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Last Will and Testament

OF

JAMES MORTON VIVRETTE

BILL GARRETT, Davidson County
Trans:T20150038368 WILL
Recvd: 05/18/15 12:29 9 pgs
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I, JAMES MORTON VIVRETTE, a resident of Joelton, Davidson County, Tennessee, being of sound and disposing mind and memory, and above the age of 18 years, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking any and all prior wills or codicils made by me.

ARTICLE I

I direct that all of my matured legal debts, expenses of my last illness, funeral expenses, expenses of the administration of my estate, and any taxes that may be imposed by reason of my death be paid out of my residuary estate by my Executor without proration among the several beneficiaries.

ARTICLE II

I give, devise and bequeath all the rest, residue and remainder of my estate and property, of every kind and character, real, personal, or mixed, wherever located, which I may own, or in which I may have an interest at the time of my death, absolutely and forever, in fee, to my wife, LUCY ELVIE VIVRETTE, should she survive me.

ARTICLE III

If my wife, LUCY ELVIE VIVRETTE, and I should die under circumstances which render it doubtful as to whether my wife or I died first, it shall be conclusively presumed for the purposes of making distributions under this Will and of property owned in an estate by the entirety, that my wife survived me.

James M Vivrette
JAMES MORTON VIVRETTE

Witness: [illegible]

Witness: [illegible]

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ARTICLE IV

In the event that my said wife, LUCY ELVIE VIVRETTE, should not survive me, or in the event that our deaths occur simultaneously or approximately so, in the same accident or calamity in such a manner as to cause doubt as to which of us survived the other, then, except as otherwise provided hereinbelow, and subject to the provisions of the remaining paragraphs of this Will, I hereby give, devise and bequeath all the rest, residue and remainder of my estate and property, of every kind and character, real, personal, or mixed, wherever located, which I may own, or in which I may have an interest at the time of my death, absolutely and forever, in fee and equally, to my children, VIRGINIA ELIZABETH BROWN, ANNA KATHERINE CLINARD, JAMES LANIUS VIVRETTE, CHRISTINE RUDYE STARK, RANDALL WRIGHT VIVRETTE, LARRY GAYLON VIVRETTE, and AUBREY RAY VIVRETTE, and all of my children hereafter born, including adopted children, share and share alike; but in the event that any of my said children, or children hereafter born, including adopted children, shall have died in my lifetime leaving issue living at the time of my death, such issue shall take by representation and *per stirpes* between them the share which their parent would have taken under this Will had such parent survived me.

ARTICLE V

I specifically give, devise and bequeath the homeplace occupied by my wife, LUCY ELVIE VIVRETTE, and me, being a house and approximately two (2) acres of land, more or less, located at 3347 Union Hill Road, Joelton, Tennessee 37080, absolutely and forever, in fee, to my son, LARRY GAYLON VIVRETTE, in addition to the equal share of the rest, residue, and remainder of my estate and property given to him hereinabove. However, I specifically desire and direct that all of the said real property given, devised and bequeathed to my said son, LARRY GAYLON VIVRETTE, shall be delivered to the co-Trustees hereinafter named for him, to be held in trust for his use and benefit in accordance with the instructions and directions set forth hereinbelow.

James M Vivrette
JAMES MORTON VIVRETTE

Witness: O.A.H.

Witness: F.L.M.

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ARTICLE VI

I hereby nominate and appoint my daughter, VIRGINIA ELIZABETH BROWN, and my son, JAMES LANIUS VIVRETTE, to serve as co-Trustees of all property, of every kind and character, real, personal, or mixed, wherever located which has been given, devised and bequeathed to my son, LARRY GAYLON VIVRETTE.

ARTICLE VII

I further direct that the said co-Trustees shall take possession of, hold, manage and control all of the aforesaid property as a trust estate, with all the rights and powers, and subject to the limitations hereinafter enumerated, for the following uses and purposes.

ARTICLE VIII

Subject to the provisions set forth hereinafter, the said co-Trustees shall maintain the said residence in which I am living at the time of my death, as well as all furnishings therein, for the use and benefit of my son, LARRY GAYLON VIVRETTE, until such time as he shall die. It is my specific desire and intent that, should he desire to do so, and for so long as he desires to do so, my said son, LARRY GAYLON VIVRETTE, shall have the full right to live in the said residence and/or on the said property during his lifetime. If at any time my said son, LARRY GAYLON VIVRETTE, shall desire to no longer live on the said premises, the co-Trustees shall have full authority, in the exercise of their best discretion, to sell the said premises for a reasonable price and to add the net proceeds of that sale to the corpus of the trust established herein for the use and benefit of my son, LARRY GAYLON VIVRETTE.

ARTICLE IX

The remaining assets of my estate, if any, which comprise the share given, devised, and bequeathed to my son, LARRY GAYLON VIVRETTE, which are not in the form of lawful currency of the United States of America shall be sold and the net proceeds therefrom shall be invested, along with any and all lawful currency of the United States of America, as the aforementioned co-Trustees deem best, in

James M. Vivrette
JAMES MORTON VIVRETTE

Witness: O. R. H

Witness: E L M

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the interest of the trust estate herein established for the use and benefit of my son, LARRY GAYLON VIVRETTE. Subject to the provisions set forth hereinafter, the co-Trustees shall collect the income, if any, from the property comprising the trust estate and shall retain the same in trust until the death of my son, LARRY GAYLON VIVRETTE. However, during such time, the co-Trustees shall pay to my son, LARRY GAYLON VIVRETTE, or expend on his behalf, so much of the net income derived from the trust estate as the co-Trustees deem advisable to properly provide for his health, support and maintenance, giving proper consideration to the wages, if any, which my son, LARRY GAYLON VIVRETTE, is earning at the time, but with no consideration to the monies which he has accumulated prior to my death, and they may incorporate any income not so disbursed into the principal of the trust.

ARTICLE X

When my son, LARRY GAYLON VIVRETTE dies, in the event that the said homeplace residence has not been previously sold, the co-Trustees shall then sell the said residence, as well as the furnishings therein, for cash, and they shall add the net proceeds of that sale to the said trust estate. At such time as the aforementioned sale has been effectuated, and the net proceeds therefrom have been placed in the trust estate, the co-Trustees shall distribute the balance of the trust estate to my remaining sons and daughters, VIRGINIA ELIZABETH BROWN, ANNA KATHERINE CLINARD, JAMES LANIUS VIVRETTE, CHRISTINE RUDYE STARK, RANDALL WRIGHT VIVRETTE and AUBREY RAY VIVRETTE, in equal shares, share and share alike, and the trust shall then terminate. In the event that one or more of my aforementioned sons or daughters shall have died prior to the termination of the said trust, leaving issue living, such issue shall take by representation and *per stirpes* between them the share which their parent would have taken upon the termination of the trust, had such parent survived until its termination.

ARTICLE XI

Anything in this Will to the contrary notwithstanding, no trust created hereunder shall continue beyond 21 years after the death of the last to die of those beneficiaries who were living at the time of my death; and upon the expiration of such period, all trusts shall terminate and any and all assets thereof

James M. Vivrette
JAMES MORTON VIVRETTE

Witness: O. A. H.

Witness: F. L. M.

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shall be distributed outright and in fee, to those parties (and in the same proportions) as are then receiving, or entitled to receive payments, distributions, or the income therefrom.

ARTICLE XII

Anything in this Will to the contrary notwithstanding, I hereby specifically authorize and empower the said co-Trustees, in their sole and absolute discretion, at any time, and from time to time, to distribute from the principal of the trust estate created under this Will (even to the point of completely exhausting the same) such amounts as they may deem advisable to provide adequately and properly for the health, support and maintenance of my son, LARRY GAYLON VIVRETTE, including, but not by way of limitation, expenses incurred by reason of illness and disability, again giving proper consideration in the distribution to the wages, if any, which my son, LARRY GAYLON VIVRETTE, is earning at the time, but with no consideration to the monies which he has accumulated prior to my death.

ARTICLE XIII

The co-Trustees named under this Will may, in their sole and absolute discretion, terminate the Trust created hereunder when, in their opinion, the principal amount thereof does not warrant the costs of continuing said Trust, or its administration would otherwise be impractical. Upon such termination, the co-Trustees shall pay over or transfer the then remaining balance or assets in the said Trust to or for the benefit of the said beneficiary, as set forth herein.

ARTICLE XIV

In the event that one or more of the co-Trustees named hereinabove shall die, or resign, or be disqualified, or for any reason whatsoever be unable or unwilling to act as co-Trustee, then, and in that event, I hereby nominate and appoint my daughter, CHRISTINE RUDYE STARK, to be the successor, or alternate Trustee, as the case may be, with full power as herein granted.

James M Vivrette
JAMES MORTON VIVRETTE

Witness: O.A.H

Witness: F L M

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ARTICLE XV

I hereby direct that no bond or other security shall be required of VIRGINIA ELIZABETH BROWN or JAMES LANIUS VIVRETTE, or CHRISTINE RUDYE STARK who may succeed as co-Trustee, or as alternate Trustee, upon his or her qualification as co-Trustee, or successor, or alternate co-Trustee, as the case may be, for the faithful performance of their duties.

ARTICLE XVI

I hereby nominate and appoint my son-in-law, CHARLES WAYNE STARK, to be the Executor of this, my Last Will and Testament. If the said CHARLES WAYNE STARK should, for any reason, fail or cease to serve as Executor hereunder, then, in such event, I appoint JAMES C. MIDGETT, JR. as Successor Executor of my estate. All references in this Will to "Executor" shall apply equally to the "Executrix" as applicable. I direct that no bond or other security shall be required of the above-named fiduciaries for the faithful performance of their duties.

ARTICLE XVII

In the event that the Courts of this state, or of any other state, determine that my son, LARRY GAYLON VIVRETTE, is in need of a guardian and/or custodian of his person and/or property, I appoint VIRGINIA ELIZABETH BROWN and JAMES LANIUS VIVRETTE as co-guardians of his person and property, to have exclusive control over his care, custody and maintenance. I further direct that no bond or other security shall be required of these said fiduciaries in any jurisdiction for the faithful performance of their duties as co-guardians and co-custodians.

ARTICLE XVIII

Although my wife, LUCY ELVIE VIVRETTE, and I are executing our wills at or about the same time, I desire to make it clear that there has been no contract between us to make a mutual testamentary disposition of our property. It is my intention that no such contract shall be inferred. It is likewise my intention that, in the event that my wife, LUCY ELVIE VIVRETTE, survives me, she shall have full power

James M. Vivrette
JAMES MORTON VIVRETTE

Witness: O.A.H.

Witness: F.L.M.

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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 any and all property passing to her under the provisions of this Will.

ARTICLE XIX

I hereby incorporate by reference, as fully as if copied verbatim herein, all of the provisions and powers set forth in *Tennessee Code Annotated*, Section 35-50-110, or successor provisions, in accordance with the provisions of *Tennessee Code Annotated*, Section 35-50-109, and which powers I hereby confer upon my Executor, or successor Executor, and my co-Trustees, or successor, or alternate Trustee, and my co-guardians and co-custodians, as applicable.

IN WITNESS WHEREOF, I have hereunto set my hand this 25 day of May, 1996, and do publish and declare this to be my Last Will and Testament in the sight and presence of each and all of the subscribing witnesses whom I have requested to act as such by signing their names as attesting witnesses in my sight and presence and in the sight and presence of each other, and by signing the attached Affidavit pursuant to the provisions of the *Tennessee Code Annotated*, Sections 32-1-103, and 32-1-104.

James M Vivrette
JAMES MORTON VIVRETTE

SIGNED by the said JAMES MORTON VIVRETTE, as and for his Last Will and Testament in the presence of us, the undersigned, who at his request and in his sight and presence, and in the sight and presence of each other, have subscribed our names to this Will as attesting witnesses this 25 day of May, 1996.

Dawn Ann Hall
WITNESS

6299 Eatons Creek Rd.
Address

Jacksboro Tenn. 37080
City, State, Zip Code

Floyd L Melton
WITNESS

3345 Union Hill Rd
Address

Jacksboro Tn. 37080
City, State, Zip Code

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AFFIDAVIT

STATE OF TENNESSEE)
)
)
COUNTY OF DAVIDSON)

We, the undersigned, being first duly sworn, make oath that JAMES MORTON VIVRETTE, on the day and date above written, declared and signified to us that the above instrument is his Last Will and Testament; that he then signed said instrument in our sight and presence; and that we, at his request and in his sight and presence, and in the sight and presence of each other, then subscribed our names to this Will as attesting witnesses; that at the time of the execution of this Will, JAMES MORTON VIVRETTE, was more than eighteen (18) years of age, of sound mind and disposing memory, and did not appear to be under any undue influence; and that we, the undersigned, are each more than eighteen (18) years of age, and make and sign this Affidavit at the request of JAMES MORTON VIVRETTE on the day and date above written.

Connie Ann Hall
WITNESS

Floyd L Melton
WITNESS

SWORN TO and SUBSCRIBED before me this 25th day of May, 1996.

Clifton E. Willis
NOTARY PUBLIC

My Commission Expires: 1-29-2000

000077

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 filed in the SEVENTH Circuit Court for Davidson County, Tennessee, on the 09 day of OCTOBER, 1998, in Docket Number 98P1504, IN RE: VIVRETTE, JAMES MORTON ET.AL, as same remains of record in the Minutes of said Court.

IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the 08 day of APRIL in the year 2015 and in the 238 year of American Independence.

RICHARD R. ROOKER, Clerk,

By: _____
Deputy Clerk

[SEAL]

