therefore, she is not entitled to any further distribution under this Article.

ARTICLE V

I presently am the owner of six seats (1 box) at Churchill Downs in Louisville, Kentucky. This entitles me to six (6) tickets to the Kentucky Oaks on Friday and to six (6) tickets to the Kentucky Derby on Saturday. These tickets for the Kentucky Oaks and the Kentucky Derby weekend are being given to my four children on rotating years as follows: **2003 – JAMES MONTGOMERY BALLARD, III; 2004 – MICHAEL STEVEN BALLARD; 2005 - SANDY HAYES BALLARD; 2006 – DAVID HUGH BALLARD**. It is my intent to continue the way this is currently being done and not to change the distribution in any way.

ARTICLE VI

I hereby give, devise and bequeath all the remainder of my property, wheresoever situated, in equal shares, share and share alike, to my children, **JAMES MONTGOMERY BALLARD, III, MICHAEL STEVEN BALLARD, SANDRA BALLARD HAYES** and **DAVID HUGH BALLARD**. In the event that any of my children should predecease me, then I give and devise said child's share of said property to his or her then living spouse or issue, per stirpes.

ARTICLE VII

I hereby name, constitute and appoint my sons **MICHAEL STEVEN BALLARD** and **DAVID HUGH BALLARD**, as Executors of this Will. If, however either of my sons, **MICHAEL STEVEN BALLARD** or **DAVID HUGH BALLARD**, is unable to serve, should die, resign, or become incapacitated during the period of administration of my estate, then I appoint the other to serve as the sole Executor hereunder. I direct that my Executor, regardless of who shall so serve, shall not be required to furnish any bond or security in any jurisdiction for the faithful performance of his duties or to make any report, inventory or accounting or final settlement to any court of their proceedings hereunder, in any jurisdiction.

- (a) I hereby grant to my Executor, the continuing absolute, discretionary power to deal with any property, real or personal, held in my estate or in any trust, as freely as I might in the handling of my own affairs. Without in any way limiting the generality of the foregoing, I hereby grant to my Executor the following specific powers and authority in addition to and not in substitution of powers conferred by law.
- (1) To retain, in their absolute discretion and for such period as to them shall seem advisable, any and all investments and other properties held by me at my death without liability for any loss incurred by reason of the retention of such investments or properties.
 - (2) To change investments and properties, and to invest and reinvest all or any part of my estate, in such securities, investments, or other property as to them seem advisable and proper, all without diversification as to kind or amount, without being restricted in any way, by the Constitution of Alabama, any statute or court decision now or hereafter existing regulating or limiting investments by fiduciaries.

- (3) To sell all or any part of the property, real or personal, of whatsoever kind, of which I may have any power of appointment, or which at any time may constitute a part of my estate at such times, upon such terms, for cash or credit, with or without security, in such a manner and at such prices, whether at a public or private sale, as shall deem advisable and proper, and to execute good and sufficient deeds, and bills of sales thereof.
- (4) To lease any property for such a term and upon such conditions and rentals and in such manner as it may seem advisable with or without privilege to purchase, and any lease shall be valid and binding for the full term thereof even though same shall extend beyond the duration of the estate. To insure against fire or other risk. To make repairs, replacements, and improvements, structural or otherwise, to any such real estate, and to charge the expense thereof principal and income as it may deem proper. To subdivide real estate, or dedicate same to public use and to grant easements as it may deem proper.
- (5) To determine the manner in which the expenses incidental to or connected with the administration of my estate shall be apportioned as between income and principal.
- (6) To apportion extraordinary and stock dividends received by them between income and principal in such manner as they may see fit; provided, however, that all rights to subscribe to new or additional stock or securities, and all liquidating dividends shall be deemed proper.
- (7) To compromise, settle or adjust any claim or demand by or against my estate, and to agree to any termination or modification, and to agree to any rescission or modification of any contract or agreement.
- (8) To register and carry any property in its own name or, in the name of its nominee or to hold it unregistered, but without thereby increasing or decreasing its liability as fiduciary.
- (9) To borrow money, whether to pay taxes, exercise subscription rights, options, pay assessments, or to accomplish any other purpose of any nature incidental to the administration of my estate and to pledge estate assets as security for the repayment thereof.
- (10) To vote in person or proxy any stock or securities held, and to grant such proxies and powers of attorney to such person or persons as it may deem proper.

- (11) To consent to and participate in any plan for the liquidation in money or in kind or partly in money and partly in kind.
- (12) Whenever required or permitted to divide and distribute my estate or any trust created hereunder, to make such division or distribution in money or in kind or partly in money and partly in kind.
- (13) To employ accountants, attorneys, and such agents as it may deem advisable; to pay reasonable compensation for their services and to apportion same between incomes and principal as it may deem proper.
- (b) The Executor may act freely under all or any powers of this Will given to him in all matters concerning my estate, after forming in his judgment, based upon all the circumstances of any particular situation as to the wisest and best course to pursue, without the necessity of obtaining consent or permission of any Court, and notwithstanding that he may also be acting as an individual or as an agent for other persons or corporations interested in the same matter, or may be interested in connection with the same matters as a stockholder, director, in trust or otherwise; and the devises and bequests, made in this Will which have been so made in contemplation of such freedom of judgment and action.
- (c) The power herein granted to the Executor 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 Executors pursuant to law, and shall include all powers necessary to carry the same into effect. The enumeration of specific powers herein shall not be constructed in any way to limit or affect the general powers herein granted.

IN WITNESS WHEREOF, I, **JAMES MONTGOMERY BALLARD, JR.**, the testator, sign my name to this instrument, which consists of six (6) typewritten pages, each of which bears my initials in the margin, on this the 7 day of October, 2002, 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, 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.


JAMES MONTGOMERY BALLARD, JR.



20080502000179980 11/12 \$44.00
Shelby Cnty Judge of Probate,AL
05/02/2008 09:11:39AM FILED/CERT

-199307 - - -

CERTIFICATE TO THE PROBATE OF WILL

The State of Alabama

JEFFERSON COUNTY

I, Alan L. King, 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 JAMES MONTGOMERY BALLARD JR. Deceased and that said Will _____ together with the proof thereof have been recorded in my office in Judicial Record, Volume _____, Page _____.

In witness of all which I have hereto set my hand, and the seal of the said Court, this date JANUARY 31, 2008.

Alan L. King

_____, Judge of Probate.

CERTIFICATE TO COPIES

20080502000179980 12/12 \$44.00
Shelby Cnty Judge of Probate, AL
05/02/2008 09:11:39AM FILED/CERT

PROBATE - 67

The State of Alabama
JEFFERSON COUNTY

PROBATE COURT

I, WANDA L. MCDANIEL, 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 _____

PETITION FOR PROBATE OF WILL

THE LAST WILL AND TESTAMENT

CERTIFICATE TO THE PROBATE OF WILL

LETTERS TESTAMENTARY

in the matter of THE ESTATE OF:

JAMES MONTGOMERY BALLARD, JR., DECEASED

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

Given under my hand and seal of said Court, this

the 19th day of MARCH, 20 08

Wanda L. McDaniel

Chief Clerk