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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS . Civil Action
. No. H-12-592

VS.

ANITA KAY BRUNSTING, ET . SEPTEMBER 3, 2013
AL. . HOUSTON, TEXAS
. 1:38 P.M.
. .

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE KENNETH M. HOYT
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR PLAINTIFF: MS. CANDACE LOUISE
Pro Se
1215 Ulfonian Way
Martinez, California 94553

FOR DEFENDANTS: MR. GEORGE WILLIAM VIE, III
MS. MAUREEN McCUTCHEN
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Proceedings recorded by mechanical stenography, transcript
produced by computer-aided transcription.

1 APPEARANCES (Continued):

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9 OFFICIAL COURT REPORTER: MS. STEPHANIE KAY CARLISLE

U.S. District Court
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14 ALSO PRESENT:

Mr. William Arthur Potter

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1 A. Potter, P-O-T-T-E-R.

2 THE COURT: Okay. Very good. Let's see. We have
3 the special master here as well, I gather, as the defendants,
4 two of the defendants, the two sisters.

01:39:24PM

5 I'm not sure. Are both of them serving as
6 administrators or trustees of the estate?

7 MR. VIE: They are both co-trustees. Only Anita
8 Brunsting is here today.

9 THE COURT: Any reason why Amy Ruth is not present?

01:39:44PM

10 MR. VIE: Just because of employment obligations,
11 sir.

12 THE COURT: Okay. I believe that's everyone that's
13 participating.

01:40:04PM

14 We have this suit that was filed by Ms. Curtis
15 back in 2012, in fact. I believe, Ms. Curtis, somewhere
16 around February of 2012. That was pending for a period of
17 time, and it was initially brought as a kind of truth in
18 limine accounting. She mixed a lot of stuff together there.

01:40:26PM

19 And, of course, the one aspect of the case that
20 this Court -- I said one aspect. One of the aspects of this
21 case that the Court saw was first that there was diversity of
22 citizenship, that she was a California resident, and the
23 sisters were Texas residents.

01:40:44PM

24 And, secondly, that she was making allegations
25 about an estate that appeared to be substantial sums of money,

1 or property, or both, were located, and that she was an heir,
2 or at least felt that she was one of the heirs to the estate,
3 and that she felt, I believe, at that time, that her sisters,
4 who were co-trustees, were not properly managing the estate.

01:41:09PM 5 I think that's, generally speaking, how this lawsuit
6 developed.

7 So, in the process of conducting a couple of
8 hearings, or at least -- I say hearings, opportunities for
9 communication and dialogue, the Court set this matter for a
01:41:26PM 10 hearing, and we had a hearing several months ago. Let's see
11 if I can track that down. A telephone conference in July. I
12 think it may have been the -- perhaps were the last
13 communication we had. Proceeding here in the courtroom, for
14 sure.

01:42:08PM 15 And the Court determined that a report, an
16 accounting of income, receipts, and expenses, and
17 disbursements would be appropriate, setting a time frame of
18 December 21, 2010, through May 31st of 2013, and that that
19 report should be filed. I would then conduct a hearing to
01:42:31PM 20 determine not so much whether or not the accounting -- the
21 report should be received, but to permit the master -- special
22 master to answer questions from either side regarding the
23 procedure and his findings, and then, also, for approval of
24 his request for -- for pay.

01:42:56PM 25 And there, I believe, have been, since that

1 time, motions filed by the defense for, I believe, a renewal
2 of a lease on the Iowa property. Objections to that and then
3 other motions have been filed. So we will see how much, if
4 not all of this, we can cover.

01:43:25PM

5 So, Ms. Curtis, will you be -- besides the
6 special master, is there anyone else in the courtroom you are
7 going to need to call and have testify or ask questions of?

8 MS. CURTIS: No, Your Honor.

01:43:41PM

9 THE COURT: Okay. Sir, if you come forward, I will
10 swear you in, and then you can take a seat over on my left.

11 Raise your right hand, please, sir.

12 (William West, witness, sworn.)

01:44:07PM

13 THE COURT: Please have a seat. And we can start
14 with -- Ms. Curtis, we can start with you, if you have
15 questions of the special master regarding -- you have a copy
16 of his report, do you not?

17 MS. CURTIS: Yes, I do, Your Honor.

18 THE COURT: Okay. Why don't you move up closer to
19 us there -- no, no, no. I mean, you can have a seat there,
20 but I just wanted you to move up closer and bring the
21 paperwork up closer.

01:44:44PM

22 All right. This is a formal proceeding, Ms.
23 Curtis, so that when you are addressing the Court, you will
24 need to stand and address the Court, and -- and I will be
25 requiring that all of the questioning that is done as to any

1 witness should be done from the podium so it is easy for me to
2 pay attention, for the lawyer and then the witness, and, of
3 course, that same -- obviously, that same rule applies to
4 counsel for the defense.

01:45:01PM 5 If you would also bend that microphone down so
6 that, when you are standing in that area and speaking to me,
7 we will be able to hear you, and the court reporter can take
8 your remarks.

9 All right. Are you ready -- you have a copy of
01:45:15PM 10 the report, I believe you said.

11 MS. CURTIS: Yes, Your Honor.

12 THE COURT: Do you have some questions you want to
13 ask of the witness? If so, you may do so at this time.

14 MS. CURTIS: No, Your Honor. I have no questions.

01:45:24PM 15 THE COURT: You completely are, say, satisfied that
16 you understand --

17 MS. CURTIS: I have no questions.

18 THE COURT: You just have no questions. All right.

19 Mr. Vie, do you have any questions you want to
01:45:33PM 20 ask of this witness?

21 MR. VIE: Yes, Your Honor.

22 THE COURT: All right. Would you come to podium,
23 sir.

24 Do you have a copy of your report with you? If
01:45:39PM 25 not, let's get a copy of it to you. I think I have got some

1 copies here.

2 DIRECT EXAMINATION

3 BY MR. VIE:

4 Q. Good afternoon. I just have one or two questions just to
01:46:06PM 5 clarify, as the Court said, the procedures under which the
6 report was prepared.

7 On Exhibit 1 to the report --

8 A. Yes.

9 Q. -- you provided a statement of income, receipts,
01:46:20PM 10 expenses, and disbursements for the period the Court directed;
11 is that correct?

12 A. Yes, sir.

13 Q. In conclusion, on page 2 of that report, where you
14 indicate, at the bottom, a net of income receipts and less
01:46:40PM 15 value of stock distributed, if you could explain, what is that
16 trying to capture?

17 A. This is trying to capture either -- during the time frame
18 in question, either the receipts received or dividends in kind
19 from the dividend distribution -- excuse me, dividend
01:47:08PM 20 reinvestment accounts, less any amounts paid or any stock
21 distributed.

22 Q. So this number at the bottom of page 2, the net of income
23 number, this doesn't reflect actually the value of this
24 estate?

01:47:26PM 25 It doesn't include the actual stock value that

1 remains in the estate?

2 A. Absolutely not. To do something like that you would need
3 to get into something with a balance sheet -- and things of
4 that nature.

01:47:40PM

5 Q. What we are being provided here is more of a statement of
6 money going out and money coming in?

7 A. Correct.

8 Q. The other exhibit, Exhibit -- the exhibit that relates to
9 your recapturing the stock distributions that were made, is

01:48:04PM

10 there an Exhibit 3?

11 Is that where that is located?

12 A. Yes.

13 Q. Stock distribution analysis?

14 A. Correct.

01:48:10PM

15 Q. These are all -- these are all distributions that took
16 place during the time that Ms. Brunsting was alive, correct?

17 A. From December 21st, 2010, to her demise.

18 Q. I understand.

19 Specifically, you did not find any evidence of
20 any stock distributions that were made to anyone after the

01:48:28PM

21 date that she died, the date of her death?

22 A. Correct.

23 THE COURT: Mr. Vie, what is the date of her death?

24 Establish that.

25 BY MR. VIE:

1 Q. November 11, 2011?

2 A. Correct.

3 Q. So during the period of time that she was the beneficiary
4 of the trust and had the right to direct gifts and payments --

01:48:52PM

5 THE COURT: "She" being?

6 MR. VIE: Mrs. Brunsting, Nella Brunsting.

7 BY MR. VIE:

8 Q. The only transactions that you found for stock
9 distribution, as you have noted in Exhibit 3, was at the time
10 she was alive and could direct those distributions?

01:49:03PM

11 A. To the first part of your question, I don't think I have
12 enough information to respond. But from all of the documents
13 that we had and everything appeared to tie, these are the
14 distributions out of those accounts in that time frame.

01:49:24PM

15 Q. Thank you.

16 Could you -- in addition to the documents that
17 we provided, you asked for and we provided a Quicken file, an
18 electronic file?

19 A. Correct.

01:49:34PM

20 Q. If you could explain to the Court what that file was,
21 what you found in it, and how you used it.

22 A. That was an electronic accounting file that I asked for
23 and that you had given me, and it was what I would generally
24 term an electronic checkbook, which would show -- gave
25 information about a date, an amount, and the payee.

01:50:00PM

1 Q. And what account the payment came from?

2 A. To a limited extent, yes.

3 Q. How were you able to use that, then, into what became the
4 master's report?

01:50:16PM 5 A. We used that in conjunction with the review of bank
6 statements and other paper documents, brokerage firm account,
7 information to create our database.

8 MR. VIE: No further questions.

9 THE COURT: I have a few, and this is to primarily
01:50:38PM 10 supplement the record.

11 I want you to go back, Mr. West, and give us a
12 general overview of what you did and -- and what these
13 exhibits mean in terms of the income and expenses associated
14 with this report.

01:51:00PM 15 THE WITNESS: Yes, sir.

16 My report is comprised of an introduction where
17 I gave some of the background of the complaint to a limited
18 extent which has been addressed today. Then I gave a timeline
19 of records received. I started that process with calling the
01:51:27PM 20 defendants' attorney. I set up the meeting with him. We had
21 a meeting within a week or ten days of my initial call.

22 I received, at his office, a number of paper
23 files and a number of records on -- in electronic format in
24 CD -- on CD's. I was also given a schedule of those documents
01:51:56PM 25 that they were giving me and a list of documents that they

1 were not giving me, but which they were working towards
2 obtaining.

3 THE COURT: Did you have the impression that this
4 was a combination of records, some of which had been -- which
01:52:14PM 5 were the, let's call it, original handwritten-type records,
6 along with records that maybe had been prepared or were being
7 prepared by the attorney for the defendant?

8 THE WITNESS: My broad answer to that is yes. Some
9 were original documents that you could tell had come directly
01:52:36PM 10 from the brokerage firm or a bank. Some were bank statements
11 that appeared to have been downloaded over the Internet, which
12 looked completely normal to me.

13 I have looked at literally thousands of
14 documents of this nature over the years. Balances, account
01:52:58PM 15 numbers, everything tied. I didn't think that anything had
16 been created to be given to me.

17 THE COURT: By saying you were given a CD, what are
18 you referring to?

19 THE WITNESS: A plastic disk.

01:53:16PM 20 THE COURT: I understand. What was contained on
21 that?

22 THE WITNESS: Those were bank statements.

23 THE COURT: Downloaded from?

24 THE WITNESS: Yes, sir. For the most part, the
01:53:25PM 25 paper documents -- they gave them to me, for the most part, in

1 paper format and electronic format.

2 THE COURT: But you didn't have the impression that
3 this was a way that the records had been kept; this is just
4 the way they had presented them?

01:53:40PM

5 THE WITNESS: I can't tell if they were kept that
6 way, but they had been compiled, and I think they have
7 probably been compiled by counsel's staff.

8 THE COURT: All right.

01:54:00PM

9 THE WITNESS: As -- I received those approximately
10 the first of June -- actually, there's some dates reflected in
11 the report. About a month later I received a -- some more
12 paper files and some more CD's with information on them that
13 answered a number of -- submitted a number of the documents
14 that had been missing on the first turnover of documents.

01:54:36PM

15 As that was -- as that information was being
16 processed from time to time, I had e-mails with defendants'
17 counsel asking for particular questions or asking for more
18 information to which, for the most part, he was able to
19 respond, or if they weren't available, he -- he just told me
20 so. So, I felt like he was trying to do the best he could.

01:55:02PM

21 THE COURT: At the end of the day, let's say
22 sometime the latter part of July, when you had your hands full
23 of the documents, did you have the impression that you had all
24 of the documents that you needed to complete a proper and
01:55:29PM 25 complete report?

1 THE WITNESS: For the most part, Your Honor. I
2 listed in my report some accounts or statements that were not
3 received. Defendants' counsel had explained why they were not
4 received, or I believe there were a few things they were still
01:55:57PM 5 trying to get. I conferred with my associate, who did a great
6 deal of the work, you know, with my work and supervision.
7 There were certain documents that we didn't have, but we did
8 have some summary statements or some quarterly-type
9 statements.

01:56:19PM 10 I can't say for certain. I felt like we did
11 have what we needed to present a good report. Not anything is
12 a hundred percent right, but I felt like we didn't have any
13 really big unexplained gaps in the things that we were given.

14 THE COURT: That pushes you over into the work
01:56:52PM 15 performed area where you are now talking about.

16 So is there something else in that area that
17 you need to bring to the Court's attention?

18 Basically that you received the documents --
19 I'm just following.

01:57:05PM 20 THE WITNESS: Yes, sir. We felt like we had
21 substantially all of the documents or a very high percentage,
22 and I'm saying that from years of experience as an accountant.
23 If I had really felt uncomfortable about anything, it would
24 have been highlighted and really brought to the forefront.

01:57:40PM 25 THE COURT: Whatever is necessary, you saw.

1 THE WITNESS: Yes.

2 THE COURT: In the summary of the accounts received,
3 you show several bank accounts and several, let's call them,
4 stock accounts or stock brokerage accounts, various investment
01:57:56PM 5 accounts. I don't know if these are stocks or just simply
6 accounts where you would invest money and they would purchase
7 stock. The point is that these are -- appear to be a
8 substantial number of accounts.

9 Are you of the opinion that these are all the
01:58:15PM 10 accounts -- first of all, these are the accounts provided?

11 THE WITNESS: They were the ones provided. I think
12 they were all that was provided. The plaintiff, in response,
13 had raised the issue about some Treasury bills or Treasury
14 bonds. I don't believe we saw any information in regards to
01:58:44PM 15 them.

16 Now, technically, I would like to see the
17 bonds. And technically, if it was something where they just
18 sat there and interest was paid in a lump sum at a future
19 date, and there was no income or cash income receipt activity
01:59:04PM 20 during the period, then they be wouldn't reflected on here.
21 But if it was an accrual-type income, then it should have been
22 reflected.

23 THE COURT: So these accounts, as I understand it --
24 and you are distinguishing between the accounts that may be in
01:59:22PM 25 existence but just have not reported income on an accrual

1 basis, but these accounts are reporting on a quarterly or
2 annual basis income, and/or fees, or whatever else that might
3 be reflected against the account.

4 THE WITNESS: Yes, Your Honor, all these accounts.

01:59:41PM

5 THE COURT: For example, if there were Treasury --
6 are Treasury bonds, and they are paying whatever interest they
7 are paying, that certainly could be -- that might be -- you
8 don't have those, but that interest theoretically, I guess,
9 could be applied back into the principal and, therefore, would
10 not be reflected on a statement.

01:59:59PM

11 THE WITNESS: Correct.

12 THE COURT: Okay. Tell us a little bit about the
13 report exceptions and the missing documents area there on page
14 6.

02:00:11PM

15 THE WITNESS: These were -- as it is discussed here,
16 there were some accounts that we did not have, or statements.
17 In some cases, they were quarterly reports that were not --
18 the second quarterly reports were not available yet, or I was
19 told they were not available yet in the latter part of July,
20 which was quite often the case, but that they could be
21 supplied, if needed.

02:00:41PM

22 There were a couple of other accounts where we
23 may have been missing a monthly account or maybe an earlier
24 quarterly account, but we had a latter period account where,
25 for the most part, everything -- we could kind of trace our

02:01:02PM

1 way through the missing period. Again, I didn't see any great
2 cause for alarm.

3 And then there were a number of things,
4 disbursements, that we did not have documentation for, and
02:01:27PM 5 those were explained to me that, for the most part, that they
6 just didn't exist.

7 THE COURT: Okay. And these disbursements did not
8 have -- did not have a paper backing. These would just be,
9 let's say, for example, a check that might have been written
02:01:48PM 10 for an amount of money, but there was no -- for your records
11 there was no receipt or document indicating why that
12 disbursement was being made. It might be reflected on the
13 check itself.

14 THE WITNESS: Correct. We were able to go back to
02:02:05PM 15 the pictures of check facsimiles and, you know, confirm that.

16 THE COURT: Okay. All right. Now, you've also
17 listed on page 8 a number of outstanding shares. These
18 reflect the transfers that you say were made before November
19 11th of 2011, I gather. And then other stocks, perhaps, that
02:02:34PM 20 might have -- that might have been reinvested, or income that
21 might have been reinvested.

22 Am I seeing that right?

23 THE WITNESS: Yes, sir.

24 THE COURT: Okay. All right. You make a statement
02:02:58PM 25 on page 9, at the end of that section, that indicates that

1 there are certain stocks available.

2 Is that the total of all stocks outstanding
3 shares that are part of the trust?

02:03:15PM

4 THE WITNESS: Yes, sir, to the best of my
5 recollection.

6 THE COURT: Those are three different, I believe --
7 three different shares -- three different companies -- that
8 might not be the proper term. How would you say it?

02:03:33PM

9 THE WITNESS: I think it was four -- Chevron, Exxon,
10 John Deere, Deere Enterprises, and Metropolitan Life.

11 THE COURT: Okay. Those are the four. Okay. All
12 right. And then you go on to make comments on certain
13 accounts, and this is some of which you maybe already have
14 stated having to do with the sale of certain securities and
15 the disbursement. I'm not sure.

02:03:53PM

16 Is that what that is about?

17 THE WITNESS: Yes, sir.

02:04:11PM

18 THE COURT: One of the areas that you touched on
19 earlier had to do with, for example, a check that may have
20 been written to a family member that may or may not have had
21 some document behind it. We are looking at the top of page
22 10, where it says, "Many of the payments were noted as
23 reimbursements." These would be checks that would reflect
24 reimbursement but not necessarily another check that showed
25 the payment was made.

02:04:33PM

1 THE WITNESS: Correct. The check was written to the
2 individual from the Quicken files. It would say reimbursement
3 for -- automobile repairs type of thing. And on the Quicken
4 files, it may have been in that automobile repair expense
02:04:56PM 5 account. But for purposes of this report and the issues
6 raised in the complaint, I felt that it was important -- it
7 was important to make this some special category.

8 THE COURT: All right. Now, going to Exhibit 1,
9 this is the summary statement, is it not?

02:05:23PM 10 I say summary statement. It's a statement of
11 income, receipt and expenses. Behind that would be the
12 exhibits. I say exhibits, would be other exhibits that would
13 reflect the individual checks written and/or to whom they may
14 have been written in Exhibit No. 2. And in Exhibit 3 would be
02:05:47PM 15 the distribution analysis of the stock payments.

16 Is that what I'm having there?

17 THE WITNESS: Yes, sir.

18 THE COURT: All right. So, just let me take a look
19 at this. It shows, I gather, that they had an opening -- a
02:06:01PM 20 beginning opening of 127,000 -- almost \$128,000 in farm income
21 as a beginning item there.

22 THE WITNESS: Yes, sir. Farm rent during the time
23 frame in question.

24 THE COURT: And, so, what you've done is you've
02:06:16PM 25 accumulated all of the income from the farm for this period,

1 "this period" being the period that I requested that you do,
2 the December 21, 2010 through May 31, 2013.

3 THE WITNESS: The deposits we identified for farm
4 rental income.

02:06:38PM 5 THE COURT: And that would be just a little over a
6 two-year period, two years and a few months.

7 THE WITNESS: Yes, sir.

8 THE COURT: All right. In addition to that, you
9 show dividend income, interest income.

02:06:52PM 10 And by long-term capital gains and short term,
11 are you reflecting there some income from Exxon or one of
12 these companies?

13 THE WITNESS: No, sir. Actually the dividends from
14 Exxon or Chevron would be in the dividend income amount.

02:07:13PM 15 THE COURT: On Exhibit 3?

16 THE WITNESS: Excuse me.

17 THE COURT: Oh, I'm sorry, no, it would not be.

18 THE WITNESS: I'm sorry, Your Honor. Could you
19 repeat your question.

02:07:22PM 20 THE COURT: I was asking where did this long-term
21 capital gains come from.

22 THE WITNESS: Oh, I'm sorry. The long-term capital
23 gains and short-term capital gains, those were reported on the
24 stock brokerage accounts. Those are called flow-through
02:07:38PM 25 amounts from mutual funds and things of that nature.

1 THE COURT: And then the income of 183,000 is stock
2 sale. That's the liquidation of the stock -- did that include
3 the liquidation of stock before 11/11/11?

02:08:02PM 4 THE WITNESS: That was the liquidation of stocks
5 during that time frame, other than the stocks that were
6 disbursed in kind.

7 THE COURT: Okay. So this is a separate
8 liquidation.

9 THE WITNESS: Yes, sir.

02:08:11PM 10 THE COURT: Or a separate income, should I say.
11 This is income.

12 THE WITNESS: It's stock liquidated.

13 THE COURT: This is income from the sale of certain
14 other stocks that has now has been liquidated and it brings
02:08:22PM 15 total income to about \$216,600,000.

16 THE WITNESS: Yes, sir.

17 THE COURT: The miscellaneous income is just other
18 income that -- what would that be, sort of like what?

19 THE WITNESS: To be honest, Your Honor, without
02:09:01PM 20 looking at the underlying documents, I can't remember right
21 now. But it was a number of small items that didn't fit one
22 of these other accounts that are listed in Exhibit 1.

23 THE COURT: But it is reflected in the deposits of
24 the account?

02:09:17PM 25 THE WITNESS: Yes, sir.

1 THE COURT: The pension income, and I'm looking at
2 Social Security income. Who is getting Social Security income
3 to go into that account at this time?

02:09:31PM 4 I believe both the husband and the wife are
5 deceased, right?

6 THE WITNESS: Mrs. Brunsting, she was alive for
7 about 12 months.

8 THE COURT: You are right. Tax refunds, that would
9 also be reflected. This is the sale proceeds from the house.
02:09:45PM 10 That's all -- so we are talking about a total of 830-plus
11 thousand dollars during this two years or two- to three-month
12 period?

13 THE WITNESS: Yes, sir.

14 THE COURT: And then we're talking in the next
02:09:55PM 15 section about expenses, medical care, in-house care, and
16 medical care, and all of that coming to the 122,000, more or
17 less.

18 THE WITNESS: Yes, sir.

19 THE COURT: The pet care and pet food and all of
02:10:22PM 20 that, that doesn't have anything to do with the farm. This
21 must be at the house, right?

22 THE WITNESS: Yes, sir.

23 THE COURT: Okay. And veterinarian expenses.

24 So we are talking about total expenditures of
02:10:41PM 25 about half of what the income was, right?

1 THE WITNESS: Yes, sir.

2 THE COURT: And then you said net income, receipts,
3 and expenses, disbursements.

4 How are you distinguishing that from total
02:10:55PM 5 expenses and disbursements?

6 THE WITNESS: That's just the net of the total
7 incoming receipts of 830,000 less the total expenses of 418.

8 THE COURT: Okay. And then you show the 298,000 in
9 stock -- in stock transfer to family or whatever. This is a
02:11:20PM 10 value of stock. This is the value beyond what was sold and
11 became income.

12 THE WITNESS: Yes, sir.

13 THE COURT: So we are looking at -- right at almost
14 500 -- well, 300,000, basically, that was transferred
02:11:39PM 15 directly, apparently, by the estate before -- before Ms.
16 Brunsting died in November 11, 2011.

17 THE WITNESS: Yes, sir.

18 THE COURT: More or less.

19 THE WITNESS: In May and June of 2011.

02:11:56PM 20 THE COURT: What two or three numbers are you
21 putting together to come to the 120,000 at the bottom?

22 THE WITNESS: 411,328 less 298,976 gets me to the
23 112,346.

24 THE COURT: All right. What you don't have or what
02:12:19PM 25 didn't do and were not asked to do was to do an asset

1 liability --

2 THE WITNESS: Correct.

3 THE COURT: -- sheet.

4 Are there any other concerns or statement that

02:12:45PM 5 you need to make regarding this report before -- before I ask

6 you a question regarding your billing?

7 THE WITNESS: The one item is, after the filing of
8 my report, there was a disbursement for \$6500, which had been
9 put into miscellaneous expenses because I had no backup for

02:13:19PM 10 it.

11 THE COURT: It was a one-time payment of 6500?

12 THE WITNESS: Yes, sir.

13 THE COURT: Where is that reflected on page --

14 THE WITNESS: I'm sorry. Exhibit 1, page 1.

02:13:29PM 15 THE COURT: Page 1, Exhibit 1? All right.

16 THE WITNESS: Towards the bottom, Miscellaneous
17 Expenses. That shows miscellaneous expenses \$6753. \$6500 of
18 that amount should be reclassified to checks or cash to family
19 members.

02:13:54PM 20 THE COURT: What you are calling miscellaneous

21 expenses would be -- say that again. I'm sorry.

22 THE WITNESS: That miscellaneous expense, there
23 was -- \$6500 of that amount we found -- defendants' counsel
24 confirmed for me, subsequent to the filing of the report, that
02:14:17PM 25 that was a distribution to a family member.

1 THE COURT: Okay. So this is not a part of the pre
2 -- part of the distribution made by Ms. Brunsting before her
3 death. This was expenses or monies that were paid to a
4 particular family member -- a single family member or maybe
02:14:40PM 5 two family numbers, whatever the number might be, that were
6 made after that date?

7 THE WITNESS: Let me -- let me confirm that. That
8 was subsequent to her demise.

9 THE COURT: What page are you looking at?

02:15:10PM 10 THE WITNESS: On Exhibit 2, page 16.

11 THE COURT: Where it says --

12 THE WITNESS: About two-thirds or three-quarters of
13 the way down the page, it says "Miscellaneous Expenses."

14 THE COURT: Page 16 did you say?

02:15:30PM 15 THE WITNESS: Yes, sir. Exhibit 2.

16 THE COURT: Okay. Miscellaneous, and then it shows
17 a total of something like... co-op and then withdrawal, and
18 then Houston Metro, those together totaling 6753.72.

19 THE WITNESS: That middle entry on November 14th of
02:15:53PM 20 \$6500 should now be reclassified --

21 THE COURT: As disbursement?

22 THE WITNESS: -- as disbursement to family members.

23 THE COURT: As disbursement. You've got a code
24 there of W-D-R-L. What does that mean to you?

02:16:12PM 25 THE WITNESS: Withdrawal. This withdrawal on the

1 bank statement.

2 THE COURT: It is my lack of accounting acumen.
3 It's not your fault. I'm trying to make sure I understand, so
4 that if I have a question, I can ask you.

02:16:29PM 5 Now, as it relates to your billing, it does not
6 include an appearance here today, as I understand it, or the
7 time that you have spent. You have already submitted a
8 billing to the -- bill to the Court for payment, have you not?

9 THE WITNESS: That is correct.

02:16:43PM 10 THE COURT: And except for whatever time has been
11 spent since this submission, have you received any objections
12 from either the plaintiff, Ms. Curtis, or from the defense
13 concerning the payment of your expenses?

14 THE WITNESS: No, sir.

02:16:59PM 15 THE COURT: Does your billing include the legal
16 advice necessary that you received as well, or was it just
17 separately an accounting function?

18 THE WITNESS: Mine was separately an accounting
19 function, and I also submitted a separate invoice from my
02:17:18PM 20 counsel.

21 THE COURT: Have you received any objections from
22 either plaintiff or defendant in that regard?

23 THE DEFENDANT: No, sir.

24 THE COURT: Ms. Curtis. Anything else?

02:17:29PM 25 MS. CURTIS: No.

1 THE COURT: Mr. Vie?

2 MR. VIE: Just one thing, Your Honor.

3 BY MR. VIE:

02:17:41PM

4 Q. Just to be clear, because the Court has asked about the
5 timing of this last expense that you mentioned being
6 reclassified.

7 A. Yes, sir.

02:17:56PM

8 Q. Okay. If I understand the miscellaneous expense, the
9 check that is noted for the \$6500, that is prior -- that's
10 three days after Mrs. Nella's Brunsting's death?

11 A. Correct.

12 Q. Do you recall what the transaction was, the \$6500
13 transaction?

02:18:13PM

14 A. I believe it was to Carol Brunsting. I feel confident
15 about that. And I believe the -- the explanation that your
16 firm gave me was that -- it was to be, I guess, used to help
17 deal with some of her funeral expenses.

18 Q. Was the money redeposited at some point after that?

02:18:37PM

19 In other words, the money that had been taken
20 out should there be some funeral expenses or other things
21 necessary, would that money have been put back at some point?

22 THE COURT: Why don't you show him where you are
23 talking about.

02:18:48PM

24 MR. VIE: Well, I understand where his reference was
25 on page 16, where he highlights the miscellaneous expense of

1 6500.

2 THE COURT: I know, but how would he know whether or
3 not it is put back unless you know where it is?

4 MR. VIE: If he has a corresponding entry for a
02:19:00PM 5 deposit for 6500.

6 THE COURT: I see.

7 THE WITNESS: I don't recall one.

8 BY MR. VIE:

9 Q. If there was one, where are the costs like that reflected
02:19:09PM 10 in the report?

11 A. It would probably be under a miscellaneous --

12 THE COURT: Keep your voice up, Mr. West.

13 THE WITNESS: I would think it should be under
14 miscellaneous income, and I don't find it there. There's a
02:19:33PM 15 possibility it could have always been misposted, but I would
16 need to look through the ledger in total.

17 BY MR. VIE:

18 Q. Would you -- it was -- your understanding, it was
19 represented to you it was not a gift; it was some expenses
02:19:47PM 20 that were funds made available for funeral expenses?

21 A. That's what I was told.

22 MR. VIE: No further questions, Your Honor.

23 THE COURT: All right. Well, your understanding is
24 based upon what counsel told you. It had nothing to do with
02:20:02PM 25 and independent audit, right?

1 THE WITNESS: Yes.

2 THE COURT: You may step down, sir. Thank you very
3 much.

4 All right. If there is no objection, I will
02:20:30PM 5 ask -- no objection to the report and the invoice request of
6 counsel for himself, as an accounting function, as well as
7 advice of counsel, if there's no objection, I'm going to order
8 that those be paid.

9 Any objection, Ms. Curtis?

02:20:51PM 10 MS. CURTIS: No, Your Honor.

11 THE COURT: Mr. Vie, speaking on behalf of your
12 clients?

13 MR. VIE: No, Your Honor, no objection.

14 THE COURT: All right. Okay. All right. That's
02:21:00PM 15 all we have. Thank you very much, and that will take care of
16 it.

17 No, no, no. I'm sorry. All we have with
18 accountants. If they want to leave, they can. There are some
19 other motions we need to address.

02:21:14PM 20 MR. MILLION: Your Honor, would you like us to
21 submit a proposed order?

22 THE COURT: Would you do that? It would make it a
23 lot -- well, how about that, just happen to have it right
24 there, right?

02:21:40PM 25 You shared this with -- the expense paperwork,

1 you shared the expense report and/or request for payment with
2 both Ms. Curtis and with Mr. Vie?

3 MR. WEST: Yes, Your Honor.

02:22:20PM

4 THE COURT: All right. Ms. Curtis, you have some
5 other -- well, I will start with you, Mr. Vie. I believe you
6 have filed a motion that has drawn some -- you all want to be
7 excused?

8 MR. MILLION: Yes, Your Honor. I do want to bring
9 one other thing to the Court's attention.

10 THE COURT: Okay. Go ahead, sir.

02:22:47PM

11 MR. MILLION: In the pleadings that were filed by
12 the plaintiff and defendant, there has been some indication
13 that they are wanting additional work to be performed by the
14 special master. And I know one of the proposed forms of order
15 said you've got to do something within 10 days.

02:23:04PM

16 Just given the tax season issues with respect
17 to corporate filings and such, any additional work that the
18 special master might request to do, he is happy to do whatever
19 the Court needs. However, he would need more than 10 days to
20 be able to comply with that.

21 THE COURT: Yeah, I think I might have said this to
22 both sides. If I did not, you will hear it now.

02:23:22PM

23 My purpose in asking Mr. West to come in was
24 not to make him a person for them to utilize to do any of
25 their work. He was working for the Court to bring some

1 matters to the Court's attention that would be too much
2 contention between the parties for me to ask either side to
3 present anything to me that I could, at least in good faith,
4 at the time, rely upon as a way of making some determinations.

02:23:42PM

5 So I wanted to find out where the income was
6 and what had happened to it. Those were some of the
7 allegations made by Ms. Curtis.

8 The function of doing other financial reports I
9 think the parties should be able to handle and do themselves.

02:24:02PM

10 And if they choose to employ someone to do it, they certainly
11 will be able to do it. We have got fundamentals of stuff
12 ready and in place for them to go ahead and get that done.

13 If there is some need, certainly, Mr. West may
14 be asked do it. If so, it would be by the Court, not by the
15 parties.

02:24:20PM

16 MR. MILLION: Thank you, Your Honor.

17 THE COURT: Thank you very much, gentlemen. Have a
18 good day.

19 Ms. Curtis -- I'm sorry. Mr. Vie, you filed a
20 motion to -- let me just get it out here -- a motion to --
21 request for the renewal of the farm lease, I believe. Let me
22 see if I can find that document number.

02:24:32PM

23 I believe that's Instrument No. 65, filed about
24 10 days ago.

02:25:03PM

25 MR. VIE: Yes, Your Honor.

1 THE COURT: And as I understand, Ms. Curtis, that
2 you have reviewed that, and your objection is, essentially --
3 correct me if I am wrong -- that it is automatically renewed
4 at this point because no objection was filed and no
02:25:21PM 5 disapproval of that renewal occurred within the time frame
6 that needed to be made.

7 Am I correct?

8 MS. CURTIS: Yes, Your Honor.

9 THE COURT: So in that regard, the objection is
02:25:31PM 10 simply a matter of record as to how things are and the -- the
11 renewal of the farm lease, while the Court might have the
12 authority to cancel it, it is automatically renewed. It would
13 take some affirmative action.

14 So why should I cancel it? Tell me why I
15 should cancel it.

16 Is there any basis for me to cancel it at this
17 point?

18 MS. CURTIS: The farm lease?

19 THE COURT: Yes, ma'am.

02:26:02PM 20 MS. CURTIS: No, Your Honor.

21 THE COURT: The motion will be granted unless there
22 is something additional I need to know, Mr. Vie, about this
23 before that occurs.

24 MR. VIE: No, Your Honor.

02:26:09PM 25 THE COURT: All right. I believe there was an order

1 entered, and I know there was one entered, but I believe the
2 second order was entered for the payment of certain property
3 taxes.

4 That has been taken care of, right?

02:26:28PM 5 MR. VIE: Yes, Your Honor. You have already entered
6 that.

7 THE COURT: All right. I have reviewed your
8 responses to the report. It seems to me the next item, then,
9 has to do with objection that you have made -- I'm trying to
02:26:40PM 10 figure out what you meant, Ms. Curtis, by "recommit matter to
11 master for consideration."

12 Tell me what you are talking about there. You
13 filed this on September 3rd. This was filed, what, today?

14 MS. CURTIS: This was filed this morning.

02:27:04PM 15 THE COURT: Wow. You are faster than the lawyers
16 are. Where were you when you filed this?

17 MS. CURTIS: In the clerk's office.

18 THE COURT: All right. I didn't know if you were
19 filing electronically or not.

02:27:16PM 20 MS. CURTIS: I do not file electronically.

21 THE COURT: Well, you filed this motion -- or
22 objections to defendants' motion for order to recommit matters
23 to master for consideration.

24 Tell me what you are talking about there.

02:27:31PM 25 MS. CURTIS: Well, there is a letter that Mr. Vie

1 provided to Mr. West in support of missing documents and other
2 questions that the master had. It is dated July 15th, 2013.
3 It was Appendix Tab 1 in Document No. 67 filed by the
4 defendants, which is their response to the report of master.

02:28:02PM

5 THE COURT: All right.

6 MS. CURTIS: And I am objecting to even spending
7 another penny with the master when there is nothing
8 substantive in here. This was all just excuses and
9 explanations.

02:28:23PM

10 THE COURT: You mean on the part of the defendants?

11 MS. CURTIS: The defendants, for missing records or
12 how they categorized the expenses, which was not what the
13 master was instructed to do. He was just instructed to list
14 the income and the expenses that occurred for this period of
15 time.

02:28:45PM

16 He did the best he could to categorize these
17 things. He had questions, like about the 6500 in
18 miscellaneous income. And he did not receive third-party
19 receipts or original statements or any documentation. All the
20 master received were excuses for these transactions, which is
21 not the basis of the master's report. He was just asked to
22 report on the income and expenses.

02:29:04PM

23 So I think this entire thing is just irrelevant
24 and a waste of time.

02:29:25PM

25 THE COURT: So your objection and -- your objection

1 there is to -- has to do with the statements being made in the
2 defendants' report or request or statements to the master, and
3 that no further work should be done by the master -- special
4 master regarding these documents and these statements?

02:29:50PM

5 MS. CURTIS: That is correct.

6 THE COURT: I think I've already cured that. I've
7 just let him go.

02:30:09PM

8 What else did you have there? You filed, as
9 well, I think a motion to show cause why a judgement of civil
10 contempt should not be -- and I know they have not had a
11 chance to respond to this. But that's also been filed before
12 the Court. But is there anything else, other than that motion
13 pending?

02:30:26PM

14 MS. CURTIS: I have not filed anything else, no,
15 Your Honor.

02:30:41PM

16 THE COURT: All right. So, you are coming out of
17 California, and I'm trying to find out how we -- how soon
18 would you be ready and what evidence would you be presenting
19 on this? Because I don't want to have you just coming back
20 and forth, expense to you.

21 MS. CURTIS: I have a statement to make. I don't
22 know if that will help.

23 THE COURT: I don't know if Mr. Vie is prepared to
24 respond, but I will permit you to make your statement.

02:30:51PM

25 MS. CURTIS: I don't expect a response. I just came

1 prepared with this statement.

2 THE COURT: Okay. Go right ahead, then.

3 MS. CURTIS: "The absent of immunity results in
4 responsibilities for which there is no exemption. Since no
02:31:03PM 5 one may be in legal relation with their self, trustees, de
6 facto or de jure, encumbered with duties, and empowered to
7 perform such duties are bound in a jural relation to the
8 beneficiaries, which confers upon said beneficiaries specific
9 rights which are well-known to the law.

02:31:23PM 10 "Among such rights is a distinct and calculable
11 property interest in a complete and accurate accounting.
12 Withholding such information, whether by failure or refusal,
13 constitutes a palpable injury to a beneficiary evidenced by
14 the resulting inability to cure and perfect their claim.

02:31:43PM 15 "Said failure to perform the duties of trustee
16 endows the beneficiary with the legal powers to act against
17 said trustees in order to lay claim to that which is
18 [property] -- properly theirs and to which they are entitled.

19 "I object to the July 15th letter from
02:32:01PM 20 defendants to the master insofar as it contains excuses and
21 explanations that are prejudicial, non-probative, and thus
22 immaterial. The time for these explanations and excuses has
23 long since passed. I would, however, offer the letter into
24 evidence as an offer of proof that the omissions contained
02:32:24PM 25 therein establish evidence of facts that are clear, positive,

1 uncontradicted and of such nature they cannot rationally be
2 disbelieved, and the Court is, therefore, compelled to
3 conclude that those facts have been established as a matter of
4 law.

02:32:36PM

5 "Defendants admit that they failed to keep
6 books and records, and, therefore, are incapable of providing
7 a full, true and complete accounting. Further, defendants
8 admit to self-dealing, commingling, and [applications] of --
9 misapplications of fiduciary attached to expressions of bias.

02:32:58PM

10 "I would also like to offer defendants'
11 response to plaintiff's request for disclosure and defendants'
12 answer into evidence as an offer of proof that defendants
13 refused to provide non-proprietary trust instruments and admit
14 that they can provide no evidence of notices to the other
15 co-beneficiaries of any of their acts from alleged changes to
16 the trust, changes of trustees, changes in trustee
17 compensation or any of their other proclaimed acts of trust
18 administration.

02:33:17PM

19 "Plaintiff's claim for breach of fiduciary is
20 ripe for summary judgment on the merits of these admissions
21 and the accounting that supports the admissions. Plaintiff
22 asks this Court for summary judgment on the claim for breach
23 of fiduciary and asks that defendants be removed from
24 conducting any further trust business.

02:33:33PM

02:33:48PM

25 This is Texas Trust Code 113.082, Sections 4, 5

1 and 6(b). Plaintiff further moves that this Court bifurcate
2 all the remaining issues, including questions of damages,
3 until more necessary information can be obtained."

02:34:11PM 4 THE COURT: I saw attached to your motion what I
5 believe to be a request for certain discovery.

6 That is certain information that you have
7 wanted provided to you; is that right?

8 MS. CURTIS: It is information I wanted provided to
9 me.

02:34:25PM 10 THE COURT: All right. But once that
11 information -- let's assume that that's what it is and that
12 they are going to respond and give you certain information
13 pursuant to your request, and now you have got the
14 information, let's say.

02:34:34PM 15 What is your next -- you are asking the Court,
16 I gather, to have a hearing to determine whether or not the
17 parties should be removed as trustees. You understand that
18 would require the Court then appointing someone to serve as a
19 trustee.

02:34:52PM 20 MS. CURTIS: Yes, Your Honor.

21 THE COURT: And then the parties would then have to,
22 then, present to the Court, I gather, the name -- the name or
23 names of individuals who they believe -- whom they believe
24 would be qualified to handle those -- those functions, and
02:35:08PM 25 could not -- it would seem to me, because of the controversy,

1 it doesn't seem it could include you or another family member.

2 Do you see the problem there?

3 MS. CURTIS: I do understand.

4 THE COURT: So is that what you are asking the Court
02:35:22PM 5 to do in your -- that's what I think I heard you say.

6 Is that right?

7 MS. CURTIS: Yes, that's correct.

8 THE COURT: Why haven't you gone on and hired a
9 lawyer?

02:35:32PM 10 MS. CURTIS: Because these are things that -- these
11 are things that I don't need an attorney for. I'm going --

12 THE COURT: I don't disagree that as a matter of
13 course, you are entitled to what you are requesting. The
14 problem is that you are not -- you are so far away from the
02:35:53PM 15 courthouse, and it creates some problems with the
16 communication that -- when I say "communication," meaning if I
17 want to have a hearing on something, you either have got to
18 fly in here, or I have got to have you on the telephone. And
19 I'm not really sure the telephone is a proper way to have
02:36:10PM 20 these types of proceedings.

21 If you had counsel, particularly local counsel,
22 that's someone who could make motions and proceed to do
23 discovery and all of that on your behalf. It seems to me that
24 would be a much easier way to proceed. I'm just throwing that
02:36:28PM 25 out there for you.

1 However, under the rules of discovery, I'm not
2 quite sure that the way that you have presented this is a way
3 in which the defendants are required to respond. In other
4 words, you have attached to your motion, your ex parte
02:36:48PM 5 motion -- and I think you filed it under seal. I'm not sure
6 why.

7 Why did you file it under seal?

8 MS. CURTIS: I just gave it to the clerk this
9 morning.

02:36:57PM 10 THE COURT: Okay. So it doesn't really need to be
11 under seal. There are no -- I don't think there are any -- we
12 generally have things filed under seal that would -- where
13 there may be some indication of information, family private
14 information, confidential information, that should not be
02:37:20PM 15 disclosed to the public. But this is a public proceeding, so
16 there is nothing, I gather, as far as you know that --

17 MS. CURTIS: No, Your Honor.

18 THE COURT: -- would require that. I'm going to,
19 then, have it removed from being under seal. I don't know if
02:37:31PM 20 counsel has gotten a copy of it yet, but he would be able to
21 access it. You should provide him a copy of it.

22 MS. CURTIS: I did.

23 THE COURT: Okay. Very good. But if you look at
24 what you have got as p-68. Does that mean there's a p-67
02:37:53PM 25 someplace and a p-66?

1 MS. CURTIS: The p-67.

2 THE COURT: It's attached to the motion. That's
3 what I am referring to. It's attached to your ex parte
4 motion. It is a five-page document, demanding --

02:38:11PM

5 MS. CURTIS: I have it. It was the only exhibit
6 that I attached.

7 THE COURT: But this suggests there are 67 other
8 exhibits out there somewhere, right?

02:38:28PM

9 MS. CURTIS: Yes. I have just continued adding
10 exhibit numbers from the very beginning.

11 THE COURT: Okay. So some of these exhibits are
12 attached to your original proceeding?

13 MS. CURTIS: Yes, Your Honor.

02:38:38PM

14 THE COURT: And all along there may have been some
15 that were added to or attached to your motions, and you are
16 now at number 68. That's what that is. Okay.

17 MS. CURTIS: Yes, Your Honor. And --

18 THE COURT: Have you read the rules, Federal Rules
19 of Procedure related to discovery requests?

02:38:55PM

20 MS. CURTIS: Yes, Your Honor. I have something to
21 say about that, also.

22 THE COURT: Well, let me say my say first. And that
23 is, this is not going to get.

24 MS. CURTIS: I understand.

02:39:04PM

25 THE COURT: Go ahead and say your say.

1 MS. CURTIS: "The public policy considerations
2 involved in a common law information demand pursuant to a
3 fiduciary obligation are very different from those involved in
4 a discovery request under Rules of Civil Procedure for the
02:39:19PM 5 following reasons: If trustee is administering property, the
6 trust estate that belongs to the beneficiaries of the trust.
7 In other words, the beneficiaries hold equitable title to the
8 trust estate.

9 "The trustee acting in his individual capacity
02:39:35PM 10 usually has no personal interest whatsoever in the estate of
11 the trust that he is administering. Consequently, the
12 information requested does not belong to the trustee. In
13 legal discovery requests, a party to a lawsuit is requesting
14 proprietary information and documents that belong to another
02:39:54PM 15 party. This is not the case with respect to equitable demands
16 for information.

17 "The trustee of a trust holds the trust estate
18 for the benefit of the trust beneficiaries who have an
19 equitable interest in all information and documents. There is
02:40:10PM 20 usually a financial disparity between the beneficiary who is
21 using his personal financial resources to obtain information
22 and the trustee who is using the estate of the trust to pay
23 for the cost of his compliance with the information demand.
24 In essence, the beneficiary is paying everyone's fees.

02:40:32PM 25 "This situation does not occur in legal

1 discovery requests where independent parties are involved in
2 litigation. The beneficiary of a trust is the only person
3 authorized to enforce the trust. It is not possible for him
4 or her to perform this function without disclosure from the
02:40:49PM 5 trustee regarding how the trust is being administered. Where,
6 as here, the trustee is conflicted, the duty to disclose is
7 even higher than that of ordinary corporate trustees.

8 "In discovery, under the rules the scope of
9 discovery is whether the information sought appears reasonably
02:41:09PM 10 calculated to lead to the discovery of admissible evidence.
11 In common law disclosure, the scope of discovery is material
12 facts known to the trustee that might affect the
13 beneficiaries' rights.

14 "There is no law in place allowing formal
02:41:24PM 15 objections to reasonable common law disclosure demand for
16 information directed from a beneficiary to a trustee. Unlike
17 interrogatories, there is no limitation on the number of
18 demands for information that can be made on the trustee if the
19 trustee breaches his duty to disclose his subject to all
02:41:45PM 20 equitable remedies. Moreover, his breach is a factor in the
21 award of legal fees in the overall case pursuant to Texas
22 Trust Code 114.064."

23 I have been asking, first, nicely, then I made
24 a common law demand in writing in late 2011, after my mother
02:42:08PM 25 passed away. I made a statutory demand for the exact same

1 information I was entitled to in January of 2011. And to this
2 day, I have gotten nothing but excuses and explanations for
3 records and documents that I am entitled to as a beneficiary.

02:42:35PM 4 THE COURT: All right. Let me ask you, when you say
5 you have gotten nothing, are you saying that you have received
6 absolutely nothing from defendants or their attorneys?

7 MS. CURTIS: I have received nothing responsive.

8 THE COURT: So now there is an argument as to what
9 responsive is, isn't it?

02:42:50PM 10 So here's what I am getting to. These kinds of
11 disputes as to whether or not -- whatever you might have
12 received -- and I don't even suggest that it's what you
13 requested, but whatever the dispute is, these matters are
14 matters that now are in this Court. And you are asking me to
02:43:10PM 15 address them, and I'm in no position to address them because I
16 don't have the documents before me that you do have.

17 And the way this request has to be made now is
18 not in a common law fashion as you would do if you were
19 writing a letter to a person and requesting. That simply sets
02:43:33PM 20 you up to go to court and get a judge to enter an order that
21 you be provided with the documentation that you believe you
22 are entitled to. My job would then be to decide whether or
23 not the information that you have requested is relevant or
24 important to any issue in the case.

02:43:51PM 25 Because the point is, the bottom line here, in

1 my opinion, and it seems where you are headed, is that you are
2 asking this Court to do one of several things, or maybe
3 several things.

4 One, it sounds like you are asking the Court to
02:44:07PM 5 remove the trustees and appoint a trustee. I think I heard
6 you say that.

7 Second, it seemed to me you want the estate
8 dispersed so that you have your share of the estate and it is
9 not under the supervision and/or hands of your sisters.

02:44:24PM 10 And, third, you want your sisters or the
11 trustees, whoever was acting as -- I think it was both of
12 them, co-trustees, since November 11th of 2011, or whatever
13 period of time. You want them to account to you, that, by
14 accounting, I think I hear you saying you want them to
02:44:42PM 15 reimburse you for what they have taken that doesn't belong to
16 them, as a disbursement to them, assuming that that has
17 occurred.

18 And it sounds to me like you are asking for
19 attorney's fees that have not -- following through. And this
02:44:55PM 20 would not come from the estate per se. It would come from
21 them individually. That's what I understand I am hearing.

22 So, there are some documents that may be
23 important or relevant to those kinds of requests, but
24 everything wouldn't necessarily be. Whether or not -- for
02:45:14PM 25 example, if you are looking for do you have certified copies

1 of letters, or whatever, that might have gone from this person
2 to that person, that might not be relevant.

3 What is relevant, it seems to me, is that there
4 is a money issue here, and it can be solved by accounting and
02:45:30PM 5 disbursement. One of the things that the Court is going to
6 have to get around to, it seems to me, because I'm not sure
7 that you are going to do it voluntarily, or the parties or the
8 defendants, is at some point an asset/liability statement has
9 to be prepared and presented in this case. Otherwise, there's
02:45:50PM 10 no way for the Court to know what the value of the estate is
11 and/or what the -- what any disbursements might look like.
12 I'm not sure that disbursement is the proper venue, but I am
13 certain that that's part of what you are requesting.

14 Am I correct in some of that?

02:46:07PM 15 MS. CURTIS: You are correct in almost 99 percent of
16 that, but I would like to know where the EE bonds are.

17 THE COURT: The who?

18 MS. CURTIS: The EE Treasury bonds.

19 THE COURT: Here's my point. You can ask that, but
02:46:24PM 20 you need to do it. You can ask for a revelation of these
21 documents, these Treasury bonds, whatever else you think
22 that's missing and have not been accounted for. And the
23 reason, theoretically, at least in part, that they have not
24 been accounted for is that they are not paying an interest as
02:46:45PM 25 an income to the estate, necessarily. The interest,

1 apparently, is being accumulated in the bond itself. So you
2 would have to cash the bond to get the principal and the
3 interest. That may be an explanation for it.

02:47:01PM 4 You are entitled to know what those assets are,
5 but you've got to ask for them. What I said to you was the
6 way that you attached it to this motion is not the way that it
7 should be done under the rules of discovery. So simply file
8 your motion for requesting whatever it is that you are
9 requesting discovery wise with counsel, Mr. Vie, who has the
02:47:24PM 10 duty to either object to what you are requesting or to
11 respond. Okay?

12 But I don't want it attached to your motion for
13 an order to show cause because that's a different -- that's a
14 different vehicle. This is discovery attached to something
02:47:43PM 15 that it should not be attached to. So you need to file a
16 separate discovery motion. All right? Or at least provide
17 that -- file that request with Mr. Vie.

18 MS. CURTIS: Excuse me, Your Honor. But the reason
19 I attached the demand for production of documents, this is
02:48:05PM 20 a -- this has already been given to defendants. They have
21 already responded to it.

22 THE COURT: Okay. Okay.

23 MS. CURTIS: And the reason that I attached it is
24 because I still don't have the information that I need to be
02:48:19PM 25 able to make a decision about anything having to do with my

1 beneficial interests.

2 THE COURT: So that's the basis for this
3 application, for civil contempt.

4 MS. CURTIS: Yes, Your Honor.

02:48:30PM

5 THE COURT: I see. Okay. Now, see, I don't know
6 what's going on outside of the Court. So I apologize for
7 being too far ahead of you in that respect, or behind you,
8 whatever.

02:48:44PM

9 The point is that this application, then, would
10 require the Court to conduct a hearing. They have a duty to
11 respond and an opportunity to respond within a certain number
12 of days. It would require a hearing, and, in my opinion, it
13 would require a hearing here in open court so the record is
14 made of whatever that proceeding is. So, there you have it.

02:49:05PM

15 It is going to be -- I cannot let you participate by
16 telephone.

17 MS. CURTIS: I understand.

18 THE COURT: Because you might need to be questioned,
19 as well, under the proceeding. All right?

02:49:17PM

20 So I will set a date for that, and Mr. Vie can
21 respond within that time frame, and then we will see whether
22 or not there's a hearing probably within the next 30, 40 days.

23 MS. CURTIS: Okay.

24 THE COURT: Anything else?

02:49:36PM

25 MS. CURTIS: No, Your honor.

1 THE COURT: And you are still not going to get a
2 lawyer, right?

3 MS. CURTIS: Not quite yet.

4 THE COURT: Okay.

02:49:44PM 5 Mr. Vie, did you have anything that you needed
6 to bring to the Court's attention?

7 MR. VIE: No, Your Honor.

8 THE COURT: So I will go ahead and set this matter
9 for a hearing perhaps the 1st of October.

02:49:55PM 10 Do we have a date that we can give them now?

11 Is October 1st too soon?

12 You haven't had a chance to respond yet. So,
13 theoretically, you have got 21 days.

14 MR. VIE: I think it is on the docket for the -- I
02:50:19PM 15 think the submission date is the 19th.

16 THE COURT: That's an automatic submission. I'm
17 talking about a date for the hearing on the motion. You are
18 going to be responding or -- or not, one way or the other. I
19 would have to have a hearing before I could decide the motion.

02:50:35PM 20 MR. VIE: Tuesday, the 1st?

21 THE COURT: Would that be fine?

22 MS. CURTIS: Your Honor, the nature of my work
23 requires me to be in my office on Monday or Tuesday of any
24 given week.

02:50:49PM 25 THE COURT: What's a good day for you?

1 MS. CURTIS: Wednesday, Thursday or Friday. Any
2 Wednesday, Thursday or Friday I will be here.

3 THE COURT: So if you have to travel, how are you
4 going to get here on Wednesday if you have got to be in there
02:51:01PM 5 on Tuesday?

6 MS. CURTIS: I can travel at night.

7 THE COURT: You can work that out.

8 MS. CURTIS: I will work that out.

9 THE COURT: So let's pick a Wednesday. October 2nd,
10 how is that for you?

11 MR. VIE: No objection, Your Honor.

12 THE COURT: October 2nd. Is 11:30 a good time or is
13 it better in the afternoon, Ms. Curtis?

14 MS. CURTIS: 11:30 is fine.

02:51:24PM 15 THE COURT: Is that fine with you, then, Mr. Vie?

16 MR. VIE: Yes, Your Honor.

17 THE COURT: 10/11, at 11:30 a.m. -- 10/2. 10/11
18 must be a holiday. 10/2. I apologize. October 2nd.

19 We are not going to send out an additional --
02:51:48PM 20 well, we might send a notice out, but don't wait on us to send
21 you a notice. You might get a notice indicating that -- a
22 reminder that this is occurring, and that would be the nature
23 and extent of the -- so let me ask a couple of questions,
24 Mr. Vie. And, I'm not sure, you might confer with your client
02:52:11PM 25 there.

1 I just signed an order, and you know that is a
2 fairly expensive -- I will deal with your order. I need to
3 sign it.

02:52:21PM

4 Can we pull up his order on the motion for the
5 lease?

6 I want to make sure that the funds are
7 available to pay the attorney and the accountant before -- I
8 don't want hear him call me and say, Judge, I haven't seen or
9 heard anything.

02:52:37PM

10 MR. VIE: They are available, Your Honor.

11 THE COURT: All right. Very good. I believe
12 everything else that was requested for payment, the taxes,
13 that's been taken care of.

14 MR. VIE: Yes, Your Honor.

02:52:47PM

15 THE COURT: The only thing I need is your order
16 here.

17 The Court has entered an order on that. I
18 believe that's all that I have. Thank you very much, ladies
19 and gentlemen.

02:53:35PM

20 (Concluded.)

21 * * *

22 I certify that the foregoing is a correct transcript from the
23 record of proceedings in the above-entitled cause, to the best
24 of my ability.

25 //s _____
Stephanie Kay Carlisle CSR, RPR

09/27/2013
Date

1 Official Court Reporter

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