Karen Johnson Davidson County
Batch# 953683 WILL
12/21/2022 10:35:44 AM 15 pgs
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20221221-0131730

STATE OF TENNESSEE

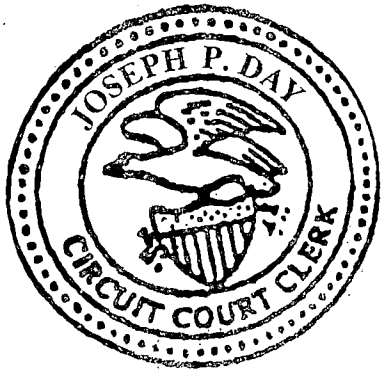
I, JOSEPH P. DAY, Clerk of the Circuit Court for Davidson County, do hereby certify that the foregoing is a true and complete copy of the LAST WILL & TESTAMENT heretofore filed in the Seventh Circuit Court (Probate Division) for Davidson County, Tennessee, on the 8TH day of DECEMBER, 2022, in Docket Number22P2075, IN RE: ROGER C. MARKS, 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 8TH day of DECEMBER in the year 2022 and in the 246 year of American Independence.

JOSEPH P. DAY, Clerk

By: _____
Deputy Clerk

[SEAL]



ZZP 2075

Last Will and Testament

FILED
DEC 08 2022
JOSEPH P. DAY, Clerk
By _____ D.C.

OF

ROGER C. MARKS

I, **Roger C. Marks**, a resident of and domiciled in Nashville, Davidson County, Tennessee, do make, publish and declare the following to be my Last Will and Testament, hereby revoking all prior Wills and Codicils made by me.

ARTICLE I

DEFINITIONS

1.1 **Beneficiaries.** My primary beneficiary in this Will is **Charles Eugene Garrett, Jr.** and my contingent beneficiaries are charities. I have no spouse or children; and my exclusion of persons who are heirs at law is intentional.

1.2 **Fiduciary.** The term "fiduciary" means the Executor serving at any time under this Will and includes successors.

1.3 **Singular and Gender Usage.** Any use of a specific gender includes the other, and any use of the singular includes the plural when such meaning is appropriate.

1.4 **Captions.** The captions contained in this Will are inserted solely as a matter of convenience, and in no way define, limit, or describe the scope of any provision of the Will or the intent thereof.

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ARTICLE II

FIDUCIARIES

2.1 **Executor.** I appoint **Charles Eugene Garrett, Jr.,** currently of Nashville, Davidson County, Tennessee, to serve as Executor of my Will. If he predeceases me, fails to qualify or ceases to serve, I appoint **Colleen P. Mac Lean Sparks**, currently a resident of Nashville, Davidson County, Tennessee, to serve in this capacity. If **Colleen P. Mac Lean Sparks** predeceases me, fails to qualify or ceases to serve, I request that the Court of appropriate jurisdiction appoint an independent Executor who is not related to me.

2.2 **Custodian.** I appoint my Executor as Custodian of any accounts already held by me as Custodian under the Uniform Transfers to Minors Act if no Successor Custodian has been previously designated by me. If my Executor declines to serve as Custodian, I request that the Court of appropriate jurisdiction appoint an independent Custodian who is not related to a beneficiary.

ARTICLE III

PROVISIONS RELATIVE TO FIDUCIARIES

3.1 **Bond.** No bond is required of any fiduciary appointed under this Will.

3.2 **Resignation.** Each fiduciary serving under this Will may resign at any time by giving written notice of the resignation to any remaining fiduciary, to any successor fiduciary or to the court having jurisdiction to appoint a successor fiduciary.

3.3 **Appointment of Successor Fiduciary.** If there is no fiduciary serving, the Court shall appoint a fiduciary.

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3.4 **Appointment of Additional Fiduciary.** If at any time my fiduciaries desire to have additional fiduciaries (acting unanimously if more than one), such fiduciaries shall have the power to appoint such other person or financial institution as such fiduciaries may desire to serve with them as co-fiduciary, including any fiduciaries that may be necessary for ancillary administration of my estate.

3.5 **Action by Beneficiaries.** Any action to be taken by the beneficiaries under this Article is valid if taken by the beneficiaries of the estate who at any time represent a majority in interest in the estate. Any beneficiary who is a minor or who is under other legal disability shall be represented by such beneficiary's parent or duly appointed guardian.

3.6 **Indemnity of Fiduciary.** It is my desire that if Charles Eugene Garrett, Jr. is serving as my fiduciary that he exercise discretion without fear of incurring a liability or expense. Therefore, in this instance, the fiduciary shall not be liable for the exercise or non-exercise of his powers and discretions unless he acts in bad faith or with reckless indifference to the purposes of the trust or interests of the Beneficiary; and the estate shall indemnify the fiduciary for each monetary expense (including attorney's fees) incurred, expended or arising from the exercise of such powers and discretion.

3.7 **Fiduciary Compensation.** My fiduciary may receive reasonable compensation for services rendered.

3.8 **Corporate Fiduciary.** If any corporate fiduciary designated to act, or at any time acting hereunder, is merged with or transfers substantially all of its assets to another corporation, or is in any

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other manner reorganized or reincorporated, the resulting or transferee corporation shall become fiduciary in place of its corporate predecessor.

3.9 **Settlement of Accounts on Vacating Office.** If a fiduciary ceases to serve, except where an individual fiduciary dies, the fiduciary shall file with each other fiduciary, including successors, a settlement of the accounts and an inventory of the estate. The expense of the settlement and inventory shall be paid by the estate. The fiduciary ceasing to serve shall deliver the estate to the successor or remaining fiduciary.

3.10 **Nonresident Fiduciary.** Should the state of my domicile at the time of my death require at least one (1) fiduciary be a resident of the state of my domicile, the named fiduciary may appoint a fiduciary to meet this requirement.

3.11 **Control of Digital Assets.** I grant to my Executor any and all authority, power and access to any and all of my digital assets, including but not limited to, documents, photographs, music, videos, movies, notes, records, memoranda, electronic communications and other information, data and records of all types, kinds and formats (collectively my "digital estate") stored on any device or in any server or in the "Cloud" or elsewhere. My Executor may access, manage, deactivate, delete and take any and all actions without limitations regarding my digital estate. My Executor is also granted all authority, power and access over and to any digital and/or electronic device or equipment (collectively "the device") owned or used by me and may access any and all of my digital estate on any device. By granting my Executor this authority, power and access over my digital estate and any device, I expressly provide that my Executor: (1) has the same authority, power

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and access as I have; (2) has my lawful consent as an account holder or authorized user; and (3) is authorized as a user of any account, device or other repository of my digital estate.

ARTICLE IV

PAYMENT OF DEBTS, EXPENSES, AND TAXES

4.1 **Debts.** My fiduciary shall pay all my lawful debts, except as provided in Paragraph 4.2. If permitted by law, my fiduciary may pay a debt without requiring the creditor to file a claim. I suggest that my fiduciary consult with the attorney for my estate before paying any debt.

4.2 **Encumbered Property.** If any interest in property passing under this Will or otherwise by reason of my death shall be encumbered by a mortgage or lien or shall be pledged to secure any obligation (whether such interest in property is owned by me individually or jointly), the devisee, legatee, joint owner, or beneficiary shall take such interest in property subject to all encumbrances existing at the time of my death and shall not be entitled to payment of such obligation from my estate. Provided, however, if the creditor files a claim against my estate so that my fiduciary must pay the debt, my fiduciary shall collect the amount my estate paid to the creditor from the recipient of the property.

4.3 **Funeral and Administration Expenses.** My fiduciary shall pay my funeral and/or other burial expenses, including the cost of a grave marker, and the expenses of administering my estate as soon as possible after my death, including any expenses of ancillary administration in another state.

4.4 **Taxes.** All estate and inheritance taxes including interest and penalties, if any, together with all administration expenses, payable

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in any jurisdiction by reason of my death, (including those taxes and expenses payable with respect to assets which do not pass under this Will) shall be paid out of and charged generally against the principal of my residuary estate, without apportionment. I waive any right of reimbursement for, recovery of, or contribution toward the payment of those taxes and administration expenses, except my Executor shall, to the maximum extent permitted by law, seek reimbursement for, recovery of, or contribution toward the payment of any increase in federal or state estate tax attributable to property in which I have a qualifying income interest for life or over which I have a power of appointment, or which is included in my gross estate by reason of Section 2036 of the Internal Revenue Code of 1986, as from time to time amended, and which is not otherwise paid or payable. Any generation-skipping tax resulting from a transfer occurring under this Will shall be charged to the property constituting the transfer in the manner provided by applicable law. My Executor may make such tax elections as deemed appropriate by my Executor.

ARTICLE V

SPECIFIC BEQUESTS

AND

DISTRIBUTION OF TANGIBLE PERSONAL PROPERTY

5.1 **Specific Bequests.** (a) If Charles Eugene Garrett, Jr. predeceases me, I give and bequeath to **Peggy Starr** any dogs owned by me; and I give and bequeath the amount of Ten Thousand ($10,000) Dollars to **Peggy Starr.** If **Peggy Starr** predeceases me, the bequest shall lapse and become part of my residuary estate; and

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(b) I give and bequeath certain items of my personal and household effects to those persons designated in a separate writing that may be in existence at the time of my death, which will be written entirely in my own handwriting and signed and dated by me, and which shall describe these items and the legatees with reasonable certainty. If no separate writing or list is found within thirty (30) days after my Executor's qualification, it shall be presumed that no such writing exists, and any subsequently discovered writing or list shall be ignored. In the event any person named in such separate writing shall predecease me, then the bequest made to such person shall lapse and become null and void. If any item is not found among my possessions after my death, my Executor is to consider that the item has been disposed or destroyed prior to my death and may then disregard the gift of such item.

5.2 **Remaining Tangible Personal Property.** I give all my remaining tangible personal property that I own at my death that are not specifically bequeathed in a separate writing, including any household furniture and furnishings, automobiles, books, pictures, jewelry, art objects, hobby equipment and collections, wearing apparel, and other articles of household or personal use or ornament to Charles Eugene Garrett, Jr., or if he does not survive me, my Executor shall decide which items should be sold and the proceeds added to my residuary estate and which items should be given away, whichever is deemed appropriate by my Executor.

5.3 **Expenses.** All the cost of safeguarding, insuring, taking, and storing my tangible personal property before its distribution and of delivering each item to the place of residence of the beneficiary of that item shall be deemed to be expenses of administration of my estate.

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5.4 **Disputes.** My Executor shall have the absolute discretion to resolve any disputes regarding the division of personal property.

5.5 **Excluded Property.** Any reference to tangible personal property is not to be construed as bequeathing funds, bank accounts, securities, stocks, accounts receivable, or other evidences of debt, or any other property used by me in my profession or in connection with any trade or business in which I may have an interest.

ARTICLE VI

SPECIFIC DEVISE

AND

DISTRIBUTION OF RESIDUARY ESTATE

6.1 **Specific Devise.** I make the following specific devise:

I give, bequeath and devise to Charles Eugene Garrett, Jr. all my interests in real property located at 155 White Bridge Road, Nashville, Tennessee 37209. This real property is more specifically described as follows:

> Lot No. 54 on the plan of Brookside Courts-addition No.2- and Recorded in Book 1835, page 47, of the Register's Office of Davidson County, Tennessee.

If Charles Eugene Garrett, Jr. predeceases me, this bequest and devise shall lapse and this real property shall become part of my residuary estate.

6.2 **Residuary Estate.** All the rest, residue and remainder of my property, real and personal, and wheresoever situated, including all lapsed bequest and devises, but not including any property over which I have power of appointment, I give, bequeath and devise to Charles Eugene

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Garrett, Jr. If he predeceases me, I give, bequeath and devise my residuary estate as follows:

(a) Forty Percent (40%) to Nashville Humane Association, currently located at 213 Oceola Avenue, Nashville, TN 37209. If this organization does not exist at the time of my death, this share shall be distributed in accordance with paragraph (b) of this Article.

(b) Sixty Percent (60%) to be divided among Nashville CARES, currently located at 633 Thompson Lane, Nashville, TN 37204; Second Harvest of Middle Tennessee, currently located at 331 Great Circle Road, Nashville, TN 37228; and the Rescue Mission, currently located at 616 7th Avenue South, Nashville, TN 37203. If an organization does not exist at the time of my death, that portion of this share shall be distributed between the remaining organizations specified in this paragraph (b).

ARTICLE VII

MISCELLANEOUS PROVISIONS

8.1 **Disposition of Assets.** I authorize the Executor, without the order of any court, to sell at public or private sale, without the joinder of any beneficiary, in the manner and on the terms and for the price as may seem best, any of my real estate or personal property not specifically given by me; and on each sale of real estate, the proceeds are to be treated as forming part of my estate to pay administrative costs, taxes, and any remaining amounts shall become part of my residuary estate.

8.2 **Waiver of Inventory Reports and Appraisal.** I authorize my Executor to administer and settle my estate without the necessity of filing an inventory, making any report, accounting, or final settlement with any court to the extent permitted by law. I expressly waive appraisal of my estate in the event an appraisal is required by law. The fiduciary's

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only responsibility for statements and accountings shall be to furnish a complete final accounting to the beneficiaries of my residuary estate if such beneficiaries are different than my fiduciary.

8.3 **Discretionary Powers.** In addition to and not in limitation of all common law, any fiduciary appointed under this Will has each power, duty, and discretion which is set forth in this Will, as well as each duty, power or discretion contained in *Tenn. Code Ann.* § 35-50-110 as it exists at the time of the execution of this Will, which section is incorporated herein by reference, as well as any amendments thereafter. The Executor is also granted the following specific discretionary powers, duties and obligations:

(a) **Investments.** In the administration of the assets of the estate, the Executor shall be free, but not obligated, to continue to hold any investments made during my lifetime, and shall be free, but not obligated, to continue to hold and use any income producing real property owned by me during my lifetime.

(b) **Diversification.** To acquire and retain all kinds of property without regard to principles of diversification.

(c) **Distribution.** To make distribution in cash, or in kind, or partly in each, even if shares are composed differently and to allocate different kinds of disproportionate shares of property or undivided interests in property among the beneficiaries and to determine the value of any property distributed in kind.

(d) **Responsibility.** To exercise all powers with respect to the property included in my estate which any individual would exercise in the management of similar property owned in his own right and not to be

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responsible for losses, if any, resulting from honest mistakes of judgment.

8.4 **Ancillary Administration.** If I own real estate located outside the state of my domicile or if ancillary administration of my estate is needed for any other reason, I appoint my domiciliary Executor to qualify in such other jurisdiction as my Executor in such jurisdiction. If my domiciliary Executor is unable or unwilling to qualify, I appoint as my Executor in such other jurisdiction the person or persons selected by my domiciliary Executor. The ancillary administrator is not required to post bond, file inventories or make reports to any court and has the same powers as my domiciliary Executor. As quickly as the ancillary administrator completes the ancillary administration, the net assets from the ancillary administration are to be delivered to my domiciliary Executor.

8.5 **Real Estate.** Any real property which I own at my death is to be part of my probate estate and treated as personalty for administrative purposes.

8.6 **Casualty Insurance.** Each insurance policy covering an item of property passing under this document passes with the property. The recipient is not to be charged for any unearned premium already paid. If an item of property passing under this will has been destroyed or damaged, and such item of property was specifically listed on the insurance policy, the insurance proceeds recovered or recoverable are to be paid in place of the destroyed item and in addition to the damaged item. However, this shall not apply if an item has been disposed of or destroyed prior to my death.

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8.7 **Spendthrift Provision.** Prior to distribution, no interest of any beneficiary in the corpus or income of my estate, as distributed in any Article of this Will, shall be subject to assignment, alienation, pledge, attachment, or claims of creditors of such beneficiary, including the claims of any divorced spouse for alimony or support payments, and may not otherwise be voluntarily or involuntarily alienated or encumbered by any beneficiary and the same shall not be subject to be taken by beneficiary's creditors by any process whatsoever.

8.8 **Construction.** I direct that should any clause in this Will be construed contrary to state laws such clause shall be construed to conform to state law in the implementing of this my Last Will and Testament according to my expressed desires.

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IN WITNESS WHEREOF, I have hereunto subscribed my name to this my Last Will and Testament, consisting of this and twelve (12) preceding typewritten pages and for the purpose of identification have initialed each such page, all in the sight and presence of the persons witnessing it at my request on this 15 day of Dec, 2015, at Nashville, Tennessee. In accordance with *Tenn. Code Ann.* § 32-2-110. I have requested these witnesses to make the Affidavit which is attached to this Last Will and Testament.

Roger C. Marks

Roger C. Marks, Testator

ATTESTATION CLAUSE

On the date last above written, we saw **Roger C. Marks** in our presence, sign the foregoing instrument at its end. He then declared it to be his Last Will and Testament and requested us to act as witnesses to it. We then, in his presence and in the presence of each other, signed our names as attesting witnesses, believing him at all times herein mentioned to be of sound mind and memory and not acting under constraint of any kind.

Stefanie Poore Residing at 144 2nd Ave North Nashville, TN 37201

Residing at 144 2nd Ave North Nashville, TN 37201

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AFFIDAVIT OF WITNESSES

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Stefanie Bone and Robin Oquindo

being severally duly sworn, depose and say that:

We are acquainted with **Roger C. Marks**, who executed this annexed Last Will and Testament, consisting of thirteen (13) pages, dated December 15, 2015, at Nashville, Tennessee, by subscribing his name at the end thereof in the presence and sight of each of us.

At the time of subscribing such Last Will and Testament, **Roger C. Marks** 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 such instrument at his request and in his presence and sight, and in the presence and sight of each other.

At the time of executing such Last Will and Testament, **Roger C. Marks** was over the age of eighteen (18) and in our opinion was of sound mind, memory and understanding and not under any restraint or in any respect incompetent to make a Last Will and Testament.

This Affidavit is made at the request of **Roger C. Marks**.

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

Stefanie Bone

Robin Oquindo

SWORN TO AND SUBSCRIBED before me, this 15 day of December, 2015.

Colleen Mackey
Notary Public

My Commission Expires: 03/06/2018.