

EXHIBIT A

NO. D-000298C

EUNICE R. BENCKENSTEIN,	§	IN THE 260 TH DISTRICT COURT
WALTER G. REIDEL III, AND ROY	§	
WINGATE, INDEPENDENT CO-	§	
EXECUTORS OF THE ESTATE OF	§	
NELDA C. STARK, DECEASED,	§	
EUNICE R. BENCKENSTEIN,	§	
INDEPENDENT EXECUTRIX OF THE	§	
ESTATE OF H.J. LUTCHER STARK,	§	
DECEASED, AND WALTER G.	§	
REIDEL III, GENERAL MANAGER OF	§	
THE NELDA C. AND H.J. LUTCHER	§	
STARK FOUNDATION, THE NELDA	§	IN AND FOR
C. AND H.J. LUTCHER STARK	§	
FOUNDATION, AND CLYDE	§	
MCKEE	§	
	§	
V.	§	
	§	
IDA MARIE STARK, INDIVIDUALLY	§	
AND AS INDEPENDENT EXECUTOR	§	
OF THE ESTATE OF W.H. STARK II,	§	
DECEASED, WILLIAM H. STARK III,	§	
RANDALL STARK, AND LYNN MARIE	§	
STARK BARRAS	§	ORANGE COUNTY, TEXAS

**COUNTER-PLAINTIFFS' FIRST AMENDED ORIGINAL COUNTER-PETITION,
THIRD-PARTY PETITION, AND PETITION FOR BILL OF REVIEW FILED
SUBJECT TO DEFENDANT'S FIRST AMENDED MOTION TO DISMISS
FOR LACK OF JURISDICTION**

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW Randall Stark, William Stark III, Lynn Marie Stark Barras and Ida Marie Stark, Individually and as Executor of the Estate of William Stark II (hereinafter sometimes referred to as "Counter-Plaintiffs"), complaining of Eunice R. Benckenstein, Walter G. Riedel, III, and Roy Wingate, Individually and as Independent Co-Executors of the Estate of Nelda C. Stark, Deceased, and Walter G. Riedel, III, Individually and as General Manager of the Nelda C. and H. J. Lutchter Stark Foundation, the Nelda C. and H.J. Lutchter Stark Foundation, and Clyde McKee (hereinafter sometimes referred to as

"Counter-Defendants"), and for causes of action would respectfully show the Court the following:

1.00 DISCOVERY – MOTION FOR LEVEL THREE PLAN

Counter-Plaintiffs herby move to conduct discovery in accordance with a discovery control plan tailored to the circumstances of the specific suit. In the interest of judicial economy and equity, Counter-Plaintiffs move to conduct discovery by Order (Level 3). Tex. R. Civ. P. 190.4. Such a plan would provide all parties a more adequate time for oral depositions, interrogatories, and other necessary stages of discovery. As a complicated, multi-party case is being alleged which resulted in the failing to disclose and properly inventory hundreds of thousands of acres of property and millions of dollars in assets, extensive expert testimony, fact witness testimony, and review of records will be required. More time is necessary in order to fairly and adequately prepare for an efficient trial of the case. Counter-Plaintiffs request thirty (30) days from the filing of the last Counter-Defendant's Original Answer to prepare a written proposal for a discovery control plan.

2.00 PARTIES

2.01 Counter-Plaintiff, Randall Stark (hereinafter referred to as "Randy Stark"), is an individual residing in Orange County, Texas.

2.02 Counter-Plaintiff, William Stark III (hereinafter referred to as "Bill Stark"), is an individual residing in Orange County, Texas.

2.03 Counter-Plaintiff, Lynn Marie Stark Barras (hereinafter referred to as "Lynn Stark"), is an individual residing in Orange County, Texas.

2.04 Counter-Plaintiff, Ida Marie Stark, individually and as executor of the estate of William Stark II (hereinafter referred to as "Ida Stark"), is an individual residing in Orange County, Texas.

2.05 Counter-Defendant, Eunice Benckenstein, is an individual residing in Orange County, Texas. She may be served with process at 1906 Sholars Avenue, Orange, Texas.

2.06 Counter-Defendant, Walter G. Riedel, III, is an individual residing in Orange County, Texas. He may be served with process at 1919 Amsterdam, Orange, Texas.

2.07 Counter-Defendant, Roy Wingate, is an individual residing in Orange County, Texas. He may be served with process at 2168 FM 3247, Orange, Texas.

2.08 Counter-Defendant, Eunice R. Benckenstein, Individually, as independent Co-Executor of the Estate of Nelda C. Stark, Deceased, and as Independent-Executor of the Estate of H.J. Lutchter Stark, Deceased, is an individual residing in Orange County, Texas. She may be served with process at 1906 Sholars Avenue, Orange, Texas.

2.09 Counter-Defendant, Walter G. Riedel, III, is an Independent Co-Executor of the Estate of Nelda C. Stark, Deceased, is an individual residing in Orange County, Texas. He may be served with process at 1919 Amsterdam, Orange, Texas.

2.10 Counter-Defendant, Roy Wingate, an Independent Co-Executor of the Estate of Nelda C. Stark, Deceased, is an individual residing in Orange County, Texas. He may be served with process at 2168 FM 3247, Orange, Texas.

2.11 Counter-Defendant, the Nelda C. and H. J. Lutcher Stark Foundation (hereinafter referred to as the "Stark Foundation"), is a nonprofit corporation organized under the laws of Texas with its Principal place of business in Orange County, Texas. It may be served with process by serving its Registered Agent, Clyde V. McKee, Jr., at 602 W. Main Street (P.O. Drawer 909) Orange, Texas 77630.

2.12 Third-Party Defendant, Clyde V. McKee, Jr., is an individual residing in Orange County, Texas. He may be served with process at 602 W. Main Street, Orange, Texas 77630.

2.13 Whenever mention is made of Roy Wingate, Eunice Benckenstein, and/or Walter Riedel, they are being sued in their individual capacity as well as any and all official capacities related to the Estate or Foundation.

3.00 JURISDICTION AND VENUE

3.01 This Court has jurisdiction of these counter-claims under the provisions of Section 5 and 5A of the Texas Probate Code. This Court has jurisdiction of this proceeding under the provisions of the Texas Trust Code.

3.02 Venue is proper in Orange County pursuant to Section 115.002 of the Texas Trust Code because Orange County is the situs of administration of the Stark Foundation. In addition, venue is proper in Orange County pursuant to Section 15.002 of the Texas Civil Practice and Remedies Code because Orange County is the county in which all or a substantial part of the events or omissions giving rise to the claims occurred, and it is the county of residence of the Counter-Defendants who are natural persons. In addition, venue is proper in Orange County pursuant to Section 15.031 of the Texas Civil Practice and Remedies Code because Orange County is the county in which the estate of Nelda C. Stark, deceased, is administered.

3.03 The Court has jurisdiction over this cause because the amount in controversy is within the jurisdictional limits of this Court.

4.00 FACTUAL BACKGROUND

Nita Hill Stark (hereinafter referred to as "Nita Stark"), the first wife of H.J. Lutchter Stark, died on or about October 11, 1939. She was a resident of Orange County, Texas at the time of her death. She left a Last Will and Testament dated June 21, 1949, which was duly admitted to probate in Cause No. 1101 by the County Court of Orange County, Texas. H.J. Lutchter Stark, her surviving husband, was named as Independent Executor of the Estate and Guardian for the benefit of their only children, William H. Stark, II, and Homer Stark. The beneficiaries of Nita Stark's will were H.J. Lutchter Stark, William H. Stark, II, and Homer Stark. Specifically, H.J. Lutchter Stark was entitled to $\frac{1}{2}$ of Nita Stark's estate and William H. Stark, II, and Homer Stark were entitled to split the remaining $\frac{1}{2}$ of Nita Stark's estate.

During the period of their marriage, from April 6, 1911 through October 11, 1939, H.J. Lutchter Stark and Nita Stark accumulated substantial property, both real and personal. As Independent Executor and Guardian under the Will of Nita Stark and as a parent, H.J. Lutchter Stark owed his sons, William H. Stark, II, and Homer Stark, the residuary beneficiaries of their mother's estate, high fiduciary duties of good faith and fair dealing, to duly administer all of the assets of the estate, and to deliver such property to his sons in accordance with the terms of her Will. In connection with his fiduciary duty, H.J. Lutchter Stark owed his sons a high fiduciary relationship of loyalty, full and accurate disclosure, and of good faith and fair dealing with respect to all material facts known to him that might affect the rights of William and Homer.

H.J. Lutchter Stark (hereinafter sometimes referred to as "Lutchter Stark") died on September 2, 1965. He was a resident of Orange County, Texas at the time of his death. He left a Last Will and Testament dated February 23, 1961, which was duly admitted to probate in Cause No. 3006 by the County Court of Orange County, Texas. The administration of H.J. Lutchter Stark's estate is still pending in the County Court of Orange County, Texas in Cause No. 3006. Lutchter Stark's third wife, Nelda C. Stark (hereinafter referred to as "Nelda Stark"), was appointed as Independent Executrix. At the time the estate's Inventory was filed and at all times thereafter, Nelda Stark, acting for her individual benefit, and in her capacity as Independent Executrix, knowingly included in such inventory certain assets, both real and personal, which were not part of H.J. Lutchter Starks' estate. Additionally, at the time the estate's Inventory was filed and at all times thereafter, Nelda Stark, acting for her individual benefit, and in her capacity as Independent Executrix, knowingly and intentionally failed to include in such inventory certain assets, both real and personal, which were part of Nita and H.J. Lutchter Starks' estates. Such assets were properly part of Nita Stark's estate, and such assets should have been delivered to William and Homer Stark, Nita's sons, pursuant to her Will.

William H. Stark, II died on September 25, 1979. He was a resident of Orange County, Texas at the time of his death. He left a Last Will and Testament dated February 24, 1975, which was duly admitted to probate in Cause No. 5464 by the County Court of Orange County, Texas. Ida Marie Stark, his surviving wife, was appointed as Independent Executrix of his estate and was the sole beneficiary. Ida Marie Stark is a defendant herein.

Nelda C. Stark died on or about December 13, 1999. She was a resident of Orange County, Texas at the time of her death. She left a Last Will and Testament, which was duly admitted to probate in Orange County, Texas. Eunice Benckenstein, Roy Wingate and Walter G. Riedel, III were appointed as Independent Co-Executors. Additionally, due to the death of Nelda Stark, Eunice Benckenstein was also appointed the Independent Executrix of the Estate of H.J. Lutchter Stark.¹ Eunice Benckenstein, acting for her individual benefit, and in her capacity as the Independent Executrix of both H.J. Lutchter Stark and Nelda C. Stark's estates, knowingly converted, both real and personal, which were not part of H.J. Lutchter Stark or Nelda Stark's estates. Additionally, Eunice Benckenstein, acting for her individual benefit, and in her capacity as the Independent Executrix of both H.J. Lutchter Stark and Nelda C. Stark's estates, knowingly and intentionally converted certain assets, both real and personal, which were part of Nita and H.J. Lutchter Starks' estates. Such assets were properly part of Nita Stark's estate, and such assets should have been delivered to William and Homer Stark, Nita's sons, pursuant to her Will.

Eunice Benckenstein, as the Independent Executrix of the Estates of H.J. Lutchter Stark and Nelda C. Stark, owes William and Homer Stark a high fiduciary duty of full and accurate disclosure of information pertaining to the assets of H.J. Lutchter Stark, Nelda C. Stark, and Nita Stark's estates that have been improperly and

¹ Counter-Defendants have filed an objection to the appointment of Eunice Benckenstein as the Independent Executrix of the Estate of H.J. Lutchter Stark in Cause No. 3006 for the following reasons: (a) sufficient grounds appear to support belief that Eunice R. Benckenstein has misapplied or embezzled or she is about to embezzle, all or any part of the property committed to her care; (b) Eunice R. Benckenstein failed to make an accounting which is required by law to be made; (c) Eunice R. Benckenstein failed to timely file the notice required by the Texas Probate Code; and (d) Eunice R. Benckenstein is alleged to have been guilty of gross misconduct or gross mismanagement in the performance of her duty as sole Successor Independent Executrix to the estate of H.J. Lutchter Stark, Deceased.

fraudulently been made part of the Estates of H.J. Lutchter Stark, Nelda C. Stark and now, part of the property possessed by Eunice Benckenstein in her official and unofficial capacities. Eunice Benckenstein, as the personal representative of the Estates of H.J. Lutchter Stark and Nelda C. Stark has superior knowledge regarding the assets of both Lutchter and Nelda Stark and has a duty of full and accurate disclosure of these assets, as well as a fiduciary duty to see that these assets and/or the proceeds from these assets are delivered to their rightful owners, William and Homer Stark. To date, Eunice Benckenstein has not fulfilled her fiduciary duties of full and accurate disclosure and/or return of the assets and/or the proceeds from these assets to their rightful owners, William and Homer Stark.

It is Counter-Plaintiffs' contentions that H.J. Lutchter Stark, acting for his individual benefit, and in his capacity as Independent Executor of Nita Stark's estate, breached his fiduciary duty to his children, William and Homer, by converting substantial assets from Nita Stark's estate, secreting assets from the estate, filing false inventories, making material misrepresentations both in writing and orally to Counter-Plaintiffs and by failing to fully disclose all of the material facts known to him regarding the Nita Stark estate including, but not limited to, failing to disclose to William and Homer numerous properties and assets. As a result, not only were substantial assets converted from Nita Stark's estate for H.J. Lutchter Stark's own possession and enjoyment, but these assets were also subsequently converted by Nelda Stark and the Stark Foundation, once H.J. Lutchter Stark died, and then by Eunice Benckenstein, when Nelda Stark died.

4.01 Prior Litigation

Some time ago, Counter-Plaintiffs and other members of the Stark family² brought causes of action against Counter-Defendants in this Court alleging that Counter-Defendants herein had fraudulently concealed, mismanaged, and converted various assets from the estates. The previous case was styled as follows: Cause No. D880162-C; *Ida Marie Stark, Individually and as Independent Executor of the Estate of W.H. Stark, II, et al. v. Nelda C. Stark, et al.*, In the 260th District Court for Orange County, Texas. During the course of that litigation various inventories were completed by Counter-Defendants and both written and oral representations were made by Counter-Defendants regarding the nature and extent of the properties and assets of Nita Hill Stark, H.J. Lutcher Stark, Nelda C. Stark, and the Stark Foundation to Counter-Plaintiffs herein. For example, Nelda C. Stark submitted an affidavit in support of her contention that she had not made any property transfers since 1965. This affidavit was incorrect. Additionally, the Counter-Defendants in the prior litigation did not comply with their fiduciary duties by giving full and accurate disclosure regarding various assets that have been passed along through the years that are actually owned by Nita Stark, H.J. Lutcher Stark, Nelda C. Stark, and/or Eunice Benckenstein. These assets should have been properly distributed to Nita's son's, William and Homer Stark. However, as Counter-Plaintiffs are finding out, these properties and assets were never and have never been properly disclosed.

² The other parties to the prior litigation are as follows: Homer B.H. Stark, Individually, Homer B.H. Stark as beneficiary of the Homer B.H. Stark 1989 Trust; Rebecca Celia Tweet Havens Stark, Rebecca Nita Stark Nugent, Individually, Rebecca Nita Stark Nugent, trustee of the Homer B.H. Stark 1989 Trust, Henry Jacob Lutcher Stark, II, Individually, Henry Jacob Lutcher Stark, II, trustee of the Homer B.H. Stark 1989 Trust, Rebel Dale Stark Falcone, Individually, and Rebel Dale Stark Falcone, trustee of the Homer B.H. Stark 1989 Trust.

After much time, expense and investigation, Counter-Plaintiffs have found numerous assets and pieces of property (amounting to thousands of acres of land) that belonged to Nita Hill Stark and should have been properly distributed to her sons, William and Homer. However, although Counter-Defendants, among others, had an affirmative duty to disclose the existence of these assets and properties, they were deliberately and intentionally withheld from William and Homer (and their heirs) in the prior litigation. These assets and properties were passed along through the estates of H.J. Lutchter Stark, Nelda C. Stark, the Nelda C. and H.J. Lutchter Stark Foundation, and Eunice R. Benckenstein, they were deliberately and intentionally withheld from the inventories of Nita Hill Stark, H.J. Lutchter Stark, Nelda C. Stark, and the Nelda C. and H.J. Lutchter Stark Foundation. Also, Counter-Plaintiffs have recently found that many of the assets and properties that were hidden from them have, in fact, been transferred and/or sold.

As a result of these revelations, Counter-Plaintiffs sought and obtained a meeting with the directors of the Nelda C. and H.J. Lutchter Stark Foundation in an effort to resolve their concerns without judicial intervention. A meeting was had wherein the Counter-Defendants asked Counter-Plaintiffs, and the other Stark family members, to prepare a proposal regarding their concerns. However, before a proposal could be made, Counter-Defendants, knowing that they have defrauded the Counter-Plaintiffs and the Homer Starks in the previous litigation, filed a declaratory judgment action against the Counter-Plaintiffs only³ in an effort to obtain a declaration of non-liability

³ Counter-Defendants would show that Counter-Defendants' Petition for Declaratory Judgment is not proper because, among other things, the petition excludes necessary and indispensable parties, namely the Homer Starks. As a result, Counter-Defendants' Petition for Declaratory Judgment is fatally defective. See *Dahl v. Heartman*, 14 S.W.3d 434 (Tex. App. – Houston [14th Dist.] 2000, writ denied, *Sage Street*

under Texas and any other states laws and prevent Counter-Plaintiffs from pursuing the assets, property and income that should have been distributed to them. In essence, Counter-Defendants Petition for Declaratory Judgment argues that it doesn't matter that they committed acts of fraud, deception and misrepresentation in the prior litigation because the Counter-Plaintiffs signed a release of their claims. But, Counter-Plaintiffs will show that the release should be set aside as a direct result of the fact that Counter-Defendants owed and wholly failed to comply with their affirmative fiduciary duty of full, complete and accurate disclosure and committed fraud in obtaining the release in the prior litigation.

Additionally, Counter-Plaintiff's seek a full and complete accounting of the assets of Nita Stark's estate, H.J. Lutchter Stark's Estate, Nelda C. Stark's Estate, the Stark Foundation, the properties and assets held by Eunice R. Benckenstein, and the properties and assets held by Clyde McKee wherever located whether real, personal or mixed, and request that this Court determine and declare the assets, both real and personal, which were properly a part of Nita Stark's estate, and which should have been delivered to her sons, W. H. Stark, II and Homer Stark, but which were either improperly claimed and inventoried by Nelda Stark as assets of H. J. Lutchter Stark's estate or which were entirely omitted from the inventory and are/were possessed by the Stark Foundation, Nelda Stark or any other person or entity including, but not limited to, Eunice R. Benckenstein and Clyde McKee.

H. J. Lutchter Stark, Nelda Stark, and Eunice R. Benckenstein owed Bill Stark and Homer Stark, a high fiduciary duty of full and accurate disclosure of information pertaining to the assets of Nita Stark's estate. The inventories, accountings and other

Associates v. Federal Insurance Company, 2001 WL 361674 (Tex. App. Houston [1st Dist.] 2001), and Tex. Civ. Prac. & Rem. Code §37.006(a).

representations made by H. J. Lutchter Stark and Nelda Stark and Eunice R. Benckenstein, as the personal representatives of the estate of Nita Hill Stark and H. J. Lutchter Stark concerned material facts relating to the property to which W. H. Stark, II, and Homer Stark were entitled to receive from their mother, Nita Stark. W.H. Stark II and Homer Stark relied to their substantial injury and damage on the false representations and failures to disclose. H. J. Lutchter Stark and Nelda Stark possessed superior knowledge regarding the assets of Nita Stark's estate both as individuals and fiduciaries, and Counter-Plaintiffs justifiably relied on such superior knowledge.

4.02 Concealment of assets out of state and misrepresentation to the courts in Louisiana and Texas.

As this court is well aware both Nita Stark and Lutchter Stark owned substantial assets in the State of Louisiana. In fact hundreds of thousands of acres were acquired, accompanied with hundreds of oil and gas wells and timber property throughout the State of Louisiana. Further, at the time of death of, Nita Stark and Lutchter Stark, forced heirship applied to inheritance rights in Louisiana.

Louisiana is unique in its retention of the civil law concept of forced heirship.⁴ Forced heirship guarantees to designated worthy heirs a percentage of a decedent's estate. This "forced portion" is "reserved"⁵ for the stipulated heirs, whether the succession is testate or intestate.⁶ In the case at bar, at the time of the death of Nita

⁴ The state of Texas, also influenced by Spanish civil law, retained forced heirship until shortly after it entered the Union. See Dainow, The Early Sources of Forced Heirships; Its History in Texas and Louisiana, 4 La. L. Rev. 42 (1941) and Texas Stat. Act of July 24, 1856, chap. IXXV, Repealed Texas Stat. Act. 8282.

⁵ The term "reserve" rather than "forced portion," or the Roman law term "legitime," is used in the French Civil Code. French Civ. Code art. 471.

⁶ 2 Aubry & Rau, Droit Civil Francais at 679-682 (6th ed. La. St. L. Inst. Trans. 1971).

and/or Lutchter Stark the disposable portion was one-half if there were two or more children left alive.

Therefore in the present case because there were two or more children only one-half of the estate of Nita or Lutchter Stark was disposable. Simply stated William Stark II and Homer Stark, were entitled to one-half of all of the estate of Nita Stark consisting of the property she owned in Louisiana and one-half of the entire estate of Lutchter Stark of all the property he owned in Louisiana. As stated above these estates consisted of hundreds of thousands of acres.

It makes no difference that Homer and William Stark were adopted as the term "children" in forced heirs included formally acknowledged children, filiated⁷ children, and adopted children.⁸

Further, in Louisiana the executor of the estate owes duties to the legatees, creditors or heirs and owes a fiduciary duty to the forced heirs. LSA-C.C.P. art. 3191.⁹ When an executor or executrix knows or has reason to strongly suspect that there are persons with claims as forced heirs they have a duty to make a diligent effort to learn the identity of and inform such persons of the death of the decedent and their possible claims. The executrix has a duty to collect all property of the succession and to preserve it and manage the succession property as a prudent administrator, including the duty to inform the legal heirs of their claim to the property and preserve the property so that the heirs can pursue their rights. The reason this is important is because in the present action movers are aware that Nelda Stark had a fiduciary duty to Homer Stark

⁷ La. Const. Of 1921, art. IV, § 16.

⁸ La. Const. Of 1974, art. 12, § 5.

⁹ Succession of Archie G. Hearn and Mallery Clotille Hearn Mussel White v. Mamie Slack Hearn, et al 412 So.2d 692

and William Stark, not only to give them the 1 million dollar bequest made in the will but also to provide them with their forced portion (i.e. 50% of everything H. J. Lutch Stark owned in Louisiana and 50% of everything Nita Stark owned in Louisiana). Nonetheless movers filed suit in Texas in attempt to achieve a declaratory judgment claiming non-liability as it pertains to forced heirship. It is clear that plaintiffs and movers are attempting to have the Texas court decide the forced heirship issue in Orange County, Texas despite the fact there is ongoing litigation in Louisiana in both the estate of Nelda Stark and the estate of H. J. Lutch Stark.

For example, movers claim that the receipt and release bars all claims including forced heirs. Movers also claim a receipt document from Nita's estate releases all claims of forced heirship. That is not the law in Louisiana and clearly the concealment of property via fraud to forced heirs in Louisiana cannot be released via the receipt and release presented. Under Louisiana law consent may be vitiated by error, fraud, or duress. Louisiana Civil Code Article 1945. Fraud is a misrepresentation or a suppression of the truth made with the intention either to obtain an unjust advantage for one party or to cause a loss or inconvenience to the other. Fraud may also result from silence or inaction. Louisiana Civil Code Article 1953. Fraud need only be proved by a preponderance of the evidence and may be established by circumstantial evidence. Louisiana Civil Code Article 1957. The party against whom rescission is granted because of fraud is liable for damages and attorney fees. Louisiana Civil Code Article 1958.

More importantly, the receipt and release they wish to litigate stems from a settlement in the lawsuit filed in the late 80's and early 90's. In the first lawsuit the heirs of William Stark were not aware of their claim through their forced portion, however, the

attorneys for the foundation and Nelda Stark placed the term forced heirship in the receipt and release. It is obvious now that movers were well aware that the heirs of William Stark had a claim to the forced portion of property in Louisiana which was never disclosed to them during the prior lawsuit.

For example, during the first lawsuit Nelda Stark, the defendant and executor of the H. J. Lucher Stark estate, signed an affidavit in support of her motion for summary judgment claiming she had not taken any action as the executor of the estate of Lucher Stark since 1979. Attached is a copy of that affidavit as Exhibit "A." That affidavit is entirely false. This contradicts the attached copy of the ancillary succession filed in Louisiana in 1982 within which Nelda Stark claims she is the only heir to the estate of H. J. Lucher Stark and bequests to herself oil and gas rights which were never disbursed to the heirs. Attached as Exhibit B is the petition within which Nelda claims she is the sole heir. This was all done without notifying any of the forced heirs including William and Homer Stark and done in violation of Louisiana law and clearly a breach of fiduciary duty.

In sum when the Stark heirs commenced litigation in the late 80's and early 90's Ms. Nelda Stark, in yet another attempt to conceal and hide assets signed a false affidavit in attempt to throw them off the trail and mislead this court which ultimately resulted in summary judgment in her favor.

Further and perhaps more importantly, during her tenure as the succession executor for the estate of H. J. Lucher Stark, Ms. Stark hid more assets from the Louisiana succession and never informed the Stark heirs of their claims of said assets. For example, Ms. Stark, as executor of the estate of H. J. Lucher Stark, transferred to herself what is now known as the "Big Lake Property." That transfer is attached as

Exhibit "C." She transferred this property to herself without ever contacting the heirs, although they were entitled to 50% of the property. Nelda Stark never listed it on the inventory in Louisiana. Attached is a copy of the Louisiana inventory as Exhibit "D," which clearly reflects that the "Big Lake Property" was never listed.

Even more ironic is in her will, Nelda Stark now gives the "Big Lake Property" to another defendant, Eunice Benckenstein. Attached as Exhibit E is a copy of Nelda Stark's will. Ms. Benckenstein is now the current executor to the estate of H. J. Lutch Stark and owes the same duty to the heirs. This property should have been listed in the estate of H. J. Lutch Stark and that the heirs of William Stark should have received one-half of this property. It was never listed in the estate in Louisiana, she never contacted the heirs about this property, she breached her fiduciary duty and she sold it to herself without the knowledge of any of the other owners. See Exhibit "C." In 1965 when H. J. Lutch Stark died he owned the "Big Lake Property." Nelda Stark intentionally failed to list it on his inventory and in 1972, sold it to herself. These are simply two of the examples of the intentional breach of fiduciary duty that Nelda Stark had in Louisiana.

Since the security guards came forward and informed the heirs that Nelda Stark had intentionally hid assets and information from them, the heirs of Bill Stark and William Stark have hired the services of the Louisiana Abstract and Title to perform title searches regarding this property. Attached as Exhibit "F" is the affidavit from Louis LaBruyere, IV, President of that company, which indicates that he believes there was tens of thousands of acres, if not hundreds of thousands of acres, that were in Louisiana that were never placed on the descriptive list in neither Nita's estate nor H. J. Lutch Stark's Louisiana inventory.

Again, although the movers did not inform the court of their actions they have been successful in staying any and all Louisiana court proceedings claiming that all claims must be litigated in Texas. What they are attempting to do is to have the Texas court rule on the issue of forced heirship. Louisiana forced heirship is a property right and should only be litigated by Louisiana courts. However, if this court does believe it has jurisdiction to hear that issue, Louisiana law must be applied.

5.00 CAUSES OF ACTION

5.01 Breach of Fiduciary Duty

Counter-Defendants owed and continue to owe Counter-Plaintiffs fiduciary duties in this matter. Counter-Defendants breached these fiduciaries duties of loyalty, duties of full and accurate disclosure, and the duty of good faith and fair dealing by converting, hiding and secreting various property, failing and refusing to disclose all assets of the various estates, actively misrepresenting the condition of the estates, and misrepresenting Counter-Plaintiffs' rights to distributions from the estates.

By way of examples, Counter-Plaintiffs would show this Court that the Rosalyn Ranch property and "Big Lake" property have been wrongfully acquired by the H.J. Lutcher Stark Estate, the Nelda C. Stark Estate, the Stark Foundation, and Eunice R. Benckenstein. First, with respect to the "Big Lake" property, Counter-Plaintiffs would show that they were never informed that the Estate of H.J. Lutcher Stark owned the "Big Lake" property in Louisiana at the time of his death. The "Big Lake" property was never listed in the Estate of H.J. Lutcher Stark and was sold by Nelda Stark to Nelda Stark without any court approval. Thirty years later, when Nelda Stark died in 1999, the "Big Lake" property appears in her estate and Eunice Benckenstein sells the property to her relatives, the C.L. Benckenstein Trust.

Second, with respect to the Rosalyn Ranch¹⁰ (located in Colorado), Counter-Plaintiffs would show that this property was improperly transferred by Nelda C. Stark to Nelda C. Stark from the Estate of H.J. Lutchter Stark. This transfer alone is directly against the specific provisions of H.J. Lutchter Stark's will. Specifically, H.J. Lutchter Stark's will provides, in pertinent part, the following:

Compensation of Executor: Any Executor (*other than my wife*) shall be entitled to receive reasonable compensation for services actually rendered to my estate. It is specifically provided, however, that if, at the time of my death, I shall have an outstanding written agreement with any Executor regarding compensation for services hereunder, such agreement shall control.

However, contrary to the express provisions of Lutchter Stark's will cited above, Nelda Stark transferred the Rosalyn Ranch, which should have been included in prior inventories, to herself as a fee for serving as the executrix of H.J. Lutchter Stark's estate. Such a conveyance is a breach of her fiduciary duty to the Estate of H.J. Lutchter Stark, is clearly prohibited by the precise terms of Lutchter Stark's will, and violates the Texas Probate Code and Texas Trust Code. In addition to the other damages, properties and assets claimed herein, Counter-Plaintiffs seek the recovery of both the "Big Lake" property and the Rosalyn Ranch.

Due to these and other breaches of fiduciary duty by the Counter-Defendants, Counter-Plaintiffs have suffered substantial and egregious harm. Counter-Plaintiffs are entitled to recover an amount far in excess of the minimum jurisdictional limits of the Court for these harms. In addition, because the causes of action alleged herein were

¹⁰ The Rosalyn Ranch is a family ranch located in Jackson County, Colorado, which was owned by W.H. Stark II's father, H.J. Lutchter Stark. Said property is described, in part, in a Warranty Deed that is filed in Book 117, page 213 of the real property records of Jackson County, Colorado.

committed willfully and maliciously, Counter-Plaintiffs are entitled to and hereby seek exemplary damages as allowed by law.

5.02 Fraud

In addition, Counter-Defendants made material misrepresentations to Counter-Plaintiffs regarding the assets owned by the various estates, the existence of various properties and assets, the condition of the estates, the rights of Counter-Plaintiffs to various distributions from the estates, and the value of the various estates assets. The actions of Counter-Defendants in the prior litigation in concealing, conspiring to conceal, and in actively preventing the discovery of various properties and assets from Counter-Plaintiffs constitutes actual fraud. Counter-Plaintiffs were entitled to and did rely on these material misrepresentations and have suffered substantial harm as a result. Due to Counter-Defendants' illegal and fraudulent actions, Counter-Plaintiff's are entitled to recover both actual and exemplary damages in an amount far in excess of the Court's minimum jurisdictional limits.

5.03 Conversion

Counter-Defendants illegally and unlawfully appropriated various properties and assets for their individual use and benefit, which they had no legal right to, by wrongfully converting various properties and assets, both real and personal, which rightfully belonged to Counter-Defendants. Counter-Defendants took this property with the intent never to return it to its rightful owners, Counter-Plaintiffs. Counter-Defendants have never properly accounted for nor returned the various properties and assets that have been wrongfully converted. In many instances, these properties and assets are still being wrongfully held today. In other instances, the properties and assets have been sold and/or converted beyond the Counter-Defendants

herein. Due to Counter-Defendants' wrongful conversion of these properties and assets, Counter-Plaintiffs have been substantially harmed. Counter-Plaintiffs hereby seek damages for such conversion. In addition, Counter-Plaintiffs are entitled to recover costs of suit and reasonable and necessary attorney's fees in this matter.

5.04 Cancellation of Release (Petition for Bill of Review)

Counter-Plaintiffs entered into a document entitled "Full Final and Complete Release" in cause number D-880162-C styled "*Ida Marie Stark, Individually and as Independent Executor of the Estate of W. H. Stark, II, Deceased, et al. vs. Nelda Childers Stark, Individually and as Independent Executor of the Estate of H. J. Lutchter Stark, Deceased, et al.*" in the 260th Judicial District Court of Orange County. This release should be canceled, set aside, or rescinded on the grounds of breach of fiduciary duty, breach of the duty of good faith and fair dealing, fraud, fraud in the inducement, extrinsic fraud, illegality, unconscionability, and voided as against public policy.

Counter-Plaintiffs are aware of the fact that they were paid \$2,500,000 in the prior litigation. However, Counter-Plaintiffs are seeking additional damages in this case and would show by way of tender that: (1) they did not receive the entire amount of this payment due to attorney's fees and expenses; and (2) they are prepared and willing to credit any judgment that they might recover in the above-entitled and numbered cause with the sum they have previously received. Counter-Plaintiffs would further show that it would be impossible for the parties to return to the pre-release status quo because Counter-Defendants have sold numerous properties, disposed of other properties (including cash, timber and oil and gas rights and revenues), and one of the parties to the prior litigation has passed away, namely Nelda C. Stark.

Despite the fact that Counter-Defendants owed Counter-Plaintiffs fiduciary duties, the Counter-Defendants acted in concert among themselves in a conspiracy to intentionally withhold information from Counter-Plaintiffs concerning dates, places, costs, values and other information regarding the assets of Nelda Stark and the Stark Foundation. These co-conspirators were aware that the assets of Nita Stark, H.J. Lutcher Stark, Nelda Stark and the Stark Foundation contained assets and/or the proceeds and mutations of the assets that H. J. Lutcher Stark, Nelda Stark and other directors and employees of the Stark Foundation had wrongfully converted from the estates of Nita Stark, H.J. Lutcher Stark, and Nelda C. Stark.

The information included then up-to-date inventories or the assets of the Counter-Defendants in the aforementioned suit. As Counter-Plaintiffs have recently found out, these co-conspirators not only withheld information contrary to their fiduciary duties but also contrary to the laws and rules governing the conduct of lawsuits and court orders entered in the aforementioned case. In addition, Counter-Defendants physically hid and concealed the information by concealing the information at the private homes of Stark Foundation officers and employees. The co-conspirators would rotate the information and documents among their private residences and other locations.

The co-conspirators concealed the information and documents for the purpose of preventing the Counter-Plaintiffs in the aforementioned suit from being able to exercise their own unqualified discernment, discretion and judgment in making a decision to settle that suit and decided whether to enter into the aforementioned Full, Final and Complete Release. Despite their fiduciary duties, the co-conspirators concealed the information and documents in order to misrepresent the existence of and value of the properties and assets of Nita Stark, H.J. Lutcher Stark, Nelda Stark and the Stark

Foundation to those Counter-Plaintiffs, prevent those Counter-Plaintiffs from being able to ascertain the actual existence and value of the assets, and cause those Counter-Plaintiffs to make a settlement advantageous to Nelda Stark and the Stark Foundation. These actions constitute extrinsic fraud and are a clear breach of the Counter-Defendants' fiduciary duties to Counter-Plaintiffs.

Counter-Defendants, and specifically Eunice Benckenstein, Roy Wingate and/or Walter Riedel, continue to violate their fiduciary obligations to Counter-Plaintiffs by failing and refusing to disclose information necessary for Counter-Plaintiffs to protect their rights. Despite Eunice Benckenstein, Roy Wingate, and Walter Riedel's fiduciary obligations of full disclosure to Counter-Plaintiffs, they have refused to turn over required information and refuse to be deposed or give any other information requested by Counter-Plaintiffs. Due to these continuing breaches of fiduciary duty, Counter-Plaintiffs continue to suffer substantial harm.

Additionally, Counter-Defendants conspired to dupe Counter-Defendants into signing the "Full, Final and Complete Release". Evidence of Counter-Defendants malicious and fraudulent conduct is found in the release agreement itself. Counter-Defendants included a provision whereby Counter-Plaintiffs' disclaimed reliance on the representations of Counter-Defendants. This contractual provision is void as it violates public policy and common decency. Fiduciaries cannot contractually limit or remove their duties. As this provision attempts to do just that, it is void.

In truth, Counter-Defendants' actions of physically concealing the information and data described above, all in violation of their fiduciary duties, prevented the coming into existence of any valid contract at all. The co-conspirators actions in concealing the information and data and in obtaining the fraudulent settlement constitutes not only

actionable fraud, but also extrinsic and constructive fraud because the co-conspirators actions are condemned by law as they tend to deceive others, violate confidences and cause injury to the public interest. The co-conspirators actual knowledge of not only their wrongful action, but those of H. J. Lutchter Stark, Nelda Stark and other directors and employees of the Stark Foundation in wrongfully converting assets from the estate of Nita Stark to their own possession and control void the allegedly valid release agreement.

Nelda Stark, and the other Counter-Defendants who acted in concert with her in the prior litigation, breached their fiduciary duties of full and complete disclosure of all material facts and of dealing fairly and in good faith with Counter-Plaintiffs. Counter-Plaintiffs reasonably relied on such representations and relied upon such information as the Counter-Defendants allowed them to discover. Counter-Plaintiffs were fraudulently induced into settling their claims for an amount far less than they and/or their assigns would have been entitled to recover. Because of these illegal and fraudulent actions, Counter-Plaintiffs have been damaged in an amount far in excess of the minimum jurisdictional limits of this Court. Counter-Plaintiff's seek judgment against Counter-Defendants, jointly and severally, for such damages.

Because the Counter-Counter-Defendants who acted in concert knew that the representations described above were false at the time they were made, such representations were willful and malicious and constitute conduct for which the law allows recovery of exemplary damages. Counter-Defendants have incurred significant expenses, including attorneys fees, in the investigation and prosecution of this action. Accordingly, Counter-Defendants request that exemplary damages be awarded against Counter-Counter-Defendants, in a sum to be determined by the trier of fact.

Finally, as additional causes of action, if any are needed, Counter-Plaintiffs would show the Court that the "Full, Final and Complete Release" agreement is void due to unconscionability, mistake of fact, breach of duty of good faith and fair dealing, and illegality.

5.05 Constructive and/or Resulting Trust

In addition, in order to prevent the unjust enrichment of Counter-Defendants, Counter-Plaintiffs seek imposition of a constructive and/or resulting trust upon all of the assets, both real and personal, including any increases and changes in the form thereof, which belong to the Estates of Nita Hill Stark, H.J. Lutchter Stark, Nelda C. Stark, the Stark Foundation, Eunice R. Benckenstein, Clyde McKee, Roy Wingate, and/or Walter Reidel III, but which were improperly converted and not delivered to Counter-Plaintiffs.

Moreover, Counter-Plaintiffs also seek the imposition of the constructive trust and/or resulting trust upon all of the assets, both real and personal, which belong to the Estate of Nita Hill Stark, Deceased, the Estate of H.J. Lutchter Stark, Deceased, the Estate of Nelda C. Stark, and the Stark Foundation pending the results of the testing being done on the bodies and tissues of W.H. Stark and H.J. Lutchter Stark.

6.00 DAMAGES

Each of the above-described acts and/or omissions of Counter-Defendants, singularly and/or in combination with others, constitutes breach of fiduciary duty, breach of the duty of good faith and fair dealing, fraud, fraud in the inducement, extrinsic fraud, illegality, unconscionability, and is against public policy, all of which proximately caused the acts and/or omissions described herein and the resulting damages sustained by Counter-Plaintiffs.

Counter-Plaintiffs also assert a claim for pre-judgment interest, at the highest lawful rate, for all elements of damage for which such interest is allowed.

7.00 PRAYER

WHEREFORE, PREMISES CONSIDERED, Counter-Plaintiffs respectfully pray that:

7.01 Citation be issued and that the Counter-Defendants and Third-Party Defendants be cited to appear and answer;

7.02 The court cancel, annul, void, and in all things set aside the "Full, Final and Complete Release" executed in cause no. D-880162-C styled "*Ida Marie Stark, Individually and as Independent Executor of the Estate of W. H. Stark, II, Deceased, et. al. vs. Nelda Childers Stark, Individually and as Independent Executor of the Estate of H. J. Lutcher Stark, Deceased, et al.*" in the 260th Judicial District Court of Orange County, Texas;

7.03 The Court order a full and complete accounting of the assets, both real and personal, of the Estate of Nita Hill Stark, Deceased; the Estate of H.J. Lutcher Stark, Deceased; the Estate of Nelda C. Stark, Deceased and the Stark Foundation.

7.04 The Court determine and declare the properties, including but not limited to, the "Big Lake" property and the Rosalyn Ranch, which should have been made a part of the Estate of Nita Hill Stark, Deceased, wherever located and whether real, personal, or mixed, and which are instead reflected as assets of the Estate of H. J. Lutcher Stark, Deceased, and/or Estate of Nelda C. Stark, Deceased, or otherwise omitted entirely from any inventory or accounting and order their return or the cash equivalent;

7.05 The Court award Counter-Defendants actual damages in a sum in excess of the minimum jurisdictional limits of the Court;

7.06 The Court impose a constructive and, or, resulting trust upon the Stark Foundation and/or all the assets which should have been made a part of the Estate of Nita Hill Stark, Deceased and/or all the assets of the Estate of H.J. Lutchter, Deceased, and/or the Estate of Nelda C. Stark, Deceased;

7.07 The Court award Counter-Defendants exemplary damages in a sum determined by the trier of fact;

7.08 The Court award Counter-Defendants pre-judgment and post-judgment interest at the legal rates;

7.09 The Court award Counter-Defendants reasonable and necessary attorney's fees and tax all court costs and expenses to Counter-Defendants;

7.10 The Court award Counter-Defendants such other and further relief, legal or equitable, or both to which Counter-Defendants are justly entitled.

Dated: August 15, 2001.

Respectfully Submitted,

LOVELL, LOVELL & NEWSOM, L.L.P.



KEVIN A. ISERN

State Bar No. 10432900
1200 Amarillo National's Plaza Two
500 South Taylor, L.B. #207
Amarillo, Texas 79101-2445
(806) 373-1515 (Telephone)
(806) 379-7176 (Facsimile)

L. CLAYTON BURGESS, APLC

L. Clayton Burgess
Louisiana Bar Roll No. 22979
405 West Convent Street
Post Office Box 5250
Lafayette, Louisiana 70502-5250
(337) 234-7573 (Telephone)
(337) 233-3890 (Facsimile)

**ATTORNEYS FOR
COUNTER-DEFENDANTS**

VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF POTTER §

Before me, the undersigned Notary Public, on this day personally appeared Kevin A. Isern, being first duly sworn, deposes and says as follows:

"My name is Kevin A. Isern. I am an attorney licensed by the Supreme Court of Texas, and I am counsel of record for the Counter-Plaintiffs in this action.


Appearing before the undersigned notary public and being duly sworn, upon my oath I state that the facts contained in the above and foregoing Counter-Plaintiffs' First Amended Original Counter-Petition, Third-Party Petition, and Petition for Bill of Review Filed Subject to Defendant's First Amended Motion to Dismiss For Lack of Jurisdiction are within my personal knowledge and are true and correct.

Further, affiant sayeth not."

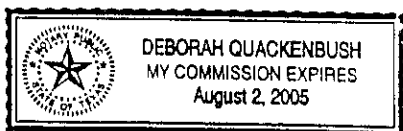


Kevin A. Isern

SUBSCRIBED AND SWORN TO before me by Kevin A. Isern this 15th day of August, 2001, to certify which witness my hand and seal of office.



Notary Public, State of Texas
My commission expires: 8/2/05



CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the above and foregoing instrument has been served on all counsel of record in the manner indicated below and in accordance with the requirements of the Texas Rules of Civil Procedure on this the 15TH day of August, 2001.

Mr. John C. Smith
MEHAFFY & WEBER
Post Office Drawer 189
Orange, Texas 77630-0189

Certified Mail RRR No. 7001 0360 0000 2012 7852

Mr. Jim I. Graves
Mehaffy & Weber
One Allen Center
500 Dallas, Suite 1200
Houston, TX 77002

Certified Mail RRR No. 7001 0360 0000 2012 7869

Mr. Kurt Andreason
MeHaffy & Weber
2615 Calder Avenue
P.O. Box 16
Beaumont, Texas 77704

Certified Mail RRR No. 7001 0360 0000 2012 7876

Kevin M. Jordan
Sheldon, Jordan & Dunham
905 Orleans
Beaumont, Texas 77701-3520

Certified Mail RRR No. 7001 0360 0000 2012 7883

Tommy Gunn
Law Office of Tommy Gunn
202 S. Border Street
Orange, Texas 77630

Certified Mail RRR No. 7001 0360 0000 2012 7890

Thomas L Hanna
Attorney at Law
519 - 14th Street
P.O. Box 1384
Nederland, Texas 77672

Certified Mail RRR No. 7001 0360 0000 2012 7906

Larry C. Hunter
1260 North Main
Vidor, Texas 77662

Certified Mail RRR No. 7001 0360 0000 2012 7913

Ms. Susan Staricka
Chief, Charitable Trusts Section
Consumer Protection Division
P.O. Box 12548
Austin, Texas 78711-25487

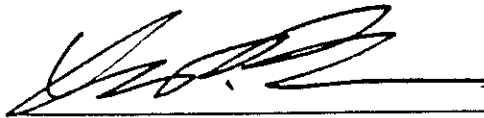
Certified Mail RRR No. 7001 0360 0000 2012 7920

L. Clayton Burgess
405 West Convent Street
Lafayette, LA 70502-5250

Certified Mail RRR No. 7001 0360 0000 2012 7937

Mr. Louis Dugas
1804 North 16th Street
Orange, Texas 77630

Certified Mail RRR No. 7001 0360 0000 2012 7944

A handwritten signature in black ink, appearing to read 'Kevin A. Isern', is written over a horizontal line.

Kevin A. Isern

EXHIBIT A

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NO. D-680,162C

IDA MARIE STARK, INDIVIDUALLY	\$	IN THE DISTRICT COURT OF
AND AS INDEPENDENT EXECUTOR	\$	
OF THE ESTATE OF	\$	
W. B. STARK, II, DECEASED	\$	
AND RAMONA ELIZABETH STARK	\$	
SANDS,	\$	
	\$	
PLAINTIFFS	\$	
	\$	
V.	\$	ORANGE COUNTY, TEXAS
	\$	
WELDA CHILDERS STARK,	\$	
INDIVIDUALLY, AND AS	\$	
INDEPENDENT EXECUTOR OF THE	\$	
ESTATE OF H. J. LUTHER STARK,	\$	
DECEASED, ET AL.,	\$	
	\$	
DEFENDANTS	\$	260TH JUDICIAL DISTRICT

AFFIDAVIT OF WELDA C. STARK

COUNTY OF ORANGE)
 STATE OF TEXAS)

BEFORE ME, the undersigned authority, personally
 appeared Welda C. Stark who after being duly sworn upon her
 oath stated as follows:

1. My name is Welda C. Stark. I am a
 resident of the City of Orange, Texas, and
 have been at all times mentioned herein. I
 am one of the defendants in the above captioned
 case. This affidavit made upon my personal
 knowledge and the statements contained herein
 are true and correct.

2. I was married to H. J. Luther Stark
 from December 16, 1943 until his death on
 September 2, 1965. Upon my husband's death,
 his Last Will and Testament was admitted to
 probate in the County Court of Orange County,
 Texas. I was named independent executrix
 under the Will. In my capacity as
 independent executrix, I paid all of the
 debts and distributed all of the assets of

the Estate to the named beneficiaries as provided in the Will. On November 11, 1971, I caused to be filed the Estate's final tax return. A true and correct copy of this final tax return is attached to this affidavit as Exhibit A. I took no further action as independent executrix of the H. J. Litcher Stark Estate after 1979.

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Helde C. Stark

SWORN TO AND SUBSCRIBED to before me on this 18th
day of May, 1909.


NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS



MAY 21 1909
Notary Public, State of Texas

EXHIBIT B

ANCILLARY SUCCESSION : 14TH JUDICIAL DISTRICT COURT
OF NO. 15405 : PARISH OF CALCASIEU
H.J. LUTCHER STARK : STATE OF LOUISIANA

P E T I T I O N

The petition of MELBA C. STARK, Executrix of the Estate of H.J. Lutcher Stark, duly authorized to appear and act as such by letters testamentary issued by the County Court in and for the County of Orange, State of Texas, a certified copy of such letters being annexed hereto and made a part hereof, respectfully represents :

1.

H.J. Lutcher Stark, whose full christian name was Henry Jacob Lutcher Stark, a domiciliary of Orange County, Texas, died while temporarily confined at the John Sealy Hospital in Galveston, Texas on September 2, 1965 as will more fully appear by the affidavit of death and heirship attached hereto and made a part hereof.

2.

Decedent left a last will and testament in writing and subscribed by the testator, executed in the State of Texas in the mode prescribed by the laws of Texas, a duly certified copy of which is annexed hereto and made a part hereof.

3.

The said will in which petitioner is named Testamentary Executrix has been duly proved, allowed and admitted to probate in the County Court for the County of Orange.

22000

State of Texas, as fully appears by reference to a certified copy of the Order of Probate annexed hereto and made a part hereof.

4.

Decedent left immovable property within the jurisdiction of this Court, as will more fully appear by reference to the sworn descriptive list attached hereto and made a part hereof.

5.

A reading of the will of the late H.J. Lutchter Stark reveals that there are four legatees named therein, viz., petitioner, NELDA C. STARK, Homer B.H. Stark, William H. Stark, II and the Nelda C. and H.J. Lutchter Stark Foundation, a non-profit corporation organized under the laws of the State of Texas.

6.

The legatees, Homer B.H. Stark and William H. Stark, II, were each willed the sum of One million dollars, and petitioner attaches hereto and makes a part hereof a certified copy of the receipt and full and final release executed by Homer B.H. Stark on September 3, 1969, and a similar certified copy of a receipt and full and final release executed by William H. Stark, II on September 2, 1969, evidencing that such heirs and legatees have been fully satisfied under the will and testament of decedent and under the laws of succession of the State of Louisiana, particularly with reference to the case of Jarel v. Moon's Succession, 190 So. 867 (2nd Cir. 1939).

7.

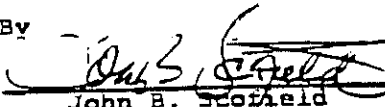
Petitioner annexes hereto and makes a part hereof a notarial act of acknowledgement executed by the Nelda

due course, petitioner, NELDA C. STARK, be recognized and entitled to sole possession and ownership of all the properties contained in the attached detailed descriptive list, and that the succession, heirs and legatees herein be held free from the payment of any inheritance taxes to the State of Louisiana or the Parish of Calcasieu.

By Her Attorneys,

SCOFIELD, BERGSTEDT & GERARD

By


John B. Scofield
125 West Kirby Street
Lake Charles, Louisiana 70601

STATE OF TEXAS :
COUNTY OF ORANGE :

VERIFICATION AFFIDAVIT

BEFORE ME, the undersigned Notary duly commissioned and qualified in and for the foregoing County and State, personally came and appeared NELDA C. STARK, who after being duly sworn, declared:

That she is the petitioner in the above and foregoing petition; that she has read same, and all the allegations contained therein are true and correct to the best of her knowledge, information and belief.


Nelda C. Stark

SWORN TO AND SUBSCRIBED before me, Notary, at Orange, Texas on this 13th day of April, 1972.


Inetta Campbell
Notary Public

JS:qk

ANCILLARY SUCCESSION

OF NO. _____

H.J. LUTCHER STARK

STATE OF TEXAS

COUNTY OF ORANGE

: 14TH JUDICIAL DISTRICT COURT

: PARISH OF CALCASTEU

: STATE OF LOUISIANA

: SWORN DESCRIPTIVE LIST

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in and for the foregoing County and State, personally came and appeared NELDA C. STARK, Testamentary Executrix and petitioner in this ancillary succession, who deposed that in compliance with La. R. S. 47:2408 and the Code of Civil Procedure Article 3136, she presents to this Court a detailed descriptive list which is attached hereto and made a part hereof, together with the values of the properties as accepted by the Federal Estate Tax Examiner.

Appearer further deposed that the decedent made no donations inter vivos or effected any transfer of property for an inadequate consideration in contemplation of death, or within one year prior to death.


Nelda C. Stark

SWORN TO AND SUBSCRIBED Before me, Notary, at Orange Texas, on this 13th day of April, 1972.


Inetta Campbell
Notary Public

EXHIBIT C

263

128344

RECEIVED FILED

'72 FEB 11 AM 9 19

STATE OF TEXAS
COUNTY OF ORANGE
LOUISIANA

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in and for the foregoing County and State, and in the presence of the undersigned competent witnesses, personally came and appeared NELDA C. STARK, in her capacity as Independent Executrix of the Estate of H.J. Lutcher Stark, a resident of Orange County, Texas, hereinafter referred to as "Vendor", who declared that for and in consideration of the sum of the sum of Fifty-four thousand and no/100 (\$54,000.00) Dollars cash to her in hand paid by NELDA C. STARK, individually, a single woman, widow of H.J. Lutcher Stark, and a resident of Orange County, Texas, hereinafter referred to as "Vendee", the said Vendor does by these presents grant, sell and convey with full warranty of title and full subrogation to all of the rights and actions of warranty of said Vendor against all former owners and vendors, all of that certain parcel of land situated in the Parish of Cameron, State of Louisiana, to-wit:

Lots 27, 28, 29, 31 and 32 of Blood's 1st and 2nd Subdivision of Lot no. 1 of Irregular Section 10 together with a 20' alley on the east side of said lots.

Lots 23 and 30 of Blood's 1st and 2nd Subdivision of Lot 1 of Lakeview Town Plat, of Lot 10 or Section 10, in Township 12 South, Range 9 West.

BEGINNING at the Northeast corner of Lot 30 of Blood's 1st and 2nd Subdivision of Lot 1 of Lakeview Town Plat of Lot 10 or Section 10, Township 12 South, Range 9 West,

THENCE East 15 feet,

THENCE South parallel with East line of Lot 30 to edge of Calcasieu Lake.

Conveyance

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THENCE Northwesterly along said Lake Bank to the east line of said Lot 30,

THENCE North along the East line of said Lot 30 to the point of beginning.

All of the above lands being situated in Cameron Parish, Louisiana, in Township 12 South, Range 9 West, as per plat of survey by John W. Rhorer recorded in Book 1 at page 595 of the Conveyance Records of Cameron Parish, Louisiana.

Acquired by Warranty Deed from H.J. Lutchter Stark to The Lutchter and Moore Lumber Company dated November 8, 1950, bearing file no. 60275 and recorded in Book 81 of Conveyance at page 261 et seq., Cameron Parish, Louisiana, and more completely described in that Correction Deed dated July 21, 1955 and recorded in Book 108, page 141, under file no. 71855 of the Conveyance Records of Cameron Parish, Louisiana.

TO HAVE AND TO HOLD the above described property together with all and singular, the rights and appurtenances thereto in anywise belonging to the said Vendea, her heirs and assigns forever.

This is the same property that Vendor acquired from The Lutchter and Moore Lumber Company by deed dated August 7, 1967 passed before Miriam Arrington, Notary Public for Orange County, Texas.

The parties hereto waive the production of the mortgage and tax certificates otherwise required by law.

THUS DONE AND SIGNED by Vendor at Orange, Texas in the presence of me, Notary, and Myrtle Crocker and Anna J. Coffey competent witnesses, on this 19th day of January, 1972.

WITNESSES:

Myrtle Crocker

Anna J. Coffey

Nelda C. Stark
Independent Executrix of the
Estate of H.J. Lutchter Stark

BEFORE ME Inetta Campbell
Notary Public

JS:qk

RECORDED: February 15, 1972

Roland Y. Phineas
By Clerk of Court & Recorder

RECORDED: February 15, 1972

EXHIBIT D

PROPERTIES OWNED BY H.C. LUTCHER STARK IN THE STATE OF LOUISIANA AND VALUES OF SAME AS OF THE DATE OF HIS DEATH SEPTEMBER 3, 1965, ALL OF WHICH CONSTITUTE THE SEPARATE PARAPHERNAL ESTATE OF DECEDENT

CALCASIEU PARISH:

1. An undivided 1/6 of 1/48 (1/288) mineral interest in and to:

North Half of Northwest Quarter (N 1/2 of NW 1/4) of Section Four (4), Township Ten (10) South, Range Nine (9) West

Valued at 5 157
2. An undivided 1/6 of 1/48 (1/288) mineral interest in and to:

North Half of Northeast Quarter (N 1/2 of NE 1/4) of Section Five (5), Township Ten (10) South, Range Nine (9) West

Valued at 15
3. An undivided 1/6 of 1/48 (1/288) mineral interest in and to:

South Half of North Half (S 1/2 of N 1/2) and North Half of Southeast Quarter (N 1/2 of SE 1/4) of Section Nine (9), Township Ten (10) South, Range Nine (9) West

Valued at 1
4. An undivided 1/6 of 1/48 (1/288) mineral interest in and to:

Lots Four and Nine (4 and 9) of Section Ten (10), Township Ten (10) South, Range Nine (9) West

Valued at
5. An undivided 1/2 mineral interest in and to:

Southwest Quarter of Southwest Quarter of Southwest Quarter (SW 1/4 of SW 1/4 of SW 1/4) of Section Thirty-four (34), Township Ten (10) South, Range Twelve (12) West

Valued at 1

- 6) An undivided 7717/18,000 interest in and to:

Southeast Quarter of Northeast Quarter
(SE 1/4 of NE 1/4) of Section thirty-four
(34), Township Ten (10) South, Range Twelve
(12) West, containing 40 acres more or less

Valued at 34,293.00

7. An undivided 7717/18,000 interest in and to:

Two acres located in the Northwest corner
of the Northwest Quarter of Southwest
Quarter (NW 1/4 of SW 1/4) of Section
Thirty-four (34), Township Ten (10) South,
Range Twelve (12) West, being one acre
east and west and two acres north and
south

Valued at 1,581.00

CADDO PARISH:

- An undivided 1/2 mineral interest in and to:

Northeast Quarter of Northeast Quarter
(NE 1/4 of NE 1/4) of Section Twenty-nine
(29), Township Twenty-two (22) North, Range
Fifteen (15) West.

Valued at 863.00

Total Value of Ancillary Succession \$ 40,950.00

ANCILLARY SUCCESSION : 14TH JUDICIAL DISTRICT COURT
OF NO. 15.405 : PARISH OF CALCASIEU
H. J. LUTCHER STARK : STATE OF LOUISIANA

PETITION TO AMEND SWORN
DESCRIPTIVE LIST AND JUDGMENT OF POSSESSION

The petition of NELDA C. STARK, a resident of the County
of Orange, State of Texas, respectfully represents:

1.

Petitioner is the former Executrix of the Estate of H. J.
Lutcher Stark, and is the decedent's sole legatee and heir, as
is evidenced by the judgement of possession rendered herein on
May 5, 1972.

2.

Petitioner has discovered that a mineral interest in property
situated in Caddo Parish, Louisiana was omitted from the sworn
descriptive list dated April 13, 1972 and the said judgement of
possession. The said property being more particularly described
in the amended sworn descriptive list and verification affidavit
attached hereto and made a part hereof.

3.

Petitioner desires and is entitled to a judgment from this
Honorable Court amending the judgment of possession previously
rendered and signed on May 5, 1972.

4.

Petitioner does not know the precise value of the said
mineral interest, but any inheritance taxes that might have been
due have prescribed.

WHEREFORE, petitioner, NELDA C. STARK, prays that after due
proceedings had there be judgment rendered herein supplementing
and adding to the judgment of possession the following described
property situated in the Parish of Caddo, State of Louisiana.
to-wit:


FILED FEB 16 1982
Shirley Helbert
Deputy Clerk of Court
Calcasieu Parish, Louisiana

An undivided one-half (1/2) interest in the minerals in, under and appertaining to the South Half of the Northwest Quarter of the Northwest Quarter (S/2 of NW/4 of NW/4) of Section Twenty-Eight (28), Township Twenty-Two (22) North, Range Fifteen (15) West.

Petitioner prays for all other orders and decrees necessary in the premises.

BY HER ATTORNEYS:

SCOFIELD, BERGSTEDT, GERARD,
HACKETT & MOUNT


JOHN H. SCOFIELD
P. O. Drawer 7028
Lake Charles, LA 70602

15,405

ANCILLARY SUCCESSION
OF NO. 15,405
H. L. LUTCHER STARK

14TH JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU
STATE OF LOUISIANA

1697334

AMENDED JUDGMENT OF POSSESSION

Considering the foregoing petition to amend sworn descriptive list and judgment of possession, the affidavit of Mrs. Nelda C. Stark and the record compiled previously herein, the law and evidence being in favor thereof:

LET the amended sworn descriptive list be filed herein.

IT IS ORDERED, ADJUDGED AND DECREED that the judgment of possession previously rendered herein on May 5, 1972 be and the same is hereby amended and supplemented by adding thereto the following described property to be placed into the possession of Mrs. Nelda C. Stark, to-wit:

CADDO PARISH:

An undivided 1/2 mineral interest in, under and appertaining to:

South Half of Northwest Quarter of Northwest Quarter (S/2 of NW/4 of NW/4) of Section Twenty-Eight (28), Township Twenty-Two (22) North, Range Fifteen (15) West.

JUDGMENT READ, RENDERED AND SIGNED at Lake Charles, Louisiana, on this 16th day of February, 1982.

R. E. Sawyer
DISTRICT JUDGE

OFFICE OF CLERK OF COURT

FEB 16 3 47 PM '82

CALCASIEU PARISH, LOUISIANA

FILED

Feb. 16, 1982

Sharon Hebert

Deputy Clerk of Court
Calcasieu Parish, Louisiana

ANCILLARY SUCCESSION : 14TH JUDICIAL DISTRICT COURT
OF NO. 15,405 : PARISH OF CALCASIEU
H. C. LUTCHER STARK : STATE OF LOUISIANA

STATE OF TEXAS

COUNTY OF ORANGE

AMENDED SWORN DESCRIPTIVE
LIST AND VERIFICATION AFFIDAVIT

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in and for the foregoing county and state, personally came and appeared NELDA C. STARK, who declared that she is the petitioner in the foregoing petition; that she has read the allegations contained therein; and that all of the allegations are true and correct.

Appearer further avers that the sworn descriptive list previously filed in the proceedings dated April 13, 1972 should be amended and supplemented to include the following described property, to-wit:

CADDO PARISH:

An undivided 1/2 mineral interest in, under and appertaining to:

South Half of Northwest Quarter of Northwest Quarter (S/2 of NW/4 of NW/4) of Section Twenty-Eight (28), Township Twenty-Two (22) North, Range Fifteen (15) West.


NELDA C. STARK

SWORN TO AND SUBSCRIBED before me, Notary, at Orange, Texas, on this 8th day of February, 1982.


NOTARY PUBLIC

My Commission Expires:

March 23, 1984
(SEAL)

EXHIBIT E

11627
LAST WILL AND TESTAMENT

OF

NELDA C. STARK

I, NELDA C. STARK, of Orange County, Texas, do hereby publish and declare this to be my Last Will and Testament, hereby revoking any and all other wills and codicils previously made by me.

ARTICLE I

DECLARATIONS

As of the date of this Will, I am not married.

I was previously married to H. J. Lutchter Stark, who has predeceased me. H. J. Lutchter Stark was married two times prior to his marriage to me. H. J. Lutchter Stark was first married to Nita Hill Stark, who died on October 11, 1939. Two children were born to H. J. Lutchter Stark and his wife, Nita Hill Stark, during that marriage, both of whom died in infancy and without issue. No other children were born to H. J. Lutchter Stark and Nita Hill Stark; however, Homer B. H. Stark and William H. Stark II were adopted by H. J. Lutchter Stark and Nita Hill Stark during that marriage. As of the date of execution of this Will, Homer B. H. Stark is living and has issue living, and William H. Stark II is deceased but has issue living. After the death of Nita Hill Stark, H. J. Lutchter Stark married, on April 6, 1941, Ruby Belle Childers Stark, who was my sister. Ruby Belle Childers Stark died on July 12, 1942. No children were born to or adopted by H. J. Lutchter Stark or his wife, Ruby Belle Childers Stark, during that marriage. Following the death of Ruby Belle Childers Stark, second wife of H. J. Lutchter Stark, I married H. J. Lutchter Stark on December 16, 1943. H. J. Lutchter Stark died on September 2, 1965. No children have ever been born to me, and I have never adopted anyone, legally or otherwise. Thus, I have no children, lawful descendants, grandchildren or other issue, living or dead. Specifically and without limitation, the following persons are not my children, grandchildren, issue, lawful descendants or heirs at law: (i) Homer B. H. Stark, (ii) the issue of Homer B. H. Stark, (iii) William H. Stark II, and (iv) the issue of William H. Stark II.

ARTICLE II

EXECUTOR

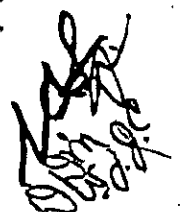
I appoint Eunice R. Benckenstein, Roy Wingate, and Walter G. Riedel III, all of Orange, Texas, as executors, to serve jointly. There shall be no successor to fill any vacancy in any of those three executorships, and in case of a vacancy or vacancies the remaining two executors or the remaining one executor, as the case may be, shall serve as joint executors or the sole executor.

No bond or other security shall be required of Executor. Executor shall act independently of any court, and I direct that no action shall be had in the county court or other probate court in relation to the settlement of my estate other than the probating and recording of this my Last Will and Testament and the return of an inventory, appraisement, and list of claims of my estate.

For services performed as executor, each person so serving shall be entitled to receive fair and reasonable compensation; provided, if at the time of my death, I have a written agreement in effect with any individual appointed as an executor under this Will regarding compensation for services as such, such written agreement shall control.

As used or applied in this Will, the term "Executor" refers collectively to the one or ones serving at any particular time as the executor or executors. Such definition, however, shall not be deemed to restrict any applicable law or provision which permits fewer than all executors to act,

11627



without the joinder of all, and I expressly provide that the action of a majority of my executors shall be effective as if performed by all.

ARTICLE III

GIFTS OF MY PROPERTIES

A. To the Nelda C. and H. J. Lutchter Stark Foundation, a Texas nonprofit corporation whose certificate of incorporation is dated the 27th day of February, 1961, Charter No. 172648 (hereafter in this Will "the Nelda C. and H. J. Lutchter Stark Foundation"), I bequeath all of my interest in the following properties, which, at the time of my death, are located in my residence at 602 W. Orange in the City of Orange, Texas (hereafter in this Will "my residence"): paintings, prints, oriental and Navajo rugs, and all other art objects of museum quality. The determination of what art objects are of museum quality is to be in the sole discretion of Executor.

B. To Walter G. Reidel III if he survives me, I devise and bequeath all of my interest in the following properties:

1. The tract of land being 100 feet on Orange Avenue and 130 feet on Fifth Street, in the Northwest corner of Block 69, Amended Sheldon Survey, in the City of Orange, Texas, as described in deed to Nelda C. Stark recorded in Volume 424, Page 899, Deed Records of Orange County, Texas.

2. Lots 1, 2, 3, 4, 11, and 12 of Block 87, Amended Sheldon Survey, in the City of Orange, Texas.

3. Lots 4, 5, 6, 7, 8, and 9 of Block 88, Amended Sheldon Survey in the City of Orange, Texas.

C. To Eunice R. Benckenstein if she survives me, I bequeath all of my interest in the following properties: furniture, household goods and personal effects, books, clothing, china, crystal, porcelain, bric-a-brac, silver, plate, jewelry, stamp and coin collections, and all jewelry and other personal property which is, at the time of my death, located in my residence or my office, including jewelry kept in my office vault. Notwithstanding the foregoing, I do not intend to bequeath under this paragraph C any item passing under paragraph A of this Article. If Eunice R. Benckenstein does not survive me, the gifts under this paragraph C shall lapse, and the properties thereof shall pass as a part of my residuary estate under paragraph M of this Article.

D. To Eunice R. Benckenstein if she survives me, I devise and bequeath the sum of Six Hundred Fifty Thousand Dollars (\$650,000). If Eunice R. Benckenstein does not survive me, the gift under this paragraph D shall lapse, and the property thereof shall pass as a part of my residuary estate under paragraph M of this Article.

E. To Homer B. H. Stark if he survives me, I devise and bequeath the sum of One Million Dollars (\$1,000,000). If Homer B. H. Stark does not survive me, I devise and bequeath the sum of One Million Dollars (\$1,000,000) to Rebecca Havens Stark if she survives me. If neither Homer B. H. Stark nor Rebecca Havens Stark survives me, the gift under this paragraph E shall lapse, and the property thereof shall pass as a part of my residuary estate under paragraph M of this Article.

F. To Robert Risinger if he survives me, I devise and bequeath the sum of Five Thousand Dollars (\$5,000). If Robert Risinger does not survive me, the gift under this paragraph F shall lapse, and the property thereof shall pass as a part of my residuary estate under paragraph M of this Article.

G. To Maxie G. Roberts if he survives me, I devise and bequeath the sum of Five Thousand Dollars (\$5,000). If Maxie Roberts does not survive me, the gift under this paragraph G shall lapse, and the property thereof shall pass as a part of my residuary estate under paragraph M of this Article.

Handwritten signature and initials:
M. J. A.
W. J. B.
W. J. B.

H. To Richard McKinney if he survives me, I devise and bequeath the sum of Five Thousand Dollars (\$5,000). If Richard McKinney does not survive me, the gift under this paragraph H shall lapse, and the property thereof shall pass as a part of my residuary estate under paragraph M of this Article.

I. To Mary Hadnot if she survives me, I devise and bequeath the sum of One Thousand Dollars (\$1,000). If Mary Hadnot does not survive me, the gift under this paragraph I shall lapse, and the property thereof shall pass as a part of my residuary estate under paragraph M of this Article.

J. To Marie Salter if she survives me, I devise and bequeath the sum of One Thousand Dollars (\$1,000). If Marie Salter does not survive me, the gift under this paragraph J shall lapse, and the property thereof shall pass as a part of my residuary estate under paragraph M of this Article.

K. If Eunice R. Benckenstein survives me, I devise and bequeath all of my interest at the time of my death in the Orange County Property, as defined and described in subparagraph 1 of this paragraph K, to the Trustees identified below, to be held in trust (hereafter in this paragraph "the Trust") under the following terms and conditions:

1. For purposes of this paragraph K, any and all references to "the Orange County Property" are to all of my interest at the time of my death in the following-described properties located in Orange County, Texas, and all improvements thereon, to-wit:

- a. A part of the Nathan Cordrey Headright Survey, and a part of Outlot 27, of the Amended Sheldon Survey of the City of Orange, and being the tract of land 165.5 feet by 160 feet, conveyed to Nelda C. Stark by H. J. L. Stark by deed dated December 15th, 1947, and recorded in Volume 99 on page 610 of the Deed Records of Orange County, Texas.
- b. A part of the Nathan Cordrey Headright Survey, and a part of Outlot No. 27 of the Amended Sheldon Survey of the City of Orange and being the tract of land, 165.5 feet by 160 feet, conveyed to Nelda C. Stark as "Tract 2" in that deed dated July 30th, 1979, recorded in Volume 516, Page 336 of the Deed Records of Orange County, Texas.
- c. A part of the Nathan Cordrey Headright Survey and a part of Outlot No. 27 of the Amended Sheldon Survey of the City of Orange and being the tract of land 160 feet by 150 feet, conveyed to Nelda C. Stark by deed dated July 30th, 1979, and recorded in Volume 516, Page 341, Deed Records of Orange County, Texas.
- d. The 1.215 acres in Outlot No. Twenty-seven of the Amended Sheldon Survey of the City of Orange conveyed to Nelda C. Stark by B. C. McDonough and wife, Alberta Colburn McDonough, et al, by deed dated May 20th, 1970, and recorded in Volume 398, Page 641 of the Deed Records of Orange County, Texas.

2. The income beneficiary of the Trust shall be Eunice R. Benckenstein. The principal beneficiary shall be the Nelda C. and H. J. Luther Stark Foundation.

3. During the life of the income beneficiary, the Orange County Property shall be retained by the Trustees, and the income beneficiary shall be allowed the use



and enjoyment of the Orange County Property, without any charge for rent. The Orange County Property shall never be mortgaged.

4. To the extent of any income of the Trust, the Trustees shall pay out of net income of the Trust the expense of insurance premiums, property taxes and assessments, utility costs, reasonable maintenance and repairs, and similar costs associated with the Orange County Property. To the extent the net income of the Trust is insufficient to pay such expenses, the income beneficiary shall be responsible for payment of those expenses.

5. The Trust shall not terminate until after (a) the income beneficiary's death, or (b) receipt by the Trustees of a written renunciation by the income beneficiary of her rights of enjoyment specified above, whichever event occurs first. Upon the occurrence of either one of those events, the Trustees shall sell the Orange County Property, and upon completion of such sale, the Trust shall terminate, and the properties of the Trust shall be distributed to the principal beneficiary.

6. Subject to the foregoing, the Trustees shall have all the powers conferred on trustees by the Texas Trust Code.

7. The initial Trustees shall be Eunice R. Benckenstein, Roy Wingate, and Walter G. Riedel III. If any of such three persons fails or ceases for any reason to serve as a Trustee, the remaining two Trustees or the remaining one Trustee, as the case may be, shall serve as the Trustees or the sole Trustee. The person or persons serving as Trustees at any time shall have the power to appoint in writing one or more additional Trustees, provided that, if two or more persons are then serving as Trustees, any such appointment must be made unanimously by all such Trustees.

8. The Trustees are relieved from furnishing bond.

9. The Trustees shall not be liable for any acts or omissions except for those which constitute gross negligence, bad faith or a breach of the duty of loyalty owed to a beneficiary.

10. The Trust shall be a spendthrift trust to the greatest extent permitted by Tex. Prop. Code Ann. § 112.035.

If Eunice R. Benckenstein does not survive me, the gift under this paragraph K shall lapse, and the properties thereof shall pass as a part of my residuary estate under paragraph M of this Article.

L. If Eunice R. Benckenstein survives me, I devise and bequeath all of my interest at the time of my death in the Big Lake House Louisiana Property, as defined and described in subparagraph 1 of this paragraph L, and the sum of One Hundred Thousand Dollars (\$100,000), to the Trustees identified below, to be held in trust (hereafter in this paragraph "the Trust") under the following terms and conditions:

1. For purposes of this paragraph L, any and all references to "the Big Lake House Louisiana Property" are to all of my interest at the time of my death in the following-described property located in Cameron Parish, Louisiana, and all improvements thereon, to-wit:

Lots 27, 28, 29, 31 and 32 of Blood's 1st and 2nd Subdivision of Lot No. 1 of Irregular Section 10 together with a 20' alley on the east side of said lots.

Lots 23 and 30 of Blood's 1st and 2nd Subdivision of Lot 1 of Lakeview Town Plat, of Lot 10 or Section 10, in Township 12 South, Range 9 West.

BEGINNING at the Northeast corner of Lot 30 of Blood's 1st and 2nd Subdivision of Lot 1 of Lakeview Town Plat of Lot 10 or Section 10, Township 12 South, Range 9 West,

Handwritten signature:
Roy Wingate

THENCE East 15 feet,

THENCE South parallel with East line of Lot 30 to edge of Calcasieu Lake,

THENCE Northwesterly along said Lake bank to the East line of said Lot 30,

THENCE North along the East line of said Lot 30 to the point of beginning.

All of the above lands being situated in Cameron Parish, Louisiana, in Township 12, Range 9 West, as per plat of survey by John W. Rhorer recorded in Book 1 at page 595 of the Conveyance Records of Cameron Parish, Louisiana.

Acquired by Warranty Deed from H. J. Lutchter Stark to The Lutchter and Moore Lumber Company dated November 8, 1950, bearing file no. 60275 and recorded in Book 81 of conveyance at page 261, et seq., Cameron Parish, Louisiana, and more completely described in that Correction Deed dated July 21, 1955 and recorded in Book 108, page 141, under file no. 71855 of the Conveyance Records of Cameron Parish, Louisiana.

2. The income beneficiary of the Trust shall be Eunice R. Benckenstein. The principal beneficiary shall be the Nelda C. and H. J. Lutchter Stark Foundation.

3. During the life of the income beneficiary the Big Lake House Louisiana Property shall be retained by the Trustees and the income beneficiary shall be allowed the use and enjoyment of the Big Lake House Louisiana Property, at no expense to herself. The Big Lake House Louisiana Property shall not be used by anyone other than the income beneficiary and her guests. The Big Lake House Louisiana Property shall never be leased to anyone, nor shall it be mortgaged.

4. The sum of \$100,000 left into trust shall be invested in the Trustees' discretion. No income shall be distributed to the income beneficiary. All income shall be added to trust principal.

5. The Trustees shall pay out of trust principal (other than the Big Lake House Louisiana Property) the following:

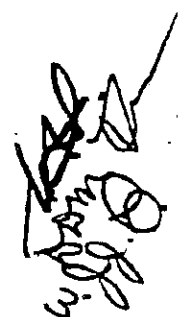
(a) All amounts needed to maintain the Big Lake House Louisiana Property, including property taxes, property insurance, utility bills, and all maintenance and repair expenses, whether ordinary or extraordinary.

(b) All bills relating to the use of the telephone at the Big Lake House Louisiana Property, but shall be reimbursed by the income beneficiary to the extent that use by her and her guests of such telephone results in charges in excess of \$100 in a month; and

(c) All other reasonable expenses in connection with the administration of the Trust, including income taxes, accountants' and attorneys' fees, and fair and reasonable compensation of the Trustees.

6. The Trust shall not terminate until after (a) the income beneficiary's death, or (b) receipt by the Trustees of a written renunciation by the income beneficiary of her rights of enjoyment specified above, whichever event occurs first. Upon the occurrence of either one of those events, the Trustees shall sell the Big Lake House Louisiana Property, and upon completion of such sale, the Trust shall terminate, and the assets of the Trust shall be distributed to the principal beneficiary.

7. Subject to the foregoing, the Trustees shall have all the powers conferred on trustees by the Louisiana Trust Code.



8. The initial Trustees shall be Eunice R. Benckenstein, Roy Wingate, and Walter G. Riedel III. If any of such three persons fails or ceases for any reason to serve as a Trustee, the remaining two Trustees or the remaining one Trustee, as the case may be, shall serve as the Trustees or the sole Trustee. The person or persons serving as Trustees at any time shall have the power to appoint in writing one or more additional Trustees, provided that, if two or more persons are then serving as Trustees, any such appointment must be made unanimously by all such Trustees.

9. The Trustees are relieved from furnishing bond.

10. The Trustees shall not be liable for any acts or omissions except for those which constitute gross negligence, bad faith or a breach of the duty of loyalty owed to a beneficiary.

11. The Trust shall be a spendthrift trust to the greatest extent permitted by La. R.S. 9:2001, et seq.

If Eunice R. Benckenstein does not survive me, the gifts under this paragraph L shall lapse, and the properties thereof shall pass as a part of my residuary estate under paragraph M of this Article.

M. I devise and bequeath to the Nelda C. and H. J. Lutecher Stark Foundation all of the rest, residue, and remainder of my property, whether real, personal, or mixed, of whatever kind and wherever situated, including, without limitation, any properties not effectively devised or bequeathed under paragraphs A through L of this Article III (the property devised and bequeathed under this paragraph M being referred to as "my residuary estate" in this Will).

ARTICLE IV

ESTATE ADMINISTRATION

In addition to all of the powers vested by law in independent executors, Executor shall have with respect to all properties Executor administers all of the rights, powers, privileges, and immunities conferred upon a trustee under the Texas Trust Code. Specifically and without limitation, with respect to such properties, Executor is authorized, upon such terms and conditions as Executor alone may determine:

- (i) to sell or lease or otherwise dispose of or encumber any property, whether or not necessary for payment of debts, expenses, or taxes;
- (ii) to borrow money from any lender, including a fiduciary under this Will, for any purpose;
- (iii) to partition or divide any properties in any equitable manner, and to select properties, real or personal, to satisfy any gift, including without limitation a residuary gift, a gift of an amount, and any other pecuniary gift, but not including a specific gift of specific property;
- (iv) to make any election under any tax law in the manner Executor deems advisable, none of which elections shall result in adjustments among beneficiaries of my estate or any trust under this Will or in Executor's personal or corporate liability.

ARTICLE V

DEBTS, EXPENSES, AND TAXES

All payments of my just debts, funeral expenses, administration and testamentary expenses, and estate, inheritance, transfer, and succession taxes upon or with respect to any property required to be included in my gross estate under the provisions of any tax law, whether or not any

[Handwritten signature]
 L. Clayton Burgess
 8/15/01

such property passes under this Will, including unreimbursed penalties and interest on those taxes, shall be borne, without apportionment, by my residuary estate passing under paragraph M of Article III of this Will.

ARTICLE VI

VARIOUS

This Will is not being executed pursuant to or as part of any contract, and I may revoke or change this Will at any time without breaching any agreement.

Nothing in this Will shall be deemed to exercise any power of appointment which I might have.

If any provision of this Will is made illegal, invalid, or unenforceable, that provision shall be modified or if necessary eliminated so as to conform to applicable law. Each provision of this Will shall be treated as separate from each other provision of this Will, to the end that no such provision shall be deemed or declared illegal, invalid, or unenforceable by reason of the illegality, invalidity, or unenforceability of another provision of this Will.

ARTICLE VII

LAWS OF OTHER JURISDICTIONS

If it is necessary or advisable for a personal representative of my estate to qualify in a jurisdiction other than Texas (each being referred to below as "that jurisdiction"), my executor or executors in that jurisdiction shall be determined under Article II hereof as applied in that jurisdiction independently of its application in my domiciliary jurisdiction, so that my executor or executors in that jurisdiction at any time need not be the same as in my domiciliary jurisdiction. If all executors appointed under Article II hereof are disqualified from serving in that jurisdiction or for any other reason fail or cease to serve there, I appoint as executor in that jurisdiction such person or entity as shall be designated in writing by my domiciliary executor or executors, as the case may be. If the administration in that jurisdiction is ancillary, I request and authorize my executor serving there, to the extent not prohibited under the laws of such jurisdiction, to appoint my domiciliary executor or executors, as the case may be, to handle the details of administration in that jurisdiction. To the extent the provisions of this Will and Texas law cannot be applicable to the administration in such jurisdiction, the rights, powers, duties, and liabilities of the executor or executors in that jurisdiction shall be the same (or as near the same as permitted under the laws of that jurisdiction if applicable) as if governed by Texas law. In all events, the administration in that jurisdiction shall be as free and independent of court control and supervision as permitted under the laws of that jurisdiction. Whenever the term "Executor" is applied in this Will to the administration in such jurisdiction, it shall refer only to the executor or executors then serving in such jurisdiction.

ARTICLE VIII

DEFINITIONS

Some of the terms in this Will are defined in this Article.

A. Pronouns, nouns, and terms as used in this instrument include the masculine, feminine, neuter, singular, and plural forms thereof wherever appropriate to the context.

B. References to "child" and "children" mean a lawful descendant or lawful descendants in the first degree of the parent designated. References to "issue" mean a lawful descendant or lawful descendants in any degree of the ancestor designated. Those terms include such a person in gestation at the applicable time and later born alive, as if that person were living at the applicable time. An adopted person and that adopted person's lawful descendants are lawful descendants of each adopting parent of that person and are lawful descendants of anyone who is by

blood or adoption an ancestor of that adopting parent but only if any such adoption occurs prior to the time of my death.

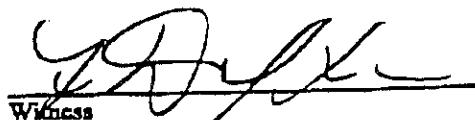
C. References to a child or the children or issue of two individuals shall be only to those who are a child or children or issue of both such individuals.

IN TESTIMONY WHEREOF, I have hereunto signed my name in the presence of Dorothy David McGraw F. David Claybar and W. J. Jack Councillon, as subscribing witnesses, each of whom signed this Will at my request, in my presence, and in the presence of each other, this 9 day of August, 1996.


NELDA C. STARK

Each of us being more than fourteen years of age, we hereby declare that NELDA C. STARK signed the foregoing instrument in our presence and in the presence of each other, declaring the same at the time to be her Last Will and Testament, and we now at her request, in her presence, and in the presence of each other, sign our names as subscribing witnesses, this 9th day of August, 1996.

Dorothy David McGraw
Witness
Residing at:
3025 N 2nd Rd
Orange, Texas


Witness
Residing at:
602 Pine St.
Orange, TX 77630

W. J. Jack Councillon
Witness
Residing at:
1112 W. Cherry
Orange, TX



THE STATE OF TEXAS §

COUNTY OF ORANGE §

BEFORE ME, the undersigned authority, on this day personally appeared NELDA C. STARK, Dorothy David McCreary, P. David Clayborn and W. J. Jack Covillion, known to me to be the testatrix and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said NELDA C. STARK, testatrix, declared to me and to the said witnesses in my presence that said instrument is her Last Will and Testament, and that she had willingly made and executed it as her free act and deed; and the said witnesses, each on his oath, stated to me, in the presence and hearing of the said testatrix, that the said testatrix had declared to them that said instrument is her Last Will and Testament, and that she executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of said testatrix and at her request; that she was at that time eighteen years of age or over and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

Nelda C. Stark
NELDA C. STARK

Dorothy David McCreary
Witness

P. David Clayborn
Witness

W. J. Jack Covillion
Witness

SUBSCRIBED AND SWORN TO BEFORE ME by the said NELDA C. STARK, testatrix, and the said Dorothy David McCreary, P. David Clayborn and W. J. Jack Covillion, witnesses, this the 9th day of August, 1996.

Marie Bearick
Notary Public, State of Texas

FILED FOR RECORD

KAREN JO VANCE

99 DEC 16 AM 11:41

COUNTY CLERK
ORANGE COUNTY, TEXAS

Heidi O'Leary
DEPUTY

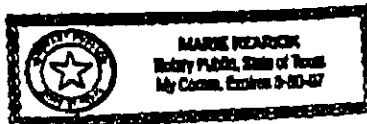


EXHIBIT F

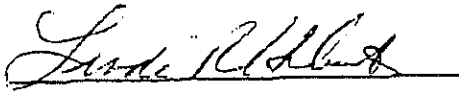

AFFIDAVIT

BEFORE ME, the undersigned Notary Public, came and appeared Louisiana Title and Abstracting Services, L.L.C., Lafayette, Louisiana, (hereinafter referred to as La. Title), through its member Louis R. LaBruyere, IV, who after being duly sworn did declare the following:

1. La. Title performed an abstract of title in the Parish of Cameron, Louisiana, in order to ascertain which property was titled in the names of Henry Jacob Lutchter Stark or The Lutchter Moore Lumber Company at the date of death of Henry Jacob Lutchter Stark.
2. La. Title researched Henry Jacob Lutchter Stark and The Lutchter Moore Lumber Company in the Vendee and Vendor Indices for the Parish of Cameron, Louisiana, from 1900 through September 2, 1965, the date of death of Henry Jacob Lutchter Stark.
3. According to the Public Records for the Parish of Cameron, Louisiana, as limited to the parameters as defined at No. 2 above, the lands as further described at "Exhibit A - Cameron Parish," which is attached hereto, had been acquired by Henry Jacob Lutchter Stark or The Lutchter Moore Lumber Company and had not been divested by them.
4. Further research is also required for the Parishes of Calcasieu, Beauregard, Vernon, Terrebonne and Lafourche where preliminary findings have revealed substantial lands in these areas were acquired by Henry Jacob Lutchter Stark or The Lutchter Moore Lumber Company and had not been divested by them at the date of death of Henry Jacob Lutchter Stark.

THUS SWORN AND SIGNED, this 15th day of August, 2001, before me the undersigned Notary Public together with the undersigned witnesses.

WITNESSES:

LOUISIANA TITLE AND
ABSTRACTING SERVICES, L.L.C.

BY:


LOUIS R. LABROYERE, IV, MEMBER


NOTARY PUBLIC

EXHIBIT A - CAMERON PARISH

SECTION	TWNSHP	RANGE	DESCRIPTION
	SOUTH	WEST	
10	12	9	Lots 27,28,29,31, & 32 Blood's 1st & 2nd subd of lot 1
30	12	9	Blood's 2nd Subd of Lot 1
37	12	9	E/2 lot 9, Lot 10, lot 11 Lakeview S/D
38	12	9	45 acres in Lot 12 less and except 20 acres
22	12	10	1/2 int in S/2 of N/2 of E/2 of SE/4 of SE/4
27	12	10	int in 10 acres SW/4 of NW/4
40	12	10	40/240th int in 2 acres (see Doiron Partition
12	12	12	NW/4
15	12	12	W/2 OF SE/4 OF NE/4
15	12	12	NW corner of NW/4 of SE/4
15	12	12	S/2 OF SE/4
15	12	12	NE/4 of NE/4, W/2 of NE/4
15	12	12	NW corner of NW/4 of SE/4
6	13	14	NW/4
31	14	14	SW/4,
2	14	15	N/2 and N/2 of SW/4
6	14	15	NW/4
30	14	15	Lots 2 and 3 (Judg from parents)
30	14	15	32.85 Acres
32	14	15	N/2
32	14	15	E/2 of NW/4, NW/4 of NW/4, NE/4, N/2 of SE/4
33	14	15	S/2 of NW/4, S/2
34	14	15	SW/4, Frac S/2 of SE/4 E of Mil Res Line, Lot 8 in S/2 of SE/4
35	14	15	S/2 of S/2
36	14	15	S/2 of S/2
36	14	15	9/16 in NW/4
1	15	11	All of Section
2	15	11	All of Section Less and except the N1/2
11	15	11	All of Section
12	15	11	All of Section
13	15	11	All of Section
14	15	11	All of Section
15	15	11	All of Section
16	15	11	All of Section
17	15	11	All of Section
18	15	11	All of Section
19	15	11	All of Section
20	15	11	All of Section
21	15	11	All of Section
22	15	11	All of Section
23	15	11	All of Section
24	15	11	All of Section
25	15	11	All of Section
26	15	11	All of Section
27	15	11	All of Section
28	15	11	All of Section
29	15	11	All of Section
30	15	11	All of Section
31	15	11	All of Section
32	15	11	All of Section
33	15	11	All of Section

34	15	11	All of Section
35	15	11	All of Section
38	15	11	All of Section
8	15	12	All of Section
9	15	12	All of Section
11	15	12	All of Section
12	15	12	All of Section
13	15	12	All of Section
14	15	12	All of Section
15	15	12	All of Section
16	15	12	All of Section
17	15	12	All of Section
18	15	12	All of Section
19	15	12	All of Section
20	15	12	All of Section
21	15	12	All of Section
22	15	12	All of Section
23	15	12	All of Section
23	15	12	Entire Section or Lot 42
24	15	12	All of Section
24	15	12	Entire Section or Lot 41
1	15	14	N/2
2	15	14	Lot 3 of N/2 of SW/4
6	15	14	9/16 int in NW/4
6	15	14	NW/4
2	15	15	N/2, N/2 of SW/4 east of MRL, Lot 3 N/2 of SW/4
3	15	15	NW/4 of NE/4
3	15	15	E/2 of E/2 lying E of MRL; NW/4 of SE/4, W/2 of NE/4
4	15	15	N/2 of NE/4, all lands except old Griffith Homestead
15	15	15	NE/4, N/2 of SE/4, N/2 of NW/4 and SW/4 of NW/4
32	15	15	NE/4, N/2 of SE/4
33	15	15	S/2 of NW/4, S/2
34	15	15	Lot 6
34	15	15	SW/4 - lot 4, lot 5 and lot 6

AFFIDAVIT

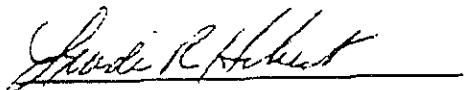
BEFORE ME, the undersigned Notary Public, came and appeared Louisiana Title and Abstracting Services, L.L.C., Lafayette, Louisiana, (hereinafter referred to as La. Title), through its member Louis R. LaBruyere, IV, who after being duly sworn did declare the following:

1. La. Title performed an abstract of title in the Parish of Iberia, Louisiana, in order to ascertain which property was titled in the names of Henry Jacob Lutchter Stark or The Lutchter Moore Lumber Company at the date of death of Henry Jacob Lutchter Stark.
2. La. Title researched Henry Jacob Lutchter Stark and The Lutchter Moore Lumber Company in the Vendee and Vendor Indices for the Parish of Iberia, Louisiana, from 1900 through September 2, 1965, the date of death of Henry Jacob Lutchter Stark.
3. According to the Public Records for the Parish of Iberia, Louisiana, as limited to the parameters as defined at No. 2 above, the following lands had been acquired by Henry Jacob Lutchter Stark and had not been divested by him:

An undivided 1/5 interest of a 1/6 of 1/32 in 225 acres in Rosedale Block.

THUS SWORN AND SIGNED, this 15th day of August, 2001, before me the undersigned Notary Public together with the undersigned witnesses.

WITNESSES:





LOUISIANA TITLE AND
ABSTRACTING SERVICES, L.L.C.
BY:


LOUIS R. LABRUYERE, IV, MEMBER


NOTARY PUBLIC