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RICHARD R. ROOKER, CLERK
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049-1562

# LAST WILL AND TESTAMENT

# OF

# BEN G. HARPER

BILL GARRETT, Davidson County
Trans:T20100045883 WILL
Recvd: 07/27/10 10:58 5 pgs
Fees:27.00 Taxes:0.00
20100727-0058801

I, **BEN G. HARPER**, a resident of Nashville, Davidson County, Tennessee, being of sound mind and disposing memory, do hereby make, publish and declare this as my Last Will and Testament, hereby revoking any and all other Wills heretofore made by me.

## ARTICLE I

I nominate and appoint my wife, **BETTIE Y. HARPER**, and my stepson, **MICHAEL TYREE**, as Co-Executors, without bond. If for any reason either my wife or my stepson fail to qualify, or having qualified cease to act as Co-Executor, either may serve alone, without bond.

## ARTICLE II

I will and direct that all of my just debts, including funeral and testamentary expenses and expenses of my last illness, be paid as soon as conveniently may be after my death. Notwithstanding the foregoing my Co-Executors upon their sole discretion and judgment, may decide not to pay off in full any note or notes as might be secured by one or more mortgages or deeds of trust. I further will and direct that all estate, inheritance, succession, legacy, transfer, and other taxes of the same nature which are payable because of my death, including any interest or penalties thereon, with respect to the property comprising my estate for such tax purposes, whether or not such property passes under this Will and whether such taxes are payable by my estate or by any recipient or beneficiary of any such property, shall be paid entirely out of my residuary estate as an expense of administration and without apportionment, and with no right of reimbursement from any recipient or beneficiary of any property.

I will and direct that the proceeds of any life insurance payable to my estate may be used for the payment of debts and taxes.

## ARTICLE III

My Co-Executors shall have all of the powers enumerated in *Tennessee Code Annotated, Section 35-50-110*; and the introductory paragraph and all subparagraphs thereof are hereby incorporated herein by reference as fully as though copied herein verbatim.

## ARTICLE IV

I bequeath the sum of **Three Thousand ( $3,000.00) Dollars** to the Stuart Cemetery Trustees for the use and benefit of Stuart Cemetery located on Highway 96 in Burns, Dickson, Tennessee.

Ben G Harper dlm

**BEN G. HARPER** SH

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## ARTICLE V

My wife, **BETTIE Y. HARPER,** and I purchased a home for the purpose of arranging financing for my step-granddaughter, **MELISSA TYREE LANGE.** This property is located at 524 Holt Valley Road, Nashville, Davidson County,, Tennessee, and is recorded as Instrument No. 200309220139718, in the Register of Deeds Office for Davidson County. I devise and bequeath any interest that I may have in this property to my step-granddaughter subject to the indebtedness on same. If my step-granddaughter is unable to arrange financing to obtain a release for the mortgage, I direct that the property be sold by my Co-Executors under such terms and conditions as they deem appropriate with any excess proceeds above the mortgage payoff be paid to my step-granddaughter, **MELISSA TYREE LANGE.**

## ARTICLE VI

I devise and bequeath my personal residence, including the land upon which it is situated, and all household goods and furnishings to my wife, **BETTIE Y. HARPER,** if she survives me. If my wife fails to survive me, I direct that my personal residence and furnishings that I may own at the time of my death be sold by my Co-Executors under such terms and conditions as they deem appropriate and their decision in this regard shall be binding upon the estate. If I make a handwritten list of items located in my home that my son and stepson are to receive, I bequeath these items in kind to them. Upon the sale of the home and remaining furnishings, I direct that one-half (1/2) of the net proceeds be paid outright in fee simple to my stepson, **MICHAEL TYREE,** and the other one-half (1/2) of the net proceeds be paid outright in fee simple to my son, **BEN G. HARPER, JR.** If my son or stepson should predecease me, I direct that their share of my estate shall inure to the benefit of their issue ***per stirpes.***

## ARTICLE VII

All of the rest and residue of my estate, real, personal and mixed, of whatever kind and character and wheresoever situate, including the proceeds of any life insurance policies payable to my estate which are not used for the payment of debts and taxes, I direct be converted to cash by my Co-Executors under such terms and conditions as they deem appropriate. After converting my residual estate to cash and after the payment of all debts, I direct that one-half (1/2) of my residuary estate be held by my stepson, **MICHAEL TYREE,** as Trustee, for the use and benefit of my wife, **BETTIE Y. HARPER,** as provided in Article VIII below. I direct that the remaining one-half (1/2) of my residuary estate pass fifty percent (50%) to my son, **BEN G. HARPER, JR.,** twenty-five percent (25%) to my grandson, **BRENT HARPER,** and twenty-five percent (25%) to my granddaughter, **ELIZABETH KATE HARPER.** If my son fails to survive me, his share of my estate shall inure to the benefit of his issue ***per stirpes.***

## ARTICLE VIII

I direct that my wife's share of my residuary estate be held by my stepson, **MICHAEL TYEE,** as Trustee, without bond, to manage and invest my wife's trust funds in a trust known as the **"BETTIE Y. HARPER TRUST",** to be administered by him with the income distributed to my wife, **BETTIE Y. HARPER,** during her lifetime. The Trustee shall not have the power to encroach upon the corpus of the trust. The net income from the trust shall be distributed to my wife at least quarter-annually. My wife's trust shall be subject to the terms contained in this Article. Upon my wife's death, her trust shall terminate and the proceeds shall pass to my son, **BEN G. HARPER, JR.** If my son fails to survive me, his share of the residue of this Trust shall pass to his issue ***per stirpes.***

**BEN G. HARPER**

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## ARTICLE IX

In the event my wife and I die simultaneously or under circumstances which make it difficult to determine which of us died first, then it shall be presumed that I survived my wife.

## ARTICLE X

Although my spouse and I are executing our Wills at or about the same time, I desire to make it plain that there has been no contract between my said spouse and me to make a joint testamentary disposition of our property. It is my intention that no such contract shall be inferred from the execution of Wills which are substantially similar in content. It is my intention that, in the event my spouse survives me, she shall have full power to execute Codicils to her Will and to revoke said Will and execute a later Will or Wills making such disposition of her estate as she may desire in her sole discretion, including all the property passing to her under the provisions of this Will.

## ARTICLE XVII

Whenever used herein, the words "child", "children" and "issue", shall include adopted as well as natural born. Also, whenever used herein, words stated in the singular may be construed as plural, or vice versa, when necessary or appropriate to effectuate the intentions of the testator or if otherwise necessary or appropriate to lend proper sense and meaning to any provision or provisions hereof. Further, in the event that any portion or portions of this Will shall be deemed invalid or unenforceable, such portion or portions shall not affect the remainder of this Will. Further, masculine pronouns and adjectives may be substituted for feminine pronouns and adjectives, and vice versa, in the construction of this Will, where to do so would not conflict with the intentions of the testator as expressed herein and where necessary or appropriate to effectuate such intentions.

**IN WITNESS WHEREOF,** I have hereunto set my hand on this 31 day of July, 2007, to this my Last Will and Testament, and have also subscribed the preceding two (2) pages, this page, and the following page, at the bottom thereof for the purposes of identification.

Ben G Harper dlm SR

**BEN G. HARPER**

Signed, signified and declared by the said **BEN G. HARPER**, being of sound mind and disposing memory, as and for his Last Will and Testament, in the presence and sight of us, present at the same time, who, at his request, in his presence and sight, and in the presence and sight of each other, have subscribed our names as attesting witnesses on the day and year last above written.

**WITNESSES:** Danielle Morton

**Address:** 1718 Whiff Rd
Burns, TN 37029

Stanley Lyons II

**Address:** 115 Tanglewood Dr
Dickson, Tn. 37055

Ben G Harper dlm SR

**BEN G. HARPER**

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STATE OF TENNESSEE ]
COUNTY OF DICKSON ]

**AFFIDAVIT**

Danielle Morton and Stanley Reynolds
being severally duly sworn, depose and say that:

1. We are acquainted with **BEN G. HARPER**, who executed the annexed Last Will and Testament, consisting of four (4) typewritten pages, this page included, dated the 31 day of July, 2007, on that date at Dickson, Tennessee, by subscribing her name at the end thereof in the presence of each of us.

2. At the time of subscribing said Will, **BEN G. HARPER**, declared the instrument so subscribed by him to be his Last Will and Testament, and we thereupon signed our names as witnesses at the end of said instrument at his request, in his presence and sight, and in the presence and sight of each other.

3. At the time of executing said Will, **BEN G. HARPER**, was over the age of eighteen (18) years and in our opinion was of sound mind, memory and understanding and not under any restraint or in any respect incompetent to make a Will.

4. This Affidavit is made at the request of **BEN G. HARPER.**

5. The annexed Last Will and Testament was examined by the undersigned witnesses at the time this Affidavit was made.

Danielle Morton

Stanley Reynolds

Sworn to and subscribed before me this the 31st day of July, 2007.

Debra M. Burns
NOTARY PUBLIC

My Commission Expires: MY COMMISSION EXPIRES: December 12, 2007

DEBRA M. BURNS NOTARY PUBLIC AT LARGE HUMPHREYS COUNTY TN

Ben G Harper alm SR
**BEN G. HARPER**

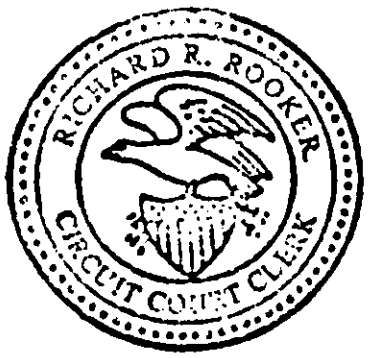
STATE OF TENNESSEE

I, **RICHARD R. ROOKER,** Clerk of the Circuit Court for Davidson County, in the State aforesaid, do hereby certify that the foregoing is a true and correct copy of the LAST WILL AND TESTAMENT heretofore entered in the SEVENTH Circuit Court for Davidson County, Tennessee, on the 14 day of OCTOBER , 2009 , in Case Number 09P1562 between TYREE, JOHN MICHAEL ET.AL Petitioner, and HARPER SR., BEN G. ET.AL Respondent, as same remains in the records of said Court.

**IN TESTIMONY WHEREOF,** I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the 27 day of JULY 2010

**RICHARD R. ROOKER,** Clerk,

SEAL




By _____
Deputy Clerk