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ROSWELL, NEW MEXICO

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GEORGE H. HUNKER, JR.

July 27, 1949

Miss Laura Gilpin  
P. O. Box 1173  
Santa Fe, New Mexico

Dear Miss Gilpin:

Thank you for your letter of July 17, 1949 together with the enclosed waiver signed by your brother. It is our opinion that this instrument does not convey your brother's one-half interest in this land and does not estop he or his heirs from asserting title to it.

This is for the reason that your brother's interest passed under our statute of descent and not by reason of the will. Consequently the will could be admitted to probate as to your interest, but your brother's interest was not controlled by the will. Our authority for the foregoing is our late case of Dunham v. Stitzberg, 201 Pac. 2d, 1000.

I will be glad to have a conference with you at any time you desire. However, unless there are additional valid instruments of conveyance, it is my present opinion that your brother's heirs own a one-half interest in your father's land, and that they must be dealt with as such owners.

Yours very truly,

HERVEY, DOW & HINKLE

By

W. E. Bondurant

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