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FILED Jan 23 19 89
BILL COVINGTON
BY

IN THE PROBATE COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

Box 35

IN RE: THE ESTATE OF NELLIE E. JONES, WARD	
LAURA YANCEY GOODALL, CONSERVATOR/PLAINTIFF	
V.	DOCKET NO. 79265
NELLIE E. JONES, WARD/DEFENDANT	MB329-170
AND	
MARY O. MCCABE AND RUTH SCRUGGS AND THE ESTATE OF MARGARET C. MCCABE, deceased, DEFENDANTS	
AND	
THOMAS E. MCCABE AND ROBERT A. MCCABE, INTERVENING DEFENDANTS.	

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ORDER

THIS CAUSE came on to be heard upon the 13th day of January, 1989, before the Honorable James R. Everett, Jr., Judge of the Probate Court for Davidson County, Tennessee, upon the Defendants Mary O. McCabe, Robert A. McCabe, Jr., and Thomas E. McCabe's Motion to Amend the Order Approving the Sale of the Real Property Located at 817, 819, 821 and 823 Main Street in Nashville, of record in Minute Book 328, Page 37, Probate Clerk's Office, the Statement of Counsel for Defendants Mary O. McCabe, Thomas E. McCabe and Robert A. McCabe; Statement of Counsel for Plaintiff; Statement of the Guardian Ad Litem for Nellie E. Jones; Plaintiff's Response to Defendants' Motion to Amend; Plaintiff's Exhibits tendered and filed of record with Plaintiff's Response; Answer of Defendants, Mary O. McCabe, Thomas E. McCabe and Robert A. McCabe of Record; Statement of Administratrix of the Estate of Margaret McCabe; and the

entire Record in this cause, from all of which the Court finds that the Motion is not well taken and therefore should be denied in its entirety.

The Court also finds that there is a dispute between the parties over the ownership interest in the property known as 817 and 819 Main Street, Nashville, Tennessee, in that the Plaintiff claims that the Ward, Nellie E. Jones, owns a one-half (1/2) undivided interest in the said property located at 817 and 819 Main Street and is entitled to one-half (1/2) of the sale proceeds derived from the sale of the property known as 817 and 819 Main Street while the Defendants Mary O. McCabe, Robert A. McCabe and Thomas E. McCabe and the Estate of Margaret McCabe claim that the Ward, Nellie E. Jones, has a one-third (1/3) undivided interest as tenant in common in the property known as 817 and 819 Main Street; that Mary O. McCabe has a one third (1/3) undivided interest as tenant in common in the property known as 817 and 819 Main Street and that the Estate of Margaret McCabe and her surviving heirs have a one-third (1/3) undivided interest as tenant in common in said property known as 817 and 819 Main Street.

The Court also finds that because there is a material dispute between the parties over their respective ownership interest in the property known as 817 and 819 Main Street and of their respective ownership interest in the sale proceeds to be derived from the sale of the property known as 817 and 819 Main Street, these issues should be reserved for further determination by the Court after the subject property known as 817 and 819 Main Street is sold and the proceeds have been tendered into the Registry of the Probate Court for Davidson County, Tennessee.

The Court also finds that the Order Approving the Sale of the Real Property located at 817, 819, 821 and 823 Main Street in Nashville, Tennessee of Record in Minute Book 328, Page 37, should be amended in Paragraphs F and G and Paragraphs 5 and 6 of said Order to reflect the respective

claims of the parties over their ownership interest in the property known as 817 and 819 Main Street and their respective claims over the sale proceeds to be derived from the sale of the property known as 817 and 819 Main Street; that said issues shall be reserved by the Court for further determination as to the parties' respective ownership interest in the property known as 817 and 819 Main Street and the parties' respective ownership interest in the sale proceeds to be derived from the property known as 817 and 819 Main Street; and that the sale proceeds derived from the sale of the property known as 817 and 819 Main Street should be tendered into the Registry of the Probate Clerk's Office for Davidson County, Tennessee and deposited in an interest bearing account pending a final determination of the respective ownership interest of the parties in said proceeds. Therefore, it is hereby

ORDERED, ADJUDGED AND DECREED that Defendants Mary O. McCabe, Robert A. McCabe and Thomas E. McCabe's Motion to Amend the Order Approving the Sale of the Real Property located at 817, 819, 821 and 823 Main Street, in Nashville, Tennessee of Record in Minute Book 328, Page 37, Probate Clerk's Office, is hereby denied in its entirety.

It is further **ORDERED, ADJUDGED AND DECREED** that the Order Approving the Sale of the Real Property located at 817, 819, 821 and 823 Main Street, Nashville, Tennessee of Record in Minute Book 328, Page 37, shall be **AMENDED** in Paragraphs F and G and Paragraphs 5 and 6 as follows:

> (F) That with respect to the subject property known as 817 and 819 Main Street, Nashville, Davidson County, Tennessee, Plaintiff claims that the Defendant Ward, Nellie E. Jones owns a one-half (1/2) undivided interest as tenant in common in said property, and also claims a one-half (1/2) undivided interest in the sale proceeds to be derived from the sale of the property known as 817 and 819 Main Street.
>
> (G) That with respect to the subject property known as 817 and 819 Main Street, Nashville, Davidson County, Tennessee, the Defendants Mary O. McCabe, Robert A. McCabe, Thomas E. McCabe and the Estate of Margaret McCabe and her surviving heirs at law claim that the Defendant Ward only owns a one-third (1/3) undivided interest as tenant in common in the

property known as 817 and 819 Main Street; that Defendant Mary McCabe owns a one-third (1/3) undivided tenant in common interest in the property known as 817 and 819 Main Street; and that the Estate of Margaret McCabe and her surviving heirs (Mary McCabe, Thomas McCabe and Robert McCabe) own the remaining one-third (1/3) undivided tenant in common interest in the property known as 817 and 819 Main Street.

5. That because a material dispute exists between the parties over their respective ownership interest in the property known as 817 and 819 Main Street and their ownership interest in the proceeds to be derived from the sale of the property known as 817 and 819 Main Street, the remaining sale proceeds derived from the sale of the subject property known as 817 and 819 Main Street shall be deposited into the Registry of the Probate Clerk for Davidson County and invested in an interest bearing account on behalf of the respective parties pending a final determination by the Court of the parties' ownership interest in said proceeds.

6. That the Defendant Nellie Jones, Ward, shall be entitled to one-half (1/2) of the remaining sale proceeds from the sale of the subject property known as 821 and 823 Main Street, Nashville, Davidson County, Tennessee, and shall directly receive said proceeds upon the closing of said property; and further, that the Defendant Mary McCabe shall be entitled to other one-half (1/2) of the remaining sale proceeds from the sale of the subject property known as 821 and 823 Main Street, Nashville, Davidson County, Tennessee, and said one-half (1/2) proceeds shall be deposited into the Registry of the Probate Clerk for Davidson County for the benefit of Defendant Mary McCabe and invested in an interest bearing account pending further Orders of the Court.

It is further **ORDERED, ADJUDGED AND DECREED** that all other matters in the Order Approving the Sale of the Real Property known as 817, 819, 821 and 823 Main Street of record in Minute Book 328, Page 37, shall remain in full force and effect.

It is so **ORDERED** this the 23 day of January, 1989.

JAMES R. EVERETT, JR.
JUDGE OF THE PROBATE COURT

SUBMITTED FOR ENTRY:

RAY & HOUSCH

BY: _____
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ROBERT JACKSON & ASSOCIATES

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Estate of Nellie E. Jones

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Guardian Ad Litem for
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FOLEY, WEISS, BALTZ, EISENTEIN & MOSES

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242-2521

Administratrix of the Estate of
Margaret McCabe

cc: Mr. Jim Tomkins
Attorney for Defendant Ruth Scruggs

STATE OF TENNESSEE, DAVIDSON COUNTY

I, BILL COVINGTON, Clerk of the Probate Court of Davidson County, State aforesaid, do certify that the foregoing is a full, true and complete copy, of the original on file in my office. Minute Book 329 Page 170
Given under my hand and official seal at office, in Nashville, this 30 of Jan 1987.

BILL COVINGTON
Clerk of Probate Court
By _____
Deputy Clerk

$15.00