

NO. 412,249-401

ESTATE OF § IN PROBATE COURT
NELVA E. BRUNSTING, §
DECEASED §
§
§
§

CARL HENRY BRUNSTING, et al §
V. §
ANITA KAY BRUNSTING, et al §
§

**Co-Trustees Motion for An Interim Disbursement to
The Remaining Beneficiaries & Payment of the
Co-Trustees Attorneys' Fees & Expenses**

The Co-Trustees, Anita K. Brunsting and Amy R. Brunsting, jointly file this motion for an interim disbursement of the inheritance to the Remaining Beneficiaries (as defined herein), and to approve the payment of attorneys' fees and expenses due and owing the attorneys retained by the Co-Trustees.

Carl H. Brunsting is unopposed to the relief sought herein.

Carole A. Brunsting opposes the relief sought herein.

The Court is advised of the following:

1. On February 25, 2022, the Court granted a summary judgment that Candace Curtis repeatedly violated the *in terrorem* provisions of the Trusts that are the subject of the litigation in this -401 case and other cases ancillary to this -401 case.
2. The net result of the summary judgment was that Candace Curtis ceased to be a beneficiary under the Trust instruments, which further means the only persons with beneficiary standing are Carl H. Brunsting, Carole A. Brunsting, Amy R. Brunsting, and Anita K. Brunsting (hereinafter the "Remaining Beneficiaries").
3. On or about July 12, 2024, the Decedent's Trust, as permitted by Court order, sold 115.50 acres of the Iowa Farm, and netted approximately \$2,599,845.54.
4. As result of the sale of the foregoing acreage, the Remaining Beneficiaries seek a partial distribution as follows:

- A. \$200,000.00 to Carl H. Brunsting.
 - B. \$200,000.00 to Amy R. Brunsting.
 - C. \$200,000.00 to Anita K. Brunsting.
 - D. 8.870 acres to Carole A. Brunsting of the western portion of that one certain tract known as Parcel B, being a part of that one certain 144.37 acres of the Brunsting Iowa Farm ($\$200,000.00 / \$22,504.68 = 8.870$ acres); provided, however, Carole A. Brunsting may, in her sole discretion elect to receive \$200,000.00 comprised of non-real property assets and acreage, or just non-real property assets, provided she files a formal election of what she wants seven (7) days prior to a hearing on this motion. In the absence of a timely election by Carole A. Brunsting, the Co-Trustees shall distribute to Carole A. Brunsting the foregoing 8.870 acres.
5. The Co-Trustees believe that the personal asset trusts referenced in the Qualified Beneficiary Distribution Trust are no longer necessary and that the foregoing requested distributions for each Remaining Beneficiary be made free of such personal asset trusts.
 6. The Court is reminded that on March 31, 2022, during the course of a pretrial hearing, Carl H. Brunsting and Carole A. Brunsting, acting through counsel, agreed that the sum of \$680,000.00 was a reasonable and necessary fee for the time period of September 2014 through March 31, 2022, such sum to be allocated pro rata between Griffin & Matthews, as counsel for Co-Trustee Amy R. Brunsting, and The Mendel Law Firm, L.P., as counsel for Co-Trustee Anita K. Brunsting, based on their respective incurred share of fees and expenses.
 7. For the time period of September 2014 through August 31, 2024, the Co-Trustees seek a disbursement for the reasonable attorneys' fees and expenses due and owing their respective counsel:
 - A. \$267,738.13 as reasonable and necessary fees (\$264,872.87) and expenses (\$2,865.26) for Griffin & Matthews.
 - B. \$665,289.82 as reasonable and necessary fees (\$652,895.21) and expenses (\$12,394.61) for The Mendel Law Firm, L.P.
 8. The disbursement for the foregoing attorneys' fees and expenses referenced herein do not and will not include fees/expenses incurred by the Co-Trustees counsel, Griffin & Matthews and The Mendel Law Firm, L.P., during the course of that one certain 2016 federal court case known as C.A. No. 4:16-CV-01969; *Candace Louise Curtis & Rik Wayne Munson v. Candace Kunz-Freed, Albert Vacek, Jr., Et Al*; In the U.S. District Court for the S.D. of Texas, Houston Division.
 9. Amy R. Brunsting should be reimbursed \$26,900.00 for attorneys' fees advanced by her to the

Griffin & Matthews law firm.

10. Anita K. Brunsting should be reimbursed \$10,000.00 for attorneys' fees advanced by her to The Mendel Law Firm, L.P.

Prayer

The Remaining Beneficiaries request that the Court:

- A. Approve a distribution of \$200,000.00 to Carl H. Brunsting, such transfer to be as an interim distribution of his inheritance.
- B. Subject to the foregoing election that Carole A. Brunsting might make, approve a distribution to Carole A. Brunsting of 8.870 acres of the western portion of that one certain tract known as Parcel B, being a part of that one certain 144.37 acres of the Brunsting Iowa Farm ($\$200,000.00 / \$22,504.68 = 8.870$ acres), such transfer to be deemed an interim distribution of her inheritance; provided, however, Carole A. Brunsting, in her sole discretion and not less than seven (7) days before a hearing on this motion, or the date of consideration on submission, whichever date is earlier, may elect to receive \$200,000.00 comprised of some portion of non-real property assets and some portion of acreage ($\$22,504.68/\text{acre}$), or all non-real property assets. In the absence of a timely election by Carole A. Brunsting, the Co-Trustees shall distribute to Carole A. Brunsting the foregoing 8.870 acres.
- C. Approve a distribution of \$200,000.00 to Amy R. Brunsting, as an interim distribution of her inheritance.
- D. Approve a distribution of \$200,000.00 to Anita K. Brunsting, as an interim distribution of her inheritance.
- E. Approve the payment of \$267,738.13 for the reasonable and necessary attorneys' fees and expenses due and owing Griffin & Matthews, counsel for Co-Trustee Amy R. Brunsting, for the time period of September 2014 through August 31, 2024.
- F. Approve the payment of \$665,289.82 for the reasonable and necessary attorneys' fees and expenses due and owing The Mendel Law Firm, L.P., counsel for Co-Trustee Anita K. Brunsting, for the time period of September 2014 through August 31, 2024.
- G. Approve the payment of \$26,900.00 to Amy R. Brunsting as reimbursement for the attorneys' fees advanced by her to the Griffin & Matthews law firm.
- H. Approve the payment of \$10,000.00 to Anita K. Brunsting as reimbursement for the attorneys' fees advanced by her to The Mendel Law Firm, L.P.

- I. Approve the allocation of transfers and/or payments as determined in the Co-Trustees sole and exclusive discretion; provided further all payments to the law firms shall be solely from the Decedent's Trust, and the transfer, if any, of acreage to Carole A. Brunsting shall be from the Decedent's Trust.
- J. Provide that distributions to Carl H. Brunsting shall be via wire transfer to the Iolta Trust Account of his counsel of record.
- 1. Provide that the share value of a distribution of securities, whether equities or fixed income, shall be the value at the time of the transfer, and not the receipt of the transfer.
- K. Provide that the transfers/payments set forth in this motion be made within ten (10) days from the entry of an order regarding same, but in no event later than December 31, 2024.
- L. Provide that the transfers/payments set forth in this motion shall be free of any personal asset trusts required by the Qualified Beneficiary Designation Trusts.
- M. Grant the Remaining Beneficiaries such other and further relief, general and special, legal and equitable, to which they may be entitled.

Respectfully submitted, // s // Stephen A. Mendel	Respectfully submitted, // s // Neal E. Spielman
Stephen A. Mendel (SBN 13930650) The Mendel Law Firm, L.P. 1155 Dairy Ashford, Suite 104 Houston, TX 77079 O: 281-759-3213 F: 281-759-3214 E: info@mendellawfirm.com	Neal E. Spielman (SBN 00794678) Griffin & Matthews 1155 Dairy Ashford, Suite 300 Houston, TX 77079 O: 281-870-1124 F: 281-870-1647 E: nspielman@grifmatlaw.com
Attorneys for Anita K. Brunsting	Attorneys for Amy R. Brunsting

Certificate of Conference

As indicated in the motion, the only parties with standing to agree or oppose this motion are Carl H. Brunsting, Carole A. Brunsting, Amy R. Brunsting, and Anita K. Brunsting (collectively the “Remaining Beneficiaries”).

By his electronic signature below, the undersigned certifies that he communicated with counsel for the Remaining Beneficiaries, and the relief sought herein is:

- 1) Agreed as to Amy R. Brunsting and Anita K. Brunsting.
- 2) Unopposed by Carl H. Brunsting.
- 3) Opposed by Carole A. Brunsting.

// s // Stephen A. Mendel

Stephen A. Mendel

Certificate of Service

I certify that a true and correct copy of the foregoing instrument was served on the following:

Neal E. Spielman (SBN 00794678)
Griffin & Matthews
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Attorney for Co-Trustee, Amy R. Brunsting

Bobbie G. Bayless (SBN 01940600)
Bayless & Stokes

Attorney for Drina Brunsting,
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Brunsting

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Attorney for Carole A. Brunsting

via eService, email, telefax, or first-class mail, on this October 22, 2024.

// s // Stephen A. Mendel

Stephen A. Mendel
Attorney for Co-Trustee Anita K. Brunsting

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Stephen Mendel

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Envelope ID: 93456468

Filing Code Description: Application for Compensation

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Associated Case Party: ANITAKAYBRUNSTING

Name	BarNumber	Email	TimestampSubmitted	Status
Stephen A.Mendel		info@mendellawfirm.com	10/22/2024 6:44:05 PM	SENT

Associated Case Party: AMYRUTHBRUNSTING

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Bobbie GBayless		bayless@baylessstokes.com	10/22/2024 6:44:05 PM	SENT