

John J. Harris,¹ B.S.

The Document Evidence and Some Other Observations About the Howard R. Hughes "Mormon Will" Contest

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Let's set the scene. On 26 April 1976, a sad looking three-page document, handwritten on yellow legal tablet paper with the top edges torn off, along with two envelopes and a short note, were delivered to the County Clerk at Las Vegas by an official of the Mormon Church. These papers had been mysteriously left at Church headquarters in Salt Lake City a few days earlier. They purported to be the Last Will and Testament of Howard R. Hughes written under date of 19 March 1968 (Figs. 1, 2, 3, 4, and 5).

One of the TV networks immediately dispatched a so-called handwriting expert from Southern California to examine the will. He reportedly "pawed" the document, looked at it through a magnifier, and after a time opined it was absolutely genuine. Later, at a Los Angeles press conference conducted by Harold Rhoden, lead attorney for the Proponents of the will, the expert staked his reputation that the document was entirely written, dated, and signed by Mr. Hughes. I relate this episode as just one of the many happenings that built interest into what quickly became known as the "Mormon Will." A provision giving one sixteenth of the entire estate to a person named Melvin Du Mar (sic) of Gabbs, NV *really* added to the drama (Fig. 3). Was this the document that was going to dispose of the Hughes estate worth perhaps four billion dollars?

From 1958, until he died in 1976, Hughes was a recluse to all except his personal aides. His wife, Jean Peters, never visited him during the Las Vegas years. Robert Maheu, his office chief, saw him once but that was from a distance. Here was a person who was trying to shun the outside world, but instead his life style generated more publicity and curiosity than if he had hired press agents. There was a question as to whether he really controlled and ran his empire. The Nevada State Gaming Control Board wanted to know and so did the court when Maheu was fired. His only "public" appearance during these reclusive years was a telephone news conference to expose the Clifford Irving forgeries. Public officials, bankers, and business associates had to rely on his handwriting, signatures, or, occasionally, on his fingerprints. As a result, Hughes kept document examiners busy.

I worked on several Hughes cases, including testifying for Robert Maheu in his Federal

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¹Harris and Harris, Questioned Document Examiners, Inc., Los Angeles, CA.

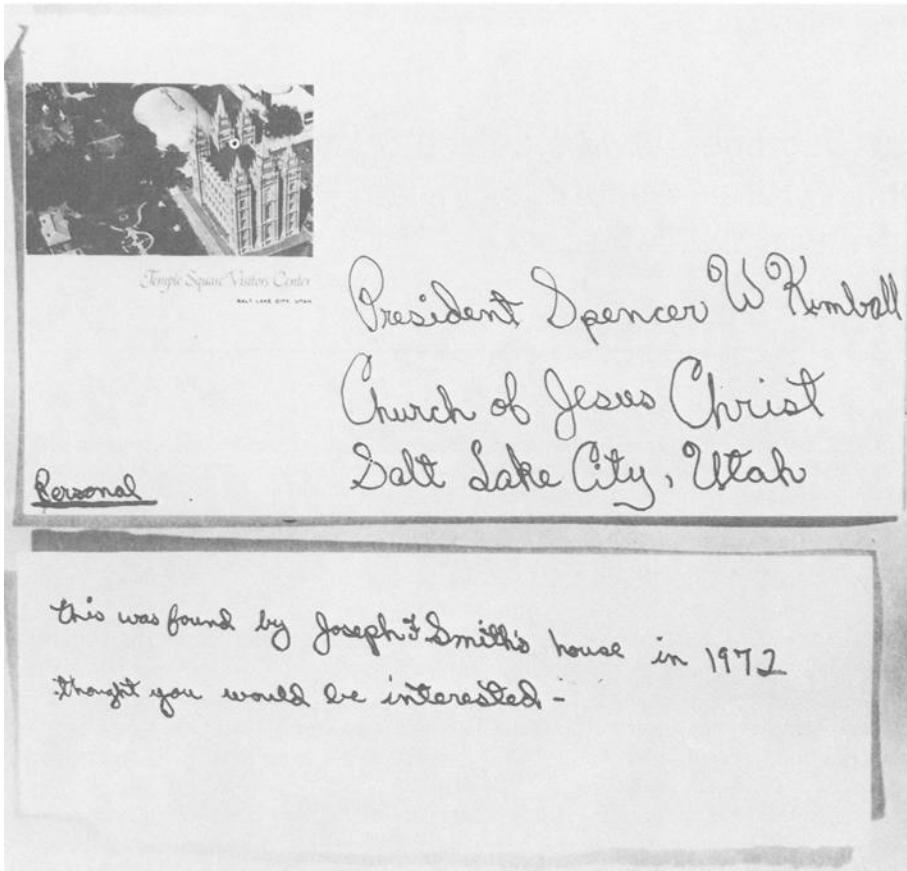


FIG. 1—The so-called outside envelope and note left with the will. Later Dummar admitted this was in his disguised handwriting.

Court slander suit against Summa Corporation. So, by the time he passed away, we had gathered quite of collection of his known handwriting.

When he died 5 April 1976 not one of his many lawyers or bankers could produce a will. Speculation began and the search was on. Paul Conrad, the Pulitzer prize winning cartoonist for the *Los Angeles Times*, drew a caricature of the old man surrounded by signatures. "A billionaire can't die without a will! That's not possible! It's against the rules!" The word was out: "Hughes needs a will!"

People obliged. The County Clerk received over 30, mostly funny or pathetic, with no attempt to imitate his handwriting. The "Mormon Will" was unique because it had the appearance of Hughes' writing, and it was delivered by an official from the Mormon Church. This document was promptly filed for probate. (Only one other, the "Walker Will," was ever filed. It had a traced signature faithfully copied, reduced size and all, from a photograph in *Hoax*, a book about the Clifford Irving affair. After a brief hearing, probate was denied.)

I was retained by Paul Freese, a senior partner in the law firm of Kindel & Anderson of Los Angeles. His firm represented Mr. Hughes' paternal heirs. The maternal side of the family was represented by Andrews, Kurth, Campbell & Jones of Houston. They did legal work for Hughes when he was alive. Attorneys James Dilworth and Clay Lillienstern of An-

Dear Mr McKay
Please see that this will
is delivered after my death to
Clark County Court House
Las Vegas Nevada
Edward R. Hughes

FIG. 2—The so-called inside envelope with Las Vegas misspelled. (Las Vegas)

Last Will and Testament 21

I Howard R. Hughes being of sound and disposing mind and memory, not acting under duress, fraud or the undue influence of any person whomsoever, and being a resident of Las Vegas Nevada, declare that this is to be my last Will and revoke all other wills previously made by me.

After my death my estate is to be divided as follows—

first: one fourth of all my assets to go to Hughes Medical Institute of Miami

second: one eighth of assets to be divided among
 The University of Texas
 Rice Institute of Technology of Houston —
 The University of Florida
 and The University of Calif.

Howard R. Hughes

page one —

FIG. 3—Page one of the "Mormon Will."

draws—Kurth promptly engaged two nationally recognized document examiners, Donald B. Doud of Milwaukee and Lyndal L. Shaneyfelt of Alexandria, VA. Doud had been one of the first to expose the Clifford Irving fraud.

Paul Freese and I drove to Las Vegas May 5th and the next morning I set up equipment in Judge Keith Hayes' jury room. Loretta Bowman, the County Clerk, stored the all-important document in a vault of a nearby bank. (This was no ordinary will to be lodged with other wills in the safekeeping section of the Clerk's safe.) By the time she arrived, the jury room was full. There were two armed guards, a court reporter, Mrs. Bowman with a deputy clerk,

Third: one sixteenth to Church
 of Jesus Christ of Latterday
 Saints — David O. McKay — Pr

Fourth: one sixteenth to estab-
 lish a home for Orphan
 Children —

Fifth: one sixteenth of assets
 to go to Boy Scouts
 of America —

sixth: one sixteenth; to be
 divided among Jean Peters of
 Los Angeles and Ella Rice
 of Houston —

seventh: one sixteenth of assets
 to William R. Lommis of
 Houston, Texas —

eighth: one sixteenth to go
 to Melvin Du Mar of
 Gates Nevada —

Howard R. Hughes
 — page two —

FIG. 4— Page two of the "Mormon Will" with the bequeath to "Melvin Du Mar." (sic)

Attorney Paul Freese, several reporters, a TV camera crew, and a local minister who had some special interest in the case.

I was handed the large manila-clasp envelope containing the "Mormon Will." A TV camera started rolling and the court reporter took down every word. There I was, sitting behind an array of optical and photographic equipment, with the awesome responsibility of examining a document that could distribute billions of dollars. This had all the makings of high drama. By prearrangement the media crew would stay for a few minutes and then make their exit when I got down to the serious part of the examination.

ninth; one sixteenth to be
 divided among my
 personal aids at the time
 of my death -

tenth; one sixteenth to be
 used as school scholarship
 fund for entire County -

the spruce goose is to be given
 to the City of Long Beach, Calif.

The remainder of my
 estate is to be divided among
 the key men of the company's
 I own at the time of my
 death.

I appoint Noah Dietrich
 as the executor of this will -

signed the 19 day of
 March 1968

Howard R. Hughes

- page three -

FIG. 5—Page three of the "Mormon Will" naming Noah Dietrich as executor.

The will was finally out of its protective cover and exposed on the table. I looked at the three-page document. Looked at it again. And again. The song Peggy Lee made famous came to mind: "Is That All There Is?" What a miserable looking document and what a letdown! Someone had certainly tried to copy his handwriting, but it was no billion dollar effort. And it had been water-soaked to boot. We did not need armed guards! What to do? I really wanted to laugh out loud. This was not the real thing; it was more like a contest in which someone had sent in a facsimile "boxtop" to enter the "Howard Hughes Will Con-

test.” But I knew after 30 years’ experience, most lawyers and judges are devoid of all humor when it comes to wills. You do not joke about bombs on airplanes; well, you do not kid the legal profession about wills. I decided to press on.

After several hours of examination and photography, I was all the more certain that the will was a fake. After all the ballyhoo, should I announce my opinion to Paul Freese here and now, or wait until I returned to Los Angeles, process and examine the photographs, then render the opinion? It was a no-win situation. I was the first document examiner to examine the will for an actual litigant, and if there were a trial I would be criticized for a quick opinion. On the other hand, any delay could only add dignity and suspense to the document.

I decided the thing had had dignity enough and promptly told Paul Freese that in my firm opinion the so-called will was a rank forgery. He announced it to the media, and we returned to Los Angeles. I predicted there would be more “wills” but that this one would never get off the ground. Was I wrong!

It refused to die. There were television interviews. The media had a field day with Melvin Dummar, a new folk hero who might inherit millions because he allegedly picked up Howard Hughes hitchhiking out in the wilds of Nevada. Legal juggernauts started rolling and ultimately there was an exorcistic seven-month trial in Las Vegas to determine, not only the validity of the “Mormon Will,” but if a billionaire has the right to die intestate.

All the time I was thinking this is crazy. How could such an absurd document be taken seriously? What is happening to our legal system? There has to be a limit to the credulity of grown men. Someone should step forth and say enough is enough.

The FBI found Dummar’s fingerprint on one of the envelopes left at the Mormon Church office although he had testified repeatedly under oath at depositions that he knew nothing about these document (Fig. 1). Through some good detective work his thumbprint was also found in a copy of *Hoax* at the Weber State College library. Dummar had taken classes at Weber State. The book by Fay, Chester, and Linklater tells about the Hughes-Clifford Irving forged autobiography. But more importantly, it contains photographs of two Hughes signatures and portions of the “Dear Chester and Bill” letter Hughes wrote when he fired Maheu. These photographs were missing from this Weber State volume. To further add to Dummar’s troubles, Shaneyfelt identified him as the writer of the disguised note left to explain the will when it was dropped at the Mormon Church office (Fig. 1). Later, Dummar changed his testimony and admitted that he wrote the note, delivered the will, touched the book, but he maintained that he did not write the will. (Neither his fingerprints nor for that matter Mr. Hughes’ were ever found on the water damaged will or inside envelop.)

Dummar’s pretrial and deposition testimony was changing so often that Proponents’ attorney had started asking him if he was really telling the truth this time. From what I could glean, the Proponents and the Court were not upset all that much by Dummar’s pretrial perjury. Oh, he was warned, scolded, and even threatened, but we were going to have a trial unless he confessed to forgery. He never did and so we had the trial.

As ridiculous as the situation seemed to me, there was no choice but to prepare my part of the case as if it *all* depended on the handwriting evidence. I am sure Doud and Shaneyfelt shared the same feelings.

Proponents’ said in their pleading that the “sole” issue was to determine if Mr. Hughes had entirely written, dated, and signed the will. This was indeed a single issue case. A question of fact. Mitigating circumstances did not apply. Either he wrote the will—or he did not, nothing else mattered. Well; not quite! We still had the underlying question, even if it was not discussed openly, of whether this man with his billions could leave the scene without a will. And if he could not, what might pass for one?

For our side there was no choice but to attack vigorously this fraudulent document. Albert S. Osborn, author of *Questioned Documents* observed that in these situations: “Safety requires that the facts be shown so overwhelmingly that the inclination to decide against them is overcome.” It cost the estate millions and tied up an expensive courtroom for months. I

grew to resent the days, nights, and weekends I was devoting to the case. What a waste! But it had to be done.

I prepared over 50 photographic exhibits including blowups of the will and envelope; flip charts; cutouts of letters, words; and even i-dots and punctuation. Shaneyfelt and Doud made similar preparations.

Numerous experts from all parts of the country and from Europe were engaged by proponents and by some of the named beneficiaries. The FBI Laboratory conducted an examination for the State of Nevada and reported the will to be nongenuine. During the trial Mr. Rhoden called *only* four to testify, Ann Hooten of Minneapolis and three Europeans, two of whom needed translators. During closing arguments he more or less asked the jury to ignore the Americans' testimony, including that of his own witness, Mrs. Hooten (even though she said the will was genuine) and instead to rely on the three Europeans. (Our side took depositions of the American experts who had been engaged by Rhoden's group or by beneficiaries. Three of their depositions and the FBI expert's were read to the jury. Their conclusion: "Hughes did not write the will.")

We did not depose the Europeans during pretrial and in fact, the second French expert was not even cross-examined.

The proof that Hughes never wrote this document is highly demonstrable because:

1. First, there are virtually unlimited exemplars. Hughes was an avid memo writer; and we had over 450 pages of his writings, covering a period of 30 years. Some were written within a few days of the 19 March 1968 will date.

2. The will itself has ample handwriting upon which to base an opinion. There are three full pages with four signatures, as well as other writing and a fifth signature on the envelope.

3. The writing in the purported will is slow, labored, forced, and tremulous which is just the opposite of the Hughes natural, flowing, and well-coordinated exemplars.

4. Many letter forms do not match his writing. Inconspicuous features such as the "i"-dots, "t"-crossings, and commas are also incorrectly formed (Fig. 6).

5. The writing lacks natural variation. All genuine handwriting has it, especially the Hughes exemplars. For example, on a page of writing he might make a half dozen variations of the small letter "f." But not so in the purported will. The word "of" appears 27 times and they all look alike because they were copied from the same model (Fig. 7). The first "of" on

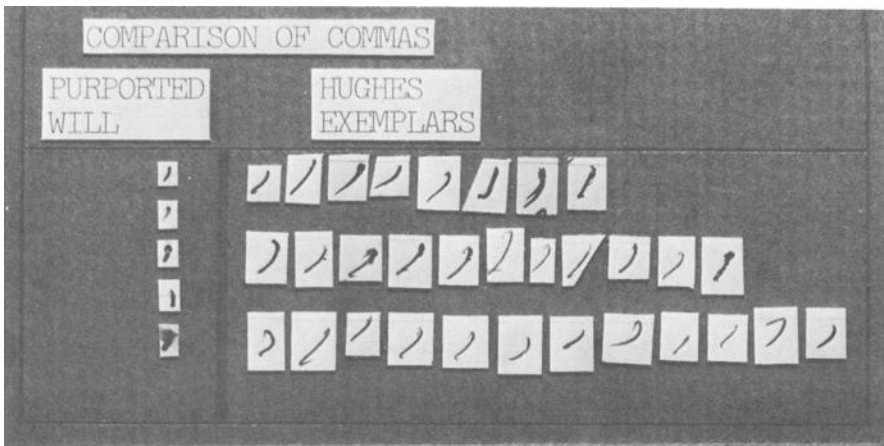


FIG. 6—The comma chart. Commas in the will and in the Hughes specimens all photographed to the same scale. Contestants' Exhibit No. 438.

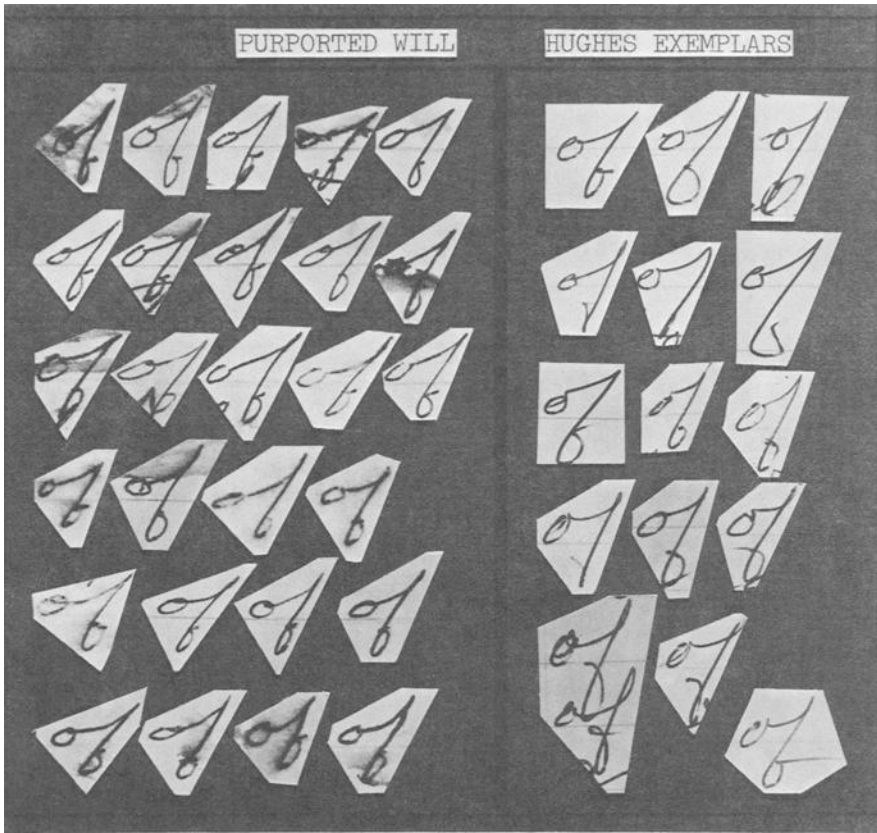


FIG. 7—The “of” chart. On the left are the 27 “ofs” in the will and on the right is the same word made by Mr. Hughes on two pages of writing. The first “of” on the right side was the model for all those on the left. Contestants’ Exhibit No. 427.

the right side of the chart is the model used from the Hughes letter reproduced in *Hoax*. The same kind of demonstration can be made for the seventeen “to’s” and for other words in the will.

6. The four will signatures and the fifth signature on the envelope differ fundamentally from the exemplars. The middle initial “R” is enough to prove that they are forgeries. All five signatures have a semiprinted two-stroke “R.” Contemporaneous genuine signatures on multi-million dollar promissory notes are made with *one* continuous stroke of the pen. The signature replicas in *Hoax* appear to have two-stroke “Rs” but this was not because of Mr. Hughes, but instead to a loss of detail when the book was printed. I saw the originals and the “Rs” were made with one stroke of the pen. So here was yet another proof that the photographs in *Hoax* were used as the model.

7. The subject’s handwriting went through a metamorphosis right at the critical time. He was seriously ill during late 1968 and early 1969. Apparently it affected his penmanship because he started printing his “ps” and “ks.” By 1970 it became a fixed habit. The “Chester and Bill” letter reproduced in *Hoax* was written during the early 1970s and had *only* the printed forms for these two letters. The March 1968 purported will only had the *printer* forms too. That is an impossibility for a 1968 Hughes document! With rare-rare exception he made cursive style one-stroke “ps” and “ks” at that time in his life (Fig. 8).

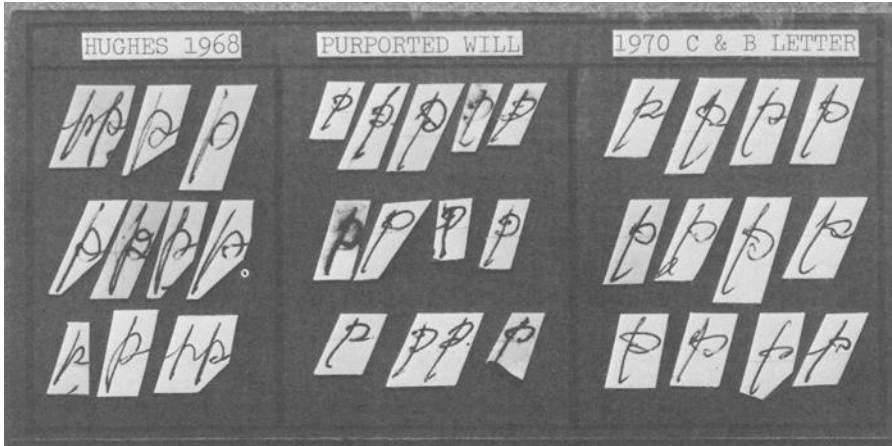


FIG. 8—The "p" chart. The will is dated in 1968 but has the printed form made by Hughes in 1970, not the cursive one-stroke style he made in 1968. (No. 6 on the left side is the beginning of the printed "p" in 1968, but it still does not compare with the will or his 1970 writing). Contestants' Exhibit No. 401.

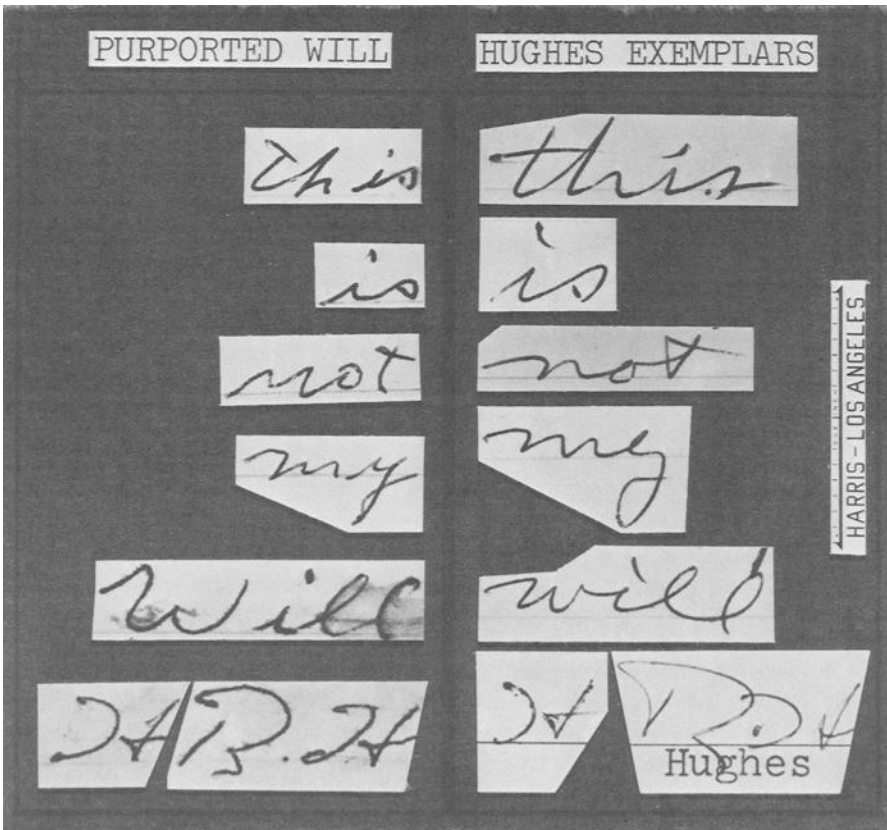


FIG. 9—“This is not my will H.R.H.” Contestants' Exhibit 440.

8. The "C & B" letter only has 13 capital letters of the alphabet. Nine others were needed to write the will. The 13 models were painfully copied but the missing capitals (E, J, K, O, P, S, U, V, and W) were guessed at, and the forger only hit 2 of the 7. More evidence that the forger used *Hoax*.

9. The will had 16 misspellings. That equates to about 1 misspelling in every 20 words. Hughes was actually a good speller, characterized by one reporter as better than many people who make their living with the written word. He certainly knew how to spell Las Vegas yet it appeared as "Las Vagas" on the inner envelope (Fig. 2). Also the misspelling of Dummar's name (Du Mar) coincides with the not-too-bright but common practice of anonymous letter writers who include their own names in their missives, but misspell them, thinking it will divert suspicion. It does just the opposite.

The trial commenced 7 Nov. 1977 and Contestants rested 8 May 1978. One juror said afterwards it should have been over in two weeks. I think it never should have happened. When people look at my set of charts they usually ask three things: (1) How did it come out; (2) Why did it go to trial in the first place; and (3) Was Dummar all that smart? Regards Dummar, he took a fake will to the Mormon Church; it found its way into our legal system, and from then on it was mostly lawyer-propelled. As for why there was a trial, the reasons are more complex. We were dealing with the alleged enigma Howard R. Hughes and all his money. But other factors came into play including the fact that Proponents' chief counsel, Harold Rhoden was in *Propria Persona* to the extent that he was the Substitute Executor designated by Noah Dietrich, the named Executor in the purported will.

I thought, what would Mr. Hughes say if he could hold a telephone press conference as he did during the Clifford Irving Affair. Why not put it in a jury chart! Contestants' Exhibit 440, the last one I showed the jury, has what I think would be his "message" (Fig. 9).

The jury was out for only a night and a day. Their verdict: "Hughes *did not* write the 'Mormon Will'." A billionaire can indeed die intestate.

Address requests for reprints or additional information to
John J. Harris
Harris and Harris
Questioned Document Examiners, Inc.
523 W. Sixth St., Suite 207
Los Angeles, CA 90014-1090