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Box 10-A

LAST WILL AND TESTAMENT

OF

MARY LEE DERRYBERRY

Davidson County WILL
Recvd: 12/07/01 15:37 9pgs
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I, **Mary Lee Derryberry**, a resident of Nashville, Davidson County, Tennessee, being of sound and disposing mind and memory, do hereby make and publish this my Last Will and Testament, hereby revoking all other wills and codicils heretofore made by me.

ITEM 1

I direct that all of my just debts, funeral expenses, costs of administration, and all estate, inheritance, succession, transfer and legacy taxes payable by reason of my death under the laws of the United States or of any state, together with all interest on such taxes, shall be paid out of my general estate and shall not be apportioned.

ITEM II

I give, devise and bequeath to my son, **Billy Newman Derryberry**, if he survives me, all my clothing, jewelry, china, furniture, other household furnishings, along with other personal effects, etc., plus automobiles, if I own any such articles answering the above description at time of my death.

ITEM III

I give and bequeath to my son, **Billy Newman Derryberry**, if he survives me, a life estate in my home at 2713 Westwood Avenue, Nashville, Tennessee 37212 with remainder interest to **David Lipscomb University** as Trustee pursuant to the Trust established in Item V. If my home is not deemed suitable for him for his needs, then I direct that the Trustee of the trust established in Item V give assistance in the sale of this property and sufficient proceeds therefrom be invested in other suitable living quarters or used for rental payments for a desirable apartment. These options shall be made entirely by my son after consultation with the Trustee. Any surplus funds from the sale of the above residence which are not needed for the purchase of other suitable living quarters for my son shall be added to the trust. Any additional

funds needed beyond the funds generated from the sale of said residence shall be taken from the principal of the trust in the event the decision is made to purchase a residence rather than renting suitable quarters for my son.

ITEM IV

I give and bequeath to my son, **Billy Newman Derryberry**, if he survives me, the tax free bonds, Series E bonds, and cash in banks or elsewhere in my name. Provided, however, it is the intent of this bequest that these items mentioned in Item IV shall be bequeathed to my son only to the extent they do not exceed $25,000.00. In the event that these items exceed $25,000.00, then any amounts in excess of $25,000.00 shall be distributed in the trust established in Item V hereunder.

I give and bequeath to my sister, **Mabel C. Lair**, Florence, Alabama, if surviving, the sum of $3,000.00.

ITEM V

I give, devise and bequeath to **David Lipscomb University**, Nashville, Tennessee, as Trustee, its successors and assigns, the largest amount that can pass free of federal estate tax by reason of the Unified Credit and state death tax credit allowable to my estate, diminished by the value for federal estate tax purposes of all other items in my federal gross estate which pass under Items II-IV of this will or outside of this will.

1. The trust shall be used for the support, comfort and medical attention of **Billy Newman Derryberry** and the Trustee is authorized to encroach upon the principal in such amount and from time to time as it may deem necessary. If he should become unemployed, or reach an age where health decline is sufficient to warrant, then supplemental health and hospitalization insurance coverage deemed sufficient should be purchased and paid for out of this trust fund; also the monies for the trading of automobiles as he desires necessary. The Trustee shall pay $750/month to my son, **Billy Newman Derryberry**. The sum set forth in this paragraph has been determined as of the date of execution of this will. I direct

my Trustee to revise the monthly figure to pay to my son by such amounts as the Consumer Price Index as determined by the federal government has increased or decreased from the time of execution of this will to the date of my death. (i.e. a 10% increase from date of execution of will to date of death would result in a 10% increase to the $750 per month figure) Any additional income shall be accumulated. At his death, reasonable burial expenses shall be provided. A burial plot has been provided in the Garden of the Good Shepherd at Woodlawn Memorial Cemetery. Tax returns for the trust plus the individual return for **Billy Newman Derryberry** shall be prepared by **David Lipscomb University**, as Trustee, and expenses charged to the trust. After the death of my son, if there are any funds remaining they shall continue to be held by the Trustee pursuant to the terms and conditions hereof.

2. After the death of my son, **Billy Newman Derryberry**, this trust shall terminate unless he has a surviving wife and/or he has issue under 25 years of age, in which case, income from remaining funds, if any, shall continue to be paid in equal shares (1 share to wife and 1 share to surviving issue) for reasonable support, comfort and medical attention of said beneficiaries. Payments to or for the benefit of surviving issue shall be paid to each issue until (s)he reaches the age of 25 years. When the last of the issue attains the age of 25 years, the payments shall cease. Payments to or for the benefit of surviving wife shall continue so long as the wife remains unmarried. If income is not sufficient, authorization to encroach on principal shall continue. The actual amount of income distributed shall be in the sole discretion of the Trustee. Upon the happening of the occurrences stated in this paragraph, the trust shall terminate and be distributed 50% to the issue of my son and 50% divided equally between **David Lipscomb University**, Nashville, Tennessee, **Lakeshore Estates, Inc.**, Nashville, Tennessee and **Woodmont Hills Church of Christ**, Nashville, Tennessee.

3. If there is no surviving spouse or issue of my son, **Billy Newman Derryberry**, at his death, the following bequests shall be made to the named nieces and nephews, if surviving:

a. **Delina McLaughlin**, Oak Grove, California (niece) - $1,000.00;

b. **Henry Cowley**, Sacramento, California (nephew) - $1,000.00

c. **Denise Wagner**, Sacramento, California (niece) - $1,000.00

e. **Cindy Lee Rodgers**, Rancho Palos Verdes, California (niece) - $1,500.00

f. **Michael Rodgers**, Rancho Palos Verdes, California (nephew) - $1,500.00.

g. **Edward C. Moulton**, Palm Harbor, Florida (nephew) - $3,000.00

If any of the nieces or nephews in Item V 3(a) - (f) predecease my son, then their share shall be distributed proportionately among the other surviving nieces or nephews in Item V 3(a) - (f).

h. Remainder shall be equally divided between **David Lipscomb University, Nashville, Tennessee, Lakeshore Estates, Inc., Nashville, Tennessee, and Woodmont Hills Church of Christ, Nashville, Tennessee.**

If any of the charitable organizations mentioned in the paragraph above do not qualify as an organization described in Sections 2522(a), 2055(a) and 170(c) of the Federal Internal Revenue Code, then the trust proceeds shall be distributed equally among the remaining charitable organizations mentioned in this bequest.

ITEM VI

After funding of the trust established in Item V, I give, devise and bequeath the remainder of my estate to **David Lipscomb University**, Nashville, Tennessee as Trustee, to be held, administered and distributed for the following uses and purposes:

If my son, **Billy Newman Derryberry**, shall survive me, then until the termination of the trust as hereinafter provided, the

[redacted] shall, in each taxable year of the trust, pay to the life beneficiary, in equal quarterly installments, a unitrust amount of 5% of the net fair market value of the trust assets value on the first day of each taxable year of the trust. The unitrust amount shall be paid from the income and, to the extent income is not sufficient, from the principal of the trust. Any income from the trust for a taxable year in excess of the unitrust amount shall be added to principal. In determining the unitrust amount, the Trustee shall prorate the same, on a daily basis, for a short taxable year and for the taxable year of the life beneficiary's death.

If the valuation date selected does not occur in a taxable year of the trust, other than the year in which the non-charitable interest terminates, the trust assets shall be valued as of the last day of such taxable year. In the case of the taxable year in which the non-charitable interest terminates, if the selected valuation date does not occur before the day the non-charitable interest terminates, the trust assets shall be valued as of the day the non-charitable interest terminates.

B. The obligation to pay the unitrust amount shall commence with the date of my death, but payment of the unitrust amount may be deferred to the end of the taxable year of the trust in which occurs the complete funding of the trust. Within a reasonable time after the occurrence of said event, the Trustee must pay to the Life Beneficiary, in the case of an underpayment, or must receive from the Life Beneficiary, in the case of an overpayment, the difference between:

(a) any unitrust amounts actually paid, plus interest, compounded annually, computed for any period at the rate of interest that the federal income tax regulations under Section 664 of the Internal Revenue Code prescribe for the trust for such computation for such period; and

(b) the unitrust amounts payable, determined under the method described in Section 1.664-1(a)(5)(ii) of the federal income tax

regulations, plus interest, compounded annually, computed for any **period at the rate of interest that the federal income tax regulations under Section 664 of the Internal Revenue Code** prescribe for the trust for such computation for such period.

In the event that the net fair market value of the trust assets is incorrectly determined by the Trustee for any taxable year, then within a reasonable time after the final determination of the correct value, the Trustee shall pay to the Life Beneficiary, in the case of an undervaluation, or the Life Beneficiary shall repay to the Trustee, in the case of an overvaluation, the difference between the unitrust amount properly payable and the unitrust amount actually paid.

C. Upon the death of the Life Beneficiary, the Trustee shall distribute all of the then principal and income of the trust (other than any amount due the Life Beneficiary) in equal shares to **David Lipscomb University**, Nashville, Tennessee, **Lakeshore Estates, Inc.**, Nashville, Tennessee and **Woodmont Hills Church of Christ**, Nashville, Tennessee. If at that time, any of the above do not qualify as an organization described in Section 2522(a), 2055(a), 170(c) and 170(b)(1)(A) of the federal Internal Revenue code, then the principal and income of the trust shall be transferred to the other named organization.

D. Except for the payment of the unitrust amount hereunder, the Trustee is prohibited from engaging in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code, from retaining any excess business holdings as defined in Section 4943(c) of said Code which would subject the trust to tax under Section 4943 of said Code, from making any investments which would subject the trust to tax under Section 4944 of said Code, and from making any taxable expenditures as defined in Section 4945(d) of said Code. The Trustee shall make distributions at such time and in such manner as not to subject to the trust to tax under Section 4942 of said Code. Nothing in this trust instrument shall be construed to restrict the Trustee from investing the trust asset in a manner which could result in the annual realization of

reasonable amount of income or gain from the sale or disposition of trust assets.

The references herein to designated sections of the federal Internal Revenue Code shall be deemed to include any corresponding provisions of the federal tax laws at any time and from time to time in force and effect during the continuance of, and until the final termination of, this trust.

E. If the Life Beneficiary shall fail to survive me, then upon my death, I bequeath and devise the aforesaid property in equal shares to the charities in subparagraph C.

F. The bequest passing in Items V and VI to **David Lipscomb University** shall be held in the permanent endowment fund of David Lipscomb University under a scholarship fund known as the **Dorris and Mary Lee Derryberry Business Scholarship Fund.** The income from this scholarship fund shall be used to provide scholarships to needy students whose major field of study is in the Department of Business Administration at David Lipscomb University.

ITEM VII

Neither the income nor principal of any trust created herein shall be pledged, assigned, transferred, sold, or in any manner whatsoever accelerated, anticipated or encumbered by any beneficiary. Neither shall any income or principal of the trust be in any manner subject to or liable in the hands of the Trustee for the debts, contracts or engagements of any beneficiary or be subject to any assignment or other voluntary or involuntary alienation or disposition whatsoever.

ITEM VIII

The Trustee, under the trust which I have created herein, shall have the powers as set forth and defined in Section 35-50-110 of the Tennessee Code Annotated, as amended, which are incorporated herein by reference, and such other powers that may be granted by law with respect to the trust hereunder, to be exercised as the Trustee, in its discretion determined to be to the best interests of the beneficiaries, with the exception of definite specifications made herein.

ITEM IX

I hereby nominate and appoint **David Lipscomb University**, Nashville, Tennessee, as Executor of my estate. I waive the requirements of bond on behalf of my said Executor and Trustee. It is my desire that my sister, **Nina M. Moulton and her husband, James D. Moulton**, while surviving, of Knoxville, Tennessee, serve as contacts for agreements on major decisions concerning the trust as it relates to my son or his issue. If my sister and her husband predecease me or become unable to serve in the role specified herein, then I direct that my nephew, **Edward C. Moulton**, serve as the same role as advisor to the Trustee. I understand that **David Lipscomb University** as Trustee will have full legal responsibility, but I feel that the **Moultons** can provide some guidance to **David Lipscomb University** in their role as Trustee of the trust herein created.

IN WITNESS WHEREOF, I have hereunto subscribed my name to this, My Last Will and Testament, on this the 7 day of October, 1992.

TESTATRIX

Mary Lee Derryberry
MARY LEE DERRYBERRY

The foregoing instrument, consisting of this and seven (7) preceding typewritten pages, was signed, published and declared by **MARY LEE DERRYBERRY** to be her Last Will and Testament in our presence, and we, at her request and in her sight and presence and in the sight and presence of each other have hereunto subscribed our names as attesting witnesses, the day and date above written.

[redacted]
WITNESS

1605 21st Avenue South, Nashville TN
ADDRESS

Todd D. Gibson
WITNESS

5141 Pritchett Dr. Nashville TN
ADDRESS

[redacted] [redacted]

AFFIDAVIT BY WITNESSES
TO LAST WILL AND TESTAMENT

Each of the aforesaid witnesses, being Todd D Glisson and Robin Sayer, subscribe to the foregoing Last Will and Testament of **MARY LEE DERRYBERRY**, executed on the 7th day of October, 1992, having been requested by the Testatrix to make and sign this Affidavit, and having first been duly sworn before the Notary Public whose name appears below, hereby state that the said **MARY LEE DERRYBERRY** was over eighteen years of age, was of sound mind, declared the foregoing instrument to be her Last Will and Testament, published and executed it freely, without undue influence or coercion, by signing each page in the presence of all of us who are present at the same time and we, in her presence and at her request and in the presence of each other, subscribed our names as witnesses on the 7th day of October, 1992.

Todd D. Glisson — 5141 Richland Dr. Nashville TN
WITNESS — ADDRESS

[signature] — 1605 2nd Avenue South, Nashville TN
WITNESS — ADDRESS

Sworn to and subscribed before me on this the 7th day of October, 1992.

[signature]
NOTARY PUBLIC

My Commission Expires: My Commission Exp...

STATE OF TENNESSEE, DAVIDSON COUNTY

I, Richard R. Rooker, 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. Will Book 121 Page 663

Given under my hand and official seal, at office in Nashville, this 5 of Dec. 2001

RICHARD R. ROOKER, CLERK

By [signature] Deputy Clerk

RICHARD R. ROOKER CIRCUIT COURT CLERK

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