

LAST WILL OF  
RUBY EVELYN GARRISON

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LAST WILL OF  
RUBY EVELYN GARRISON

I, Ruby Evelyn Garrison, also known as Ruby Evelyn Kibby, a resident of Santa Clara County, California, declare that this is my will. I hereby revoke all my previous wills and codicils.

ARTICLE ONE  
INTRODUCTORY PROVISIONS

1.1. Marital Status. I am married to Dwaine Oliver Garrison, and all references in this will to "my husband" are to him.

1.2. Identification of Living Child. I have one living child, Charlotte Diane Garrison Reinhard, born April 8, 1950.

1.3. No Deceased Children. I have no deceased children.

ARTICLE TWO  
PARTICULAR GIFTS

2.1. Tangible Personal Property. I give all of my tangible personal property, including my interest in any insurance on that property, to my husband, if he survives me, and if he does not survive me, to my daughter, Charlotte, if she survives me.

2.2. Residence. I give to my husband, if he survives me, all of my interest in the property that we occupy as our principal place of residence at my death, together with my interest in the insurance on that property. If my husband does

not survive me, this gift shall lapse and become part of the residue of my estate. This property shall pass subject to any liens and encumbrances, without exoneration.

### ARTICLE THREE

#### RESIDUARY PROVISIONS

3.1. Disposition of Residue. I give the residue of my estate to the trustee of the DWAIN OLIVER GARRISON AND RUBY EVELYN GARRISON REVOCABLE LIVING TRUST, created under the trust agreement executed on April 23, 1991, by Dwaine Oliver Garrison and Ruby Evelyn Garrison, as Settlers and Trustees. The trustee of that trust shall add the residue of my estate to the trust principal and hold, administer, and distribute the property in accordance with the provisions of that trust agreement, including any amendments of that trust agreement that have been made before or after execution of this will.

3.2. Alternate Disposition of Residue. If the DWAIN OLIVER GARRISON AND RUBY EVELYN GARRISON REVOCABLE LIVING TRUST has been revoked, terminated, or declared invalid for any reason, I give the portion of the residue of my estate not taken to the executor of this will, as trustee, who shall hold, administer, and distribute the property under a testamentary trust, the terms of which shall be identical to the terms of the DWAIN OLIVER GARRISON AND RUBY EVELYN GARRISON REVOCABLE LIVING TRUST that are in effect on the date of execution of this will.



## ARTICLE FOUR

### EXECUTOR

4.1. Nomination of Executors. I nominate my husband as executor of this will. If, for any reason, my husband fails to qualify or ceases to act as executor, I nominate Charlotte Diane Garrison Reinhard, my daughter, as executor of this will.

4.2. Waiver of Bond. No bond or undertaking shall be required of any executor nominated in this will.

4.3. General Powers of Executor. The executor shall have full authority to administer my estate under the California Independent Administration of Estates Act. The executor shall have all powers now or hereafter conferred on executors by law, except as otherwise specifically provided in this will, including any powers enumerated in this will.

4.4. Power to Invest. The executor shall have the power to invest estate funds in any kind of real or personal property, as the executor deems advisable.

4.5. Division or Distribution in Cash or in Kind. In order to satisfy a pecuniary gift or to distribute or divide estate assets into shares or partial shares, the executor may distribute or divide those assets in kind, or divide undivided interests in those assets, or sell all or any part of those assets and distribute or divide the property in cash, in kind, or partly in cash and partly in kind. Property distributed to satisfy a pecuniary gift under this will shall be valued at its fair market value at the time of distribution.

4.6. Power to Sell, Lease, and Grant Options to Purchase Property. The executor shall have the power to sell, at either public or private sale and with or without notice, lease, and grant options to purchase any real or personal property belonging to my estate, on such terms and conditions as the executor determines to be in the best interest of my estate.

4.7. Power to Purchase Estate Property. The executor shall have the power to sell any property of my estate to, or exchange any property of my estate with the property of, any person serving as executor at the time of the sale or exchange, provided that any such sale or exchange shall be for adequate consideration.

4.8. Payments to Legally Incapacitated Persons. If at any time any beneficiary under this will is a minor or it appears to the executor that any beneficiary is incapacitated, incompetent, or for any other reason not able to receive payments or make intelligent or responsible use of the payments, then the executor, in lieu of making direct payments to the beneficiary, may make payments to the beneficiary's conservator or guardian; to the beneficiary's custodian under the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of any state; to one or more suitable persons, as the executor deems proper, such as a relative or a person residing with the beneficiary, to be used for the benefit of the beneficiary; to any other person, firm, or agency for services rendered or to be rendered for the beneficiary's assistance or benefit; or to accounts in the

beneficiary's name with financial institutions. The receipt of payments by any of the foregoing shall constitute a sufficient acquittance of the executor for all purposes.

## ARTICLE FIVE

### CONCLUDING PROVISIONS

5.1. Nonprobate Transfers of Community Property. If I predecease my husband, I revoke any consent I have given during my lifetime to any nonprobate transfer on the death of any person, to anyone other than my husband, of all or part of my community property interest in any asset described in California Probate Code Section 5000 (or any successor section), and instead I give to my husband my community property interest in any assets affected by this revocation of consent. Notwithstanding the preceding sentence, this revocation of consent shall be inapplicable to any community property included in any express trust of which I am the settlor or a cosettlor, which shall continue to be governed by the terms of the applicable trust instrument. It is my intention that my husband shall have full power to dispose of all community property assets to which this section of the will applies. If my husband and I die simultaneously or if it cannot be established by clear and convincing evidence whether my husband or I died first, this section shall not apply.

5.2. Definition of Death Taxes. The term "death taxes," as used in this will, shall mean all inheritance, estate, succession, and other similar taxes that are payable by any person on account of that person's interest in my estate or by



reason of my death, including penalties and interest, but excluding the following:

(a) Any addition to the federal estate tax for any "excess retirement accumulation" under Internal Revenue Code Section 4980A.

(b) Any additional tax that may be assessed under Internal Revenue Code Section 2032A.

(c) Any federal or state tax imposed on a "generation-skipping transfer," as that term is defined in the federal tax laws, unless the applicable tax statutes provide that the generation-skipping transfer tax on that transfer is payable directly out of the assets of my gross estate.

5.3. Payment of Death Taxes. Pursuant to the trust agreement executed on April 23, 1991, by Dwaine Oliver Garrison and Ruby Evelyn Garrison, as Settlers and Trustees, all death taxes, whether or not attributable to property inventoried in my probate estate, shall be paid by the trustee from that trust. However, if that trust does not exist at the time of my death, or if the assets of that trust are insufficient to pay the death taxes in full, I direct the executor to pay any death taxes that cannot be paid by the trustee from the assets of my probate estate by prorating and apportioning those taxes among the beneficiaries of this will, as provided in the California Probate Code.

5.4. Simultaneous Death. If any beneficiary under this will and I die simultaneously, or if it cannot be established by clear and convincing evidence whether that beneficiary or I died first, I shall be deemed to have survived that beneficiary, and this will shall be construed accordingly.



5.5. Period of Survivorship. For the purposes of this will, a beneficiary shall not be deemed to have survived me if that beneficiary dies within thirty (30) days after my death.

5.6. No-Contest Clause. If any person, directly or indirectly, contests the validity of this will in whole or in part, or opposes, objects to, or seeks to invalidate any of its provisions, or seeks to succeed to any part of my estate otherwise than in the manner specified in this will, any gift or other interest given to that person under this will shall be revoked and shall be disposed of as if he or she had predeceased me without issue.

5.7. Captions. The captions appearing in this will are for convenience of reference only, and shall be disregarded in determining the meaning and effect of the provisions of this will.

5.8. Severability Clause. If any provision of this will is invalid, that provision shall be disregarded, and the remainder of this will shall be construed as if the invalid provision had not been included.

5.9. California Law to Apply. All questions concerning the validity and interpretation of this will, including any trusts created by this will, shall be governed by the laws of the State of California in effect at the time this will is executed.

Executed on

April 23, 91, at

San Jose, California.

Ruby E Garrison  
Ruby Evelyn Garrison

On the date written above, we, the undersigned, each being present at the same time, witnessed the signing of this instrument by Ruby Evelyn Garrison. At that time, Ruby Evelyn Garrison appeared to us to be of sound mind and memory and, to the best of our knowledge, was not acting under fraud, duress, menace, or undue influence. Understanding this instrument, which consists of eight (8) pages, including the pages on which the signature of Ruby Evelyn Garrison and our signatures appear, to be the will of Ruby Evelyn Garrison, we subscribe our names as witnesses thereto.

We declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
Executed on April 23, 91, at San Jose, California.

Nancy A. McKean residing at 23785 McKean Rd  
Witness Street Address

San Jose, California  
City

Suzanne Stanco residing at Suzanne Stanco  
Witness 312 Visaino Wy  
San Jose, CA 95119  
Street Address

\_\_\_\_\_, California  
City

**THIS IS NOT A LEGAL DOCUMENT.**

**SYNOPSIS OF LAST WILL  
OF  
RUBY EVELYN GARRISON**

Note: In this synopsis, descriptions or phrases within quotation marks (" ") indicate the exact wording in your will.

**ARTICLE ONE  
INTRODUCTORY PROVISIONS**

**PERSONAL INFORMATION:**

This part of your will sets out general information about you and your family.

**ARTICLE TWO  
PARTICULAR GIFTS**

**GIFT OF ALL OF YOUR TANGIBLE PERSONAL PROPERTY:**

Given to:  
Your husband

Distribution If Your Husband Does Not Survive You:  
To your daughter Charlotte

**GIFT OF YOUR HOME:**

Given Outright (Not in Trust) to:  
Your husband

Given Free of Debts?  
No. Your husband becomes responsible for any mortgages, liens, or debts on the property.

Distribution If Your Husband Does Not Survive You:  
To the residue of your estate

**ARTICLE THREE  
RESIDUARY PROVISIONS**

**DISPOSITION OF RESIDUE OF YOUR ESTATE:**

You have created (or are creating before the execution of your will) the DWAINA OLIVER GARRISON AND RUBY EVELYN GARRISON REVOCABLE LIVING TRUST, created under the trust agreement executed on April 23, 1991, by Dwaine Oliver Garrison and Ruby Evelyn Garrison, as Settlers and Trustees. Usually, creating a living trust means that you give most of



your property to the living trust during your lifetime. Therefore, when you die there will not usually be much property to be disposed of by your will. A will, however, is still necessary to dispose of property that you have not transferred to your living trust before your death, such as your personal effects, gifts you have recently received, furniture, or proceeds from the previous day's winning lottery ticket.

In addition to making the gifts in Article 2, your will provides that the residue of your estate is to pass to the living trust, which will ensure that the terms of the living trust will control the distribution of as much of your property as possible. (For your information, the "residue of your estate" consists of your property except for (1) property that has been given under Article 2 of your will, (2) property that has already been placed in your living trust, and (3) any other "non-probate property," such as joint tenancy property and proceeds of life insurance policies on your life, which cannot be transferred by will.)

If, for some reason, the living trust is not in existence at your death (for example, if you had revoked it), the residue of your estate will pass to another trust established by your will with terms just like your living trust. In such case, the residue of your estate will include the property that was in your living trust. You nominate the executor of your will to be the trustee of that other trust if that trust is necessary.

#### **ARTICLE FOUR EXECUTOR**

##### **NOMINATION OF EXECUTOR OF YOUR WILL:**

**Executor:**

Your husband

**Successor Executor:**

Charlotte Diane Garrison Reinhard, "my daughter"

##### **WAIVER OF BOND FOR EXECUTOR:**

You are not requiring any executor to file a bond to act as your executor.

##### **POWERS OF EXECUTOR:**

This part of Article 4 of your will sets out the powers that you give to the executor of your will in order for the executor to carry out the terms of your will, to have whatever portion of your estate that was not placed in your



living trust before your death probated in court, and to manage your estate until all assets have been transferred to the proper beneficiary. See Article 4 of your will for a list the powers that your executor has.

#### **ARTICLE FIVE CONCLUDING PROVISIONS**

##### **SIMULTANEOUS DEATH:**

If you and any beneficiary of your will die at the same time, for purposes of your will, the beneficiary is to be treated as dying before you.

##### **SURVIVORSHIP:**

For purposes of your will, a beneficiary is treated as dying before you if that beneficiary dies within thirty (30) days after your death.