

CAUSE NO. 2020-0552-PR1

ESTATE OF	§	IN THE COUNTY COURT AT LAW
	§	
BILLY JOE SHAVER	§	NO. 1
	§	
DECEASED	§	MCLENNAN COUNTY, TEXAS

RESPONSE TO TRADITIONAL MOTION FOR SUMMARY JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Applicant, Terry Dwayne Rogers, and files this response to Counter-Applicant, Fred Fletcher’s Traditional Motion for Summary Judgment. In support, Applicant respectfully offers the following for consideration by the Court:

I. SUMMARY OF THE RESPONSE

Movant proposes to admit to probate an alleged handwritten will allegedly written by Mr. Billy Joe Shaver, Deceased, on October 2, 2008. Non-Movant, Terry Dwayne Rogers has presented to the court the original will executed on June 14, 2005, which was drafted by Mr. Shaver’s long time attorney, Elizabeth Miller. The original document purportedly written by Mr. Shaver in 2008 has not been presented to the court. The proponent of this lost will, Mr. Freddy Fletcher, has not conclusively shown that he is entitled to judgment as a matter of law, as there exists genuine issues of material fact as to the admissibility of the document, its presumed revocation, undue influence which Mr. Shaver was subjected to at the time the purported will was drafted and breach of fiduciary duty of the Movant to Mr. Shaver.

OBJECTIONS TO THE ADMISSIBILITY OF EVIDENCE

RESPONDENT OBJECTS TO THE ADMISSION OF THE

PURPORTED COPY OF THE 2008 WILL BECAUSE IT

CANNOT BE PROPERLY AUTHENTICATED

The general Rule of Evidence concerning the admissibility of Writings, recordings, and photographs is Rule 1002, which states,

“Requirement of the Original

“An original writing, recording or photograph is required in order to prove its content unless these rules or other law provides otherwise.”

An original of a writing is defined as "the writing itself or any counterpart intended to have the same effect by the person who executed or issued it." TX R EVID Rule 1001(d). In Englund v. State, the Court examined the rationale for Rule 1002 which prefers the production of the original. The Court outlined four reasons that justify such a rule:

“(1) The nature of documents is often such that the exact words are “of more than average importance, particularly in the case of operative or dispositive instruments ... where a slight variation of words may mean a great difference in rights.

(2) Secondary evidence—whether parol testimony or copies—is susceptible to both human and mechanical error. The rule, therefore, enhances the probability of accuracy.

(3) The rule promotes the prevention of fraud because it allows the parties to examine documents for any defects or alterations, and it dampens any desire to color testimony as to the contents of documents, since any testimony is subject to immediate corroboration.

(4) The appearance of the original may furnish information as to its authenticity and significance that may be lacking in a copy, such as handwriting, paper and the like.” Englund v. State, 946 S.W.2d 64, 67–68 (Tex. Crim. App. 1997).

When a proponent is seeking to make a photocopy admissible under Rule 901 of the Texas Rules of Evidence, it is incumbent on the proponent to lay predicate by showing that there is no bona fide dispute that the copy is an accurate reproduction of the original. Clement v. Nacol, 542 S.W.2d 265, 267 (Tex. Civ. App.—Fort Worth 1976, no writ). In Clement, the Court found that the admission of a photocopy of a deed into evidence was an abuse of discretion where the only authenticating evidence offered was a witness that identified the signatures of the grantors as being genuine and where the contestant objected to its being introduced on the grounds that it was not the best evidence of the deed. *Id.*

Without the original 2008 purported holographic will to examine, it is impossible to rule out the possibility that this document has been altered from the original. Parts of the document that is currently being offered in substitution of the original copy could have been added or digitally manipulated after the creation of the original document. The details of this analysis are contained in the Affidavits attached hereto. (See Dale Stobaugh Affidavit, Exhibit 1, Kenneth Crawford, Exhibit 2).

Therefore, the 2008 purported will is not admissible and Summary Judgment in favor of Mr. Fletcher should not be granted.

**RESPONDENT OBJECTS TO THE ADMISSIBILITY OF THE PURPORTED
COPY OF THE PURPORTED 2008 WILL BECAUSE THE PROPONENT DID NOT
EXERCISE DUE DILIGENCE TO PRODUCE THE ORIGINAL**

A proponent of a will that is not produced in court must show the cause of nonproduction of the will, which must be sufficient to satisfy the court that the will cannot by any reasonable diligence be produced. Tex. Estates Code Ann. §256.156 (b)(1).

Mr. Fletcher's Affidavit states he conducted a search of his own office, business records, and filing cabinets to locate the original purported will. (Movant's Exhibit 2).

Lanie Safady Rosmarin, one of the alleged attesting witnesses, testified that **Mr. Shaver kept the original document.** (Movant's Exhibit 7, Question 16). Matt Ragland, another of the alleged attesting witnesses, did not know who took possession of the will. (Movant's Exhibit 6, Question 16). Mr. Fletcher is not certain that he was ever in possession of the original document (Movant's Exhibit 2, paragraph 10). Mr. Fletcher's Counter-Application (paragraph 16), states that Decedent provided him with "**a true and correct copy** of the 2008 Will for safekeeping", not the original. Mr. Fletcher's Counter-Application alleges at paragraph 18 that "On information and belief, Counter-Applicant Fletcher understands that during Decedent's recent hospitalization and following his death, unknown persons removed untold amounts of personal property from Decedent's residence, including important papers such as the 2008 Will." Mr. Fletcher obviously believed, at the time Mr. Fletcher filed his Counter-Application, that Mr. Shaver had possession of the purported 2008 will at the time of Mr. Shaver's death. No evidence has been presented that the original 2008 document was removed from Mr. Shaver's residence.

The presumption of revocation applies. The purported copy of the purported 2008 will should be excluded as evidence, and Movant's Motion for Summary Judgment should be denied.

According to the testimony of Charles E. Rainey, Sr., the brother-in-law of Fred Fletcher, (Movant's Exhibit 7, Question 5), the original "may have been given to me to be put in a file, but I don't remember exactly. But the will was left on the premises of **our office** for sure." (Movant's Exhibit 4, Question 16). If this testimony is accurate, the original was left in the hands of the sole beneficiary or his agent, and yet the original cannot be found. The law generally does not allow someone in possession of an original document to complain about its non-production. *Hughey v. Donovan* 135 SW 2d 265, 266 (Tex. Civ. App.—Galveston 1939, no writ); *Estate v. Jones* 197 SW3d 894 ,900 (Tex App.—Beaumont, 2006).

RESPONDENT OBJECTS TO THE ADMISSIBILITY OF STATEMENTS

ALLEGEDLY MADE BY THE ALLEGED TESTATOR AS THEY ARE INADMISSIBLE

ACCORDING TO RULE 601 (B) OF THE TEXAS RULES OF EVIDENCE

Mr. Fletcher's Motion for Summary Judgment Exhibit 1 and Exhibit 2

Under Rule 601(b) of the Texas Rules of Evidence, commonly known as the "Dead Man's Rule," in civil cases by or against a decedent's heirs or legal representatives and based in whole or in part on the decedent's oral statement, a party may not testify against another party about an oral statement by the decedent.

This rule is applicable in proceedings for probate of an alleged lost will. Miller v. Miller, 285 S.W.2d 373, 375 (Tex. Civ. App.—Eastland 1955, no writ). In Miller, the Court upheld the trial court’s refusal to permit the proponent of the lost will from testifying to conversations he had with the testators concerning the disposition that they were making of their property, and that he was precluded from doing so under the Dead Man’s Rule. Miller v. Miller, 285 S.W.2d 373, 376 (Tex. Civ. App.—Eastland 1955, no writ). See also Texas Supreme Court case Adams v. Barry 560 SW 2d 935 (Tex. 1978).

In support of Mr. Fletcher’s Motion for Summary Judgment he has offered a sworn affidavit by Mr. Joseph Dahr Jamail III marked as Exhibit 1 in Mr. Fletcher’s Motion.

Mr. Jamail’s affidavit contains testimony that is precluded under Rule 601, to wit:

“3. In late summer of 2008, Decedent asked me how he could change his last will and testament.”

“4. During that initial conversation and in the multiple conversations that followed, Decedent unequivocally stated he did not want his sister, Patricia Shaver, or his nephew, Terry Dewayne Rogers, to be beneficiaries or personal representatives of his estate.”

“5. During that initial conversation and in our multiple conversations that followed, Decedent clearly and consistently stated that he wanted to execute a new last will and testament that named his long-time friend Freddy Fletcher (“Freddy”) as sole beneficiary of his estate, and he wanted Freddy to manage his music business after Decedent’s death.”

“6. After weeks of discussions, Decedent traveled to Austin, Texas to meet with me on October 2, 2008, so that I could oversee his execution of a new holographic last will and testament.”

“7. During that meeting, and in the presence of witnesses, Decedent reiterated his desire to execute a last will and testament that left everything in his estate to Freddy, and then wrote a holographic will to that effect, which was then signed by Decedent and three witnesses.”

“8. Based on this and future interactions with Decedent, there is no doubt in my mind that the last will and testament signed by decedent on October 2, 2008 (the 2008 Will) was properly executed in front of the named witnesses, was not the product of duress or undue influence, and accurately reflects Decedent’s desired disposition of his estate, from October 2, 2008 until his death. Specifically, decedent never suggested signing of the 2008 Will was a mistake, or that he should sign a new will amending or revoking the 2008 Will.”

This testimony regarding alleged conversations that Mr. Jamail had with Mr. Shaver regarding the disposition of his property are inadmissible, and as held in Miller, and Adams this testimony should not be permitted.

Mr. Fletcher has also offered his own testimony in support of his motion for summary judgment marked as Exhibit 2 in his motion. Fletcher’s affidavit, likewise, contains testimony that is precluded under Rule 601, as alleges conversations that he had with Mr. Shaver regarding the disposition of his property.

Specifically,

“7. In 2008, prior to writing the will, he [Shaver] told me that he wanted to execute a new will and name me as sole beneficiary of the estate, and that he wanted me to manage his music business. Several times before writing and signing his Will, he told me he wanted me to be the sole beneficiary and that he did not want his sister or nephew to inherit from him.”

“11. About three years ago, Billy Joe again told me he was glad that I was going to take care of the rights to his music after he died.”

“15. He told me both before and after the Will was written that he wanted me to continue to administer his music, and that he did not want his sister or nephew to inherit from his estate.”

These alleged self-serving statements should be excluded from evidence.

The following portion of Mr. Fletcher’s affidavit should be excluded from evidence as well, per Miller and Adams.

“8. On or around October 2, 2008, Dahr Jamail, Billy Joe’s long time attorney and friend, called me to say that Billy Joe wanted to execute a new will and that they would meet me at my office in Austin, Texas.”

This statement is hearsay and contains hearsay within hearsay and is therefore inadmissible according to Rule 801 in addition to Rule 601(b).

RESPONDENT OBJECTS TO THE ADMISSIBILITY OF RESPONSES MADE
TO DEPOSITION BY WRITTEN QUESTIONS AS THEY INADMISSIBLE
ACCORDING TO THE TEXAS RULES OF EVIDENCE

The responses of Matt Ragland to questions 6, 9, and 12 are inadmissible for the following reasons:

6. At the time Decedent signed the 2008 Will, did Decedent intend the 2008 Will to be his Last Will and Testament?

Objection: The Question calls for speculation.

9. Did Decedent appear to be of sound mind at the time of the signing of the 2008 Will?

Objection: The Question calls for speculation. The Question also calls for an expert opinion on the Decedent's mental state. The witness has not been qualified as a medical or psychiatric expert.

12. Did Decedent ever discuss revoking or destroying the 2008 Will, either on or after October 2, 2008?

Objection: The Question calls for speculation, unless the witness has personal knowledge of his answer. The Question also calls for hearsay and for testimony that would be inadmissible pursuant to the Texas Dead Man's Statute, Rule 601 of the Texas Rules of Evidence.

The questions were objected to prior to their being asked of the deponent by the court reporter.

The responses of Charles E. Rainey, Sr. to questions 6, 9, and 12 are inadmissible for the following reasons:

6. At the time Decedent signed the 2008 Will, did Decedent intend the 2008 Will to be his Last Will and Testament?

Objection: The Question calls for speculation.

9. Did Decedent appear to be of sound mind at the time of the signing of the 2008 Will?

Objection: The Question calls for speculation. The Question also calls for an expert opinion on the Decedent's mental state. The witness has not been qualified as a medical or psychiatric expert.

12. Did Decedent ever discuss revoking or destroying the 2008 Will, either on or after October 2, 2008?

Objection: The Question calls for speculation, unless the witness has personal knowledge of his answer. The Question also calls for hearsay and for testimony that would be inadmissible pursuant to the Texas Dead Man's Statute, Rule 601 of the Texas Rules of Evidence.

The questions were objected to prior to their being asked of the deponent by the court reporter.

The responses of Lainie Safady Rosmarin. to question 6, is inadmissible for the following reasons:

6. At the time Decedent signed the 2008 Will, did Decedent intend the 2008 Will to be his Last Will and Testament?

Objection: The Question calls for speculation.

RESPONSIVE ARGUMENT

Summary judgment may only be granted “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law.” Texas Rule of Civil Procedure 166(c). Material issues of fact exist in that there is a presumption that Mr. Shaver revoked the purported will of 2008, there exists no admissible original or copy of the purported will, and there is evidence that a fiduciary relationship existed between Movant and the Testator, which was breached, and that the Testator was subjected to undue influence at the time the purported 2008 will was prepared.

Movant’s Motion for Summary Judgment should be denied for the following reasons:

PRESUMPTION OF REVOCATION

There is evidence that pursuant to long established Texas law, that the purported 2008 will was revoked by Mr. Shaver.

An applicant for the probate of a will must prove, in addition to the general proof requirements contained within Section 256.151 of the Texas Estates Code, that the testator did not revoke the will. Tex. Estates Code Ann. § 256.152 (a)(1). When an original will cannot be located and was last seen in the testator’s possession, there is a presumption that the testator destroyed the will with the intent of revoking it. *Woods v. Kenner*, 501 S.W.3d 185, 197 (Tex. App.—Houston [1st Dist.] 2016, no pet.). *Mingo v Mingo* 507 SW 2d 310 (Tex Civ App—San Antonio 1974).

According to Mr. Fletcher, the original of the purported will cannot be located. (Ex. 2). Lanie Safady Rosmarin, one of the alleged attesting witnesses, testified that Mr. Shaver kept the original document. (Movant's Exhibit 7, Question 16). This is probative evidence that the will was last seen in Mr. Shaver's possession.

Mr. Fletcher's Application (paragraph 16), states that Decedent provided him with "a true and correct copy of the 2008 Will for safekeeping", not the original. Mr. Fletcher's Application alleges at paragraph 18 that "On information and belief, Counter-Applicant Fletcher understands that during Decedent's recent hospitalization and following his death, unknown persons removed untold amounts of personal property from Decedent's residence, including important papers such as the 2008 Will." Mr. Fletcher obviously believed, at the time Mr. Fletcher filed his Counter-Application, that Mr. Shaver had possession of the purported 2008 will at the time of Mr. Shaver's death. No evidence has been presented that the original 2008 document was removed from Mr. Shaver's residence. The testimony of Charles E. Rainey and Mr. Fletcher do not establish conclusively that the original purported 2008 will was not last seen in the hands of the Testator, Billy Joe Shaver.

The presumption of revocation applies. The purported copy of the purported 2008 will should be excluded as evidence, and Mr. Fletcher's Motion for Summary Judgment should be denied.

UNDUE INFLUENCE

There is evidence that Mr. Shaver was subjected to undue influence at the time the purported 2008 will was prepared. Undue influence is defined in Texas law as:

The existence and exertion of undue influence which subverts or overpowers the testator, and the testament would not have been made but for the undue influence. *Long v. Long*, 133 Tex. 96, 99, 125 S.W.2d 1034, 1035 (1939).

A will may be set aside on the grounds of undue influence if the contestant proves (1) the existence and exertion of an influence, (2) the effective operation of such influence so as to subvert or overpower the mind of the testator at the time of the execution of the testament, and (3) the execution of a testament which the maker thereof would not have executed but for such influence. *Rothermel v. Duncan*, 369 S.W.2d 917, 922 (Tex. 1963). These elements may be proven by circumstantial, as well as by direct, evidence. *Id.*

The non-exhaustive factors to be considered are:

- 1) the nature and type of relationship existing between the testator, the contestants, and the party accused of exerting such influence;
- 2) the opportunities existing for the exertion of the type or deception possessed or employed;
- 3) the circumstances surrounding the drafting and execution of the testament;
- 4) the existence of a fraudulent motive;
- 5) whether there had been a habitual subjection of the testator to the control of another;
- 6) the state of the testator's mind at the time of the execution of the testament;

- 7) the testator's mental or physical incapacity to resist or the susceptibility of the testator's mind to the type and extent of the influence exerted;
- 8) words and acts of the testator;
- 9) weakness of mind and body of the testator, whether produced by infirmities of age or by disease or otherwise; and
- 10) whether the testament executed is **unnatural** in its terms of disposition of property.

Rothermel, supra.

Motive and opportunity for the undue influence to be carried out are relevant factors in determining whether there is undue influence. Craycroft v. Crawford, 285 S.W. 275,277 (Tex. Comm'n App 1926).

Mr. Shaver was surrounded by people he had intimate personal and professional relationships with and implicitly trusted at the time of the preparation of the purported will. Mr. Shaver was susceptible to their influence in this circumstance and had no capacity to resist. Mr. Shaver greatly admired Misters Willie Nelson, Fred Fletcher, Joe Jamail, and if Mr. Dahr Jamail's testimony can be accepted, Mr. Dahr Jamail as well. Mr. Fletcher is the nephew of Willie Nelson, and Joseph Dahr Jamail, III is the son of the late Joe Jamail. Mr. Shaver's trust of Mr. Fletcher and Mr. Joseph Dahr Jamail, III gave them opportunity to exert such undue influence that effectively subverted Mr. Shaver's mind at the time of execution of the purported will. He would not have wanted to do anything that would have displeased them and would not have objected to any suggestion they made. And there is a material issue of fact as to whether the purported 2008 will, in its present form, was accurately reflective of Mr. Shaver's intentions.

The atmosphere of the drafting of the purported holographic will is suggestive of undue influence. If the testimony is to be accepted, Mr. Shaver, with an attorney present and advising him, in the office of the sole beneficiary, 100 miles from his home, produced a handwritten will, that was attested to by Mr. Fletcher's brother-in-law (Exh 7, Q 5), and two of Mr. Fletcher's employees (Exh 7, Q 20). It was obviously prepared in haste, and was never revised in a more formal manner, and no care was taken to preserve the original, given the various testimony as to what was done with the original.

It could have easily been drafted in a more artful manner on October 2, 2008, or any other day, and typed and attested with a self-proving affidavit, as was the 2005 will that Terry Dwayne Rogers has presented to the court for admission to probate.

This purported will is unnatural in its terms. Unnatural testaments are defined as those that do not dispose property to blood kin. Long 125 S.W.2d at 1036. Unnatural terms are also considered in determining whether the will was a product of undue influence. *Id.* See also *In Re the Estate of Buford Scott, Jr.* Deceased (Tex. App.—El Paso, April 7, 2020); and *In the Estate of Patricia J. Russey*, Deceased (Tex. App.—Tyler February 28, 2019). Texas law recognizes that a will which does not include blood relatives is unnatural and should be viewed with suspicion.

The totality of the circumstances of the drafting of this will, its hasty preparation, poor choice of words, lack of legal formalities despite being written in an office, where it could be typed and printed, with the advice of an attorney present, and the tremendous confusion over what was done with the original document and the lack of accounting for its location, show the existence and exertion of influence over Mr. Shaver, the operation of such influence effectively subverted or overpowered his mind at the execution of the purported holographic will that Mr. Shaver would not have executed himself but for such influence.

Billy Joe Shaver is known to have executed five wills prior to he purported 2008 will. They were executed on May 30, 1986 (Exh 6), October 27, 2000 (Exh 7), January 8, 2001, 2001 (Exh 8), November 24, 2003 (Exh 9), and June 14, 2005 (Exh 4). All of these wills named as beneficiaries members of his family and were drafted by a licensed attorney, and each included a self-proving affidavit. Four of these wills were drafted by Elizabeth Miller, Mr. Shaver's long-time attorney and personal business manager (See Exhibit 10, Exhibit 11). Mr. Shaver would not have written a will without consulting Elizabeth Miller (Exhibit 5), but for undue influence.

BREACH OF FIDUCIARY RELATIONSHIP

An informal fiduciary duty may arise from a moral, social, domestic, or purely personal relationship of trust and confidence, generally called a confidential relationship. *Associated Indem. Corp. v. CAT Contracting, Inc.*, 964 S.W.2d 276, 287 (Tex. 1998). A confidential relationship exists where influence has been acquired and abused and confidence has been extended or betrayed. *Lindley v. McKnight*, 349 S.W.3d 113, 125 (Tex.App.--Fort Worth 2011, no pet). A person is justified in placing confidence in the belief that another party will act in his best interest only where he is accustomed to being guided by the judgment or advice of the other party and there exists a long association in a business relationship as well as personal friendship. *Id.*

According to Mr. Fletcher's own testimony, he and Mr. Shaver had a close business and personal relationship of over 40 years, which included Mr. Fletcher playing in Mr. Shaver's band as his drummer, touring together for many years, (Movant's Exhibit 2),

It is unconscionable for Movant to have influenced Mr. Shaver to bequeath to him the entire value of his creative product, and the exercise of such influence constitutes a breach of Mr. Fletcher's fiduciary duties. Thus, the purported will should be declared void and of no effect, and Mr. Fletcher's Motion for Summary Judgment should be denied.

ALTERNATE WILL

Non-Movant, Terry Dwayne Rogers presented a will executed on June 14, 2005 prior to the purported will presented by Movant, Mr. Fletcher.

On June 14, 2005, Billy Joe Shaver executed a will, drafted by his long-time attorney, Elizabeth Miller, naming your Applicant, Terry Dwayne Rogers, nephew of Billy Joe Shaver, to serve as Independent Executor to serve without bond, and witnessed by Elizabeth Miller, and Jim Hollingsworth. Applicant's second amended application, filed on May 12, 2022, with the McLennan County Clerk, requested that this will be admitted to probate. Billy Joe Shaver is deceased, having passed from this life on October 28, 2020, less than four years from the time the Amended Application was filed. Billy Joe Shaver was a resident of McLennan County, Texas at the time of his death.

Terry Dwayne Rogers produced the original will and filed it with the McLennan County Clerk. As far as Terry Dwayne Rogers knows, the will was never revoked. No children were born to or adopted by Mr. Shaver after the making of said will. The will named Terry Dwayne Rogers to serve as Independent Executor without bond. Mr. Shaver was over the age of eighteen years at the time he executed his will.

Terry Dwayne Rogers is entitled to Letters Testamentary and is not disqualified from serving as such. He is a McLennan County, Texas resident and has not been convicted of a felony. Billy Joe Shaver did not revoke the will he executed on June 14, 2005. The will was properly executed and witnessed by Elizabeth Miller and Jim Hollingsworth, and a self-proving affidavit was attached, being signed by Elizabeth Miller and Jim Hollingsworth before Mike Miller, Notary Public for the State of Texas.(See Rogers Affidavit Exh. 3; will attached as Exh 4).

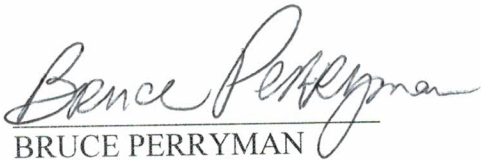
The will executed by Billy Joe Shaver on June 14, 2005 should be admitted to probate.

CONCLUSION

Mr. Fletcher's own evidence in support of his motion for summary judgment has shown that Mr. Shaver was the last person seen in possession of the purported 2008 will which invokes the presumption of revocation of that purported will. There is also evidence that Mr. Fletcher exercised undue influence over Mr. Shaver during the execution of the purported will, and that the exercise of such undue influence was a breach of fiduciary duty by Mr. Fletcher to Mr. Shaver. The photocopy of the purported 2008 will is inadmissible as evidence due to the impossibility of authentication, and evidence which casts doubt on whether it is a true copy of the original, and because reasonable diligence was not exercised in locating the original. The portions of the affidavits of Mr. Fletcher and Mr. Jamail objected to herein should not be admitted into evidence because they are in violation of Rules 601 and 801 of the Texas Rules of Evidence. The responses to the written questions of the depositions of Charles E. Rainey, Sr. Matt Ragland and Lainie Safady Rosmarin objected to and set forth herein should also be excluded as evidence for the reasons stated above. The will executed by Billy Joe shaver on June 14, 2005 should be admitted to probate.

WHEREFORE, PREMISES CONSIDERED, Applicant, Terry Rogers prays that the Court deny Movant's Motion for Summary Judgment in all respects.

Respectfully Submitted,



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CAUSE NO. 20200552PR1

ESTATE OF § IN THE COUNTY COURT AT
LAW
BILLY JOE SHAVER §
§ NO. 1
§
DECEASED § McLENNAN COUNTY, TEXAS

AFFIDAVIT

"My name is DALE STOBAUGH. I am over the age of eighteen years and I am competent to testify as to the matters stated herein.

"I have been a Forensic Document Examiner for forty years. My curriculum vitae is attached to this affidavit and its contents are incorporated into this affidavit by reference as if recited verbatim herein."

"At the request of Terry Dwayne Rogers, through his attorney, KENNETH CRAWFORD and I have examined and compared one questioned signature dated October 2, 2008 which is alleged to be the signature of Billy Joe Shaver, Deceased, and one document that is alleged to be written in the handwriting of Billy Joe Shaver, and approximately 56 documents bearing known signatures and samples of extended handwriting of Billy Joe Shaver, ranging in date from 1994 to 2019.

In as far as our testing reveals, the Q1 Will JPEG submission is all written in ink that is indistinguishable (one ink) across the document.

In the date below text of Will, October 2, 2008, the 8 appears to be made as two markings, as a "5" like portion, then a left-side marking that makes the final character appear to be an 8. This 8 is unlike any 8 in Shaver's known

Exhibit 1

writings, e.g., the IRS return marked CF000101. It appears that the original letter was "5" and it was changed to an "8."

The "2" of that date is a markedly different design from 2 in Shaver's known writing, especially the IRS return marked CF000101.

The penultimate line bears an obliteration that is not readable. An obliteration is not proper form for a formal document, especially a Will.

The date usually follows a signature on Wills and Contracts. Here the date is written with a vertical alignment (baseline) that is far off that of the text of the will and written between the text and the signature, as if it had been added later.

The name "Fred Fletcher" is hand printed, unlike the balance of the Will text. There are possible artifacts about that name, viz., F: bottom tip and middle horizontal; inside of the "h" arch. This means that this portion of the document may have been digitally manipulated and the name "Fred Fletcher" may have been inserted.

Conclusion

There are indications that Billy Joe Shaver wrote and signed the questioned holographic Will, Q1. At present, a more definite determination is precluded due to the limitations cited below. The possible exception are the numerals in the Will date, as explained.

From: **SWGDOC Standard Terminology for Expressing Conclusions of Forensic Document Examiners**

There are questionable features in this Will. Examples are the placement and baseline of the date, the formation of the "8," and the hand printing of the name, "Fréd Fletcher." If only a copy of the Will is available, then the possibility that this name date and/or date were electronically added cannot be dismissed.

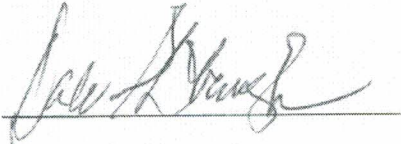
Limitations

Due to a lack of detail and possible misinterpretation of foreign matter reflected in copies, it is usually our policy not to base positive identification or elimination by handwriting comparison on any type of reproduction. (High resolution copies of handwriting evidence documents, however, can be used to report qualified results which are admissible in court.)

Irrespective of the degree to which a signature may appear to be genuine, an image of a signature appearing on a copy of a document does not demonstrate that the ink original of that signature was written on the original document, and the question of whether that document was signed cannot be established unless and until the original document is submitted for forensic examination. The reason for this is that any document and signature can be merged by photocopy or digital techniques to produce a copy that appears to be an image of a signed document.

Accordingly, any signed document that is proffered only as a copy or electronic image provides no evidence of the existence of a signed paper document.

"Further Affiant sayeth not."



DALE STOBAUGH

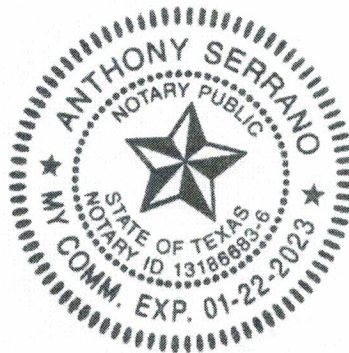
STATE OF TEXAS

COUNTY OF TRAVIS

Subscribed and sworn before me by DALE STOBAUGH on the 12 day of
May, 2022.



Notary Public for the
State of Texas



DALE STOBAUGH
Forensic Document Examiner

AUSTIN, TEXAS 78730
dalestobaugh@gmail.com
CURRICULUM VITAE

PROFESSIONAL SERVICES

Handwriting identification, forgery detection, typewriter identification / ribbon transcription / fracture match, photocopier identification, photocopy fraud detection, spectral/chemical ink analysis/comparison, mechanical printing identification, paper and envelope batch matching, latent writing impression restoration, restoration or obliterations and eradications, alteration detection, determination of sequence of events, image enhancements, etc.

EDUCATION

John H. Reagan High School, Austin, Texas, 1967
University of Texas at Austin, 1972, Bachelor of Journalism
Post Graduate Training, Forensic Document Examination

EXPERIENCE

Federal Bureau of Investigation, 1973-1974
Forensic Document Examiner, Texas Department of Public Safety Crime Laboratory, 1974-1977
Manager, Forensic Document Section, *Texas Department of Public Safety Crime Laboratory, 1977 – 2014
Local, State, Federal Court-Qualified in Criminal and Civil Cases
Lectures and Presentations to University of Texas, Police Academies, Investigators Associations, Attorneys Organizations, Civic Organizations, Professional Societies
Forensic Document Laboratories – private practice civil/criminal cases and testimony

PROFESSIONAL AFFILIATIONS

- Former Board Member, American Board of Forensic Document Examiners, Inc. 1988-1996
- Past Chairman, Recertification Committee, American Board of Forensic Document Examiners, Inc.
- Former Inspector, American Society of Crime Laboratory Directors, Inc. (ASCLD, Inc.)
- Former Member, SWGDOC (Scientific Working Group / Documents) F.B.I.
- Former Member, Proficiency Review Committee, ASCLD, Inc. 1998 – 2005
- Member, Questioned Document Section, American Academy of Forensic Sciences
- Owner / operator Forensic Document Laboratories, Austin, Texas

*An ASCLD-Accredited Crime Laboratory (Statutory Requirement 9-1-2005)

CONTINUING EDUCATION AND PROFESSIONAL APPOINTMENTS

Title	Date	Location
FBI Forensic Photography	6-5-1974	Quantico VA
FBI Questioned Document Problems	2/10/1975	Quantico VA
Questioned Document Examinations - SAFS	12/7/1975	Atlanta GA
American Academy of Forensic Sciences Conf.	2/17/1976	Washington DC
American Academy of Forensic Sciences Conf.	2/15/1977	San Diego CA
Questioned Document Examinations – SAFS	5/16/1977	Atlanta GA
1 st . Line Supervisors Training	1/9/1978	DPS Academy
American Academy of Forensic Sciences Conf.	2/21/1978	St. Louis MO
International Assn. For Identification Conf.	7/24/1978	Austin TX
American Academy of Forensic Sciences Conf.	3/9/1979	Atlanta GA
Photocopy Examinations	7/15/1979	Los Angeles CA
American Academy of Forensic Sciences Conf.	2/20/1980	New Orleans LA
1 st . Line Supervisors Training	3/5/1981	DPS Academy
Middle Management Training	3/5/1981	DPS Academy
American Academy of Forensic Sciences	3/12/1981	Los Angeles CA
International Assn. For Identification Conf.	6/26/1981	Houston TX
American Society of Questioned Doc. Examiners	8/16/1981	Houston TX
American Academy of Forensic Sciences Conf.	3/9/1982	Orlando FL
International Assn. For Identification Conf.	5/13/1982	Austin TX
FBI Questioned Document Fundamentals	1/14/1985	Quantico VA
American Academy of Forensic Sciences Conf.	2/13/1985	Las Vegas NV
American Academy of Forensic Sciences Conf.	2/12/1986	New Orleans LA
1 st . Level Management Training	2/24/1986	Lago Vista TX
American Bd Of Forensic Document Examiners	5/1/1988	Houston TX
ASQDE / SWAFDE / ABFDE Joint Conf.	9/11/1988	Denver CO
FBI Typewriter / Printer Examinations	3/20/1989	Quantico VA
American Board of Forensic Document Examiners Meeting	5/1/1989	Phoenix AZ
American Academy of Forensic Sciences Conf.	2/13/1990	Cincinnati OH
ABFDE Board of Directors Mtg	5/1/1990	Ottawa Canada
TCHR Fair Employment WS	6/8/1990	Austin TX
AIDS Awareness	1/24/1991	Austin TX
American Academy of Forensic Sciences Conf.	2/28/1991	Anaheim CA
ABFDE Board of Directors Mtg.	5/1/1991	Denver CO
American Society of Questioned Doc. Examiners	8/21/1991	Orlando FL
American Academy of Forensic Sciences Conf.	2/11/1992	New Orleans LA
ABFDE Board of Directors Mtg	5/1/1992	Houston TX
Southwestern Assn Of Forensic Doc. Examiners	10/17/1992	Denver CO
American Academy of Forensic Sciences Conf.	2/15/1993	Boston MA
ABFDE Board of Directors Mtg	5/1/1993	Miami FL
CLE Management Techniques	11/10/1993	Austin TX
American Academy of Forensic Sciences Conf	2/14/1994	San Antonio TX
Southwestern Assn Of Forensic Doc. Examiners	4/22/1994	Catalina Island CA
ABFDE Board of Directors Mtg	5/1/1994	Chicago IL
Sexual Harassment In The Workplace	11/1/1994	Austin TX
FBI – Blown Polyethylene Film Identification	1/3/1995	Austin TX
American Academy Of Forensic Sciences Conf.	2/13/1995	Seattle WA
Auto Lamp / Auto Speedometer Tng	4/20/1995	Austin TX
ABFDE Board Of Directors Mtg	5/1/1995	Cleveland OH

CONTINUING EDUCATION AND PROFESSIONAL APPOINTMENTS

Title	Date	Location
American Academy of Forensic Sciences Conf. Criminal Investigation In An Automated Environment (Computer Forensics)	2/17/1996	Nashville TN
EEOC Compliance	2/26/1996	Austin TX
Auto Lamp Examination	4/1/1996	Austin TX
ABFDE Board of Directors Mtg	4/16/1996	Austin TX
American Society Of Crime Laboratory Directors Inspector Training	5/1/1996	Houston TX
FBI – Technical Working Group – Documents	5/10/1996	Miami FL
FBI – Technical Working Group – Documents	4/1/1997	Quantico VA
FBI – Technical Working Group – Documents	9/1/1997	Quantico VA
FBI – Technical Working Group – Documents	12/1/1997	Quantico VA
American Society Of Questioned Document Exam.	8/22/1998	Scottsdale AZ
Southwestern Assn. Of Forensic Document Exam.	10/9/1998	Breckenridge CO
American Academy Of Forensic Sciences Conf.	2/1/1999	Orlando FL
FBI – Technical Working Group – Documents	4/1/1999	Quantico VA
Southwestern Assn. Of Forensic Document Exam.	3/23/2001	Monterey CA
Program Chair, American Academy Of Forensic Sciences Conf. (QD Section)	2/17/2004	Dallas TX
Southwestern Assn. Of Forensic Document Exam	10/8/2004	Golden CO
Amer. Society of Crime Lab Directors ISO Inspector Training Course	02/01/2006	Austin TX
AAFS Conference	02/23/2007	San Antonio, TX

PROFESSIONAL APPOINTMENTS AND PARTICIPATION

Scientific Working Group, FBI Laboratory, Questioned Documents
National Security Clearance
Testing and Research, Dr. Moshe Kam, Drexel University
Texas DPS Crime Laboratory Director's Award, Questioned Document Advisory Board
Chairperson, February 20, 2008

PUBLICATIONS

A Handwriting Identification by a Graphologist – It's Consequences (Presented at AAFS)

Document Examination Worksheet Design and Use – Dale Stobaugh / Ken Crawford;
Journal of Forensic Document Examiners

EXAMPLES OF MAJOR CASE PARTICIPATION AND SUPERVISION

Branch Davidian Siege
Republic of Texas Standoff
Enron Corporation Collapse
Texas Tobacco Lawsuit

Criminal and Civil Questioned Document Examination Casework for Local, State and
Federal Agencies and Most Major Law Firms in Texas.

If you have been presented with this CV, call 512-297-3459 to determine if FDL has been
retained.

My name is Billy Joe Shaver
and I make this testamentary
Holographic Will as follows
all my possessions songs, home
automobile bank accounts and
anything of value to my dear
friend & Fred Fletcher of
Austin Texas I make this
gift of my own free will
and have been from as nothing
and give nothing I want him
to continue to administer all
my music ~~and~~ business
and to keep all profits

October 2nd, 2008

Billy Joe Shaver

Lainie Safady *[Signature]* 10-2-08
Witness

Charles E. Rainey, Sr. *[Signature]* 10-2-08
Witness

Matt Rayland *[Signature]* 10-2-08

CAUSE NO. 20200552PR1

ESTATE OF § IN THE COUNTY COURT AT
LAW
BILLY JOE SHAVER §
§ NO. 1
§
DECEASED § McLENNAN COUNTY, TEXAS

AFFIDAVIT

"My name is KENNETH CRAWFORD. I am over the age of eighteen years and I am competent to testify as to the matters stated herein.

"I have been a Forensic Document Examiner for forty years. My curriculum vitae is attached to this affidavit and its contents are incorporated into this affidavit by reference as if recited verbatim herein."

"At the request of Terry Dwayne Rogers, through his attorney, DALE STOBAUGH and I have examined and compared one questioned signature dated October 2, 2008 which is alleged to be the signature of Billy Joe Shaver, Deceased, and one document that is alleged to be written in the handwriting of Billy Joe Shaver, and approximately 56 documents bearing known signatures and samples of extended handwriting of Billy Joe Shaver, ranging in date from 1994 to 2019.

In as far as our testing reveals, the Q1 Will JPEG submission is all written in ink that is indistinguishable (one ink) across the document.

In the date below text of Will, October 2, 2008, the 8 appears to be made as two markings, as a "5" like portion, then a left-side marking that makes the final character appear to be an 8. This 8 is unlike any 8 in Shaver's known

Exhibit 2

writings, e.g., the IRS return marked CF000101. . It appears that the original letter was "5" and it was changed to an "8."

The "2" of that date is a markedly different design from 2 in Shaver's known writing, especially the IRS return marked CF000101.

The penultimate line bears an obliteration that is not readable. An obliteration is not proper form for a formal document, especially a Will.

The date usually follows a signature on Wills and Contracts. Here the date is written with a vertical alignment (baseline) that is far off that of the text of the will and written between the text and the signature, as if it had been added later.

The name "Fred Fletcher" is hand printed, unlike the balance of the Will text. There are possible artifacts about that name, viz., F: bottom tip and middle horizontal; inside of the "h" arch. This means that this portion of the document may have been digitally manipulated and the name "Fred Fletcher" may have been inserted.

Conclusion

There are indications that Billy Joe Shaver wrote and signed the questioned holographic Will, Q1. At present, a more definite determination is precluded due to the limitations cited below. The possible exception are the numerals in the Will date, as explained.

From: **SWGDOC Standard Terminology for Expressing Conclusions of Forensic Document Examiners**

There are questionable features in this Will. Examples are the placement and baseline of the date, the formation of the "8," and the hand printing of the name, "Fred Fletcher." If only a copy of the Will is available, then the possibility that this name date and/or date were electronically added cannot be dismissed.

Limitations

Due to a lack of detail and possible misinterpretation of foreign matter reflected in copies, it is usually our policy not to base positive identification or elimination by handwriting comparison on any type of reproduction. (High resolution copies of handwriting evidence documents, however, can be used to report qualified results which are admissible in court.)

Irrespective of the degree to which a signature may appear to be genuine, an image of a signature appearing on a copy of a document does not demonstrate that the ink original of that signature was written on the original document, and the question of whether that document was signed cannot be established unless and until the original document is submitted for forensic examination. The reason for this is that any document and signature can be merged by photocopy or digital techniques to produce a copy that appears to be an image of a signed document.

Accordingly, any signed document that is proffered only as a copy or electronic image provides no evidence of the existence of a signed paper document.

"Further Affiant sayeth not."

Kenneth Crawford

KENNETH CRAWFORD

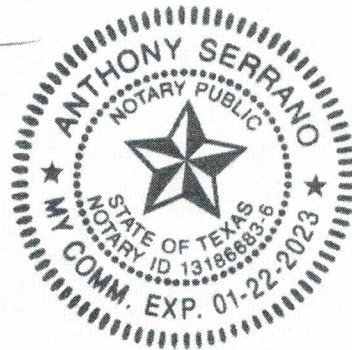
STATE OF TEXAS

COUNTY OF TRAVIS

Subscribed and sworn before me by KENNETH CRAWFORD on the 12 day
of May, 2022.

Anthony Serrano

Notary Public for the
State of Texas



Curriculum Vitae
Kenneth R. Crawford
Forensic Document Examiner
Austin Texas

Education

Bachelor of Arts, Major in Biology, 1975, *University of Texas at Austin*
Bachelor of Science in Zoology, 1976, *University of Texas at Austin*

Experience

Forensic Scientist IV (Specialization in Forensic Document Examination)
Texas Department of Public Safety Headquarters Crime Laboratory
Austin Texas April 1977 to 2016

2016 – Present, Private Consultant in Forensic Document Examination

Types of Analyses Performed

Identification/Elimination by handwriting comparison, typewriter, photocopier, computer and mechanical printer products, writing ink and paper analysis, physical match, charred document restoration, preparation sequence determination, image enhancement, obliteration and latent writing impression restoration

Additional training and state crime laboratory casework in automobile lamp comparison for incandescence, speedometer examination for accident speed determination, blown polyethylene film (plastic bag) comparison for origin determination, adhesive tape for physical match

Training

1977- 1979 training in crime laboratory under supervision of senior examiners, Paul Hanson and Dale B. Stobaugh. Read Principle textbooks in the field, scientific journals and papers on forensic document examination and received additional training as detailed below:

Schools and Seminars Attended:

Southern Association of Forensic Scientists
Document Examination Seminar
Atlanta, Georgia, 1977

Forensic Ink Analysis
U.S. Bureau of Alcohol Tobacco and Firearms Laboratory
Dr. A.A. Cantu, Chief Richard Brunelle, supervising
Washington, D.C.
April 1978

Annual Conference
International Association for Identification
Austin, Texas
July 1978

Document Examination Seminar
Forensic Sciences Foundation, Inc.
State Police Headquarters
Jim Kelley, Georgia Bureau of Investigation, supervising
Lansing, Michigan
May 1979

American Society of Questioned Document Examiners
Annual Meeting
Houston, Texas
August 1981

Fundamentals of Document Examination for Laboratory Personnel
Federal Bureau of Investigation, Quantico, Virginia
Special Agent Charles McGinnis, et al, supervising
Grade: A (4 semester hours, University of Virginia)
September 1985

Lottery Document Examination
Florida Lottery Commission
Special Agent John A. Frasier, supervising
Tallahassee, Florida

Computer Fraud Seminar
National Association of Certified Fraud Examiners
Houston, Texas
January 1994

Physical Match for Document Examiners Seminar
Questioned Document Database Seminar
American Academy of Forensic Sciences Annual Meeting
San Antonio, Texas
February 1994

Seminar in Forensic Microscopy
Texas Department of Public Safety Training Academy and Microtrace, Inc.
April 1994

Paper Fiber Analysis School
Fox Valley Technical College and Integrated Paper Services, Inc.
Appleton, Wisconsin
September 1994

Altered Identification Documents Seminar
California Criminalistics Institute
Sacramento, California
March 1995

Introduction to Automobile Lamp Examination
Southwestern Association of Forensic Scientists
April 1996

Criminal Investigation in an Automated Environment Seminar
Federal Law Enforcement Training Center
Glynco Georgia
June 1996

Society of Forensic Ink Analysts Annual Conference
Fredericksburg, Virginia
September 1999

Color Analysis in Forensic Science Seminar
Forensic Applications of Capillary Electrophoresis in Forensic Science Seminar
American Academy of Forensic Sciences Annual Meeting
Reno, Nevada
February 2000

Spectroscopy Seminar
Nicolet Corporation
Dallas, Texas
May 2000

Moderator for Questioned Document Section
American Academy of Forensic Sciences Annual Meeting
Annual Meeting
Atlanta, Georgia
February 2002

Society of Forensic Ink Analysts
Board of Directors at meeting
Atlanta, Georgia
February 2002

Moderator for Questioned Document Section
American Academy of Forensic Sciences Annual Meeting
Dallas Texas
February 2004

Adobe Photoshop for Document Examiners Workshop:
American Academy of Forensic Sciences Annual Meeting
Dallas Texas
February 2004

*How Fry and Daubert Have Changed the Presentation of Criminalistics and
Questioned Documents in Court Workshop:*
American Academy of Forensic Sciences Annual Meeting
Seattle, Washington
February 2006

Memberships and Affiliations

- *American Academy of Forensic Sciences*, Member, Questioned Document Section
- *Society of Forensic Ink Analysts*, Member and Member of Board of Directors
- *American Chemical Society*, Member
- *American Association of Crime Laboratory Directors*, Accreditation body for DPS Headquarters Laboratory and all personnel

Publications

Co-Published paper on analysis documentation in forensic document examination

International Journal of Forensic Document Examiners
July/September, 1995

Co-Authored book, *Advances in the Forensic Analysis and Dating of Writing Ink*
Charles Thomas Publisher, Ltd, (www.ccthomas.com) Springfield, Illinois,
Copyright 2003

Court Qualification

Testified regularly over period of 1979 - 2016 regarding analyses performed in Texas Department of Public Safety Crime Laboratory. These testimonies were given in municipal, state and federal court, criminal and civil proceedings on all types of questioned document analyses, paper fiber analysis, physical tear and polyethylene bag comparisons. Continued analyses and testimony in civil cases as private consultant since 2016.

My name is Billy Joe Shaver
and I make this testamentary
Holographic Will as follows
and my possessions songs, house
automobile bank accounts and
anything of value to my dear
friend & Fred Fletcher of
Austin Texas I make this
gift of my own free will
and have been promised nothing
and give nothing I want him
to continue to administer all
my music ~~the~~ business
and to keep all profits

October 2nd, 2008

Billy Joe Shaver

Lainie Safady *[Signature]* 10-2-08
WITNESS

Charles E. Rainey, Sr. *[Signature]* 10-2-08
WITNESS

Matt Ryland *[Signature]* 10-2-08

IN RE: THE ESTATE OF
BILLY JOE SHAVER
(DECEASED)

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§

IN THE COUNTY
COURT OF
McLENNAN COUNTY, TEXAS

AFFIDAVIT OF TERRY DWAYNE ROGERS

STATE OF TEXAS

COUNTY OF MCLENNAN

Before me the undersigned authority, personally appeared TERRY DWAYNE ROGERS, who by me being duly sworn, on oath deposed and said as follows:

“My name is TERRY DWAYNE ROGERS. I am over the age of eighteen years and I am competent to testify as to the matters stated herein. All statements contained herein are within my personal knowledge and are true and correct.

I reside in McLennan County, Texas 76705;

I am the nephew of BILLY JOE SHAVER. My mother is Patricia Shaver who is the sister of Billy Joe Shaver. I went to live with Billy Joe Shaver when I was ten years old. From that time on, he was like a father to me. I performed many services for my uncle through the years, taking care of his personal needs such as cooking for him, caring for him when he was sick, running errands.

BILLY JOE SHAVER is deceased, having died on the 16th day of September, 2020;

He was domiciled and had a fixed place of residence at 2711 Old Robinson Road, Robinson, McLennan County, Texas 76706 at the time of his death;

The document dated the 14th day of June 2005, and purporting to be the will of the said Deceased was never revoked as far as I know;

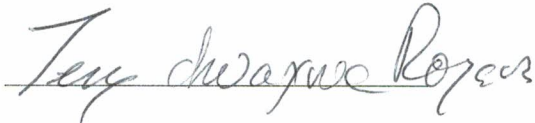
Exhibit 3

At the time of the making of the will he was over the age of eighteen years;

No child or children were born to or adopted by him since the making of said will;

In this Will, he named me, TERRY DWAYNE ROGERS to serve as Independent Executor of the Estate, to serve without bond. I am not disqualified by law from serving as Executor. I have never been convicted of a felony.

Further Affiant sayeth not.”

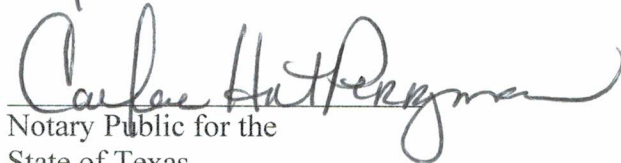


TERRY DWAYNE ROGERS

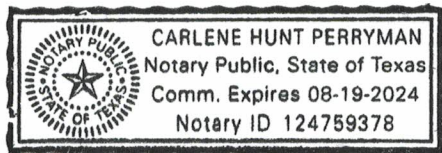
STATE OF TEXAS

COUNTY OF MCLENNAN

Subscribed and sworn before me by TERRY DWAYNE ROGERS on the 11 day of May, 2022.



Notary Public for the
State of Texas



LAST WILL AND TESTAMENT

Of

BILLY JOE SHAVER

I, BILLY JOE SHAVER, Social Security Number _____ residing and presently being domiciled in McLennan County, Texas, do hereby revoke all previous wills and codicils heretofore made by me, and do hereby make, declare and publish this my Last Will and Testament.

FIRST. For purposes of determining who will take property under this will, no person shall be deemed to have survived me if such person dies within thirty days of my date of death.

SECOND. I direct that all of my just debts and expenses of my last illness and my funeral expenses be paid as soon as may be conveniently done after my death, except any debts which are payable in installments or are not due until at least one year from the date of my death need not be paid during the administration of my estate and may, if the terms of said debts permit, be continued and paid according to their tenor.

THIRD. I give, devise and bequeath the following specified property, to Ronnie Tindell: the residence and real property, which is commonly known as 2711 Old Robinson Road, Waco, McLennan County, Texas 76706 and more specifically described as:

BEING Lot 6, in Block F, of the Alta Vista Village Addition, Part 3 to the City of Waco, McLennan County, Texas, as per plat thereof recorded in Volume 1501, Page 671, of the Deed Records of McLennan County, Texas

Said lot being a result of the resubdivision of the lot known as:

BEING Lot 1, in Block F, of the Alta Vista Village Addition, Part 3 to the City of Waco, McLennan County, Texas, as per plat thereof recorded in Volume 998, Page 448 of the Deed Records of McLennan County, Texas

I give, devise and bequeath the rest, residue and remainder of my property to my nephew, Terry Dwayne Rogers.

If Terry Dwayne Rogers should fail to survive me, then I give, devise and bequeath the

Exhibit 4

rest, residue and remainder of my property to Ronnie Tindell.


FOURTH. To serve as Independent Executor of this will and of my estate, I appoint my nephew, Terry Dwayne Rogers. If he should fail to qualify, or having qualified should die, become incapacitated, or refuse to serve, then I appoint Ronnie Tindell.

No bond or other security shall be required of the Independent Executrix or Independent Executor. No other action shall be had in any court in relation to the settlement or the administration of my estate than the probating and recording of this will and the return of an inventory, appraisalment, and list of claims of my estate.

In testimony whereof, I hereunto sign my name to this my Last will and Testament in the presence of the undersigned Witnesses who sign their names hereunto as Witnesses, at my request, in my presence and in the presence of each other on this the 14th day of June, 2005.


Billy Joe Shaver, Testator

The foregoing instrument was signed by the Testator, Billy Joe Shaver, in our presence and declared by him to be his Last Will and Testament, and we, at his request, in his presence and in the presence of each other sign our names hereunto as Witnesses on this the 14th day of June, 2005


Witness


Witness

STATE OF TEXAS

COUNTY OF MCLENNAN

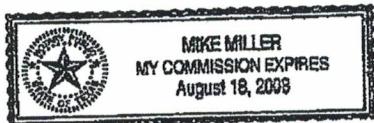
BEFORE ME, the undersigned authority, on this day personally appeared Billy Joe Shaver, Elizabeth Miller and Jim Hollingsworth, known to me to be the Testator and the witnesses, respectfully, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all said persons being by me duly sworn, the said Billy Joe Shaver, Testator, declared to me and to the said witnesses in my presence that the said instrument is his Last will and Testament, and that he had willingly made and executed it as his free act and deed for the purpose therein expressed; and the said witnesses on their respective oaths stated to me, in the presence and hearing of the said Testator that the said Testator had declared to them that said instrument is his Last Will and Testament and that he executed the same as such and wanted each of them to sign it as a witness, and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator at his request; and that he was at that time over eighteen (18) years of age and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

Billy Joe Shaver
Billy Joe Shaver, Testator

Elizabeth Miller
Witness

Jim Hollingsworth
Witness

SUBSCRIBED AND ACKNOWLEDGED BEFORE ME by the said Billy Joe Shaver, Testator, and subscribed and sworn to before me by the witnesses, this 14th Day of June, 2005.



Mike Miller
Notary Public,
State of Texas

IN RE: THE ESTATE OF
BILLY JOE SHAVER
(DECEASED)

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§

IN THE COUNTY
COURT OF
McLENNAN COUNTY, TEXAS

AFFIDAVIT OF MIKE MILLER

STATE OF TEXAS

COUNTY OF McLENNAN

Before me the undersigned authority, personally appeared MIKE MILLER, who by me being duly sworn, on oath deposed and said as follows:

“My name is MIKE MILLER. I am over the age of eighteen years and I am competent to testify as to the matters stated herein. All statements contained herein are within my personal knowledge and are true and correct.

“I reside in McLennan County, Texas.

“I was the husband of Elizabeth Miller, daughter of Jim Hollingsworth. Jim and Billy Joe Shaver were friends since their childhood. Elizabeth served as Billy Joe Shaver’s attorney after she became licensed in 1989. He called on her many times for assistance and advice with legal and personal business matters, having signed an agreement on October 26, 2000 for her to be his Personal Business Manager, and a granted her a Statutory Durable Power of Attorney on October 26, 2000. This agreement and Statutory Durable Power of Attorney were never revoked as far as I know. She prepared his income tax returns each year for many years, and accordingly knew the sources of his income. Elizabeth drafted a will for Billy Joe Shaver which he executed on June 14, 2005. I served as the Notary Public for the self-proving affidavit of that will. I found the original of this will among

Exhibit 5

Elizabeth's files. Billy Joe Shaver called Elizabeth Miller every few days, and we conversed about him frequently, in part because of the longstanding friendship her father had with Mr. Shaver. Elizabeth Miller never mentioned to me that Billy Joe Shaver executed a handwritten will in 2008. I believe she would have told me because she handled his business and legal matters for many years, and we talked about him frequently. I do not believe Billy Joe Shaver would have made a last will and testament without consulting with Elizabeth Miller.

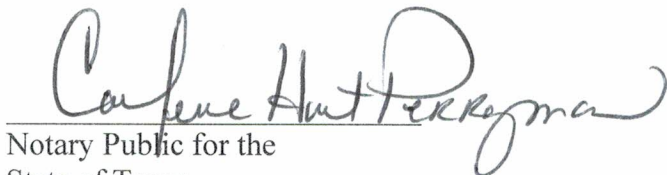
"Further affiant sayeth not."

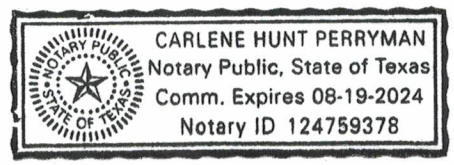

MIKE MILLER

STATE OF TEXAS

COUNTY OF MCLENNAN

Subscribed and sworn before me by MIKE MILLER on the 11 day of May, 2022.


Notary Public for the
State of Texas



THE STATE OF TEXAS X
X
COUNTY OF McLENNAN X

Before me, the undersigned authority, a Notary Public in and for the County of McLennan, State of Texas, on this day personally appeared BILLY JOE SHAVER, *LISA SIMON* and *Patricia S Phillips*, known to me to be the Testator and the Attesting Witnesses, respectively, whose names are subscribed to the foregoing and attached instrument, in their respective capacities; and all of said persons being by me first duly sworn, the said Testator BILLY JOE SHAVER, declared to me and to the said witnesses in my presence that the said instrument of even date hereof, being typewritten on one page of legal size paper, single spaced, attached hereto, is his Last Will and Testament, and that he had purposefully and willingly made and executed it as his free act and deed for the purposes therein expressed; and the said witnesses, each on oath, stated to me, in the presence and hearing of said Testator, and in the presence and hearing of each other, that the said Testator had declared to them that the said instrument is his Last Will and Testament and that he executed the same as such and wanted each of them to sign it as an Attesting Witness; and upon their oaths each witness stated further that they did sign the same as attesting witnesses in the presence of said Testator and at his request and in the presence of each other; that the said Testator, BILLY JOE SHAVER, at the time of signing and publishing said Last Will and Testament was then of lawful age and was of sound mind, and that each of said Attesting Witnesses was then more than fourteen years of age.

Billy Joe Shaver
Testator

Lisa Simon
Witness

Patricia S Phillips
Witness

SUBSCRIBED AND SWORN TO AND ACKNOWLEDGED before me by the said BILLY JOE SHAVER, Testator, and also SUBSCRIBED AND SWORN TO before me by the said *Lisa Simon* and *Patricia S Phillips* Attesting Witnesses, all on this the 30th day of *May*, A. D. 1986, TO CERTIFY WHICH, WITNESS MY HAND OFFICIALLY AND MY SEAL OF OFFICE.

Beth Harding

Notary Public
State of Texas
My commission expires: *6-2-89*

BETH HARDING, Notary Public
State of Texas

Last Will and Testament

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF McLENNAN

That I, Billy Joe Shaver, residing and being domiciled in McLennan County, Texas, being of sound and disposing mind and memory, do hereby revoke all previous wills and codicils heretofore made by me, and do hereby make, declare and publish this my Last Will and Testament.

FIRST. I direct that all of my just debts and the expenses of my last sickness and funeral shall be paid out of my estate by my executor or executrix, as the case may be, as soon after my decease as by my executor or executrix shall be found convenient, except any debts which are payable in installments or are not due until at least one year from the date of my death need not be paid during the administration of my estate and may, if the terms of said debts permit, be continued and paid according to their tenor.

SECOND. I give, devise and bequeath all of the property which I may own at the time of my death, real, personal and mixed, tangible and intangible, of whatsoever nature and wheresoever situated, including all property which I may acquire or become entitled to after the execution of this will, to my son, John Edwin Shaver.

THIRD. No person shall be deemed to have survived me if such person dies within thirty days of my date of death.

FOURTH. To serve as Independent Executor of this will and of my estate, I appoint my son, John Edwin Shaver.

No bond or other security shall be required of the Independent Executor or Executrix. No other action shall be had in any court in relation to the settlement or the administration of my estate than the probating and recording of this will and the return of an inventory, appraisal and list of claims of my estate.

In testimony whereof, I hereunto sign my name to this my Last Will and Testament in the presence of the undersigned Witnesses who sign their names hereunto as Witnesses, at my request, in my presence and in the presence of each other on this the 27 day of October, 2000.


Billy Joe Shaver, Testator

Exhibit 7

The foregoing instrument was signed by the Testator, Billy Joe Shaver, in our presence and declared by him to be his Last Will and Testament, and we, at his request, in his presence and in the presence of each other sign our names hereunto as Witnesses on this the 27 day of October _____, 2000.

Elizabeth Miller
Witness

Jimmy Hollingsworth
Witness

STATE OF TEXAS

COUNTY OF McLENNAN

BEFORE ME, the undersigned authority, on this day personally appeared Billy Joe Shaver, Jimmy Hollingsworth and ELIZABETH MILLER, known to me to be the Testator and the witnesses, respectfully, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the said Billy Joe Shaver, Testator, declared to me and to the said witnesses in my presence that the said instrument is his Last Will and Testament, and that he had willingly made and executed it as his free act and deed for the purpose therein expressed; and the said witnesses on their respective oaths stated to me, in the presence and hearing of the said Testator that the said Testator had declared to them that said instrument is his Last Will and Testament and that he executed the same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator at his request; and that he was at that time over eighteen (18) years of age and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

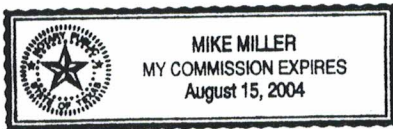
Billy Joe Shaver
Billy Joe Shaver, Testator

Elizabeth Miller
Witness

Jimmy Hollingsworth
Witness

SUBSCRIBED AND ACKNOWLEDGED BEFORE ME by the said Billy Joe Shaver, Testator, and subscribed and sworn to before me by the witnesses, this 27 day of October, 2000.

Mike Miller
Notary Public,
State of Texas



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JUDICIAL DEPARTMENT
CLERK
FILED

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Last Will and Testament

May 2011

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF McLENNAN

That I, Billy Joe Shaver, residing and being domiciled in McLennan County, Texas, being of sound and disposing mind and memory, do hereby revoke all previous wills and codicils heretofore made by me, and do hereby make, declare and publish this my Last Will and Testament.

FIRST. I direct that all of my just debts and the expenses of my last sickness and funeral shall be paid out of my estate by my executor or executrix, as the case may be, as soon after my decease as by my executor or executrix shall be found convenient, except any debts which are payable in installments or are not due until at least one year from the date of my death need not be paid during the administration of my estate and may, if the terms of said debts permit, be continued and paid according to their tenor.

SECOND. I give, devise and bequeath all of the property which I may own at the time of my death, real, personal and mixed, tangible and intangible, of whatsoever nature and wheresoever situated, including all property which I may acquire or become entitled to after the execution of this will, to my sister, Patricia Shaver.

THIRD. No person shall be deemed to have survived me if such person dies within thirty days of my date of death.

FOURTH. To serve as Independent Executor of this will and of my estate, I appoint my sister, Patricia Shaver.

No bond or other security shall be required of the Independent Executor or Executrix. No other action shall be had in any court in relation to the settlement or the administration of my estate than the probating and recording of this will and the return of an inventory, appraisal and list of claims of my estate.

In testimony whereof, I hereunto sign my name to this my Last Will and Testament in the presence of the undersigned Witnesses who sign their names hereunto as Witnesses, at my request, in my presence and in the presence of each other on this the 8 day of January, 2000.

Billy Joe Shaver
Billy Joe Shaver, Testator

Exhibit 8

The foregoing instrument was signed by the Testator, Billy Joe Shaver, in our presence and declared by him to be his Last Will and Testament, and we, at his request, in his presence and in the presence of each other sign our names hereunto as Witnesses on this the 8 day of January, 2000.

Elizabeth Miller
Witness

Jim Hollingsworth
Witness

STATE OF TEXAS

COUNTY OF McLENNAN

BEFORE ME, the undersigned authority, on this day personally appeared Billy Joe Shaver, ELIZABETH MILLER and Jim Hollingsworth, known to me to be the Testator and the witnesses, respectfully, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the said Billy Joe Shaver, Testator, declared to me and to the said witnesses in my presence that the said instrument is his Last Will and Testament, and that he had willingly made and executed it as his free act and deed for the purpose therein expressed; and the said witnesses on their respective oaths stated to me, in the presence and hearing of the said Testator that the said Testator had declared to them that said instrument is his Last Will and Testament and that he executed the same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator at his request; and that he was at that time over eighteen (18) years of age and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

Billy Joe Shaver
Billy Joe Shaver, Testator

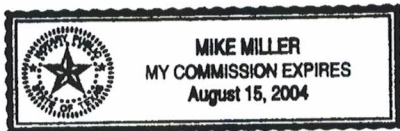
Elizabeth Miller
Witness

Jim Hollingsworth
Witness

SUBSCRIBED AND ACKNOWLEDGED BEFORE ME by the said Billy Joe Shaver, Testator, and subscribed and sworn to before me by the witnesses, this 8 day of

January, 2000.

Mike Miller
Notary Public,
State of Texas



Last Will and Testament

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF McLENNAN

That I, Billy Joe Shaver, residing and being domiciled in McLennan County, Texas, being of sound and disposing mind and memory, do hereby revoke all previous wills and codicils heretofore made by me, and do hereby make, declare and publish this my Last Will and Testament.

FIRST. I direct that all of my just debts and the expenses of my last sickness and funeral shall be paid out of my estate by my executor or executrix, as the case may be, as soon after my decease as by my executor or executrix shall be found convenient, except any debts which are payable in installments or are not due until at least one year from the date of my death need not be paid during the administration of my estate and may, if the terms of said debts permit, be continued and paid according to their tenor.

SECOND. I give, devise and bequeath all of the property which I may own at the time of my death, real, personal and mixed, tangible and intangible, of whatsoever nature and wheresoever situated, including all property which I may acquire or become entitled to after the execution of this will, to my nephew, Terry Dwayne Rogers.

THIRD. No person shall be deemed to have survived me if such person dies with thirty days of my date of death.

FOURTH. To serve as Independent Executor of this will and of my estate, I appoint my nephew, Terry Dwayne Rogers.

No bond or other security shall be required of the Independent Executor or Executrix.. No other action shall be had in any court in relation to the settlement or the administration of my estate than the probating and recording of this will and the return of an inventory, appraisement and list of claims of my estate.

In testimony whereof, I hereunto sign my name to this my Last Will and Testament in the presence of the undersigned Witnesses who sign their names hereunto as Witnesses, at my request, in my presence and in the presence of each other on this the 24th day of November, 2003.

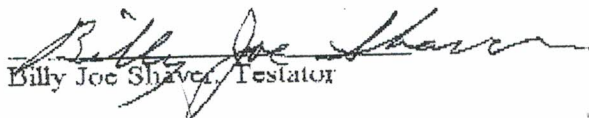

Billy Joe Shaver, Testator

Exhibit 9

The foregoing instrument was signed by the Testator, Billy Joe Shaver, in our presence and declared by him to be his Last Will and Testament, and we, at his request, in his presence and in the presence of each other sign our names hereunto as Witnesses on this the 24th day of November, 2003.

Elizabeth Miller
Witness

[Signature]
Witness

STATE OF TEXAS

COUNTY OF McLENNAN

BEFORE ME, the undersigned authority, on this day personally appeared Billy Joe Shaver, Elizabeth Miller and Joe Hutera, known to me to be the Testator and the witnesses, respectfully, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the said Billy Joe Shaver, Testator, declared to me and to the said witnesses in my presence that the said instrument is his Last Will and Testament, and that he had willingly made and executed it as his free act and deed for the purpose therein expressed; and the said witnesses on their respective oaths stated to me, in the presence and hearing of the said Testator that the said Testator had declared to them that said instrument is his Last Will and Testament and that he executed the same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator at his request; and that he was at that time over eighteen (18) years of age and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

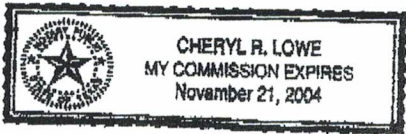
Billy Joe Shaver
 Billy Joe Shaver, Testator

[Signature]
 Witness

Elizabeth Miller
 Witness

SUBSCRIBED AND ACKNOWLEDGED BEFORE ME by the said Billy Joe Shaver, and subscribed and sworn to before me by the witnesses, this 27th day of November, 2003.

Cheeryl R. Lowe
 Notary Public,
 State of Texas



Personal Business Management Agreement

I, Billy Joe Shaver, do hereby make the agreement to pay to Elizabeth Miller the sum of Fifteen Percent of all of my gross revenues and receipts for the management of my personal business. Said Fifteen Percent shall be deducted from each deposit or receipt first, with the balance to be used for the payment of my personal debts and expenses as far as the deposit or receipt will allow.

Additionally, I agree to pay reasonable expenses incurred in relation to the management of my personal business.

Personal Business Management shall include for the most part, the receiving of my checks and the payment of my personal bills which come due on a regular basis.

Personal Business Management shall not include representation regarding legal matters.

Personal Business Management shall not include accounting services.

This agreement shall not include services for the personal business management of John Edwin Shaver.

Either party may cancel this agreement by giving 30 days written notice to the other party.

Dated: 10-26-00

Signed: Billy Joe Shaver
Billy Joe Shaver

Dated: 10/26/00

Signed: Elizabeth Miller
Elizabeth Miller

Exhibit 10

STATUTORY DURABLE POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, CHAPTER XII, TEXAS PROBATE CODE. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I, Billy Joe Shaver, my ~~Social Security~~ Number being, 02608493, appoint Elizabeth Miller as my agent (attorney-in-fact) to act for me in any lawful way with respect to all of the following powers except for a power that I have crossed out below.

TO WITHHOLD A POWER, YOU MUST CROSS OUT EACH POWER WITHHELD.

- Real property transactions;
- Tangible personal property transactions;
- Stock and bond transactions;
- Commodity and option transactions;
- Banking and other financial institution transactions;
- Business operating transactions;
- Insurance and annuity transactions;
- Estate, trust and other beneficiary transactions;
- Claims and litigation;
- Personal and family maintenance;
- Benefits from social security, Medicare, Medicaid, or other governmental programs or civil or military service;
- Retirement plan transfers;
- Tax matters.

IF NO POWER LISTED ABOVE IS CROSSED OUT, THIS DOCUMENT SHALL BE CONSTRUED AND INTERPRETED AS A GENERAL POWER OF ATTORNEY AND MY AGENT (ATTORNEY IN FACT) SHALL HAVE THE POWER AND AUTHORITY TO PERFORM OR UNDERTAKE ANY ACTION I COULD PERFORM OR UNDERTAKE IF I WERE PERSONALLY PRESENT.

SPECIAL INSTRUCTIONS

I grant my agent (attorney in fact) the power to apply my property to make gifts, except that the amount of a gift to an individual may not exceed the amount of annual exclusions allowed from the federal gift tax for the calendar year of the gift.

Exhibit 11

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS
LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS
EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

CHOOSE ONE OF THE FOLLOWING ALTERNATIVES BY CROSSING OUT
THE ALTERNATIVE NOT CHOSEN:

- (A) This power of attorney is not affected by my subsequent disability or incapacity.
- (B) This power of attorney becomes effective upon my disability or incapacity.

YOU SHOULD CHOOSE ALTERNATIVE (A) IF THIS POWER OF ATTORNEY
IS TO BECOME EFFECTIVE ON THE DATE IT IS EXECUTED.

IF NEITHER (A) NOR (B) IS CROSSED OUT, IT WILL BE ASSUMED THAT
YOU CHOSE ALTERNATIVE (A).

If Alternative (B) is chosen and a definition of my disability or incapacity is not contained in this power of attorney, I shall be considered disabled or incapacitated for purposes of this power of attorney if a physician certifies in writing at a date later than the date this power of attorney is executed that, based on the physician's medical examination of me, I am mentally incapable of managing my financial affairs. I authorize the physician who examines me for this purpose to disclose my physical or mental condition to another person for purposes of this power of attorney. A third party who accepts this power of attorney is fully protected from any action under this power of attorney that is based on the determination made by a physician of my disability or incapacity.

I agree that any third party who receives a copy of this document may act under it. Revocation of the durable power of attorney is not effective as to a third party until the third party receives actual notice of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

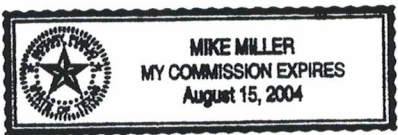
If any agent named by me dies, becomes legally disabled, resigns, or refuses to act, I name the following (each to act alone and successively, in the order named) as successor(s) to that agent: _____

Signed this 56 day of October, 2000

Billy Joe Shaver
Billy Joe Shaver

State of Texas
County of McLennan

This document was acknowledged before me on October 56,
2000 by Billy Joe Shaver.



Mike Miller
Notary Public

THE ATTORNEY IN FACT OR AGENT, BY ACCEPTING OR ACTING UNDER
THE APPOINTMENT, ASSUMES THE FIDUCIARY AND OTHER LEGAL
RESPONSIBILITIES OF AN AGENT.