

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX DIVISION

PROBATE AND FAMILY  
COURT DEPARTMENT  
DOCKET NO.: 02P5533AA

\_\_\_\_\_  
)  
)  
IN RE: ESTATE OF BENJAMIN C. THOMPSON )  
)  
\_\_\_\_\_)

**AFFIDAVIT OF DONALD J. ENGELMAN, CPA**

I, Donald J. Engelman, of 190 Front Street, Ashland, Massachusetts, hereby depose and state as follows:

(1) I knew Benjamin C. Thompson ("Ben"), who died on August 17, 2002. I have no interest in Ben's Estate. I was Ben's accountant, from 1979 to 1998, during which time I provided accounting services for Ben and his second wife, Jane Thompson ("Jane"), and Benjamin Thompson Associates.

(2) I do not know why my services were discharged. I was not really given a reason. My understanding from Jane was that she wanted to consolidate her finances and the financial information that I had in my control with the accountant for her restaurant businesses, Jeffrey Swersky, CPA.

(3) In 1994 and 1995, I met with Ben and Jane to discuss their goals and the assets in their Estates. These meetings all took place at the house of Ben and Jane on Willard Street in Cambridge. At each meeting, Ben was bedridden, and he and I did not have any substantive discussions about his Estate or its assets. At these meetings, I was not sure that Ben understood what was going on. He could not really speak. At one of these meetings, Jane put one or more documents in front of Ben, and he would sign it without reading it. I did not observe Ben to ask any questions about the documents that he was signing.

(4) The first meeting took place on March 1, 1994. Ben was in his bed and never got out of it. I spoke to Jane with Ben present without Ben's participation. At this meeting, I spoke to Jane mostly about splitting the percentage ownership in Union Station, which she wanted to have split 50/50 between herself and Ben. The idea that the Union Station percentage interest would be split in this way was never something that I discussed with Ben, and neither was it based on anything that Ben had ever said to me. I do not believe that I ever had any discussions with Ben about the Union Station percentages and how they should be distributed and split up, not during the meeting and not afterwards. This first meeting took more than one hour and less than two hours.

(5) I met another time in 1994 with Ben and Jane on December 20, 1994

(6) The next meeting I had with Ben and Jane was on March 21, 1995. Based on this meeting, I generated a memorandum to my files dated March 26, 1995, a true copy of which is attached to this Affidavit. Attached to my memorandum is a spreadsheet that I created as to Estate distribution of Ben's assets. The attached documents were solely based on discussions that I had with Jane, rather than Ben. When I met with Ben and Jane, Ben was unable to speak substantively about his assets.

(7) I prepared other documents for Jane, true copies of which are attached -- one dated July 25, 1995 and the other dated September 15, 1995. These documents were also generated based on discussions that I had with Jane.

(8) About six weeks ago, I was contacted by one of Jane's attorneys, Lyle Greenman, Esq. At that time, Mr. Greenman gave to me a copy of my March 26, 1995 memorandum. I understood the contact by Mr. Greenman to be related to this pending litigation with respect to Ben's 1995 Will. Mr. Greenman told me that he believed that my memorandum supported the distribution that Jane believes is the correct one to occur. I told him, however, that when I drafted the March 26, 1995 memorandum, it was based on information provided to me by Jane, not Ben. I also told him that when I met with Ben and Jane, I believed that Ben's condition was failing.

(8) I have performed accounting services for Nicholas and little Benjamin Thompson in the past. I am currently not the accountant for any of Anthony, Nicholas, Marina, or little Benjamin Thompson. I am presently the accountant for Deborah Thompson and Benjamin Thompson Associates.

Signed under the pains and penalties of perjury this 1<sup>st</sup> day of JULY, 2003.

  
Donald J. Engelman, CPA

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF MIDDLESEX, ss.

7/1/03, 2003

Then personally appeared the above named Donald J. Engelman, and acknowledged the foregoing instrument to be his free act and deed, before me,

  
Notary Public  
My Commission Expires:

JULIANN ST. PIERRE  
Notary Public  
My Commission Expires Jan. 22, 2004

DONALD J. ENGELMAN & COMPANY

MEMORANDUM

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TO: The Files

FROM: Donald J. Engelman

DATE: March 26, 1995

RE: Ben Thompson / Estate Matters

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I met last week (Tuesday, March 21, 1995) with Ben and Jane Thompson to discuss Ben's estate plan. I previously spoke with Ben and Jane individually, as well as with Tony Thompson, Nick Thompson and Steve Wolfberg. The purpose of all these discussions was to determine Ben's goals regarding his estate. The discussions centered on the estate as it is now (I believe) and changes to be made.

The outcome of the discussions is illustrated on the attached pie chart. Note that the values used come from a variety of sources and I did not verify them.

Basically, Ben agreed that the estate plan will be revised to show:

- All of Ben's share of the stock in Flower Market Restaurant will pass to Jane on Ben's demise so she can continue its day to day management. It will pass with the understanding that up to \$50,000 (annually) of the available Flower Market cash flow will be used for the annual amortization of the Metropolitan Life debt. If the farm income is enough to cover the interest on the debt, the \$50,000 will be used to further reduce the loan balance. It is my understanding that the current debt is approximately \$800,000. With cash flow from operations (FMR's share) or from 50% of the proceeds on the sale of the restaurant, the debt will be paid down to \$300,000, which, according to Jane, was the balance at the time the Metropolitan Life debt was incurred. Excess cash, if any, will go to Jane.
- The house at Willard Street will be used by Jane during her lifetime, or sold sooner if she chooses. The house is currently held jointly by Ben and Jane. Jane will transfer her 50% interest in the house to Ben to get the step up in tax basis at his death. When sold, the net proceeds will go 50% to Ben Thompson and/or his children and 50% to Jane Thompson and/or her children. Jane agreed to this change even though she believes she contributed substantially more than 50% to the cost of ownership. She agreed to this change to compensate Ben's children for any other perceived "inequities" and to avoid awkward co-ownership of resources.

Memorandum to The Files

March 26, 1995

Page two

- With the 1995 gifts Ben has already made to his children of the farms in Minnesota, his interest is down to 8.6245% with the remaining ownership split between his five children. The balance of the interest will be passed to his children during 1996.
  
- The attached schedule excludes two major items. First, it excludes 50% of the interest in Union Station which we understand should have been transferred to Jane when originally issued. The change was not done previously to gain the significant step up in basis resulting from the entire interest being held by Ben if he predeceases Jane. Second, the Schedule excludes the farm interests already transferred to Ben's children. The farm is valued at \$1.5 million so the 91.3755% transferred to Ben's children is worth \$1,370,633.

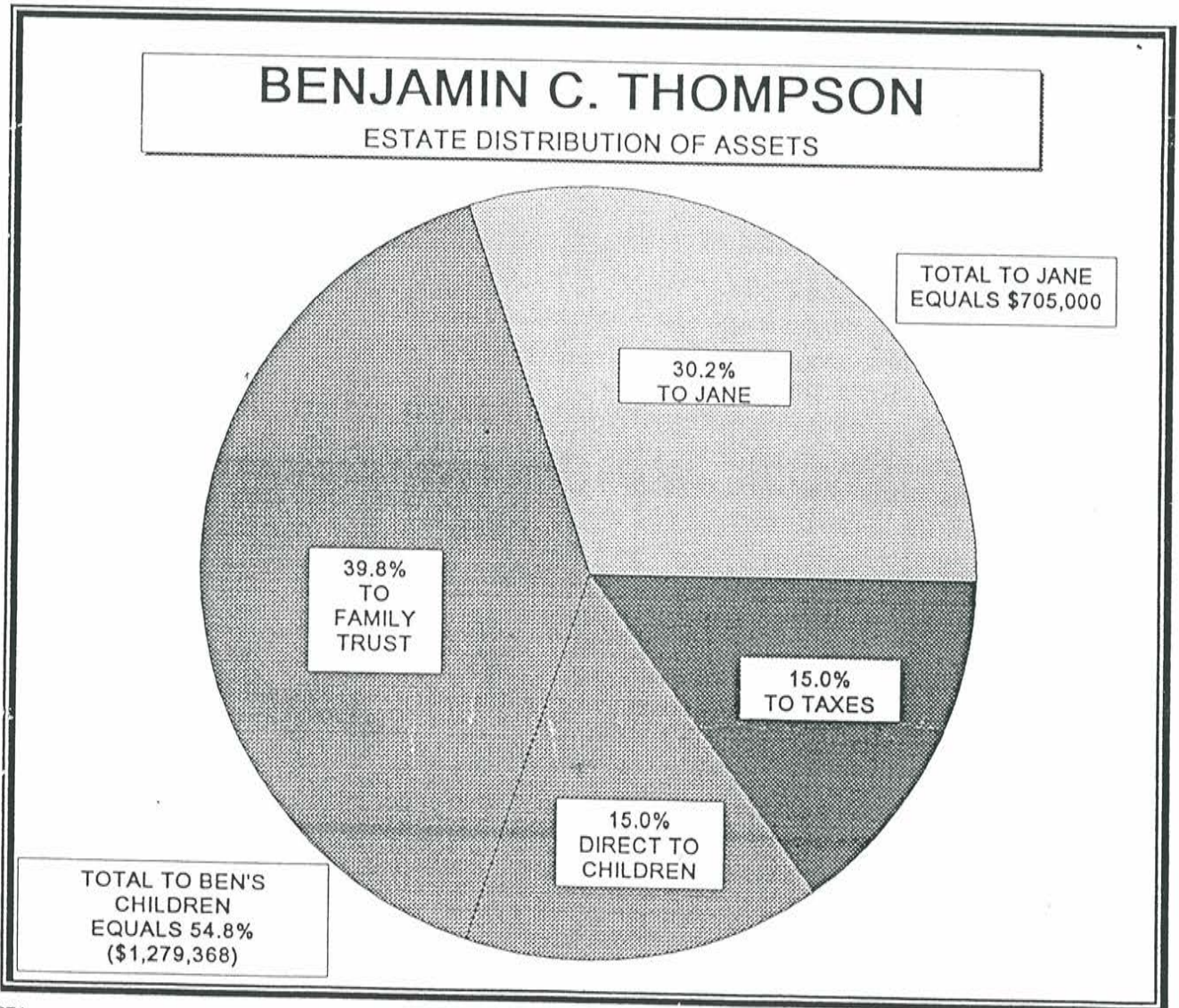
I have not made an attempt to compute the estate tax that will be due on Ben's death. The \$350,000 in Ben's Dreyfus account has been allocated to pay that debt. It's sufficiency is not known.

cc: Steve Wolfberg, Brown Rudnick Freed & Gesmer (by fax)  
Barbara Wand, Hill & Barlow (by fax)  
Jane McC. Thompson (by fax)

**BENJAMIN C. THOMPSON**  
**DISPOSITION OF SIGNIFICANT ASSETS UNDER WILL**  
**ESTIMATED TAXABLE VALUES AS OF MARCH 1995**

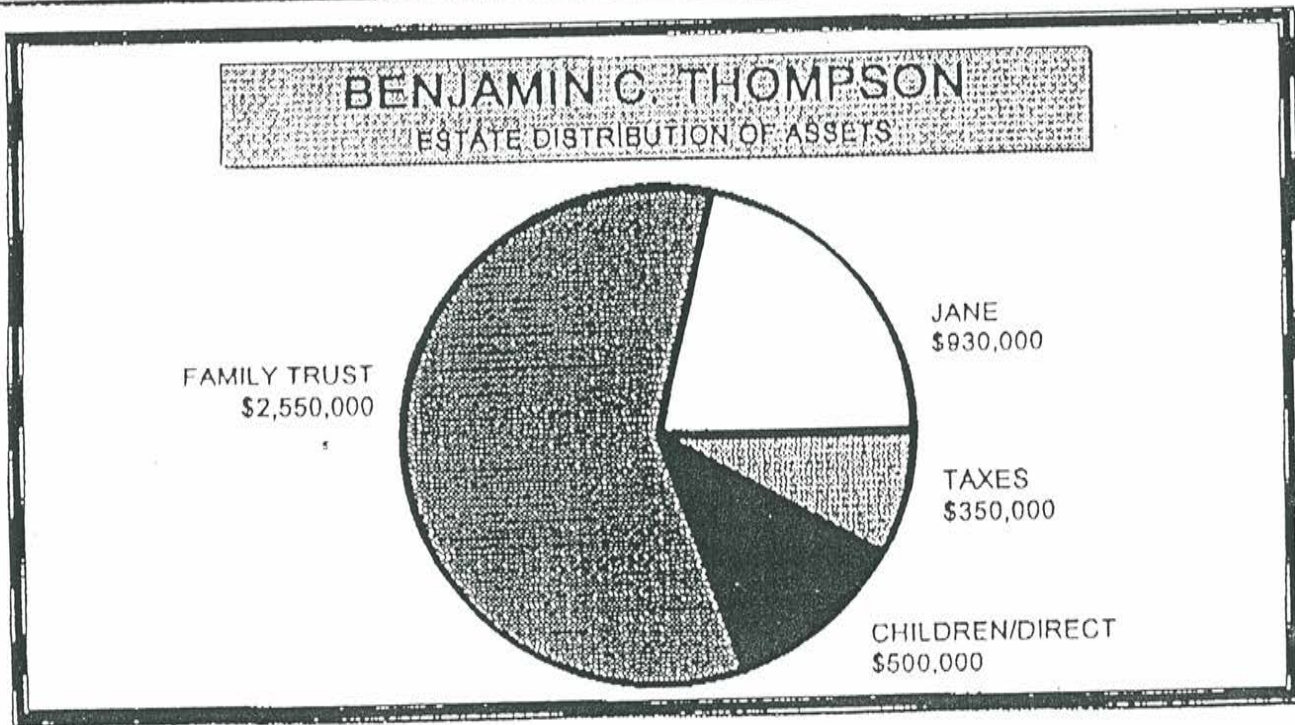
ASSET	TAXABLE TOTAL	JANE	BEN'S FAMILY		TAXES
			FAMILY TRUST	CHILDREN DIRECT	
<b>REVISED PLAN</b>					
50% WILLARD STREET	\$300,000	\$150,000	\$150,000	\$0	\$0
HARVEST NOTE	125,000	125,000	0	0	0
MERRILL LYNCH 401(k)	280,000	280,000	0	0	0
LIFE INSURANCE	150,000	150,000	0	0	0
UNION STATION*	700,000	0	350,000	350,000	0
67% FLOWER MARKET**	0	0	0	0	0
50% SCUDDER LANE	300,000	0	300,000	0	0
MINNESOTA FARM	129,368	0	129,368	0	0
BTA STOCK	0	0	0	0	0
DREYFUS ACCOUNT	350,000	0	0	0	350,000
<b>TOTAL</b>	<b>\$2,334,368</b>	<b>\$705,000</b>	<b>\$929,368</b>	<b>\$350,000</b>	<b>\$350,000</b>

\* - INCOME TO JANE FOR HER LIFE (ON TRUST PORTION), THEN TO BEN'S CHILDREN  
 \*\* - STOCK TO JANE WITH OBLIGATION TO PAY FARM DEBT



## BENJAMIN C. THOMPSON DISPOSITION OF SIGNIFICANT ASSETS UNDER WILL ESTIMATED VALUES

ASSET	TOTAL VALUE	JANE	FAMILY TRUST	CHILDREN DIRECT	TAXES (NOTE 7)
50% WILLARD STREET (NOTE 3)	\$375,000	\$375,000	\$0	\$0	\$0
HARVEST NOTE	125,000	125,000	0	0	0
MERRILL LYNCH 401(k)	280,000	280,000	0	0	0
LIFE INSURANCE	150,000	150,000	0	0	0
UNION STATION	1,000,000	NOTE 4	500,000	500,000	0
67% FLOWER MARKET	0	NOTE 5	0	0	0
50% SCUDDER LANE (NOTE 8)	600,000	0	600,000	0	0
MINNESOTA FARM (NOTE 6)	1,450,000	0	1,450,000	0	0
BTA STOCK	0	0	0	0	0
DREYFUS ACCOUNT	350,000	0	0	0	350,000
<b>TOTALS</b>	<b>\$4,330,000</b>	<b>\$930,000</b>	<b>\$2,550,000</b>	<b>\$500,000</b>	<b>\$350,000</b>



**NOTES:**

- I HAVE NOT REVIEWED THE WILL TO DETERMINE IF IT AGREES WITH THIS SCHEDULE.
- THIS SCHEDULE IS BASED ON FAIR MARKET VALUES PROVIDED BY JANE.
- THE OTHER 50% IS ALREADY HELD BY JANE. ULTIMATE DISPOSITION NOT DETERMINED.
- INCOME TO JANE ON TRUST PORTION FOR HER LIFE, THEN TO BEN'S CHILDREN.  
THIS IS 50% OF INTEREST IN UNION STATION. THE OTHER 50% "BELONGS" TO JANE.
- STOCK TO JANE WITH OBLIGATION TO PAY MOST OF FARM DEBT.
- VALUE OF MINNESOTA FARM IS AFTER \$300,000 OF DEBT.  
MOST OF THIS VALUE HAS ALREADY BEEN TRANSFERRED TO CHILDREN.
- TAX LIABILITY MAY BE LOW.
- THE VALUE OF SCUDDER LANE WAS INCREASED BY THE BUILDING LOT ON THE PROPERTY (less 300k debt.)

**DONALD J. ENGELMAN, C.P.A.**  
190 FRONT STREET, SUITE 202  
ASHLAND, MASSACHUSETTS 01721-1623  
email: djeco@djeco.net

TELEPHONE  
(508)820-0100  
FACSIMILE  
(508)881-7844

**FACSIMILE TRANSMITTAL**

TO: INGRID SCHROFFNER, ESQ.  
FROM: DONALD J. ENGELMAN, C.P.A.  
DATE: MAY 9, 2003

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NUMBER OF PAGES (including this transmittal): 8

*If there is any problem with this transmission, please  
contact us immediately at (508)820-0100.*

**COMMENTS**

ATTACHED ARE SEVEN SCHEDULES I PREPARED IN CONNECTION  
WITH BEN THOMPSON'S ESTATE. EACH SCHEDULE HAS THE  
DATE IT WAS CREATED IN THE UPPER RIGHT HAND CORNER.

REVIEWING MY APPOINTMENT BOOKS FOR 1994 AND 1995, I HAVE  
FOUND MEETINGS WITH BEN AND JANE ON MARCH 1, 1994,  
DECEMBER 20, 1994 AND MARCH 21, 1995. THERE MAY HAVE BEEN  
OTHERS BUT I CAN'T FIND ANY NOTES FROM THEM.

FEEL FREE TO CALL ME IF YOU HAVE ANY QUESTIONS.

DON

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bct est 04/01/94

**BENJAMIN C. THOMPSON**  
**SUMMARY OF SIGNIFICANT ASSETS OWNED**  
**FEBRUARY 1994**

	GROSS VALUE	OWNED BY BEN	BEN'S ESTATE	TO JANE	MASSACH. ESTATE
27 WILLARD STREET	\$700,000	\$350,000	\$0	\$350,000	\$175,000
INTEREST IN UNION STATION	1,000,000	1,000,000	500,000	500,000	750,000
DUE ON HARVEST SALE	250,000	125,000	125,000	0	125,000
GRASSHOPPER RESTAURANT	0	0	0	0	0
FLOWER MARKET RESTAURANT	400,000	200,000	0	200,000	100,000
SCUDDER LANE	\$1,200,000				
SCUDDER DEBT	(395,000)				
	805,000	402,500	0	402,500	201,250
MINN. FARMS	1,500,000				
MINNESOTA DEBT	(900,000)				
NET VALUE	600,000				
% OWNED BY BEN	38.62%	231,747	231,747	231,747	0
				0	231,747
BTA STOCK	0	0	0	0	0
CASH - DREYFUS ACCOUNT	350,000	350,000	350,000	0	350,000
MERRILL LYNCH ACCOUNT	280,000	280,000	280,000	0	280,000
<b>TOTAL</b>	<b>\$4,016,747</b>	<b>\$2,939,247</b>	<b>\$1,486,747</b>	<b>\$1,452,500</b>	<b>\$2,212,997</b>
ESTATE TAX			\$550,101		\$278,950
MAXIMUM FEDERAL CREDIT FOR MASS.					\$120,640
ACTUAL CREDIT FOR MASS. ESTATE TAX			(120,640)		
NET FEDERAL ESTATE TAX			\$429,461		

SUMMARY:	
FEDERAL ESTATE TAX	\$429,461
MASSACHUSETTS ESTATE TAX	278,950
<b>TOTAL ESTATE TAXES</b>	<b>\$708,411</b>

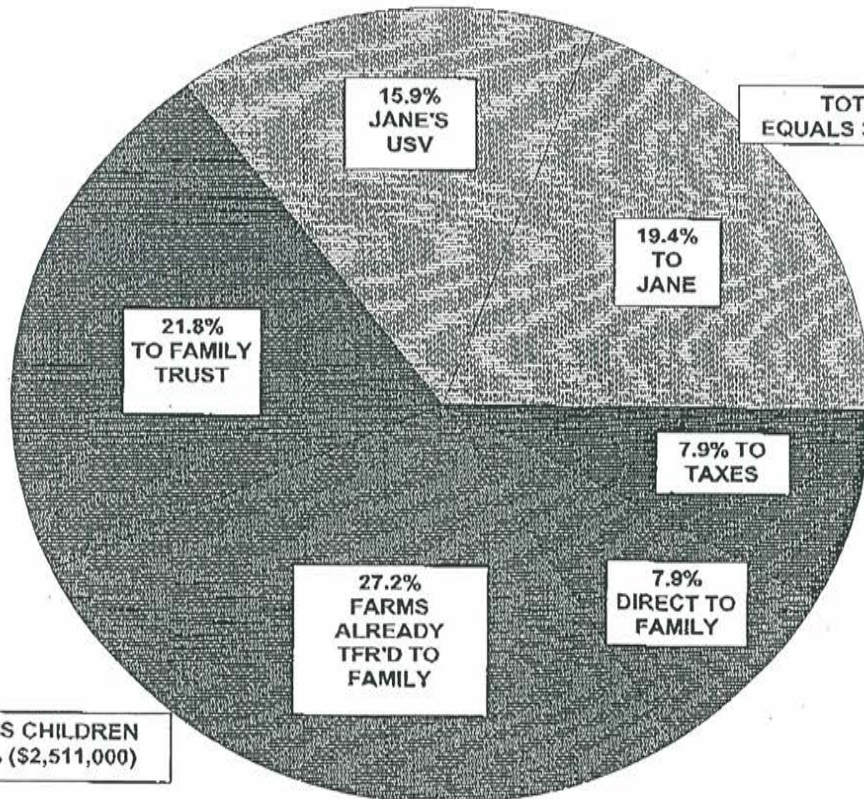
NOTE THAT THIS SCHEDULE DOES NOT INCLUDE ANY INSURANCE ON BEN'S LIFE.

**BENJAMIN C. THOMPSON**  
**DISPOSITION OF SIGNIFICANT ASSETS UNDER WILL**  
**ESTIMATED TAXABLE VALUES AS OF MARCH 1995**

ASSET	TAXABLE TOTAL	JANE	JANE USV	BEN'S FAMILY			TAXES
				FAMILY TRUST	FARM PREV. TFR'D	CHILDREN DIRECT	
<b>OLD PLAN</b>							
50% WILLARD STREET	\$300,000	\$300,000	\$0	\$0	\$0	\$0	\$0
HARVEST NOTE	125,000	125,000	0	0	0	0	0
MERRILL LYNCH 401(k)	280,000	280,000	0	0	0	0	0
LIFE INSURANCE	150,000	150,000	0	0	0	0	0
UNION STATION*	1,400,000	0	700,000	350,000	0	350,000	0
67% FLOWER MARKET	167,000	0	0	167,000	0	0	0
50% SCUDDER LANE	300,000	0	0	300,000	0	0	0
MINNESOTA FARM	144,000	0	0	144,000	1,200,000	0	0
BTA STOCK	0	0	0	0	0	0	0
DREYFUS ACCOUNT	350,000	0	0	0	0	0	350,000
<b>TOTAL</b>	<b>\$3,216,000</b>	<b>\$855,000</b>	<b>\$700,000</b>	<b>\$961,000</b>	<b>\$1,200,000</b>	<b>\$350,000</b>	<b>\$350,000</b>

\* - INCOME TO JANE FOR HER LIFE (ON TRUST PORTION), THEN TO BEN'S CHILDREN

**BENJAMIN C. THOMPSON**  
**ESTATE DISTRIBUTION OF ASSETS**

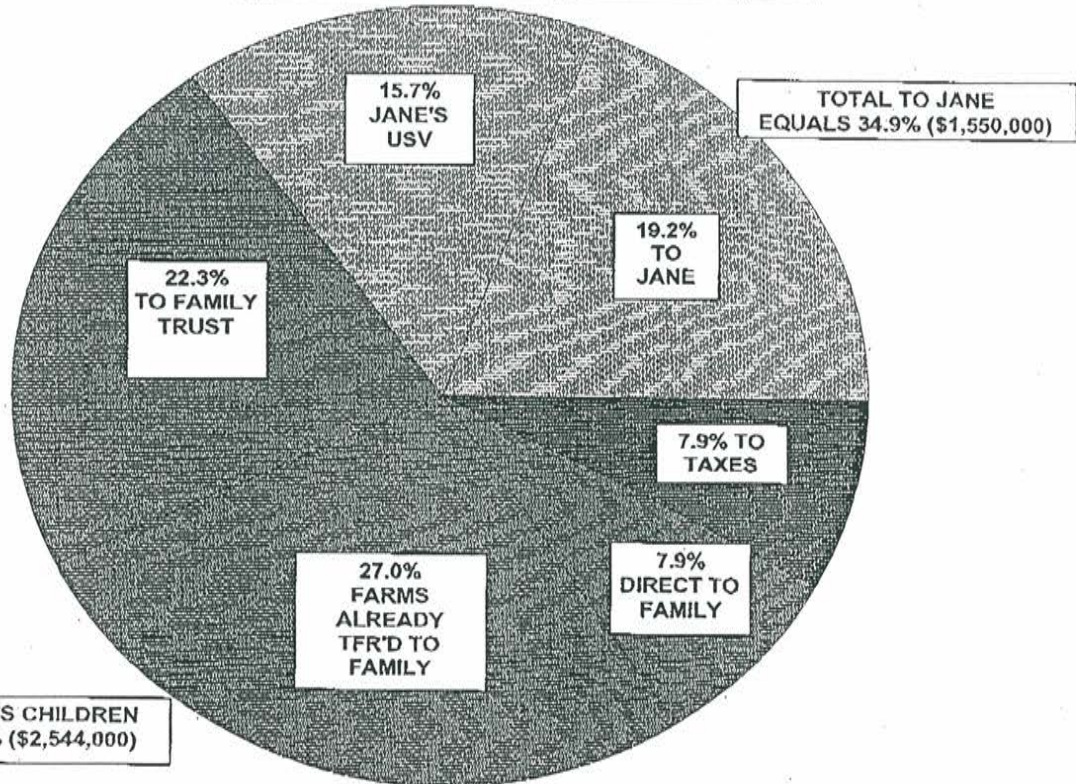


**BENJAMIN C. THOMPSON**  
**DISPOSITION OF SIGNIFICANT ASSETS UNDER WILL**  
**ESTIMATED TAXABLE VALUES AS OF MARCH 1995**

ASSET	TAXABLE TOTAL	JANE	JANE USV	BEN'S FAMILY			TAXES
				FAMILY TRUST	FARM PREV. TFR'D	CHILDREN DIRECT	
<b>REVISED PLAN</b>							
50% WILLARD STREET	\$300,000	\$300,000	\$0	\$0	\$0	\$0	\$0
HARVEST NOTE	125,000	125,000	0	0	0	0	0
MERRILL LYNCH 401(k)	280,000	280,000	0	0	0	0	0
LIFE INSURANCE	150,000	150,000	0	0	0	0	0
UNION STATION*	1,400,000	0	700,000	350,000	0	350,000	0
67% FLOWER MARKET**	0	0	0	0	0	0	0
50% SCUDDER LANE	300,000	0	0	300,000	0	0	0
MINNESOTA FARM	344,000	0	0	344,000	1,200,000	0	0
BTA STOCK	0	0	0	0	0	0	0
DREYFUS ACCOUNT	350,000	0	0	0	0	0	350,000
<b>TOTAL</b>	<b>\$3,249,000</b>	<b>\$855,000</b>	<b>\$700,000</b>	<b>\$994,000</b>	<b>\$1,200,000</b>	<b>\$350,000</b>	<b>\$350,000</b>

\* - INCOME TO JANE FOR HER LIFE (ON TRUST PORTION), THEN TO BEN'S CHILDREN  
 \*\* - STOCK TO JANE WITH OBLIGATION TO PAY FARM DEBT

**BENJAMIN C. THOMPSON**  
**ESTATE DISTRIBUTION OF ASSETS**



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**BENJAMIN C. THOMPSON**  
**DISPOSITION OF SIGNIFICANT ASSETS UNDER WILL**  
**ESTIMATED TAXABLE VALUES AS OF MARCH 1995**

ASSET	TAXABLE TOTAL	BEN'S FAMILY				JANE'S FAMILY		
		TONY	BEN JR	NICK	DEBBIE	MARINA	ALLEN	SHEILA
REVISED PLAN								
WILLARD STREET	\$600,000	\$0	\$0	\$0	\$0	\$0	\$300,000	\$300,000
HARVEST NOTE	250,000	0	0	0	0	0	125,000	125,000
MERRILL LYNCH 401(k)	280,000	0	0	0	0	0	140,000	140,000
LIFE INSURANCE	150,000	0	0	0	0	0	75,000	75,000
UNION STATION	1,400,000	140,000	140,000	140,000	140,000	140,000	350,000	350,000
67% FLOWER MARKET	0	0	0	0	0	0	0	0
SCUDDER LANE	600,000	60,000	60,000	60,000	60,000	60,000	150,000	150,000
MINNESOTA FARM	1,500,000	300,000	300,000	300,000	300,000	300,000	0	0
BTA STOCK	0	0	0	0	0	0	0	0
DREYFUS ACCOUNT	TAXES	0	0	0	0	0	0	0
TOTAL	\$4,780,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$1,140,000	\$1,140,000

TOTAL TO FAMILY (WITH FARM)	BEN: \$2,500,000	JANE: \$2,280,000
TOTAL TO FAMILY (WITHOUT FARM)	BEN: \$1,000,000	JANE: \$2,280,000

NOTE: THERE MAY NOT BE ENOUGH CASH IN BEN'S ACCOUNTS TO PAY EVEN THE ESTATE TAXES DUE!

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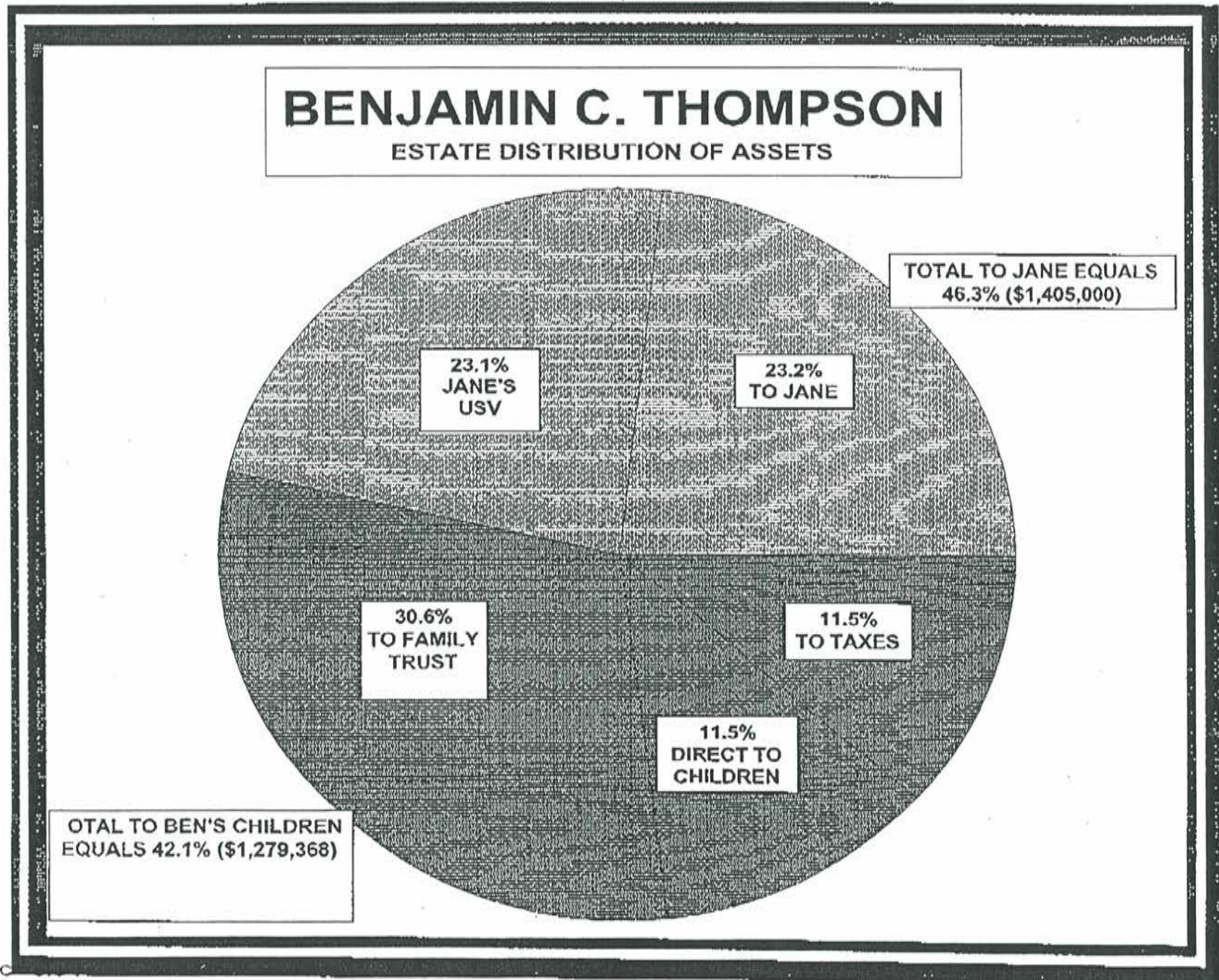
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**BENJAMIN C. THOMPSON**  
**DISPOSITION OF SIGNIFICANT ASSETS UNDER WILL**  
**ESTIMATED TAXABLE VALUES AS OF MARCH 1995**

ASSET	TAXABLE TOTAL	JANE	JANE USV	BEN'S FAMILY		TAXES
				FAMILY TRUST	CHILDREN DIRECT	
<b>REVISED PLAN</b>						
50% WILLARD STREET HARVEST NOTE	\$300,000	\$150,000	\$0	\$150,000	\$0	\$0
MERRILL LYNCH 401(k)	125,000	125,000	0	0	0	0
LIFE INSURANCE	280,000	280,000	0	0	0	0
UNION STATION*	150,000	150,000	0	0	0	0
67% FLOWER MARKET**	1,400,000	0	700,000	350,000	350,000	0
50% SCUDDER LANE	0	0	0	0	0	0
MINNESOTA FARM	300,000	0	0	300,000	0	0
BTA STOCK	129,368	0	0	129,368	0	0
DREYFUS ACCOUNT	0	0	0	0	0	0
TOTAL	350,000	0	0	0	0	350,000
<b>TOTAL</b>	<b>\$3,034,368</b>	<b>\$705,000</b>	<b>\$700,000</b>	<b>\$929,368</b>	<b>\$350,000</b>	<b>\$350,000</b>

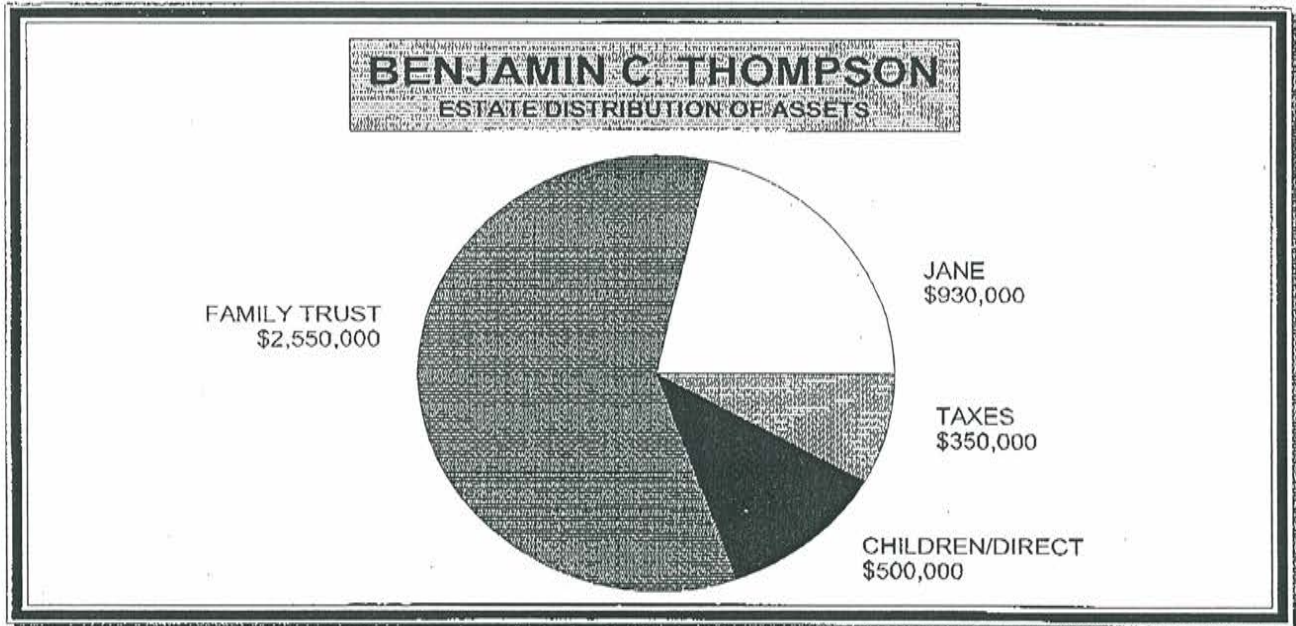
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\*\* - STOCK TO JANE WITH OBLIGATION TO PAY FARM DEBT



**BENJAMIN C. THOMPSON**  
**DISPOSITION OF SIGNIFICANT ASSETS UNDER WILL**  
**ESTIMATED VALUES**

ASSET	TOTAL VALUE	JANE	FAMILY TRUST	CHILDREN DIRECT	TAXES (NOTE 7)
50% WILLARD STREET (NOTE 3)	\$375,000	\$375,000	\$0	\$0	\$0
HARVEST NOTE	125,000	125,000	0	0	0
MERRILL LYNCH 401(k)	280,000	280,000	0	0	0
LIFE INSURANCE	150,000	150,000	0	0	0
UNION STATION	1,000,000	NOTE 4	500,000	500,000	0
67% FLOWER MARKET	0	NOTE 5	0	0	0
50% SCUDDER LANE (NOTE 8)	600,000	0	600,000	0	0
MINNESOTA FARM (NOTE 6)	1,450,000	0	1,450,000	0	0
BTA STOCK	0	0	0	0	0
DREYFUS ACCOUNT	350,000	0	0	0	350,000
<b>TOTALS</b>	<b>\$4,330,000</b>	<b>\$930,000</b>	<b>\$2,550,000</b>	<b>\$500,000</b>	<b>\$350,000</b>



**NOTES:**

- 1. THE WILL TO DETERMINE IF IT AGREES WITH THIS SCHEDULE.
- 2. IS BASED ON FAIR MARKET VALUES PROVIDED BY JANE.
- 3. EASY HELD BY JANE. ULTIMATE DISPOSITION NOT DETERMINED.
- 4. IN TRUST PORTION FOR HER LIFE, THEN TO BEN'S CHILDREN.
- 5. EST IN UNION STATION. THE OTHER 50% "BELONGS" TO JANE.
- 6. JANE WITH OBLIGATION TO PAY MOST OF FARM DEBT.
- 7. F MINNESOTA FARM IS AFTER \$300,000 OF DEBT.
- 8. JANE HAS ALREADY BEEN TRANSFERRED TO CHILDREN.
- 9. TAX LIABILITY MAY BE LOW.
- 10. THE VALUE OF SCUDDER LANE WAS INCREASED BY THE BUILDING LOT ON THE PROPERTY.