Return to: Prepared by:
Rudy Title & Escrow, LLC
2012 21st Ave. South
Nashville, TN 37212

# AFFIDAVIT

I, Cara Monforte, an employee of Rudy Title and Escrow, LLC, hereinafter referred to as Affiant, being first duly sworn, makes oath as follows:

1. That Affiant presently works at the following address:

Rudy Title and Escrow, LLC
2012 21st Avenue South
Nashville, TN 37212

Davidson County AFFIDAVIT
Recvd: 08/25/05 14:35 11 pg
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20050825-0101860

2. That Affiant discovered Stephen J. Luttrull retained an interest in property as set out in deed of record in Book 9053, page 633, Register's Office for Davidson County, Tennessee for property located at 1900 Richard Jones Road, Unit W-6, Nashville, Tennessee, and being more particularly described as follows:

> A certain tract or parcel of land in Davidson County, State of Tennessee, described as follows, to wit: Parcel No. 198, being Unit No. W-6 in a Horizontal Property Regime located on the plat of Green Hills Terrace of record in Book 5200, Page 64, and as established by Master Deed of record in Book 5304, Page 702, Register's Office for Davidson County, Tennessee, to which reference is hereby made for a more complete description.

3. That the said Stephen J. Luttrull died testate and his will remains unprobated.

3. That Affiant has attached herewith, marked Exhibit "A", a copy of the Last Will and Testament of Stephen J. Luttrull.

FURTHER AFFIANT SAITH NOT.

Cara Monforte

STATE OF TENNESSEE

COUNTY OF DAVIDSON

Before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared the within named Affiant, Cara Monforte, with whom I am personally acquainted, who made oat that the statements contained in the foregoing affidavit are true of Affiant's own knowledge.

Witness my hand and official seal at Nashville, Tennessee this 9th day of May, 2005.

RACHEL WILSON NOTARY PUBLIC AT LARGE DAVIDSON COUNTY, TENN.

Notary Public

My Commission Expires: My Commission Expires MAR. 31, 2007

s:/cara-affidavit

**Exhibit "A"**

RECORDERS MEMO
LEGIBILITY OF WRITING, TYPING OR PRINTING IN THIS DOCUMENT UNSATISFACTORY WHEN RECEIVED

# LAST WILL AND TESTAMENT

# OF

# JOHN STEPHEN LUTTRULL

My name is John Stephen Luttrull. I presently reside in Davidson County, Tennessee, and I declare this to be my Last Will and Testament, revoking all prior testamentary instruments.

My wife is Oma June Wise Luttrull, and all references herein to my "wife" or "spouse" shall refer to her. We have one adult child whose name is Lawrence Howard Luttrull, and all references herein to my child or my son shall refer to him.

## ARTICLE I

## APPOINTMENT OF FIDUCIARIES

1.1 **Appointment of Personal Representative.** I appoint my wife, Oma June Wise Luttrull, as Executrix of my estate. If my wife does not survive me or if she should be unable or unwilling to serve for any reason, I then appoint our son, Lawrence Howard Luttrull of Hendersonville, Tennessee, to serve as Executor. If my said son does not survive me or if he should be unable or unwilling to serve for any reason, I then appoint my grandson, Andrew Todd Luttrull, to serve as Executor of my estate.

Those so named and any successor fiduciaries qualified and responsible for the administration of my estate are referred to generally herein as my "personal representative."

J. S. L.

1.2 **Accounting and Inventory of Estate.** I excuse my personal representative from the requirement of filing an accounting or a detailed inventory of my estate in the probate proceedings.

1.3 **Bond is Excused.** I direct that my personal representative be permitted to serve without bond. If a bond is required for any reason, then such bond may be purchased using funds of my estate.

1.4 **Resident Fiduciary.** If applicable law requires the appointment of a resident fiduciary to serve with any of the fiduciaries named herein who may be non-residents, I authorize the named, non-resident fiduciary to designate a person or corporate entity to fulfill the resident fiduciary requirement with authority to waive bond in his or her discretion.

## ARTICLE II

## ADMINISTRATION OF ESTATE

2.1 **Expenses, Debts, and Taxes.** All of my lawful debts, funeral expenses and expenses of the administration of my estate are to be paid from my general estate as soon as is practicable after my death at the discretion of my personal representative.

All inheritance, estate, and similar taxes assessed by reason of my death, (but excluding any generation-skipping tax), shall be paid in respect of all property and interest required to be included in my estate for tax purposes whether the same passes under this Will or otherwise and without contribution from any recipient of any property required to be included in my estate for tax purposes, except to the extent there is a provision for payment of taxes out of such property or interest. Any generation-skipping tax resulting from a transfer occurring under this Will, or otherwise, shall be charged to the property constituting the transfer in the manner provided by applicable law.

I direct that all property interests passing from me to my wife, whether the same passes under or outside this Will, qualify to the fullest extent for the marital deduction under the Federal Internal Revenue Code and any similar state law so that no taxes are paid out of or assessed to that which can be qualified as the marital deduction share.

2.2 **Secured Debts.** I do provide, however, that any debts of mine which are secured by mortgages, deeds of trust or other security instruments may be paid from my general estate, or such debts may be continued according to their terms and the property interest delivered to the beneficiary subject to the unpaid balance of the obligation, with the option at the discretion of my personal representative.

2.3 **Ancillary Administration.** If, at the time of my death, I own or have an interest in property located outside the state of my domicile, I authorize the payment from my domiciliary estate of the cost of ancillary and similar proceedings in other jurisdictions. To such extent as may be allowed by the laws of another jurisdiction, I authorize my personal representative to serve in the same or similar capacity, alone or with someone else if required, and without bond unless required by law.

ARTICLE III

SPECIFIC BEQUESTS

3.1 **Bequest of Tangible Personal Property.** I leave to my wife all my tangible personal property and personal effects described generally as jewelry, wearing apparel, articles of personal adornment, books, pictures, paintings, automobiles, animals, household furniture, furnishings, decorations and equipment.

3.2 **Alternate Beneficiaries.** If my wife does not survive me, I then leave all my tangible personal property to my son, Lawrence Howard Luttrull

 L.H.L.

ARTICLE IV

DISPOSITION OF RESIDUARY ESTATE

4.1 **Residuary Bequest.** If my wife survives me, I leave all the rest, residue and remainder of my estate to my wife, outright as her sole and separate property, free of trust.

4.2 **If Wife Does Not Survive.** If my wife does not survive me, I then leave my entire residuary estate to my son, outright as his sole and separate property free of trust, or equally among his issue if he does not survive me.

4.3 **Alternative Disposition of Estate.** If my wife does not survive me and as of ninety (90) days after the date of my death there are no living children or issue of mine, the provisions of this Article shall not apply, and I then leave my entire estate and all which remains after payment of debts, taxes and expenses of the administration of my estate one-half to my heirs-at-law, and one-half to my wife's heirs-in-law.

ARTICLE V

POWERS, DUTIES AND AUTHORITIES

5.1 **Fiduciary Powers.** My personal representative (my "fiduciary") shall have all of the powers set forth in Section 35-50-110, Tennessee Code Annotated, which are incorporated into this Will by specific reference with all amendments and additions thereto as the same may be in effect from time to time. In addition to the foregoing powers incorporated by reference and without limiting said powers, my personal representative shall have the powers and duties set forth in the balance of this Article. These additional items shall be construed as expanding upon and not in limitation of the incorporated, statutory powers.

5.2 **Authority to Operate Business.** My personal representative shall have full and complete authority to continue the operation of any business or business interest which I may

 L. K. L.

have at the time of my death without the necessity of court approval and for such time as my personal representative deems appropriate. My personal representative shall be exonerated from liability for any loss incurred in the operation of such business so long as acting in good faith and not guilty of willful misconduct.

My personal representative shall have full and complete authority to retain any business interest of mine as shareholder, security holder, creditor, partner or otherwise, for any period of time whatsoever, even though the interest may constitute all or a large portion of the trust principal. My personal representative is to comply with the provisions of any agreement made by me restricting or requiring transfer of the interest.

5.3 **Authority to Sell Real Property.** My fiduciary shall have the authority and discretion to buy or to sell or lease real property or any interest in real property which I may have and to use and apply the proceeds from a sale or lease to the payment of debts, taxes, and expenses of administration of my estate and may generally treat real property the same as personalty.

5.4 **Authority to Borrow.** My personal representative shall have the authority to borrow money for the benefit of my estate and pledge the assets of the estate as security for borrowed funds.

5.5 **Powers of Appointment.** With reference to any powers of appointment vested in me, and to such extent as I am allowed to do so, I authorize my personal representative to exercise or decline to exercise such powers of appointment as the personal representative determines to be in the best interest of my estate and the beneficiaries of my estate. This authorization is not to be construed as a general exercise of any such power.

5.6 **Payments to Minor, etc.** If my personal representative determines that income is payable to a minor or to a person under mental or physical disability, then my fiduciary shall have the discretion to either make payments directly to the beneficiary, to the legally appointed guardian or conservator, or to distribute and pay amounts directly to others for the benefit of such beneficiary. No recipient of payments from my fiduciary for the benefit of a minor or incompetent shall be required to furnish bond with respect to any such funds or make reports as to the disposition of same, unless such is specifically required by the fiduciary.

5.7 **Beginning of Payments.** Beginning immediately after my death, my personal representative may begin making payments to my beneficiaries during the administration of my estate and need not wait for the final settlement of the estate. My personal representative shall be given credit on the final settlement for all disbursements made to my beneficiaries under the provisions of this power.

5.8 **Unproductive Assets.** I authorize my personal representative and Trustee to hold unproductive assets in the absence of a specific written request from a beneficiary to dispose of same and convert such assets to income producing property.

5.9 **Insurance Premiums.** My fiduciary is authorized to hold, own and pay premiums on life insurance policies owned by me and to continue same in force for so long as deemed appropriate.

5.10 **Disposition of Life Insurance Proceeds.** My personal representative shall distribute life insurance proceeds received by my estate according to the provisions of this Will or, in the discretion of the personal representative may, (but is not required to do so) use all or a part of the proceeds for the payment of funeral and administration expenses, death taxes, and my lawful debts.

5.11 **Payment of Penalties and Interest.** I authorize my personal representative to pay from my general estate any interest which may accrue on debts or taxes due from my estate. Provided also, I authorize the payment of any penalties assessed as a charge against my estate so long as they are not the result of a willful dereliction of duty by my personal representative.

5.12 **Environmental Matters.** My fiduciary shall not be liable for any loss or depreciation in value sustained as a result of retaining any property upon which there is discovered to be hazardous materials or substances requiring remedial action pursuant to any federal, state, or local environmental law, unless the fiduciary contributed to the loss or depreciation in value through willful default willful misconduct, or gross negligence.

5.13 **Lifetime Trusts.** If during my lifetime I have established trusts with provisions authorizing transactions with my estate, I hereby authorize my personal representative and Trustee named herein to buy or sell assets, borrow or loan monies, exchange assets and generally deal with such trusts and Trustee thereof as my fiduciary determines to be in the best interest of my estate and the beneficiaries thereof

ARTICLE VI

MISCELLANEOUS PROVISIONS

6.1 **Common Disaster.** In the event my wife and I should die under such circumstances as to make it impossible to determine the order of our deaths, it shall be presumed for all purposes of this Will that my wife survived me

6.2 **Spendthrift Provision.** I direct that the interest of the beneficiaries under this Will and the Trust established hereby shall not be subject to or liable in any manner to or for their anticipation, assignments, sales, pledges, debts, contracts, engagements or liabilities or subject or liable to attachment and execution under any legal or equitable process. No interest

under this Will shall be assignable by any beneficiary or be subject to any claims, including claims for alimony or separate maintenance.

6.3 **Disclaimer.** I give the right to all beneficiaries or their legal representatives to disclaim all or such part of a legacy or devise as the beneficiary or his legal representative may specify in writing deposited with my personal representative and filed in the Probate Court in the County in which my estate is being administered within the time prescribed by the applicable law following my death or the time allowed after becoming entitled to receive an interest in my estate.

If a beneficiary disclaims, his or her share shall lapse and be distributed as if the beneficiary had not survived me.

**IN WITNESS WHEREOF,** I have executed this as my Last Will at Nashville, Tennessee, this 17th day of June, 2002 and request the attesting witnesses to make the affidavit set out below

JOHN STEPHEN LUDWELL, Testator

On the date shown above, John Stephen Luttrull, produced to us the foregoing instrument declaring it to be his Last Will and Testament, and he signed the same in our sight and presence and we, the undersigned, at his request and in his sight and presence, and in the sight and presence of each other, have signed our names as attesting witnesses on the day and date above shown.

ATTEST TO EXECUTION OF WILL:

Richard D Bird

RICHARD D BIRD
(Print Name)

William A Florie

William A Florie
(Print Name)

ADDRESSES:

305 St James Ct

Nashville, TN 37215

6001 Old Hickory Blvd #149

Hermitage TN 37076

STATE OF TENNESSEE )

COUNTY OF DAVIDSON )

## AFFIDAVIT OF ATTESTING WITNESSES

We, the undersigned witnesses to the foregoing Last Will and Testament to which this is attached, being more than 18 years of age and having no interest in his estate, do depose and make affidavit that John Stephen Luttrull, on the day and date shown produced this instrument, declared the same to be his Last Will and Testament and signed it as such in our sight and presence and we, at his request and in his sight and presence, and in the sight and presence of each other, signed as attesting witnesses. At the time, we considered John Stephen Luttrull, to be of sound mind and knew him to be more than 18 years of age.

Heather M. Tilson

William L. Flowe

**SWORN TO AND SUBSCRIBED** before me this 18th day of January, 2002.

Ruth Anne Carothers
NOTARY PUBLIC

My Commission Expires: 11-12-02