

Fwd: Brunsting / Agreed Emergency Motion & Agreed Order

From: Candice Schwager (candiceschwager@outlook.com)

To: blowintough@att.net; occurtis@sbcglobal.net

Date: Wednesday, December 14, 2022 at 08:57 AM PST

Candice Schwager
Schwager Firm
tel: 832-857-7173
Candiceschwager@icloud.com
CandiceSchwager@outlook.com

Begin forwarded message:

From: "Comstock, Clarinda (Probate Courts)" <Clarinda.Comstock@prob.hctx.net>
Date: December 14, 2022 at 9:50:40 AM CST
To: Steve Mendel <steve@mendellawfirm.com>, Bobbie Bayless <bayless@baylessstokes.com>
Cc: "Neal Spielman (nspielman@grifmatlaw.com)" <nspielman@grifmatlaw.com>, Carole Brunsting <cbrunsting@sbcglobal.net>, "Cory Reed (creed@thompsoncoe.com)" <creed@thompsoncoe.com>, Bruse Loyd <bruse@jgl-law.com>, candiceschwager@outlook.com
Subject: RE: Brunsting / Agreed Emergency Motion & Agreed Order

Judge Horwitz has signed the proposed order.

Kind regards,

Hon. Clarinda Comstock
Associate Judge
Harris County Probate Court No. 4
832-927-1404

From: Steve Mendel <steve@mendellawfirm.com>
Sent: Tuesday, December 13, 2022 9:49 AM
To: 'Bobbie Bayless' <bayless@baylessstokes.com>; Comstock, Clarinda (Probate Courts) <Clarinda.Comstock@prob.hctx.net>
Cc: 'Neal Spielman (nspielman@grifmatlaw.com)' <nspielman@grifmatlaw.com>; 'Carole Brunsting' <cbrunsting@sbcglobal.net>; 'Cory Reed (creed@thompsoncoe.com)' <creed@thompsoncoe.com>; 'Bruse Loyd' <bruse@jgl-law.com>; 'candiceschwager@outlook.com' <candiceschwager@outlook.com>
Subject: RE: Brunsting / Agreed Emergency Motion & Agreed Order

Dear Judge Comstock:

In light of Ms. Bayless' concurrence on behalf of Carl Brunsting, is there any further information that the Court needs for the pending motion?

Very truly yours,
Stephen A. Mendel

The Mendel Law Firm, L.P.
1155 Dairy Ashford, Ste. 104
Houston, TX 77079
Tel: 281-759-3213
Fax: 281-759-3214
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From: Bobbie Bayless <bayless@baylessstokes.com>
Sent: Monday, December 12, 2022 6:52 PM
To: Steve Mendel <steve@mendellawfirm.com>; 'Comstock, Clarinda (Probate Courts)' <Clarinda.Comstock@prob.hctx.net>
Cc: 'Neal Spielman (nspielman@grifmatlaw.com)' <nspielman@grifmatlaw.com>; 'Carole Brunsting' <cbrunsting@sbcglobal.net>; 'Cory Reed (creed@thompsoncoe.com)' <creed@thompsoncoe.com>; 'Bruse Loyd' <bruse@jgl-law.com>; 'candiceschwager@outlook.com' <candiceschwager@outlook.com>
Subject: RE: Brunsting / Agreed Emergency Motion & Agreed Order

I apologize to everyone for being hard to find and nonresponsive today. I had an unexpected emergency come up this morning that has kept me from dealing with anything else. I am just now seeing the email, but I don't have a problem with the content.

From: Steve Mendel <steve@mendellawfirm.com>
Sent: Monday, December 12, 2022 5:38 PM
To: 'Comstock, Clarinda (Probate Courts)' <Clarinda.Comstock@prob.hctx.net>
Cc: 'Neal Spielman (nspielman@grifmatlaw.com)' <nspielman@grifmatlaw.com>; Bobbie Bayless <bayless@baylessstokes.com>; 'Carole Brunsting' <cbrunsting@sbcglobal.net>; 'Cory Reed (creed@thompsoncoe.com)' <creed@thompsoncoe.com>; 'Bruse Loyd' <bruse@jgl-law.com>; 'candiceschwager@outlook.com' <candiceschwager@outlook.com>
Subject: RE: Brunsting / Agreed Emergency Motion & Agreed Order

Dear Judge Comstock:

In response to the Court's inquiry below, I offer the following:

1. This response is agreed by the Co-Trustees and Carole Brunsting. Ms. Bayless has not been able to respond by the time of this email correspondence; a fact not intended as a criticism of Ms. Bayless. The practice of law is challenging, and Ms. Bayless is entitled to the benefit of the doubt that her schedule did not permit a response by the time this correspondence was issued. With that said, I am confident Ms. Bayless will not have a material disagreement with what is provided below.

2. Notwithstanding that Ms. Bayless may have some additional input to the information in this correspondence, the term "Beneficiaries" as used in this correspondence means the Co-Trustees, Carl Brunsting, and Carole Brunsting. The agreement of Candace Curtis is not required, because she is no longer a beneficiary under the Trusts.

3. The case remains on the Court's docket because of an injunction that is in place, and because there is not yet a final judgment that resolves all issues as to all parties. More specifically, the reasons include, but are not limited to, the following:

a. An injunction remains in place that requires Court approval for certain distributions. The present injunction was issued by U.S. District Court Judge Hoyt on April 19, 2013. The federal court remanded/transferred this matter to this Court on May 15, 2014. On June 3, 2014, this Court accepted all pleadings and orders of the federal court.

b. By way of example that approval is required for a distribution, in January 2022, the Court ordered a \$100k health related distribution for the benefit of Carole Brunsting. Since the injunction has not been lifted, the Co-Trustees, Carl Brunsting, and Carole Brunsting believed Court permission was required for the expenditures to the Tenant/Farmer and the agreed initial distributions of \$30k to Carl Brunsting, Amy Brunsting, and Anita Brunsting. See attached order regarding same.

c. The Beneficiaries expect to enter into a comprehensive settlement that will allow the -401 to be closed/made final.

d. There are outstanding claims by the Estate/Trust to be resolved, so that this case can get to a final judgment. By way of example, and not as a limitation:

1) There is the need to resolve who will be or is the Successor Executor of the Estate.

2) There is the need to resolve the claims against the Vacek & Freed defendants, and who owns these claims, whether it be the Estate or the Trust.

4. Per my email earlier this morning, there is plenty of liquidity to make the disbursements to the Tenant/Farmer, and the initial \$30k distributions to Carl Brunsting, Amy Brunsting, and Anita Brunsting, as referenced in the pending motion, and per the attached proposed order. More specifically, as of November 30, 2022, the Trust is holding 145 acres of Iowa farm land worth \$3.420M, and \$1.604M in liquid assets, such as cash, brokerage assets, etc. Total assets owned by the Decedent and Survivor's trusts are currently \$5.024M. Please note the assets remain subject to fluctuations of the investment markets, as to the financial accounts, and the real estate market, as to the value of the Iowa Farm.

I hope the foregoing resolves the Court's concerns. As reflected in the pending motion, the Beneficiaries request that the Court sign the attached order.

We thank the Court in advance for its time and consideration.

Very truly yours,
Stephen A. Mendel

The Mendel Law Firm, L.P.
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Houston, TX 77079
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From: Steve Mendel

Sent: Monday, December 12, 2022 10:45 AM

To: 'Comstock, Clarinda (Probate Courts)' <Clarinda.Comstock@prob.hctx.net>

Cc: 'Neal Spielman' (<nspielman@grifmatlaw.com>); 'Bobbie Bayless' (<bayless@baylessstokes.com>); 'Carole Brunsting' (<cbrunsting@sbcglobal.net>); 'Cory Reed' (<creed@thompsoncoe.com>); 'Bruse Loyd' (<bruse@jgl-law.com>);

'candiceschwager@outlook.com' <candiceschwager@outlook.com>

Subject: Brunsting / Agreed Emergency Motion & Agreed Order

Dear Judge Comstock:

My apologies for the delay. I was out of the office last week with limited email access and limited access to my server. In addition, Carole Brunsting was ill from Covid. The combination of my absence and Carole Brunsting's illness impaired the Parties (Carl Brunsting, Carole Brunsting, and the Co-Trustees) ability to confer and express what would be hoped as an agreed response to the Court's questions.

I am working on what I think will be an agreed response among the Parties, and intend to respond to the Court by the close of business day. If the response is not agreed, then the Court will be so advised. One of the Co-Trustees is also working on an updated accounting, but I know there is more than enough liquidity to cover the requested distributions referenced in the agreed motion pending before the Court.

We thank the Court in advance for its time and consideration.

Very truly yours,
Stephen A. Mendel

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From: Comstock, Clarinda (Probate Courts) <Clarinda.Comstock@prob.hctx.net>

Sent: Monday, December 12, 2022 7:40 AM

To: Steve Mendel <steve@mendellawfirm.com>

Cc: 'Neal Spielman (nspielman@grifmatlaw.com)' <nspielman@grifmatlaw.com>; 'Bobbie Bayless' <bayless@baylessstokes.com>; 'Carole Brunsting' <cbrunsting@sbcglobal.net>;

'candiceschwager@outlook.com' <candiceschwager@outlook.com>; 'Cory Reed' <creed@thompsoncoe.com>; 'Bruse Loyd' <bruse@jgl-law.com>

Subject: RE: Brunsting / Agreed Emergency Motion & Agreed Order

Dear Mr. Mendel,
We have not received a response to the email below.

Kind regards,

Hon. Clarinda Comstock
Associate Judge
Harris County Probate Court No. 4
832-927-1404

From: Comstock, Clarinda (Probate Courts)
Sent: Monday, December 5, 2022 4:33 PM
To: Steve Mendel <steve@mendellawfirm.com>
Cc: 'Neal Spielman (nspielman@grifmatlaw.com)' <nspielman@grifmatlaw.com>; 'Bobbie Bayless' <bayless@baylessstokes.com>; 'Carole Brunsting' <cbrunsting@sbcglobal.net>; 'candiceschwager@outlook.com' <candiceschwager@outlook.com>; 'Cory Reed (creed@thompsoncoe.com)' <creed@thompsoncoe.com>; 'Bruse Loyd' <bruse@jgl-law.com>
Subject: RE: Brunsting / Agreed Emergency Motion & Agreed Order

Counsel,

This case is no longer on our trial docket and the status of a contest is unclear related to the Estate or the Trust. A request has been made for the court to authorize distributions to trust beneficiaries to equalize payments.

Please provide a current, verified statement of the condition of the trust and estate assets along with some input related to the status of litigation currently pending in this case.

How does the court have jurisdiction to authorize, on an on-going basis, distribution of the assets of this trust?

Kind regards,

Hon. Clarinda Comstock
Associate Judge
Harris County Probate Court No. 4
832-927-1404

From: Steve Mendel <steve@mendellawfirm.com>
Sent: Friday, December 2, 2022 12:40 PM
To: Comstock, Clarinda (Probate Courts) <Clarinda.Comstock@prob.hctx.net>
Cc: 'Neal Spielman (nspielman@grifmatlaw.com)' <nspielman@grifmatlaw.com>; 'Bobbie Bayless' <bayless@baylessstokes.com>; 'Carole Brunsting' <cbrunsting@sbcglobal.net>; 'candiceschwager@outlook.com' <candiceschwager@outlook.com>; 'Cory Reed (creed@thompsoncoe.com)' <creed@thompsoncoe.com>; 'Bruse Loyd' <bruse@jgl-law.com>
Subject: Brunsting / Agreed Emergency Motion & Agreed Order

Dear Judge Comstock:

The attached files were eFiled and eServed at 12:29 p.m. today. We attached the

foregoing files because we realize that from time to time the Court likes a Word file for the purpose of modifying the language of a proposed order.

The Beneficiaries with standing to address the attached motion and proposed order are Carl Brunsting, Carole Brunsting, Amy Brunsting, and Anita Brunsting. The parties have an agreement regarding expenditure of funds for the Iowa Farm, a consolidation of assets, and an interim distribution of \$30k to Carl Brunsting, Amy Brunsting, and Anita Brunsting. As reflected by her agreement in the motion, Carole Brunsting is not receiving a distribution at this time because of the \$100k distribution she received in January 2022.

The Beneficiaries believe the requested relief can be granted without the necessity of a hearing. In addition, the Beneficiaries ask that the relief be granted without undue delay, because the co-trustees have learned that Carl Brunsting needs extensive dental work, and his distribution would be helpful in that regard.

Please let us know if something further is required. We thank you in advance for the Court's time and consideration.

Very truly yours,
Stephen A. Mendel

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