

262 Va 40

IN THE
Supreme Court of Virginia

RECORD NO. 002058



PEGGY H. JOHNSON, et al.,

Appellants,

v.

GENEVA H. CAULEY, et al.,

Appellees.

APPENDIX

**William H. Oast III
Andrew H. Hook
OAST & HOOK P.C.
Post Office Box 399
Postsmouth, Virginia 23705-0399
(757) 399-7506**

Counsel for Appellants

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VIRGINIA: IN THE CIRCUIT COURT OF SOUTHAMPTON COUNTY

GENEVA H. CAULEY, also known as Elizabeth Howell
Cauley, Individually and as Nominated Executor of
the Estate of Josephine S. Howell, Deceased;
AMELIA H. SPIVEY, Individually and as
Nominated Executor of the Estate of Josephine S. Howell,
Deceased; LYNDA H. BOND; RENEE C. RAINS;
KATHY C. FATICO; STEPHEN W. CAULEY, III;
HOLLEY BLYTHE; KIM BLYTHE;
KAREN BOND; ELIZABETH GRAFF; and
SUZAN BOND,

Plaintiffs,

v.

IN CHANCERY NO.

PEGGY H. JOHNSON
29406 Johnson Drive
Boykins, VA 23827

BENJAMIN E. JOHNSON, JR.
29357 Vicks Millpond Road
Branchville, VA 23828

MEADOW J. KELLY
7160 Autumn Ridge Lane
Mechanicsville, VA 23111

JOSEPH D. JOHNSON
29187 Porterhouse Road
Boykins, VA 23827

and

FRANK M. RAWLS, Nominated Executor
of the Estate of Josephine S. Howell, Deceased,

Defendants.

BILL OF COMPLAINT
TO ESTABLISH LOST WILL AND CODICILS

To the Honorable Judges of said Court:

Your plaintiffs respectfully represent as follows:

1. Josephine S. Howell, who resided at 26612 Dogwood Bend Road in the City of Franklin, County of Southampton, departed this life on March 5, 1999.

2. On February 1, 1985, Josephine S. Howell, being of age and competent to do so, duly executed her Last Will and Testament before two competent witnesses. Said Will was made self-proved in accordance with the provisions of Section 64.1-87.1 of the Code of Virginia of 1950, as amended. A copy of the Last Will and Testament executed by Josephine S. Howell on February 1, 1985 ("1985 Will"), is attached hereto as Exhibit 1.

3. On September 21, 1987, Josephine S. Howell, being of age and competent to do so, duly executed a Codicil before two competent witnesses. Said Codicil was made self-proved in accordance with the provisions of Section 64.1-87.1 of the Code of Virginia of 1950, as amended. A copy of the Codicil executed by Josephine S. Howell on September 21, 1987 ("1987 Codicil"), is attached hereto as Exhibit 2.

4. On May 10, 1990, Josephine S. Howell, being of age and competent to do so, duly executed a Codicil before two competent witnesses. Said Codicil was made self-proved in accordance with the provisions of Section 64.1-87.1 of the Code of Virginia of 1950, as amended. A copy of the Codicil executed by Josephine S. Howell on May 10, 1990 ("1990 Codicil"), is attached hereto as Exhibit 3.

5. On May 14, 1992, Josephine S. Howell, being of age and competent to do so, duly executed a Codicil before two competent witnesses. Said Codicil was made self-proved in accordance with the provisions of Section 64.1-87.1 of the Code of Virginia of 1950, as amended. A copy of the Codicil executed by Josephine S. Howell on May 14, 1992 ("1992 Codicil"), is attached hereto as Exhibit 4.

6. The originals of the 1985 Will, 1987 Codicil, and 1992 Codicil were left in the custody of J. Lewis Rawls, Jr., now deceased, the attorney who prepared such documents and supervised their execution.

7. The original of the 1990 Codicil was left in the custody of the testator, Josephine S. Howell, or her daughter, Amelia H. Spivey, and is now in the possession of Amelia H. Spivey.

8. J. Lewis Rawls, Jr., predeceased the testator, Josephine S. Howell. Upon the death of Josephine S. Howell, the originals of the 1985 Will, the 1987 Codicil, and the 1992 Codicil could not be located among the records and papers of J. Lewis Rawls, Jr., deceased.

9. Plaintiff Geneva H. Cauley, also known as Elizabeth Howell Cauley, is a daughter and heir-at-law of Josephine S. Howell, is a beneficiary under the Will and each of the Codicils, and is appointed Co-Executor of the Estate of Josephine S. Howell ("Estate") under the 1992 Codicil. She is also appointed a successor Co-Executor of the Estate under the 1990 Codicil.

10. Plaintiff Amelia H. Spivey is a daughter and heir-at-law of Josephine S. Howell, is a beneficiary under the Will and each of the Codicils, and is appointed Co-Executor of the Estate under the 1992 Codicil. She is also appointed the sole Executor of the Estate under the 1990 Codicil.

11. Plaintiff Lynda H. Bond is a daughter and heir-at-law of Josephine S. Howell and is a beneficiary under the Will and each of the Codicils.

12. Plaintiffs Renee C. Rains, Kathy C. Fatico, Stephen W. Cauley, III, Holley Blythe, Kim Blythe, Karen Bond, Elizabeth Graff, and Suzan Bond are grandchildren of Josephine S. Howell and are beneficiaries under the Will and each of the Codicils.

13. Defendant Peggy H. Johnson is a daughter and heir-at-law of Josephine S. Howell and is a beneficiary under the Will and each of the Codicils.

14. Defendants Benjamin E. Johnson, Jr., Meadow J. Kelly, and Joseph D. Johnson are grandchildren of Josephine S. Howell and are beneficiaries under the Will and each of the Codicils. These defendants, and plaintiffs Renee C. Rains, Kathy C. Fatico, Stephen W. Cauley, III, Holley Blythe, Kim Blythe, Karen Bond, Elizabeth Graff, and Suzan Bond, are all of the grandchildren of Josephine S. Howell who survived Josephine S. Howell.

15. Plaintiffs Geneva H. Cauley, Amelia H. Spivey, and Lynda H. Bond, and Defendant Peggy H. Johnson are all of the heirs-at-law of Josephine S. Howell.

16. Defendant Frank M. Rawls was appointed Executor of the Estate under the 1985 Will, being appointed to serve if J. Lewis Rawls, Jr., the first-nominated Executor, did not qualify or failed to continue to serve as Executor. As stated in Paragraph 8 above, J. Lewis Rawls, Jr., is now deceased.

17. The 1990 Codicil is a "will" as defined by Virginia law, and was duly executed by a competent testator, all as required by Virginia law. The 1990 Codicil was not revoked in any manner by Josephine S. Howell, except to the extent it is inconsistent with the 1992 Codicil if such

1992 Codicil is entitled to probate. The original of the 1990 Codicil, which in the possession of plaintiff Amelia H. Spivey, should be probated as the will of Josephine S. Howell.

18. The 1985 Will, the 1987 Codicil, and the 1992 Codicil were duly executed by a competent testator, all as required by Virginia law, and were not revoked in any manner by Josephine S. Howell. The 1985 Will, the 1987 Codicil, and the 1992 Codicil were lost or destroyed while in the custody of J. Lewis Rawls, Jr., or in the custody of the successors in interest of J. Lewis Rawls, Jr., after his death, and said loss or destruction did not occur through any action or agency on the part of Josephine S. Howell. The 1985 Will, the 1987 Codicil, and the 1992 Codicil should therefore be set up and established, together with the 1990 Codicil, as the Will and Codicils of Josephine S. Howell.

19. A United States Estate Tax Return regarding the Estate of Josephine S. Howell is due to be filed by Monday, December 6, 1999.

WHEREFORE, plaintiffs, Geneva H. Cauley, also known as Elizabeth Howell Cauley, individually and as nominated executor of the Estate of Josephine S. Howell, deceased; Amelia H. Spivey, individually and as nominated executor of the Estate of Josephine S. Howell, deceased; Lynda H. Bond; Renee C. Rains; Kathy C. Fatico; Stephen W. Cauley, III; Holley Blythe; Kim Blythe; Karen Bond; Elizabeth Graff; and Suzan Bond, respectfully request that the Court enter an Order or Decree granting the following relief:

1. Admitting the original of the 1990 Codicil to probate forthwith as the Will of Josephine S. Howell;
2. Permitting Amelia H. Spivey, the Executor nominated in the 1990 Codicil, or Amelia H. Spivey and Geneva H. Cauley, the Co-Executors nominated in the 1992 Codicil, or such person

as the Court may appoint, to qualify as Curator or Curators of the Estate of Josephine S. Howell, with such bond as the Court directs, and to take possession of the assets of the Estate and see that they are not wasted until the qualification of an executor or administrator of the Estate;

3. Setting up and establishing the 1985 Will, the 1987 Codicil, and the 1992 Codicil, together with the 1990 Codicil, as the Will and Codicils of Josephine S. Howell;

4. Determining that plaintiffs are entitled to be reimbursed from the Estate for their attorneys' fees and costs incurred in this matter; and

5. Granting such other, general, and further relief as shall be just in equity.

GENEVA H. CAULEY, also known as Elizabeth Howell Cauley, Individually and as nominated Executor of the Estate of Josephine S. Howell, deceased; AMELIA H. SPIVEY, Individually and as Nominated Executor of the Estate of Josephine S. Howell, deceased; LYNDIA H. BOND; RENEE C. RAINS; KATHY C. FATICO; STEPHEN W. CAULEY, III; HOLLEY BLYTHE; KIM BLYTHE; KAREN BOND; ELIZABETH GRAFF; AND SUZAN BOND

By: WFD
Of Counsel

William F. Devine (VSB No. 26632)
E. Diane Thompson (VSB No. 20804)
Christine H. Buchanan (VSB No. 35978)
HOFHEIMER NUSBAUM, P.C.
999 Waterside Drive, Suite 1700
P. O. Box 3460
Norfolk, Virginia 23514
(757) 622-3366
Fax: (757) 629-0700

Filed in the Clerk's Office the 22nd day of October, 1999
Writ Tax \$ 5
Fee 00
Deposit 3
Total Paid \$ 8
64.00
Tested: Wayne M. Cashe Clerk
Kathy B. Everett D. C.

2/1/85

LAST WILL AND TESTAMENT
OF
JOSEPHINE S. HOWELL

I, JOSEPHINE S. HOWELL, a resident of the County of Southampton, Commonwealth of Virginia, do make, publish and declare this to be my Last Will and Testament, hereby revoking all other wills and codicils heretofore made by me.

ITEM ONE: At the time of the execution of this Will, I am the widow of Dewey Howell, and we had four children by our marriage, to-wit: ELIZABETH HOWELL CAULEY, LYNDIA HOWELL BOND, REGGY HOWELL JOHNSON and AMELIA HOWELL BLYTHE.

ITEM TWO: I direct that my funeral expenses, including the cost of a suitable memorial, be paid as a cost of administration of my estate as soon as practicable after my death.

ITEM THREE: I direct that all costs of administration of every kind and description be paid out of and charged against the principal of my residuary estate, without reimbursement from any person. In the event my residuary estate is insufficient to pay any and all charges of every kind and description against my estate, including, but not limited to, taxes, costs of administration and any and all debts for which I am obligated at my death, then I direct that such deficit shall be paid equally by my three daughters, Elizabeth Howell Cauley, Lynda Howell Bond and Amelia Howell Blythe. It is my suggestion, but not

LAW OFFICES
JAMES HANDEL
SALEM, P.O.
POLE, VIRGINIA

EXHIBIT

my direction, that if possible, my three daughters, Elizabeth Howell Cauley, Lynda Howell Bond, and Amelia Howell Blythe, borrow from the corporations in which they own stock, or cause said corporations to borrow sufficient funds and then loan the same to my daughters. those sums necessary to cover any such deficits, in order that it not be necessary for any of them to dispose of corporate assets until such time as it is most advantageous for each of them so to do.

ITEM FOUR: I give and bequeath to each of my grandchildren, living at my death, the sum of Five Hundred Dollars (\$500.00).

ITEM FIVE: I give and bequeath unto my daughter, PEGGY HOWELL JOHNSON, the sum of Ten Thousand Dollars (\$10,000.00) if she be living at the time of my death.

ITEM SIX: I give, devise and bequeath unto my daughter, AMELIA HOWELL BLYTHE, or, if she be not living at my death, to her descendants, per stirpes, all of my stock in #4 Howell Corp. In the event #4 Howell Corp. is indebted to me at the time of my death, I do hereby forgive such debt and the forgiveness of this debt is not to be charged against the distributive share of any person.

ITEM SEVEN: I give and bequeath unto my daughter, AMELIA HOWELL BLYTHE, or, if she be not living at my death, to her descendants, per stirpes, my home place situated on the Weichman

AW OFFICE
WIA, DANIEL
LAWER, D.C.
OLK, VIRGINIA

and described on a certain plat entitled "Plat showing Portion of Josephine S. Howell Property, Franklin Magisterial District, Southampton County, Virginia" made by S.V. Camp III Associates, dated July, 1977, which said plat is attached to and made a part of a deed to #4 Howell Corp. dated July 15, 1977.

ITEM EIGHT: I give, and bequeath unto my daughter, ELIZABETH HOWELL CANLEY, or, if she be not living at my death, to her descendants, per stirpes, all of my stock in #2 Howell Corp.

ITEM NINE: I give and bequeath unto my daughter, LYNDIA HOWELL BOND, or, if she be not living at my death, to her descendants, per stirpes, any stock of Sovran Bank, N.A. which I may own at my death, my Cypress Cove Country Club stock, and all of my stock in #3 Howell Corp., subject to the following:

At the time of the execution of this Will, I am an endorser of certain notes for my daughter LYNDIA HOWELL BOND and her husband. According to verbal reports received from the banks, on January 23, 1985, I am an endorser on a note at Sovran Bank, with a principal balance of \$29,203.00, and a note at United Virginia Bank with a principal balance of \$45,860.00.

Additionally, I borrowed \$32,000.00 and paid certain debts for the two of them prior to the execution of this Will. The sum of \$32,000.00 which I loaned her to take care of certain payroll taxes shall be considered a debt due and owing by Lynda to my estate. It is my direction that my Executor use my Sovran Bank,

LAW OFFICES
DAVID L. DABBS
& DAVID L. D.C.
SUFFOLK, VIRGINIA

NEA Stock, Cypress Cove Country Club stock, and the assets of the Howell Corp. to pay the above indebtedness to my estate, and to satisfy any notes which I have endorsed for Lynda and her husband or which I may endorse after the execution of this Will. My Executor is authorized to use his discretion, without question from anyone, as to the manner in which the assets comprising this bequest are utilized to satisfy the indebtedness and endorsements. In the event the assets comprising this bequest are not sufficient to cover such obligations at my death, then such additional funds as are necessary to pay the obligations aforesaid shall be deducted from any share which might be available to my daughter, Lynda Howell Bond, from my residuary estate.

ITEM TEN: I have prepared a list for the disposition of certain items of personal property and personal paraphernalia and the persons to whom I wish these given, which list is directed to my Executor and will be kept with my personal papers. I may from time to time change this list.

ITEM ELEVEN: All the rest, residue and remainder of my property of every kind and description, and wherever located, including any lapsed or void legacy or devise, after satisfying all the bequests and devises hereinabove set out and after the payment or provision for payment of all administrative expenses and all death taxes as hereinabove directed, I give, devise and

LAW OFFICES
HAYES, HADEL
& BATES, P.C.
SUDDOCK, VIRGINIA

bequeath unto my four children aforesaid, share and share alike, the descendants of any deceased child to take per stirpes. This is subject to Lynda Howell Bond participating only in the event that she cooperates with and follows the directions of my Executor in the use of assets of #3 Howell Corp. to satisfy and pay the sums so stipulated in Item Nine of this my Last Will and Testament.

ITEM TWELVE: During the minority or disability of any devisee hereunder, my Executor may, in his sole discretion, distribute income and principal to such devisee in any one of the following ways: (1) directly to said devisee; (2) to a relative, friend, guardian, or committee, to be expended by such person for the education, maintenance, support or benefit of such devisee; or (3) by themselves expending the same for the education, maintenance, support or benefit of said devisee.

ITEM THIRTEEN: I nominate and appoint J. Lewis Rawls, Jr., Executor of this, my Last Will and Testament. In the event said J. Lewis Rawls, Jr. for any reason does not qualify, or having qualified, resigns or dies while serving as such, then I nominate and appoint Frank M. Rawls, Executor of this, my Last Will and Testament. In the event said Frank M. Rawls for any reason does not qualify, or having qualified, resigns or dies while serving as such, then I nominate and appoint Sovran Bank, N.A. to serve in the place and stead of the said Frank M. Rawls.

LAW OFFICES
RAWLS, HARRIS
& RAWLS, P.C.
SUFFOLK, VIRGINIA

I direct that my Executor, or any successor, be allowed to qualify without giving surety on his or her bond, and that an appraisement of my estate be waived.

ITEM FOURTEEN: In addition to, and not in limitation of those powers granted by statute or common law, my Executor shall have all those powers, discretions and authorities listed under Section 64.1-57 of the Code of Virginia of 1950, as amended.

IN WITNESS WHEREOF, I sign, seal, publish and declare this instrument to be my Last Will and Testament this 1st day of February, 1985.

Josephine S. Howell
Josephine S. Howell

Signed, sealed, published and declared by Josephine S. Howell, as and for her Last Will and Testament in our presence and we, at her request, and in her presence, and in the presence of each other, have hereunto subscribed our names as witnesses the day and year first above set out.

Susan C. King of Suffolk, Va.
Marilyn B. Panton of Suffolk, Va.

STATE OF VIRGINIA

CITY OF SUFFOLK, to-wit:

Before me, the undersigned authority, on the day and year first above written, personally appeared Josephine S. Howell, Susan C. King and Marilyn B. Panton, known to me to be the Testatrix and the witnesses, respectively, whose names are signed to the foregoing instrument and all of these persons being by me first duly sworn, the Testatrix declared to me and to the witnesses in my presence that

LAW OFFICES
DAVID L. HADLEY
A HANCOCK, P.C.
SUFFOLK, VIRGINIA

said instrument is her Last Will and Testament and that she had willingly signed and executed it in the presence of said witnesses as her free and voluntary act for the purposes therein expressed; that said witnesses stated before me that the foregoing Will was executed and acknowledged by the Testatrix as her Last Will and Testament in the presence of said witnesses who, in her presence and at her request and in the presence of each other, did subscribe their names thereto as attesting witnesses on the day of the date of said Will, and at the time of the execution of said Will, the Testatrix was over the age of eighteen (18) years and of sound and disposing mind and memory.

Josephine S. Howell
Josephine S. Howell

Susan C. King
Witness

Marley B. Panton
Witness

Subscribed, sworn and acknowledged before me by the Testatrix and by Susan C. King and Marley B. Panton, witnesses, this 1st day of February, 1985. Frank

My commission expires: 6-1-85

Frank E. Sheffer
Notary Public

This is a copy
Of Mom's will
- the lost one

I have the
original 1980
codicil but that
is the only original
I have

LAW OFFICES
AWIN, HADD
SAWLE, D. C.
HOLL, VIRGINIA

original in RH+R safe

CODICIL TO THE WILL
OF
JOSEPHINE S. HOWELL

I, JOSEPHINE S. HOWELL, a resident of Southampton County, State of Virginia, do make, publish and declare this to be a Codicil to my Last Will and Testament executed February 1, 1985.

FIRST: I hereby revoke and cancel ITEM NINE of my said Will and in lieu thereof, do hereby substitute the following:

ITEM NINE: I give and bequeath unto my daughter, LYNDIA HOWELL BOND, or if she be not living at my death, to her descendants, per stirpes, all of my stock in No. 3 Howell Corp. subject to the following: At the time of the execution of this Codicil to my Will I have endorsed or signed notes for, or become the principal debtor on several obligations for the benefit of my daughter, LYNDIA HOWELL BOND and her husband, EDWARD BOND. I signed a note at United Virginia Bank in order to pay a debt of my daughter, Lynda, and her husband Edward in the amount of \$32,000.00, and in addition thereto have paid \$17,000.00 to United Virginia Bank, all of which shall be regarded as a debt due and owing to my estate; also at Sovran Bank there is a note in the amount of \$21,000.00, which my daughter is presently maintaining in a current status, but which if I or my estate must pay, shall be regarded as a debt due and payable to my estate; and in addition thereto I have paid \$11,000.00 to Sovran Bank for the account of Lynda and Edward Bond which shall also be

LAW OFFICES
RAWLS, REAMES
& RAWLS, P.C.
SUFFOLK, VIRGINIA

-1-

EXHIBIT

2

regarded as a debt due and owing my estate. Also at the Boykins Branch of Sovran Bank I have endorsed a note for my daughter Lynda and my son-in-law Edward Bond in the amount of \$29,203.00. If, I have to pay this note, or after my death my estate must pay this note, then it too shall be regarded as a debt due and owing my estate. I direct that my Executor shall take any and all means possible under the law to collect all of the foregoing sums due and payable to my estate, including but not limited to, obtaining judgment against the debtors for the purpose of subjecting the outstanding common stock of No. 3 Howell Corp. which I have given to Lynda Bond to the lien of such judgment. After obtaining such stock, my Executor shall vote said stock in such manner as to sell all of the assets of No. 3 Howell Corp. to satisfy the debts due and owing my estate by Lynda and Edward Bond including, but not limited to any additional debts which I create for their benefit prior to my death. In the event the 49% interest in the assets of No. 3 Howell Corp. owned by Lynda Bond are not sufficient at the time of my death to satisfy all of the debts due and owing to my Estate, then I direct my Executor under the lien of any such judgment to proceed against the undivided one-fifth interest which Lynda Bond owns in property in Kitty Hawk, North Carolina which includes two waterfront cottages and lots together with vacant lots on Lindberg Street. In addition to all of the rights, powers and discretions conferred upon my Executor hereinafter, and not in

LAW OFFICES
RAWLS, HANDEL
& RAWLS, P.C.
SUFFOLK, VIRGINIA

limitation thereof, I confer upon my Executor the widest possible discretion, power and authority, which shall be questioned by no one, in the collection of the debts recited in this ITEM NINE of my Will and any other debts that might be due and owing by any other person or persons to my estate. In the event the common stock of No. 3 Howell Corp. owned by Lynda Bond at my death, and the one-fifth undivided interest in property at Kitty Hawk, North Carolina mentioned hereinbefore are not sufficient to cover the obligations of Lynda Bond and her husband at my death, then such additional funds as are necessary to pay said obligations, shall be deducted from her share of my residuary estate which might be available to my said daughter, Lynda Howell Bond.

SECOND: I do hereby add a new item to my Will which shall read as follows:

ITEM FIFTEEN: I have pledged with Sovran Bank, as security, certificates in the amount of \$111,000.00 on account of a debt due and owing to Sovran Bank by my daughter, Peggy H. Johnson and her husband. In the event the Johnsons are unable to make such arrangements as are necessary to release my certificates to my Executor within six (6) months after the date of my death, I direct my Executor, if he, in his sole discretion deems it necessary, to obtain judgment against my said daughter and her husband and to use all such means as are available under the law to collect this debt.

THIRD: In all other respects I do hereby confirm, ratify

LAW OFFICES
RAWLS, MAHLE
& RAWLS, P.C.
SUFFOLK, VIRGINIA

and republish my said Will.

IN WITNESS WHEREOF, I have hereunto set my hand and seal to this Codicil on the 2nd day of September, 1987.

Josephine S. Howell
Josephine S. Howell

Signed, sealed, published and declared by Josephine S. Howell as and for a Codicil to her Last Will and Testament in our presence, and we at her request and in her presence and in the presence of each other, have hereunto subscribed our names as witnesses the day and year first above written.

Thye Olson of Chesapeake, Va.

Jane Smith of Suffolk, VA

COMMONWEALTH OF VIRGINIA
CITY OF SUFFOLK, to-wit:

Before me, the undersigned authority, on the day and year first above written, personally appeared Josephine S. Howell, Thye Olson and Jane Smith, known to me to be the Testator and the witnesses, respectively, whose names are signed to the foregoing instrument and all of these persons being by me first duly sworn, the Testator declared to me and to the witnesses in my presence that said instrument is a Codicil to her Last Will and Testament and that she had willingly signed and executed said Codicil in the presence of said witnesses as her free and voluntary act for the purposes therein expressed; that said witnesses stated before me that the foregoing Codicil was executed and in the presence of said witnesses who, in her presence and at her request and in the presence of each other, did subscribe their names thereto as attesting witnesses on the day of the date of said Codicil at the time of the execution of said Codicil, the Testator was over the age of eighteen (18) and of sound and disposing mind and memory.

Josephine S. Howell
Josephine S. Howell

LAW OFFICES
RAWLS, HADLEY
& RAWLS, P. C.
SUFFOLK, VIRGINIA

Kaye Wilson
Witness

Paul Smith
Witness

Subscribed, sworn and acknowledged before me by the Testator and
by Kaye Wilson and Paul Smith,
witnesses, this 21st day of September, 1987.

My Commission Expires: March 5, 1989

Jason C. Hutchins
Notary Public

CODICIL TO WILL

OF

JOSEPHINE S. HOWELL

I, JOSEPHINE S. HOWELL, a resident of Southampton County, State of Virginia, do make, publish and declare this to be a Codicil to my Last Will and Testament, dated February 1, 1985.

FIRST - I do hereby revoke and cancel ITEM NINE of my said Will and in lieu thereof, do hereby substitute the following:

ITEM NINE: I give and bequeath unto my daughter, LYNDIA HOWELL BOND, or if she be not living at my death, to her descendants, per stirpes, all of my stock in No. 3 Howell Corp. subject to the following: At the time of the execution of this Codicil to my Will I have endorsed or signed notes for, or become the principal debtor on several obligations for the benefit of my daughter, LYNDIA HOWELL BOND and her husband, EDWARD BOND. I signed a note at United Virginia Bank in order to pay a debt of my daughter, Lynda, and her husband Edward in the amount of \$32,000.00, and in addition thereto have paid \$17,000.00 to United Virginia Bank, all of which shall be regarded as a debt due and owing to my estate; also at Sovran Bank there is a note in the amount of \$21,000⁵⁰.00. which my daughter is presently maintaining in a current status, but which if I or my estate must pay, shall

LAW OFFICES
HOWELL, HARRIS
& HAYDEN, P.C.
AUPPUL, VIRGINIA

EXHIBIT

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be regarded as a debt due and payable to my estate; and in addition thereto I have paid \$11,000.00 to Sovran Bank for the account of Lynda and Edward Bond which shall also be regarded as a debt due and owing my estate. Also at the Boykins Branch of Sovran Bank I have endorsed a note for my daughter Lynda and my son-in-law Edward Bond in the amount of \$29,203.00. If, I have to pay this note, or after my death my estate must pay this note, then it too shall be regarded as a debt due and owing my estate. I direct that my Executor shall take any and all means possible under the law to collect all of the foregoing sums due and payable to my estate, including but not limited to, obtaining judgment against the debtors for the purpose of subjecting the outstanding common stock of No. 3 Howell Corp. which I have given to Lynda Bond to the lien of such judgment. After obtaining such stock, my Executor shall vote said stock in such manner as to sell all of the assets of No. 3 Howell Corp. to satisfy the debts due and owing my estate by Lynda and Edward Bond including, but limited to any additional debts which I create for their benefit prior to my death. In the event the 49% interest in the assets of No. 3 Howell Corp. owned by Lynda Bond are not sufficient at the time of my death to satisfy all of the debts due and owing to my Estate, then I direct my Executor under the lien of any such judgment to proceed against the undivided one-fifth interest which Lynda Bond owns in property in Kitty Hawk, North Carolina which includes two waterfront cottages and lots

LAW OFFICES
DAVID H. HARRIS
& LAWRENCE D. HARRIS
SUFFOLK, VIRGINIA

together with vacant lots on Lindberg Street. In addition to all of the rights, powers and discretions conferred upon my Executor hereinafter, and not in limitation thereof, I confer upon my Executor the widest possible discretion, power and authority, which shall be questioned by no one, in the collection of the debts recited in this ITEM NINE of my Will and any other debts that might be due and owing by any other person or persons to my estate. In the event the common stock of No. 3 Howell Corp. owned by Lynda Bond at my death, and the one-fifth undivided interest in property at Kitty Hawk, North Carolina mentioned hereinbefore are not sufficient to cover the obligations of Lynda Bond and her husband at my death, then such additional funds as are necessary to pay said obligations, shall be deducted from her share of my residuary estate which might be available to my said daughter, Lynda Howell Bond, and she shall use all means available under the law to collect any sums then due and payable to my estate.

SECOND: I do hereby revoke and cancel ITEM THIRTEEN of my said Will and in lieu thereof do hereby substitute the following:

ITEM THIRTEEN: I nominate and appoint my daughter, Amelia H. Spivey, Executor of this my Last Will and Testament. In the event my said daughter, Amelia H. Spivey, for any reason does not qualify, or having qualified, resigns or dies while serving as such, then I nominate and appoint my

LAW OFFICES
RAWLS, BABY
& RAWLS, P.C.
SUFFOLK, VIRGINIA

daughter Geneva H. Cauley and Sovran Bank, N.A. to serve as Executors in the place and stead of Amelia H. Spivey. In the event my daughter Geneva H. Cauley does not qualify, or having qualified, resigns or dies while serving as such, it shall not be necessary for any other person to qualify and serve with Sovran Bank, N.A. as Executor of this my will.

I direct that my Executor, or any successor, be allowed to qualify without giving surety on his, her or its bond, and that an appraisement of my estate be waived.

THIRD: I do hereby add a new item to my Will which shall read as follows:

ITEM FIFTEEN: I have pledged with Sovran Bank, as security, certificates in the amount of \$111,000.00 on account of a debt due and owing to Sovran Bank by my daughter, Peggy H. Johnson and her husband. In the event the Johnsons are unable to make such arrangements as are necessary to release my certificates to my Executor within six (6) months after the date of my death, I direct my Executor, if he, in his sole discretion deems it necessary, to obtain judgment against my said daughter and her husband and to use all such means as are available under the law to collect this debt.

FOURTH: In all other respects I do hereby confirm, ratify, and republish my said Will.

LAW OFFICES
HAWLEY, HANLEY
& HANLEY, P.C.
SUFFOLK, VIRGINIA

IN WITNESS WHEREOF, I sign, seal, publish and declare

IN WITNESS WHEREOF, I sign, seal, publish and declare
this instrument to be a Codicil to my Last Will and Testament
this 15th day of May, 1990, at Suffolk, Virginia.

Josephine S. Howell (SEAL)
Josephine S. Howell

Signed, sealed, published and declared by JOSEPHINE S. HOWELL
as and for and to be a Codicil to her Last Will and Testament
in our presence and we, at her request and in her presence
and in the presence of each other, have hereunto subscribed
our names as witnesses the day and year above set out.

Sherry Marshall of Southfield, MI
Ray Brown of Chesapeake, VA

STATE OF VIRGINIA
CITY OF SUFFOLK, to-wit:

Before me, the undersigned authority, on this day
personally appeared JOSEPHINE S. HOWELL, Sherry Marshall,
and Ray Brown, known to me to be the Testator
and the witnesses, respectively, whose names are signed to
the foregoing instrument and all of these persons being by me
first duly sworn, JOSEPHINE S. HOWELL, the Testator, declared
to me and to the witnesses in my presence that said
instrument is a Codicil to her Last Will and Testament and
that she had willingly signed and executed it in the presence
of said witnesses as her free and voluntary act for the
purpose therein expressed; that said witnesses stated before
me that the foregoing Codicil to her Last Will and Testament
in the presence and at her request, and in the presence of
each other, did subscribe their names thereto as attesting
witnesses on the day of the date of said Codicil and that the
Testator, at the time of the execution of said Codicil, was
over the age of eighteen (18) years and of sound and
disposing mind and memory.

Josephine S. Howell
TESTATOR
Sherry Marshall
WITNESS
Ray Brown
WITNESS

Subscribed and sworn and acknowledged before me by JOSEPHINE
S. HOWELL, the Testator, and subscribed and sworn before me
by Sherry A. Michael and Clayton D. Hester
witnesses, this 10th day of May, 1990.

Notary Public

My Commission expires: _____

USAir begins with you

1990
Codicil

LAW OFFICES
JAMES H. HOWELL
FARMERS, VA.
FARMERS, VIRGINIA

CODICIL TO WILL
OF
JOSEPHINE S. HOWELL

I, JOSEPHINE S. HOWELL, a resident of the Southampton County, State of Virginia, do make, publish and declare this to be a Codicil to my Last Will and Testament, executed February 1, 1985.

FIRST: I hereby revoke and cancel ITEM SECOND of my Codicil dated May 10, 1990, which revoked and canceled ITEM THIRTEEN of my said Last Will and Testament, and in lieu thereof, I do hereby substitute the Following:

ITEM THIRTEEN: I nominate and appoint my daughters, Geneva H. Cauley and Amelia H. Spivey as Co-Executors of this my Last Will and Testament. If either daughter cannot qualify, or having qualified, resigns or dies while serving as such, I direct that my other daughter may serve alone as the sole Executor of this Will. If neither of said daughters qualifies, or having qualified, both of them resign or dies while serving as Executor, I nominate and appoint Rebecca R. Habel or Frank M. Rawls as Executor of this my Last Will and Testament.

I direct that my Executor or any successor be allowed to qualify without giving security on his or her bond, and that an appraisal of my estate be waived.

Josephine S. Howell

LAW OFFICES
HUGHSON AND HANFORD
SUFFOLK, VIRGINIA

EXHIBIT

4

SECOND: In all other respects, I do hereby confirm, ratify, and republish my said Last Will and Testament and any other Codicils executed by me prior to this Codicil.

IN WITNESS WHEREOF, I have hereunto set my hand and seal to this Codicil, this 14 day of May, 1992.

Josephine S. Howell (SEAL)
Josephine S. Howell

Signed, sealed, published and declared by Josephine S. Howell, as and for her Last Will and Testament, in our presence, and we, at her request, and in her presence, and in the presence of each other, have hereunto subscribed our names as witnesses the day and year above set out.

Robert D. Hopkins of Suffolk, VA

William H. Haines of Suffolk, VA

STATE OF VIRGINIA:
CITY OF SUFFOLK, to-wit:

Before me, the undersigned authority, on the day personally appeared Josephine S. Howell, Ruth A. Hopson and Norma Levine, known to me to be the Testator and witnesses, respectively, whose names are signed to the foregoing instrument, and all of these persons being by me first duly sworn, Josephine S. Howell, the Testator, declared to me and to the witnesses in my presence that said instrument is her Last Will and Testament and that she had willingly signed and executed it in the presence of said witnesses as her free and voluntary act for the purpose therein expressed; that said witnesses stated before me that the foregoing Will was executed and acknowledged by the Testator as her Last Will and Testament in the presence of said witnesses who, in her presence and at her request and in the presence of each other, did subscribe their names thereto as subscribing witnesses on the day of the date of said Will, and that the Testator, at the time of the execution of said Will, was over the age of eighteen (18) years and of sound and disposing mind and memory.

Josephine S. Howell
Testator

Ruth A. Hopson
Witness

Norma Levine
Witness

Subscribed and sworn and acknowledged before me by Josephine S. Howell, the Testator, subscribed and sworn before me by Ruth A. Hopson and Norma Levine, witnesses, this 14th day of May, 1992.

Frank E. Sheffer
Notary Public

My commission expires: August 31, 1995

LAW OFFICES
HUBBARD AND HAWES
SUFFOLK, VIRGINIA

1802
Codicil

VIRGINIA: IN THE CIRCUIT COURT OF SOUTHAMPTON COUNTY

GENEVA H. CAULEY, ET AL.,

Plaintiffs,

v.

IN CHANCERY NO. _____

PEGGY H. JOHNSON, ET AL.,

Defendants

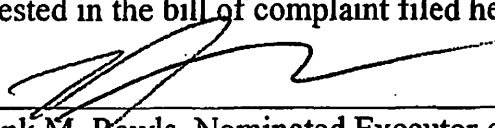
ANSWER OF FRANK M. RAWLS, NOMINATED EXECUTOR
OF THE ESTATE OF JOSEPHINE S. HOWELL, DECEASED

Now comes Frank M. Rawls, Nominated Executor of the Estate of Josephine S. Howell, deceased, in person, and for my answer to the Bill of Complaint to Establish Lost Will and Codicils, state as follows:

1. I admit the allegations contained in paragraphs 1 through 18 of said Bill of Complaint.

2. I neither admit nor deny the allegations contained in paragraph 19 of said Bill of Complaint, having no knowledge of the same.

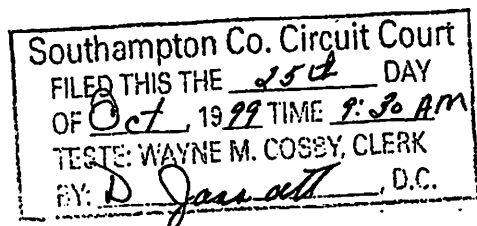
WHEREFORE, Defendant, Frank M. Rawls, respectfully requests the Court to enter an order decree granting the relief requested in the bill of complaint filed herein.



Frank M. Rawls, Nominated Executor of the
Estate of Josephine S. Howell, Deceased

FERGUSON, RAWLS,
MACDONALD
& OVERTON, P.C.
P. O. Box 1458
Suffolk, VA 23439-1458
(757) 539-2400
(757) 934-0953 FAX

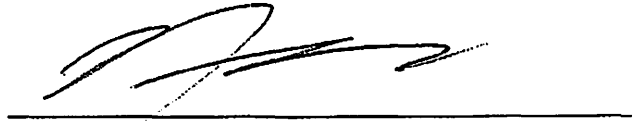
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Frank M. Rawls
Ferguson, Rawls, MacDonald & Overton, P. C.
332 W. Constance Road
P. O. Box 1458
Suffolk VA 23439-1458
Tel. 757-539-2400
Fax 757-934-0953

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing document was mailed this 21st day of October, 1999, to Christine H. Buchanan, Esquire, HOFHEIMER NUSBAUM, P.C., P. O. Box 3460, Norfolk VA 23514-3460, of counsel for the plaintiffs, Geneva H. Cauley, et al., and to the defendants, PEGGY H. JOHNSON, 29406 Johnson Drive, Boykins VA 23827, BENJAMIN E. JOHNSON, JR., 29357 Vicks Millpond Road, Branchville VA 23828, MEADOW J. KELLY, 7160 Autumn Ridge Lane, Mechanicsville VA 23111 and JOSEPH D. JOHNSON, 29187 Porterhouse Road, Boykins VA 23827.



FERGUSON, RAWLS,
MacDONALD
& OVERTON, P.C.
P. O. Box 1458
Suffolk, VA 23439-1458
(757) 539-2400
(757) 934-0953 FAX

VIRGINIA: IN THE CIRCUIT COURT OF SOUTHAMPTON COUNTY

GENEVA H. CAULEY, ET AL.,

Plaintiffs,

v.

IN CHANCERY NO. 99-179

PEGGY H. JOHNSON, ET AL.,

Defendants

AMENDED ANSWER OF FRANK M. RAWLS, NOMINATED
EXECUTOR OF THE ESTATE OF JOSEPHINE S. HOWELL, DECEASED

Now comes Frank M. Rawls, Nominated Executor of the Estate of Josephine S. Howell, deceased, in person, and for my amended answer to the Bill of Complaint to Establish Lost Will and Codicils, state as follows:

1. I admit the allegations contained in paragraphs 1 through 5 of said Bill of Complaint.

2. I neither admit nor deny the allegations contained in paragraph 6 of said Bill of Complaint as to the originals of the 1985 will or the 1992 codicil. A copy of the codicil dated September 21, 1987 indicates that the original was left in the custody of the law firm of Rawls, Habel and Rawls (now Ferguson, Rawls, MacDonald & Overton, P. C.). It is likely that the originals of those other documents were left in the custody of our law office, but I cannot affirmatively state that that is true.

FERGUSON, RAWLS,
MACDONALD
& OVERTON, P.C.
P. O. Box 1458
Suffolk, VA 23439-1458
(757) 539-2400
(757) 934-0953 FAX

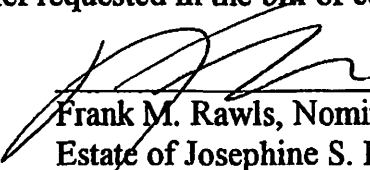
3. I admit the allegations contained in paragraph 7 to the extent that records of this law firm indicate that the 1990 codicil was left in the custody of Mrs. Howell, and said codicil is now in the possession of Amelia H. Spivey.

4. I admit the allegations contained in paragraphs 8 through 17 of said Bill of Complaint.

5. I neither admit nor deny the allegations contained in paragraph 18 of said Bill of Complaint, inasmuch as I cannot affirmatively state that the said documents were lost or destroyed while in the custody of J. Lewis Rawls, Jr. or in the custody of this law firm.

6. I neither admit nor deny the allegations contained in paragraph 19 of said Bill of Complaint, having no knowledge of the same.

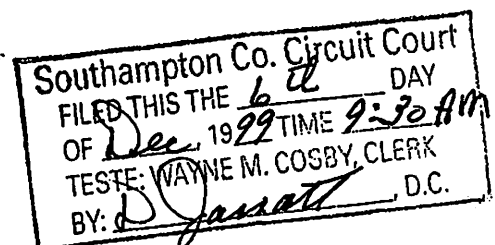
WHEREFORE, Defendant, Frank M. Rawls, respectfully requests the Court to enter an order decree granting the relief requested in the bill of complaint filed herein.


Frank M. Rawls, Nominated Executor of the
Estate of Josephine S. Howell, Deceased

Frank M. Rawls
Ferguson, Rawls, MacDonald & Overton, P. C.
332 W. Constance Road
P. O. Box 1458
Suffolk VA 23439-1458
Tel. 757-539-2400
Fax 757-934-0953

FERGUSON, RAWLS,
MACDONALD
& OVERTON, P.C.
P. O. Box 1458
Suffolk, VA 23439-1458
(757) 539-2400
(757) 934-0953 FAX

2



CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing document was mailed this 3rd day of December, 1999, to William F. Devine, Esquire, HOFHEIMER NUSBAUM, P.C., P. O. Box 3460, Norfolk VA 23514-3460, of counsel for the plaintiffs, Geneva H. Cauley, et al., and to William H. Oast, III, Esquire, OAST & HOOK, P. C., P. O. Box 399, Portsmouth VA 23705, of counsel for the defendants, Peggy H. Johnson, Benjamin E. Johnson, Jr., Meadow J. Kelly, and Joseph D. Johnson.


Frank M. Rawls

FERGUSON, RAWLS,
MACDONALD
& OVERTON, P.C.
P. O. Box 1458
Suffolk, VA 23439-1458
(757) 539-2400
(757) 934-0953 FAX

VIRGINIA: IN THE CIRCUIT COURT OF SOUTHAMPTON COUNTY

GENEVA H. CAULEY, ETC., ET AL.,

Plaintiffs,

v.

IN CHANCERY NO. CH99-179

PEGGY H. JOHNSON, ET AL.,

Defendants.

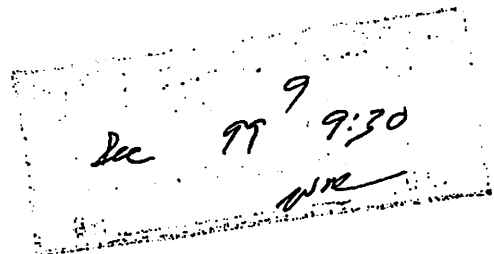
ANSWER TO CROSS-BILL

In response to the Cross-Bill asserted by defendants in this case, by counsel, state as follows:

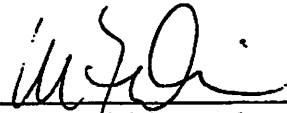
1. Plaintiffs admit that Josephine S. Howell died March 5, 1999.
2. In response to the allegations set forth in paragraph 2, plaintiffs admit that the May 10, 1990 Codicil is the only original estate planning document that they have been able to locate concerning the estate of Josephine S. Howell, deceased. Plaintiffs refer to the allegations and prayers for relief in their Bill of Complaint concerning the remaining estate planning documents for the Estate of Josephine S. Howell, deceased.

3. Defendants deny the allegations and legal conclusions set forth in paragraph 3.
4. Plaintiffs deny any allegations in the Cross-Bill which was specifically admitted.

WHEREFORE, plaintiffs, by counsel, respectfully request that the Court enter an Order or Decree dismissing defendants' Cross-Bill; granting the relief requested in plaintiffs' Bill of Complaint; and granting such other, further, and additional relief as is appropriate.



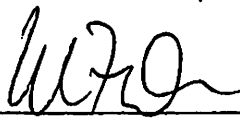
GENEVA H. CAULEY, AMELIA H. SPIVEY, LYNDIA H. BOND, RENEE C. RAINS, KATHY C. FATICO, STEPHEN W. CAULEY, III, HOLLEY BLYTHE; KIM BLYTHE, KAREN BOND, ELIZABETH GRAFF, and SUZAN BOND

By: 
Of Counsel

William F. Devine (VSB No. 26632)
Hofheimer Nusbaum, P.C.
1700 Dominion Tower
999 Waterside Drive
Post Office Box 3460
Norfolk, Virginia 23514-3460
(757) 622-3366
Fax: (757) 629-0700

Certificate of Service

I hereby certify that a true copy of the foregoing *Answer to Cross-Bill* was served by first-class mail, postage prepaid, upon William H. Oast and Andrew H. Hook, Oast & Hook P.O. Box 399, Portsmouth, Virginia 23705-0399 and Frank M. Rawls, Ferguson, Rawls, MacDonald & Overton, P.C., 332 West Constance Road, Suffolk, Virginia 23439 on the 7th day of December 1999.


William F. Devine

VIRGINIA: IN THE CIRCUIT COURT OF SOUTHAMPTON COUNTY

GENEVA H. CAULEY, ETC., ET AL.,

Plaintiffs,

v.

IN CHANCERY NO. CH99-179

PEGGY H. JOHNSON, ET AL.,

Defendants.

MOTION FOR SUMMARY JUDGMENT

Plaintiffs, Geneva H. Cauley, etc., et al., by counsel, move for Summary Judgment pursuant to Rule 3:18 of the Rules of the Supreme Court of Virginia.

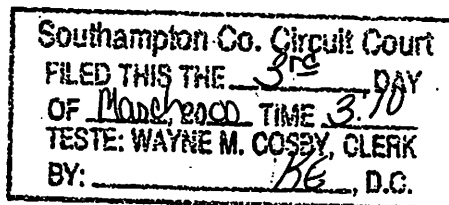
I. Statement of Facts

A. The following facts are not disputed for purposes of this motion:

1. On or about February 1, 1985, Josephine S. Howell duly executed her Last Will and Testament ("the Will"). The Will was self-proving in accordance with the provisions of Section 64.1-87.1 of the Code of Virginia of 1950, as amended. A copy of the Will is attached hereto as Exhibit 1.

2. On or about September 21, 1987, Josephine Howell duly executed a codicil to the Will ("the First Codicil"). The First Codicil was made self-proving in accordance with the provisions of Code Section 64.1-87.1. A copy of the First Codicil is attached hereto as Exhibit 2.

3. On or about May 10, 1990, Josephine Howell duly executed a Second Codicil to the Will ("the Second Codicil"). The Second Codicil was made self-proving in accordance with the provisions of Code Section 64.1-87.1. A copy of the Second Codicil is attached hereto as Exhibit 3.



4. On or about May 14, 1992, Josephine Howell executed a third and final codicil to the Will ("the Third Codicil"). The Third Codicil was made self-proving in accordance with the provisions of Code Section 64.1-87.1. A copy of the Third Codicil is attached hereto as Exhibit 4.

5. Each codicil expressly refers to and republishes the Will.

6. Josephine Howell died on March 5, 1999. See *Bill of Complaint*, ¶ 1 and *Answer* ¶ 1 attached hereto as Exhibit 5.

7. At some time after Mrs. Howell's death, the original of the Second Codicil was found, along with copies of the Will and First Codicil and Third Codicil.

8. The original of Mrs. Howell's will and First and Third Codicils could not be located.

9. The Second Codicil was never revoked.

II. Standard for Summary Judgment

Summary judgment shall be entered if no material fact is genuinely in dispute. See Rule 3:18. Summary judgment is appropriate in those cases in which the only dispute concerns a pure question of law. See *Carwile v. Richmond Newspapers, Inc.*, 196 Va. 1, 5, 82 S.E.2d 588, 590 (1954). It applies only to cases in which no trial is necessary because no evidence could affect the result. See *Kasco Mills v. Ferebee*, 197 Va. 589, 593, 90 S.E.2d 866, 870 (1956); *Marshall v. Dean*, 201 Va. 699, 703, 112 S.E.2d 895, 898 (1960); see also *Bland v. Norfolk Southern Railroad Co.*, 406 F.2d 863, 866 (4th Cir. 1969) ("While a day in court may be a constitutional necessity when there are disputed questions of fact, the function of a motion for summary judgment is to smoke out if there is any case, e.g., any genuine dispute as to any material fact, and, if there is no case, to conserve

judicial time and energy by avoiding an unnecessary trial and by providing a speedy and sufficient summary disposition.”).

While summary judgment rules and discovery rules are not intended to substitute a new method for trial when an issue of fact exists, these rules were adopted to allow the trial court to bring litigation to an end at an early stage when it clearly appears that one of the parties is entitled to judgment in the case as made out by the pleadings and the admissions of the parties. *See Carson v. LeBlanc*, 245 Va. 135, 139-40, 427 S.E.2d 189, 192 (1993).

III. Analysis

Under certain circumstances, there is a presumption that a will not found after the death of the testator was destroyed by the testator *animo revocandi*. Such a presumption arises, if at all, only if the original cannot be located. Under Code § 64.1-58.1, a codicil may be revoked only (1) by cutting, tearing, etc., with the intent to revoke; (2) by a writing expressly revoking the will to which the codicil relates; or (3) by a later inconsistent will or codicil.

The original Second Codicil was never revoked and therefore there is no "presumption" of revocation with respect to that document. Mrs. Howell's Second Codicil was not revoked by any of the methods listed in Code §64.1-58.1, and it remains a valid codicil and should be probated as such. *See* Virginia Code §§ 64.1-45 (construing the term "will" to extend to include any testamentary document, including codicils) and 65.1-49 (setting forth prerequisites for validity of wills). The Second Codicil is a "will" under Code §§ 64.1-45 and 65.1-49, and is entitled to probate.

In *Re the Estate of Smith*, 378 N.W.2d 555 (Mich. App. 1985), the court held that the Probate Court erred in not allowing an original codicil and copy of will to probate. In *Smith*, the decedent executed several wills during the latter years of his life. He also executed a codicil to his last will

which made a change in a minor bequest and expressly ratified the remaining provisions contained in his last will. After his death, a search was made of the decedent's personal effects, and the original of his codicil was found together with a copy of his last will. The question of presumption was dismissed as the court determined that the codicil as of the time of its execution replaced the will and became the testator's only valid will. As with Virginia Code § 64.1-45, the Michigan statutes defined a will to include a codicil, and allowed for incorporation by reference. The court in *Smith* held that under these statutes, the codicil was a separate and independent testamentary document the complete terms of which could be established by reference to the copy of the last will, which had been ratified in the codicil. Therefore, the court concluded that both the codicil and will should be admitted to probate.

The statutory theme of *Smith* is equally applicable to the case at bar. There are two Virginia statutes which are applicable: Virginia Code § 64.1-45 defines "will" to include a codicil, and Code § 64.1-60 allows for republication of a will by a codicil.

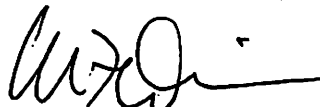
As in *Smith*, Mrs. Howell's Second Codicil is a valid testamentary instrument as required by Virginia Code § 64.1-49 and as defined in Code § 64.1-45, and was never revoked in any manner. Therefore, the Second Codicil should be admitted to probate as such. The Will, which was republished in paragraph 4 of the Second Codicil, should also be admitted to probate to prove the dispositive provisions of the Codicil. It is clear that there is no evidence that will change the fact that the 1990 Codicil is an original document. There is no dispute that this is so.

IV. Conclusion

For these reasons, plaintiffs, by counsel, respectfully request that the Court enter an order admitting Mrs. Howell's Second Codicil to probate along with the copy of the Will; determining that

plaintiffs are entitled to be reimbursed from the Estate for their attorneys' fees and costs incurred in this matter; and granting such other, further, and additional relief as is appropriate.

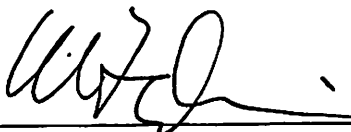
GENEVA H. CAULEY, ETC., ET AL.

By: 
Of Counsel

William F. Devine (VSB No. 26632)
E. Diane Thompson (VSB No. 20804)
Christine H. Buchanan (VSB No. 35978)
HOFHEIMER NUSBAUM, P.C.
1700 Dominion Tower, Suite 1700
Post Office Box 3460
Norfolk, Virginia 23514-3460
Telephone: (757) 622-3366
Facsimile: (757) 629-0700

Certificate of Service

I certify that on the 3rd day of April, 2000, a true copy of the foregoing *Motion for Summary Judgment* was served by first-class mail, postage prepaid, upon H. Oast, Esq., Oast & Hook, P.C., Post Office Box 399, Portsmouth, Virginia 23705-0399.


William F. Devine

VIRGINIA: DUPLICATE

IN THE CIRCUIT COURT OF SOUTHAMPTON COUNTY

CLERK

SUPREME COURT OF VIRGINIA

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RICHMOND, VIRGINIA

) CHANCERY NO.

GENEVA H. CAULEY, et al.,

Plaintiffs,

v.

PEGGY JOHNSON, et al.,

Defendants.

) CH99-179

TRANSCRIPT OF PROCEEDINGS

Courtland, Virginia

May 1, 2000

Before: The Honorable Rodham T. Delk, Jr., Judge

Southampton Co. Circuit Court
FILED THIS THE 21st DAY
OF July, 2000 TIME 1:18
TESTE: WAYNE M. COSBY, CLERK
BY: DE, D.C.

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DIRECT EXAMINATION

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BY MR. DEVINE:

Q. Good morning, Mr. Sheffer.

A. Morning.

Q. Can you please state your full name.

A. Frank Edward Sheffer, S-h-e-f-f-e-r.

Q. And you're a certified public accountant
in Suffolk; is that correct?

A. That's correct.

Q. Tell me very briefly -- tell the Court
your professional background.

A. I'm a CPA and practiced as a CPA in
Suffolk for 51 years.

Q. I'd like you to turn your attention to
Josephine Howell. You did some work for her over the
course of a number of years; is that correct?

A. That's correct.

Q. Tell me how you came to work with
Ms. Howell.

A. I was referred to this client,
Ms. Josephine Howell, by J. Louis Rawls, Jr., an
attorney in Suffolk. Ms. Howell had sought some
advice from Louis Rawls as to whether or not she --
how she could do some tax planning so she could make
gifts to her children during her lifetime in order to

1 legally avoid state taxation later on.

2 Louis Rawls referred Ms. Howell and her
3 daughters to me, and they came to my office. This is
4 how I started doing the work for the Howells.

5 Q. Was that in the mid 1970s?

6 A. That's correct.

7 Q. Was part of the work you did with
8 Ms. Howell and Mr. Rawls -- you talked about tax
9 planning. Was it estate planning?

10 A. It was estate tax planning.

11 Q. Tell me, did you meet with Ms. Howell?

12 A. Yes, sir, I did.

13 Q. How many times approximately during that
14 first period?

15 A. Oh, this is just an estimate, maybe eight
16 or 10 times.

17 Q. And with Mr. Rawls with her?

18 A. With Mr. Rawls present.

19 Q. Did Ms. Howell explain what she wanted to
20 accomplish in her estate plan?

21 A. She did. With the help of her attorney
22 she explained exactly what she wanted to do.

23 Q. Tell me what she wanted to do.

24 A. As she explained it she owned several
25 farms, and she wanted to make gifts during her

1 lifetime of farms by giving them to her four
2 daughters.

3 She asked about what the estate tax or
4 gift tax would be, and we then made a computation
5 explaining what the gift tax would be if she were to
6 make the gift all at one time or over a period of
7 time because of the annual exclusion that they had
8 during those days. I think it was 3,000 early on and
9 then 10,000 later on after the law was changed.

10 So, she could make gifts without paying
11 any tax if the gift was not more than 10,000 dollars.
12 We explained that to her, that gifts could be made
13 over a period of years, not a large gift all at one
14 time, the full value of the farms she wanted to give
15 away to her children.

16 So, we then computed the estate tax, what
17 we estimated the estate tax to be at that time, and
18 she decided she wanted to go ahead and start making
19 gifts.

20 Q. Were you involved in her decision to set
21 up four corporations?

22 A. Yes, I was indeed.

23 Q. How did that come about?

24 A. Ms. Howell explained she had different
25 farms she wanted to leave to her different daughters.

1 So, we decided we would set up a corporation for each
2 one of the farms to be conveyed to each one of her
3 daughters. The corporations were called Howell
4 Corporation No. 1, 2, 3, and 4.

5 Howell Corporation No. 1 was to receive
6 some of the assets that Ms. Howell wanted to keep and
7 manage for her own sake. The other three
8 corporations were to be set up to be given as gifts,
9 the stock to be given to her daughters over a period
10 of years.

11 Q. There was not a corporation that was
12 designated for her daughter Peggy?

13 A. No, sir, not to my knowledge.

14 Q. And did she discuss with you at the
15 time -- at the beginning here in the mid 1970s and
16 were you present when there were discussions about
17 why that was?

18 A. Yes, I was.

19 Q. What did you understand?

20 A. My understanding was Ms. Howell had made a
21 gift in 1976 to her daughter Peggy of a farm, which I
22 understood -- and I didn't know this, but I
23 understood later on -- was sold for some \$95,000, 90-
24 or \$95,000.

25 I didn't have anything to do with that.

1 That's just what I understood. However, we did file
2 a gift tax return on someone before that. We have a
3 copy of a gift tax return showing the value of the
4 farm to be \$95,000 in the gift.

5 Q. Did you also understand from those
6 discussions about a gift of farmland back in 1962 to
7 Peggy?

8 A. Previous gifts to her, yes. That was just
9 what I understood.

10 Q. And Ms. Howell, to your knowledge, did
11 indeed set up and maintain these corporations over
12 the years?

13 A. Every year we prepared corporation income
14 tax returns for the four corporations.

15 Q. Every year until her death in 1999?

16 A. That is correct. '99 -- I think '99 is on
17 extension.

18 Q. After that time you've continued to do
19 work for the corporation?

20 A. That is correct.

21 Q. And to your knowledge -- during the
22 following years, after this mid 1970s period, did she
23 in fact make gifts of stock in Corporations 2, 3, and
24 4 to the respective daughters?

25 A. That is absolutely correct.

1 the corporation. * Who would be willing to buy stock
2 in the corporation if you had a minority interest in
3 the corporation and the stock is not freely traded at
4 all. It doesn't pay any dividends. You don't have
5 any control of the management of the corporation.

6 So, that is the reason why the Internal
7 Revenue Service recognized this discount of 15
8 percent for the minority discount and another 15
9 percent for the lack of marketability.

10 Q. She made those gifts of stock through her
11 lifetime?

12 A. Every year, yes, sir.

13 Q. During all the time you worked -- your
14 office did work for Ms. Howell and her corporations,
15 did Ms. Howell ever tell you she was abandoning the
16 estate plan she set up in the 1970s?

17 A. Never mentioned it to me, not the first
18 time.

19 Q. Did you ever receive any indication from
20 any source that she had decided to abandon her estate
21 plan or revoke her will?

22 A. No, sir, I did not.

23 Q. You talked about the valuation
24 questions -- strike that. I apologize.

25 Did you have a meeting after Ms. Howell

1 died with the four sisters at your office?

2 A. Yes, I did.

3 Q. Peggy Johnson was there?

4 A. To the best of my recollection.

5 Q. What was the purpose of the meeting?

6 A. They were talking about the estate and how
7 they wanted to proceed with probating the estate and
8 what they were going to do to file tax returns, that
9 type of thing.

10 Q. At that meeting did Peggy Johnson indicate
11 to you any notion or belief that her mother's will
12 had been torn up or revoked?

13 A. No, she did not.

14 MR. DEVINE: Your Honor, if I could have
15 half a second, I believe that's all I have.

16 THE COURT: Yes, sir.

17 MR. DEVINE: Your Honor, just another
18 document issue we'll take up at break.

19 That's all the questions I have right now
20 for Mr. Sheffer.

21 CROSS-EXAMINATION

22 BY MR. OAST:

23 Q. Mr. Sheffer, how old are you?

24 A. How old am I?

25 Q. Yes, sir.

1 homeplace? Did you prepare that?

2 A. I don't remember, to be very honest with
3 you.

4 Q. Over the -- you first started working with
5 Josephine Howell and Louis Rawls in the mid '70s?

6 A. That's correct.

7 Q. You continued to work for Ms. Howell how
8 long after that?

9 A. We did up until time she passed away,
10 because we prepared Corporation No. 1 for Ms. Howell.

11 Q. When did you last meet with Ms. Howell?

12 A. I can't begin to tell you, some years
13 back.

14 Q. That was several years ago, wasn't it?

15 A. Yes.

16 Q. Because Amelia Spivey was the one who
17 dealt with you in your office?

18 A. Right.

19 Q. Josephine Howell hadn't been to your
20 office in probably the last ten years, had she?

21 A. Possibly.

22 Q. You hadn't seen her in your office in the
23 last ten years, have you?

24 A. No.

25 Q. So, when you say this plan was going on,

1 this plan was put in place by you and Louis Rawls?

2 A. The stock certificates were drawn every
3 year and transferred -- as we understand it -- by
4 Louis Rawls' office every year.

5 Q. Amelia Spivey was the one that worked with
6 your office on this, correct, the last ten years?

7 A. Yes.

8 Q. Have you prepared the estate tax return
9 for this --

10 A. No, we have not.

11 Q. Why not?

12 A. We have not been engaged to do it. We
13 don't know who will do it. There was some objection
14 I think on your clients' part to having our office
15 prepare it.

16 Q. Is it your understanding the Howell
17 Corporation 1 -- let's back up. On this estate plan,
18 Howell Corporation 2 goes to one daughter, Howell
19 Corporation 3 goes to the other daughter, and Howell
20 Corporation 4 goes to the other daughter. Peggy is
21 excluded.

22 And actually Josephine Howell essentially
23 retained 51 percent in each of those corporations?

24 A. That's correct.

25 Q. And 100 percent of Howell Corporation 1?

* * *

1 granddaughter?

2 A. Yes, I am.

3 Q. How old are you, ma'am?

4 A. I'll be 30 next month.

5 Q. You grew up in the house behind where your
6 mother now lives which is Ms. Howell's homeplace?

7 A. Yes, I did.

8 Q. How often did you see -- I guess divide
9 this before she went to the Village and then at the
10 Village before she went to the assisted living side.
11 Growing up, how often did you see your grandmother?

12 A. Daily, at least once a day when she lived
13 at home in her house. At least one time a day unless
14 she was out of town. When she moved to the -- on the
15 independent side I saw her at least once a week, on
16 the assisted living a minimum of two to three times a
17 week.

18 Q. She went to the independent side of the
19 Village -- that's a retirement community -- in May of
20 1991?

21 A. Yes, sir.

22 Q. And then she moved to the assisted living
23 side in May of 1997?

24 A. Yes.

25 Q. When -- who took care of your grandmother

* * *



1 in general to visit, that type of thing.

2 Q. During the time you visited your
3 grandmother up until the time she passed away, did
4 she always recognize you?

5 A. Until the night she passed away.

6 Q. She never indicated any difficulty
7 figuring out who you were or placing you in the
8 family or anything like that?

9 A. No, never had any difficulty.

10 Q. Did your grandmother have any will or
11 important papers like that at the Village?

12 A. No, she did not.

13 Q. Do you know whether your grandmother had a
14 will in place?

15 A. Yes, I do.

16 Q. How do you know?

17 A. She told me.

18 Q. When did she tell you? Under what
19 circumstances did she tell you that -- did she tell
20 you that she had a will?

21 A. She told me her important affairs were in
22 order.

23 Q. How would that come up in conversation
24 with your grandmother?

25 A. Possibly in the morning. She would be

1 reading the paper, the obituaries or see something on
2 television about somebody passing away. It was not
3 general conversation, but in that event she would
4 say, I'm glad my affairs are in order.

5 Q. Did she say this to you at the independent
6 living side? Did you have these conversations at the
7 independent living side?

8 A. She said that throughout my whole entire
9 life.

10 Q. That included after she moved to the
11 assisted living side in May of 1997?

12 A. Absolutely.

13 Q. How many times did you say this subject
14 came up? You said she was reading the paper, see the
15 obituaries, and makes a comment about her affairs
16 being in order. How often --

17 A. I do not recall how many times but it was
18 frequently, when she would review the sections in the
19 paper.

20 Q. Did it seem important to your mother that
21 she -- to your grandmother, excuse me, that she had a
22 will, had her affairs in order?

23 A. Very important.

24 Q. Did that seem to provide her comfort?

25 A. Yes, it did.

1 Q. Did she ever say where her will or
2 important papers were located?

3 A. She said Mr. Rawls' office.

4 Q. Would that be in the same sort of
5 conversations that you've talked about?

6 A. Yes.

7 Q. How many occasions did she say the papers
8 were at Mr. Rawls' office?

9 A. Possibly hundreds.

10 Q. Did she tell you that after she moved to
11 the assisted living side in May of 1997?

12 A. Possibly hundreds of times as well then,
13 too. She was very aware of her business affairs all
14 the time.

15 Q. Did she ever say anything to you up until
16 the time she died -- did your grandmother ever say
17 anything to you about tearing up her will?

18 A. Absolutely not.

19 Q. Based on the relationship you had with
20 your grandmother over the years and the things
21 you-all talked about, is there any doubt in your mind
22 she would have said that to you if she made that
23 decision?

24 A. If she made that decision, I'm absolutely
25 sure she would have said something to me about it.

1 She talked to me about everything.

2 Q. Did you ever learn from any source -- did
3 anyone ever tell you your grandmother had told them
4 she was tearing up her will or abandoning her estate
5 plan or anything of that sort?

6 A. No, sir.

7 MR. OAST: Judge, I think that would be
8 hearsay. She's gone into what her grandmother would
9 have thought and now what people may have told her
10 that the grandmother --

11 THE COURT: I'll sustain that. You're
12 getting a little far afield.

13 MR. DEVINE: I apologize, Your Honor.

14 BY MR. DEVINE:

15 Q. I want to talk about your grandmother's
16 physical condition. How was her physical condition,
17 her ability to get around on her own, say after she
18 went to the Village? Can you describe that for the
19 Court?

20 A. When she went to the Village and lived on
21 the independent side she was fairly very mobile. She
22 could come and go as she pleased. She did get to a
23 point where her legs started to get very weak and she
24 would fall.

25 At that time Mom and her sisters decided



* * *

1 about the safe or safes in your grandmother's home.

2 How many safes were there at your grandmother's home?

3 A. Two.

4 Q. Can you describe them, please?

5 A. Certainly. There was a safe in the dining
6 room built into the wall at floor level. It's an
7 older safe. To my knowledge the only two people that
8 could get into it would have been Grandma and Aunt
9 Betty. The safe now has a key on it because they had
10 to get a locksmith to come get it open.

11 Grandma purchased the second safe that is
12 a filing cabinet safe. It has two drawers on one
13 side, a locking drawer on one side with a safe inside
14 of it. She kept that safe in her bedroom because she
15 could not physically get down on the floor and open
16 the big safe anymore.

17 Q. So, prior to going to the Village your
18 grandmother couldn't open the big floor safe?

19 A. No, she was not able to get down on the
20 floor.

21 Q. Did the filing cabinet safe -- did that
22 stay at your grandmother's home after she moved to
23 the Village?

24 A. Yes.

25 Q. Is it still there today?

1 A. Yes, it is.

2 Q. And do you know whether your grandmother
3 had a key to that safe after she went to the Village?

4 A. No, she did not.

5 Q. Who had the keys?

6 A. My mother.

7 Q. Your grandmother --

8 THE COURT: Is -- just so I can
9 understand, the wall safe was a key-type safe, key
10 lock?

11 MR. DEVINE: It became a key lock later.

12 THE COURT: Now, she just said her mother
13 had a key or all the keys?

14 THE WITNESS: All.

15 MR. DEVINE: As I understand --

16 THE COURT: I'd like to be sure I
17 understand that.

18 BY MR. DEVINE:

19 Q. The filing cabinet safe, does that have a
20 door over the safe?

21 A. Yes, it has a door that locks with a key.

22 Q. Before you get to the safe?

23 A. Yes.

24 Q. Then you open that door and there was a
25 combination safe inside that locked door?



* * *

1 Q. And how far is your house or the -- where
2 your mother lives from the Village in Franklin?

3 A. About four miles.

4 Q. Do you know your grandmother kept a key to
5 the Howell homeplace on her key ring?

6 A. Yes, I do.

7 Q. Tell me about the safes again. The filing
8 cabinet safe is the one we're talking about because
9 the floor safe wasn't used for a while, and your
10 grandmother didn't use that for quite some time?

11 A. Right.

12 Q. You say there were some keys to that safe?

13 A. Yes, sir.

14 Q. For the filing cabinet safe?

15 A. Yes, sir.

16 Q. Like a two-drawer filing cabinet?

17 A. Two drawers on one side and a door locks
18 on the front and inside the locked door is the small
19 safe.

20 Q. It has a combination on it?

21 A. Yes, sir.

22 Q. Your grandmother knew the combination,
23 didn't she?

24 A. Yes.

25 Q. Do you know when they put keys in it or

* * *

* * *

1 mother?

2 A. Right.

3 Q. Did your mother explain to you or did
4 Mr. Rawls in her presence explain to you the basics
5 of her estate plan?

6 A. Mr. Rawls explained the plan, but mother
7 was present.

8 Q. At any point after that meeting in
9 December, Christmastime of 1977 until she died on
10 March the 5th of 1999, did your mother ever indicate
11 to you any displeasure with that plan?

12 A. None.

13 Q. Any intent to abandon the plan or tear up
14 her will or die without a will?

15 A. None.

16 Q. Was it important to your mother that she
17 have a will?

18 A. Yes.

19 MR. OAST: Objection, Your Honor. That's
20 really the ultimate question.

21 THE COURT: I sustain the objection. It's
22 a little subjective.

23 MR. DEVINE: Let me try to ask it
24 differently, Your Honor.

25 BY MR. DEVINE:

1 Q. Did your mother ever indicate to you in
2 any way whether it was important for her to have a
3 will?

4 A. It was very important for her to have a
5 will, because she had already seen the dissension in
6 her family as well as in her husband's family.

7 Q. That's something she expressed to you?

8 A. I'm sure she did, but --

9 Q. That's something you always understood?

10 A. That's what I've always understood.

11 Q. I'm going to hand you --

12 MR. DEVINE: If I may approach the
13 witness, Your Honor?

14 THE COURT: Yes.

15 BY MR. DEVINE:

16 Q. The top one is a March 25, 1996 letter
17 from the United States Department of Agriculture, an
18 April 8th, 1996 letter from the Virginia Peanut
19 Growers Association, as well as aerial photographs,
20 deeds, and some other documents.

21 Have you ever seen these before?

22 A. Yes.

23 Q. When did these documents come to you? How
24 did you first see these documents?

25 A. These documents were given to me by Peggy

1 Johnson, my sister, and she said, Eventually the
2 farms will become yours and you need to have these.

3 At that time Clinton had just passed the
4 farm bill of 1996, and she gave me copies of two
5 letters she had received pertaining to the -- his
6 plan.

7 Q. You don't recall the exact date that you
8 got these?

9 A. No, but it was after 1996.

10 Q. It was after the dates of those letters,
11 obviously?

12 A. True.

13 Q. Before the time your mother passed away?

14 A. Yes, because I've had them several years.

15 Q. And these papers all deal with the farms
16 in Corporation No. 2?

17 A. Yes, Corporation 2.

18 MR. DEVINE: Just a bulk exhibit, Your
19 Honor.

20 THE COURT: All right. That will be fine.

21 MR. OAST: Just a minute, Judge.

22 THE COURT: Have you seen all these?

23 MR. OAST: No, sir.

24 THE COURT: Frankly, I don't know why, I
25 overlooked it. But I basically probably in hindsight

1 lived the last --

2 A. For 44 years in June.

3 Q. You said -- you said Peggy made the
4 statement about suing Frank Rawls in his office.
5 Frank also made a statement, Well, I guess you can
6 sue me if I've lost the documents? Isn't that what
7 he said?

8 A. He said, I can turn it over to my
9 insurance company.

10 Q. He was the one that said, You can sue me
11 if I've lost the documents? Didn't he say that?

12 A. I don't remember. At the moment I don't
13 recall.

14 Q. Your mother wanted to treat all four
15 daughters equally, didn't she?

16 MR. DEVINE: I object. If he is asking
17 what her mother said, that's one thing. If he's
18 asking what was in her mother's mind --

19 THE COURT: I think you're both sort of
20 treading on speculation.

21 Rephrase your question.

22 BY MR. OAST:

23 Q. Did your mother ever tell you she wanted
24 to treat the four daughters equally?

25 A. I always understood that was her plan.

* * *

1 BY MR. OAST:

2 Q. Ms. Cauley, you wrote Mr. Rawls and asked
3 him to prevail upon your mother to help you with your
4 finances, didn't you?

5 A. Right.

6 Q. And your mother was prone to help all four
7 daughters?

8 A. Correct.

9 Q. And she made many gifts to the four of you
10 during --

11 A. Correct.

12 Q. -- her lifetime; is that correct?

13 A. Correct.

14 MR. OAST: Judge, I offer that, please.

15 MR. DEVINE: May I approach the witness?

16 THE COURT: This will be Defendants' 1.

17 (The document referred to was marked by
18 the Court as Defendants' Exhibit No. 1 for
19 identification, and received into evidence.)

20 MR. DEVINE: And my objection has been
21 noted to that, Your Honor.

22 THE COURT: Yes.

23 MR. OAST: That's all I have, Judge.

24 THE COURT: Mr. Devine.

25 * * *

* * *

1 Q. When you would visit your grandmother on
2 the independent or the assisted side, would -- what
3 sorts of things would you talk about? Let me ask
4 that differently if I can. I understand you had
5 broad conversations with her. Did she ever talk to
6 you about articles she read in the paper?

7 A. Yes, sir, she would. She always read the
8 paper in the morning. She would pick it up
9 periodically throughout the day, so if you would
10 visit with her in the afternoon a lot of times, you
11 know, the main thing on her mind was who had died
12 during the week or that day. That is something that
13 old people talk about is who has died.

14 She would frequently say things about, you
15 know, I knew this person or one of my friends has
16 died or someone that may have lived at the Village.
17 And she would always indicate at that point in time
18 that she was glad her affairs were in order, she
19 would not have to worry about any bickering to come
20 later.

21 Q. Did she ever mention where her affairs had
22 been taken care of?

23 A. Yes, sir, they were taken care of at
24 Mr. Rawls' office. She always indicated that all of
25 her documents were at Mr. Rawls' office, all her

1 personal affairs. She never really said my will or
2 my, you know, corporate documents or whatever you
3 refer to them as, but she always referred to those as
4 her personal affairs.

5 Q. Did she -- she indicated that she was --
6 she took comfort from the fact that her affairs were
7 in order?

8 A. Yes, sir, she did. She would always tell
9 us she was glad she'd taken care of stuff years ago
10 and everything was in order and there wouldn't be any
11 fussing and fighting after she laid her head down.

12 Q. After she laid her head down? Is that
13 what you said?

14 A. Yes, sir.

15 Q. At any time in these weekly visits or
16 biweekly visits -- what you described in the Village.
17 First of all, did those conversations about who had
18 died and how she would follow up on that, about her
19 affairs being in order, did you have those
20 conversations both on the independent side and after
21 she moved to the assisted living side in May of 1997?

22 A. Yes, sir.

23 Q. And the -- did she ever indicate to you
24 either on the independent or the assisted side that
25 she had torn up her will?



* * *

1 Q. Such that at your mother's death she owned
2 51 percent of Corporation 3 and you owned 49 percent?

3 A. Yes, sir.

4 Q. Did you understand those gifts of stock
5 were consistent with your mother's estate plan?

6 A. Yes, I did.

7 Q. Your mother went to the Village in May of
8 1991, correct?

9 A. Yes, sir.

10 Q. Did you have conversations with your
11 mother after she went to the Village where she talked
12 about her plans being in place?

13 A. Yes, I did, more so when she was on the
14 assisted side than on the independent side.

15 Q. Tell me about those conversations, please.

16 A. Sometimes when I would stop by after work
17 she would say she would hope we would not get into
18 arguments over what she left us because she had taken
19 care of all those things some prior years to this and
20 she didn't want us to fuss and argue over it and all
21 her paperwork was in order at Mr. Rawls' office.

22 Q. Did that appear important to her, that her
23 affairs were in order?

24 A. Very much so.

25 Q. On how many occasions would you estimate

1 after she went to the assisted living side in May of
2 1997 -- how often would you say you had conversations
3 of this type where she indicated her affairs were in
4 order, the papers were all at the Rawls office,
5 things of that nature?

6 A. Not every time I went, but if she had had
7 a friend to pass away at the Village or someone in
8 the community she would say, I'm glad I took care of
9 the paperwork and got it all in order and it's at
10 Mr. Rawls' office and you-all have nothing to argue
11 over when I'm gone.

12 Q. Did she ever tell you at any time before
13 she died that she had torn up her will?

14 A. No.

15 Q. Did she ever indicate that in any way?

16 A. No, she would not have taken the time to
17 have done what she done and spent the money she spent
18 if she intended to tear it up.

19 Q. I'd like to focus your attention to a time
20 after your mother's death. Did you receive a visit
21 at your shop from Peggy's husband, Earl Johnson?

22 A. Yes, I did.

23 MR. OAST: Judge, we object to this. This
24 is after Ms. Howell passed away. Earl is not a party
25 to the suit. * * *

1 * * *
2 have -- did -- after you-all had gotten copies of the
3 wills from the Rawls office did Peggy call you on the
4 telephone to talk to you about that?

5 A. Yes, she did. She said at that time my
6 mother really beat me up in the will. I told her I
7 didn't care. I had done everything I could to keep
8 the finances in order, but it was extremely hard.

9 Q. Did Ms. Johnson, your sister, indicate in
10 this conversation any thought that your mother had
11 revoked her will or torn up her will or abandoned her
12 will?

13 A. None.

14 Q. You were present on May 14th of 1999 at
15 the Rawls office with your sisters?

16 A. Yes, I was.

17 Q. Tell me about that meeting, about that
18 conversation.

19 A. We met with Frank Rawls, and he told us he
20 had not been able to find the will and that we could
21 probate it if we all agreed, a copy that we had. At
22 that time Peggy told Louis Rawls that --

23 Q. Louis or Frank?

24 A. Frank Rawls, I'm sorry. She told him that
25 he could be sued because they had lost the will, and
26 he said at that time he would turn it over to his

1 insurance company if that's what we wanted to do.

2 Q. Did Peggy indicate any belief at that
3 point that her mother had torn up your -- your mother
4 had torn up the will?

5 A. No, she never said a great deal, but she
6 did say that about the suing of Mr. Rawls.

7 Q. At any point between the meeting in
8 December of 1977 that's been talked about and the
9 time your mother died on March the 5th of 1999, did
10 she ever say to you in any way that she was
11 abandoning her estate plan or tearing up her will?

12 A. No, she would never have torn up her will.

13 Q. Why do you say that?

14 A. Because she felt she had divided things
15 equally and all of us would have an equal share and
16 Peggy had had hers back in the early '60s and '70s.

17 Q. By the early '60s, what do you mean? Did
18 Peggy receive a gift of land in the early 1960s?

19 A. Yes, she did.

20 Q. As well as one in the 1970s?

21 A. Yes.

22 Q. Tell me about the gift of land to Peggy in
23 the early 1960s.

24 A. That was the Winston Farm, I think,
25 several tracts of land Momma gave her.



* * *

1 A. My name is Frank Rawls, and I'm a lawyer
2 in Suffolk.

3 Q. Where is your office located?

4 A. 332 West Constance Road.

5 Q. It's been located on West Constance Road
6 since before 1992; is that right?

7 A. June, '91.

8 Q. Can you describe the office just
9 generally, physically from the outside? Is it a --

10 A. It's a brick veneer building with a
11 story-and-a-half dormer.

12 Q. Are there four or five brick steps leading
13 up to the front door?

14 A. I've never counted them, but it has steps
15 to the front door, yes, a handicap ramp on the left
16 and steps on the right.

17 Q. You've been in that office since '91?

18 A. Yes.

19 Q. Louis Rawls was your father?

20 A. Yes, sir.

21 Q. Your father passed away in April of '94;
22 is that correct?

23 A. That's correct.

24 Q. Do you know Josephine Howell?

25 A. Yes.

* * *

1 the Court as Plaintiffs * Exhibi* No. 5 for
2 identification, and received into evidence.)

3 BY MR. DEVINE:

4 Q. After Ms. Howell passed away, you searched
5 your office for the will?

6 A. Yes.

7 Q. And you couldn't locate the original?

8 A. That's correct.

9 Q. You found, though, in your file many
10 documents with notations on them, did you not?

11 A. That's correct.

12 Q. About the originals of those documents
13 being in your firm's files?

14 A. That's correct. It was except for one, a
15 codicil that indicated the original was in
16 Ms. Howell's possession.

17 Q. Did your office have a practice -- did
18 your dad have a practice about what notations and
19 that sort of thing -- why they would be on documents,
20 how they would come to be on documents?

21 A. We would ask our clients where the
22 documents were going to be stored. If they were
23 stored in our safe then -- wherever they were going
24 to be stored, we either made a notation -- he did and
25 I did also -- on the document as to where the

1 document is going to be stored or was to be stored.

2 Q. And the last of those documents is --
3 actually you brought the original I think of this.
4 It's a red-flagged -- a letter -- that is a photocopy
5 of a letter from Dr. Goodman but has original ink in
6 the upper right-hand corner, a 1992 letter?

7 A. Yes, sir.

8 Q. Do you recognize that as Cindy Reed's
9 handwriting?

10 A. Yes, sir.

11 Q. Your father's legal secretary?

12 A. Yes.

13 Q. And the notation on that is that the
14 original will is in the safe?

15 A. Yes.

16 Q. Based on the practice at your office,
17 would that indicate that Ms. Howell's estate planning
18 documents, at least as of June 9 of 1992, were at
19 your firm's office in the safe?

20 A. Yes.

21 MR. DEVINE: Judge, I'd like the original
22 if I can -- the letter is not an original, but the
23 photocopy of the letter with blue ink to come in.

24 Do you have a problem?

25 THE COURT: Plaintiffs' 6.

1 (The document referred to was marked by
2 the Court as Plaintiffs' Exhibit No. 6 for
3 identification, and received into evidence.)

4 BY MR. DEVINE:

5 Q. In searching through your firm's records
6 and trying to find the will, did you find any
7 indication at all that the original -- that
8 Ms. Howell's will, the 1985 will, left your firm
9 after May 14th of 1992?

10 A. No.

11 Q. Would you have a usual practice as to what
12 would happen if you had documents stored, say a will
13 stored, Ms. Howell's will stored, and Ms. Howell were
14 to have come in later to get that, a regular
15 practice?

16 A. The practice is to have the party who is
17 picking up his or her original document, or if the
18 person is passed away the named executor, to sign a
19 receipt indicating that the document or documents
20 have been turned over to them.

21 Q. And you didn't get any such receipt? You
22 didn't find any such receipt from Ms. Howell in your
23 files, did you?

24 A. There's no record of any receipt such as
25 that in our files.

*

*

*

1 A. Okay. * * *

2 Q. Is that accurate? Is that letter an
3 accurate description of your thoughts in the process?

4 A. I would hope it is.

5 Q. And you say in the second paragraph that
6 as a result of being unable to locate the original
7 documents I will be required to file a suit to ask
8 the Court to establish the copies of your mother's
9 documents as her last will and testament. You
10 wouldn't have suggested a suit if you had thought --
11 had any reason to believe Ms. Howell had revoked her
12 documents, would you?

13 A. No.

14 Q. And you don't in fact have any reason to
15 believe Ms. Howell revoked her will or tore it up or
16 anything of that sort?

17 A. No, I have no reason to believe that.

18 MR. DEVINE: Move this into evidence, Your
19 Honor.

20 THE COURT: That will be Plaintiffs' 7.

21 (The document referred to was marked by
22 the Court as Plaintiffs' Exhibit No. 7 for
23 identification, and received into evidence.)

24 BY MR. DEVINE:

25 Q. After Ms. Howell's will in 1977, are you

1 aware that your office helped with the transfer of
2 stock in Corporations 2, 3, and 4 in years following
3 to Betty Cauley, Lynda Bond, and Amelia Spivey
4 respectively?

5 A. Yes.

6 Q. Did you understand that those transfers of
7 stock were consistent with Ms. Howell's estate plan?

8 A. Yes.

9 Q. As spelled out in her various wills?

10 A. Yes.

11 Q. And in fact the transfer of stock, at
12 least in Corporation No. 4, continued into 1998;
13 isn't that correct?

14 A. I assume the documents will speak for
15 themselves. I don't recall which corporation, but
16 they were still transfers of stock going on, yes.

17 Q. Very late in Ms. Howell's life?

18 A. Yes.

19 Q. Now, there's been some mention earlier in
20 arguments and such in this case about there not being
21 a card for Ms. Howell in your will safe or an index
22 card about documents in a will safe for Ms. Howell.
23 Did you -- was there some system for an index card
24 for documents kept in your will safe?

25 A. There is a box of index cards that

1 contains at least some of the wills -- it reflects
2 that there are wills in our safes and that some of
3 them are there. Quite frankly, I didn't know we had
4 that system in place, and I know that I've never
5 instructed any of my secretaries to file cards in
6 that file box.

7 Q. So, the absence of a card for Ms. Howell
8 in this box doesn't tell you anything about whether
9 her will was there or not there, does it?

10 A. It doesn't tell me anything, no.

11 Q. But the notations on the various
12 documents -- the 1980 letter, 1981 letter, copy of
13 the codicil, the 1992 letter to Dr. Goodman --
14 indicating that the originals were in your safe, does
15 that tell you where the originals were?

16 A. That would be -- that would be the best
17 indication in my opinion of where the originals were.

18 Q. And the absence of a receipt of some sort
19 showing them to have left --

20 A. Would indicate that they're where those
21 documents say they are.

22 Q. Your firm does not have any record of
23 having done any estate planning work for Ms. Howell
24 after May 14th of 1992, do you?

25 A. We have -- I'm assuming that -- I haven't

1 looked at this file, so the documents will speak for
2 themselves, whatever you-all had found.

3 MR. DEVINE: Bill, would you stipulate
4 there's no record of any estate planning for
5 Ms. Howell after May 14th of 1992?

6 MR. OAST: There is not in that file.

7 MR. DEVINE: Great.

8 MR. OAST: Yes.

9 BY MR. DEVINE:

10 Q. Was Ms. Howell well-known at the office?

11 A. Yes.

12 Q. And was known to be a special client as
13 you said of your father's?

14 A. Yes.

15 Q. If someone -- if Ms. Howell had come to
16 the office after 1992 to retrieve the estate planning
17 documents, would you have been told about it?

18 A. I would think so, yes.

19 Q. And if she had come and you had learned
20 she had retrieved her estate planning documents,
21 would you have contacted her? Would you have tried
22 to find out why?

23 A. Yes, we would have contacted her and asked
24 her certainly where was she going to store them,
25 was -- did we need to note she was destroying them,

1 was she changing them, has she gone to another law
2 firm to have new estate work done, so we would have a
3 record of that.

4 Q. And it didn't come to your attention by
5 any means that she had come to your office or picked
6 up her estate planning documents after May of 1992,
7 did it?

8 A. That's correct.

9 Q. When Ms. Howell would come to the office,
10 would you make a point -- you and your sister make a
11 point to see her?

12 A. Yes.

13 Q. You would step out of a meeting in fact to
14 see her, wouldn't you?

15 A. That's correct.

16 Q. So, you knew of that relationship that
17 your father had and the importance of her as a
18 client?

19 A. Yes.

20 Q. And the other people in your office knew
21 that as well?

22 A. Yes.

23 MR. DEVINE: That's all the questions I
24 have. Thank you very much. Answer Mr. Oast.

25 MR. OAST: You're going to put the list of

1 letters in your exhibits, right?

2 MR. DEVINE: Yes.

3 CROSS-EXAMINATION

4 BY MR. OAST:

5 Q. Mr. Rawls, tell me about the filing system
6 again you have for your will clients, your estate
7 planning clients.

8 A. Well, we -- there is a master file card.
9 It's developed, put in our box in alphabetical order
10 to let us know what file we have for those clients or
11 what files we have for those clients. That's the
12 primary filing system that we have when someone signs
13 a will or other document like that in our office,
14 we -- if we are going to store the original, we make
15 a notation on that document, a copy of the document
16 that is left in our file whether we are going to
17 store it or not, a notation of where the original of
18 that document is going to be.

19 Do we do it 100 percent of the time? I
20 can't tell you that we do, but it is my practice and
21 has been our practice. It was the procedure that I
22 was instructed to do by my father, and I've continued
23 to do that.

24 Q. You also have a 5-by-7 box or box that
25 holds 5-by-7 index cards?

1 A. Yes, sir.

2 Q. An index of the will safe?

3 A. That is an index to the will safe, yes.

4 Q. And when something is added to -- so,
5 we've got a file for Mr. Smith. We put on the 5-by-7
6 card for him, Mr. Smith, his will is in the safe, his
7 deeds are in the safe, maybe different dates of entry
8 on the 5-by-7 card?

9 A. You-all looked at that. I quite frankly
10 never looked at that box.

11 Q. But you understand now that was the
12 practice?

13 A. I --

14 MR. DEVINE: I object. It's inconsistent
15 with his earlier testimony.

16 THE COURT: Well, let's move on. I'll
17 take it -- I'm taking notes.

18 THE WITNESS: Apparently some of our
19 secretaries did do that. Mine, as far as I know,
20 never did.

21 BY MR. OAST:

22 Q. And was there a 5-by-7 index card for
23 Josephine Howell?

24 A. There was no 5-by-7 card for Josephine
25 Howell.

1 Q. Let me put it this way: After she died
2 you could not find any 5-by-7 cards for Josephine
3 Howell?

4 A. That's correct.

5 Q. You don't know if one existed before or
6 not?

7 A. That's correct.

8 Q. Then what the practice was is that when
9 Ms. Howell came in, if the original of her will was
10 kept in the safe, a copy of the will would have been
11 put in her client file with a notation that the
12 original was in the will safe?

13 A. That's correct.

14 Q. There's no such notation on her estate
15 planning documents, on her 1995 will, in that file,
16 is there?

17 MR. DEVINE: I object to the question.
18 There is no 1995 will.

19 BY MR. OAST:

20 Q. I'm sorry, the 1985 will.

21 A. You have a copy of it. I didn't review
22 this. It would speak for itself.

23 Q. You tried to find -- when it turned out
24 about a year ago that Ms. Howell's will was missing,
25 the original was missing, you tried to find the

1 documents. * * *

2 Q. None of the files in the will safe were
3 destroyed by the water damage, were they?

4 A. Nothing in the will safe was destroyed by
5 the water.

6 Q. We're talking about the will safe.
7 It's -- you put a client's matters in an envelope
8 about this size?

9 A. That's correct.

10 Q. And they are filed alphabetically like
11 that?

12 A. That's correct.

13 Q. Your drawers are pretty thin. I think you
14 said it was a canceled check filing cabinet you used
15 from Crestar or some other bank?

16 A. That's correct.

17 Q. So, you found nothing of Ms. Howell's
18 estate planning documents in the will safe?

19 A. That's correct.

20 Q. You told the sisters you found nothing in
21 the file to indicate you had possession of them?

22 A. That's correct.

23 Q. And I think in one of your letters,
24 Mr. Rawls, the one that Mr. Devine just introduced,
25 you said something about there being a special file?

1 A. My father had a file cabinet in his office
2 where he kept some of his clients' files.

3 When he -- when he essentially retired
4 from the practice the file cabinet from our office
5 went to his condominium. I went over to his
6 condominium to go through that. There were no client
7 files in there, Ms. Howell's or anyone else. That
8 was the last stab at it.

9 Q. Do you recall your deposition that you
10 gave in January of this year, January 13?

11 A. I recall giving the deposition at the
12 deposition, yes.

13 Q. Do you recall we were talking about
14 that -- this letter and the question to you I think
15 by Mr. Devine was, I suspect -- and he is quoting
16 your letter now.

17 MR. DEVINE: Do you have a page, line?

18 MR. OAST: I'm sorry. It's page 36, line
19 9.

20 BY MR. OAST:

21 Q. The question was: Talking again about the
22 letter. I think Mr. Devine is quoting from this
23 letter, the April 19th letter: I suspect that
24 because my father had such a special relationship
25 with your mom he had a, quote, special file for



1 Q. Do you recall upon your examination or
2 inspection of the office that you found no special
3 file that your father had for Ms. Howell?

4 A. There is no special -- that was probably
5 not worded well. It would have been a file cabinet
6 with special clients' files. But, no, we did not
7 find that.

8 Q. Nothing to indicate her file was damaged
9 or destroyed or otherwise ruined in the water damage?

10 A. I can't tell you right now whether or not
11 we had other cards on Ms. Howell and whether or not
12 any files were destroyed. I don't recall that, but
13 this is -- this is the only file that we were able to
14 find.

15 Q. In fact, Frank, the practice in your
16 office I believe at the time Ms. Howell was a client
17 was that you would open one file for Ms. Howell and
18 any court files or estate planning files were put in
19 that. I think it was just one expandable file for
20 Ms. Howell?

21 A. That's correct. We changed that in June
22 of '91 when we merged our law firm and began creating
23 separate files for each matter.

24 Q. But apparently you kept the corporation
25 files and the estate planning files here?

* * *
1 documents?

2 A. I'm not -- I'm not sure I can answer that.
3 We have had people say that -- Mom said the will or
4 Dad said the will, Aunt Bess said the will was up
5 there and we have no record of that. But certainly
6 nobody has ever -- I don't recall us ever being told
7 that we lost -- by someone we lost an original estate
8 document, to answer that question.

9 Q. To your knowledge your firm has never lost
10 an original estate planning document?

11 A. To my knowledge we have not.

12 Q. To your knowledge you have no idea what
13 happened to the original of Ms. Howell's documents?

14 A. No, I have no idea.

15 Q. Have no idea where they are or what became
16 of them?

17 A. Absolutely, that's correct.

18 MR. DEVINE: I have an objection to it. I
19 see it, but I don't see how it's relevant to
20 anything.

21 MR. OAST: May I approach the witness,
22 Judge?

23 THE COURT: Yes.

24 BY MR. OAST:

25 Q. Does that appear to be the letter your
* * *

* * *

1 if you had the file in your safe you would take it
2 out and put it in one of these expandable files, the
3 original estate planning documents?

4 A. No, we would not have.

5 Q. It would have stayed in the will safe?

6 A. There are exceptions, obviously, but I --
7 to answer the question, typically the original
8 document is going to stay in the will safe or be
9 returned to the will safe if it is taken out for some
10 reason.

11 MR. OAST: That's all I have, Judge.

12 THE COURT: Mr. Devine?

13 MR. DEVINE: Mr. Rawls can be excused.

14 MR. OAST: Just one question.

15 BY MR. OAST:

16 Q. On the issuing of corporate stock that
17 your firm did -- I think you'll find some
18 correspondence in there, Frank, about you had gotten
19 behind and had to catch up, and it had kind of gotten
20 out of kilter; is that right?

21 A. After my father died it had gotten, yes,
22 behind.

23 Q. And it was Amelia Spivey who dealt with
24 your firm in handling the stock issue, not
25 Ms. Howell; is that correct, say from 1992 on?

* * *

1 of us was not available, the other one would bring
2 Mom to Suffolk to talk to Mr. Rawls and/or
3 Mr. Sheffer.

4 Peggy went to the courthouse and
5 researched a lot of the deed information so those
6 deeds could be transacted and recorded and have the
7 proper information in them. She researched the
8 history of the deeds and did that type of work,
9 whereas mostly I transported Mom. And we were in and
10 out of Mr. Rawls' and Mr. Sheffer's office initially
11 many times.

12 Q. Then her estate plan called for properties
13 that she held -- she was a widow at the time,
14 correct?

15 A. That's correct.

16 Q. And she held a number of properties in her
17 own name and transferred those to four different
18 corporations?

19 A. That's correct.

20 Q. And you were present at the meeting with
21 the sisters and their husbands and Mr. Rawls and your
22 mom in the Christmastime of 1977?

23 A. I was.

24 Q. And you knew prior to that time basically
25 what her estate plan was because you had been

1 involved in the process of putting it -- getting the
2 information?

3 A. Uh-huh.

4 Q. And do you know that Peggy knew prior to
5 that meeting what your mother's estate plan was?

6 A. Yes, I do.

7 Q. And your sisters have described that
8 meeting at Mr. Rawls' -- basically described the
9 estate plan?

10 A. Yes. They were the eight of us, Mom and
11 Mr. Rawls. The purpose of the meeting was to explain
12 the estate plan and how she would transfer stocks
13 throughout the years with Mr. Sheffer's input so that
14 it would be set up correctly according to Internal
15 Revenue guidelines, and he tried to present the
16 scenario so that we could each understand it.

17 Q. After that meeting did the transfers of
18 stock take place over the coming year?

19 A. They began to take place over a period of
20 ten or more years.

21 Q. And in fact you were to receive your
22 mother's remaining stock in Corporation No. 4,
23 correct?

24 A. That's correct.

25 Q. The transfers in the stock of Corporation

* * *

1 There are only corporate transaction bills for
2 preparing the minutes.

3 Q. Mr. Rawls' office continued to send bills
4 for that?

5 A. They sent bills for that until Mom got ill
6 in 1998.

7 Q. And Mr. Sheffer's office billed for
8 preparation of corporate estate -- excuse me --
9 corporate tax returns?

10 A. That's correct. And the corporation
11 minutes had to be prepared each year before I could
12 pay the franchise and registration fees, so they were
13 always intact.

14 Q. We've had some discussion about the safe
15 in your mother's -- the safe in your mother's former
16 home. That's the home your mother deeded to you in
17 1992, correct?

18 A. That's correct.

19 Q. And it was by deed of gift?

20 A. That's correct.

21 Q. Were you aware that under each of her
22 wills -- '77, '82, 1985, and the codicils -- you were
23 to receive that property upon her death?

24 A. Yes, sir.

25 Q. But when she moved to the Village she

* * *

1 * * *
2 had to get the combination exactly right. I had the
3 combination, but I wasn't too successful at opening
4 it.

5 You had to get down and sit on the floor
6 to access it, because it was under a chair rail in
7 the dining room which was about 2 feet high. I
8 wouldn't think that after '85, '88 that my mother
9 could have gotten down there and accessed it.
10 There's nothing of importance that's been kept in
11 there for years.

12 Q. For how long?

13 A. At least ten years or more.

14 Q. Since before your mother went to the
15 Village?

16 A. Before she went to the Village, and even
17 now the door on the safe is ajar because I know if I
18 lock it I can't get it open. Inside of it now are
19 three little jars of peanuts my dad grew in the '30s
20 and some foreign coins. That's all that's been in
21 there for years.

22 Q. Prior to the time your mother went to the
23 Village, while she was living in the house, were you
24 aware what was in the safe?

25 A. Yes, there was never anything but those
26 few items in the safe, because she had transferred

* * *

1 kept the keys to that filing cabinet safe?

2 A. I did.

3 Q. What did you do with those keys?

4 A. The key to the filing cabinet safe was
5 always on my personal key ring, which normally I keep
6 that in my purse. If I'm not home the key is not
7 home. There is a spare key.

8 Q. Where is that located?

9 A. I keep it right over the door facing the
10 little pantry just outside the kitchen, a
11 normal-sized door. I'd say it's 7 feet tall, 6 1/2
12 feet.

13 Q. Did your mother know the spare key was
14 over the pantry door?

15 A. No.

16 MR. OAST: How would she know, Judge?

17 THE COURT: Let's move on. Try to phrase
18 your question --

19 BY MR. DEVINE:

20 Q. Do you know whether your mother knew where
21 that spare key was?

22 MR. OAST: Same objection. I don't know
23 how she's going to know what her mother knew.

24 THE COURT: This whole case is built on
25 what people think that Ms. Howell knew or didn't

1 know. I'm going to hear it all and assign the
2 appropriate value and weight to it.

3 BY MR. DEVINE:

4 Q. Who put the key over the pantry door?

5 A. I put the key over there because she gave
6 both keys to me. She said, There's no point in
7 taking these to the Village. The safe is not at the
8 Village, so why do I need the keys?

9 Q. Did you ever tell her the spare key was
10 over the pantry door?

11 A. No.

12 Q. Physically what do you have to do to reach
13 the spare key?

14 A. I have to stand in a chair to get up there
15 to get it.

16 Q. How tall are you?

17 A. I'm about five -- I don't know.
18 Five-eight, five-ten maybe.

19 Q. Almost a foot taller than your mother?

20 A. Oh, yes.

21 Q. By the time your mother went to the
22 Village --

23 MR. DEVINE: The witnesses have been
24 excused, Your Honor.

25 THE COURT: Mr. Beltrami needs to go to

1 the witness room.

2 Thank you.

3 MR. DEVINE: Certainly.

4 BY MR. DEVINE:

5 Q. When your mother went to the Village, when
6 she gave you the keys, could she climb on chairs?

7 A. No.

8 Q. Why not?

9 A. Mom had arthritis. I started taking her
10 to an arthritis specialist in about 1991 down at
11 Sentara Leigh. It was especially bad in her right
12 knee. She often had fluid on there. The doctor drew
13 it off several times. She had several shots of
14 cortisone there. Actually, the ligaments and tendons
15 had deteriorated in her kneecap -- she could not bend
16 it for more than a 25-degree angle.

17 Over the period of the years the arthritis
18 did get worse. She had a bursa they treated, and
19 then of course her later years she began to fall.

20 So, there was no way she could have
21 climbed on top the chair to access the spare key,
22 which she would not have known was there.

23 Q. When you -- when your mother moved to the
24 Village, that was in May of 1991?

25 A. That's correct.

* * *

1 the 14th. I had already written the check to pay for
2 the codicil because they had already sent a bill for
3 it and we went down and met with Louis Rawls and met
4 in his office on Constance Road.

5 Of course he was sitting at his desk and
6 Momma and I were sitting in front of the desk, and he
7 said, Josephine, this should finalize your will --
8 your business. This will probably be your last
9 codicil. You need to make sure everything is like
10 you want it.

11 I watched her sign it and it was witnessed
12 and then she said to him, Louis, suppose something
13 happens to you before something happens to me? I
14 know I'm older, but this can always happen. He said,
15 Josephine, you don't have to worry about your
16 business being attended to because all your documents
17 are right here in this office. If that should be the
18 scenario then Amelia will come down here and we --
19 either Frank or myself or Becky will work through
20 getting your estate settled.

21 He says, Now, I'm going to call Frank in
22 here to verify that, which he did. Frank Rawls
23 entered the office and he spoke to Momma. They had
24 been knowing Momma for years because Louis at one
25 time had a cottage at Kill Devil Hills.

* * *

1 A. No.

2 Q. Ever tell you she was going to go there?

3 A. No.

4 Q. Anyone ever tell you that they had taken
5 her there?

6 A. No.

7 Q. No one in Mr. Rawls' office tell you she
8 had been there?

9 A. No.

10 Q. You heard Ms. -- Maline King's deposition
11 or video testimony?

12 A. That's correct.

13 Q. There are two things she talked about in
14 her testimony I would like to talk to you about. One
15 is a trip to Florida. Do you know when your mother
16 went to Florida?

17 A. She went to Florida on several occasions,
18 but her last trip with Ms. King was in the winter of
19 '91, February I want to say, of '91, which was prior
20 to her moving to the Village. She and --

21 Q. Prior to Ms. King moving --

22 A. Prior to Mom moving to the Village.
23 Ms. King did not move to the Village until '94, '95,
24 but Momma was already friends with Ms. King. They
25 had been friends for years, and Ms. King then lived

* * *

* * *

1 Murfreesboro, North Carolina?

2 A. The party was a party in honor of Lucy
3 Stevens, who was one of Momma's relatives. It was an
4 elderly relative, maybe her 80th or 85th birthday.
5 It was held at the Murfreesboro Community Center on
6 October 26th, 1998.

7 I went to the Village that morning and
8 helped Mom get her bath and got her dressed, but the
9 party was not until two o'clock. I said, Now, you
10 sit here in your chair until it's time to go to the
11 party. Go ahead and have your lunch and I'll come
12 back about one to change your clothes and get your
13 hair combed and go to the party in Murfreesboro.

14 I had asked for some help all week for
15 people to go with me, but nobody could work it into
16 their schedule. So, I got Momma in the car and we
17 went to Murfreesboro.

18 Q. Your mother suffered an injury in
19 Murfreesboro?

20 A. Yes, she did. I got her out of the car
21 and got her in the wheelchair, and there was a ramp
22 to the community center. A man approached me,
23 someone she knew, and he was so glad to see her. He
24 said let me help you. I said, No, no, I think I can
25 do it. He said, No, no, I insist.

1 He took the wheelchair and started towards
2 the ramp, and I said, Whatever you do, don't take
3 your hands off the wheelchair because Mom is bottom
4 heavy and the wheelchair will spin out. I had
5 already experienced this in an episode at the
6 Village.

7 He starts up the ramp, and I went up the
8 steps, and when I got there the double doors were
9 locked.

10 Q. One of the doors was bolted down?

11 A. Yes, one of the doors had a little bolt at
12 the bottom. When I reached down to pull the door up
13 he took his hand off the wheelchair to open the door,
14 and when he did the wheelchair did spin out. Momma
15 went flying through the air and slammed down on the
16 concrete step and said, Oh, I have broken my arm.

17 Q. And she in fact had broken her arm?

18 A. She had in fact broken her arm.

19 Q. She was taken by an ambulance to the
20 hospital back in Franklin that night?

21 A. Yes, I called the rescue squad, and they
22 sent an ambulance and asked me where to take her, and
23 I said, You need to take her to the Franklin hospital
24 because she lives at the Village at Woods Edge and
25 that's where I can best look after her instead of

1 taking her to Greenville or whatever.

2 They did take her to the Franklin
3 hospital. And when I was en route home I called my
4 husband and told him to alert my sisters that we had
5 had an accident and to meet me at the hospital, which
6 they did.

7 When we got there it was several hours of
8 course before they x-rayed and attended to her and
9 whatever, and I stayed in there with her. And they
10 came, and then they were going to send her to the
11 Village. It was 9:30 at night. I told them, You
12 cannot do that. I said, Momma's strength is in her
13 arms, and there's no way I can stay with her tonight
14 and lift her. I need for her to stay here in the
15 hospital.

16 So, they did decide to admit her to the
17 hospital for overnight until her doctor could see her
18 the next morning.

19 Q. She remained at the hospital overnight?

20 A. She did remain at the hospital overnight.

21 Q. And there was some confusion the next day
22 getting the doctor there?

23 A. The doctor didn't appear the next morning.
24 I was there at seven o'clock. About eleven I called
25 to see where he was, and they said he wasn't making

1 calls that morning, maybe his associate would come
2 over at lunchtime. I said, Well you know the
3 Medicare people are knocking on the door saying she
4 has to go home, but she is not going home until she
5 can see her doctor.

6 Well, he would come at noon. In the
7 meantime, they brought her lunch, set it in the
8 window. I opened it, got it on her tray in front of
9 her bed and it was a sandwich. Mom doesn't eat
10 sandwiches. Anyhow, I took it apart and cut
11 everything so she could eat, and she began to eat and
12 I was sitting there beside her.

13 She cleared her throat a time or two and I
14 said, Mom, are you all right? I even got up and gave
15 her some tea. She said yes. Then I sat back down
16 and she started strangling. So, I called the nurse.

17 They -- a young nurse came in, a student
18 nurse. The strangulation got worse. Of course Momma
19 has her arm all bound up. I don't know how to do
20 Heimlich, but with her arm bound up I didn't know
21 what to do, and I felt with the nurse sitting there
22 if we got into further difficulty she would know.
23 The strangulation increased and Momma's face started
24 turning purple and the nurse didn't know what to do.

25 I said, You have to do something. My

1 mother is strangling, and she didn't do anything. My
2 mom's face turned black and her eyes rolled back in
3 her head and she died right there in front of my
4 face. And they called a code red and they came and
5 got her and drug me out, took her to the intensive
6 care unit and got her back, but from that day forth
7 she never conversed again. She was on a respirator
8 and all sorts of machines, and she stayed in the
9 hospital 101 days.

10 She did get a little better before
11 Christmas and even spoke a few words and got so she
12 could look at the newspaper, but the week before
13 Christmas she had a major stroke and she reverted to
14 just a noncommunicative state.

15 I was -- I had 24-hour sitters with her
16 from the day she came out of the unit so somebody
17 would always be with her. She got as good as she was
18 going to get at about the end of January, and I
19 called my sister Lynda and said, I'm taking Momma
20 home. She said, I'm not sure you should do that. Is
21 that going to be all right? Suppose something
22 happens? I said, Lynda, she is not going to get any
23 better than she is, and I have to take her home. She
24 did not want to die in the hospital.

25 Q. And you fixed up the house you used to

1 live in behind her house?

2 A. Yes, the old family house was empty at the
3 time. I completely redid it. I painted it. I had
4 the carpet cleaned and papered it, and I made it so
5 the sitters could be right there with her for the
6 last month of her life. I could pop in and out.

7 And even the week she died I was painting
8 on one of the rental houses. I was covered with
9 paint and she would take my hand and pat it. And I
10 said, Momma, I'm up the road painting, but if you
11 need me I can come in a minute. I would just pop in
12 and out all day long. I was with her lots when she
13 was in the hospital, every single day, several times
14 a day.

15 Q. Between the time Ms. King had the
16 conversation playing Scrabble with your mother the
17 night before going to Murfreesboro she testified to
18 and the time your mother died she was not physically
19 capable at all of --

20 A. No, she could not speak.

21 Q. I want to move off that subject. Do you
22 need a break?

23 A. I'm okay.

24 Q. Are you sure? In the early part of 1998,
25 did there come a point there had been some confusion

1 in the issuance of stock or the transfer of stock in
2 Corporation No. 4 or the minutes in Corporation No.
3 4?

4 A. Yes, it did. It was the procedure of the
5 Rawls office after I called them to tell them to
6 prepare the minutes to prepare the minutes and
7 forward them to me for me to look over them to see if
8 they were correct.

9 When I reviewed them I noticed a
10 discrepancy in two of the corporations, because I
11 knew at that point in time the stock should have been
12 transferred out 49/51 percent. With my simple
13 calculations I could see that transfer was not 49/51
14 percent.

15 Q. It had not quite gotten to 49/51?

16 A. Right, and it should have because vaguely
17 I remember when the stock transfers were set up there
18 was going to be a period of ten years according to
19 the IRS guidelines the transfer of stock would take
20 place. I noticed the discrepancy -- the minutes were
21 sent in March and after I noticed the discrepancy I
22 called Frank Rawls' office.

23 Q. Before you called Frank Rawls, did you
24 speak to your mother about it?

25 A. Yes. I said, Mom, you're not going to

1 believe this. The stocks are -- the stocks are not
2 transferred out of some of the corporations. She
3 said, Good Lord, I think that's all supposed to have
4 been done ten years ago.

5 I said, I don't know about ten years ago,
6 but I thought it was complete. I put in a call to
7 Frank Rawls and talked to his secretary, and she told
8 me she would look into it. This was early April. I
9 documented all my calls to the office.

10 I called the office every three to four
11 weeks at least to see if she had found the
12 discrepancy, and of course she said they were busy or
13 she was on vacation or he was on vacation and they
14 just hadn't gotten to it.

15 But, you know, Momma would ask me when I
16 went over there, Have you gotten that stock thing
17 cleared up yet? I would say no, and she would say,
18 I'm not getting any younger. You need to keep after
19 them and make sure they do it.

20 So, she was aware there was something
21 going on with the stock transfer.

22 Q. And she wanted it finalized?

23 A. She wanted it fixed.

24 Q. She indicated in March of 1998 or April
25 or -- through 1998 and as you had these continuing

1 conversations, did she indicate to you in any way she
2 had changed her estate plan as it had been set out in
3 1977?

4 A. No, she just kept telling me to go fix it
5 because it wasn't right.

6 Q. At any point in time between the time the
7 corporations were formed and the time your mother
8 passed away had she told you to allow the
9 corporations to lapse or do anything of that sort?

10 A. No, she'd always remind me the first of
11 the year, You know, it's time to do those taxes.

12 Q. From the time of the corporate formation
13 you were the one who interacted with the Rawls firm
14 or the Sheffer firm after you talked to your mother
15 about it?

16 A. That's correct.

17 Q. So, if anyone was to allow the
18 corporations to lapse it would have been her telling
19 you to do that?

20 A. That's correct.

21 Q. And that never happened?

22 A. Never happened.

23 Q. At any point from 1977, the time of the
24 Christmas meeting, until the time your mother passed
25 away, did she ever tell you she had torn up her will?

1 A. No, Momma never even tore up junk mail.
2 She just piled it on the desk. She wouldn't even
3 throw it away. I'd ask why she was saving it and she
4 said, I just thought you wanted to look through it.

5 Q. Did she ever tell you she was abandoning
6 her overall estate plan?

7 A. No.

8 Q. Did she ever tell you she had gone to get
9 the will from the Rawls firm?

10 A. No.

11 Q. And you know at least in '92 the codicil
12 was there, correct, was at the Rawls firm?

13 A. Yes.

14 Q. And in your mother's presence at that '92
15 meeting Mr. Rawls confirmed that all of the documents
16 were there?

17 A. Yes, he did.

18 MR. DEVINE: I believe that's all I have,
19 Your Honor.

20 BY MR. DEVINE:

21 Q. Did your mother ever tell you that --
22 strike that. Did your mother tell you what you were
23 to do when her -- where you should go if she died to
24 get her estate taken care of?

25 A. Quite often. She would say, You know,

1 I've tended to everything at the Rawls office.
2 That's where my papers and my documents are, my will,
3 my codicil, whatever.

4 I had the conversation with Momma a lot
5 because I was around her a lot. She was getting up
6 there, in her 90s, and death be not praised. She
7 knew she wasn't going to live to be 150. She knew
8 physically she was failing.

9 She said, When the time comes, you know,
10 you go on down there and they told me they will
11 execute whatever needs to be executed.

12 Q. Take care of her estate?

13 A. Take care of her estate.

14 Q. After your mother died, when did you call
15 the Rawls firm?

16 A. I would say probably the next week after
17 Mom died, and I talked to Frank. I first spoke to
18 Judy and asked was Frank there, and she said yes.

19 When Frank got on the line I said, Frank,
20 I suppose you're aware Mom has passed away? And he
21 said, Yes, somebody brought it to my attention this
22 morning that it was in the newspaper this weekend. I
23 purvey my sympathies.

24 I said, I know you're going to help walk
25 me through settling this estate plan. You had

1 assured her you would do that. He said, Surely.
2 I've known all along that I would help you if you
3 wanted me to help you.

4 I said, Well, that's the reason for my
5 call. I said, When have you got some time available
6 that I can come and talk to you? He said, Well -- he
7 looked on his calendar and gave me a date which I
8 think was maybe in the next week. I did go and talk
9 to him at that time.

10 Q. You came to learn they couldn't locate the
11 original estate planning documents?

12 A. Well, I went into the file safe cabinet
13 and I got my copies of what I had. I knew they were
14 copies because often my mom would tell me to write on
15 them. Like if Peggy and Lynda owed Mom some money
16 she would tell me to make a pencil notation.

17 So, I got the envelope with the copies out
18 of the safe and carried them to Frank Rawls' office.
19 I think initially I sat down with Judy and we went
20 through and compared my copies with her copies. She
21 said, Where is your mother's original will? I said,
22 It's here. Louis and Frank Rawls told me her stuff
23 was in order and it was here when I came in in 1992.

24 I said, As a matter of fact, I saw Momma
25 execute the last codicil and it was laying on Louis'

* * *

1 them I would have known. Mom told me everything.
2 She depended on me for everything.

3 Q. And she never told you she was revoking
4 her will?

5 A. No, she never told me anybody took her to
6 Suffolk. She never told me anything. She always
7 said, You know my stuff is at Louis Rawls' office,
8 and when the time comes go down there and they'll
9 tell you what to do.

10 Q. And she had those conversations with you
11 both on the independent side and the assisted side
12 after she moved there in May of 1997?

13 A. Yes.

14 Q. You're aware, are you not, that Meadow
15 Kelly, Peggy's daughter, has testified concerning a
16 conversation she says she had with your mother in
17 June of 1995 at Nags Head?

18 A. I heard that in her deposition, yes.

19 Q. Were you at the beach when your mother
20 went to the beach in June of 1995?

21 A. Yes.

22 Q. What were you-all doing down there?

23 A. Probably I was cleaning the cottage that
24 we rent next-door. It's in the time frame I always
25 went to the beach to make sure the big house was

1 ready to rent.

2 Cleaning it took almost a week, a 12-hour
3 day a week. I was probably down there with my
4 housekeeper and maybe Ms. King was down there. But,
5 you know, I probably was doing that.

6 Q. Did your mother drive herself down there
7 or did you drive her?

8 A. No.

9 Q. Did you drive her?

10 A. Yes.

11 Q. Did your mother say anything to you at the
12 beach in June of 1995 about having made a decision to
13 tear up her will?

14 A. No.

15 Q. About any dissatisfaction with her estate
16 plan?

17 A. No.

18 Q. About any perception her estate plan
19 somehow was unfair to Peggy?

20 A. No.

21 Q. When you brought your mother back from
22 the -- from the beach in June of 1995, at the end of
23 that visit after you went to clean up the cottage,
24 did you take her to the Rawls office to get her
25 estate planning documents?



1 original of the 1990 codicil at the home in the
2 filing cabinet safe?

3 A. I took the papers, which were copies that
4 I had, to the Rawls law office. I did not realize
5 that the 1990 codicil was an original because it had
6 a Circuit Court of Suffolk jacket on it. Because it
7 had that Circuit Court of Suffolk jacket on it, I
8 didn't think it was an original because Mom's stuff
9 should have had Southampton County stuff on it. It
10 was just stuck in the envelope with all the other
11 copies I had.

12 Q. It was the original 1990 copy?

13 A. Frank Rawls identified it as being the
14 original 1990 copy.

15 Q. The copy Mr. Devine tried to admit in
16 probate court a couple weeks ago, isn't it? That's
17 the original copy?

18 A. That is the original copy.

19 Q. It was in the filing cabinet safe at your
20 home?

21 A. It was in the filing cabinet safe in my
22 home.

23 Q. You also had in that filing cabinet safe
24 the original of a 1992 letter disposing of her
25 tangible personal property?

1 A. That's correct.

2 Q. That's referred to in her will, is it not?

3 A. When Momma executed her will in 1977 that
4 personalty copy or personalty rider was attached to
5 her 1977 will at Frank Rawls' office. She had a copy
6 at home, which she proceeded to scribble up as she
7 gave up her personalty. There were things she
8 dispensed of prior to her even moving to the Village.

9 After it was so scribbled up I said, Mom
10 you need to do something about this. So she said,
11 Well, I'm going to call down there or you call down
12 there and find out how we can handle this.

13 Q. But in the safe -- in the filing cabinet
14 safe in your home we have right after your mother
15 died the original of the 1990 codicil and the
16 original signed by her statement for the disposition
17 of tangible personal property?

18 A. It was a new one she wrote in 1992 because
19 she was advised that she could write a new one and it
20 did not need to be kept with her will because she
21 could dispose of her personalty as she pleased.

22 Q. But that's where it was, in the filing
23 safe?

24 A. Yes.

25 Q. Now, on the filing safe -- do you know how

1 many keys were made to the safe?

2 A. There are only two keys to the safe.

3 Q. How do you know that?

4 A. Because Momma gave me those two keys when
5 she moved to the Village.

6 Q. And you kept one key on your key ring?

7 A. Yes, sir.

8 Q. And the key ring stayed with you?

9 A. Yes.

10 Q. And the other key was where?

11 A. On top of the door facing the office, in
12 the little room --

13 Q. On top of the door?

14 A. The door facing -- the door trim. There
15 was a ledge over the door.

16 Q. That was from the door from which room to
17 the office? From the living room to the office?

18 A. No, from the kitchen to the office.

19 Q. And did it stay there always?

20 A. It's been there ever since I've lived in
21 the house, because Momma gave me the keys when she
22 moved to the Village and that's since 1991.

23 Q. Your mother treated -- even though she
24 moved out of the house, she treated that house as --
25 even kept the key on her key ring to your house?

1 A. She had a key to enter the house on her
2 key ring, as well as Peggy and Lynda and Betty.

3 Q. Now, in 1992 your mother gave to you by
4 deed the house -- I think we refer to it as the
5 Howell homeplace, the house where she lived and where
6 you now live?

7 A. That's correct.

8 Q. It's a two-story colonial brick house?

9 A. That's correct.

10 Q. And I think that deed was signed in
11 January of 1992?

12 A. That's correct.

13 Q. We have a letter I think Mr. Devine wants
14 to use where the deed was sent back to you from the
15 Rawls law firm indicating it had been recorded in the
16 Southampton County courthouse?

17 A. That's correct.

18 Q. We've also seen a letter from Dr. Goodman
19 today. You're familiar with that, are you not? Were
20 you the one who suggested that someone get a letter
21 from Dr. Goodman about your mother's mental capacity?

22 A. No, sir.

23 Q. Was that done concerning the deed because
24 you wanted to get the deed to the house?

25 A. No, sir.



1 * * *
behind because I could not pay the franchise fee
2 unless the minutes had been done.

3 It was my procedure to remind them on
4 March the 1st to get the minutes prepared because the
5 corporate franchise fees were due mid March. Later
6 on the SCC changed that to the date of incorporation,
7 which was December.

8 Q. Do you recall getting a letter of 1998 in
9 which the law firm -- I think Frank wrote you a
10 letter apologizing for taking so long to get the
11 corporate matters straight?

12 A. I do remember that letter, yes.

13 Q. But it was at your insistence they get
14 those records corrected?

15 A. It certainly was.

16 Q. You learned from neighbors, friends,
17 people about town that your mother was out driving
18 say in 1994, '95 and may have been a hazard to others
19 on the highway; is that true?

20 A. I don't know about '94, '95, but
21 occasionally somebody would tell me they saw Momma
22 out driving. She had a very big car. It was hard
23 not to see her.

24 Q. In late '95 you persuaded her to either
25 not renew her license or to stop driving?

* * *

1 Q. How about the original of any deeds?

2 A. I have the original copies of deeds of the
3 farms Momma gave to Peggy.

4 Q. Let's -- you have the original copies or
5 do you have the original deeds?

6 A. I have the original deeds. Of course they
7 are in Peggy's name now, but the old, old deeds.

8 Q. Your mother owned real property in North
9 Carolina, right?

10 A. That's correct.

11 Q. And she gave that to the four of you, the
12 four sisters?

13 A. She did not give that to us. The original
14 beach property was deeded originally in her name and
15 the four of our names. It was not a gifted one-fifth
16 interest. It was bought and put in all five names in
17 1954 and in 1973.

18 Q. And later she gave her one-fifth interest
19 in that beach property to you?

20 A. That's correct.

21 Q. So, now you own two-fifths of the beach
22 property?

23 A. That's correct.

24 Q. And your other sisters each own one-fifth?

25 A. That's correct.

1 Q. Your mother gave you in 1992 the Howell
2 place, the house where you now live?

3 A. That's correct.

4 Q. How long have you lived in that house?

5 A. Eight years.

6 Q. Prior to that where did you live?

7 A. In the house next-door.

8 Q. The house behind it was built in the Civil
9 War?

10 A. Yes.

11 Q. Did you ever pay your mother any rent?

12 A. No.

13 Q. After your mother died or upon the death
14 of your mother, did you become the owner of certain
15 joint accounts with right of survivorship?

16 A. I did.

17 Q. Was there a joint account at the National
18 Bank of \$102,000?

19 A. Not 102,000, no.

20 Q. How much was it?

21 A. \$100,000 certificate, mutual fund.

22 Q. Was there a \$20,000 account at Crestar?

23 A. There was.

24 Q. Was there a \$60,000 account at the Bank of
25 Franklin?

1 A. There was, but that did not come to me.
2 That was put into the estate account.

3 Q. But it was owned by your mother with you
4 with right of survivorship?

5 A. No, it wasn't.

6 Q. How was it owned?

7 A. It was owned by Josephine S. Howell,
8 Amelia H. Spivey, POA.

9 Q. How about Central Fidelity bank, an
10 account with \$70,000 in it?

11 A. That's correct.

12 Q. Also jointly with you and your mother?

13 A. No, it was Josephine S. Howell and Amelia
14 H. Spivey, POA.

15 Q. How about the Crestar checking account?

16 A. The Crestar checking account was a joint
17 account with my name on it.

18 Q. Did your mother attend any estate planning
19 seminars while she was at the Village?

20 A. If they had a seminar there she probably
21 went, yes.

22 Q. You knew she attended some of those
23 seminars, didn't you?

24 A. Occasionally, she did.

25 Q. Did you take your mother to meet with Jim

1 Councill concerning her estate plan?

2 A. I did not. She asked me to go see him.

3 Q. And you went to see him?

4 A. I did.

5 Q. Do you remember when that was?

6 A. I think it was in 1990 maybe.

7 Q. Did -- you met with Mr. Councill and
8 discussed her plan, I think even talked about doing
9 some revocable living trusts; is that correct?

10 A. I presented the plan she had in effect and
11 I asked him to evaluate it because she wanted to know
12 was it a good plan or not, or a plan she could change
13 if she wanted to or should it stay intact.

14 Before I left that day he said, You tell
15 your mother she has nothing to worry about. This
16 plan has been executed and it is a very good estate
17 plan.

18 Q. Did your mother ask you to go meet with
19 him?

20 A. She certainly did.

21 Q. Did your mother give you an RV motor home
22 type of vehicle?

23 A. She did back in the late '60s or the early
24 '70s. She used it quite a bit and forgave that debt.

25 Q. Did she give you a truck?

1 A. Yes, she did.

2 Q. How about an apartment of some type in Del
3 Ray Beach?

4 A. There was a duplex cottage she helped me
5 buy in 1965 for \$3500.

6 Q. Did she give you the 1990 Town Car?

7 A. Yes, she did. Her personalty papers.

8 Q. You now have that car?

9 A. I do have the car now. My sisters signed
10 it over to me, all of them.

11 Q. Did she furnish a cafe or something for
12 your husband, some type of building your husband was
13 in?

14 A. My husband works at International Paper.

15 Q. Did he have a cafe built or some type of
16 cafe she assisted him with?

17 A. Not my current husband, no. The cafe
18 building is housed in the ceramic shop I operate.

19 Q. What was her involvement with that?

20 A. She helped me get it renovated so I could
21 occupy it as a ceramic shop.

22 Q. She paid for the renovations?

23 A. Yes, she did.

24 Q. She paid for college tuition for your
25 children?

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DIRECT EXAMINATION

1

2 BY MR. OAST:

3 Q. Ms. Reed, would you tell the Court who you
4 are.

5 A. Cindy Reed.

6 Q. Where do you work?

7 A. Ferguson & Rawls.

8 Q. How old are you?

9 A. Thirty.

10 Q. And how long have you been at the law
11 firm?

12 A. About ten-and-a-half years.

13 Q. When you started out, what did you do?

14 A. I was Mr. Rawls' -- J. Louis Rawls'
15 secretary.

16 Q. How long did you continue in that
17 capacity?

18 A. From November of '89 when I started until
19 his death in '94.

20 Q. Did you work on the Josephine Howell
21 matters?

22 A. Yes.

23 Q. You know who Josephine Howell is, correct?

24 A. Yes. I can't recall the face, but I'm
25 familiar with her.

1 Q. You don't know what she looks like, but
2 you know you worked on her matters when you worked
3 for Mr. Rawls?

4 A. Yes, sir.

5 Q. Have you been involved in this thorough
6 search of the office for the estate plan documents?

7 A. Yes.

8 Q. Have you turned up anything?

9 A. No, sir.

10 Q. Tell me about the procedure for your
11 firm -- for Mr. Rawls keeping the original estate
12 planning documents.

13 A. What we generally do is when we open a
14 file and we did the estate planning documents we had
15 a little index card box that we would make up index
16 cards, and that would be in alphabetical order by
17 clients' name and say exactly what was contained in
18 the safe and we would file those in the index file.

19 Q. On 5-by-7 cards?

20 A. Right.

21 Q. They're kept back by the safe? The box is
22 a gray metal box?

23 A. Right.

24 Q. If someone -- if you filed a will for
25 someone, would you make an entry on that card?

1 A. Yes, sir.

2 Q. How would the card be filed?

3 A. In alphabetical order under their last
4 name.

5 Q. And if the person came back to say do a
6 power of attorney or file some other documents in the
7 safe, what would be done?

8 A. Generally we tried to write another power
9 of attorney was done and what year. That's what we
10 usually try to do.

11 Q. Would that 5-by-7 card for that client who
12 had documents -- original documents in the will safe
13 be updated for each transaction or each document in
14 the safe?

15 A. It should have been. I don't know that
16 was the case in every instance, but --

17 Q. What happened if a client came to pick up
18 her original estate planning documents?

19 A. Usually we would remove them from the safe
20 and at the same time retrieve the index card from the
21 little card file. Generally we would destroy it
22 since there was no longer any contents in the safe.

23 Q. Had you learned that Ms. Howell had in her
24 possession at the time of her death the original of a
25 1990 codicil?

1 MR. DEVINE: I object to the form of the
2 question. I don't think there's any evidence to
3 support that.

4 THE COURT: I'm going to hear it. I'll
5 sort it all out. Let's move on.

6 Objection overruled.

7 See if you can more artfully frame the
8 question.

9 MR. OAST: Yes, sir, Judge, I'm sorry.

10 BY MR. OAST:

11 Q. What was Mr. Rawls' practice as far as
12 clients keeping originals of their estate planning
13 documents?

14 A. Well, usually he would leave it up to
15 them. If they had a fireproof safe or lockbox he
16 would ask if they wanted to keep it. If they did not
17 he would allow it to be kept in our safe.

18 Q. If the client did have a fireproof safe or
19 lockbox, what would he encourage them to do?

20 A. Usually to take it because he didn't want
21 to overcrowd our safe.

22 Q. What would be his practice if the client
23 had the original of one estate planning document?

24 What would Mr. Rawls do?

25 A. Generally encourage them to keep the

1 documents together if they had them. If they had one
2 he would usually tell them to try to take the other.

3 Q. From working with Mr. Rawls and knowing
4 how he operated his practice, how does it strike you
5 if Ms. Howell had the original of one of her estate
6 planning documents and not the others?

7 MR. DEVINE: I object. I'm not even sure
8 what the question is.

9 THE COURT: Well, I understand. The
10 question essentially is what -- he's asked for her
11 impressions about a client retaining some documents
12 and leaving other documents with Mr. Rawls as part of
13 one estate plan.

14 MR. DEVINE: If that's the question I
15 object to the question.

16 THE COURT: Is that your --

17 MR. OAST: Yes, sir.

18 THE COURT: All right. Answer my
19 question. Mr. Oast would have asked it.

20 Go ahead.

21 THE WITNESS: You just want my answer to
22 the former question you asked?

23 I would say it would seem a little bit
24 odd, but I'm not sure. It could have been done, but
25 it would seem strange that it would have happened

1 that way.

2 BY MR. OAST:

3 Q. And did Mr. Rawls -- when you worked for
4 him did you use this 5-by-7 index system for keeping
5 original documents in the will safe?

6 A. Yes, he liked for us to do that.

7 Q. Were you there at the firm -- well, you
8 were there at the firm -- when you had the water
9 damage and the pipe froze and burst?

10 A. Yes, sir.

11 Q. Would that have damaged any of the
12 original estate planning documents?

13 A. No, because they were all kept in the
14 safe. Only the files were upstairs that were
15 damaged.

16 Q. If the firm kept the original of any
17 clients -- their original estate planning documents,
18 where would they have been kept?

19 A. In the safe.

20 Q. In the time you've been there has the firm
21 ever lost any original estate planning documents?

22 A. Not that I'm aware of, no.

23 Q. Are you aware of any estate planning
24 documents that had been lost before you came to the
25 firm?



* * *

1 will, letter of instruction, and codicil in RH&R
2 safe.

3 Based on that notation and your knowledge
4 of the practice -- Mr. Rawls' practice, can you say
5 where the originals of the will, letter of
6 instruction, and codicil were as of January 16th,
7 1980?

8 A. I would say they were in the safe.

9 Q. So, if the 1977 will, the will predating
10 this letter said the original went to Ms. Howell and
11 this letter says the originals of the will, letter of
12 instruction, and codicil were in the safe, would it
13 be your belief that when the codicil of January 18th,
14 1980 was executed that Mr. Rawls would have retained
15 all of the originals?

16 A. Yes, I would say so.

17 Q. Plaintiffs' Exhibit No. 6 is a letter
18 dated January the 9th of 1992 that has -- it's a
19 photocopy of a letter from Dr. Goodman to Louis Rawls
20 and has in blue ink in the upper right-hand corner a
21 notation, Original w/will in safe, original with will
22 in safe.

23 Do you recognize that as your handwriting?

24 A. Yes, sir.

25 Q. What was -- what does your notation on

1 this letter mean?

2 A. That would mean to me everything was in
3 the safe at that point.

4 Q. As of January the 9th of 1992?

5 A. Yes.

6 Q. By the safe you mean the safe at the Rawls
7 law office?

8 A. Right, our will safe.

9 Q. And you're not aware, are you, of any time
10 after January of 1992 that Ms. Howell was at the
11 Rawls law office?

12 A. No, not that I saw, no.

13 Q. I'd also like to show you --

14 MR. DEVINE: I apologize, Your Honor.

15 BY MR. DEVINE:

16 Q. The 1987 codicil, which again is part of
17 Plaintiffs' group Exhibit 8, you see a handwritten --
18 what appears to be handwritten and faxed September 2,
19 1999 at 11:10 a.m. from Ferguson & Rawls, Original in
20 RH&R safe.

21 Based on the firm's practices, can you
22 tell me where the original of the codicil was kept
23 after execution?

24 A. I would say at that time it must have been
25 in the safe, according to that note.

1 Q. And you are not aware of any instance
2 where a note of this type, a notation on a document,
3 was made that was inaccurate?

4 A. No.

5 Q. And you physically made the note on the
6 January 9th, 1992 letter?

7 A. Yes, sir.

8 Q. And in your time working at the office you
9 have never --

10 A. Made a note of something that wasn't
11 there, no.

12 Q. If someone had their original estate
13 planning documents at the Rawls law office and then
14 subsequently came to pick them up, it would be the
15 Rawls office practice to obtain a receipt from them,
16 something signed by them?

17 A. Generally we would try to do that.

18 Q. And you have searched and found no such
19 receipt?

20 A. No, sir.

21 Q. And you know the index card system --
22 Mr. Rawls testified earlier today the index card
23 system was not a perfect system by any means.

24 A. It wasn't fail-proof, no.

25 Q. And are you -- do you know -- strike that.

1 * * *
1 them should have been in that.

2 Q. It's possible, is it not, that there were
3 files of this type concerning Ms. Howell in
4 Mr. Rawls' office at the time he died?

5 A. I guess that could have been.

6 Q. Many files from his office were in fact
7 packed up and put in the uninsulated portion of the
8 attic of the firm?

9 A. There were some files there, yes.

10 Q. And the uninsulated portion of the attic
11 is where the extensive water damage in January of
12 1994 took place, correct?

13 A. Right. Those were all very old files,
14 most of them.

15 Q. And there was much of that you couldn't
16 even tell what it was after the water damage; isn't
17 that right?

18 A. Right.

19 MR. DEVINE: That's all the questions I
20 have. Thank you.

21 MR. OAST: Just a couple.

22 REDIRECT EXAMINATION

23 BY MR. OAST:

24 Q. Are you familiar with what files were
25 damaged in the water?

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* * *

1 remove the card from the index file and don't put a
2 note in the file, like the notes you've seen here,
3 that somebody picked their will up or took it with
4 them or whatever it could be a situation like we have
5 here today. So, that could happen.

6 Q. You don't know Ms. Howell?

7 A. I can't say I could draw a picture of her
8 or remember her face, no.

9 Q. You can't picture her face?

10 A. No, sir.

11 Q. You can't picture her in the office at any
12 time?

13 A. I talked to her on the phone.

14 MR. DEVINE: This sounds like leading
15 questions of his witness.

16 THE COURT: Well --

17 MR. OAST: That's all.

18 THE COURT: Anything else of Ms. Reed?

19 MR. OAST: No, sir.

20 MR. DEVINE: No, sir.

21 THE COURT: You're excused. Thank you
22 very much.

23 (The witness was excused.)

24 THE COURT: Mr. Beltrami has been sworn?

25 MR. OAST: Yes, sir.



1 A. Procurement industry. They buy and sell
2 timber and land.

3 THE COURT: What was that?

4 THE WITNESS: Virginia Pacific
5 Corporation.

6 BY MR. OAST:

7 Q. Are you related or have been related by
8 blood or marriage to the Johnson family?

9 A. No, I'm not.

10 Q. Your sister -- how about your sister?

11 A. Yes, she is. She was.

12 Q. What was that relationship?

13 A. She was married to Benjamin Johnson, Peggy
14 Johnson's son.

15 Q. That marriage ended in divorce?

16 A. That's correct.

17 Q. Through your sister did you come to know
18 Josephine Howell?

19 A. Yes, I did.

20 Q. And how long ago did you meet Ms. Howell?

21 A. In the early '80s, '81 or '80.

22 Q. How frequently would you see her?

23 A. I don't know, two or three times a year,
24 if that.

25 Q. Where did you see her?

1 A. At family functions at my sister's house.

2 Q. Did you have an occasion to see her in the
3 1990s at a family cookout?

4 A. Yes, I did.

5 Q. Do you recall when that was?

6 A. '93, '94. I'm not sure.

7 Q. What was the occasion for the cookout?

8 A. It was my nephew's birthday party.

9 Q. Your sister's son by Benjamin Johnson?

10 A. That's correct.

11 Q. Ms. Howell was at the cookout?

12 A. That's correct.

13 Q. Where was the cookout?

14 A. In Boykins, Virginia, at my sister's home.

15 Q. Did you have a conversation with
16 Ms. Howell at that cookout?

17 A. Yes, I did.

18 Q. Describe the conversation. Tell Judge
19 Delk.

20 A. Basically I just approached her about
21 buying her timber.

22 Q. Why did you do that?

23 A. Because I wanted to buy her timber.

24 Q. Did you know she had some timber?

25 A. Yes, I did, near my home where I grew up

1 in Franklin. Basically I asked her if she would be
2 interested in selling her timber.

3 She basically said that it was tied up in
4 the estate, and we just started talking about the
5 value and everything. She said it was real
6 complicated. That was pretty much the extent of the
7 conversation.

8 Q. What did you -- did you tell her what the
9 value of the timber was?

10 A. I didn't know what the value was.

11 Q. When you told her that you wanted to buy
12 it, what did she say then?

13 A. Basically she said it was tied up in the
14 estate and the estate was real complicated and
15 everything and the value of the timber made it even
16 more complicated. And she stated -- she said, Well,
17 this makes my estate more complicated and my assets
18 are tied up in the corporation, something to that
19 extent, and I don't know what to do. I can't sell
20 the timber.

21 I told her if she was unhappy she could
22 destroy or change the will, and that was the end of
23 the conversation.

24 Q. Did she ask you about reviewing her estate
25 plan?

1 A. She asked if I would be interested in
2 looking at it. I told her I was not competent to do
3 that but I would refer her to somebody.

4 Q. And what did she say in response to that?

5 A. She basically said that that was fine, but
6 I never did. But I mean, that was small talk. That
7 was small talk, and of course I didn't refer anybody
8 to her because I was interested in her timber, not in
9 her estate.

10 Q. And you did discuss that she could change
11 her estate if she wanted to?

12 MR. DEVINE: Judge, this is leading. He's
13 asked him about the conversation.

14 THE COURT: Rephrase. This is your
15 witness.

16 BY MR. OAST:

17 Q. What did you --

18 A. I basically said if she wasn't happy she
19 could change or destroy, and that was the end of the
20 conversation. It was a three- or four-minute
21 conversation as far as the estate was concerned.

22 Q. How long did you talk to her altogether
23 that afternoon?

24 A. Hour, hour and a half. I always sat down
25 and talked to her at all these functions.

1 MR. OAST: That's all I have, Judge.

2 CROSS-EXAMINATION

3 BY MR. DEVINE:

4 Q. You're not sure what year this was?

5 A. No, I'm not.

6 Q. And it was a three- to four-minute portion
7 of a long conversation?

8 A. That's correct.

9 Q. And she told you, did she not, that she
10 didn't want anybody fighting about her estate, that's
11 why she set up these corporations?

12 A. That's correct.

13 Q. And that's why she set up what she
14 described as a complicated estate plan?

15 A. She never said that, that it was a
16 complicated estate plan, just she didn't want anybody
17 fighting over her estate.

18 Q. And she said you could look over her
19 estate documents and give her advice but you said
20 that was beyond your expertise?

21 A. That's correct.

22 Q. You said, Ms. Howell, if you want me to I
23 can give you a referral to someone who could look at
24 them?

25 A. That's correct.

1 Q. And she didn't ask you about a referral?
2 She never asked you for a name to go see, did she?

3 A. No, that was -- that was really small
4 talk, like I said in my deposition. I was just
5 concerned about the timber and that was it. Not to
6 be harsh, but I really wasn't concerned about her
7 estate.

8 Q. You talked to her again on a number of
9 occasions, three or four occasions?

10 A. Two, three, four, may have been ten. I
11 don't know.

12 Q. A number of occasions you would see her at
13 family gatherings?

14 A. That's correct.

15 Q. And she never told you she had torn up her
16 will?

17 A. No.

18 Q. Never told you she changed her estate
19 plan?

20 A. No, she did not.

21 Q. Never told you she had gone to have anyone
22 look over her estate plan?

23 A. No, she did not.

24 Q. And you knew at that point Amelia Spivey
25 handled her mother's personal and business affairs?

1 A. Yes, I did.

2 Q. You didn't tell Amelia about this
3 conversation?

4 A. No, I did not.

5 Q. And on the subsequent times, two or three
6 or ten more times you talked to Ms. Howell prior to
7 the time she died, she never asked you during any of
8 those conversations for any recommendation of someone
9 to review her estate plan?

10 A. No.

11 Q. She never expressed to you any concern
12 about her estate plan at all?

13 A. No, she did not.

14 Q. Or about the fairness of her estate plan?

15 A. No. I mean, subsequent to her first
16 discussion about the timber all the other discussions
17 were basically about the -- I mean, I knew I couldn't
18 buy her timber so I wasn't interested in asking her
19 again.

20 Q. You said you didn't even know the value of
21 her timber?

22 A. That's correct.

23 Q. So, you didn't give her a value for her
24 timber?

25 A. No, but I knew it was worth a lot of

1 money.

2 Q. But you didn't know how much?

3 A. No, I'm not an expert.

4 Q. So, you didn't tell her a figure?

5 A. No, I did not.

6 MR. DEVINE: That's all I have.

7 THE COURT: Mr. Oast?

8 REDIRECT EXAMINATION

9 BY MR. OAST:

10 Q. Did you tell her it had some value to it,
11 Mr. Beltrami?

12 A. Yes, I did, because I knew it did.

13 Q. And you were familiar with that area?

14 A. Yes.

15 Q. Familiar with timber purchases and sales?

16 A. Yes.

17 Q. And you let her know?

18 MR. DEVINE: Judge, again, he is leading
19 this witness.

20 MR. OAST: I'll rephrase.

21 THE COURT: All right.

22 THE WITNESS: Can I clarify? I was -- I
23 worked -- in that particular year, I worked three
24 months, and basically I would go to a timber tract
25 and see if there was timber on it, and in those three

1 months I made like \$65,000.

2 If I knew it was worth something, Brian
3 Glover, who is president of Virginia Pacific -- I
4 would get the plot and everything and he would come
5 and look at the timber and offer the landowners the
6 money. He would talk to the landowner subsequent to
7 that.

8 BY MR. OAST:

9 Q. Did you give Ms. Howell an indication of
10 its value when you talked to her that day?

11 A. I basically told her it was worth a lot of
12 money.

13 MR. OAST: That's all I have.

14 THE COURT: Mr. Devine?

15 MR. DEVINE: No, sir.

16 THE COURT: May Mr. Beltrami be excused?

17 MR. OAST: Yes, sir.

18 THE COURT: Thank you for your testimony.
19 You're excused.

20 (The witness was excused.)

21 THE COURT: Next witness?

22 MR. OAST: Joe Johnson.

23 THE COURT: This is the defendant Joseph
24 D. Johnson?

25 MR. OAST: Yes, sir.

1 JOSEPH D. JOHNSON, having being first duly
2 sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. OAST:

5 Q. Tell us who you are, Joe.

6 A. I'm Joseph Johnson, from Boykins.

7 Q. How old are you?

8 A. Thirty-six.

9 Q. For whom are you named?

10 A. I was named after my grandmother and
11 grandfather.

12 Q. Your grandmother Josephine?

13 A. And my grandfather was Dewey Howell.

14 Q. That's your name, Joseph Dewey Howell?

15 A. Joseph Dewey Johnson.

16 Q. What was the relationship with your
17 grandmother?

18 A. I was her grandson.

19 Q. I understand that. Were you close with
20 her?

21 A. Yeah, pretty much. I was her namesake and
22 carrying on the formal tradition.

23 Q. Did you have a conversation with her in
24 June, '92, '93 in North Carolina?

25 A. Yes, sir.

1 Q. What occasioned that trip to North
2 Carolina?

3 A. Me and my wife and two children took
4 Grandma to the beach, drove her car, and I guess you
5 can tell by -- as we were coming by close to
6 Virginia -- she had always told me she had a lot
7 somewhere out there, kind of pointing towards the
8 cottage down towards Virginia Dare Hardware.

9 As we got close to the hardware I said,
10 Where is that lot that you owned down here close to
11 this hardware store? When we went by she kind of
12 pointed it out, and the very next moment she says,
13 Your mom and daddy owe me \$100,000 and I fixed it
14 where when I die they're going to end up paying me
15 this money back.

16 I was like -- I didn't -- done opened a
17 can of worms here. You know, I didn't pursue it
18 right then. Later on either that same day or that
19 weekend I had the opportunity to talk with Grandma
20 again about this \$100,000 my mother and father
21 supposed to owe her on this estate, and I was sitting
22 at the bar, the island in the little cottage, and she
23 was in the kitchen.

24 Q. Still in North Carolina?

25 A. In North Carolina at the beach cottage. I

1 basically told her that -- you know, brought it up
2 again about this \$100,000, that she really didn't
3 understand it that well, that my mother and father
4 owed the bank \$100,000.

5 She basically just used CDs or her
6 securities to secure the loan, and came at a time in
7 the '80s when the grain prices were low and we were
8 coming out of a bad year and finances were hard to
9 come by from the bank.

10 I went on to say, You know, Grandma,
11 the -- your money is safe. You're getting the
12 interest off of this money. I said, Your CDs are
13 securing the loan but, you know, before they will
14 take your money they will come and get our land and
15 farm equipment and things like that first and that
16 your money is safe.

17 She basically said, Well, I ought to look
18 into the fairness of this, meaning her estate.

19 MR. DEVINE: I object to what it means.
20 If she said words he can testify to what she said,
21 but to interpret what she meant by those words I
22 think is inappropriate.

23 MR. OAST: We've done it all day long,
24 Judge.

25 THE COURT: I have, and I'm going to let

1 him go ahead and testify.

2 THE WITNESS: The reason I say it pertains
3 to the estate is she told me earlier she was going to
4 fix things to where Mommy and Daddy would have to pay
5 her back at her death.

6 BY MR. OAST:

7 Q. Did you explain to her it wasn't a debt
8 from your parents to her?

9 A. That's correct, and she said she would
10 look into the fairness of this.

11 Q. Did you -- when was that?

12 A. It was -- it was in June, probably -- it
13 was in '92.

14 Q. How do you know it was in June of 1992?

15 A. My youngest daughter was -- still had
16 pull-up diapers or whatever, and I had brought her in
17 to get the sand out of them, out of the diapers.

18 Q. That's fine. Because of the age of your
19 daughter you know when it was?

20 A. That's right. She's ten years old now.
21 It had to be in '92 because pull-ups is when she was
22 about two years old.

23 Q. Did you have an occasion to see your
24 grandmother at a function in 19 -- I think 1997?

25 A. That's true.

1 Q. Describe that function.

2 A. We had a birthday party for Grandma at her
3 house, just -- Amelia's house now. She had a lot of
4 friends over from the Village and grandkids and what
5 have you. I went up to Grandma. She was sitting in
6 the living room, kind of in the middle of the floor
7 greeting people. I went up to her and --

8 Q. Are you going to be all right?

9 A. She basically -- she didn't recognize me.

10 THE COURT: Let's take a brief recess.

11 Mr. Johnson, you can get up from the stand.

12 (A recess was taken.)

13 THE COURT: All right.

14 BY MR. OAST:

15 Q. Mr. Johnson, I think you were talking
16 about the birthday party for your grandmother in July
17 of 1997.

18 A. That's right. Basically Grandma didn't
19 recognize me, and I tried to clarify it a little bit
20 but I wasn't getting anywhere so I walked away. My
21 wife came up next and Grandma asked who I was. She
22 was very confused. I figured she'd recognize her own
23 namesake. I basically saw Grandma pretty regular.
24 She always would come out to the house and go
25 fishing. She'd get things out of the garden, just,

1 you know --

2 Q. How far did you live from the Howell
3 homeplace where Amelia Howell lives?

4 A. It takes about 20 minutes.

5 Q. You've -- you were in regular -- were you
6 in regular contact with your grandma?

7 A. Pretty much. I probably saw her once
8 every -- at least once every month, maybe more.

9 Q. Again, when was this birthday party?

10 A. It was in July of '97.

11 MR. OAST: That's all I have, Judge.

12 THE COURT: Mr. Devine?

13 CROSS-EXAMINATION

14 BY MR. DEVINE:

15 Q. The note that you talked about was a loan
16 from -- I'm not sure what the name of it was at the
17 time, Virginia National Bank or Sovran or
18 NationsBank, now Bank of America, I think -- Sovran
19 Bank to your parents; is that right?

20 A. I guess if that's what the paper says.

21 Q. It was from some bank to your parents?

22 A. That's correct.

23 Q. And that was a loan from the 1980s, the
24 mid 1980s, was it not?

25 A. That's right.

1 Q. And that loan -- your parents couldn't get
2 that loan without your grandmother, Ms. Howell,
3 posting her certificates of deposit as security for
4 her guarantee of this loan; is that what you
5 understood?

6 A. That's correct.

7 Q. And that was a one-year loan that had to
8 be renewed every year; is that what you understood?

9 A. That's true.

10 Q. I'm going to hand you a letter dated
11 January the 23rd of 1986 and ask if you can identify
12 that as a note -- a letter about that note?

13 A. I've never seen this before.

14 Q. Take your time and look through that. Is
15 that consistent with your understanding of the loan?

16 A. No, this is not -- not the way I
17 understood the loan to be.

18 Q. So, you told your grandmother -- well, is
19 it a fact that what happened is your mother and
20 father got a loan from the bank and needed cash
21 collateral from your grandmother to secure it, had
22 CDs as collateral to secure that loan? Did you
23 understand that?

24 A. That's true.

25 Q. Did you understand at some point prior to

1 the conversation with your grandmother in 1992
2 Ms. Howell, your grandmother, had required your
3 mother to grant her a deed of trust on her -- on your
4 mother's interest in the beach property in case her
5 guarantee, her certificates of deposit, got taken?
6 Did you understand that?

7 A. (The witness nodded his head.)

8 Q. Did you understand your grandmother's
9 estate plan had a provision in it that said in
10 effect, If my daughter Peggy and her husband Earl
11 have not paid off the loan at the bank within a
12 certain number of months after I die and as a result
13 the bank took my certificates of deposit that I was
14 to get that deed of trust, the estate was to get the
15 deed of trust? Did you understand that arrangement?

16 A. The only thing I knew about the estate
17 plan was -- what Grandma told me was she fixed things
18 where Momma and Daddy would have to pay the money
19 back.

20 Q. Okay. But you told your grandmother in
21 this conversation in 1992 -- you said, Grandma,
22 listen, my parents don't owe you \$100,000. They owe
23 the bank \$100,000. While I know you've had to post
24 certificates of deposit to secure that loan, they'll
25 never take your certificates of deposit. They'll

1 come after the land and our equipment first.

2 That's in a sense what you told your
3 grandmother?

4 A. That's true, and they didn't take the
5 money. We paid it back.

6 Q. But in fact I've shown you at least a
7 letter that's inconsistent with your understanding of
8 what the bank would do, correct?

9 A. Yes, you have.

10 Q. That letter says in the event payment or
11 renewal as required for your parents is not received
12 within ten days we will regretfully call Ms. Howell's
13 guarantee, requesting immediate payment in full.

14 That's not what you understood the bank
15 was going to do and not what you told your
16 grandmother the bank would do, right?

17 A. That's correct.

18 Q. So, your grandmother after this
19 conversation where you said that will never happen
20 said, I'm going to look into the fairness of it?
21 That's what she said, right?

22 A. That's true.

23 Q. And you don't know what she did to look
24 into the fairness of it?

25 A. No.

1 Q. You don't know what information she
2 gathered to determine the fairness of the arrangement
3 she made about repayment in the event her CDs got
4 taken?

5 A. No, I don't.

6 Q. And in fact that loan remained outstanding
7 or was renewed from year to year until several months
8 after your grandmother died, correct?

9 A. Interest was paid every year the note was
10 renewed, and at the time we could pay principal on it
11 we did, being in the farming operation the reason I'm
12 using "we." And at the time of grandmother's death
13 the loan was repaid in full.

14 Q. After her death?

15 A. After her death.

16 Q. And the final \$75,000 was paid on the loan
17 after her death?

18 A. That's true. It was --

19 Q. The loan originally was about --

20 THE COURT: Wait a minute. Let him finish
21 his answer.

22 MR. DEVINE: I thought he had, Your Honor.
23 I apologize.

24 THE WITNESS: Yes, and Grandma also
25 received a lot of interest that we paid.

1 BY MR. DEVINE:

2 Q. But the certificate of deposit was tied up
3 at the bank for 15 years or more?

4 A. This is true.

5 Q. And I'd like to show you two more
6 letters --

7 THE WITNESS: Do you want this?

8 THE COURT: At this point nobody has
9 offered it.

10 MR. DEVINE: I offer the letter dated
11 January 23rd, 1986 concerning the note with Sovran
12 Bank.

13 THE COURT: All right, No. 9, Sovran
14 Bank letter.

15 (The document referred to was marked by
16 the Court as Plaintiffs' Exhibit No. 9 for
17 identification, and received into evidence.)

18 BY MR. DEVINE:

19 Q. I'm going to hand you two more letters,
20 one dated August 3rd, 1997, one dated January 20th of
21 1989. Those two deal with the same note, right, your
22 parents' note to Sovran Bank guaranteed by
23 Josephine Howell; is that correct?

24 A. I haven't read them. I've never seen them
25 before. Do I have time to do that?

1 MR. DEVINE: Absolutely. I'm sorry.

2 Your Honor, while we're waiting I ask this
3 be marked as 10.

4 THE COURT: I'm going to attach them to
5 Plaintiffs' 9 since they're all dealing with the same
6 transaction.

7 MR. DEVINE: Thank you.

8 THE COURT: All right.

9 THE WITNESS: Okay. What was your
10 question again?

11 BY MR. DEVINE:

12 Q. That those relate to the same loan.

13 A. Yeah.

14 Q. And those two were inconsistent with the
15 understanding you had and had told your grandmother
16 about how this arrangement worked and what risks she
17 had, correct?

18 A. Yes.

19 Q. And your grandmother at the end of this
20 conversation said simply to you, I'm going to check
21 into the fairness of this?

22 A. That's true.

23 THE COURT: Those two letters are part of
24 Plaintiffs' 9.

25 MR. DEVINE: Thank you.

1 BY MR. DEVINE:

2 Q. She never mentioned her -- strike that.
3 At no point after that conversation did your
4 grandmother ever tell you she had made any change to
5 her estate plan?

6 A. No, she didn't.

7 Q. At no point did she say, Joe -- Joseph,
8 I've looked into the fairness of this and you're
9 right, this isn't fair, or anything to that effect,
10 did she?

11 A. No, she didn't.

12 Q. At no point did she even again discuss
13 with you this loan?

14 A. No.

15 Q. At no point did she tell you she had
16 abandoned her estate plan?

17 A. No.

18 Q. At no point did she tell you she had torn
19 up her will?

20 A. No.

21 Q. At no point did she tell you she had
22 possession of her original documents, did she?

23 A. No.

24 Q. You don't know who your grandmother spoke
25 to about the fairness of the arrangement with regard

1 to what would happen if her CDs got called?

2 A. No, I don't.

3 Q. You don't know what facts she considered?

4 A. No.

5 Q. It was common knowledge in your house
6 growing up that your grandmother had an estate plan,
7 wasn't it?

8 A. Yeah.

9 Q. It was -- you knew growing up your
10 grandmother had separate corporations she had put
11 property in?

12 A. I really didn't know anything about
13 corporations. You know, I knew there was an estate
14 plan.

15 Q. At some point you came to learn about the
16 corporations, didn't you?

17 A. Probably the papers you-all sent.

18 Q. You knew growing up your mother and father
19 thought Ms. Howell's, your grandmother's, estate plan
20 didn't treat them fairly?

21 A. I don't think --

22 Q. You testified in your deposition they
23 would talk about that around the house.

24 A. That's true.

25 Q. You knew they thought that it didn't treat

1 A. * * *
 Boykins, Virginia.

2 Q. What do you do?

3 A. I'm a bookkeeper for an auction company
4 three days a week. The rest of the time I'm a
5 farmer.

6 Q. Your husband is Earl Johnson?

7 A. Yes. We have a farm computer. I have to
8 work on the farm records or farm computer. I have to
9 go give parts. I have a grandchild two years old I
10 look after.

11 Q. Did your mother give you some -- you and
12 your husband some land in the 1960s?

13 A. Yes, she gave us a farm. It was three
14 tracts, but they were joined. We always called them
15 a farm.

16 Q. Why did she give you that land?

17 A. Well, my husband was in the Navy at the
18 time, and she had gone to North Carolina to -- I
19 guess she went to visit my sister, but we carried her
20 because my husband's parents lived in North Carolina
21 and we always asked her if she would like to go see
22 my sister Betty if we were going. And a lot of times
23 she did go.

24 When we left we went back by a farm in
25 North Carolina advertised for sale and looked at it.

* * *

1 Somebody cashed the check.

2 So, I went home and got the check and I
3 brought it back. We talked some more. I told her,
4 you know, I didn't feel like her estate plan was fair
5 and she -- she made a statement that -- said, You
6 can -- I can tear it up and you-all can fuss and
7 fight over it when I'm dead and gone.

8 Q. When did she make that statement?

9 A. Probably -- she made it a couple times to
10 me, in '93 and then a later conversation. I went to
11 see her one day and she said Amelia was over at one
12 of the rental houses painting. I said, Well, Momma,
13 do you think it's really fair to give Amelia an
14 income for the rest of her life? Those rental houses
15 bring in about \$500 a month. She said no.

16 I said, Well, you ought to think about it.
17 I said, Earl and I have worked really hard to retain
18 the original gift supposedly you gave us. We had to
19 work every day of our life, morning to night. We
20 were farmers. We had hogs and cows to look after.
21 Worked when it was cold. Worked when it was hot.

22 She made the statement a second time, I
23 can tear up my documents and you-all can fuss and
24 fight over it when I'm gone.

25 Q. Do you recall when that was?

1 A. Probably around '94.

2 Q. Are you familiar with the safe arrangement
3 your mother had at the Howell homeplace where Amelia
4 now lives?

5 A. Yes, I am.

6 Q. Was she familiar with it?

7 A. My mother?

8 Q. Yes.

9 A. Of course. It was her safe. It was her
10 house.

11 Q. Did she know how to get into the safe?

12 A. Yes.

13 Q. Did she know how to get into both safes?

14 A. Yes.

15 Q. We're talking about -- one is kind of a
16 big built-in job, and the other is this filing
17 cabinet safe?

18 A. Yes.

19 Q. Were the keys -- was that a problem to
20 her, getting into the safe?

21 A. No, I don't think so, because I -- it was
22 common practice at that house the keys were either
23 over the door or in the kitchen, and if Mom couldn't
24 reach them she just got the broom or the fly swatter
25 and got them down.



1 Q. Do you know any Latin phrases involving
2 suits?

3 A. No.

4 Q. Did you participate in any way with Earl
5 in the conversation he had with Lynda?

6 A. No.

7 Q. Did you suggest he do that?

8 A. No.

9 Q. What do you think about that?

10 A. It would be something I wouldn't want him
11 to do.

12 Q. What was your mother's mental and physical
13 condition say going back to 1992? Let's start with
14 physical condition. Was she driving?

15 A. Yes.

16 Q. Continued to drive up until 1995?

17 A. Yes.

18 MR. DEVINE: Judge, now we're in a
19 substantive area and he's leading this witness.

20 THE COURT: Mr. Oast, you --

21 BY MR. OAST:

22 Q. How long had you known your mother to
23 drive?

24 A. What do you mean?

25 Q. How long did your mother continue to

* * *

1 A. That's correct.

2 Q. Okay. And you thought at the time that
3 that was unfair for her to use a 1976 value of the
4 property she had given you in 1962?

5 A. That's correct.

6 Q. That feeling -- that estate plan stayed in
7 place, to your knowledge, through two separate wills,
8 correct?

9 A. I don't know.

10 Q. Do you know that the 1977 will said there
11 were four corporations?

12 A. I've never seen a 1977 will. I've never
13 seen a 1985 will. I've never seen any of the
14 codicils until I saw the copies.

15 Q. You've seen them before today?

16 A. I've seen them before today, that's
17 correct.

18 Q. I'm not asking you back in 1985. I'm
19 asking you today. What you know is that your mother
20 set up four corporations in 1977, correct?

21 A. Yes.

22 Q. Corporation 1 she was going to retain all
23 stock in, and that was used to pay her estate taxes
24 and costs of administration upon her death?

25 A. I wasn't that familiar with how her stocks

1 were set up in the corporations. The only time I
2 ever met Mr. Sheffer is when he did my own taxes, so
3 I did not have a corporation then.

4 Q. Exhibit No. 1. You received a copy of
5 this letter?

6 A. Yes.

7 Q. And you knew what Corporation 1, 2, 3, and
8 4 would receive, didn't you, because of this letter?

9 A. Because of this letter, but as far as
10 shares, no.

11 MR. OAST: Is that the 1977?

12 MR. DEVINE: Yes, sir, December 12, 1977,
13 Plaintiffs' Exhibit 1.

14 BY MR. DEVINE:

15 Q. You knew there was not a corporation
16 slated to go to you?

17 A. That's correct.

18 Q. Your mother explained at the Christmas
19 meeting or Mr. Rawls explained in your mother's
20 presence at the Christmas meeting in December of 1977
21 that that was because she had counted for the 1962
22 gift and the 1976 gift of land?

23 A. I don't think it was explained to me like
24 that.

25 Q. Is that what you understood?

1 A. She had the meeting and talked about these
2 corporations.

3 Q. Is that what you understood, that you were
4 not getting a corporation because your mother had
5 taken into account the gifts she had given to you in
6 '62 and '76?

7 A. It wasn't explained to me like you say it.

8 Q. Was that your understanding?

9 A. I guess that was my understanding at the
10 time.

11 Q. That continued to be your understanding
12 from that point forward, correct?

13 A. That's correct.

14 Q. When that became your understanding in
15 1977, you thought that was unfair, correct?

16 A. That's correct.

17 Q. And you told your mother in 1977 and after
18 1977 that you thought that arrangement was unfair?

19 A. Yes, I told her.

20 Q. In fact, you had several heated
21 discussions with your mother, you testified to in
22 your deposition, where you said in essence, Mom, it's
23 not fair to use a 1976 value for the property you
24 gave me in 1962 because I didn't even own it in 1976?

25 A. That's correct. But in 1962 it was valued

1 at \$8,000. I have the tax statement here. I think
2 you've been made aware of it.

3 Q. Your mother used a later value for it.
4 That's what she decided was fair in 1977, right?

5 A. I'm not sure what my mother decided. I
6 think Louis Rawls, maybe Mr. Sheffer gave her some
7 papers to sign.

8 Q. You don't think your mother knew her
9 estate plan?

10 A. I guess maybe it was explained to her in
11 simple terms like this.

12 Q. Ms. Johnson, you don't truly believe as
13 you sit here today your mother didn't understand her
14 estate plan in 1977, do you?

15 A. She may have understood it.

16 Q. She made clear to you when you had these
17 heated discussions that she understood her estate
18 plan, didn't she?

19 A. I'm not sure she made anything clear to
20 me.

21 Q. You had these discussions, and at no point
22 in any of the discussions -- and it's more than just
23 two discussions you talked about on direct
24 examination, isn't it?

25 A. It was several.

1 Q. Something you talked to your mother about
2 fairly often?

3 A. We talked.

4 Q. You talked to her about it before she went
5 to the Village? In the time frame before May of 1991
6 when she went to the Village you had had
7 conversations with her about your perception that her
8 estate plan was unfair?

9 A. Yeah.

10 Q. While she lived on the independent side at
11 the Village you had discussions with your mother
12 about your perception that her estate plan was
13 unfair, treated you unfairly?

14 A. Yes.

15 Q. And you had discussions with your mother
16 after she went to the assisted living side? You said
17 in essence, Mom, I think you're not treating me
18 fairly in the estate plan?

19 A. That's correct, but it wasn't like let's
20 sit down and talk about the estate plan type of
21 thing.

22 Q. It was a subject that came up in the
23 course of discussions before she went to the Village,
24 while she was in the independent side, and while she
25 was on the assisted living side, correct?

* * *

1 A. I guess. Long time ago.

2 Q. Here is the letter, January 23rd of 1986
3 that says, Payment in full or payment of interest due
4 and receipt of cash collateral must be received by
5 the bank no later than February 3, 1986. In the
6 event payment and/or renewal is not received by that
7 date we will have to regretfully call Ms. Howell's
8 guarantee requesting immediate payment in full.

9 A. Yes, but at that time we went to see the
10 banker at NationsBank at the time, Virginia National
11 or whatever it was.

12 We told him we had not sold our peanuts
13 and we couldn't pay the note at this time. So, we
14 consulted an attorney to find out what to do and he
15 wrote a deed of trust against my interest in the
16 beach property.

17 Q. That was in fact four days after the
18 Sovran Bank letter that Louis Rawls wrote to the
19 lawyer in North Carolina to arrange the deed of trust
20 on your interest; isn't that correct?

21 A. Yeah.

22 THE COURT: Were those part of this
23 exhibit up here?

24 MR. DEVINE: The January 27th letter was
25 not. If we can, make that part of the same exhibit,

* * *

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1 Q. Do you recall a conversation you had with
2 her on a particular occasion on the Outer Banks?

3 A. June of '95. Yes, I lived down there at
4 that point. I lived down there from '87 through '96.
5 I had come over that day to visit. My little boy was
6 about one-and-a-half years old.

7 When I got there she said, Meadow, did you
8 know Robert died? I said, Yes, ma'am, Momma called
9 me and told me.

10 Q. Who was Robert?

11 A. Robert was her last remaining brother.
12 She had four. He just died April of '95, two months
13 prior. She started to tear up, and I almost hugged
14 her but I didn't. Then we went ahead.

15 She got herself together and we sat down
16 at the kitchen table, and the conversation turned to
17 our ancestors. Her father came up in the subject and
18 his will.

19 She said, You know, Meadow, I love my
20 father dearly, but he really treated me unfairly in
21 his will. She said, Do you know he left my brothers
22 all the farms and he only left me \$5,000? Then she
23 said, I'll never do that to my girls. Then she
24 proceeded to say that her will was unfair and she was
25 going to tear it up.

1 Q. How was it you remember this conversation
2 and when it took place?

3 A. I just remember it because I remember my
4 little boy was about one and a half. I had taken a
5 picture that day of Grandma with her arms around him,
6 and she spoke to me about her will. She had never
7 brought up the subject of her will with me before,
8 ever.

9 Q. You have copies of the pictures you're
10 referring to, right?

11 A. Yes, I do.

12 MR. OAST: Judge, I'll be glad to --

13 THE COURT: I don't need it. I don't
14 think there's any issue about her recollection of
15 her -- the date she met with Ms. Howell, is it?

16 MR. DEVINE: I -- the substance of it
17 perhaps, but not --

18 THE COURT: That's fine. I don't need a
19 picture.

20 MR. OAST: Thank you.

21 BY MR. OAST:

22 Q. Tell me about your grandmother's driving.
23 Are you familiar with her driving?

24 A. Grandma could drive anywhere she wanted to
25 go. She drove up through 95.

1 Q. Do you recall an incident say in North
2 Carolina where she was driving?

3 A. Yes, there were a couple particular
4 instances. I remember her coming to see me quite
5 often when I lived on the Outer Banks, and I know it
6 was about July or August because I was five months
7 pregnant with Kyle, of '93.

8 She and Ms. King came over one day. I
9 remember vividly, very clearly, because she said,
10 Meadow, you're carrying too slight. She said, I
11 don't want you to buy anything for the baby because
12 it's nothing worse than coming home to an empty
13 nursery. She was driving that day.

14 Q. When would that have been?

15 A. Either late July or early August of '93,
16 because I know I was five months pregnant and I was
17 not showing a lot.

18 Q. Where were you when you said she drove to
19 see you? Where was that?

20 A. That was in Cypress Point in North
21 Carolina.

22 Q. Was she by herself?

23 A. That's like two hours from Franklin. She
24 was with Ms. King on that particular time.

25 Q. Were there other occasions in that

1 particular time frame that she was driving?

2 A. She was always coming to see me. She was
3 always popping over or she would call me and have me
4 come over there. I know the fall of '93, because I
5 was several months pregnant and working at the
6 elementary school teaching kindergarten, she called
7 me.

8 They called me to the office, and she said
9 the ocean was washing up under the cottage and she
10 was packing her stuff up and was going to be spending
11 the night with me. Within an hour she was up at
12 Kitty Hawk Elementary School. She packed her mess
13 up, she said, and she was going to Franklin.

14 I walked her out to her car. She was in
15 that white Lincoln Town Car, and she drove two hours
16 by herself back to Franklin. She had been staying at
17 least I know a couple nights by herself at the
18 cottage at that point, because she wanted me to spend
19 the night with her, but because I was heavy with
20 child I was up a lot at night. I told her I would
21 come see her every day but I would be up and just
22 keep her up during the nighttime.

23 Q. How about her driving after that? You
24 said that was fall of '93. Did she continue to
25 drive?

1 A. She drove up to '95. I know when Kyle
2 turned one we had a birthday party at Momma's house.
3 That's 25 miles from Franklin. She drove over that
4 day by herself.

5 Q. What -- when would that have been?

6 A. That was November of '94. We have
7 pictures of her.

8 Q. Did you visit with your grandmother when
9 she was at the Village?

10 A. Yes, she was at the Village then.

11 Q. Did you visit with her?

12 A. Oh, yes.

13 Q. Did you visit with her in early 1998?

14 A. Yes, I did. It was about the last weekend
15 in February of '98, because I was about three months
16 pregnant with Victoria, my second baby.

17 Q. What happened on that visit?

18 A. Well, she was -- physically she was still
19 getting around very slowly, because she had a walker.

20 Momma and I put her in the shower. She
21 had a little stool she sat on in the shower, and we
22 scrubbed her up and got her dressed that day. She
23 was getting around pretty good.

24 Q. When did she move to the assisted living
25 side of the Village?



* * *

1 A. I'm all right.

2 Q. Are you familiar with the situation with
3 the keys at the Howell homeplace?

4 A. Yes, Grandma always kept them in a big
5 bunch beside the door that led to the utility room.
6 I called it the utility, laundry room.

7 Q. The pantry? Same room?

8 A. (The witness nodded her head.)

9 Q. How about at the cottage? Did she keep
10 keys?

11 A. Yeah, she kept them there when she lived
12 at the house. Then when she was at the beach she
13 always kept a big old bunch of keys beside the door
14 that went from the great room back to the bedroom, a
15 big bunch of keys.

16 Q. What was her practice about leaving the
17 keys places?

18 A. She left them all over the place. You
19 know, she left them above door frames, and if she
20 couldn't get something she would get the broom with
21 the hook on the end where it hung up and get the hook
22 and knock it down.

23 I know one day I couldn't reach something
24 and she said, You just get the broom and take the
25 hook like this, and she was knocking stuff off the

* * *

TAYLOE ASSOCIATES, INC.

* * *

1 unfair, but I knew she was unhappy with it.

2 Q. You told your mother of this conversation
3 with your grandmother from June of 1995 just after
4 it, didn't you?

5 A. I guess it was a couple months.

6 Q. But in the summer of 1995 you told your
7 mother of it?

8 A. I believe so. I can't remember exactly.

9 Q. You never spoke to your grandmother again
10 about her will or her estate plan, did you?

11 A. No.

12 Q. And you don't know whether your
13 grandmother acted on that conversation?

14 A. Well, she was a very independent lady,
15 very strong-willed, and she sounded like she was
16 going to do it that day.

17 Q. But you never asked her if she had torn it
18 up?

19 A. No.

20 Q. She never told you she had torn it up?

21 A. No.

22 Q. No one ever told you your grandmother had
23 torn up the will?

24 A. No.

25 Q. You simply never spoke to your grandmother

* * *

1 * * *
 1 well, since we may have concluded the evidence we'll
 2 have a brief recess to determine if in fact we have,
 3 and then we'll come back and I'll discuss with the
 4 attorneys what we want to do next.

5 (A recess was taken.)

6 MR. DEVINE: Call Amelia Spivey, brief,
 7 brief rebuttal.

8 THE COURT: All right. Ms. Spivey, if
 9 you'll return to the witness stand, please.

10 AMELIA SPIVEY, having been previously duly
 11 sworn, was re-called and testified as followed:

12 DIRECT EXAMINATION (reb.)

13 BY MR. DEVINE:

14 Q. After your mother died and Frank Rawls
 15 sent copies of wills and codicils to everybody, did
 16 you talk to Peggy about the will?

17 A. Yes, I did.

18 Q. Tell me about the conversation.

19 A. Well, she called and I said, Have you read
 20 your copy of the will? And she said yes. I said,
 21 Well, what do you think? She says, Well, the -- the
 22 \$10,000 was a surprise, but the rest was what I
 23 expected.

24 Q. Did she say anything to you about the
 25 NationsBank loan?

LAW OFFICES
J. LEWIS RAWLS, JR.
P. O. Box 1458
SUFFOLK, VIRGINIA 23434

J. LEWIS RAWLS, JR.
REBECCA RAWLS HARRIS
FRANK M. RAWLS

AREA CODE
804
830-7428

December 12, 1977

Mr. Frank E. Sheffer
Frank Edward Sheffer & Co.
National Bank Building
Suffolk, Virginia 23434

Re: Josephine S. Howell

Dear Frank:

#1 Howell Corp. received the Jesse Cogsdale house and lot and Hedgepeth-Brown Farm. This corporation goes into the residuary estate.

#2 Howell Corp. contains the Moore Farm and the Story Farm. This corporation is to ultimately go to Elizabeth Howell Cauley.

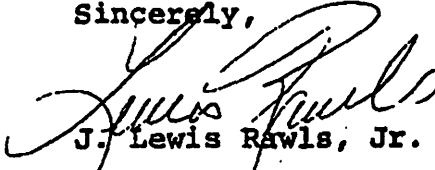
#3 Howell Corp. contains the Darden Farm, and this corporation will ultimately go to Lynda Howell Bond.

#4 Howell Corp. contains the Weichman, Clyde Howell, Alfred Cobb (including rental units) and Store and Cafe properties. This corporation will ultimately go to Amelia Howell Blythe.

If you need further identification of these properties, Peggy Johnson and Amelia Blythe will be glad to come down and work with your people. You can call Peggy Johnson at 654-5821, or Amelia Blythe at 562-2491.

Best wishes.

Sincerely,


J. Lewis Rawls, Jr.

JLR, Jr./nsw
Copy to Mrs. Peggy Howell Johnson
Mrs. Amelia Howell

Exhibit # P#1
Name Cogsdale vs Johnson
Case No 89-129 Date 5-1-00
2001
JUDGE

HOFHEIMER NUSBAUM, P.C.

ATTORNEYS AND COUNSELORS AT LAW

DOMINION TOWER, SUITE 1700
999 WATERSIDE DRIVE
POST OFFICE BOX 3460
NORFOLK, VIRGINIA 23514-3460

TELEPHONE (757)622-3366
FACSIMILE (757)629-0660
INTERNET: www.hnlaw.com
WILLIAM F. DEVINE
DIRECT: (757)629-0618
E-MAIL: bdevine@hnlaw.com

July 6, 2000

Mr. Wayne M. Cosby, Clerk
Southampton County Circuit Court
P. O. Box 190
Courtland, VA 23837

Re: Cauley, et al. v. Johnson
Case No. CH99-179

Dear Mr. Cosby:

Enclosed is a photocopy of a set of documents which comprised Plaintiff's Exhibit 2 at the trial of the referenced matter in your court on May 1, 2000. The original of Exhibit 2 was removed from the court file after Judge Delk issued his final decision and a judgment order was entered. The Judge had previously given his permission for the original exhibit to be removed and returned to our client and substituted with a copy.

Thank you for your assistance in this matter. Please call us if you have any questions.

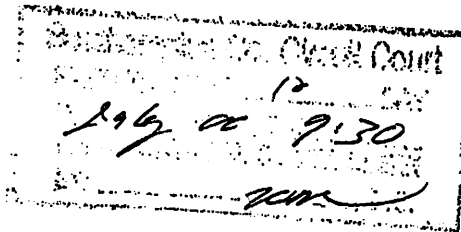
Sincerely yours,



William F. Devine

WFD/cbb
Enclosure

cc: William F. Oast, Esq.
w/out encl.



HNI:286790.1

UNITED STATES DEPARTMENT OF AGRICULTURE
SOUTHAMPTON FARM SERVICE AGENCY

P. O. BOX 7
COURTLAND, VIRGINIA 23837

March 25, 1996

Exhibit # f# 2
Name Caglag vs Johnson
Case No 99-179 Date 5-1-00
Key
JUDGER

IMPORTANT NOTI

Dear Farm Owner and/or Operator:

The new Farm Bill for 1996 will soon become law. In preparation for the Feedgrain and Wheat Program signup to be held from May 20, 1996, through July 15, 1996, all operators of the farm will need *all owners* of the farm to sign the contract. This is a contract for seven years, and it will be offering a 'marketing transitional' payment for the seven year period.

All farms with bases will be eligible to participate. This concept in the law is called "decoupling", and it means that the producer can plant any crop on the farm without being tied to the bases. All crops would be eligible for price support.

Producers should now check with the office with a list of landowners to be sure there are Power of Attorney forms on file here in the FSA Office. The Power of Attorney form will expedite the process and allow a convenient and orderly flow of the paperwork.

More information will be coming soon once the Bill becomes law.

Sincerely,


J. E. Glascock
County Executive Director

JEG/Inf

VIRGINIA PEANUT GROWERS ASSOCIATION, INC.

23020 MAIN STREET, P. O. BOX 356

CAPRON, VIRGINIA 23829-0356

TEL. 804-658-4573, FAX. 804-658-4531

DIRECTORS

April 8, 1996

DINWIDDIE COUNTY

*Billy Bain
Alvin Blaha

GREENSVILLE COUNTY

John L. Fajna
Arnie Moore
*G. L. Rawlings

ISLE OF WIGHT COUNTY

Glenn Carr
*Tommy Darden
Jerry Dashiell
*Ray Holland
John A. Ramsey

CITY OF SUFFOLK

Joseph H. Barlow
Alfred C. Bosselman
*Dale Holland
Frank Holland, Jr.
Edmund Morris

PRINCE GEORGE COUNTY

A. W. Adams, III
*W. E. Tomko, Jr.

SOUTHAMPTON COUNTY

Ben Bryant, Jr.
*M. L. Everett, Jr.
*A. M. Felts, Jr.
Clarke Fox
Michael Mann
Larry Whitley
W. L. Young, Jr.

SURRY COUNTY

David E. Barnes
*Henry Goodrich
Jerry Rogers

SUSSEX COUNTY

Craig Beale
*Keith Dunn
Kevin Monahan
Charles H. Owen
Joe Stephenson

*Executive Committee

Virginia Peanut Growers Association
Board of Directors and Others

Dear Gentlemen:

Last Thursday President Clinton signed the Farm Bill. Now we wait for USDA to prepare the regulations, set quota, etc.

Enclosed for your information is a sheet prepared by the Shellers Association which does a pretty good job of explaining the new Bill compared with the 1990 Legislation. I call your attention to two areas. First is the amount of quota. Your base quota will not include seed and could be an 18% reduction from your 1995 base quota. You will then receive a seed quota based on acres plant which could amount to 7 - 8% more quota for each producer. The net affect should be a total reduction in quota of around 10%. The second provision that was changed is the quota ineligibility provision which will not kick in until 1998. A person who is not a producer and resides in another state must handle his affairs in 1997.

I will provide more details when I receive regulations.

Sincerely,


Russell C. Schools
Executive Secretary

RCS/ntr
Enclosure

CONSERVATION PLAN MAP For: William Howell

Owner Mrs. Dewey Howell Operator By HENRY DARDEN
 County Southampton State Virginia Date 6-78
 Approximate acres 132 Approximate scale 1"=660'
 Cooperating with J. R. HORSLEY Conservation District

PLAN IDENTIFICATION MOORE FARM PHOTO NUMBER DFU-2LL-167
 ASSISTED BY BEN HEADLEY USDA SOIL CONSERVATION SERVICE



MOORE FARM

CONSERVATION PLAN MAP FOR: William Howell

Owner Mrs. Dewey Howell Operator BY HENRY DARDEN
 County Southampton State Virginia Date 6-78
 Approximate acres 132 Approximate scale 1" = 660'
 Cooperating with J. R. HORSLEY Conservation District

PLAN IDENTIFICATION MOORE FARM PHOTO NUMBER DFU-2LL-167
 ASSISTED BY BEN HEADLEY USDA SOIL CONSERVATION SERVICE



SOIL MAP

For: William Howell

Owner MRS Dewey Howell Operator By: Henry Darden
County SOUTHAMPTON State VA.

Soil survey sheet(s) or code No.(s) SE-127 Approx. scale 1"=660'

|
—N

PREPARED BY U. S. DEPARTMENT OF AGRICULTURE, SOIL CONSERVATION SERVICE

COOPERATING WITH J. R. HORSLEY CONSERVATION DISTRICT.



(MOORE FARM)

U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

RECORD OF COOPERATOR'S DECISIONS
AND PROGRESS IN APPLICATION

COOPERATOR Mrs. Dewey Howell
ASSISTED BY Ben Headley
DATE 6-78

FIELD NUMBER	PLANNED		APPLIED		LAND USE AND TREATMENT
	AMOUNT	YEAR	AMOUNT	MONTH AND YEAR	
					<u>Cropland: 42 Acres</u>
1,2, 3,4, 5	42 ac.	1978			Conservation Cropping System: A two year rotation of peanuts-corn will be followed. On land not suited to peanuts a two year rotation of soybeans-corn will be followed. Tillage will be across the slope. Lime and fertilizer will be applied according to soil test.
1,2, 3,4, 5	42 ac.	1978			Minimum Tillage: Reduced tillage methods will be used, including skipping tillage steps and chemical weed control.
1,2, 3,4, 5	42 ac.	1978			Crop Residue Use: Crop residue will be returned to soil and/or incorporated into soil surface.
					Conservation Alternatives: <u>FOR CROPLAND</u>
					Fields with open ditches could be surveyed to see if tile drainage lines could be installed to do away with open ditches and small fields between ditches.

RECORD OF COOPERATOR'S DECISIONS
AND PROGRESS IN APPLICATION

COOPERATOR _____
ASSISTED BY _____
DATE _____

FIELD NUMBER	PLANNED		APPLIED		LAND USE AND TREATMENT
	AMOUNT	YEAR	AMOUNT	MONTH AND YEAR	
					<u>Woodland:</u> 88 Acres
7	88 ac.	future			<u>Woodland Improved Harvesting:</u> Improved harvesting methods will be used when timber is merchantable size.
7	88 ac.	future			<u>Woodland Site Preparation:</u> Site will be prepared for replanting as needed.
7	88 ac.	future			<u>Tree Planting:</u> A recommended species will be used.
6	2 ac.	1978			<u>Farmstead:</u> 2 Acres
					Erosion will be prevented.

WOODLAND PLANNING WORKSHEET

Cooperator Mrs. Dewey Howell

Date 6-78

Conservationist Ben Headley Field # 7 Acres 88

Woodland Interpretation
Symbol Species Site

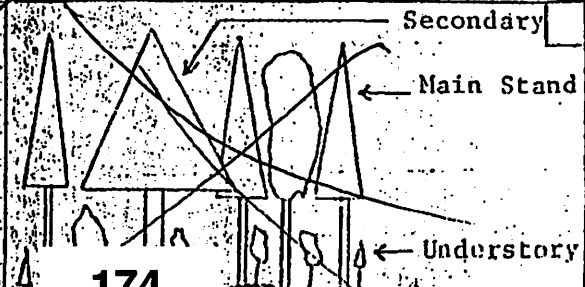
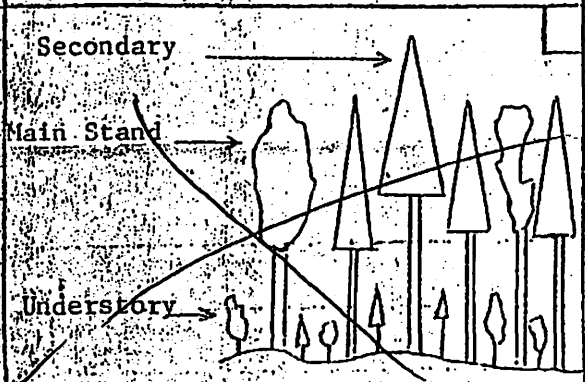
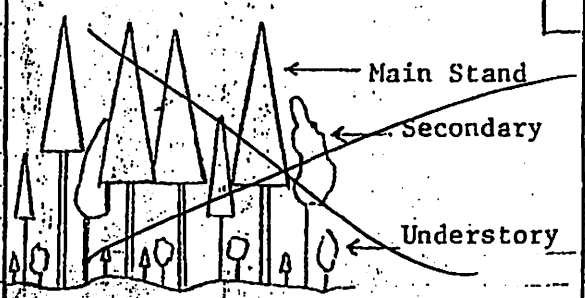
MAIN STAND - Transect Notes

Species	Dist.	Diam.	Cond.	Notes	Summary
1.					Av. Diameter
2.					Av. Spacing
3.					Desired Spacing
4.					No. Trees/Ac.
5.					Desired #Trees/Ac.
6.					Excess #Trees/Ac.
7.					
8.					Dia. Range
9.					Approx. Age
10.					Species(%)
11.					
12.					
13.					
14.					
15.					
16.					
17.					Quality(%)
18.					Good
19.					Fair
20.					Poor
Total			XXXXXXXXXX		
Average					

NEEDED TREATMENT & ALTERNATIVES
DISCUSSED W/COOPERATOR

A mixed stand of pine and hardwoods.
Timber is growing well.
Timber will be cut when it is merchantable size.

TYPE OF STAND (check one)



CHECK DECISIONS MADE BY COOPERATOR

- Critical Area Planting (342)
- Woodland Site Preparation (490)
- Tree Planting (612)
- Woodland Improved Harvesting (654)
- Woodland Improvement (666)
- None
- Other (List)

(6) (MOORE)

AGREEMENT

between the

J. R. HORSLEY

SOIL & WATER CONSERVATION DISTRICT

and

(MRS. Dewey Howell)

Josephine S. Howell

RT. 3, Box 85 FRANKLIN (23851)

Cooperator's Name

Address

Zip

562-3813

132

PLAN- 2LL-167

Soils- 5E-127

Telephone No.

Acreage

Photo No.

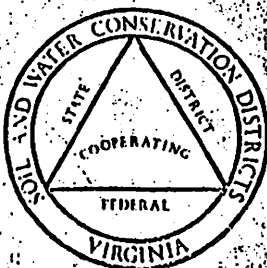
This agreement provides the basis for cooperation between the Landowner and the Soil & Water Conservation District in the development and carrying out of a conservation program fitted to the needs of the land.

It is agreed that the Landowner by working with the Soil & Water Conservation District may wish to develop a conservation plan for his or her property. The plan will provide for the conservation and management of the soil, water, forest and wildlife resources.

The Landowner and the Soil & Water Conservation District will cooperate in carrying out the provisions of the plan. Changes in the plan will be made as needed to keep it current with the landowner's objectives.

Neither the District nor the Landowner will be liable for any damage to the other's property resulting from the development or implementation of the plan.

The plan will remain in effect until terminated in writing by either party, or when the undersigned cooperator no longer controls the land.



May 31, 1977
Date

Josephine S. Howell
Cooperator

7-8-77
Date

Joe W. [Signature]
District Director

August 18, 1976

~~7/8~~
~~3~~
~~17/11~~

103.0 1/2 100
 108.9 1/2 100
 111.1 1/2 100

15.9	15.9
14.6	14.6
11.0	11.0
11.8	11.8
7.4	7.4
5.69	5.69

Bus 100 - 1500-1000

~~1000-1000~~

MOORE FARM

U. S. Department of Agriculture
Soil Conservation Service

Mrs. Dewey Howell
(Moore Farm)

INTERPRETATIONS OF THE SOILS

MAP SYMBOLS	LAND USE	INTERPRETATIONS
19 (Pactolus)	Woodland	Site index of 84 for loblolly pine.
26 (Myatt)	Woodland	Site index of 95 for loblolly pine. Equipment limitation, seedling mortality and plant competition limitations are severe.
69A (Nansemond)	Cropland	Capability 0-2% IIw; 2-6% 2e: Good soil for general crops if artificially drained. Permeability is moderately rapid.
	Woodland	Site index of 88 for loblolly pine.
78A, 78B (Tetotum)	Cropland	Capability 0-2% IIw; 2-6% IIe: Good soil for general crops including peanuts if artificially drained. Permeability is moderate.
	Woodland	Site index of 80 for loblolly pine.
147A 147B (Emporia)	Cropland	Capability 0-2% slope-I; 2-6% slope-IIe: Well drained. Artificial drainage not needed. Generally well adapted for all crops of this area. Good peanut soil.

IDENTIFICATION OF THE SOILS

Mrs. Dewey Howell
(Moore Farm)

MAP SYMBOLS	SOIL NAME	BRIEF DESCRIPTION OF THE SOIL
19	Pactolus, lfs 0-4%	This Pactolus soil has a loamy sand surface layer. The next layers from 8 to depths greater than 60 inches are loamy sand or sand. Permeability is rapid. A seasonal water table is at depths of 1½ to 2½ feet. Slopes range from 0 to 4 percent.
26	Myatt, fsl 0-2%	This Myatt soil has a sandy loam or silt loam surface layer. The subsoil from 10 to 50 inches is sandy clay loam to clay loam. The substratum is fine sandy loam to a depth greater than 60 inches. Permeability is moderate. A seasonal water table is at depths of 0 to 1 foot. Slopes range from 0 to 2 percent.
69A	Nansemond, fsl 0-2%	This Nansemond soil has a fine sandy loam surface layer. The subsoil from 8 to greater than 60 inches is fine sandy loam or loamy fine sand. Some pedons have lenses of sandy clay loam in the subsoil. Permeability is moderately rapid. A seasonal water table is at depths of 1½ to 3½ feet.
78A 78B	Tetotum, fsl 0-2% Tetotum, fsl 2-6%	This Tetotum soil has a sandy loam surface layer. The subsoil from 9 to 48 inches is loam or clay loam. The substratum is stratified sandy loam and clay loam to a depth of greater than 60 inches. Permeability is moderate. A seasonal water table is at depths of 1½ to 2½ feet. Slopes range from 0 to 6 percent.
147A 147B	Emporia, sl 2-6%	This Emporia soil has a sandy loam surface layer. The subsoil from 15 to 57 inches is sandy clay loam or clay loam. The substratum is sandy clay loam to a depth greater than 60 inches. Permeability is moderately slow. A seasonal water table is at depths of 3½ to 4 feet. Slopes range from 0 to 6 percent.

LEGEND FOR SOIL MAP AND CONSERVATION PLAN MAP

	Public Highway	Wildlife Border	
	Private Road	Windbreak	
	Railroad	Mine or Quarry	
	Building	Bedrock Escarpment	
	Underground Pipe or Cable	Short Steep Slopes	
	Field Number	Gully	
SAc	Field Acreage	Sink or Depression	
	Property Boundary	Gravelly Spot	
	Farmstead	Rock Outcrop	
	Crop Boundary	Severely Eroded Spot	
	Connected Areas	Stony Spot	
	Fence (existing)		
	Fence (planned)	Other Symbols	
	Diversion		
	Terrace		
	Ad Hoc Boundary		
	Perennial Stream		
	Intermittent Stream		
	Subsurface Drain		
	Open Drain		
	Marsh		
	Spring or Spring Development		
	Hot Spot		
	Trough		
	Pond		
	Grassed Waterway		

CAPABILITY DESCRIPTIONS OF THE SOILS AND SOIL SYMBOLS

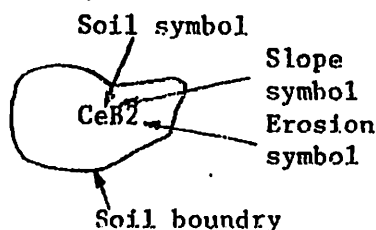
The capability classification is a grouping of soils that shows in a general way how suitable the soils are for most kinds of farming. The grouping is based on limitations of the soil and the risk of damage when they are used.

Capability Classes

Class I	Soils with few limitations that restrict their use.
Class II	Soils with some limitations that reduce the choice of plants or require moderate conservation practices.
Class III	Soils with severe limitations that reduce the choice of plants, or require special conservation practices, or both.
Class IV	Soils with very severe limitations that restrict the choice of plants, require special conservation practices with careful management, or both.
Class V	Soils with limitations impractical to remove without major reclamation. Use limited largely to pasture, woodland, or wildlife.
Class VI	Soils with very severe limitations that make them generally unsuited for cultivation. Generally suited to pasture, woodland, or wildlife.
Class VII	Soils with extreme limitations. Restricted to woodland, wildlife, or specially managed pasture.
Class VIII	Soils and land forms that are suited only for wildlife, recreation, water supply, or esthetic purposes.

Capability Subclasses

- e - erosion hazard
- w - wetness or flooding hazard
- s - soil limitations such as stoniness, shallowness, sandy, etc.
- c - climate limitations (not used in Va.)



SLOPE

- A - Level or nearly level
- B - Gently sloping or undulating
- C - Sloping or rolling
- D - Mod. steep or hilly
- E - Steep
- F - Very steep

EROSION

- 1 - Slight
- 2 - Moderately eroded or eroded
- 3 - Severely eroded

THIS DEED, Made this 15th day of July, 1977, by and between JOSEPHINE S. HOWELL, widow, of Southamptn County, Virginia, party of the first part, Grantor, and #2 HOWELL CORP., a Virginia corporation with its principal office in the County of Southamptn, Virginia, party of the second part, Grantee.

WITNESSETH: That for and in consideration of the sum of Ten Dollars (\$10.00) and other good, legal and valuable considerations, the receipt whereof is hereby acknowledged, the said party of the first part does hereby GRANT, BARGAIN, SELL and CONVEY in fee simple with GENERAL WARRANTY and English Covenants of Title, unto the said party of the second part the following described property, to-wit:

PARCEL ONE: "All that certain tract or parcel of land lying, situate and being in Southamptn County, Virginia, hear Nottoway Chapel Church, and bounded by the lands of J. T. Moore's Estate, Cynthia A. Jones, the Nottoway Swamp, the lands of J. E. Cogsdale and the Courtland-Black Creek County road, and containing 132 acres, more or less, it being the same tract or parcel of land upon which W. W. Moore now (formerly) resides."

It being the same property of which Dewey Howell died seized and possessed, testate, on October 9, 1953, and by his Will duly of record in the Clerk's Office of the Circuit Court of Southamptn County, Virginia, he devised his entire estate to Josephine S. Howell, his wife, the Grantor herein. See Will of W. F. Howell probated January 25, 1938, and of record in the aforesaid Clerk's Office in Will Book 23, at page _____, and deed of Jeneva B. Howell dated September 20, 1950, and duly of record in the aforesaid Clerk's Office in Deed Book 99, at page 428.

PARCEL TWO: "All that certain tract, parcel, or lot of land, located in Jerusalem Magisterial District, Southamptn County, Virginia, lying about three (3) miles from the Town of Courtland, in the said Southamptn County, bounded by the lands of James E. Sebrell, L. L. Manry, G. W. Moore, John Buck, J. West, the Moody tract, the Scott tract, and other land belonging to E. Frank Story, and containing, by sur _____ hundred and fifty (450) acres but s; **182** eby made in gross and not

by the acre; the said tract of land being fully set out and described in a plat thereof, made by A. I. Schisler, Civil Engineer, of North Emporia, Virginia, dated February 7th, 1914, duly recorded on the ____ day of March, 1914, in Plat Book 1 & 2, page 17A, in the Clerk's Office of the Circuit Court of Southampton County, Virginia, reference to which plat is hereby made for a better description of the said tract of land; three hundred and sixty-nine (369) acres of which tract is the original 'Story Tract', devised by Elliott L. Story to his children, his widow having the right of dower, as shown by said will, probated at the October Term, 1886, of the County Court of Southampton County, and recorded in the Clerk's Office of the said County, in Will Book No. 21, page 584; the said E. Frank Story having purchased the interests of his brother and sisters in and to the said tract, as shown by deed, dated September 1st, 1904, and recorded in the Clerk's Office of the said County, in Deed Book No. 49, page 700; the residue of eighty-one (81) acres being a part of the tract of land conveyed to E. Frank Story by J. L. Coggsdale and wife, by their deed of March 13th, 1914, and duly recorded in the Clerk's Office of Southampton County."

It being the same property conveyed unto Dewey Howell by deed of Floy S. Saunders, et als, dated February 14, 1940, and duly of record in the afore said Clerk's Office in Deed Book 81, at page 346. Dewey Howell died testate on October 9, 1953, and by his Will of record in the aforesaid Clerk's Office he devised his entire estate to Josephine S. Howell, his wife, the Grantor herein.

WITNESS the following signature and seal:

Josephine S. Howell

STATE OF VIRGINIA,

City OF Duffield, to-wit:

I, Harry S. Walliser, a Notary Public
 in and for the _____ aforesaid, in the State of Virginia, ^{at Large}
 do hereby certify that Josephine S. Howell, whose name is
 signed to the foregoing writing, bearing date on the 15th day
 of July, 1977, has acknowledged the same before me in my City
 and State aforesaid.

Given under my hand this 19th day of July, 1977.

My commission expires: February 5, 1980.

Harry S. Walliser
 Notary Public

VIRGINIA: In the Clerk's Office of the Circuit Court of
 Southampton County, the 24th day of October, 1977. This Deed
 with the certificate annexed was presented for, and admitted to
 record at 4:05 o'clock, P.M., and I certify that a tax of \$112.00
 imposed by Sec. 58-54.1 of the 1950 Code of Virginia has been paid.

Tax	168.00
Tran	1.00
Fee	10.00
St.&Lo.	112.00
	<u>\$291.00</u>

Teste: George S. [Signature] Clerk

Federal Agricultural Improvement & Reform Act
Peanut Provision Changes
Legislative Side-By-Side
March 27, 1996

ISSUE	CURRENT (COVERING 1991-1995 CROPS)	NEW (COVERING 1996-2002 CROPS)
Length of Program	5 Years	7 Years
Permanent Law	Suspended 1991-1995	Suspended 1996-2002
Offers From Handlers	No Provision	If Producer uses loan for two consecutive years when handler had provided producer a written offer upon delivery for purchase at quota support price or above, then producer ineligible for quota price support for the next marketing year.
Amount of Quota	Domestic edible, seed & related uses	Set by Secretary annually at domestic edible use (except seed) and related uses. Seed is not included in base quota but is covered as Temporary Quota (See seed)
Seed	Must use Quota	Producer receives temporary quota for marketing year in which crop planted in amount equal to seed peanuts planted on farm
Undermarketings	Allowed but limited to 10% nationally	Eliminated
Quota Support Price	\$678.36	\$610.00
Quota Price Escalator	Up with cost of production 5% limit	Eliminated
Spring Transfers	Within county	<p>Sale or lease across county lines within state is permitted in the following cumulative percentages of the quota of all farms in the originating county as of January 1, 1996</p> <ul style="list-style-type: none"> (i) 1996 crop 15% (ii) 1997 crop 25% (iii) 1998 crop 30% (iv) 1999 crop 35% (v) 2000 and subsequent years not more than 40% <p>In counties with less than 50 tons of quota, the above percentage restrictions are not applicable</p>

Source: American Peanut Shellers Association

Fall Transfers	Within county-with some planting restrictions	Within State-with some planting restrictions
Quota Ineligibility	No Such Provision	Beginning with the 1998 crop farms owned or controlled by the following may not have a farm poundage quota: 1. A municipality, airport authority, school, college, refuge, or other public entity (other than an university used for research purposes); or 2. A person who is not a producer and resides in another State
Losses in Quota Pools	Producer cross compliance and full pool and area cross compliance	Prioritized method to cover quota losses as follows: 1. Gains of individual producers who have used disaster transfer 2. Gains of individual producers in additional pool from sale of individual pool from sale of additional peanuts for domestic and edible export use 3. Gains from additional pool in the area for domestic edible use 4. Use of producer marketing assessment 5. Use of profits from quota pools in other production areas 6. Use of profits from additional peanuts in other production areas sold for domestic edible use 7. Use of handler marketing assessment 8. Increased assessment on producers of quota peanuts in the production area covered by the poc
Quota Reductions	All quota farms proportionately	Same as current law, but because of quota ineligibility some quota may be redistributed
Quota Floor	1,350,000 tons	No quota floor
Disaster Transfer	Covered under § 1446.307 of regs with no significant discount to quota support rate	70% of quota support rate for not more than 25% of farm quota (excluding any pounds transferred in the Fall)
New Mexico Valencia Pools	Practice was to allow Texas producers of Valencia peanuts into the New Mexico pool if produced on a New Mexico farm serial number	Must be physically produced in New Mexico except for some "grandfathered" producers, who may place quantities produced in Texas in New Mexico Pool not greater than the average annual quantity that the producer entered into the New Mexico pool for the 1990-1995 crops

Source: American Peanut Shellers Association

(STORY FARM) 450 Ac
RECORD OF COOPERATOR'S DECISIONS
AND PROGRESS IN APPLICATION

COOPERATOR Mrs. Dewey Howell
ASSISTED BY Ben Hegdler
DATE 6-78

FIELD NUMBER	PLANNED		APPLIED		LAND USE AND TREATMENT
	AMOUNT	YEAR	AMOUNT	MONTH AND YEAR	
					<u>Cropland 68 Acres</u>
12,3, 4,5, 6,7	68 ac.	1978			Conservation Cropping System: A two year rotation of peanuts and corn will be followed.
					Soils not suited to peanuts will have a two year rotation of corn-soybeans.
					Tillage will be across the general slopes of the land.
					Lime and fertilizer will be applied according to soil test.
1,2, 3,4, 5,6 7	68 ac.	1978			Minimum Tillage: Reduced tillage methods will be used by using chemical weed control.
1,2, 3,4, 5,6, 7	68 ac.	1978			<u>Crop Residue Use:</u> Crop residue will be returned to soil and/or incorporated into soil surface.
1,2, 4,5					<u>Drainage Field Ditches:</u> Open ditches will be maintained.

RECORD OF COOPERATOR'S DECISIONS
AND PROGRESS IN APPLICATION

COOPERATOR _____
ASSISTED BY _____
DATE _____

FIELD NUMBER	PLANNED		APPLIED		LAND USE AND TREATMENT
	AMOUNT	YEAR	AMOUNT	MONTH AND YEAR	
					<u>CONSERVATION ALTERNATIVES FOR CROPLAND:</u>
					1. Field edges could be pushed back to stop trees from taking up good cropland.
					2. Tile could be installed in fields where wetness is a problem to planting, tilling, and harvesting.
					3. Winter cover crops could be used on fields that would be bare thru the winter.
					4. Small grain could be included into the corn-soybean rotation.
					5. Chisel plowing could be used on corn and soybeans land.
8	1 ac.	1978			Pastureland: 1 ac.
					This pastureland is part of field #8 (Farmstead)
8	1 ac.	1978			<u>Pasture and Hayland Management:</u> Lime and fertilizer will be applied according to soil test.

RECORD OF COOPERATOR'S DECISIONS
AND PROGRESS IN APPLICATION

COOPERATOR _____
ASSISTED BY _____
DATE _____

FIELD NUMBER	PLANNED		APPLIED		LAND USE AND TREATMENT
	AMOUNT	YEAR	AMOUNT	MONTH AND YEAR	
8	1 ac.	1978			<u>Brush Management:</u> Weeds and brush will be controlled by grazing management (number of animals allowed to graze the area) and mechanical means (keeping weeds mowed down before seeds form, and/or chemical weed control.
					<u>Woodland:</u> 379 Ac.
9	319 ac.	1978			<u>Woodland Improved Harvesting:</u> Improved harvesting methods will be used when timber is merchantable size.
10	60 ac.	future			
9	319 ac.	1978			<u>Woodland Site Preparation:</u> Harvested area will be prepared as needed for reestablishment.
10	60 ac.	future			
9	319 ac.	1978			<u>Tree Planting:</u> A recommended species will be used to reforest the area.
10	60 ac.	future			

RECORD OF COOPERATOR'S DECISIONS AND PROGRESS IN APPLICATION

COOPERATOR _____
ASSISTED BY _____
DATE _____

[illegible]

WOODLAND PLANNING WORKSHEET

MRS. DENEY HOWELL

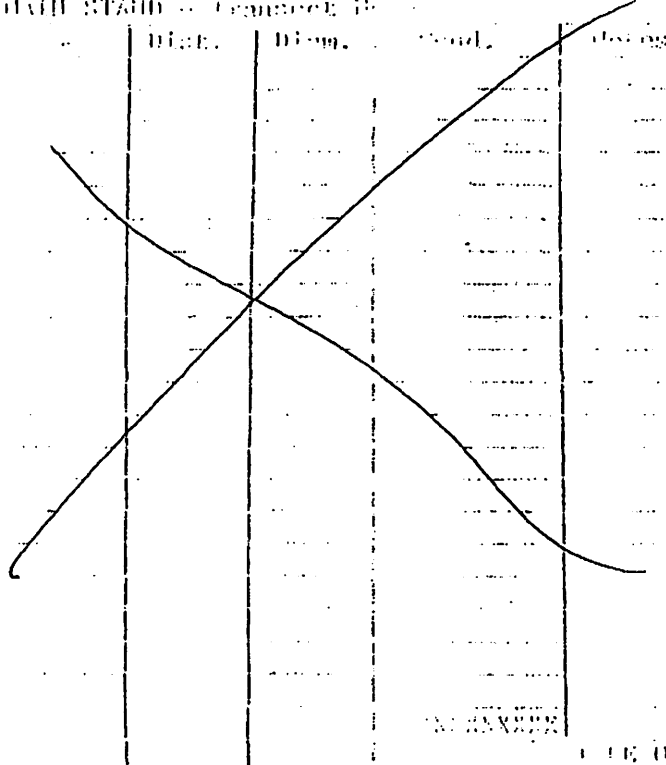
Date 6-78

Ben Headley

Id #10

Page 60

Woodland Interpretation
Symbol Program



Boundary
Av. Diameter
Av. Spacing
Desired Spacing
No. Trees/Ac.
Desired #Trees/Ac.
Excess #Trees/Ac.

Dia. Range
Approx. age
Species (1)

Quality (%)
Good
Fair
Poor

ALTERNATIVE
WOODLANDS FOR

TYPE OF STAND (check one)

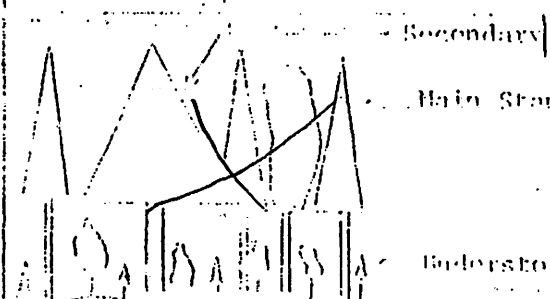
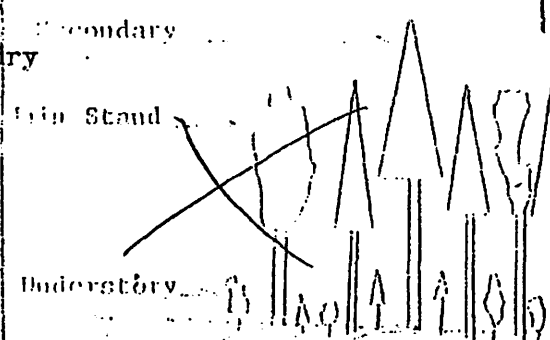
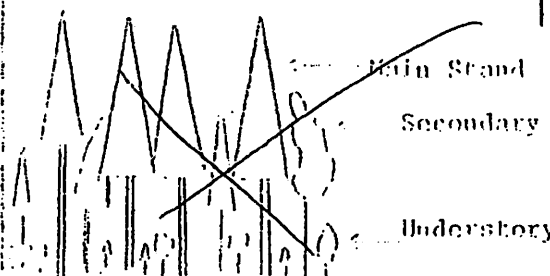
Species
Secondary

Timber is sold on contract.

Timber ready to cut:

Timber will be cut soon as
wetness problem is diminished by dry
spell:

Site preparation and replanting
are in contract.



Secondary

Understory

Understory

Secondary

Understory

Secondary

Understory

Understory

Understory

WOODLAND: PLANNING WORKSHEET

Date 6-78

Woodland Interpretation

Symbol	Species	Site
1
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99
100

MAIN STAND - Transect Notes

Species	. Dist.	Diam:	Cond.	Notes
Total			XXXXXXXXXX	
Average				TYPE OF STAND (ch)

Summary

Av. Diameter _____
Av. Spacing _____
Desired Spacing _____
No. Trees/Ac. _____
Desired #Trees/Ac. _____
Excess #Trees/Ac. _____

Dia. Range _____
Approx. Age _____
Species (%) _____

Quality (%)
Good
Fair
Poor

ED TREATMENT & ALTERNATIVES
DISCUSSED W/COOPERATOR

Timber has been cut, this year.

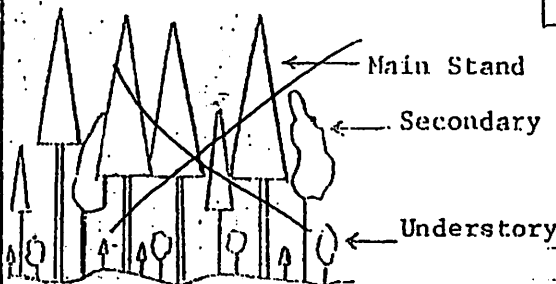
Site preparation and replanting
is in contract.

TYPE OF STAND (check one)

Species

Extent

Secondary



- Main Stand

Secondary

Understory

Understory

Secondary

Main Stand

Understory

Secondary

Understory

Secondary

Main Stand

Secondary

Understory

— Understory

DECISIONS MADE BY COOPERATOR

Critical Area Planting (342)

Goodland Site Preparation (490)

re Planting (612)

Goodland Improved Harvesting (654)

Foodland Improvement (666)

ther (list)

AGREEMENT

between the

J. R. HORSLEY SOIL & WATER CONSERVATION DISTRICT
 (MRS. Dewey Howell) and
Josephine S. Howell Rt. 3, Box 85 FRANKLIN 23851
 Cooperator's Name Address Zip
562-3813 450 PLAN- 2LL-165
Soils- 9E-19
5E-127
 Telephone No. Acreage Photo No.

This agreement provides the basis for cooperation between the Landowner and the Soil & Water Conservation District in the development and carrying out of a conservation program fitted to the needs of the land.

It is agreed that the Landowner by working with the Soil & Water Conservation District may wish to develop a conservation plan for his or her property. The plan will provide for the conservation and management of the soil, water, forest and wildlife resources.

The Landowner and the Soil & Water Conservation District will cooperate in carrying out the provisions of the plan. Changes in the plan will be made as needed to keep it current with the landowner's objectives.

Neither the District nor the Landowner will be liable for any damage to the other's property resulting from the development or implementation of the plan.

The plan will remain in effect until terminated in writing by either party, or when the undersigned cooperator no longer controls the land.



May 31, 1977 Josephine S. Howell
 Date Cooperator
7-8-77 Paul W. Howell
 Date District Director

August 18, 1976

INTERPRETATIONS OF THE SOILS

AP SYMBOLS	LAND USE	INTERPRETATIONS
1 (Bibb)	Woodland	Seedling mortality, plant competition and equipment limitations are severe. Site index for loblolly pine is 90. Best suited for woodland.
26 (Myatt) 10-26 2-60	Cropland	Capability - Protected, drained IIIw; undrained Vw: Internal drainage is slow. Artificial drainage is necessary for satisfactory cultivation. Where drained this soil responds to good management. Too wet for peanuts even when drained. Care should be exercised not to work this soil when too wet or puddling is likely to occur.
	Woodland	<u>Site index of 95</u> for loblolly pine. (Equipment limitation, seedling mortality and plant competition limitations are severe.
41 (Lynchburg)	Woodland	Site index of 86 for loblolly pine. IIw
69A Nansemond)	Cropland	Capability 0-2% IIw; 2-6% 2E: Good soil for general crops if artificially drained. Permeability is moderately rapid.
	Woodland	Site index of 88 for loblolly pine.
69B Nansemond)	Woodland	Site index of 88 for loblolly pine.
71	Cropland	Capability 0-2% IIw; 2-6% IIe: Good soil for general crops including peanuts if artificially drained. Permeability is moderate.
		Site index of 80 for loblolly pine.

VA-CONS-90

Code CONS-14

U. S. Department of Agriculture
Soil Conservation Service

Mrs. Dewey Howell
(Story Farm)

IDENTIFICATION OF THE SOILS

SYMBOLS	SOIL NAME	BRIEF DESCRIPTION OF THE SOIL
26C, 126E (sandy & gravelly soils)	Cropland	Capability 6-15% VIs; 15-50% VIIIs: Not suitable for cultivation due to slope and erosion hazard. Drainage and permeability are extremely variable.
147A (Emporia)	Cropland	Capability 0-2% slope I; 2-6% slope IIe: Well drained. Artificial drainage not needed. Generally well adapted for all crops of this area. Good peanut soil.
	Woodland	Site index 75 for loblolly pine. No severe limitations for use as woodland.
284A (Suffolk)	Cropland	Capability 0-2% I; 2-6% IIe: A deep, well drained soil. Artificial drainage not needed. Well suited for most crops of area including peanuts.

IDENTIFICATION OF THE SOILS

Mrs. Dewey Howell
 (Story Farm)

P SYMBOLS	SOIL NAME	BRIEF DESCRIPTION OF THE SOIL
1	Bibb complex 0-2%	This Bibb soil has a sandy loam surface layer. The substratum from 12 to 37 inches is sandy loam. From 37 to 60 inches the substratum is silt loam with thin lenses of loamy sand or sand and gravel. Permeability is moderate. A seasonal water table is at depths of 6 to 18 inches. Flooding is common. Slopes range from 0 to 2 percent.
26	Myatt fsl, 0-2%	This Myatt soil has a sandy loam or silt loam surface layer. The subsoil from 10 to 50 inches is sandy clay loam to clay loam. The substratum is fine sandy loam to a depth greater than 60 inches. Permeability is moderate. A seasonal water table is at depths of 0 to 1 foot. Slopes range from 0 to 2 percent.
41	Lynchburg fsl, 0-2%	This Lynchburg soil has a sandy loam surface layer. The subsoil from 15 to 63 inches is sandy clay loam or clay loam. The substratum is sandy clay loam or clay loam to a depth greater than 60 inches. Permeability is moderate. The seasonal water table is at depths of $\frac{1}{2}$ to $1\frac{1}{2}$ feet. Slopes range from 0 to 2 percent.
69A 69B	Nansemond fsl, 0-2% Nansemond fsl, 2-6%	This Nansemond soil has a fine sandy loam surface layer. The subsoil from 8 to greater than 60 inches is fine sandy loam or loamy fine sand. Some pedons have lenses of sandy clay loam in the subsoil. Permeability is moderately rapid. A seasonal water table is at depths of $1\frac{1}{2}$ to $3\frac{1}{2}$ feet.
78A	Tetotum fsl, 0-2%	This Tetotum soil has a sandy loam surface layer. The subsoil from 9 to 48 inches is loam or clay loam. The substratum is stratified sandy loam and clay loam to a depth of greater than 60 inches. Permeability is moderate. A seasonal water table is at depths of $1\frac{1}{2}$ to $2\frac{1}{2}$ feet. Slopes range from 0 to 6 percent.
126C	Loamy and Gravelly Soils, 6-15%	This Loamy and Gravelly soil has a loamy sand, fine sandy loam or loam surface layer. The next layers from 5 to a depth greater than 60 inches consists of alternating layers of loamy sand, sandy clay, fine sandy loam and sandy clay loam. Permeability is moderately rapid, moderate, and moderately slow in varying layers. A seasonal water table may be at depths of $2\frac{1}{2}$ to 5 feet. Slopes range from 6 to greater than 15 percent.
126E	Loamy and Gravelly Soils, 15-50%	

VA-CONS-90

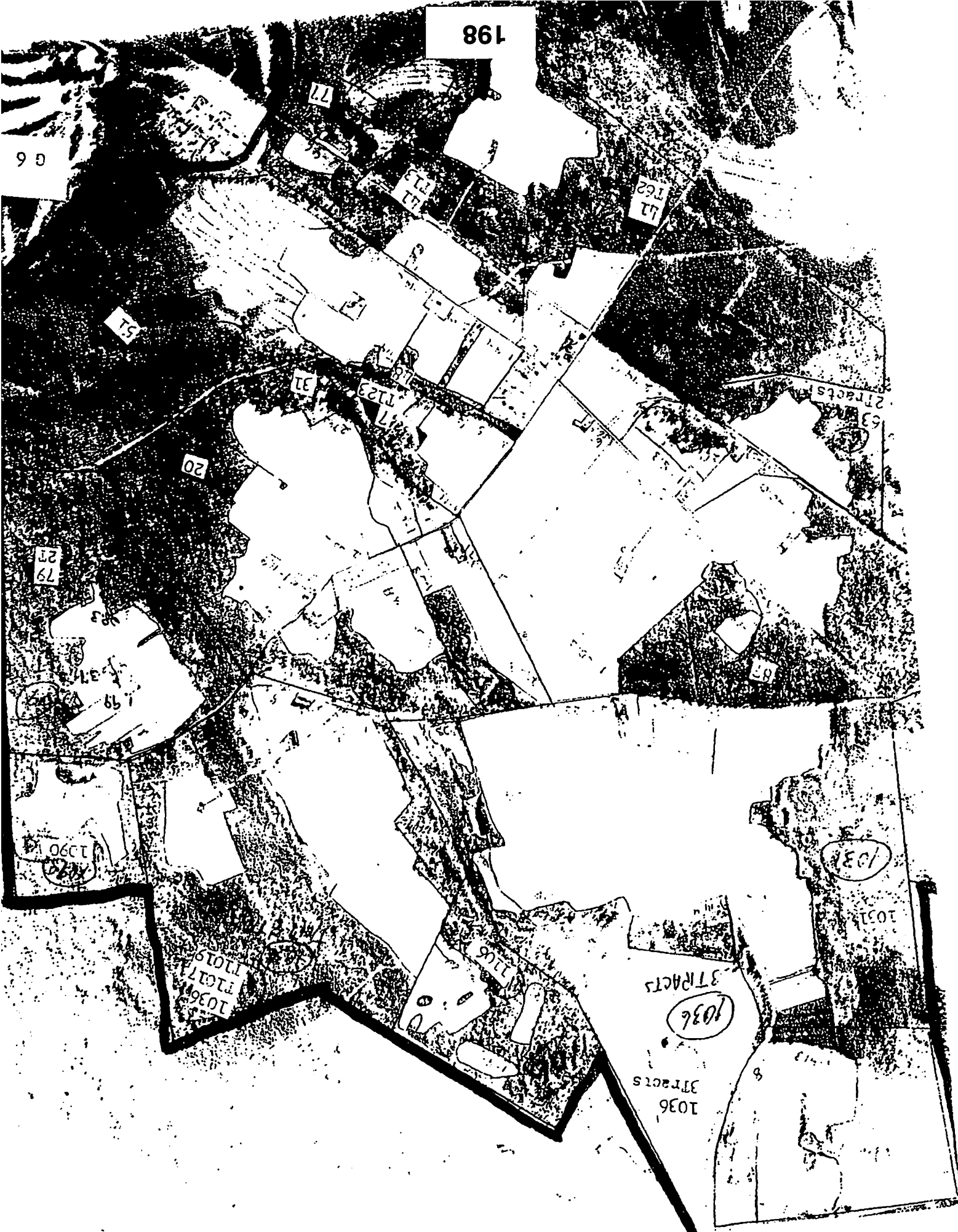
Code CONS-14

U. S. Department of Agriculture
Soil Conservation Service

Mrs. Dewey Howell
(Story Farm)

IDENTIFICATION OF THE SOILS

SYMBOLS	SOIL NAME	BRIEF DESCRIPTION OF THE SOIL
147A	Emporia sl, 0-2%	This Emporia soil has a sandy loam surface layer. The subsoil from 15 to 57 inches is sandy clay loam or clay loam. The substratum is sandy clay loam to a depth greater than 60 inches. Permeability is moderately slow. A seasonal water table is at depths of 3½ to 4 feet. Slopes range from 0 to 6 percent.
284A	Suffolk sl, 0-2%	This Suffolk soil has a sandy loam surface layer. The subsoil from 11 to 47 inches is sandy clay loam or clay loam. The substratum from 47 to a depth of greater than 60 inches is loamy sand or sand. Permeability is moderate. Slopes range from 0 to 6 percent.



CAPABILITY DESCRIPTIONS OF THE SOILS AND SOIL SYMBOLS

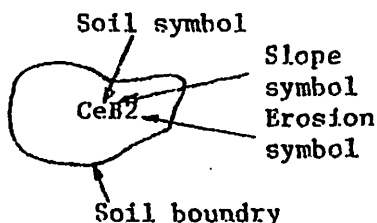
The capability classification is a grouping of soils that shows in a general way how suitable the soils are for most kinds of farming. The grouping is based on limitations of the soil and the risk of damage when they are used.

Capability Classes

Class I	Soils with few limitations that restrict their use.
Class II	Soils with some limitations that reduce the choice of plants or require moderate conservation practices.
Class III	Soils with severe limitations that reduce the choice of plants, or require special conservation practices, or both.
Class IV	Soils with very severe limitations that restrict the choice of plants, require special conservation practices with careful management, or both.
Class V	Soils with limitations impractical to remove without major reclamation. Use limited largely to pasture, woodland, or wildlife.
Class VI	Soils with very severe limitations that make them generally unsuited for cultivation. Generally suited to pasture, woodland, or wildlife.
Class VII	Soils with extreme limitations. Restricted to woodland, wildlife, or specially managed pasture.
Class VIII	Soils and land forms that are suited only for wildlife, recreation, water supply, or esthetic purposes.

Capability Subclasses

- e - erosion hazard
- w - wetness or flooding hazard
- s - soil limitations such as stoniness, shallowness, sandy, etc.
- c - climate limitations (not used in Va.)



SLOPE

- A - Level or nearly level
- B - Gently sloping or undulating
- C - Sloping or rolling
- D - Mod. steep or hilly
- E - Steep
- F - Very steep

EROSION

- 1 - Slight
- 2 - Moderately eroded or eroded
- 3 - Severely eroded

LAW OFFICES
RAWLS, HABEL & RAWLS
P. O. Box 1458
SUFFOLK, VIRGINIA 23404

J. LEWIS RAWLS, JR.
REBECCA RAWLS HABEL
FRANK M. RAWLS

AREA CODE
804
639-7426

December 16, 1980

Mr. A. Earl Johnson
Route 1, Box 451
Boykins, Virginia 23827

Re: Josephine S. Howell
Farm Leases

Dear Earl:

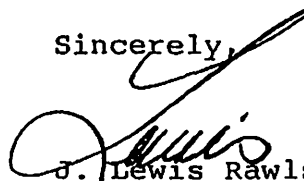
Enclosed are the following:

- (1) #4 Howell Corp. Lease to William H. Howell for the "Weichman Place" and the "Cobb Tract", containing 31.1 acres of peanut allotment, \$6,997.50. This lease contains in items 12 and 13 special provisions for one-acre garden and mowing yard.
- (2) #1 Howell Corp. Lease to William H. Howell for the "Hedgepeth Farm", containing 42.3 acres of peanut allotment, \$9,517.50.
- (3) #2 Howell Corp. Lease to B. E. Raiford, Jr., for the "Moore Farm" and the "Storey Farm", containing 31.7 acres of peanut allotment, \$7,132.50. There is a special letter attached to this lease absolving Ben Raiford for any responsibility of maintenance of fences. Please have Mrs. Howell sign this letter.
- (4) #3 Howell Corp. Lease to Benjamin J. Bryant for the "Darden Farm", containing 29.4 acres of peanut allotment, \$5,880.00.

Regret that it took us this long, but there is some considerable typing involved in this many leases.

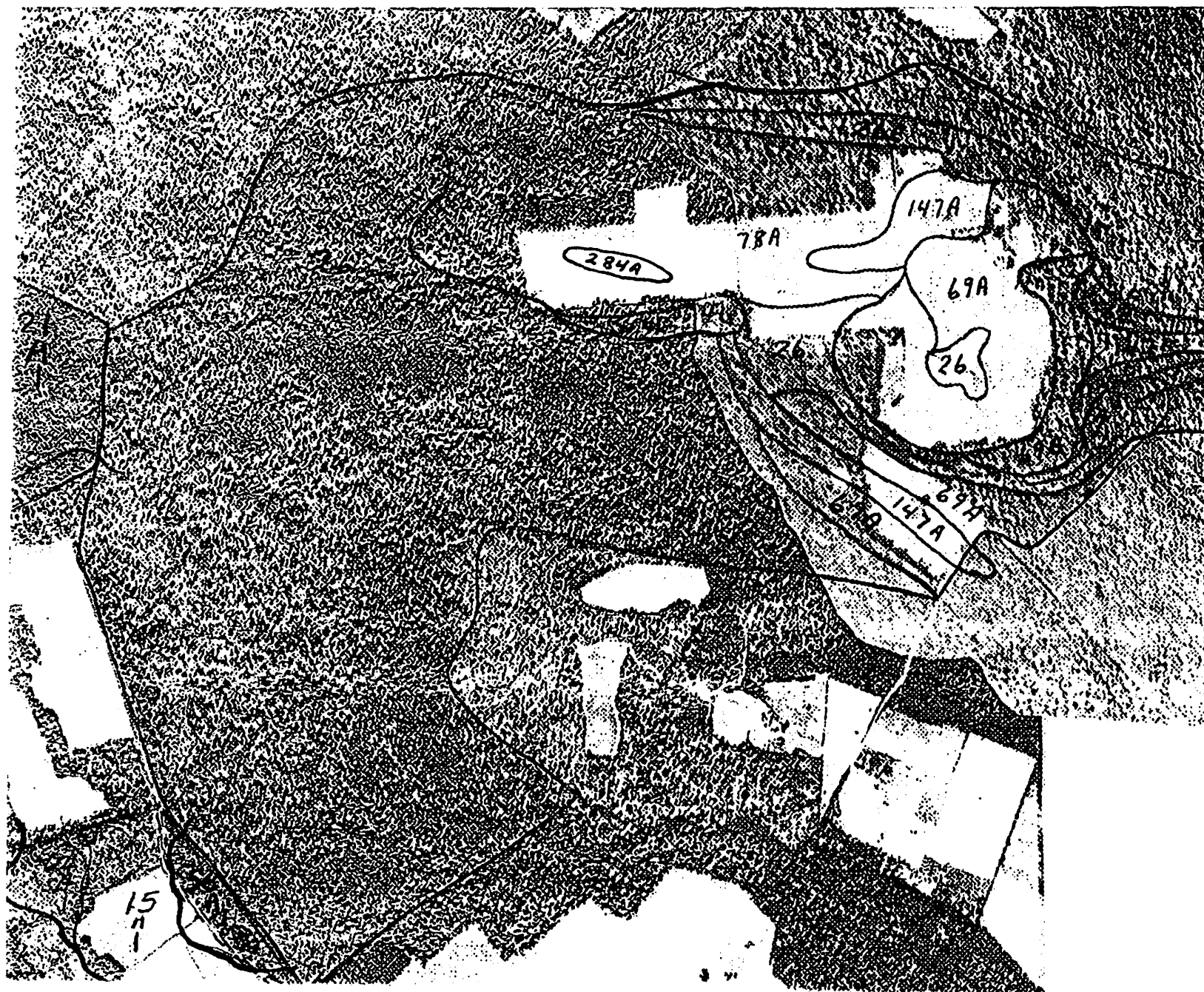
Best wishes.

Sincerely,


J. Lewis Rawls, Jr.

JLR, Jr./nsw
Enclosures
Copy to Mrs. Josephine S. Howell

Owner MRS. DEWEY HOWELL Operator F.R. WILLIAMS HOWELL
County SOUTHAMPTON State VA.
Soil survey sheet(s) or code No.(s) 9E1966E117 Approx. scale 1"=660'
PREPARED BY U.S. DEPARTMENT OF AGRICULTURE, SOIL CONSERVATION SERVICE
COOPERATING WITH V.R. HORSLEY CONSERVATION DISTRICT.



(STORY FARM)

CONSERVATION PLAN MAP BY: HENRY BARDEN

Owner Mrs. Dewey Howell Operator For: William Howell

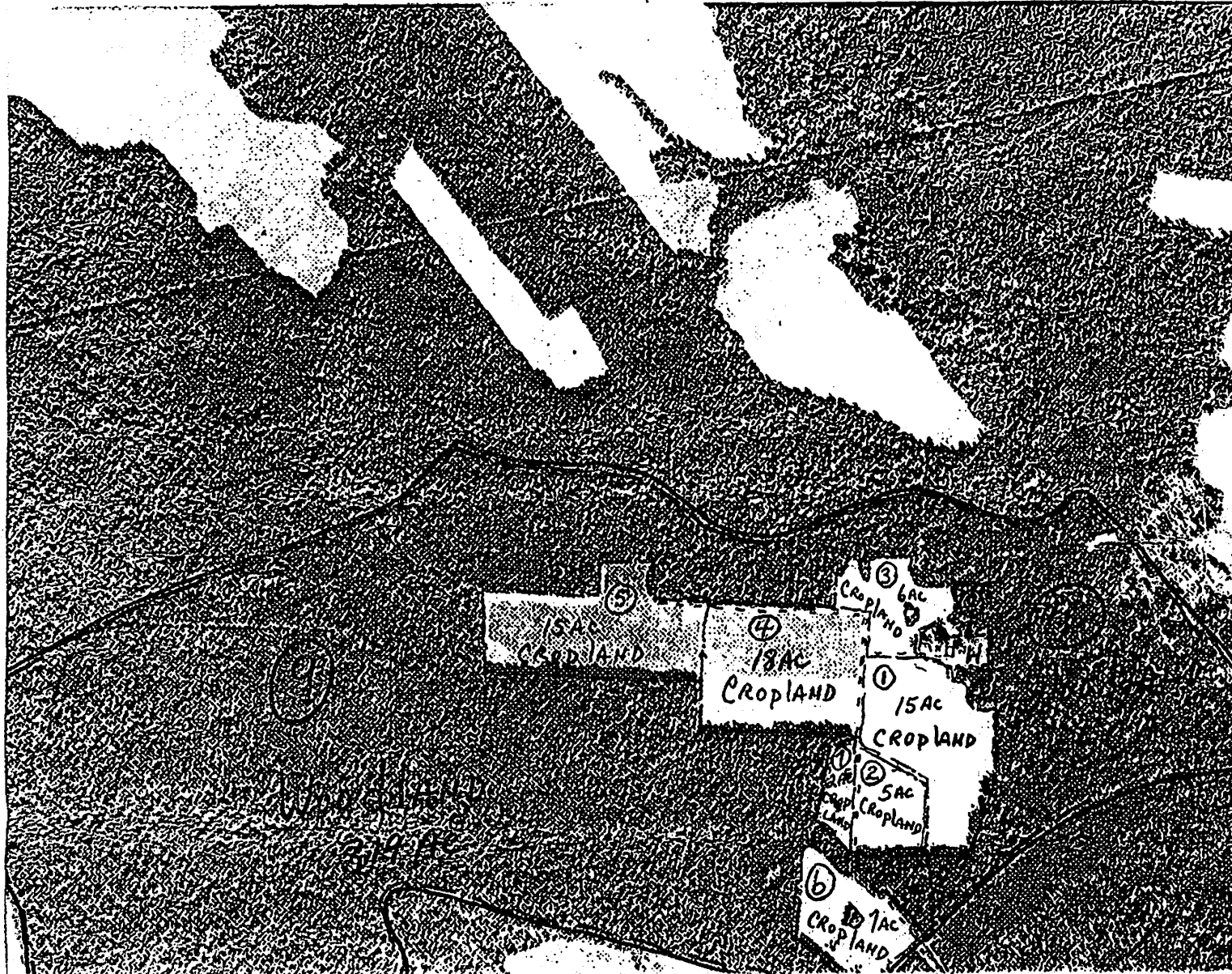
County Southampton State Virginia Date 6-78

Approximate acres _____ Approximate scale 1" = 660'

Cooperating with J.R. Horsley Conservation District _____

PLAN IDENTIFICATION _____ PHOTO NUMBER DEV-244-165

ASSISTED BY _____ USDA SOIL CONSERVATION SERVICE

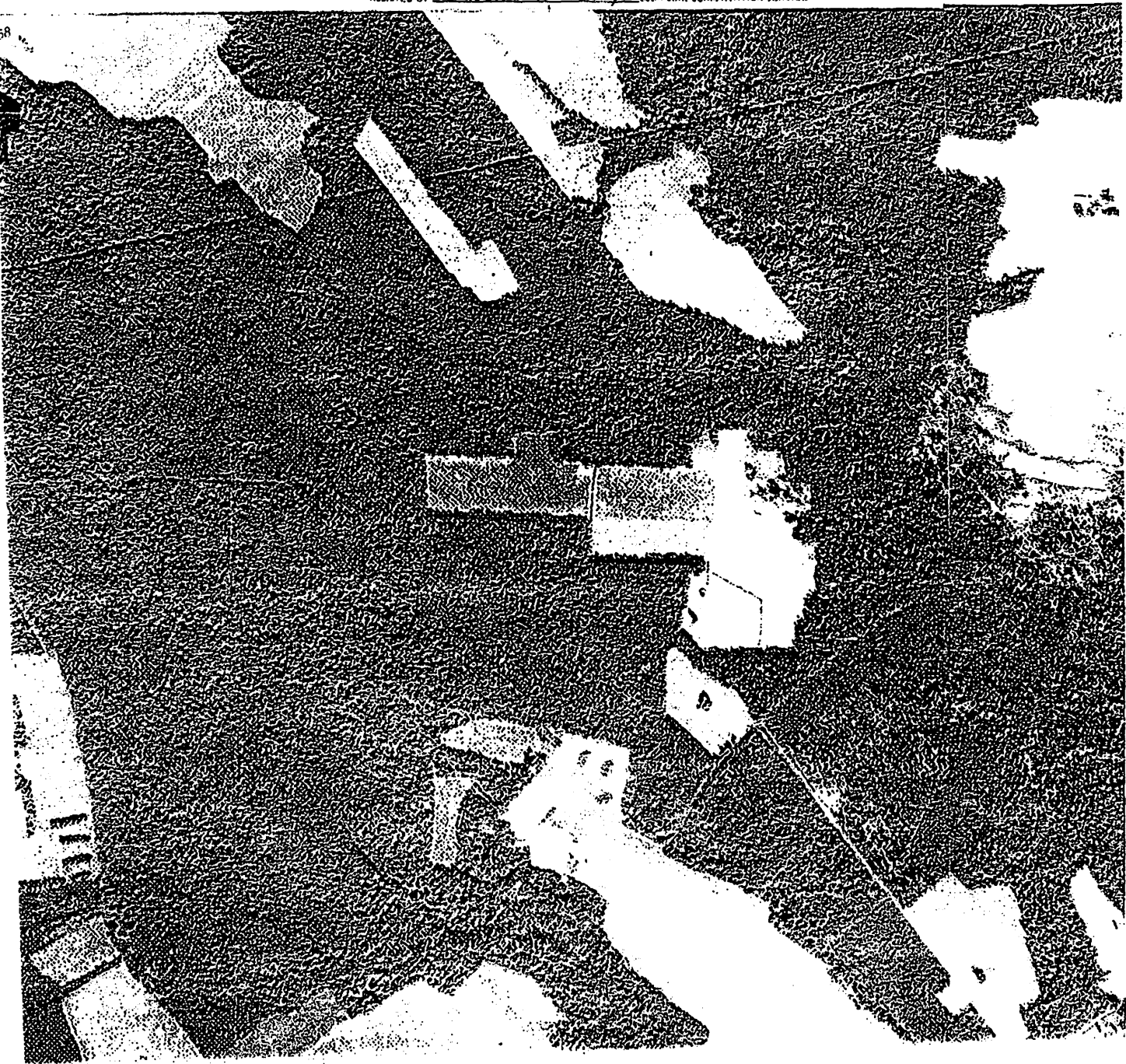


EXTRA PHOTO
1970

CONSERVATION PLAN MAP By: HENRY DARDEN

Owner Mrs. Dewey Howell Operator FOR: William Howell
County Southampton State Virginia Date 6-78
Approximate acres 450 Approximate scale 1" = 660'
Cooperating with J. R. HORSLEY Conservation District
PLAN IDENTIFICATION STORY FARM PHOTO NUMBER DEU-266-165
ASSISTED BY BEN HEADLEY USDA SOIL CONSERVATION SERVICE

N



Original letter in Rawls, Habel & Rawls office safe.
Mrs. Howell has copy.

Dear Mother,

You have written to Ed and me
within some of money and you have also
enclosed certain notes for me. At a recent
death, I do hereby agree that, unless I am
able to pay the notes to you and the notes
on which your name is indorsed, the same
shall be paid by #3 Small Inc. I shall be
satisfied and also procure since we need
exclusively to pay any and all indebted-
ness that I owe to you and any notes
which you have enclosed for me.

Sincerely yours,
Sept. 27 1981

Exhibit # P#3
Name Cagley vs. Johnson
Case No. 79-179 Date 5-1-80

JUDGE



J. Lewis Rawls, Jr.

Post Office Box 1458

Suffolk, Virginia 23434

OFFICES
EL & RAWLS
X 1458
GINIA 23434

1 VIRGINIA:

2 IN THE CIRCUIT COURT OF SOUTHAMPTON COUNTY

3

4

CERTIFIED ORIGINAL

5 GENEVA H. CAULEY, etc., et al.,)

6 Plaintiffs,) AT LAW NO.

7 v.) CH99-179

8 PEGGY H. JOHNSON, et als.,)

9 Defendants.)

10

11

12

13

DEPOSITION UPON ORAL EXAMINATION

14

OF MALINE KING

15

TAKEN ON BEHALF OF THE PLAINTIFFS

16

Franklin, Virginia

17

December 1, 1999

18

19

20

21

22

TAYLOE ASSOCIATES, INC.

23

Registered Professional Reporters

24

Telephone: (757) 461-1984

25

Norfolk, Virginia

1 Q. Tell me a little bit about Ms. Howell.
2 What type of person was she?

3 A. She was very good-hearted. I don't
4 know. She was just a good person, a good Christian
5 woman, and she loved her church.

6 Q. Did she -- did you ever during the time
7 you knew her, the 30 or so years that you knew her,
8 did you ever talk about what her plans were for her
9 property after she passed away?

10 A. Several times. A lot of times she had
11 mentioned little things about her -- what she had
12 done or what she was -- she had her will fixed.

13 Q. Did she tell you she had a will?

14 A. Yes, she did.

15 Q. Did she tell you that --

16 A. And she told me where it was.

17 Q. Where did she tell you it was?

18 A. It was in Suffolk at Rawls'. I believe
19 it was Rawls.

20 Q. A lawyer?

21 A. Yes, sir.

22 Q. Did she tell you that her will was in
23 Suffolk at Rawls' office at any point after you
24 lived together at The Village or lived near each
25 other at The Village?

1 A. Oh, she mentioned that a lot of times.

2 Q. So that was at -- though, in the years
3 that she was at The Village she said that to you?

4 A. Yes. Yes. Yes, sir.

5 Q. Did she ever tell you that she had torn
6 her will up or destroyed her will or anything like
7 that?

8 A. No, sir. The Saturday night before she
9 went to a party in Murfreesboro we played Scrabble
10 and something came up and she said -- mentioned her
11 will being in Suffolk.

12 Q. Did you --

13 A. And it was all tended to.

14 Q. Was that something, all tended to and
15 having a will, was that something she said more than
16 one occasion to you?

17 A. Yes, sir. She said, "I have nothing to
18 regret."

19 Q. Did you visit her once she moved to
20 assisted living?

21 A. Yes, sir.

22 Q. How often?

23 A. I went if not every night, it would be
24 every other night. I saw her every day.

25 Q. And did you ever have a conversation --

1 any conversations with her when she was at assisted
2 living about whether her will was taken care of,
3 those sorts of subjects?

4 A. Yes, sir, that Saturday night before she
5 went to a birthday party or some party in
6 Murfreesboro when she got hurt.

7 Q. So that Murfreesboro/playing Scrabble was
8 when she was in assisted living?

9 A. Yes, sir.

10 Q. And on that occasion she told you her
11 will was in Suffolk?

12 A. Yes, sir. Let me come back on that. She
13 didn't say it was in Suffolk, but she mentioned
14 about that she had no worries because she said,
15 "I've got everything on paper with my lawyers."

16 Q. Okay. Did Ms. Howell ever indicate to
17 you that it was important to her that her affairs
18 were in order?

19 A. Yes, sir.

20 Q. Was it something that made her at peace?

21 A. Yes, sir.

22 Q. Did you ever know her to keep important
23 papers in her apartment here?

24 A. No, sir.

25 MR. DEVINE: I think that's all the

Exhibit # P#5
Name Caley vs. Johnson
Case No. 29-179 Date 5-1-60
ROY
JUDGE

APPRAISAL OF PROPERTIES

of

Mrs. Josephine S. Howell (Mrs. Dewey Howell) in or
near Franklin, Southampton County, Virginia and on
the "Outer Banks" of North Carolina, as of October
15, 1976.

Appraisal made by:

H. G. Cobb, Jr.
Realtor
501 N. Main Street
Franklin, Virginia 23851

October 15, 1976

Mr. J. Lewis Rawls, Jr.
Attorney at Law
P. O. Box 1458
Suffolk, Virginia 23434

Mrs. Josephine S. Howell
Route #3, Box #85
Franklin, Virginia 23851

Re: Appraisal of Properties of Mrs. Josephine S. Howell (Mrs. Dewey Howell) in or near Franklin, Southampton County, Virginia, and on the "Outer Banks" of North Carolina, as of October 15, 1976.

Dear Madam and Sir:

At your request, I have visited and inspected the subject properties for the purpose of estimating the Fair Market Value thereof as of October 15, 1976. Attached are sheets showing the details as I found them, including location and description of the properties, plus evaluation figures. The open acreage figures and allotments of the farms are from the records of the County Agricultural Stabilization Conservation Service (ACCS) Office in Courtland, Virginia. The total farm acreages are from survey maps for the area farm in question or from the tax records in the Clerk's Office. U. S. Geological survey maps for the area were also used in this appraisal, as well as aerial photographs. Individual lot sizes are from deeds, Franklin City Tax Lists, or scaled from aerial photographs.

On the farms, due to various tenants involved, specific yields were difficult to obtain, but from information I could gather, an overall average yield per acre for peanuts was 2700 lbs., and for corn - 85 to 90 bushels - for all of the farms. Of course, some tracts had better open land in certain areas, or vice versa, lower yielding soil was on others. Then too, due to the wide geographical dispersal of the farm locations, rainfall could and would be different from farm to farm, thus crops yields would vary a great deal. On most of the farms, the

October 15, 1976

buildings were so old, or in such poor condition, a flat value figure was used. In these pages "F"=Frame sides and "M"=Metal roofs for the buildings.

To show the final evaluation figure of all the properties (exclusive of the three farms previously given as gifts by Mrs. Howell to three of her daughters) herewith follows a recapitulation of the same:

1. Home Place - Old Weichman Place	- \$298,700.00
2. Residence House & 5 acres of land	- 66,850.00
3. "Jesse Coggsdale" House and Lot	- 5,850.00
4. Store and Cafe Property	- 11,100.00
5. "Clyde Howell House"	- 12,100.00
6. Alfred Cobb Tract (includes 6 Rental Units)	- 71,300.00
7. Darden Farm (Sycamore Church area)	- 147,400.00
8. J. Hedgepeth - Brown Farm	- 269,100.00
9. City of Franklin - 3 Rental Units	- 20,800.00
10. #1440 Clay Street - 1/3 interest	- 5,900.00
11. William Moore Farm	- 100,500.00
12. Story-Neily Buck Farm	- 356,000.00
Outer Banks Property:	
13. Southern Shores Lot and vacant lot between ByPass and Business 158	- 14,500.00
14. 1/5 interest in 4 Parcels	- 20,430.00
Mrs. Josephine S. Howell-Grand Total Value	\$1,400,530.00

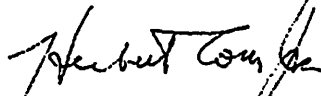
For Information Purposes:

(Value of farms previously given away)

A. Jim Turner or Winstead Farm (Peggy)	- \$ 95,000.00
B. Denson-Whitehead Farm (Lynda)	- 130,000.00
C. Farm of four (4) tracts (Peggy)	- 254,800.00

I trust this is the information you desire. I have detailed notes in my files for reference. If you have any questions concerning this reappraisal, please call me. A qualifications' sheet on this appraiser is attached. Thank you very much.

Very truly yours,


Herbert Cobb, Jr.

HGC:mt

Appraisal of Farm Real Estate

Home Place or "Old Weichman Place"

MAKER Mrs. Josephine S. Howell DATE 10/9/76

LOCATION Beginning at "L Brothers Corner", fronts 0.7 miles on North side Va.

NO. CLEARED ACRES 122.00 @ \$ See attached PER ACRE #684 VALUE \$ 171,180.00

NO. ACRES WOODLAND 173.08 @ \$ See attached PER ACRE VALUE \$ 87,848.00

TOTAL ACREAGE 295.08 TOTAL VALUE OF LAND \$ 259,028.00

SIZE OF MAIN DWELLING 2-story ELECTRICITY x

NO. ROOMS 8 NO. BATHROOMS 2

AGE OF DWELLING 125-150 yrs. CONDITION Fair to good Flat VALUE \$ 8,000.00

TENANT HOUSES Two Rental Houses Value 24,400.00
(See attached sheet)

NO. ROOMS _____ CONDITION _____ VALUE \$ _____

NO. ROOMS _____ CONDITION _____ VALUE \$ _____

BARNs AND OTHER BUILDINGS "Additional" Buildings (See sheet) 6,675.00

SIZE 2-story CONDITION Poor (Leaning over) Flat VALUE \$ 350.00

SIZE "Old Kitchen" CONDITION Fair to good Flat VALUE \$ 150.00

SIZE Smokehouse CONDITION Fair (125 yrs.) Flat VALUE \$ 75.00

TOTAL VALUE OF BUILDINGS \$ 39,650.00

CROP ALLOTMENTS

PEANUTS 26.8 ACRES, COTTON 5.8 ACRES, CORN 21.9 ACRES, OTHER _____

REMARKS All woodland cut in 1937. 40 acres (west side of farm and slightly northwest of main residence) clear-cut 1976; remainder of north side of farm to Seaboard Railroad contains mixed pine and hardwoods.

MORTGAGE RECORD

PROPERTY IN NAME OF _____ APPRAISED VALUE

MORTGAGE DATED _____ BUILDINGS \$ 39,650.00

ORIGINAL AMOUNT _____ TOTAL VALUE \$ 298,678.00

Rounded to: \$ 298,700.00

APPRAISED BY: _____

"Home Place" Open land Values:

18 acres permanent pasture (fronting 0.2 miles on Va. #688 - total road frontage) @ \$500.00	= \$ 9,000.00
1 acre barn yard lot @ \$1,500.00	= 1,500.00
103 acres in tend @ \$1,560.00	= 160,680.00
122 acres open land	Value : \$171,180.00

Woodsland Breakdown ("Home Place")

40.00 acres clear cut 1976 @ \$200.00	= \$ 8,000.00
133.08 acres wooded @ \$600.00	= 79,848.00
173.08 acres woodsland	\$ 87,848.00

Homeplace Acreage Breakdown:

302.78 acres by County Tax List	
- 1.70 acres to Va. Dept. of Hwys. (1976)	
301.08	
- 1.00 acre (2 Rental Houses-land included with 2 houses)	
300.08	
- 5.00 acres (main residence front lawn and around house area-land value included on residence sheet)	
295.08-net acres to farm	

Two Rental Houses:

(Located near southwest corner of "Home Place" farm - fronting on Va. #684 - estimated 12-15 years old with both in good condition overall except all trim work needs painting)

1. House and Lot (East side) nearer to main residence lane.
1-story frame with asbestos shingled sides, brick foundation, asphalt roof; Size: 36' x 28'

5 rooms & bath, wall furnace	Value - \$10,000.00
Small Metal Garage	- 100.00
Lot size: 120' x 200'	- 2,200.00
	Total Value : \$12,300.00

2. House and Lot (West side) - adjoins property of Lynda R. Bond. 1-story frame with asbestos side and asphalt roof, brick foundation; Size: 36' x 28'

5 rooms & bath, wall furnace	Value - \$10,000.00
Lot: 100' x 200'	- 2,000.00
Small Metal Garage	- 100.00
	Total Value : \$12,100.00

Additional "Home Place" Buildings:

1.	15' x 20' Metal Work Shop - good condition with concrete floor, 10 yrs. old	- \$ 600.00
2.	Corn bin (cinder block - metal roof) fair condition, 20-25 yrs. old	- 150.00
3.	Barn (32' x 64') metal sides and roof, estimated 30-40 yrs. old, fair condition	- 2,000.00
4.	1½ story shelter - F. and M., fair condition only, quite old	- 200.00
5.	Small frame garage with dirt floor - poor condition	- 150.00
6.	Metal storage shed with dirt floor - good condition	- 450.00
7.	Old machine shelter - poor condition	- 150.00
8.	Metal storage shed - poor condition	- 175.00
(Tenant houses below enter lane from Va. #688) -No Inside Water-		
9.	3 Rooms, F. & M., Fair condition	- 550.00
10.	2-story F. & M., 6 rooms - very poor	- 750.00
11.	3 Rooms, F. & M. - Fair condition	- 650.00
12.	<u>On East side of farm next to east property line - 1½ story tenant house - 6 rooms, F. & M., no inside water, poor condition, estimated 75 years old</u>	- 850.00
Total Value		: \$6,675.00

REAL ESTATE Residence House and Land

DATE October 9, 1976

OWNER Mrs. Josephine S. Howell

APPRAISED VALUE:

* LOCATION North side Va. #684

LAND \$ 13,000.00

SIZE OF LAND 5 Acres

RESIDENCE \$ 51,000.00

SIZE OF BUILDING 2-Story

OTHER BLDGS.... \$ _____

TYPE OF HEAT Hotwater

Garage with _____

AGE OF IMPROVEMENT 23 years

Dirt floor 350.00

ANNUAL RETURN (GROSS)

2 car cinder _____

IF RENTAL UNIT \$ _____

block garage (20yrs) _____

SPECIAL NOTES _____

(24'x28') 2,500.00

MAINTENANCE EXPENSES:
(AVERAGE YEARLY COST)

HEAT \$ _____

TAXES \$ _____

INSURANCE \$ _____

TOTAL VALUE \$ 66,850.00

ROOMS	1st Floor	2nd Floor
Living Room	<u>x</u>	<u>2</u>
Dining Room	<u>x</u>	<u> </u>
Kitchen	<u>x</u>	<u>2</u>
Utility	<u>x</u>	<u> </u>
Bed Rooms	<u>1</u>	<u>2</u>
Baths	<u>1 1/2</u>	<u>2</u>
TOTAL	<u>6+1 1/2</u>	<u>6+2</u>

REMARKS Exterior: Brick with asbestos shingle roof-all in very good condition. Interior: Oak floors, plastered walls, kitchen has tiled floor, fireplace in living room, den has panelled walls downstairs only is air-conditioned. Interior is in very good condition.

* Approx. 1/2 mile southwest of junction of #684 and U.S. Hwy. #258.

Note: Upstairs divided into two apartments: 2 Rooms & bath and 4 Rooms & bath.

RENTAL PROPERTIES:

1. "Jesse Coggsdale" House and Lot (on South side of land deeded to Forks of the River Community House. Lot fronts on west side of U.S. #258, just south of "Four Brothers' Corner".
House: one-story frame with asbestos shingle sides and metal roof - exterior in poor condition. Interior: 6 rooms + 1 bath, pine floors, dry walls, stove heat - interior in poor condition. (Exterior and interior need painting badly) Size: 26' x 40' - estimated 45-50 years old. Value : \$ 4,350.00
Lot: Narrow triangular shape with base fronting on #258 Hwy.; approximately 200 ft. - lot tapers to point in rear at a point some 550 ft. from road - land is very low and wet. Value : 1,500.00
Total Value : \$ 5,850.00
2. Store and Cafe Property:
Located on old abandoned U.S. Hwy. #258, (New ROW of #258 some 100-150 yards east of this property)
Improvements:
 1. Old store, F.&M., stove heat, age=55-60 years, Fair condition only. Size: 24' x 60' Value : \$ 3,600.00
 2. Old Cafe building, F.&M. with tile roof, stove heat, age 45-50 years, Poor condition exterior, better shape on interior. Flat Value: 5,000.00Land: A narrow strip, semi-circular in shape, containing about 1½ acres Value : 2,500.00
Total Value Parcel : \$11,100.00
3. "Clyde Howell" - House and lot (located on north side of Va. #684, first house after leaving "Four Brothers Store") 2-story, F.&M.; 6 rooms + 1 bath, stove heat - fair to good condition, age is 50-60 years. House Value : \$ 8,500.00
Metal garage - fair condition Value: 100.00
Lot approx. 165' on Rd. x 265' deep or one acre. Value : 3,500.00
Total Value : \$12,100.00

Appraisal of Farm Real Estate

Alfred Cobb Tract

MAKER Mrs. Josephine S. Howell DATE 10/14/76

LOCATION Southwest corner intersection Va. #684 & old #258 at "4 Brothers' Corner"

NO. CLEARED ACRES 24.00 @ \$ See below PER ACRE VALUE \$ 37,260.00

NO. ACRES WOODLAND None @ \$ PER ACRE VALUE \$ None

TOTAL ACREAGE 24.00 TOTAL VALUE OF LAND \$ 37,260.00

SIZE OF MAIN DWELLING ELECTRICITY

NO. ROOMS NO. BATHROOMS

AGE OF DWELLING Six Rental Units: CONDITION (See attached sheet) VALUE \$ 34,000.00

TENANT HOUSES

NO. ROOMS CONDITION VALUE \$

NO. ROOMS CONDITION VALUE \$

BARNs AND OTHER BUILDINGS

SIZE CONDITION VALUE \$

SIZE CONDITION VALUE \$

SIZE CONDITION VALUE \$

TOTAL VALUE OF BUILDINGS \$

CROP ALLOTMENTS

PEANUTS 4.6 ACRES, COTTON ACRES, CORN ACRES, OTHER

REMARKS Note: all open land in tend is low and wet, and crisscrossed by large ditches. Open land fronts 0.2 miles on south side of Va. #684.

MORTGAGE RECORD

APPRAISED VALUE

PROPERTY IN NAME OF LAND \$ 37,260.00

MORTGAGE DATED BUILDINGS \$ 34,000.00

ORIGINAL AMOUNT TOTAL VALUE \$ 71,260.00
Rounded to: \$ 71,300.00

Breakdown of Open land:

19.3 acres in tend : \$1,200.00 per acre = \$23,160.00

4.7 acres (6 rental houses thereon)
@ \$3,000.00 per acre = 14,100.00

24.0 acres Total Value open land = \$37,260.00

APPRAISED BY:

Six Rental Units: Alfred Cobb Tract

(All F.&M., small structures, stove heat, asbestos shingled sides, and in fair to good condition. Various ages and if not indicated 20-25 years old)

1. South end next to Jesse Coggsdale Lot - 4 rooms + bath (oldest of 6 as this is an old converted tenant house - est. 50-55 yrs.) Value : \$ 5,000.00
 2. North side of #1 -
-4rooms + bath Value : 5,500.00
 3. North side of #2 -
- 5 rooms + bath Value : 6,500.00
- Below three units front on Va. #684
4. First house behind store
-4 rooms + bath Value : 5,500.00
 5. Just West of #4
-4 rooms + bath Value : 5,500.00
 6. Last house in row (extreme West end)
-4 rooms + bath (Good condition) Value : 6,000.00
- Total Value Houses : \$34,000.00

Appraisal of Farm Real Estate

J. H. Hedgepeth and "Old Brown" Tract

MAKER Mrs. Josephine S. Howell

DATE 10/9/76

LOCATION This farm is all interior land-see below*

NO. CLEARED ACRES 141.70 @ \$ 1,000.00 PER ACRE VALUE \$ 141,700.00

NO. ACRES WOODLAND 166.30 @ \$ 750.00 PER ACRE VALUE \$ 124,725.00

TOTAL ACREAGE 308.00 TOTAL VALUE OF LAND \$ 266,425.00

SIZE OF MAIN DWELLING _____ ELECTRICITY _____

NO. ROOMS _____ NO. BATHROOMS _____

AGE OF DWELLING Abandoned CONDITION Falling Down VALUE \$ None

(This old house & small 2-story barn (\$150.00 value)

TENANT HOUSES are the first buildings entering thru Johnson House Yard)

NO. ROOMS 4 CONDITION Fair to Good Flat VALUE \$ 2,000.00
(Has lights-No inside water)

NO. ROOMS _____ CONDITION _____ VALUE \$ _____

BARNs AND OTHER BUILDINGS

SIZE Small - 2 story CONDITION Fair VALUE \$ 150.00

SIZE Large - 2 story CONDITION Good (Est. 15-18 yrs old) VALUE \$ 500.00
(Frame sides-metal roof)

SIZE _____ CONDITION _____ VALUE \$ _____

TOTAL VALUE OF BUILDINGS \$ 2,650.00

CROP ALLOTMENTS

PEANUTS 42.3 ACRES, COTTON 6.3 ACRES, CORN 46.9 ACRES, OTHER _____

REMARKS Bulk of timber is in north side central part of whole tract; 18" to 20" saw pines here (a good stand) - remainder of woodland has mixed hardwoods and pines; whole eastern boundary line is run of a swamp.

MORTGAGE RECORD

APPRAISED VALUE

PROPERTY IN NAME OF _____ LAND \$ 266,425.00

MORTGAGE DATED _____ BUILDINGS \$ 2,650.00

ORIGINAL AMOUNT _____ TOTAL VALUE \$ 269,075.00

Rounded to \$ 269,100.00

* NOTE: Entering from Va. #681
(East side) via path at
Johnson's old store, a short
distance south of Handson
Station, it is then 1 mile to
property through fields and
woods.

APPRAISED BY: _____

City of Franklin Property - Rental Units

1. #310 Wilson St. - one story, 6 rooms + bath, stove heat,
F&M, -very poor condition. Value - \$ 2,500.00
Lot: 50' x 115' Value - 2,000.00
Total : \$ 4,500.00

2. #311 Wilson - one story, 6 rooms + bath, stove heat,
F&M, very poor condition. Value - \$ 2,000.00

#315 Wilson - one story, 4 rooms + bath, stove heat,
cinder block sides & tar roof, very poor condition. Value - \$ 2,000.00

#317 Wilson - one story, 4 rooms + bath, stove heat,
frame with asphalt roof - very poor condition. Value - \$ 1,800.00

All above three units on one lot - Size: 115' x 80'
Land Value - \$ 4,000.00
Total : \$ 9,800.00

3. Rosewood Avenue (Corner Hogart Street)
-One story, 6 rooms + bath, stove heat, F&M,
Fair condition Value - \$ 4,000.00
Lot Size: 50' x 150' Value - 2,500.00
Total : \$ 6,500.00

ONE-THIRD Interest - #1440 Clay Street Residence

-One story, frame with asphalt roof, 8 rooms,
pine floors, plastered walls (one room panelled),
1 bath, stove heat, Fair to good condition. Value - \$11,000.00
Frame garage Value - 100.00
Lot size: 200' x 170' Value - 8,500.00
Total : \$19,600.00

$1/3 \times \$19,600.00 = \$6,533.00$ less 10% "Fractional Interest"
discount = \$5,880.00 - Rounded to \$5,900.00

"DARDEN FARM" Appraisal of Farm Real Estate (ASCS #T269)

Farm near Sycamore Church

MAKER Mrs. Josephine S. Howell

DATE August 30, 1976

LOCATION See attached sheet

NO. CLEARED ACRES 80.00 @ \$ See below PER ACRE VALUE \$ 105,200.00

NO. ACRES WOODLAND 75.35 @ \$ 475.00 PER ACRE VALUE \$ 35,791.00

TOTAL ACREAGE 155.35 (BY Tax List) TOTAL VALUE OF LAND \$ 140,991.00

SIZE OF MAIN DWELLING Two-story (Frame sides with metal roof) ELECTRICITY X

NO. ROOMS 5 (Stove Heat) NO. BATHROOMS 2

AGE OF DWELLING Est. 80-85 yrs CONDITION Good VALUE \$ 6,000.00

TENANT HOUSES

NO. ROOMS _____ CONDITION _____ VALUE \$ _____

NO. ROOMS _____ CONDITION _____ VALUE \$ _____

BARN AND OTHER BUILDINGS

SIZE Small pump house CONDITION Good (Cinder block) Flat VALUE \$ 50.00

SIZE Storage shed (Frame) CONDITION Very poor Flat VALUE \$ 25.00

SIZE 2 story barn with wing shelters (Frame with metal roof) CONDITION Poor (60-65 yrs old) Flat VALUE \$ 350.00

TOTAL VALUE OF BUILDINGS \$ 6,425.00

CROP ALLOTMENTS

PEANUTS 29.4 ACRES, COTTON 5.4 ACRES, CORN _____ ACRES, Feed Grain OTHER 21.9

REMARKS _____

MORTGAGE RECORD

APPRAISED VALUE

PROPERTY IN NAME OF _____ LAND \$ 140,991.00

MORTGAGE DATED _____ BUILDINGS \$ 6,425.00

ORIGINAL AMOUNT _____ TOTAL VALUE \$ 147,416.00
Rounded to: \$ 147,400.00

Breakdown of open land:

79.00 acres in tend @ \$ 1,300.00 per acre = \$ 102,700.00
1.00 acre House yard @ \$ 2,500.00 per acre = \$ 2,500.00
80.00 acres Total value open : \$ 105,200.00

APPRAISED BY:

Appraisal of Farm Real Estate

William Moore Farm

MAKER Mrs. Josephine S. Howell

DATE 10/12/76

LOCATION Directly across road (Va. #611-Southeast side) from Nottoway Chapel Church

NO. CLEARED ACRES 42.60 @ \$ 1,300.00 PER ACRE VALUE \$ 55,380.00

NO. ACRES WOODLAND 89.02 @ \$ 500.00 PER ACRE VALUE \$ 44,510.00

TOTAL ACREAGE 131.62 TOTAL VALUE OF LAND \$ 99,890.00

SIZE OF MAIN DWELLING 2 story (Frame with metal roof & no inside water) ELECTRICITY X

NO. ROOMS 8 NO. BATHROOMS None

AGE OF DWELLING 100 yrs+ CONDITION Very poor Flat VALUE \$ 500.00

TENANT HOUSES

NO. ROOMS _____ CONDITION _____ VALUE \$ _____

NO. ROOMS _____ CONDITION _____ VALUE \$ _____

BARNs AND OTHER BUILDINGS

SIZE 2 Barns (Frame sides metal roof) CONDITION Poor (Both) Flat VALUE \$ 100.00

SIZE _____ CONDITION _____ VALUE \$ _____

SIZE 1 Smokehouse CONDITION Poor Flat VALUE \$ 35.00

TOTAL VALUE OF BUILDINGS \$ 635.00

CROP ALLOTMENTS

PEANUTS 11.8 ACRES, COTTON 2.5 ACRES, CORN 11.7 ACRES, OTHER _____

REMARKS Timber cut-over in 1955; small pine pulp and mixed hardwoods remain.

MORTGAGE RECORD

APPRAISED VALUE

PROPERTY IN NAME OF _____ LAND \$ 99,890.00

MORTGAGE DATED _____ BUILDINGS \$ 635.00

ORIGINAL AMOUNT _____ TOTAL VALUE \$ 100,525.00
Rounded to: \$ 100,500.00

NOTE: Nottoway Swamp is whole Eastern and Southern boundary of this farm, plus a swamp run is the west side property line.

Appraisal of Farm Real Estate

The Story Farm and Neily Buck Place

MAKER Mrs. Josephine S. Howell DATE 10/12/76

LOCATION Behind Nottoway Chapel Church on Va. #611 (Northwest side)

NO. CLEARED ACRES 68.10 @ \$ 1,100.00 PER ACRE VALUE \$ 74,910.00

NO. ACRES WOODLAND 399.90 @ \$ 700.00 PER ACRE VALUE \$ 279,930.00

TOTAL ACREAGE 468.00 TOTAL VALUE OF LAND \$ 354,840.00

SIZE OF MAIN DWELLING One story ELECTRICITY x

NO. ROOMS 6 (Frame sides-metal roof) NO. BATHROOMS None

AGE OF DWELLING 75-80 (No inside water) CONDITION Poor Flat VALUE \$ 1,250.00

TENANT HOUSES

NO. ROOMS _____ CONDITION _____ VALUE \$ _____

NO. ROOMS _____ CONDITION _____ VALUE \$ _____

BARNs AND OTHER BUILDINGS

SIZE 2-story (60 yrs.) CONDITION Poor Flat VALUE \$ 500.00

SIZE _____ CONDITION _____ VALUE \$ _____

SIZE _____ CONDITION _____ VALUE \$ _____

TOTAL VALUE OF BUILDINGS \$ 1,750.00

CROP ALLOTMENTS

PEANUTS 19.9 ACRES, COTTON 2.5 ACRES, CORN 19.8 ACRES, OTHER _____

REMARKS Timber cut on north side of farm some 12 years ago - mostly mixed hardwoods here with some saw size but mostly immature saw and pulp size; bulk of timber, pine & mixed hardwoods on south side of tract with medium saw and pulp trees in this area.

MORTGAGE RECORD

APPRAISED VALUE

PROPERTY IN NAME OF _____ LAND \$ 354,840.00

MORTGAGE DATED _____ BUILDINGS \$ 1,750.00

ORIGINAL AMOUNT _____ TOTAL VALUE \$ 356,590.00
Rounded to: \$ 356,600.00

NOTE: This is all interior land and it is 0.7 miles through fields & woods down path from entrance beside Nottoway Chapel Church.

APPRAISED BY: _____

BEACH PROPERTY - "OUTER BANK'S", North Carolina
Fee Simple Ownership -

1. Lot in "Southern Shore" Subdivision, Kitty Hawk, N. C.
East side of "Dogwood Trail" - Lot #4, Block 112,
Size: 100 ft. on street x 209' (South side) x 170' (North
side) x 100' in rear. - Vacant lot - Value : \$12,500.00
2. Vacant lot between By-Pass 158 and Business 158
(interior lot - no street as yet) - about opposite
Mile Post #3 - 50' x 125' - Lot #29, Blk 27, Sect. A.,
"K. H. Beach" - (100% ownership) Value : 2,000.00
Total Value : \$14,500.00

1/5 interest in the following:

1. 2 Vacant lots (near #2 above - streets are in) Kitty
Hawk Beach Subdivision, Block #40, northern 3/4 of
#35, Southern 1/4 of 35, and Northern 1/2 of Lot #36
(each lot approx. 50' x 150' - \$9,000.00) Total : \$18,000.00
2. Vacant lot - Colington Harbor - Size is approximately
50' x 200' - a "pie shaped" lot (lot number not
available) Value : \$ 6,500.00
3. Cottage and lot on Ocean Front opposite "Three Mile"
post - Kitty Hawk Beach (Name: "4 Sisters") - on
piling and bulkheaded. Frame with asphalt roof and asbestos
shingled sides, 1 1/2 stories with 1-car enclosed garage.
Interior is furnished with 7 rooms, 2 baths, not heated,
all rooms panelled except three bedrooms (sheetrock)
enclosed porch. Has septic tank & city water. (Ex-
terior and interior in good condition. Age is 30 years.
Size: 32' x 46' Value : \$21,764.00
Lot: 50' wide on Business 158 to mean low water
mark on beach. Value : 25,000.00
\$46,764.00
Rounded to : \$46,800.00
4. Cottage and lot (adjacent to north side of #3 above)-
on piling with bulkhead in front. Frame with asbestos
shingles and asphalt roof, one-story, with one-car
garage below plus an 11'6" x 16' bedroom with 1/2 bath
in front of garage. Interior upstairs (main residence
level above pilings) furnished with 5 rooms plus ceramic
walled bath, tiled floors in every room, and panelled
walls - no heat. Has septic tank and city water - ex-
terior and interior in very good condition. Age is 5
years.
Size: 24' x 40' Value : \$17,160.00
Lot: 50' wide on Business 158 to Mean low water mark
on beach. Value : 25,000.00
\$42,160.00
Rounded to : \$42,200.00

BEACH PROPERTY - Cont'd.

-2-

GRAND TOTAL OF 4 Parcels: \$113,500.00 x 1/5 = \$22,700.00 less 10%
"fractional interest discount" = \$20,430.00

SPECIAL NOTE: As a property owner in Kill Devil Hills, both on the beach front and one block removed, and as a beach dweller for nearly 6 months of the year, I can testify from personal observations that these two beach cottages (Items Nos. 3 and 4 above) are in a heavy erosion area of Kitty Hawk Beach. Accordingly, this factor was taken into consideration in the evaluation of the two above parcels.

SPECIAL NOTE:

Three farm parcels given to the daughters of Mrs. Howell and later sold by them on the Open Market. Either an updated present value figure is given, or the actual selling price (the two sold in 1976) is listed, in order that an equitable value figure can be arrived at in any division of her property desired by Mrs. Howell

1. The Jim Turner Place or Winstead Farm - located in northwest corner of Va. #641 and #646 fronting on the Franklin-Sedley Road (Va. #641) - containing 77 acres (actual survey) - 46.6 acres open, and 30.4 acres woods with 12.8 acres peanut allotment. Sold on February 12, 1976 for \$95,000.00. In my opinion, this is a fair value for this tract. Value : \$95,000.00 (S. Earl & Peggy H. Johnson to Bobby Caulder)
2. Denson-Whitehead Farm - located due east of and adjacent to the Hedgepeth Farm in this appraisal; has frontage on Nottoway River; contains 381 acres (actual survey) - 91.6 acres open, 289.4 woods with a 24 acre peanut allotment. Sold April 7, 1976 for \$130,000.00. In my opinion, this is a fair value for this tract. Value : \$130,000.00 (Edward O. and Lynda H. Bond to William Howell)
3. Farm of four (4) Tracts: Birdsong, Lucy Turner, A. W. Turner and Mitchell Blythe Tracts. - Located on Va. #643, Bethel Church Road leading from Va. #641 (Franklin to Sedley Road); bulk of farm is on the east side of the road with open land of 14.2 acres plus small area of woods on West side of this road. Farm as a whole has 36.8 acres of peanut allotment. As there are 4 tracts concerned here, with the usual "more or less" figure given for each of the 4 tract acreages and no survey map, it would be hard to get the exact acreage for a grand total. Since I was instructed to treat all woodland as cut-over about 1960, and due to the time lapse involved to 1976, I think it only fair to update the sales price received in 1967 (given to S. Earl and Peggy Johnson October 25, 1962) by 9 years to this date in 1976 in order to arrive at an equitable total value figure for what is involved in these proceedings. Farm sold to Marvin Whitley by the owners on June 12, 1967 as determined by this appraiser from the records in the Clerk's Office in Courtland (DB 177-page 214). From what I can determine, the timber sold previously amounted to \$50,000.00 plus \$84,000.00 for the exchange sale of the property in question equal \$134,000.00 attributable to the said owners S. Earl and Peggy H. Johnson. As the open land had no drain tile when owned by the Johnsons, and considering the fact it was on a dirt road, along with other information given me, in my opinion this farm would not have advanced in value as much as most of the prime farm land in Southampton County has increased in the 9 year time interval. A figure of 8% increase

per year is in order in this instance for a total increase of 72% on \$134,000.00 or \$96,480.00 making the present 1976 value of the whole farm (4 tracts) to be \$230,480.00, by this method.

Using the same acreage (open and woods) as existed in 1967, and applying present day values, the farm would be worth \$279,100 by my calculations. The average of these two figures by the two methods employed above would give what I consider an equitable fair market value of these 4 tracts as a whole, that is as one farm, the amount of \$254,790.00 Rounded Value : \$254,800.00

QUALIFICATIONS OF APPRAISER

Herbert G. Cobb, Jr., Realtor, is a Licensed Real Estate Broker of 501 North Main Street, Franklin, Virginia. He has served as an appraiser for estates, banks, individual properties and Mortgage Companies, concerning properties in Isle of Wight, Nansemond, Southampton, Sussex, Surry and Greenville Counties, Virginia; and in Gates, Hertford, Northampton, Halifax, and Edgecombe Counties of North Carolina, plus various parcels on the Outer Banks in Dare County. He is currently the City Assessor for the City of Franklin, Virginia, an appraiser for the Veterans Administration and the area appraiser for the Virginia National Bank for Virginia and North Carolina properties. He has served as a witness and testified in numerous court actions involving land condemnation cases and annexation cases. In the last several years, approximately 80% of his time has been devoted to appraisal work, which includes assignments from VEPCO for Right of Way appraisals, and the Franklin, Va. Redevelopment and Housing Authority. He has been in the general Real Estate business for over twenty years and is a lifelong resident of Southampton County, Virginia.

October 20, 1976

Mr. J. Lewis Rawls, Jr.
Attorney at Law
P. O. Box 1458
Suffolk, Virginia 23434

Mrs. Josephine S. Howell
Route #3, Box #85
Franklin, Virginia 23851

Re: Supplement to Appraisal made for Mrs. Josephine S. Howell, dated October 15, 1976 - to show value of improvement and two (2) lots previously given to Lynda H. Bond around 1960 - Value as October 15, 1976

Dear Madam and Sir:

It was called to this appraiser's attention that he had inadvertently overlooked including the value of the above in the report submitted as of October 15, 1976. This property consisting of two lots and a brick residence was given to Lynda Howell Bond around 1960. Herewith follows my current evaluation of the same, and it is to be designated as Item "D" on page #2 of the covering letter in the October 15th, 1976 appraisal under paragraph, "FOR INFORMATION PURPOSES".:

-House and two (2) lots (one lot vacant) located in the southwest corner of the "Home Place" on the north side of Va. #684. (Property is on the west side of the two rental houses shown on the "Home Place" appraisal sheet. The improvement is a one-story brick structure with asphalt roof, Carport and 6'x7' storage room in carport. Size of house: 28'9" x 38'9"; carport: 12'x24'-
Note: Exterior and interior in good condition - with house being 15-16 years old.

Interior: living room with fireplace, dining area, kitchen, 2 bedrooms and bath (ceramic walls and floor); floor furnace heat; Oak floors except tiled floor in kitchen; dry walls Value : \$19,450.00

2 lots, each 100'x200' @\$2500 per

Value : 5,000.00
Total Value : \$24,450.00

My apologies for overlooking the above in the October 15, 1976 report.

Very truly yours,
Herbert G. Cobb, Jr.
Herbert G. Cobb, Jr.

Original w/ will in safe



BENJAMIN M. GOODMAN, JR., M. D., INC.
BNDG REG. NO. AG 2487367

P. O. BOX 816
FRANKLIN, VIRGINIA 23851-0816
TELEPHONE (804) 562-2154

January 9, 1992

Lewis Rawls
Attorney At Law
332 W. Constance Road
Suffolk, Virginia 23434

Re: Josephine S. Howell

Dear Mr. Rawls:

This is to certify that Josephine S. Howell has been my patient since 1974. She remains mentally competent to sign any and all legal documents including wills, deeds, power of attorneys, checks, etc.

Sincerely,

Benjamin M. Goodman, Jr., M. D.

BMGjr:gcb

Copies to: Josephine Howell, 1401 North High Street,
Franklin, Virginia 23851
Amelia Spivey, 26612 Dogwood Bend Road,
Franklin, Virginia 23851
Benjamin M. Goodman, Jr., M. D., P. O. Box
816, Franklin, Virginia 23851.

Exhibit # P# 6
Name Carey vs. Johnson
Case No. 99-17 Date 5-1-00
[Signature]
JUDGE

**FERGUSON, RAWLS, MACDONALD
& OVERTON, P.C.**
ATTORNEYS AND COUNSELORS AT LAW

**E. GREEN FERGUSON
REBECCA E. HABEL
JAMES G. HENDER, JR.
ROBERT G. MACDONALD
W. JEFFERY OVERTON
C. KIM PLUMMER
RANDOLPH A. RAINEY, JR.
FRANK M. RAWLS**

321 WEST CONSTANCE ROAD, POST OFFICE BOX 1468, SUFFOLK, VIRGINIA 23489-1468
TELEPHONE: (757) 594-2600 FACSIMILE: (757) 594-0933

620 CEDAR ROAD, CHESAPEAKE, VIRGINIA 23320-8313
TELEPHONE: (757) 547-9952 FACSIMILE: (757) 547-4456

**EDWIN C. FERGUSON, JR.
1917-1908
J. LEWIS RAWLS, JR.
1923-1904
EDWARD P. CHESBORN, JR.
Cf. Chesb.**

REPLY TO: SUFFOLK

April 19, 1999

Ms. Peggy H. Johnson
29406 Johnson Drive
Boykins VA 23827

Ms. Lynda Bond
P. O. Box 38
Courtland VA 23837

Ms. Betty Cauley
603 South Fayetteville Street
Clayton NC 27520

✓ Mrs. Amelia H. Spivey
26612 Dogwood Bend Road
Franklin VA 23851

Re: Estate of Josephine S. Howell

Dear Ladies:

I have been searching the office high and low to find the originals of your mother's will and one of the two codicils. We do have the original 1990 codicil. I suspect that because my father had such a special relationship with your mom, he had a "special" file for her estate documents. We cannot locate that file.

As a result, I will be required to file suit to ask the Court to establish the copies of your mother's documents as her last will and testament with the appropriate codicils being established as codicils to that last will and testament.

I would like for all of you to be petitioners in this action (assuming we continue to be unable to find the original documents).

I would appreciate your signing this letter and returning it to me in the self-addressed, stamped envelope, agreeing to be petitioners in our request for the Court to probate copies of your mother's documents.

Exhibit # P#1
Name Cauley, B. Johnson
Case No. 77-179 Date 5-1-00
[Signature]
JUDGE

FERGUSON, RAWLS, MACDONALD
& OVERTON, P.C.

April 19, 1999
Page 2

I look forward to hearing from you concerning this.

Sincerely,



Frank M. Rawls

FMR/jsr

4/26/99 10:00am

Sent Betty's letter/copy to her via UPS/next day
thru Lynda's service (\$16.50)

4/27/99 Betty rec'd and returned same day to
Rawls office

5/14/99 4-some mtg w/ Rawls

5/20/99 4-some mtg w/ Sheffer

December 8, 1977

Mrs. Josephine S. Howell
Route 3, Box 85
Franklin, Virginia 23851

Dear Mrs. Howell:

After talking to Mr. Sheffer, we believe it would be advisable for the three of us to meet and discuss significant gifts of stock in three of the Howell Corporations to your children before the end of this year.

Prior to this meeting, Peggy or Amelia should visit Mr. Sheffer with the deeds to each Corporation, so that the parcels of property conveyed into each can be identified and base established.

Just as soon as this is completed, then Mr. Sheffer, you and I can discuss the share or shares of each corporation to be given this year.

Best wishes.

Sincerely,

J. Lewis Rawls, Jr.

JLR, Jr./nsw
Copy to Mr. Frank E. Sheffer

Exhibit # P#5
Name C99.69 vs Johnson
Case No. 99479 Date 5-1-80
MDL
JUDGE

1,879,530⁰⁰
 21,450
 1,903,980

#2

3

No Corp

4

Betty
 #11 - 140,500⁰⁰
 #12 356,000
456,500⁰⁰
 #13 2,500⁰⁰
459,000⁰⁰
 #14 8,000
467,000
 #15 8,000
475,000

Lynda
 B #130,000⁰⁰
 Rental 24,450⁰⁰
 Home #154,450⁰⁰
 #1-147,400
301,850⁰⁰

Peggy
 "A" 95,000
 "C" 254,800
 #349,800
 Note = 11,000⁰⁰ *
360,800⁰⁰
 8,000
368,800⁰⁰

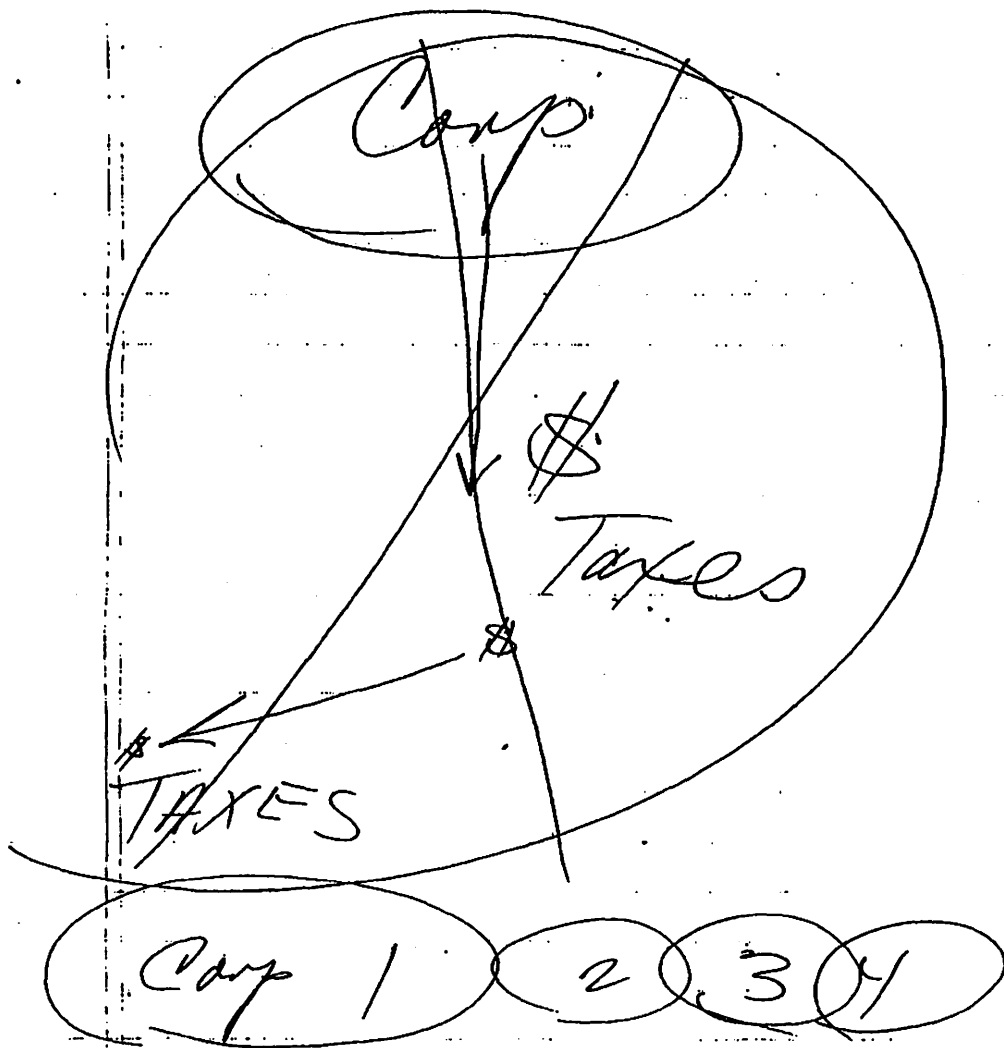
Anelia
 #1, 298,700⁰⁰
 #5 = 12,100
 #380,800
 #6 = 11,300
 #382,100
 Beck Cottage 3,500
385,600
 #7 11,100.00
 #4 #392,700⁰⁰

Hamell Corp #1

Sophia Corp
 #8 = 269,100⁰⁰
 #4 = 11,100
 #9 = 20,800
 #10 = 5,900⁰⁰
306,900

Individual
 #2 \$66,850⁰⁰
 #3 5850
72,700⁰⁰

1/5 KDH 4,086.00
76,786.00



GENEVA ELIZ
~~Billy~~ Conley -
 28000

~~Billy~~
~~Conley~~

Linda
 Bond
 130000 →
 12000
 1000
 143000

Peggy
 Johnson
 225.00

Annie Blithe
 20,000

Josephine Kavel

Josephine's note

Lynda M.V.A. — 30,000 + 17,000

Lynda Samson

29,203

Josephine Kavel	21,000
Also paid	11,000

Peggy

Lester

Security

owed 100,000

111,000

Guaranty

160,000

Original in Mrs. Howell's
possession.

LAST WILL AND TESTAMENT
OF
JOSEPHINE S. HOWELL

1977

I, JOSEPHINE S. HOWELL, a resident of the County of Southhampton, State of Virginia, do make, publish and declare this to be my Last Will and Testament, hereby revoking all wills and codicils heretofore made by me.

ITEM ONE: At the time of the execution of this will, I am the widow of Dewey Howell, and we had four children by our marriage, ELIZABETH HOWELL CAULEY, LYNDIA HOWELL BOND, PEGGY HOWELL JOHNSON and AMELIA HOWELL BLYTHE.

ITEM TWO: I direct that my funeral expenses, including the cost of a suitable memorial, be paid as a cost of administration of my estate as soon as practicable after my death.

ITEM THREE: I direct that all estate, succession, legacy, inheritance, or other transfer taxes, however designated, that shall be payable by reason of my death, whether assessed with respect to property passing under this will or otherwise, shall be paid out of and be charged against the principal of my residuary estate, without reimbursement from any person.

ITEM FOUR: Any interests that I may have in any joint bank accounts and joint savings and loan accounts and any stocks and bonds jointly in my name and that of any issue of mine, or any grandchild of mine, are hereby declared to be the sole property of such issue, or grandchild, as the case may be, and my Executors shall make no claim against them on account thereof.

ITEM FIVE: I give and bequeath unto my daughter, ELIZABETH HOWELL CAULEY, or, if she be not living at my death, to her descendants, per stirpes, all of my stock in #2 Howell Corp.

LAW OFFICES
J. LEWIS HAWES, JR.
STUFFERS, VIRGINIA

ITEM SIX: I give and bequeath unto my daughter, LYNDIA HOWELL BOND, or, if she be not living at my death, to her descendants, per stirpes, all of my stock in #3 Howell Corp.

ITEM SEVEN: I give and bequeath unto my daughter, AMELIA HOWELL BLYTHE, or, if she be not living at my death, to her descendants, per stirpes, all of my stock in #4 Howell Corp.

ITEM EIGHT: I give, devise and bequeath unto my daughter, AMELIA HOWELL BLYTHE, or, if she be not living at my death, to her descendants, per stirpes, my home place situated on the Weichman Farm and described by plat made by S. V. Camp and Associates in July of 1977, which said plat is attached to and made a part of a deed of #4 Howell Corp., dated July 15, 1977.

ITEM NINE: I give and bequeath unto each of my grandchildren living at the time of my death, whether born at the time of the execution of this will, or born hereafter, the sum of FIVE THOUSAND and 00/100 DOLLARS (\$5,000.00), and it is my hope that this sum will be used for the education of such grandchildren who may not have completed their education.

ITEM TEN: I have prepared a list for the disposition of certain items of personal property and personal paraphernalia and the persons to whom I wish these given, which list is directed to my Executors and will be kept with my personal papers. I may from time to time change this list.

ITEM ELEVEN: All the rest, residue and remainder of my property of every kind and description, and wherever located, including any lapsed or void legacy, or devise, after satisfying all the bequests and devises hereinabove set out and after the payment or provision for payment of all administrative expenses and all death taxes as hereinabove directed, I give, devise and bequeath unto my four children aforesaid, share and share alike, the descendants of any deceased child to take per stirpes.

LAW OFFICE
JAMES HAWKIN, JR.
HUPPES, VIRGINIA

ITEM TWELVE: During the minority or disability of any devisee hereunder, my Executors may, in their sole discretion, distribute income and principal to such devisee in any one of the following ways: (1) directly to said devisee; (2) to a relative, friend, guardian, or committee, to be expended by such person for the education, maintenance, support or benefit of said devisee; or (3) by themselves expending the same for the education, maintenance, support or benefit of said devisee.

ITEM THIRTEEN: I nominate and appoint J. Lewis Rawls, Jr., Elizabeth Howell Cauley and Peggy Howell Johnson, Executors of this, my Last Will and Testament. In the event the said Rawls for any reason does not qualify or, having qualified, resigns or dies while in office, then I nominate and appoint Virginia National Bank to serve in the place and stead of the said Rawls. ~~In the event that either or both Elizabeth Howell Cauley or Peggy Howell Johnson for any reason do not qualify or, having qualified, resign or die while in office, then it shall not be necessary for anyone to qualify in the place and stead of the said Elizabeth Howell Cauley or Peggy Howell Johnson.~~

~~If there be any division of opinion between the Executors, then the opinion of the said Rawls, or Virginia National Bank, shall be final and binding upon the Executors and shall be questioned by no one.~~

I direct that my Executors, or any ~~of them~~ ^{discreet}, be allowed to qualify without giving surety on their bonds, and that an appraisement of my estate be waived.

ITEM FOURTEEN: In addition to, and not in limitation of those powers granted by statute or common law, my Executors shall have all those powers, discretions and authority listed under Section 64.1-57 of the Code of Virginia of 1950, as amended.

IN WITNESS WHEREOF, I sign, seal, publish and declare this instrument to be my Last Will and Testament this 25th

LAW OFFICES
J. LEWIS RAWLS, JR.
HOPKINS, VIRGINIA

day of July , 1977, at Suffolk
Virginia.

/s/ Josephine S. Howell (SEAL)
Josephine S. Howell

The foregoing instrument was this 25th day of July, 1977, signed, sealed, published and declared as and for the Last Will and Testament of the said JOSEPHINE S. HOWELL, in the presence of the undersigned, who at her request, in her presence, and in the presence of each other, all four of us being together at the same time and place, have hereunto subscribed our names as attesting witnesses on the day and year hereinabove written.

/s/ Rebecca R. Habel of Suffolk, Va.,

/s/ Frank M. Rawls of Suffolk, Va.,

/s/ Carol T. Wills of Suffolk, Va.,

STATE OF VIRGINIA

City of Suffolk, to-wit:

Before me, the undersigned Notary Public, on this day personally appeared JOSEPHINE S. HOWELL, and

Rebecca R. Habel, Frank M. Rawls

and Carol T. Wills, known to me to be the testatrix and the witnesses, respectively, whose names are signed to the foregoing attached will, and all of these persons being by me first duly sworn, JOSEPHINE S. HOWELL, the testatrix, declared to me and to the witnesses in my presence, that said instrument is her last will and testament and that she had willingly signed the same and executed it in the presence of said witnesses as her free and voluntary act for the purposes therein expressed; that said witnesses stated before me that the foregoing attached will was executed and acknowledged by the testatrix as her last will and testament in the presence of said witnesses who in her presence and at her request, and in the presence of each other, did subscribe their names thereto as attesting witnesses on the day of the date of said will, and that the testatrix, at the time of the execution of said will, was over the age of 18 years and of sound and disposing mind and memory.

TESTATOR ^{ms.}
^{his} ^{per.}

/s/ Josephine S. Howell

WITNESSES

/s/ Rebecca R. Habel

LAW OFFICE
C. LEWIS HAWKINS, JR.
SUFFOLK, VIRGINIA

/s/ Frank M. Rawls

/s/ Carol T. Wills

Subscribed, sworn and acknowledged before me by
JOSEPHINE S. HOWELL, the testatrix, subscribed and sworn before
me by Rebecca R. Habel, Frank M.

Rawls, and Carol T. Wills

, witnesses, this 25th day of July,
1977.

My commission expires: February 5, 1980

/s/ Nancy S. Walliser
Notary Public

LAW OFFICES
I. LEWIS RAWLS, JR.
SUDDON, VIRGINIA

-5-

Original in Mrs. Howell's possession.

CODICIL TO THE WILL
OF
JOSEPHINE S. HOWELL

I, JOSEPHINE S. HOWELL, a resident of the County of Southampton, State of Virginia, do make, publish and declare this to be a Codicil to my Last Will and Testament, dated July 25, 1977.

FIRST - I do hereby revoke and cancel ITEM THREE of my said Will and, in lieu thereof, do hereby substitute the following:

ITEM THREE: I direct that all estate, succession, legacy, inheritance, or other transfer taxes, however designated, that shall be payable by reason of my death, whether assessed with respect to property passing under this Will or otherwise, together with all costs of administration of my estate, shall be paid out of and charged against the principal of my residuary estate, without reimbursement from any person, provided, however, in the event my residuary estate shall be insufficient to pay all of the aforesaid taxes and costs of administration and the devises to my grandchildren contained in Item Nine of my said Will, then I direct that my Executors shall charge equally, share and share alike, my daughters, Elizabeth Howell Cauley, Linda Howell Bond and Amelia Howell Blythe, from the bequests of stock made in Items Five, Six and Seven of my said Will.

SECOND - In all other respects, I do hereby confirm, ratify and republish my said Will.

LAW OFFICER
J. LEWIS HAWES, JR.
SUFFOLK, VIRGINIA

IN WITNESS WHEREOF, I have hereunto set my hand and seal

to this Codicil on this 26th day of October, 1977.

/s/ Josephine S. Howell (SEAL)
Josephine S. Howell

The foregoing instrument was this 26th day of October, 1977, signed, sealed, published and declared as and for a Codicil to the Will of Josephine S. Howell, in the presence of the undersigned, who at her request, in her presence and in the presence of each other, all four of us being together at the same time and place, have hereunto subscribed our names as attesting witnesses on the day and year hereinabove written.

/s/ Nancy S. Walliser of Suffolk, Virginia

/s/ Linda M. Clements of Suffolk, Virginia

/s/ Carol T. Wills of Suffolk, Virginia

STATE OF VIRGINIA

CITY OF SUFFOLK, to-wit:

Before me, the undersigned Notary Public, on this day personally appeared JOSEPHINE S. HOWELL, and

NANCY S. WALLISER, LINDA M. CLEMENTS,

and CAROL T. WILLS, known to me to be the testatrix and the witnesses, respectively, whose names are signed to the foregoing attached Codicil, and all of these persons being by me first duly sworn, JOSEPHINE S. HOWELL, the testatrix, declared to me and to the witnesses in my presence, that said instrument is a Codicil to her Last Will and Testament, and that she had willingly signed the same and executed it in the presence of said witnesses as her free and voluntary act for the purposes therein expressed; that said witnesses stated before me that the foregoing attached Codicil was executed and acknowledged by the testatrix as a Codicil to her Last Will and Testament in the presence of said witnesses, who, in her presence and at her request, and in the presence of each other, did subscribe their names thereto as attesting witnesses on the day of the date of said Codicil, and that the testatrix, at the time of the execution of said Codicil, was over the age of 18 years and of sound and disposing mind and memory.

TESTATOR

/s/ JOSEPHINE S. HOWELL

WITNESSES

/s/ Nancy S. Walliser

LAW OFFICES
J. LEWIS RAWLS, JR.
SUFFOLK, VIRGINIA

-2-

/s/ Linda M. Clements

/s/ Carol T. Wills

Subscribed, sworn and acknowledged before me by
JOSEPHINE S. HOWELL, the testatrix, and subscribed and sworn
to before me by NANCY S. WALLISER, LINDA M.
CLEMENTS and CAROL T. WILLS,
witnesses, this 26th day of October, 1977.

My commission expires: June 30, 1980

/s/ J. LEWIS RAWLS, JR.
Notary Public

LAW OFFICER
J. LEWIS RAWLS, JR.
SUDDEN, VIRGINIA

-3-

Codicil Executed 1/18/80

Originals of Will, Letter of Instruction and Codicil in RH&R Safe.

LAW OFFICES

RAWLS, HABEL & RAWLS

P. O. Box 1458

SUFFOLK, VIRGINIA 23434

J. LEWIS RAWLS, JR.
REBECCA RAWLS HABEL
FRANK M. RAWLS

AREA CODE
804
539-7426

January 16, 1980

Mrs. Josephine S. Howell
Route 3, Box 85
Franklin, Virginia 23851

Dear Mrs. Howell:

We have your Codicil ready for your signature,
and also your letter of instructions to the Executors.

It is important that, any time you advance any
sum or sums of money for the payment of the principal
(not interest) to Peggy, she acknowledge the same with
the following words:

"I acknowledge that my Mother paid
this date the sum of \$ _____ on
account of gift tax obligation created by
gift or gifts from my Mother to me.

"Dated: This ____ day of _____,
19 ____.

/s/ Peggy Howell Johnson"

Best wishes.

Sincerely,

J. Lewis Rawls, Jr.

JLR, Jr./nsw

LAST WILL AND TESTAMENT
OF
JOSEPHINE S. HOWELL

1982

I, JOSEPHINE S. HOWELL, a resident of the County of Southampton, State of Virginia, do make, publish and declare this to be my Last Will and Testament, hereby revoking all wills and codicils heretofore made by me.

ITEM ONE: At the time of the execution of this will, I am the widow of Dewey Howell, and we had four children by our marriage, ELIZABETH HOWELL CAULEY, LYNDIA HOWELL BOND, PEGGY HOWELL JOHNSON and AMELIA HOWELL BLYTHE.

ITEM TWO: I direct that my funeral expenses, including the cost of a suitable memorial, be paid as a cost of administration of my estate as soon as practicable after my death.

ITEM THREE: I direct that all costs of administration of every kind and description be paid out of and charged against the principal of my residuary estate, without reimbursement from any person. In the event my residuary estate is insufficient to pay any and all charges of every kind and description against my estate, including, but not limited to, taxes, costs of administration and any and all debts for which I am obligated at my death, then I direct that such deficit shall be paid equally by my three daughters, Elizabeth Howell Cauley, Lynda Howell Bond and Amelia Howell Blythe. It is my suggestion, but not my direction, that if possible, my three daughters, Elizabeth Howell Cauley, Lynda Howell Bond, and Amelia Howell Blythe, borrow from the corporations in which they own stock, or cause said corporations to borrow sufficient funds and then loan the same to my daughters, those sums necessary to cover any such deficits, in order that it not be necessary for any of them to dispose of corporate assets until such time as it is most advantageous for each of them so to do.

LAW OFFICES
WILLIAM H. HAYES
DUFFELL, VIRGINIA

ITEM FOUR: Any interests that I may have in any joint bank accounts and joint savings and loan accounts and any stocks and bonds jointly in my name and that of any issue of mine, or any grandchild of mine, are hereby declared to be the sole property of such issue, or grandchild, as the case may be, and my Executors shall make no claim against them on account thereof.

ITEM FIVE: I give, devise and bequeath unto my daughter, AMELIA HOWELL BLYTHE, or, if she be not living at my death, to her descendants, per stirpes, my home place situated on the Weichman Farm and described by plat made by S. V. Camp and Associates, in July of 1977, which said plat is attached to and made a part of a deed of #4 Howell Corp., dated July 15, 1977.

ITEM SIX: I give and bequeath unto my daughter, AMELIA HOWELL BLYTHE, or, if she be not living at my death, to her descendants, per stirpes, all of my stock in #4 Howell Corp. In the event #4 Howell Corp. is indebted to me at the time of my death, I do hereby forgive such debt and the forgiveness of this debt is not to be charged against the distributive share of any person.

ITEM SEVEN: I give and bequeath unto my daughter, ELIZABETH HOWELL CAULEY, or, if she be not living at my death, to her descendants, per stirpes, all of my stock in #2 Howell Corp.

ITEM EIGHT: I give and bequeath unto my daughter, LYNDIA HOWELL BOND, or, if she be not living at my death, to her descendants, per stirpes, all of my stock in #3 Howell Corp.

At the time of the execution of this will, I am an endorser on a note for my daughter, Lynda Howell Bond, and her husband. In the event it becomes necessary, because of my endorsement, on this note, or any other note, or any

LAW OFFICES
HAWES, HAWES & HAWES
SUFFOLK, VIRGINIA

renewal note, endorsed for the benefit of my said daughter, to pay any part or all of any note, either during my lifetime, or after my death, then all sums which I have paid or are paid by my estate shall be charged as a debt due my estate from my daughter, Lynda Howell Bond, and, in the event she does not pay said debt, upon the demand of my Executors, then my Executors are authorized and directed to use the assets of #3 Howell Corp. as, in their sole discretion, they deem best to recover said debt.

ITEM NINE: I give and bequeath unto my daughter, PEGGY HOWELL JOHNSON, the sum of TWENTY THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$20,500.00), which bequest is to be paid before any other devise or bequest in my will. This bequest is made to reimburse my said daughter for her obligation to pay gift taxes on a certain gift or gifts which I made during my lifetime. There shall be deducted from this bequest any sum or sums which I have advanced or I have given to my said daughter after February 5, 1980, until the time of my death, to curtail the principal amount of any indebtedness incurred by my said daughter on account of her obligation to pay the taxes referred to herein.

ITEM TEN: I have prepared a list for the disposition of certain items of personal property and personal paraphernalia and the persons to whom I wish these given, which list is directed to my Executor and will be kept with my personal papers. I may from time to time change this list.

ITEM ELEVEN: All the rest, residue and remainder of my property of every kind and description, and wherever located, including any lapsed or void legacy or devise, after satisfying all the bequests and devises hereinabove set out and after the payment or provision for payment of all administrative expenses

and all death taxes as hereinabove directed, I give, devise and bequeath unto my four children aforesaid, share and share alike, the descendants of any deceased child to take per stirpes.

ITEM TWELVE: During the minority or disability of any devisee hereunder, my Executor may, in his sole discretion, distribute income and principal to such devisee in any one of the following ways: (1) directly to said devisee; (2) to a relative, friend, guardian, or committee, to be expended by such person for the education, maintenance, support or benefit of such devisee; or (3) by themselves expending the same for the education, maintenance, support or benefit of said devisee.

ITEM THIRTEEN: I nominate and appoint J. Lewis Rawls, Jr., Executor of this, my Last Will and Testament. In the event the said J. Lewis Rawls, Jr., for any reason does not qualify, or, having qualified, resigns or dies while serving as such, then I nominate and appoint Frank M. Rawls, Executor of this, my Last Will and Testament. In the event the said Frank M. Rawls for any reason does not qualify, or having qualified, resigns or dies while serving as such, then I nominate and appoint Virginia National Bank to serve in the place and stead of the said Frank M. Rawls.

I direct that my Executor, or any successor, be allowed to qualify without giving surety on his or her bond, and that an appraisement of my estate be waived.

ITEM FOURTEEN: In addition to, and not in limitation of those powers granted by statute or common law, my Executor shall have all those powers, discretions and authority listed under Section 64.1-57 of the Code of Virginia of 1950, as amended.

IN WITNESS WHEREOF, I sign, seal, publish and declare this

LAW OFFICES
RAWLS, MARSH & RAWLS
SUFFOLK, VIRGINIA

instrument to be my Last Will and Testament this 6th day of July, 1982, at Suffolk, Virginia.

Josephine S. Howell (SEAL)
Josephine S. Howell

Signed, sealed, published and declared by Josephine S. Howell, as and for her Last Will and Testament in our presence, and we, at her request and in her presence, and in the presence of each other, have hereunto subscribed our names as witnesses the day and year above set out.

Darlene M. Gardner of Suffolk, Va.

Susan C. King of Suffolk, Va.

STATE OF VIRGINIA:

CITY OF SUFFOLK, to-wit:

Before me, the undersigned authority, on the day personally appeared Josephine S. Howell, Darlene M. Gardner and Susan C. King, known to me to be the Testatrix and the witnesses, respectively, whose names are signed to the foregoing instrument and, all of these persons being by me first duly sworn, Josephine S. Howell, the Testatrix, declared to me and to the witnesses in my presence that said instrument is her Last Will and Testament and that she had willingly signed and executed it in the presence of said witnesses as her free and voluntary act for the purpose therein expressed; that said witnesses stated before me that the foregoing Will was executed and acknowledged by the Testatrix as her Last Will and Testament in the presence of said witnesses who, in her presence and at her request, and in the presence of each other, did subscribe their names thereto as attesting witnesses on the day of the date of said will, and that the Testatrix, at the time of the execution of said will, was over the age of eighteen (18) years and of sound and disposing mind and memory.

Josephine S. Howell
Testatrix

Darlene M. Gardner
Witness

Susan C. King
Witness

LAW OFFICE
DAWLE, MARSH & MARSH
SUFFOLK, VIRGINIA

2/1/85

LAST WILL AND TESTAMENT
OF
JOSEPHINE S. HOWELL

I, JOSEPHINE S. HOWELL, a resident of the County of Southampton, Commonwealth of Virginia, do make, publish and declare this to be my Last Will and Testament, hereby revoking all other wills and codicils heretofore made by me.

ITEM ONE: At the time of the execution of this Will, I am the widow of Dewey Howell, and we had four children by our marriage, to-wit: ELIZABETH HOWELL CAULEY, LYNDA HOWELL BOND, PEGGY HOWELL JOHNSON and AMELIA HOWELL BLYTHE.

ITEM TWO: I direct that my funeral expenses, including the cost of a suitable memorial, be paid as a cost of administration of my estate as soon as practicable after my death.

ITEM THREE: I direct that all costs of administration of every kind and description be paid out of and charged against the principal of my residuary estate, without reimbursement from any person. In the event my residuary estate is insufficient to pay any and all charges of every kind and description against my estate, including, but not limited to, taxes, costs of administration and any and all debts for which I am obligated at my death, then I direct that such deficit shall be paid equally by my three daughters, Elizabeth Howell Cauley, Lynda Howell Bond and Amelia Howell Blythe. It is my suggestion, but not

LAW OFFICES
JAMES HANDEL
SAULTON, P.O.
FOLK, VIRGINIA

my direction, that if possible, my three daughters, Elizabeth Howell Cauley, Lynda Howell Bond, and Amelia Howell Blythe, borrow from the corporations in which they own stock, or cause said corporations to borrow sufficient funds and then loan the same to my daughters, those sums necessary to cover any such deficits, in order that it not be necessary for any of them to dispose of corporate assets until such time as it is most advantageous for each of them so to do.

ITEM FOUR: I give and bequeath to each of my grandchildren, living at my death, the sum of Five Hundred Dollars (\$500.00).

ITEM FIVE: I give and bequeath unto my daughter, PEGGY HOWELL JOHNSON, the sum of Ten Thousand Dollars (\$10,000.00) if she be living at the time of my death.

ITEM SIX: I give, devise and bequeath unto my daughter, AMELIA HOWELL BLYTHE, or, if she be not living at my death, to her descendants, per stirpes, all of my stock in #4 Howell Corp. In the event #4 Howell Corp. is indebted to me at the time of my death, I do hereby forgive such debt and the forgiveness of this debt is not to be charged against the distributive share of any person.

ITEM SEVEN: I give and bequeath unto my daughter, AMELIA HOWELL BLYTHE, or, if she be not living at my death, to her descendants, per stirpes, my home place situated on the Weichman

AW OFFICE
WICH, MANUEL
LAWLS, P.C.
TOLN, VIRGINIA

and described on a certain plat entitled "Plat showing Portion of Josephine S. Howell Property, Franklin Magisterial District, Southampton County, Virginia" made by S.V. Camp III Associates, dated July, 1977, which said plat is attached to and made a part of a deed to #4 Howell Corp. dated July 15, 1977.

ITEM EIGHT: I give, and bequeath unto my daughter, ELIZABETH HOWELL CAULEY, or, if she be not living at my death, to her descendants, per stirpes, all of my stock in #2 Howell Corp.

ITEM NINE: I give and bequeath unto my daughter, LYNDA HOWELL BOND, or, if she be not living at my death, to her descendants, per stirpes, any stock of Sovran Bank, N.A. which I may own at my death, my Cypress Cove Country Club Stock, and all of my stock in #3 Howell Corp., subject to the following:

At the time of the execution of this Will, I am an endorser on certain notes for my daughter LYNDA HOWELL BOND and her husband. According to verbal reports received from the banks, on January 23, 1985, I am an endorser on a note at Sovran Bank, N.A. with a principal balance of \$29,203.00, and a note at United Virginia Bank with a principal balance of \$45,860.00.

Additionally, I borrowed \$32,000.00 and paid certain debts for a portion of them prior to the execution of this Will. The sum of \$32,000.00 which I loaned her to take care of certain payroll taxes shall be considered a debt due and owing by Lynda to my estate. It is my direction that my Executor use my Sovran Bank,

LAW OFFICES
DAVID L. HANDEL
& HAWLE, P.C.
SUFFOLK, VIRGINIA

MA. Stock, Cypress Cove Country Club stock, and the assets of the Howell Corp. to pay the above indebtedness to my estate, and to satisfy any notes which I have endorsed for Lynda and her husband or which I may endorse after the execution of this will. My Executor is authorized to use his discretion, without question from anyone, as to the manner in which the assets comprising this bequest are utilized to satisfy the indebtedness and endorsements. In the event the assets comprising this bequest are not sufficient to cover such obligations at my death, then such additional funds as are necessary to pay the obligations aforesaid shall be deducted from any share which might be available to my daughter, Lynda Howell Bond, from my residuary estate.

ITEM TEN: I have prepared a list for the disposition of certain items of personal property and personal paraphernalia and the persons to whom I wish these given, which list is directed to my Executor and will be kept with my personal papers. I may from time to time change this list.

ITEM ELEVEN: All the rest, residue and remainder of my property of every kind and description, and wherever located, including any lapsed or void legacy or devise, after satisfying all the bequests and devises hereinabove set out and after the payment or provision for payment of all administrative expenses and all death taxes as hereinabove directed, I give, devise and

LAW OFFICES
HAYES, MARCEL
8 HAYES, P.O.
SUDDOCK, VIRGINIA

bequeath unto my four children aforesaid, share and share alike, the descendants of any deceased child to take per stirpes. This is subject to Lynda Howell Bond participating only in the event that she cooperates with and follows the directions of my Executor in the use of assets of #3 Howell Corp. to satisfy and pay the sums so stipulated in Item Nine of this my Last Will and Testament.

ITEM TWELVE: During the minority or disability of any devisee hereunder, my Executor may, in his sole discretion, distribute income and principal to such devisee in any one of the following ways: (1) directly to said devisee; (2) to a relative, friend, guardian, or committee, to be expended by such person for the education, maintenance, support or benefit of such devisee; or (3) by themselves expending the same for the education, maintenance, support or benefit of said devisee.

ITEM THIRTEEN: I nominate and appoint J. Lewis Rawls, Jr., Executor of this, my Last Will and Testament. In the event said J. Lewis Rawls, Jr. for any reason does not qualify, or having qualified, resigns or dies while serving as such, then I nominate and appoint Frank M. Rawls, Executor of this, my Last Will and Testament. In the event said Frank M. Rawls for any reason does not qualify, or having qualified, resigns or dies while serving as such, then I nominate and appoint Sovran Bank, N.A. to serve in the place and stead of the said Frank M. Rawls.

LAW OFFICES
RAWLS, HARRIS
& RAWLS, P.C.
SUFFOLK, VIRGINIA

I direct that my Executor, or any successor, be allowed to qualify without giving surety on his or her bond, and that an appraisement of my estate be waived.

ITEM FOURTEEN: In addition to, and not in limitation of those powers granted by statute or common law, my Executor shall have all those powers, discretions and authorities listed under Section 64.1-57 of the Code of Virginia of 1950, as amended.

IN WITNESS WHEREOF, I sign, seal, publish and declare this instrument to be my Last Will and Testament this 1st day of February, 1985.

Josephine S. Howell
Josephine S. Howell

Signed, sealed, published and declared by Josephine S. Howell, as and for her Last Will and Testament in our presence and we, at her request, and in her presence, and in the presence of each other, have hereunto subscribed our names as witnesses the day and year first above set out.

Susan C. King of Suffolk, Va.
Marilyn B. Panton of Suffolk, Va.

STATE OF VIRGINIA

CITY OF SUFFOLK, to-wit:

Before me, the undersigned authority, on the day and year first above written, personally appeared Josephine S. Howell, Susan C. King and Marilyn B. Panton, known to me to be the Testatrix and the witnesses, respectively, whose names are signed to the foregoing instrument and all of these persons being by me first duly sworn, the Testatrix declared to me and to the witnesses in my presence that

LAW OFFICES
DAVID H. HANDEL
& DAVID S. H. G.
SUFFOLK, VIRGINIA

said instrument is her Last Will and Testament and that she had willingly signed and executed it in the presence of said witnesses as her free and voluntary act for the purposes therein expressed; that said witnesses stated before me that the foregoing Will was executed and acknowledged by the Testatrix as her Last Will and Testament in the presence of said witnesses who, in her presence and at her request and in the presence of each other, did subscribe their names thereto as attesting witnesses on the day of the date of said Will, and at the time of the execution of said Will, the Testatrix was over the age of eighteen (18) years and of sound and disposing mind and memory.

Josephine S. Howell
Josephine S. Howell

Susan C. King
Witness

Marilyn B. Panton
Witness

Subscribed, sworn and acknowledged before me by the Testatrix and by Susan C. King and Marilyn B. Panton, witnesses, this 1st day of February, 1985. 9922

My commission expires: 6-1-85

[Signature]
Notary Public

original in RH+R safe

CODICIL TO THE WILL
OF
JOSEPHINE S. HOWELL

I, JOSEPHINE S. HOWELL, a resident of Southampton County, State of Virginia, do make, publish and declare this to be a Codicil to my Last Will and Testament executed February 1, 1985.

FIRST: I hereby revoke and cancel ITEM NINE of my said Will and in lieu thereof, do hereby substitute the following:

ITEM NINE: I give and bequeath unto my daughter, LYNDIA HOWELL BOND, or if she be not living at my death, to her descendants, per stirpes, all of my stock in No. 3 Howell Corp. subject to the following: At the time of the execution of this Codicil to my Will I have endorsed or signed notes for, or become the principal debtor on several obligations for the benefit of my daughter, LYNDIA HOWELL BOND and her husband, EDWARD BOND. I signed a note at United Virginia Bank in order to pay a debt of my daughter, Lynda, and her husband Edward in the amount of \$32,000.00, and in addition thereto have paid \$17,000.00 to United Virginia Bank, all of which shall be regarded as a debt due and owing to my estate; also at Sovran Bank there is a note in the amount of \$21,000.00, which my daughter is presently maintaining in a current status, but which if I or my estate must pay, shall be regarded as a debt due and payable to my estate; and in addition thereto I have paid \$11,000.00 to Sovran Bank for the account of Lynda and Edward Bond which shall also be

LAW OFFICES
RAWLS, THAMES
& RAWLS, P.C.
SUFFOLK, VIRGINIA

regarded as a debt due and owing my estate. Also at the Boykins Branch of Sovran Bank I have endorsed a note for my daughter Lynda and my son-in-law Edward Bond in the amount of \$29,203.00. If, I have to pay this note, or after my death my estate must pay this note, then it too shall be regarded as a debt due and owing my estate. I direct that my Executor shall take any and all means possible under the law to collect all of the foregoing sums due and payable to my estate, including but not limited to, obtaining judgment against the debtors for the purpose of subjecting the outstanding common stock of No. 3 Howell Corp. which I have given to Lynda Bond to the lien of such judgment. After obtaining such stock, my Executor shall vote said stock in such manner as to sell all of the assets of No. 3 Howell Corp. to satisfy the debts due and owing my estate by Lynda and Edward Bond including, but not limited to any additional debts which I create for their benefit prior to my death. In the event the 49% interest in the assets of No. 3 Howell Corp. owned by Lynda Bond are not sufficient at the time of my death to satisfy all of the debts due and owing to my Estate, then I direct my Executor under the lien of any such judgment to proceed against the undivided one-fifth interest which Lynda Bond owns in property in Kitty Hawk, North Carolina which includes two waterfront cottages and lots together with vacant lots on Lindberg Street. In addition to all of the rights, powers and discretions conferred upon my Executor hereinafter, and not in

LAW OFFICES
RAWLS, HADGE
& DAVIS, P.C.
SUFFOLK, VIRGINIA

limitation thereof, I confer upon my Executor the widest possible discretion, power and authority, which shall be questioned by no one, in the collection of the debts recited in this ITEM NINE of my Will and any other debts that might be due and owing by any other person or persons to my estate. In the event the common stock of No. 3 Howell Corp. owned by Lynda Bond at my death, and the one-fifth undivided interest in property at Kitty Hawk, North Carolina mentioned hereinbefore are not sufficient to cover the obligations of Lynda Bond and her husband at my death, then such additional funds as are necessary to pay said obligations, shall be deducted from her share of my residuary estate which might be available to my said daughter, Lynda Howell Bond.

SECOND: I do hereby add a new item to my Will which shall read as follows:

ITEM FIFTEEN: I have pledged with Sovran Bank, as security, certificates in the amount of \$111,000.00 on account of a debt due and owing to Sovran Bank by my daughter, Peggy H. Johnson and her husband. In the event the Johnsons are unable to make such arrangements as are necessary to release my certificates to my Executor within six (6) months after the date of my death, I direct my Executor, if he, in his sole discretion deems it necessary, to obtain judgment against my said daughter and her husband and to use all such means as are available under the law to collect this debt.

THIRD: In all other respects I do hereby confirm, ratify

LAW OFFICES
RAWLS, MADGE
& RAWLS, P.C.
SUFFOLK, VIRGINIA

and republish my said Will.

IN WITNESS WHEREOF, I have hereunto set my hand and seal to this Codicil on the 2nd day of September, 1987.

Josephine S. Howell
Josephine S. Howell

Signed, sealed, published and declared by Josephine S. Howell as and for a Codicil to her Last Will and Testament in our presence, and we at her request and in her presence and in the presence of each other, have hereunto subscribed our names as witnesses the day and year first above written.

Thye O'Brien of Chesapeake, Va.

James Smith of Suffolk, VA

COMMONWEALTH OF VIRGINIA
CITY OF SUFFOLK, to-wit:

Before me, the undersigned authority, on the day and year first above written, personally appeared Josephine S. Howell, Thye O'Brien and James Smith, known to me to be the Testator and the witnesses, respectively, whose names are signed to the foregoing instrument and all of these persons being by me first duly sworn, the Testator declared to me and to the witnesses in my presence that said instrument is a Codicil to her Last Will and Testament and that she had willingly signed and executed said Codicil in the presence of said witnesses as her free and voluntary act for the purposes therein expressed; that said witnesses stated before me that the foregoing Codicil was executed and in the presence of said witnesses who, in her presence and at her request and in the presence of each other, did subscribe their names thereto as attesting witnesses on the day of the date of said Codicil at the time of the execution of said Codicil, the Testator was over the age of eighteen (18) and of sound and disposing mind and memory.

Josephine S. Howell
Josephine S. Howell

LAW OFFICE
RAWLS, STABLE
& RAWLS, P.C.
SUFFOLK, VIRGINIA

Kaye Wilson
Witness

Jane Smith
Witness

Subscribed, sworn and acknowledged before me by the Testator and
by Kaye Wilson and Jane Smith
witnesses, this 21st day of September, 1987.

My Commission Expires: March 5, 1989

Leona C. Cichon
Notary Public

CODICIL TO WILL

OF

JOSEPHINE S. HOWELL

I, JOSEPHINE S. HOWELL, a resident of Southampton County, State of Virginia, do make, publish and declare this to be a Codicil to my Last Will and Testament, dated February 1, 1985.

FIRST - I do hereby revoke and cancel ITEM NINE of my said Will and in lieu thereof, do hereby substitute the following:

ITEM NINE: I give and bequeath unto my daughter, LYNDIA HOWELL BOND, or if she be not living at my death, to her descendants, per stirpes, all of my stock in No. 3 Howell Corp. subject to the following: At the time of the execution of this Codicil to my Will I have endorsed or signed notes for, or become the principal debtor on several obligations for the benefit of my daughter, LYNDIA HOWELL BOND and her husband, EDWARD BOND. I signed a note at United Virginia Bank in order to pay a debt of my daughter, Lynda, and her husband Edward in the amount of \$32,000.00, and in addition thereto have paid \$17,000.00 to United Virginia Bank, all of which shall be regarded as a debt due and owing to my estate; also at Sovran Bank there is a note in the amount of \$21,000.00. which my daughter is presently maintaining in a current status, but which if I or my estate must pay, shall

LAW OFFICES
HOWELL, HANDEL
& HAVEN, P.C.
AUSTIN, VIRGINIA

be regarded as a debt due and payable to my estate; and in addition thereto I have paid \$11,000.00 to Sovran Bank for the account of Lynda and Edward Bond which shall also be regarded as a debt due and owing my estate. Also at the Boykins Branch of Sovran Bank I have endorsed a note for my daughter Lynda and my son-in-law Edward Bond in the amount of \$29,203.00. If, I have to pay this note, or after my death my estate must pay this note, then it too shall be regarded as a debt due and owing my estate. I direct that my Executor shall take any and all means possible under the law to collect all of the foregoing sums due and payable to my estate, including but not limited to, obtaining judgment against the debtors for the purpose of subjecting the outstanding common stock of No. 3 Howell Corp. which I have given to Lynda Bond to the lien of such judgment. After obtaining such stock, my Executor shall vote said stock in such manner as to sell all of the assets of No. 3 Howell Corp. to satisfy the debts due and owing my estate by Lynda and Edward Bond including, but limited to any additional debts which I create for their benefit prior to my death. In the event the 49% interest in the assets of No. 3 Howell Corp. owned by Lynda Bond are not sufficient at the time of my death to satisfy all of the debts due and owing to my Estate, then I direct my Executor under the lien of any such judgment to proceed against the undivided one-fifth interest which Lynda Bond owns in property in Kitty Hawk, North Carolina which includes two waterfront cottages and lots

LAW OFFICES
FRANK E. SHEFFER
& LAWRENCE D. DUNN
SUFFOLK, VIRGINIA

together with vacant lots on Lindberg Street. In addition to all of the rights, powers and discretions conferred upon my Executor hereinafter, and not in limitation thereof, I confer upon my Executor the widest possible discretion, power and authority, which shall be questioned by no one, in the collection of the debts recited in this ITEM NINE of my Will and any other debts that might be due and owing by any other person or persons to my estate. In the event the common stock of No. 3 Howell Corp. owned by Lynda Bond at my death, and the one-fifth undivided interest in property at Kitty Hawk, North Carolina mentioned hereinbefore are not sufficient to cover the obligations of Lynda Bond and her husband at my death, then such additional funds as are necessary to pay said obligations, shall be deducted from her share of my residuary estate which might be available to my said daughter, Lynda Howell Bond, and she shall use all means available under the law to collect any sums then due and payable to my estate.

SECOND: I do hereby revoke and cancel ITEM THIRTEEN of my said Will and in lieu thereof do hereby substitute the following:

ITEM THIRTEEN: I nominate and appoint my daughter, Amelia H. Spivey, Executor of this my Last Will and Testament. In the event my said daughter, Amelia H. Spivey, for any reason does not qualify, or having qualified, resigns or dies while serving as such, then I nominate and appoint my

LAW OFFICES
RAWLS, BARNETT
& RAWLS, P.C.
SUFFOLK, VIRGINIA

daughter Geneva H. Cauley and Sovran Bank, N.A. to serve as Executors in the place and stead of Amelia H. Spivey. In the event my daughter Geneva H. Cauley does not qualify, or having qualified, resigns or dies while serving as such, it shall not be necessary for any other person to qualify and serve with Sovran Bank, N.A. as Executor of this my will.

I direct that my Executor, or any successor, be allowed to qualify without giving surety on his, her or its bond, and that an appraisement of my estate be waived.

THIRD: I do hereby add a new item to my Will which shall read as follows:

ITEM FIFTEEN: I have pledged with Sovran Bank, as security, certificates in the amount of \$111,000.00 on account of a debt due and owing to Sovran Bank by my daughter, Peggy H. Johnson and her husband. In the event the Johnsons are unable to make such arrangements as are necessary to release my certificates to my Executor within six (6) months after the date of my death, I direct my Executor, if he, in his sole discretion deems it necessary, to obtain judgment against my said daughter and her husband and to use all such means as are available under the law to collect this debt.

FOURTH: In all other respects I do hereby confirm, ratify, and republish my said Will.

IN WITNESS WHEREOF, I sign, seal, publish and declare

LAW OFFICES
DAVID H. JAMES
A HAYES, P.C.
SUFFOLK, VIRGINIA

IN WITNESS WHEREOF, I sign, seal, publish and declare
this instrument to be a Codicil to my Last Will and Testament
this 10th day of May, 1990, at Suffolk, Virginia.

Josephine S. Howell (SEAL)
Josephine S. Howell

Signed, sealed, published and declared by JOSEPHINE S. HOWELL
as and for and to be a Codicil to her Last Will and Testament
in our presence and we, at her request and in her presence
and in the presence of each other, have hereunto subscribed
our names as witnesses the day and year above set out.

Sherry Marshall of Smithfield, VA
Raymond Benson of Chesapeake, VA

STATE OF VIRGINIA
CITY OF SUFFOLK, to-wit:

Before me, the undersigned authority, on this day
personally appeared JOSEPHINE S. HOWELL, Sherry Marshall,
and Raymond Benson, known to me to be the Testator
and the witnesses, respectively, whose names are signed to
the foregoing instrument and all of these persons being by me
first duly sworn, JOSEPHINE S. HOWELL, the Testator, declared
to me and to the witnesses in my presence that said
instrument is a Codicil to her Last Will and Testament and
that she had willingly signed and executed it in the presence
of said witnesses as her free and voluntary act for the
purpose therein expressed; that said witnesses stated before
me that the foregoing Codicil to her Last Will and Testament
in the presence and at her request, and in the presence of
each other, did subscribe their names thereto as attesting
witnesses on the day of the date of said Codicil and that the
Testator, at the time of the execution of said Codicil, was
over the age of eighteen (18) years and of sound and
disposing mind and memory.

Josephine S. Howell
TESTATOR
Sherry Marshall
WITNESS
Raymond Benson
WITNESS

NOTED
L.M. TADDE
WILL. D.C.
-LA. VIRGINIA

Subscribed and sworn and acknowledged before me by JOSEPHINE S. HOWELL, the Testator, and subscribed and sworn before me by Sherry M. Caldwell and Clare O. Gorman witnesses, this 10th day of May, 1990.

Clare O. Gorman
Notary Public

My Commission expires: Dec 14 1993

LAW OFFICES
JAMES M. HOWELL
FARMER, VA.
FARMER, VIRGINIA

1931
22. 9. 1931
January, 1932

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That I, Josephine S. Howell of Southampton County, Virginia, have made, constituted and appointed and by these presents do make, constitute and appoint Peggy H. Johnson of Southampton County, Virginia and Amelia H. Blythe of Southampton County, Virginia, either of whom may act independently of the other, my true and lawful Attorneys-in-Fact, for me and in my name and stead.

1. To sell, barter, exchange lease, encumber or dispose of any or all real estate of which I may now, or hereafter, be seized and possessed in fee simple, or for any less estate, to any person or persons for any price, or in any manner whatsoever, and for these purposes to sign, seal, acknowledge, and/or deliver any deed or deeds, lease or leases, deed of trust or covenants or warranty against all person, or any other covenants whatsoever, as my said Attorney may deem expedient, and to manage any such lands, and erect building thereon, and to manage, repair, alter, rebuild, or reconstruct any buildings, house or other structures or any part, or parts thereof, that now may, or hereafter, be erect upon any such lands;

2. To purchase any real estate of my account, in fee simple or otherwise, at any price or any exchange whatsoever, and for these purposes to receive, confirm, make and execute any contracts, deeds, conveyances or other instruments whatsoever;

3. To enter upon and take possession of any lands, buildings, tenements or other structures, or any part, or parts thereof, that may belong to me, or to the possession whereof I may be entitled, and to ask, collect and receive any rents, profits, issues or income of any and all of such lands, buildings, tenements or other structures, or of any part of parts, thereof;

LAW OFFICES
AWLER, HARRIS & HAWES
SUFFOLK, VIRGINIA

4. To sell any and all shares of stock, bonds or other securities now, or hereafter, belonging to me, and to make, execute and deliver any assignment, or assignments, of any such shares of stocks, bonds or other securities, so paid for, with one or more powers of attorney to transfer the same, of any of them;

5. To purchase any shares of stocks, bonds or other securities on my account for such prices and to such amounts as my said Attorney may deem best;

6. To demand, sue for, collect, recover and receive all goods, claims, debts, moneys, interest, dividends, and demands whatsoever now due, or that may hereafter be due, or belong to me (including the right to institute any action, suit or legal proceeding, for the recovery of any land, buildings, tenements, or other structures, or any part, or parts thereof, to the possession whatsoever I may be entitled), and to make, execute and deliver receipts or other discharges therefor, under seal, or otherwise;

7. To defend, settle, adjust, compound, submit to arbitration and compromise all actions, suits, accounts, reckonings, claims, and demands, whatsoever, that now are or hereafter shall be pending between me and any person, firm or corporation, in such manner and in all respects as my said Attorney shall think fit;

8. To make, execute, endorse, accept and deliver any and all checks, drafts and notes;

9. To pay all sums of money, at any time or times that may hereafter be owing by me upon any check, draft or note made, executed, endorsed, accepted and/or delivered by me, or for me and in my name, by my said Attorney.

10. To deposit in any banking institution in my name, or otherwise as my said attorney shall think fit, any moneys received under these presents, and to withdraw the same;

LAW OFFICES
AWER, HADREL & TAWLES
SUFFOLK, VIRGINIA

11. To pay over to or apply for my benefit such sum or sums as I am to request of my said Attorney or my said Attorney shall deem needful or desirable for my comfortable support and maintenance, including medical, surgical, hospital or other care;

12. To vote shares of stock owned by me at Stockholders meetings in person or by special, limited or general proxy, but without power of substitution.

13. To file any income tax return or returns required by the United States of America, or by the State of Virginia, or any political subdivision thereof;

14. To hire accountants, attorneys-at-law, clerks, workmen and others, to remove them, and appoint others in their place and to pay and allow to the persons to be so employed such salaries, wages or other remuneration, as my said Attorney shall think fit;

15. To enter into, make, sign, execute and deliver, acknowledge and perform any contract, agreement, writing, or thing, that may in the opinion of my said Attorney be necessary or proper, to be entered into, made or signed, sealed, executed, delivered, acknowledged or performed;

16. Without, in any wise, limiting the foregoing, generally to do, execute and perform any other act, deed, matter or thing whatsoever, that ought to be done, executed and performed, or that in the opinion of my said Attorney, ought to be done, executed or performed in and about the premises of every nature and kind, whatsoever, as fully and effectually as I could do, if personally present;

17. This Power of Attorney shall not terminate upon the disability, incompetence or incapacity of the principal herein,

And I, the said Josephine S. Howell, do hereby ratify and confirm all whatsoever my said Attorney, or her agents or employees, shall do, or cause to be done, in or about the premises, by virtue of this Power of Attorney.

LAW OFFICES
RAWLS, TADES & RAWLS
SUFFOLK, VIRGINIA

IN WITNESS WHEREOF, I have hereunto set my hand and seal
at Franklin Va, Virginia, this 31 day of
July, 1980.

Josephine S. Howell (SEAL)
Josephine S. Howell

STATE OF VIRGINIA,

CITY OF Franklin, to-wit:

I, Carleton R. Drake, a Notary Public in and for
the City and State aforesaid, do hereby certify that Josephine
S. Howell, whose name is signed to the foregoing writing bearing
date the 31st day of July, 1980, has
acknowledged the same before me in my City and State aforesaid.

Given under my hand this 31st day of July, 1980.

My commission expires: October 5, 1981.

Carleton R. Drake
Notary Public

	Josephine S. Howell	
	TO:	
	POWER OF ATTORNEY	
	Peggy H. Johnson Amelia H. Blythe	
	LAW OFFICES RAWLS, HABEL & RAWLS P. O. BOX 1438 SUYDOLT, VIRGINIA 22404	

CODICIL TO WILL

OF

JOSEPHINE S. HOWELL

I, JOSEPHINE S. HOWELL, a resident of the Southhampton County, State of Virginia, do make, publish and declare this to be a Codicil to my Last Will and Testament, executed February 1, 1985.

FIRST: I hereby revoke and cancel ITEM SECOND of my Codicil dated May 10, 1990, which revoked and canceled ITEM THIRTEEN of my said Last Will and Testament, and in lieu thereof, I do hereby substitute the Following:

ITEM THIRTEEN: I nominate and appoint my daughters, Geneva H. Cauley and Amelia H. Spivey as Co-Executors of this my Last Will and Testament. If either daughter cannot qualify, or having qualified, resigns or dies while serving as such, I direct that my other daughter may serve alone as the sole Executor of this Will. If neither of said daughters qualifies, or having qualified, both of them resign or dies while serving as Executor, I nominate and appoint Rebecca R. Habel or Frank M. Rawls as Executor of this my Last Will and Testament.

I direct that my Executor or any successor be allowed to qualify without giving security on his or her bond, and that an appraisal of my estate be waived.

LAW OFFICES
HOUVEN AND WATSON
SOUTHAMPTON, VIRGINIA

Frank E. Sheffer

SECOND: In all other respects, I do hereby confirm, ratify, and republish my said Last Will and Testament and any other Codicils executed by me prior to this Codicil.

IN WITNESS WHEREOF, I have hereunto set my hand and seal to this Codicil this 14 day of May, 1992.

Josephine S. Howell (SEAL)
Josephine S. Howell

Signed, sealed, published and declared by Josephine S. Howell, as and for her Last Will and Testament, in our presence, and we, at her request, and in her presence, and in the presence of each other, have hereunto subscribed our names as witnesses the day and year above set out.

John D. Hays of Suffolk, VA

Thomas H. Hays of Suffolk, VA

STATE OF VIRGINIA:
CITY OF SUFFOLK, to-wit:

Before me, the undersigned authority, on the day personally appeared Josephine S. Howell, Ruth A. Henson and Norma Henson, known to me to be the Testator and witnesses, respectively, whose names are signed to the foregoing instrument, and all of these persons being by me first duly sworn, Josephine S. Howell, the Testator, declared to me and to the witnesses in my presence that said instrument is her Last Will and Testament and that she had freely signed and executed it in the presence of said witnesses as her free and voluntary act for the purpose therein expressed; that said witnesses stated before me that the foregoing Will was executed and acknowledged by the Testator as her Last Will and Testament in the presence of said witnesses who, in her presence and at her request and in the presence of each other, did subscribe their names thereto as attesting witnesses on the day of the date of said Will, and that the Testator, at the time of the execution of said Will, was over the age of eighteen (18) years and of sound and disposing mind and memory.

Josephine S. Howell
Testator

Ruth A. Henson
Witness

Norma Henson
Witness

Subscribed and sworn and acknowledged before me by Josephine S. Howell, the Testator, subscribed and sworn before me by Ruth A. Henson and Norma Henson, witnesses, this 14th day of May, 1992.

Frank E. Sheffer
Notary Public

My commission expires: August 31, 1995

392
Codicil

FERGUSON AND RAWLS

A PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELLORS AT LAW

502 WEST CONSTANCE ROAD

SUFFOLK, VIRGINIA 23434-1458

(804) 630-2400

REPLY TO:

POST OFFICE BOX 1458
SUFFOLK, VIRGINIA 23434

March 16, 1992

Ms. Josephine Howell
1410 North High Street
Franklin, Virginia 23851

FOR PROFESSIONAL SERVICES RENDERED

Rebecca R. Habel fee for services rendered

Preparation of Codicil

\$ 50.00

TOTAL AMOUNT DUE:

\$ 50.00

#299
5/13/92

RRH/dmh

FERGUSON AND RAWLS
A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELLORS AT LAW
832 WEST CONSTANCE ROAD
P.O. Box 1458

EDWIN C. FERGUSON, JR.
E. GRIER FERGUSON
REBECCA R. HABEL
W. JEFFREY OVERTON
FRANK M. RAWLS

SUFFOLK, VIRGINIA 23434-1458

J. LEWIS RAWLS, JR.
OF COUNSEL

TELEPHONE (804) 539-2400
TELECOPIER (804) 534-0853

February 12, 1992

Mrs. Amelia H. Spivey
26612 Dogwood Bend Road
Franklin, VA 23851

Dear Mrs. Spivey:

Enclosed you will find your deed to your mother's home which has been recorded in the Southampton Circuit Court Clerk's Office in Deed Book 356 at page 628.

I have not yet finished the Howell Corp. minutes as I also handle the real estate for the firm and we have been swamped with refinances since the first of January. Hope to get these to you by the end of this month.

If you have any questions, please feel free to call.

Sincerely,

Cindy L. Powell

Enclosure

#60

BOOK 356 PAGE 628 RET: Ferguson & Rawls
Box 1458, Suffolk
23434-458

HOWELL, Josephine S., widow
TO: DEED OF GIFT
SPIVEY, Amelia H., married, femme sole

THIS DEED OF GIFT, made this 10th day of January, 1992,
by and between Josephine S. HOWELL, widow, party of the first
part, "Grantor", and Amelia H. SPIVEY, married, femme sole,
26612 Dogwood Bend Road, Franklin, Va. 23851
party of the second part, "Grantee".

WITNESSETH: That for and in consideration of the sum of
One Dollar (\$1.00), cash in hand paid, the receipt of which
is hereby acknowledged, and the mutual love and affection
which the party of the first part bears for the party of the
second part, the party of the first part does hereby grant,
convey and give unto the said party of the second part,
as her sole and separate equitable estate, free from the
control and marital rights of any present or future husband
and free from any dower rights or inchoate dower right of any
present or future husband of the party of the second part,
all of which are hereby expressly excluded, and with the sole
and separate authority in the party of the second part to
alien, convey, encumber and otherwise deal with and dispose
of the same without necessity of joinder by or with any
present or future husband of the party of the second part,
in fee simple with GENERAL WARRANTY and English Covenants of
Title, the following described property, to-wit:

All that certain piece or parcel of land situated
and being in Franklin Magisterial District,
Southampton County, Virginia and described as
follows:

BOOK 356 PAGE 629

All that certain piece or parcel of land situate and being in Southampton County, Virginia, and more particularly described by plat duly of record in Plat Book 12 at page 88 in the Clerk's Office of the County aforesaid, which said plat is entitled, "Plat Showing Portion of Josephine S. Howell Property, Franklin Magis. District, Southampton Co., Virginia", made by S. V. Camp, III and Associates, dated July 19, 1977," and on which plat the property conveyed herein is described as a parcel of land containing 4.463 acres in size, and on which is situate the homeplace of the Grantor herein.

It being a part of the same property devised to the Grantor herein by the Will of Dewey Howell duly of record in the aforesaid Clerk's Office in Will Book 25 at page 510.

This conveyance is made expressly subject to all easements, conditions, restrictions and reservations contained in duly recorded deeds, plats, and any other instruments constituting constructive notice in the chain of title to the property hereby conveyed, which have not expired by a limitation of time contained therein or have not otherwise become ineffective.

WITNESS the following signature and seal:

Josephine S. Howell (SEAL)
Josephine S. Howell

STATE OF VIRGINIA
CITY/COUNTY OF Suffolk, to-wit:

The foregoing instrument was acknowledged before me this 9th day of January, 1992, by Josephine S. Howell.

Cynthia Leigh Powell
Notary Public

My commission expires: May 14, 1993

2

LAW OFFICES
TROUBSON AND HAWES
SUFFOLK, VIRGINIA

VIRGINIA: In the Clerk's Office of the Circuit Court of Southampton County, the 9th day of January, 1992 this Deed of Gift was presented and with certificate annexed, admitted to record at 3:45 o'clock P .M., and I certify that a tax of NONE imposed by Sec. 58.1-802 of the 1950 Code of Virginia has been paid.

Tran 1.00 Teste: Wayne M. Corley Clerk
Fee & Arch. 13.00
14.00

**FERGUSON, RAWLS, MACDONALD,
OVERTON & GRISSOM, P.C.**
ATTORNEYS AND COUNSELORS AT LAW

H. GRIFF FERGUSON
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JAMES G. HOLDER, JR.
ROBERT G. MACDONALD
W. JEFFREY OVERTON
RANDOLPH A. RAINES, JR.
FRANK M. RAWLS

332 WEST CONSTANCE ROAD, POST OFFICE BOX 1458, SUFFOLK, VIRGINIA 23439-1458
TELEPHONE: (757) 539-2400 FACSIMILE: (757) 934-0953

620 CEDAR ROAD, CHESAPEAKE, VIRGINIA 23320-8913
TELEPHONE: (757) 547-8952 FACSIMILE: (757) 547-4856

EDWIN C. FERGUSON, JR.
Retired
EDWARD P. GRISSOM, JR.
Of Counsel
J. LEWIS RAWLS, JR.
1923-1994

REPLY TO: SUFFOLK

November, 2, 1998

Mrs. Amelia H. Spivey
26612 Dogwood Bend Road
Franklin VA 23851

Dear Amelia:

I first of all want to apologize for taking so long to get the corporate matter straight. Because it was my office's fault in having the error continue for so many years, we are not charging anything for what we have done to correct it.

More importantly, Judy told me the circumstances surrounding your Mom's medical condition. When you called and told me that she was having these problems and I questioned where she was, you told me she was at Southampton. You then said she was getting good care there. I was going to suggest that you get her out of there as quickly as you could because we have seen more medical malpractice cases come out of there than any other single location.

I would suggest to you that you check the medical records very soon and be sure that they accurately reflect that you called for help, you told the nurse what was happening and the nurse did not attempt to perform a Heimlich maneuver or anything else to dislodge food from her esophagus.

I am so sorry that she is in the condition she is in. Your mother, although she was elderly, was always a sparkplug. She had so much energy and so much enthusiasm. I remember her driving that big old RV around.

We will all be praying for her. I am sorry that we added to your stress at this time.

**FERGUSON, RAWLS, MACDONALD,
OVERTON & GRISSOM, P.C.**

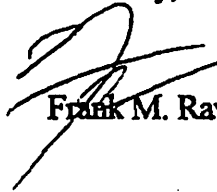
November 4, 1998

Page 2

I know you are not thinking about a medical malpractice action at this point in time. In any of your discussion with the hospital administrator, head of nursing, etc., do not mention lawsuit until you are sure that the medical records are correct. Then have a copy of the correct medical records before any noises of a medical malpractice suit are mentioned.

I hope your mother comes out of this and is able to get back to close to where she was before this horrible incident occurred.

Sincerely,



Frank M. Rawls

FMR/jsw

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TELEPHONE: (757) 547-8952 FACSIMILE: (757) 547-4856

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Of Counsel
J. LEWIS RAWLS, JR.
1923-1994

REPLY TO: SUFFOLK

July 2, 1998

Mrs. Amelia H. Spivey
26612 Dogwood Bend Road
Franklin VA 23851

Re: Howell Corporations

Dear Mrs. Spivey:

I just wanted to update you on what was going on. When you first called me, I did a slight check of minutes and stock issuance and found that there was in fact a discrepancy in regard to several of the Howell Corporations, but I have not found the time to sit down and get everything straight.

I called Mr. Sheffer because there was at least one set of minutes that called for the issuance of a large block of stock to your mother which was never issued. I asked him if he could check his records to see if it was decided not to issue the stock and he has never returned my call.

The last time you called I attempted to call you but there was no answer. Further I was out sick for almost two weeks and I have gotten far behind.

I hope you will bear with me a little longer. Hopefully I can find some time to work on this next week.

Sincerely,



Judith S. Winslow

Secretary to Frank M. Rawls

FMR/jsw

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1923-1994

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TELEPHONE: (757) 539-2400 FACSIMILE: (757) 934-0953

620 CEDAR ROAD, CHESAPEAKE, VIRGINIA 23320-8313
TELEPHONE: (757) 547-8052 FACSIMILE: (757) 547-4856

EDWIN C. FERGUSON, JR.
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Of Counsel
J. LEWIS RAWLS, JR.
1923-1994

REPLY TO: SUFFOLK

July 22, 1998

Mr. Frank E. Sheffer
Frank Edward Sheffer & Company
112 West Washington Street
Suffolk VA 23434

Re: Howell Corp. #2-4

Dear Frank:

Amelia Spivey contacted my office approximately 6 weeks ago. We had sent her the most recent minutes of stockholders and directors of the four Howell Corporations, which have not changed for the past several years.

She said that she became concerned that ownership of the stock did not accurately reflect what she thought was supposed to be an approximate 51/49% split between Josephine Howell and her daughters in the various corporations, excluding Howell Corp. #1, which is owned exclusively by Mrs. Howell.

My secretary began looking into this, and it appears that beginning in approximately 1986, the minutes had indicated that additional shares of stock were to be issued to Josephine, but that future sets of minutes do not indicate that it was ever done. In one case, the minutes indicate that the stock was issued but it never was.

Mrs. Spivey would like to have this straightened out because, as you know, her mother is now 92 years of age and, although she is now in good health, this is something that cannot be put off at this stage of her life.

Mrs. Spivey advised my secretary that Jean Baines has always taken care of the issuance of stock in these corporations. I would appreciate your checking your records regarding the above-named Howell Corps. #1-4 and advising me of the number of shares of each corporation that

FERGUSON, RAWLS, MACDONALD,
OVERTON & GRISSOM, P.C.

July 22, 1998

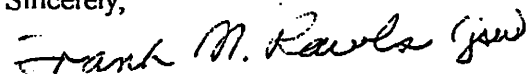
Page 2

should be issued, the date that the stock should have been issued and to whom the shares should have been issued. After you have provided us with this information, we will correct the minutes, if needed.

Please let me know if you need the minute books in order to take care of this problem.

If you have any questions or comments, please feel free to call or write.

Sincerely,

A handwritten signature in cursive script that reads "Frank M. Rawls (jmr)".

Frank M. Rawls

FMR:s

cc: Amelia Spivey

DISTRIBUTION OF HOWELL CORP. STOCK

#4 Howell Corp.

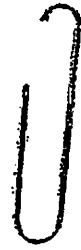
<u>Certificate No.</u>	<u>Name</u>	<u>No. Shares</u>	<u>Date</u>	<u>Void</u>
1	Josephine S. Howell	5,000	7/18/77	X
2	Amelia Howell Blythe	781 ✓	12/29/77	
3	JSH	4,219 ✓	12/29/77	X
4	JSH	4,183	12/29/78	X
5	AHB	36 ✓	12/29/78	
6	AHB	18 ✓	12/29/79	
7	JSH	4,165	12/29/79	X
8	AHB	18 ✓	12/29/80	
9	JSH	4,147	12/29/80	X
10	JSH	4,129	12/30/81	*
11	AHB	18 ✓	12/30/81	X
12	JSH	3,954	12/30/82	X
13	AHB	175 ✓	12/30/82	
14	JSH	3,779	12/30/83	X
15	AHB	175 ✓	12/30/83	
16	JSH	3,604	12/30/84	X
17	AHB	175 ✓	12/30/84	
18	AHB	175	12/30/84	
19	JSH	3,104	12/27/85	X
20	AHB	1,896	12/27/85	X

New Stock Book

1	JSH	75,000	6/1/85	*
2	JSH	63,104	12/27/87	*
3	AHB	13,800	12/27/85	*
4	JSH	52,004	12/26/86	*
5	AHB	12,800	12/26/86	*
6	AHB	12,003	3/16/87	
7	JSH	40,001	3/16/87	

*not marked void but I believe it should be

Note - In some cases the stock record indicates that stock is void but the stock certificate is not marked void. The minutes indicate that Josephine has 52,004 and Amelia Spivey has 27,996. It appears that something is incorrect, but I am not exactly sure what it is. Stock split, including shares that appear to be void, total 27,356 for Amelia and 52,003 for Josephine. Total stock issued should be 80,000. This is what the minute book indicates but the actual issuance of stock is not the same. ✓



0.*

138-00+

128-00+

120-03+

13-96+

004

399-990

400-01+

005

800-00*

DISTRIBUTION OF HOWELL CORP. STOCK

#2 Howell Corp.

<u>Certificate No.</u>	<u>Name</u>	<u>No. Shares</u>	<u>Date</u>	<u>Void</u>
1	Josephine S. Howell	5,000	7/18/77	X
2	Elizabeth Howell Cauley	672 ✓	12/29/77	
3	JSH	4,328	12/29/77	X
4	JSH	4,297	12/29/78	X
5	EHC	31 ✓	12/29/78	
6	EHC	15 ✓	12/29/79	
7	JSH	4,282	12/29/79	X
8	EHC	15 ✓	12/29/80	
9	JSH	4,267	12/29/80	X
10	JSH	4,252	12/30/81	X
11	EHC	15 ✓	12/30/81	(X)
12	JSH	4,102 ✓	12/30/82	
13	EHC	150 ✓	12/30/82	
14	JSH	3952	12/30/83	X
15	EHC	150 ✓	12/30/83	
16	JSH	3802	12/30/84	X
17	EHC	150 ✓	12/28/84	
18	JSH	3152	12/27/85	X
19	EHC	650 ✓	12/27/85	
20	JSH	2502	12/26/86	
21	EHC	650 ✓	12/26/86	

2496 EHC

*not marked void but I believe it should be

Note - stock as issued (not counting #12, which I believe should be voided) adds up to 2483 for Elizabeth and 2502 for Josephine. However, minutes of 3/11/85 indicated that 20,000 shares of stock were supposed to be issued to Josephine. This was not done. Current minutes indicate a split of 2483 for Elizabeth and 2517 for Josephine.

It appears that total # of shares issued should have been 25,000 when, in fact, shares total 4,985. Apparently when Cert. # 11 was voided, the 15 shares should have been issued back to Josephine.

July 1986 (86)
 1:4 2:4 3:4
 1:4 2:4 3:4

49,999 # 0 # 6,72+ 0,31+ 0,15+ 0,15+ 0,15+ 1,50+ 1,50+ 1,50+ 6,50+ 6,50+ 24,985

**FERGUSON, RAWLS, MACDONALD,
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ATTORNEYS AND COUNSELORS AT LAW

B. GIER FERGUSON
REBECCA R. HARRIS
JAMES C. HOLDER, JR.
ROBERT G. MACDONALD
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620 CEDAR ROAD, CHESAPEAKE, VIRGINIA 23320-6913
TELEPHONE: (757) 547-6992 FACSIMILE: (757) 547-4856

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R. A. J.
EDWARD P. GRISSOM, JR.
C. J. GRISSOM
J. LEWIS RAWLS, JR.
1923-1994

REPLY TO: SUFOLK

August 7, 1998

FAX: 539-4278

Ms. Jean Baines
Frank Edward Sheffer & Company
112 West Washington Street
Suffolk VA 23434

Re: Howell Corps. 2-4

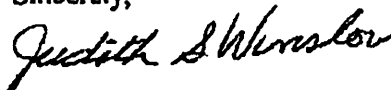
Dear Jean:

I finally got a chance to go over the stock issued in the 3 Howell corporations. Attached is a summary. Please review your records and let me know what we need to do.

There seem to be several discrepancies between the minutes and the stock records. Amelia Spivey indicates that the breakdown is supposed to be 51% for Josephine Howell and 49% for the respective daughters.

I will look forward to hearing from you.

Sincerely,



Judith S. Winslow
Secretary to Frank M. Rawls

JSW:s

Enclosures

cc: Amelia Spivey

DISTRIBUTION OF HOWELL CORP. STOCK

#3 Howell Corp.

<u>Certificate No.</u>	<u>Name</u>	<u>No. Shares</u>	<u>Date</u>	<u>Void</u>
1	Josephine S. Howell	5,000	7/18/77	X
2	Linda Howell Bond	1,114	12/29/77	
3	JSH	3,886	12/29/77	X
4	JSH	3,790	12/29/78	X
5	LHB	96	12/29/78	
6	LHB	48	12/29/79	
7	JSH	3,742	12/29/79	X
8	LHB	48	12/29/80	
9	JSH	3,694	12/29/80	X
10	JSH	3,646	12/30/81	X
11	LHB	48	12/30/81	
12	JSH	3,196	12/30/82	*
13	LHB	450	12/30/82	
14	JSH	2,746	12/30/83	*
15	LHB	450	12/30/83	
16	JSH	2,601	12/30/84	X
17	LHB	450	12/30/84	X
18	LHB	145	12/30/84	
19	JSH	11,601	12/27/85	X
20	LHB	3,000	12/27/85	
21	JSH	8,601	12/26/86	
22	LHB	3,000	12/26/86	

*not marked void but I believe it should be

Note - stock as issued (not counting #12, which I believe should be voided) adds up to 8399 for Linda and 8601 for Josephine. This corporation appears to be correct. Minutes and shares both total 17,000 shares issued.

my records show 8,399 Linda -
8601 Josephine -

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620 CEDAR ROAD, CHESAPEAKE, VIRGINIA 23320-4313
TELEPHONE: (757) 547-5952 FACSIMILE: (757) 547-4856

EDWIN C. FERGUSON, JR.
Edward
EDWARD P. GRISSOM, JR.
Of Counsel
J. LEWIS RAWLS, JR.
1923J004

REPLY TO: SUFFOLK

November, 2, 1998

Mrs. Amelia H. Spivey
26612 Dogwood Bend Road
Franklin VA 23851

Re: Howell Corporations

Dear Mrs. Spivey:

I am enclosing the stock certificates listed on the enclosed sheets of papers regarding #2 and 4 Howell Corporations.

I grouped the stock into shares that need to be signed but then will be cancelled, and have made some notations regarding shares that need to be cancelled because of errors that we do not have.

Finally, with regarding to #4 Howell Corporation, the split at this time is 43% in your name and 57% in your mother's name. It appears that it will take another two years for this corporation to reach the 51%/49% split.

I do
With regard to the minutes, unless you have an objection, I plan to change the figures to the correct figures on the existing minutes in the books. This way it will avoid having to have additional minutes signed. I will send you corrected minutes for 1998, but in the meantime I wanted to get you the stock certificates.

Sincerely,



Frank M. Rawls

FMR/jsw
Enclosures

MINUTES OF THE ANNUAL MEETING OF
THE SHAREHOLDERS OF
#4 HOWELL CORP.

The Annual Meeting of the Shareholders of #4 Howell Corp. was held at 10:00 a.m. on March 9, 1992 at the Registered Office of the Corporation.

Present at the meeting were: Josephine S. Howell, Amelia Howell Spivey and Peggy Howell Johnson.

Josephine S. Howell, Chairman, called the meeting to order and requested that Amelia Howell Spivey serve as secretary of the meeting.

The Chairman appointed Amelia Howell Spivey as a Committee to ascertain the number of shares of stock present in person or by proxy at the meeting, and upon her investigation of same, she returned the following report:

"I, Amelia Howell Spivey, a Committee to ascertain the number of shares of stock present at a meeting of the shareholders of #4 Howell Corp. on March 9, 1992, at the Registered Office of the Corporation, do hereby certify that the following shares were present in person or by proxy:

	<u>By Proxy</u>	<u>In Person</u>	<u>No. of Shares</u>
Josephine S. Howell		"	58,662
Amelia Howell Spivey		"	21,338
TOTAL SHARES			80,000

/s/ Amelia Howell Spivey

On motion, the report of the Committee was then accepted and ordered to be incorporated in the minutes of this meeting.

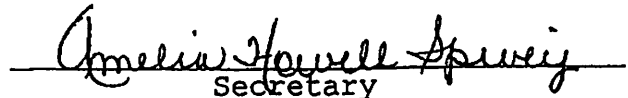
The President then stated that the next order of business was the election of directors for the coming year. Therefore, upon motion duly made, seconded and carried, the following persons were unanimously elected to serve as directors of the corporation for the coming year or until their successors are duly elected and qualify:

Josephine S. Howell
Amelia Howell Spivey
Peggy Howell Johnson

The Secretary was instructed to file the necessary report of this election with the State Corporation Commission at the proper time.

The President asked if there was any other business, and reminded those present that the Annual Meeting of the Directors would be held immediately upon the adjournment of this meeting.

There being no further business, the meeting was thereupon duly adjourned.


Secretary

MINUTES OF THE ANNUAL MEETING
OF THE DIRECTORS OF
#4 HOWELL CORP.

The regular annual meeting of the Board of Directors of #4 Howell Corp. was held at 10:30 a.m. on March 9, 1992 at the Registered Office of the Corporation.

The following, being all of the directors, were present: Josephine S. Howell, Amelia Howell Spivey and Peggy Howell Johnson.

The President and Secretary assumed their respective duties.

Upon motion duly made and seconded, the following were unanimously elected officers of the corporation to serve for the coming year or until their successors are elected and qualify:

Josephine S. Howell	President/Treasurer
Peggy Howell Johnson	Vice President
Amelia Howell Spivey	Secretary

There being no further business appearing, the meeting was adjourned, upon motion, duly seconded and carried.

Amelia Howell Spivey
Amelia Howell Spivey, Secretary

MINUTES OF THE ANNUAL MEETING OF
THE SHAREHOLDERS OF
#4 HOWELL CORP.

The Annual Meeting of the Shareholders of #4 Howell Corp. was held at 10:00 a.m. on March 8, 1993 at the Registered Office of the Corporation.

Present at the meeting were: Josephine S. Howell, Amelia Howell Spivey and Peggy Howell Johnson.

Josephine S. Howell, Chairman, called the meeting to order and requested that Amelia Howell Spivey serve as secretary of the meeting.

The Chairman appointed Amelia Howell Spivey as a Committee to ascertain the number of shares of stock present in person or by proxy at the meeting, and upon her investigation of same, she returned the following report:

"I, Amelia Howell Spivey, a Committee to ascertain the number of shares of stock present at a meeting of the shareholders of #4 Howell Corp. on March 8, 1993, at the Registered Office of the Corporation, do hereby certify that the following shares were present in person or by proxy:

	<u>By Proxy</u>	<u>In Person</u>	<u>No. of Shares</u>
Josephine S. Howell		"	56,235
Amelia Howell Spivey		"	23,765
TOTAL SHARES			80,000

/s/ Amelia Howell Spivey

On motion, the report of the Committee was then accepted and ordered to be incorporated in the minutes of this meeting.

The President then stated that the next order of business was the election of directors for the coming year. Therefore, upon motion duly made, seconded and carried, the following persons were unanimously elected to serve as directors of the corporation for the coming year or until their successors are duly elected and qualify:

Josephine S. Howell
Amelia Howell Spivey
Peggy Howell Johnson

The Secretary was instructed to file the necessary report of this election with the State Corporation Commission at the proper time.

The President asked if there was any other business, and reminded those present that the Annual Meeting of the Directors would be held immediately upon the adjournment of this meeting.

There being no further business, the meeting was thereupon duly adjourned.

Amelia Howell Spivey
Secretary

MINUTES OF THE ANNUAL MEETING
OF THE DIRECTORS OF
#4 HOWELL CORP.

The regular annual meeting of the Board of Directors of #4 Howell Corp. was held at 10:30 a.m. on March 8, 1993 at the Registered Office of the Corporation.

The following, being all of the directors, were present: Josephine S. Howell, Amelia Howell Spivey and Peggy Howell Johnson.

The President and Secretary assumed their respective duties.

Upon motion duly made and seconded, the following were unanimously elected officers of the corporation to serve for the coming year or until their successors are elected and qualify:

Josephine S. Howell	President/Treasurer
Peggy Howell Johnson	Vice President
Amelia Howell Spivey	Secretary

There being no further business appearing, the meeting was adjourned, upon motion, duly seconded and carried.

Amelia Howell Spivey
Amelia Howell Spivey, Secretary

MINUTES OF THE ANNUAL MEETING OF
THE SHAREHOLDERS OF
#4 HOWELL CORP.

The Annual Meeting of the Shareholders of #4 Howell Corp. was held at 10:00 a.m. on March 14, 1994 at the Registered Office of the Corporation.

Present at the meeting were: Josephine S. Howell, Amelia Howell Spivey and Peggy Howell Johnson.

Josephine S. Howell, Chairman, called the meeting to order and requested that Amelia Howell Spivey serve as secretary of the meeting.

The Chairman appointed Amelia Howell Spivey as a Committee to ascertain the number of shares of stock present in person or by proxy at the meeting, and upon her investigation of same, she returned the following report:

"I, Amelia Howell Spivey, a Committee to ascertain the number of shares of stock present at a meeting of the shareholders of #4 Howell Corp. on March 14, 1994, at the Registered Office of the Corporation, do hereby certify that the following shares were present in person or by proxy:

	<u>By Proxy</u>	<u>In Person</u>	<u>No. of Shares</u>
Josephine S. Howell		"	53,947
Amelia Howell Spivey		"	26,053
TOTAL SHARES			80,000

/s/ Amelia Howell Spivey

On motion, the report of the Committee was then accepted and ordered to be incorporated in the minutes of this meeting.

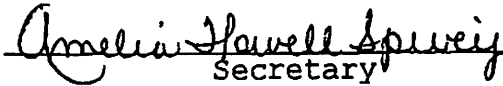
The President then stated that the next order of business was the election of directors for the coming year. Therefore, upon motion duly made, seconded and carried, the following persons were unanimously elected to serve as directors of the corporation for the coming year or until their successors are duly elected and qualify:

Josephine S. Howell
Amelia Howell Spivey
Peggy Howell Johnson

The Secretary was instructed to file the necessary report of this election with the State Corporation Commission at the proper time.

The President asked if there was any other business, and reminded those present that the Annual Meeting of the Directors would be held immediately upon the adjournment of this meeting.

There being no further business, the meeting was thereupon duly adjourned.


Secretary

MINUTES OF THE ANNUAL MEETING
OF THE DIRECTORS OF
#4 HOWELL CORP.

The regular annual meeting of the Board of Directors of #4 Howell Corp. was held at 10:30 a.m. on March 14, 1994 at the Registered Office of the Corporation.

The following, being all of the directors, were present: Josephine S. Howell, Amelia Howell Spivey and Peggy Howell Johnson.

The President and Secretary assumed their respective duties.

Upon motion duly made and seconded, the following were unanimously elected officers of the corporation to serve for the coming year or until their successors are elected and qualify:

Josephine S. Howell	President/Treasurer
Peggy Howell Johnson	Vice President
Amelia Howell Spivey	Secretary

There being no further business appearing, the meeting was adjourned, upon motion, duly seconded and carried.

Amelia Howell Spivey
Amelia Howell Spivey, Secretary

MINUTES OF THE ANNUAL MEETING OF
THE SHAREHOLDERS OF
#4 HOWELL CORP.

The Annual Meeting of the Shareholders of #4 Howell Corp. was held at 10:00 a.m. on March 13, 1995 at the Registered Office of the Corporation.

Present at the meeting were: Josephine S. Howell, Amelia Howell Spivey and Peggy Howell Johnson.

Josephine S. Howell, Chairman, called the meeting to order and requested that Amelia Howell Spivey serve as secretary of the meeting.

The Chairman appointed Amelia Howell Spivey as a Committee to ascertain the number of shares of stock present in person or by proxy at the meeting, and upon her investigation of same, she returned the following report:

"I, Amelia Howell Spivey, a Committee to ascertain the number of shares of stock present at a meeting of the shareholders of #4 Howell Corp. on March 13, 1995, at the business office of the Corporation, do hereby certify that the following shares were present in person or by proxy:

	<u>By Proxy</u>	<u>In Person</u>	<u>No. of Shares</u>
Josephine S. Howell	"		51,994
Amelia Howell Spivey	"		28,006
TOTAL SHARES			80,000

/s/ Amelia Howell Spivey
Committee

On motion, the report of the Committee was then accepted and ordered to be incorporated in the minutes of this meeting.

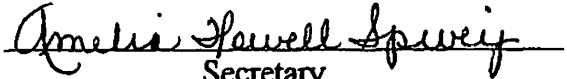
The Chairman then declared a quorum present and stated that the next order of business was the election of directors. Therefore, upon motion duly made, seconded and carried, the following persons were unanimously elected to serve as directors of the corporation for the coming year or until their successors are duly elected and qualify:

Josephine S. Howell
Amelia Howell Spivey
Peggy Howell Johnson

The Secretary was instructed to file the necessary report of this election with the State Corporation Commission at the proper time.

The President asked if there was any other business, and reminded those present that the Annual Meeting of the Directors would be held immediately upon the adjournment of this meeting.

There being no further business, the meeting was thereupon duly adjourned.


Secretary

MINUTES OF THE ANNUAL MEETING
OF THE DIRECTORS OF
#4 HOWELL CORP.

The regular annual meeting of the Board of Directors of #4 Howell Corp. was held at 10:30 a.m. on March 13, 1995 at the Registered Office of the Corporation.

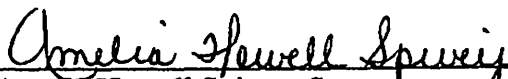
The following, being all of the directors, were present: Josephine S. Howell, Amelia Howell Spivey and Peggy Howell Johnson.

The President and Secretary assumed their respective duties.

Upon motion duly made and seconded, the following were unanimously elected officers of the corporation to serve for the coming year or until their successors are elected and qualify:

Josephine S. Howell	President/Treasurer
Peggy Howell Johnson	Vice President
Amelia Howell Spivey	Secretary

There being no further business appearing, the meeting was adjourned, upon motion, duly seconded and carried.


Amelia Howell Spivey, Secretary

MINUTES OF THE ANNUAL MEETING OF
THE SHAREHOLDERS OF
#4 HOWELL CORP.

The Annual Meeting of the Shareholders of #4 Howell Corp. was held at 10:00 a.m. on March 11, 1996 at the Registered Office of the Corporation.

Present at the meeting were: Josephine S. Howell, Amelia Howell Spivey and Peggy Howell Johnson.

Josephine S. Howell, Chairman, called the meeting to order and requested that Amelia Howell Spivey serve as secretary of the meeting.

The Chairman appointed Amelia Howell Spivey as a Committee to ascertain the number of shares of stock present in person or by proxy at the meeting, and upon her investigation of same, she returned the following report:

"I, Amelia Howell Spivey, a Committee to ascertain the number of shares of stock present at a meeting of the shareholders of #4 Howell Corp. on March 11, 1996, at the business office of the Corporation, do hereby certify that the following shares were present in person or by proxy:

	<u>By Proxy</u>	<u>In Person</u>	<u>No. of Shares</u>
Josephine S. Howell	"		49,844
Amelia Howell Spivey	"		30,156
TOTAL SHARES			80,000

/s/ Amelia Howell Spivey
Committee

On motion, the report of the Committee was then accepted and ordered to be incorporated in the minutes of this meeting.

MINUTES OF THE ANNUAL MEETING
OF THE DIRECTORS OF
#4 HOWELL CORP.

The regular annual meeting of the Board of Directors of #4 Howell Corp. was held at 10:30 a.m. on March 11, 1996 at the Registered Office of the Corporation.

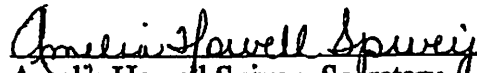
The following, being all of the directors, were present: Josephine S. Howell; Amelia Howell Spivey and Peggy Howell Johnson.

The President and Secretary assumed their respective duties.

Upon motion duly made and seconded, the following were unanimously elected officers of the corporation to serve for the coming year or until their successors are elected and qualify:

Josephine S. Howell	President/Treasurer
Peggy Howell Johnson	Vice President
Amelia Howell Spivey	Secretary

There being no further business appearing, the meeting was adjourned, upon motion, duly seconded and carried.


Amelia Howell Spivey, Secretary

MINUTES OF THE ANNUAL MEETING OF
THE SHAREHOLDERS OF
#4 HOWELL CORP.

The Annual Meeting of the Shareholders of #4 Howell Corp. was held at 10:00 a.m. on March 10, 1997 at the Registered Office of the Corporation.

Present at the meeting were: Josephine S. Howell, Amelia Howell Spivey and Peggy Howell Johnson.

Josephine S. Howell, Chairman, called the meeting to order and requested that Amelia Howell Spivey serve as secretary of the meeting.

The Chairman appointed Amelia Howell Spivey as a Committee to ascertain the number of shares of stock present in person or by proxy at the meeting, and upon her investigation of same, she returned the following report:

"I, Amelia Howell Spivey, a Committee to ascertain the number of shares of stock present at a meeting of the shareholders of #4 Howell Corp. on March 10, 1997, at the business office of the Corporation, do hereby certify that the following shares were present in person or by proxy:

	<u>By Proxy</u>	<u>In Person</u>	<u>No. of Shares</u>
Josephine S. Howell	"		47,752
Amelia Howell Spivey	"		32,248
TOTAL SHARES			80,000

/s/ Amelia Howell Spivey
Committee

On motion, the report of the Committee was then accepted and ordered to be incorporated in the minutes of this meeting.

The Chairman then declared a quorum present and stated that the next order of business was the election of directors. Therefore, upon motion duly made, seconded and carried, the following persons were unanimously elected to serve as directors of the corporation for the coming year or until their successors are duly elected and qualify:

Josephine S. Howell
Amelia Howell Spivey
Peggy Howell Johnson

The Secretary was instructed to file the necessary report of this election with the State Corporation Commission at the proper time.

The President asked if there was any other business, and reminded those present that the Annual Meeting of the Directors would be held immediately upon the adjournment of this meeting.

There being no further business, the meeting was thereupon duly adjourned.


Secretary

MINUTES OF THE ANNUAL MEETING
OF THE DIRECTORS OF
#4 HOWELL CORP.

The regular annual meeting of the Board of Directors of #4 Howell Corp. was held at 1:30 p.m. on March 9, 1998 at the Registered Office of the Corporation.

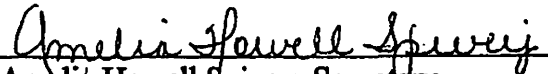
The following, being all of the directors, were present: Josephine S. Howell, Amelia Howell Spivey and Peggy Howell Johnson.

The President and Secretary assumed their respective duties.

Upon motion duly made and seconded, the following were unanimously elected officers of the corporation to serve for the coming year or until their successors are elected and qualify:

Josephine S. Howell	President/Treasurer
Peggy Howell Johnson	Vice President
Amelia Howell Spivey	Secretary

There being no further business appearing, the meeting was adjourned, upon motion, duly seconded and carried.


Amelia Howell Spivey, Secretary

MINUTES OF THE ANNUAL MEETING
OF THE DIRECTORS OF
#4 HOWELL CORP.

The regular annual meeting of the Board of Directors of #4 Howell Corp. was held at 10:30 a.m. on March 10, 1997 at the Registered Office of the Corporation.

The following, being all of the directors, were present: Josephine S. Howell, Amelia Howell Spivey and Peggy Howell Johnson.

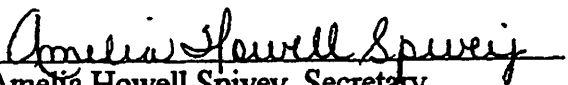
The President and Secretary assumed their respective duties.

Upon motion duly made and seconded, the following were unanimously elected officers of the corporation to serve for the coming year or until their successors are elected and qualify:

Josephine S. Howell
Peggy Howell Johnson
Amelia Howell Spivey

President/Treasurer
Vice President
Secretary

There being no further business appearing, the meeting was adjourned, upon motion, duly seconded and carried.


Amelia Howell Spivey, Secretary

MINUTES OF THE ANNUAL MEETING OF
THE SHAREHOLDERS OF
#4 HOWELL CORP.

The Annual Meeting of the Shareholders of #4 Howell Corp. was held at 1:00 p.m. on March 9, 1998 at the Registered Office of the Corporation.

Present at the meeting were: Josephine S. Howell, Amelia Howell Spivey and Peggy Howell Johnson.

Josephine S. Howell, Chairman, called the meeting to order and requested that Amelia Howell Spivey serve as secretary of the meeting.

The Chairman appointed Amelia Howell Spivey as a Committee to ascertain the number of shares of stock present in person or by proxy at the meeting, and upon her investigation of same, she returned the following report:

"I, Amelia Howell Spivey, a Committee to ascertain the number of shares of stock present at a meeting of the shareholders of #4 Howell Corp. on March 9, 1998, at the business office of the Corporation, do hereby certify that the following shares were present in person or by proxy:

	<u>By Proxy</u>	<u>In Person</u>	<u>No. of Shares</u>
Josephine S. Howell	"		45,560
Amelia Howell Spivey	"		34,440
TOTAL SHARES			80,000

/s/ Amelia Howell Spivey
Committee

On motion, the report of the Committee was then accepted and ordered to be incorporated in the minutes of this meeting.

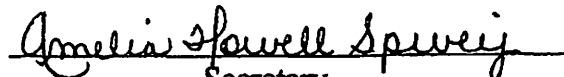
The Chairman then declared a quorum present and stated that the next order of business was the election of directors. Therefore, upon motion duly made, seconded and carried, the following persons were unanimously elected to serve as directors of the corporation for the coming year or until their successors are duly elected and qualify:

Josephine S. Howell
Amelia Howell Spivey
Peggy Howell Johnson

The Secretary was instructed to file the necessary report of this election with the State Corporation Commission at the proper time.

The President asked if there was any other business, and reminded those present that the Annual Meeting of the Directors would be held immediately upon the adjournment of this meeting.

There being no further business, the meeting was thereupon duly adjourned.


Secretary



LETTER SENT CERTIFIED MAIL, RETURN RECEIPT REQUESTED

January 23, 1986

Alvis Earl Johnson
Peggy H. Johnson
Route 1, Box 451
Boykins, VA 23827

Exhibit #

Name

Case No.

P#9

Cooley vs Johnson

5-1-00

JUDGE

Re: Time Note #00
Acc't. #23864
Principal Amount: \$100,000.00
Due Date: December 30, 1985

Dear Mr. and Mrs. Johnson:

The above described note, made by each of you on April 1, 1985 and personally guaranteed by Mrs. Josephine Howell, matured on December 30, 1985. All principal and accrued interest is now due in full.

We offer you the option of payment in full totaling \$111,137.50 plus \$37.50 per day interest from January 23, 1986 or payment of interest only totaling \$10,875.00 as of December 30, 1985 and a one year renewal of the principal providing cash collateral of no less than \$110,000.00 is tendered to the bank to secure the note.

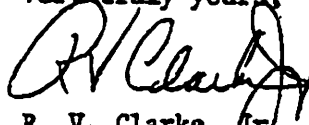
In the event you elect the one year renewal, interest will accrue at Sovran Bank's prime rate plus 3/4% as it changes from time to time and will be payable on the maturity date of the note on December 30, 1986. The continuing guarantee of Mrs. Howell will be required.

Payment in full or payment of interest due and receipt of cash collateral must be received by the bank by no later than February 3, 1986. In the event payment and/or renewal as required above is not received by that date, we will have to regretfully call Mrs. Howell's guarantee, requesting immediate payment in full.

To prevent loan delinquent fees and legal fees, your attention to this matter by no later than February 3rd is recommended. Please feel free to give me a call if you

have any questions.

Very truly yours,



R. V. Clarke, Jr.
Senior Vice President

RVCjr:gkw

cc: Mrs. Josephine Howell
Route 3, Box 85
Franklin, Virginia 23851

LETTER SENT CERTIFIED, RETURN
RECEIPT REQUESTED



August 3, 1987

J. Lewis Rawls, Jr., Esquire
Attorney at Law
Rawls, Habel & Rawls
110 Bank Street
Suffolk, Virginia 23434

Re: Alvis Earl Johnson and Peggy H. Johnson
Time note #0008
Guarantor - Josephine S. Howell

Dear Lewis:

We have given consideration toward your request to release a portion of the collateral securing the above referenced loan, and must regretfully decline the request at this time.

Our reason for this decision is due to the fact that we no longer have any control of any of Johnson's assets including cash flows from crops and livestock. Although we are confident that Johnson would make his interest payment due to Sovran Bank on the subject note, there is considerable risk, in the bank's opinion, that due to poor weather conditions, Johnson's 1987 production may not generate sufficient cash flow to service all of his obligations due this fall. In the event we reduced our collateral coverage to \$100 thousand as requested, the bank would have unsecured exposure of \$9 to \$10 thousand for accrued interest, which we are not willing to take at this time.

I have no problem in reducing the amount of the guarantee that Mrs. Howell has provided the Bank and enclose a new guaranty agreement for her signature. This guaranty is for \$100 thousand, the current principal balance of the note, plus accrued interest thereon. Upon receipt of the new guaranty, I will cancel and return the old guaranty in the amount of \$180 thousand.

Please feel free to give me a call if you have any questions concerning this matter.

Sincerely,

R. V. Clarke, Jr.
Senior Vice President



R. V. Clarke, Jr.
Senior Vice President and
Area Executive Officer

January 20, 1989

Mrs. Josephine S. Howell
Rt. 3, Box 85
Franklin, Virginia 23851

Re: Note #0008 in the amount of \$100,000, made by Alvis
E. and Peggy H. Johnson maturing December 31, 1988
and secured by time deposits owned by Josephine S.
Howell

Dear Mrs. Howell:

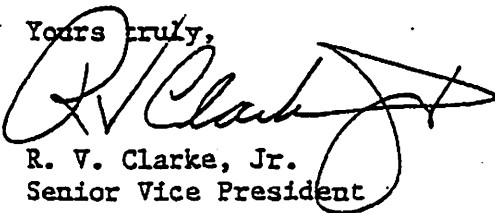
This is to advise you that Alvis and Peggy have requested
that we renew the above referenced note without principal
curtail for one year to December 31, 1989.

We have agreed to their renewal request providing you also
concur and understand that your time deposits will continue
to be held as collateral on the renewal note.

If this arrangement continues to be acceptable to you, please
sign and return the enclosed copy of this letter to the
bank.

Please feel free to give me a call if you have any ques-
tions concerning this matter.

Yours truly,



R. V. Clarke, Jr.
Senior Vice President

RVCjr:gkw

enclosure

cc: Lewis Rawls

I have knowledge of the above note renewal request and
am agreeable to the continuation of my pledge and assign-
ment of my time deposits to Sovran Bank to secure the ref-
erenced note.

Date _____

Josephine S. Howell

LAW OFFICES
RAWLS, HABEL & RAWLS, P. C.
P. O. Box 1458
SUFFOLK, VIRGINIA 23434

J. LEWIS RAWLS, JR.
REBECCA RAWLS HABEL
FRANK M. RAWLS

January 27, 1986

AREA CODE
804
539-7426

Christopher L. Seawell, Esquire
Aldridge, Seawell and Khouerty
Post Office Box 399
Manteo, North Carolina 27954

Dear Chris:

I enclose copies of two deeds on waterfront property and Lindburgh Street property in Kitty Hawk, in which Peggy Josephine Howell (now Peggy H. Johnson) owns an undivided interest. Please prepare immediately a North Carolina Deed of Trust as follows:

1. Trustees: Christopher L. Sewell and J. Lewis Rawls, Jr., either or both of whom may act;
2. Grantors: Peggy H. Johnson and A. Earl Johnson;
3. Legal Holder/Beneficiary: Joseph S. Howell;
4. Amount: \$111,137.50; date of Deed of Trust and Note: January 23, 1986;
5. Interest: At the rate of 13-1/2%;
6. Due Date: Payable on demand.

Send the Deed of Trust and Note directly to Mrs. Amelia H. Blythe, Route 3, Box 85, Franklin, Virginia 23851. Have your secretary type Peggy H. and A. Earl Johnson's name under the respective signature lines of the Deed of Trust and Note so that there will be no mistake made. It is imperative that you get this Deed of Trust out of your office on the same day you receive my letter inasmuch as Sovran Bank must be satisfied on or before 2:00 p.m., February 3, 1986.

Best wishes.

Sincerely,

J. Lewis Rawls, Jr.

JLR, Jr.:mbp
Enclosures

File
Mrs. Howell

603 So. Fayetteville Street
Clayton, North Carolina 27520
June 19, 1980

Dear Mr. Rawls,

As you know, my mother has been giving our daughter Renee the money to go to pharmacy school the last three years.

Beginning in August our other daughter, Kathy, will enter UNC at Chapel Hill also to study nursing. My son, Stephen will probably enter college in 1981.

I understand you and Mama have worked out some way that we can borrow from the estate to meet these college expenses. But Mama has told me that she could not let me have all of the \$4,000 needed for Renee and the \$3500 needed for Kathy each year.

Mr. Rawls, it is during the next 4 or 5 years that I am going to need the most help from Mama - not some 10 or 15 years from now. She doesn't seem to realize this.

If you can help me make her understand that I need help now I will be most appreciative.

I prefer that you not mention to her that I have written to you.

Sincerely,
Betty Howell Cauley

Note - re - 1200 - hospital
6/13/80

Exhibit # DTT
Name Cauley B. Johnson
Case No. 77-179 Date 5-1-80
hdf
JUDGE

May 18, 1978

Mrs. Josephine S. Howell
Route 3, Box 85
Franklin, Virginia 23851

Dear Mrs. Howell:

While you were in the office on Friday, you asked about the effect of various bank accounts and savings certificates in other names in addition to yours.

You have further said that you wish all of your cash savings to become part of your residuary estate to be used first for payment of taxes and then for equal division to your children.

Joint names or survivorship accounts will cause some considerable problems. It is my suggestion that, if you wish to see that all of your children share equally, all of these accounts should be in your name and your name only. I would suggest that you not delay in attempting to change all of these accounts.

Since you have executed a Power of Attorney, Amelia and Peggy could tend to your affairs in the event you are unable to.

Best wishes.

Sincerely,

J. Lewis Rawls, Jr.

JLR, Jr./nsw

Exhibit # D#2
Name Cagle vs Johnson
Case No. 99-179 Date 5-1-00
REJ
JUDGE

**FERGUSON, RAWLS, MACDONALD
& OVERTON, P.C.**
ATTORNEYS AND COUNSELORS AT LAW

EDWIN C. FERGUSON, JR.
JULY 1938
J. LYNN RAWLS, JR.
JUNE 1934
EDWARD J. GRIFFIN, JR.
OCTOBER 1934
C. G. OVERTON

321 WEST CONSTANCE ROAD, POST OFFICE BOX 1452, SUFFOLK, VIRGINIA 23439-1452
TELEPHONE: (757) 547-3400 FACSIMILE: (757) 547-0955

620 CEDAR ROAD, CHESAPEAKE, VIRGINIA 23220-8318
TELEPHONE: (757) 547-4952 FACSIMILE: (757) 547-4456

EDWIN C. FERGUSON, JR.
JULY 1938
J. LYNN RAWLS, JR.
JUNE 1934
EDWARD J. GRIFFIN, JR.
OCTOBER 1934
C. G. OVERTON

REPLY TO: SUFFOLK

May 18, 1999

Ms. Peggy H. Johnson
29406 Johnson Drive
Boykins VA 23827

Ms. Lynda Bond
P. O. Box 38
Courtland VA 23837

Ms. Betty Cauley
603 South Fayetteville Street
Clayton NC 27520

✓ Mrs. Amelia H. Spivey
26612 Dogwood Bend Road
Franklin VA 23851

Re: Estate of Josephine S. Howell

Dear Ladies:

Enclosed is the front page of a will that your mother signed in July of 1977. As you can see, the original went with Mrs. Howell.

In looking through my father's file cabinet, I have not located a will for your mother.

I am assuming that the original will not be found here, either at the office or in his condominium.

If you have any questions or comments, please call.

Sincerely,

Frank M. Rawls

FMR/jsw
Enclosure

Exhibit # D# 3
Name Cauley, Johnson
Case No. 79-177
JUDGE

To my children and grandchildren:

I have given much consideration to the distribution of my personal belongings in and around my home. I would like to designate the Executor of my estate to distribute them as directed. I have made changes over the years as I would wish these things used and enjoyed and not closeted away. In this respect, I have evaluated each item and would give to each individual those which would be suitable. Some items have already been given prior to my death, therefore, these items shall be excluded.

To my daughter, Betty, I give my Persian³⁻¹²⁻⁹⁹ Lamb Coat, (my Mink Fur Stole and Hat³⁻¹²⁻⁹⁹), my Antique Clock, my small freezer, (my den furniture consisting of floral sofa, floral chair, metal chair^{9/92}, two end tables, coffee table) and from the Village- a brown sofa bed, sewing machine, and my desk.

To my daughter, Lynda, I give my piano, (a white floral wing-backed chair and ottoman¹⁹⁹⁸), one antique picture frame, an iron frog doorstop¹⁹⁹⁷, my mother's wedding band, a floor lamp which I have at the Village, and a square oak table. (floral sofa, small table¹⁹⁹⁷)

To my daughter, Peggy, I have returned a hall rack which I had refinished for her, I give her my dishwasher, a large iron cauldron used for hog killing, (my wedding band and engagement ring¹⁹⁹⁷) my stainless hollowware, my Corelleware, (sectioned table dish¹⁹⁹⁷), and from the Village- a white brocade sofa and chair, two end tables with white and gold lamps, and the rocking chair in my bedroom.

Exhibit # P#4
Name Caulley vs. Johnson
Case No 77-177 Date 5-1-00
WEL
JUDGE

To my daughter, Amelia, I give a green velvet sofa and two chairs, my dining room suit-table, six chairs, buffet, buffet mirror, organ, my Rosemere china, crystal, silver and chest, silver candelabras, my vehicles, televisions, lawnmowers, two antique picture frames, breakfast suit, and all personal articles not designated in my home. From the Village all furniture not designated, since she helped me select it - bedroom suit entertainment center, and dining-room-suit.

I also have an antique coin collection which I would like to have professionally appraised and equally distributed among my four daughters.

To my grandchildren:

I would like for each of my grandsons, Ben, Joseph, Stephen, and Kim to receive \$500.00 each. Ben has already received his grandfather's watch and I wish Joseph to have his grandfather's 22gauge rifle.

For my granddaughters, Karen, Elizabeth,, and Meadow, I wish each to receive one stone from my dinner ring with equal chips in a setting.

For my granddaughter, Kathy, I give my pearl ring with turquoise, my aquamarine ring and my silver watch.

For my granddaughter, Renee, I give an oak bedroom suit from the apartment that belonged to Ann Kellogg.

For my granddaughter, Suzan, I give my gold nugget, bail, and chain.

For my granddaughter, Holley, I give my diamond watch face, and my Delaware China to be kept by her mother until she deems it necessary for her to have it.

To the extent that I have given away or do not own any of the above items of personal property at the time of my death, than such gift shall fail and such direction shall be disregarded and no claim shall be made by the person person or persons to whom these were directed.

I may add or delete from this list at any time.

Copies of my living will may be found in my files, at Southampton Memorial Hospital and Benjamin J. Goodman's office, if at any time my continuing life expectancy requires any kind of life support system, I deny any such use to keep me alive.

Date: Feb 1, 1992

Josephine S. Howell
Josephine S. Howell

FIFTH JUDICIAL CIRCUIT
OF VIRGINIA

JUDGES

WESTBROOK J. PARKER
POST OFFICE BOX 190
COURTLAND VIRGINIA 23837-0190
(757) 853-9178

RODHAM T. DELK, JR.
D. ARTHUR KELSEY
POST OFFICE BOX 1814
SUFFOLK VIRGINIA 23439-1814
(757) 923-2271



May 12, 2000

CITY OF SUFFOLK
CITY OF FRANKLIN
COUNTY OF ISLE OF WIGHT
COUNTY OF SOUTHAMPTON

RETIRED JUDGES

E. EVERETT BAGNELL
JAMES C. GODWIN
BENJAMIN A. WILLIAMS, JR.

William F. Devine, Esq.
Hofheimer Nusbaum
P.O. Box 3460
Norfolk, VA 23514-3460

William H. Oast, III, Esq.
Oast & Hook
P.O. Box 399
Portsmouth, VA 23705-0399

Re: Geneva H. Cauley, et al. v. Peggy H. Johnson, et al.
CH 99-179
Circuit Court for Southampton County

Dear Counsel:

This case came before me for trial on May 1, 2000, and, after hearing the evidence ore tenus, I heard oral arguments upon briefs on May 12, 2000.

This case involves the will and codicils of Josephine S. Howell, who died on March 5, 1999. Prior to her death, Mrs. Howell had, in conjunction with an estate plan, executed a will on July 25, 1977; a codicil to the 1977 will on October 26, 1977; a will on July 6, 1982; a will on February 1, 1985; a codicil to the 1985 will on September 21, 1987; another codicil on May 10, 1990; and a final codicil on May 14, 1992. The 1985 will clearly revoked the 1977 and 1982 wills.

Subsequent to Mrs. Howell's death, only the 1990 codicil to the 1985 will could be produced in original form for probate. The 1985 will and the 1987 and 1992 codicils were not able to be found, and were last specifically known to be in the possession of the drafting attorney, J. Lewis Rawls, Jr., in his law office. The plaintiffs, comprising

three of Mrs. Howell's four children, together with their children, filed this suit to establish the missing 1985 will and codicils as lost, and to probate copies of the same together with the original copy of the 1990 codicil. The defendant, Mrs. Howell's remaining child, and her children, counterclaimed that the 1985 will, and all codicils thereto, were destroyed, not lost, and thus were revoked.

I have considered all of the evidence in this case, together with the comprehensive briefs filed by counsel, as well as the arguments of counsel, and, for the reasons set forth below, I find for the plaintiffs.

The evidence conclusively establishes that Mrs. Howell executed the wills and codicils referred to above in the Rawls law offices pursuant to a comprehensive estate plan, as well as the contents of the wills and codicils. The evidence also clearly and convincingly establishes that the 1985 will revoked the 1977 will and codicil thereto and the 1982 will, and that the 1985 will, as well as the 1987 and 1992 codicils thereto, were last specifically known to be in the possession of Mr. Rawls at his law office. The original copy of the 1990 codicil to the 1985 will was found in the former residence of Mrs. Howell after her death.

The weight of authority cited by counsel supports the proposition that a will left in the possession of the drafting attorney is not, by that reason alone, accessible by the testator, and I do not find from the evidence that there was a reasonable possibility of access to the will and codicils on the part of Mrs. Howell in this case. Indeed, aside from speculation that Mrs. Howell could possibly have retrieved the will and codicils from the Rawls law office, the evidence is clear and convincing that Mrs. Howell knew that her testamentary documents were in the possession of the Rawls law office and had intended them to remain there.

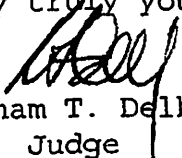
The evidence that Mrs. Howell told more than one person that she intended to look into the fairness of her estate plan does not constitute proof that she ever either determined her plan to be unfair, that she ever declared it to be unfair, or that she ever took any specific steps, or even voiced any intention, to change her plan by revocation of the will and codicils in existence. Thus, the

defendants' suggestion of possibility of access to the will by Mrs. Howell has little persuasive weight.

In this case, because the executed will and codicils were not shown to be in the possession of the testator, no presumption of revocation arises on failure to find the documents. The presumption of revocation arises where the testamentary documents were left in the custody of the testator. In the case at hand, a presumption of loss arises, and the burden of proof shifts to the party asserting revocation. Ballard v. Cox, 191 Va. 654 (1950). The evidence of the defendants is largely speculative and simply fails to rise to the level necessarily to overcome the presumption.

For these reasons, I find that the plaintiffs have proved their case and that the will and codicils in question were lost. Accordingly, Mr. Devine will prepare an appropriate order establishing the copies of the 1985 will, together with the 1987 and 1992 codicils thereto, as the will and codicils of Josephine S. Howell, and admitting them to probate together with the original copy of the 1990 codicil. I also find that the plaintiffs are entitled to reimbursement for their reasonable attorney fees and costs from the estate.

Very truly yours,


Rodham T. Delk, Jr.
Judge

cc. Wayne M. Cosby, Clerk

VIRGINIA: IN THE CIRCUIT COURT OF SOUTHAMPTON COUNTY

GENEVA H. CAULEY, ETC., ET AL.,

Plaintiffs,

v.

IN CHANCERY NO. CH99-179

PEGGY H. JOHNSON, ET AL.,

Defendants.

FINAL DECREE

THIS CAUSE came before the Court for trial on May 1, 2000, and for oral arguments on May 12, 2000. The Court has considered the pleadings and other materials in the Court's file; the testimony, exhibits, and other evidence presented *ore tenus*; the briefs submitted by the parties; and the arguments of counsel.

UPON CONSIDERATION WHEREOF, and for the reasons stated in the attached opinion dated May 12, 2000, the Court ORDERS, ADJUDGES, and DECREES as follows:

1. The attached opinion dated May 12, 2000, is incorporated herein by reference.
2. The copies of the 1985 Will and the 1987 and 1992 Codicils attached to this Final Decree are established and adjudged, with a Codicil dated May 10, 1990 (the "1990 Codicil"), to be the final will and codicils of Josephine S. Howell, deceased, and are ordered to be recorded and probated as such. The executors named in the 1992 Codicil, Geneva H. Cauley and Amelia H. Spivey, are directed to qualify as co-executors without giving security on their bond, as set forth in the 1992 Codicil.

3. The Court dissolves its Decree entered herein on December 3, 1999, appointing Amelia H. Spivey and Peggy H. Johnson as Co-Administrators of the Estate of Josephine S. Howell, deceased, effective as of the date an executor or executors qualify under the 1985 Will and the 1987, 1990, and 1992 Codicils. The Court dissolves the December 3, 1999, Decree *nunc pro tunc* December 3, 1999, and orders that the said Co-Administrators shall not be required to file any inventory or accounting regarding the estate. Instead, the executor or executors qualifying under the 1985 Will and the 1987, 1990, and 1992 Codicils shall be required to file an inventory and to account as if they had qualified as such on December 3, 1999. No commission is awarded to the Co-Administrators appointed under the December 3, 1999, Decree.

4. Plaintiffs are entitled to be reimbursed for their reasonable attorneys' fees and costs from the estate.

5. Oast & Hook, P.C., shall be paid \$3,803.87 as attorneys' fees from the estate for representing Peggy H. Johnson in her capacity as Co-Administrator under the December 3, 1999 Decree.

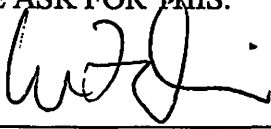
6. Frank Rawls, Esquire, is dismissed as a party to this litigation.

7. The Defendants' Cross-Bill is dismissed. This is a final Decree. This case shall be placed in the ended Chancery matters.

Date: May 25, 2000


Circuit Court Judge

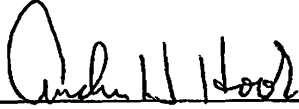
WE ASK FOR THIS:


Counsel for Plaintiffs

William F. Devine (VSB No. 26632)
E. Diane Thompson (VSB No. 20804)
Christine H. Buchanan (VSB No. 35978)
HOFHEIMER NUSBAUM, P.C.
999 Waterside Drive, Suite 1700
P. O. Box 3460
Norfolk, Virginia 23514
(757) 622-3366
Fax: (757) 629-0700

A.11

SEEN AND OBJECTED TO
on the grounds previously set forth
in the Defendants' legal brief, motions
and arguments at trial, including, but not
limited to, the issue of the shifting of
the burden of proof



Counsel for Defendants

William H. Oast, III
Andrew H. Hook
OAST & HOOK, P.C.
521 Middle Street Mall
P. O. Box 399
Portsmouth, VA 23705
(757) 399-7506
Fax: (757) 397-1267

A.H.

SEEN

A handwritten signature in black ink, appearing to be 'FRANK', written over a horizontal line.

Frank Macklin Rawls
FERGUSON, RAWLS, MACDONALD
& OVERTON, P.C.
332 West Constance Road
Suffolk, Virginia 23439

HNI:283006.1

ASSIGNMENTS OF ERROR

- I. THE TRIAL COURT ERRED IN HOLDING THAT THE MISSING WILL AND RELATED CODICILS WERE IN THE CUSTODY OF THE DRAFTING ATTORNEY'S LAW OFFICE AND INACCESSIBLE TO THE TESTATRIX.
- II. THE TRIAL COURT ERRED IN REQUIRING APPELLANTS TO PROVE THE TESTATRIX HAD A "REASONABLE" POSSIBILITY OF ACCESS TO HER WILL.
- III. THE TRIAL COURT ERRED IN ITS FACT-FINDING ROLE BY GIVING LITTLE EVIDENTIARY WEIGHT TO THE TESTATRIX'S CONFLICTING DECLARATIONS WITH REGARD TO THE FAIRNESS OF HER ESTATE PLAN AND HER INTENT TO DESTROY HER WILL.
- IV. THE TRIAL COURT ERRED IN SHIFTING THE BURDEN OF PROOF AND REQUIRING APPELLANTS TO OVERCOME A PRESUMPTION OF LOSS.

ASSIGNMENT OF CROSS-ERROR

- I. THE TRIAL COURT ERRED IN REFUSING TO PROBATE THE 1990 CODICIL INDEPENDENTLY OF ITS DETERMINATION CONCERNING THE STATUS OR LOCATION OF THE MISSING TESTAMENTARY DOCUMENTS.