Karen Johnson Davidson County
Batch# 986178 WILL
03/29/2023 11:21:51 AM 9 pgs
Fees: $47.00 Taxes: $0.00
20230329-0022846

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 AND TESTAMENT heretofore filed in the Seventh Circuit Court (Probate Division) for Davidson County, Tennessee, on the 29TH day of MARCH, 2023, in Docket Number23P540, IN RE: ANN CHARLOTTE FITZPATRICK GABLE, 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 29TH day of MARCH in the year 2023 and in the 246 year of American Independence.

JOSEPH P. DAY, Clerk

By: _____
Deputy Clerk

[SEAL]

JOSEPH P. DAY
CIRCUIT COURT CLERK



FILED
MAR 29 2023
JOSEPH P. DAY, Clerk
By Deputy

LAST WILL AND TESTAMENT

OF

ANN CHARLOTTE FITZPATRICK GABLE

I, **ANN CHARLOTTE FITZPATRICK GABLE**, a resident of Nashville, Davidson County, Tennessee, being of sound and disposing mind, memory and understanding, do hereby make, publish and declare this to be my Last Will and Testament and do hereby revoke all other wills, codicils and testamentary instruments heretofore made by me.

FIRST

I direct that all my judicially enforceable debts (except debts secured by mortgages or other security instruments which may be paid off or retained in the discretion of my fiduciaries, and if paid, shall be without right of contribution from my husband), including funeral expenses, be paid by my Executor as soon after my death as is practicable. I direct that all estate and inheritance taxes be paid out of, and charged against, my general estate.

SECOND

I give all of my estate, of every kind and character, real, personal, and mixed to my husband, **Willie Lucky Gable**, to be his absolutely. I direct that all real property owned by me shall be administered as part of the estate subject to the control of the personal representative and to be transferred by his signature alone.

THIRD

Should my husband, **Willie Lucky Gable**, predecease me, I give and devise my entire estate to **O.B. Hofstetter III**, but **IN TRUST** for the following uses and purposes, to-wit:

The Trustee shall pay to or expend for my child, **Jessica Lee Gable**, as much of the net income and remaining principal from said Trust as is, in the sole and uncontrolled discretion of the Trustee, deemed necessary or advisable for her reasonable comfort, support, health, maintenance and

education and may add to principal any income not used. One-third (1/3) of said Trust shall be transferred and distributed to her absolutely and in fee simple when she reaches twenty-three (23) years of age; one-third (1/3) of said Trust shall be transferred and distributed to her absolutely and in fee simple when she reaches twenty-five (25) years of age; and the remaining one-third (1/3) of said Trust shall be distributed to her absolutely and in fee simple when she reaches twenty-eight (28) years of age.

FOURTH

I appoint my brother, **Ben George Fitzpatrick,** as Executor of my Last Will and Testament. I direct that he not be required to furnish a bond for the faithful performance of his duties in any jurisdiction, any provision of law to the contrary notwithstanding. If any bond is required by law, no surety shall be required on such bond. If **Ben George Fitzpatrick** is unable or unwilling to serve, then **Lesli Marie Marks Kimbro** shall serve as successor Executor, without bond.

FIFTH

My Executor and Trustee (hereinafter referred to as "fiduciary") shall have the following powers, duties and discretions in addition to those now or hereafter conferred by law:

A. I incorporate by reference all of the fiduciary powers contained in Section 35-50-110, Tennessee Code Annotated as fully as if set out verbatim herein.

B. Whenever my fiduciary is required to divide the estate or trust property into separate shares, or to make distribution thereof, it is authorized in its sole discretion to make division or distribution wholly or partly in cash or kind, or assign undivided interests in any property or shares, and to make joint investment of funds belonging to the estate. The judgment of my fiduciary as to the values for such purposes shall be binding and conclusive on everyone.

C. When required to make a distribution or transfer of all or part of the assets of my estate, my Executor may retain therefrom assets sufficient in its judgment to cover any liability which may then or later be imposed upon it, including, but not limited to, its liability for estate, income or other taxes, until such liability shall have been finally determined.

D. Whenever my Executor shall have the right to elect (a) whether any item of expense connected with the administration of my estate shall be claimed as a deduction for federal income tax purposes, or whether the same shall be claimed instead as a deduction for federal estate tax purposes, or (b) the value of my gross estate as of the date that causes larger death taxes to be payable than would have been payable if my Executor had elected another date, I hereby authorize my Executor to exercise any such right of election in any such manner as it may in its absolute discretion determine to be advisable, even though the manner in which any such election is exercised may result in an advantage or disadvantage to any beneficiary or beneficiaries hereunder. I further direct that no compensating adjustments between income and principal shall be required or made as a result of any such action.

E. Any successor fiduciary shall be clothed and vested with all duties, rights and powers, whether discretionary or otherwise, as if originally named as such fiduciary. No successor fiduciary shall be liable or responsible in any way for any acts or defaults or any predecessor fiduciary, nor for any loss or expense from or occasioned by anything done or elected to be done by any predecessor fiduciary, but such successor fiduciary shall be liable for his, her or its own acts or default in respect to property actually received by such successor fiduciary. The successor fiduciary may accept the accounts rendered and the assets and property delivered to such successor fiduciary by the predecessor fiduciary as a full and complete discharge to the predecessor fiduciary, and shall incur no liability by reason of so doing.

F. My fiduciary shall be charged with the duty of good faith and reasonable care in the management of the estate or trust, but shall not be responsible for losses, if any, resulting from honest mistakes of judgment.

G. My Trustee in exercising its discretion as to whether to make distributions of income or principal of any trust to or for the benefit of any beneficiary, may take into consideration the standard of living to which such beneficiary is then accustomed, and all other income and resources available to such beneficiary, together with any other factors which my Trustee may deem pertinent.

H. If my fiduciary determines that any income or principal shall be paid to a minor, or to a person under a legal disability, or to a person not adjudicated incompetent, but who, by reason

of illness or mental or physical disability is, in the opinion of my fiduciary, unable properly to administer such funds, then such funds may be paid out by my fiduciary in any of the following ways as it deems best: (1) directly to such beneficiary; (2) to the legally appointed guardian or conservator of such beneficiary; (3) by my fiduciary using such amounts directly for the benefit of such beneficiary; (4) to some relative or friend for the care, support, education and welfare of such beneficiary. The receipt of any such person shall discharge my fiduciary from any further responsibility with respect to any such funds. No recipient shall be required to furnish bond with respect to any such funds, nor make report as to the disposition of the same.

I. My Executor may begin making payments to the beneficiaries of my estate after beginning the administration of my estate and without waiting for the formal establishments of the trusts created herein. My Executor shall be given credit on its settlement for all disbursements made to the beneficiaries under the provisions of this power.

J. The Trustee shall render to the income beneficiaries of all trusts created hereunder statements of account of receipts and disbursements at least annually. Statements to minor beneficiaries shall be sent to the legal guardian, if any; otherwise, to the parent or any other person with whom the beneficiary may be residing. However, the Trustee shall not be required to make an accounting to any Court with respect to the performance of its duties.

K. If at any time the Trustee determines that the principal of any trust created, or to be created hereunder, is of an insufficient amount to justify establishment or continuance of said trust, or if there arise any unforeseen changes affecting property rights, taxation or political or economical conditions, or if for any other good reasons, which in the opinion of the Trustee makes it advisable and to the best interest of the beneficiaries that the trust not be established or continued, the Trustee is authorized and empowered not to establish or continue the trust, and to distribute the funds which would be used to establish the trust, or distribute the principal and accumulated income of the trust, to the beneficiaries thereof. No beneficiary shall have the right to question the Trustee's decision as to distribution, and no personal liability shall be imposed upon the Trustee for the decisions; provided, however, any beneficiary who is also a Trustee shall not participate in any decisions to distribution to him as beneficiary. Further, any Trustee may, in its discretion, merge a trust with one

or more other trusts that shall be substantially identical with respect to beneficiaries and disposition, and the trusts shall be held and administered as one trust.

L. The Trustee shall pay out of principal or income as it may elect, or partially out of each in such shares as it may determine, taxes, assessments, charges, attorney's fees, the Trustee's compensation, and other expenses incurred in the administration or protection of the trust. The discretion of the Trustee to pay these items from income or principal, or partially from each, may be exercised not only in the interest of the trust but for the benefit of any beneficiary.

M. I leave to the discretion of the fiduciary hereunder the retention, continuance, sale, liquidation or other disposition of any business or business interests, corporate or otherwise. The fiduciary is specifically empowered to take all steps which it may deem necessary or advisable in connection with any such business or business interests and is to be exempt from any liability for any loss whatsoever for its acts or decisions in good faith relative thereto. The fiduciary is authorized to loan or borrow money to or for such business or business interests to or for any corporation representing the same and to vote the shares of stock in any such corporation in such manner as the fiduciary may deem advisable, including the power to select or vote for the appointment or election of persons as managers, officers or employees of the fiduciary.

SIXTH

A. Neither the income nor the principal of the Trusts created hereunder on behalf of my children or issue shall be alienable by any beneficiary thereof either by assignment or by any other method and the same shall not be subject to be taken by his or her creditors by any process whatsoever.

B. Notwithstanding anything herein to the contrary, the Trusts created hereunder shall be terminated not later than any such time after which their continued existence would violate the rule against perpetuities, the rule against suspension of the power of alienation or any other rule of law. At such time, and unless previously terminated, the Trustee shall distribute the entire principal and accumulated income to the respective income beneficiaries thereof.

C. No bond shall ever be required of the Trustee or any successor Trustee serving hereunder. If any bond is required by law, no surety shall be required on such bond.

D. As used herein, the neuter gender shall be deemed to include the feminine and masculine wherever necessary or appropriate and without distinction and the singular shall include the plural.

SEVENTH

Should my husband, **Willie Lucky Gable**, predecease me, then I nominate and appoint **Daniel Fitzpatrick and Charlotte Christine Johnston Fitzpatrick** as Guardians of the persons and property of my daughter, Jessica Lee Gable. If **Daniel Fitzpatrick and Charlotte Christine Johnston Fitzpatrick** are unable or unwilling to serve, then I nominate and appoint **Lesli Marie Marks Kimbro and Kevin Lee Kimbro** as successor Guardians

EIGHTH

Except where otherwise specifically stated, this Will is to be administered, construed and governed in all respects by the laws of the State of Tennessee.

IN WITNESS WHEREOF, I have hereunto set my hand at Nashville, Tennessee, on this the 6 day of April, 1999.

Ann Charlotte Fitzpatrick Gable

Ann Charlotte Fitzpatrick Gable

SIGNED, PUBLISHED and DECLARED by the above-named Testatrix, **Ann Charlotte Fitzpatrick Gable**, as and for her Last Will and Testament, in the presence of us, who at her request, in her presence, and in the presence of each other, all being present at the same time, have hereunto subscribed our names as witnesses and do hereby certify that we believe the Testatrix to be of sound and disposing mind and memory.

WITNESS

WITNESS

STATE OF TENNESSEE)
)
COUNTY OF WILLIAMSON)

I, OB Hofstetter, III, on oath state:

I am a subscribing witness to the attached written instrument dated the 6th day of April, 1999, which purports to be the Last Will and Testament of Ann Charlotte Fitzpatrick Gable ("Testator").

On that date the Testator, in the presence of myself and the other attesting witness, declared the instrument to be her Will, signed the instrument in our presence, and requested that we attest her execution thereof; whereupon, in the presence of Testator and of each other, each of us signed our respective names as attesting witnesses. At the time of the execution of the instrument, Testator was over the age of 18 years and appeared to be of sound mind.

This Affidavit is made and signed at the request of Testator's estate.

This the 14th day of November, 2022.

Witness- O.B. Hofstetter, III.

Subscribed and sworn to before me this the 14th day of November 2022.

Notary Public

This Instrument Prepared By:
Samuel B. Dreiling
Attorney at Law
1284 West Main Street
Franklin, Tennessee 37064
(615) 721-5555

KAYLYN RAY
TENNESSEE
NOTARY
PUBLIC
COUNTY OF WILLIAMSON