

From: [Carole Brunsting](#)
To: [Candace Curtis](#)
Subject: RE: Brunsting Trust
Date: Monday, December 19, 2011 7:44:36 PM

Here you go

--- On **Thu, 10/14/10**, **Candace Curtis <occurtis@sbcglobal.net>** wrote:

From: Candace Curtis <occurtis@sbcglobal.net>
Subject: RE: Brunsting Trust
To: "Candace Freed" <candace@vacek.com>
Date: Thursday, October 14, 2010, 1:01 PM

Candace,

I didn't realize they taught cat herding in law school. Since you also advise our Mother in HER best interests, I wanted to give you a little history along with my two cents worth.

As the oldest child (now 57), our Dad made a point to inform me of his wishes regarding his estate and his thoughts on structuring the Brunsting Trust. At this juncture, I am compelled to express what I believe to have been his intent, based on family history and our conversations over the years.

His Father died in a nursing home. I was a teenager at the time. The few times I visited Grandpa there, I vowed never to put my own parents in a place like that, or to end up in a place like that myself. Dad did everything he could to keep my Grandma in her own home until she passed away.

Mother's Dad also spent his last months in a nursing home after being declared a pauper of the state.

Dad told me, in no uncertain terms, that the trust ensured that my Mother would have plenty of money to take care of herself if he predeceased her. He said that if her half ran out she could tap into his. Then, when she passed away, the remainder would be evenly divided among the remaining beneficiaries. He told me on more than one occasion that the money would help me when I retired. In other words, "don't squander it" and end up penniless in a nursing home, or worse.

Since July, when Carl was stricken with encephalitis, I have talked with my sisters more than I did the entire time I lived in Houston (30+ years). The worst has come out in some of them. It's downright nasty at times.

Based on my siblings' behavior and comments over the last few months, for the record, I think Carole should have the means to ensure that Mother stays in her own home until she dies. If Mother wants something different she will say so and Carole can facilitate whatever Mother chooses to do. If, at some point, Mother requires around-the-clock in-home care, so be it. She can afford it. She should not have to ask permission from anyone if she wants to tithe to her church, or have her hair done, or buy something she wants. She is fully capable of handling her own personal finances. However, in the future, if and when funds are required for Carl's long term care, it will be too much for her to deal with and, at that point, Carole should be able to step in.

Carole is an angel in my book. She has set aside her personal life for the last 5+ years in

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order to see that our parents, and now Carl, receive the best care and quality of life available to them, from medical treatment down to their favorite ice cream for dessert. She is devoted to Mother and Carl. There are no words to express my gratitude to her.

I anticipate an interesting conversation with everyone on Monday. Thank you for your efforts in pulling it together.

Regards,

Candace

--- On Thu, 10/14/10, Candace Freed <candace@vacek.com> wrote:

From: Candace Freed <candace@vacek.com>
Subject: RE: Brunsting Trust
To: "Summer Peoples" <Summer@vacek.com>, occurtis@sbcglobal.net, "Anita Brunsting" <akbrunsting@suddenlink.net>, cbrunsting@sbcglobal.net, at.home3@yahoo.com
Date: Thursday, October 14, 2010, 6:25 AM

Dear Brunsting family,

Due to the inherent problems with having a day teleconference coordinating the schedules of 6 people, I am proposing that we have a conference call at 6 pm on Monday, October 18th at 6 pm Central standard time. Please let me know if this will work for each of you.

Sincerely,

Candace L. Kunz-Freed

Attorney at Law

Vacek & Freed, PLLC
14800 St. Mary's Lane, Suite 230
Houston, Texas 77079
Phone: 281.531.5800
Toll-Free: 800.229.3002
Fax: 281.531.5885
E-mail: candace@vacek.com
www.vacek.com

We have moved! Our new office address is as shown above. We are one exit west of our old office building. Exit Dairy Ashford. Turn south on Dairy Ashford. St. Mary's Lane is a side street one block south of I-10 Katy Freeway. Turn west on St. Mary's Lane. Our building is in the northwest corner of the four-way stop.

IRS CIRCULAR 230 DISCLOSURE: Tax advice contained in this communication

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From: Summer Peoples
Sent: Wednesday, October 13, 2010 8:43 AM
To: occurtis@sbcglobal.net; Anita Brunsting; cbrunsting@sbcglobal.net; at.home3@yahoo.com
Cc: Candace Freed
Subject: Brunsting Trust
Importance: High

Dear Brunsting Family:

Attorney Candace Freed would like to coordinate a teleconference call with you and your mother for sometime next week. Currently, she has the following time slots available (all times are Central Standard Time zone):

1. Monday, October 18th @ 11 a.m. CST
2. Monday, October 18th @ 2 p.m. CST
3. Monday, October 18th @ 4 p.m. CST
4. Thursday, October 21st 10 a.m. CST

I am reserving these times for you until I hear from you to confirm one of them. Please coordinate with each other as soon as possible and contact me today (or tomorrow, at the latest, since our office is closed on Fridays) so that we may set this on the calendar as a confirmed appointment.

I look forward to hearing from you soon.

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Thanks,

Summer Peoples, CP

Certified Paralegal

Vacek & Freed, PLLC

14800 St. Mary's Lane, Suite 230

Houston, Texas 77079

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Toll Free: 1.800.229.3002

Facsimile: 281.531.5885

E-mail: summer@vacek.com

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BaylessStokes E-Mail

From: "Candace Curtis" <occurtis@sbcglobal.net>
To: "Anita Brunsting" <akbrunsting@suddenlink.net>; "Carole Brunsting" <cbrunsting@sbcglobal.net>; "Carl Brunsting" <cbarch@sbcglobal.net>; "Amy" <at.home3@yahoo.com>; "Bobbie Bayless" <bayless@baylessstokes.com>
Cc: "Candace Freed" <candace@vacek.com>; "Bernard Mathews" <texlawyer@gmail.com>
Sent: Monday, March 26, 2012 11:17 AM
Subject: Re: close out of life insurance trust acct

Hi Anita,

Seems like you jumped the gun filing the **final** tax return for the life insurance trust as of 12/31/11. We didn't get the proceeds until 2012. Will we be getting another K-1 for 2012? If so, how would that tax work be paid for if the accounts have been closed?

I know this is petty but $\$496.59 - \$305 - \$43.80 - \$5 = \$142.79$
 $\$142.79 + \$166.86 = \$309.65 / 5 = \61.93

You should always double check your math. If you get the same answer twice you'll know it's correct.

My concerns about lack of proper accounting increase ten-fold with your math errors (petty or not) and when you say things like "So there is a total of \$309.71 remaining as an asset in this trust. Divided by 5, that comes to about \$60/person. I will use the remaining \$9.71 for mailing expenses."

The life insurance trust should have been the most simple trust to settle. Why would you deposit life insurance trust money into the survivor's trust checking account? What tax consequences might your actions cause? There is not a remaining asset in the life insurance trust if you have closed out the life insurance trust accounts. If you send 4 envelopes with checks @ .45 each (plus .05 for the envelope) where will the remaining \$7.71 go? In your pocket?

Your sister,

Candy

From: Anita Brunsting <akbrunsting@suddenlink.net>
To: Carole Brunsting <cbrunsting@sbcglobal.net>; Candy <occurtis@sbcglobal.net>; Carl Brunsting <cbarch@sbcglobal.net>; Amy <at.home3@yahoo.com>; Bayless & Stokes <bayless@baylessstokes.com>
Cc: Candace Freed <candace@vacek.com>; Bernard Mathews <texlawyer@gmail.com>
Sent: Sun, March 25, 2012 7:37:15 PM
Subject: close out of life insurance trust acct

I will be sending you a check shortly for \$60 which reflects the remainder of the money in the life insurance checking account (Lincoln Financial Group: acct#9592184122) and in the savings account w/

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Bank of America that was originally set up by mom and dad from which to pay the insurance premium (acct #: 008519206643).

Bank of America Transactions:

On 11/14/11 there was \$496.59 in the Bank of America acct. I paid Rich Ridders w/ Kroese & Kroese, CPA \$305 to prepare and file the final tax return for this trust and prepare your K-1's. I reimbursed myself \$43.80 which was for mailing expenses to send you your life insurance check of \$50,088. The account was also charged a \$5 maintenance fee leaving a balance of \$142.85. I transferred that amount to the Survivor's Trust Checking Account, because this account was a savings account, and I don't have checks for it - creating money orders were \$10/each and would eat up the a good part of the remainder. I closed this account on Friday 3/23/12.

Lincoln Financial Group acct:

The life insurance acct w/ Lincoln Financial received another interest payment of \$154.40 on 1/31/12, and they automatically sent me a check for 166.86 dated 3/1/12 and closed the account (this was a policy of the life insurance company, when the balance in the checking acct got below \$1000, they send a check for the balance and close the account) - I deposited this into the Survivors Trust Checking Acct as well.

So there is a total of \$309.71 remaining as an asset in this trust. Divided by 5, that comes to about \$60/person. I will use the remaining \$9.71 for mailing expenses.

Anita

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BaylessStokes E-Mail

From: "Candace Curtis" <occurtis@sbcglobal.net>
To: "Bernard Mathews" <texlawyer@gmail.com>; "Bobbie Bayless" <bayless@baylessstokes.com>; <cbrunsting@sbcglobal.net>
Cc: "Anita Brunsting" <akbrunsting@suddenlink.net>; "Amy Brunsting" <at.home3@yahoo.com>; "Candace Freed" <candace@vacek.com>; "Carl and Drina Brunsting" <cbarch@sbcglobal.net>
Sent: Saturday, April 07, 2012 12:05 PM
Attach: BM 2012 04 07..pdf
Subject: Re: Brunsting Family Living Trust
All --

I have included my impression of the recent receipt of documents and the associated communications. Please see attached.

Sincerely,

Candace Curtis
1215 Ulfinian Way
Martinez, CA 94553
925-759-9020
occurtis@sbcglobal.net

From: Bernard Mathews <texlawyer@gmail.com>
To: bayless@baylessstokes.com; occurtis@sbcglobal.net; cbrunsting@sbcglobal.net
Cc: Anita Brunsting <akbrunsting@suddenlink.net>; Amy Brunsting <at.home3@yahoo.com>; Candace Freed <candace@vacek.com>
Sent: Thu, April 5, 2012 12:23:05 PM
Subject: Brunsting Family Living Trust

Additional documents related to homestead and farm land.

--

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April 7, 2012

Dear Mr. Mathews,

Upon review of your correspondence and attachments of April 5, 2012, I was left speechless for one of the first times in my life. It is worse than I could have ever imagined or suspected. The kicker, however, is that it revealed to me that my sister Carole may have had more involvement than she has previously let on about and that really hurts.

By entering into fiduciary relations, the parties consent as a matter of law to have their conduct measured by the standards of the finer loyalties exacted by courts of equity.

A trustee has the fiduciary duty, without demand by the beneficiary, to inform all trust beneficiaries of the material facts in connection with any non-routine transaction, which significantly affects the trust estate and the interest of the beneficiaries, prior to the transaction taking place.

Who prepared the "complete and accurate picture"? Is this the result of what Anita received more than \$40,000 in alleged trustee compensation for? At this juncture, the only "picture" in my mind is one of orange jumpsuits behind bars.

This "complete and accurate picture" is neither complete nor accurate. Moreover, disclosure only comes after two court actions demanding what your clients were obliged to provide. The fact that it had to be compelled, has gaps and inconsistencies, and has not been fully reconciled, is not satisfactory.

You seem to have the impression that what you sent provides a basis for resolution. What I received appears to be a thinly veiled attempt to clothe the nakedness of self-dealing and misappropriation of assets and provides a basis for further inquiry, strongly suggesting a need to involve the District Attorney's office.

What we appear to have is evidence that all of my claims in the federal court are valid and that more causes of action are justified. It also appears that there may be other defendant parties to add.

It is now more imperative than ever that we have a proper accounting. The law of the "Trust" requires an accounting every six months. The lesser standard in the Property Code only applies after a full and complete accounting has previously

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been performed and all of the beneficiaries notified. You might want to note that the trust also defines beneficiaries to include successor beneficiaries.

As far as probate is concerned it appears the wills were filed by Vacek and Freed with a request for NO ADMINISTRATION. How did you plan to move the matter to a court of probate? You spend enough time in probate court to know trust matters come under the original and exclusive jurisdiction of the district court. Are you planning to misquote authority again and commit another fraud upon the court? Since you are not paying attention, I have helped you out with the applicable code cited below.

I think Carl's depositions should move forward and your clients need to come up with all the documents and records, including the transaction receipts, broker, bank, and credit card statements, etc. I have yet to receive copies of all of the trust instruments requested and history would indicate that I will need to proceed under court process to compel complete and accurate disclosure and accounting. I fail to see how it would be any different for Carl.

Now, about the ramifications when one has conflicts of interest and there is self-dealing. Someone should properly advise your clients of their precarious legal position and suggest that they cut the crap. I have cited a relevant portion of the penal code below.

Your clients' lame attempt at excusing their self-dealing, comingling, and misappropriation of assets fails upon the simple fact that they did not provide notice or seek approval of all of the beneficiaries prior to any such actions, not to mention that the entire time they were looting the trust assets, they were pointing the finger of accusation and condemnation at the victims of their fraud.

I look forward to seeing your plan to move that into a probate court.

Respectfully,

Candace L. Curtis

TEXAS PROBATE CODE

§ 4. Jurisdiction of County Court With Respect to Probate Proceedings

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The county court shall have the general jurisdiction of a probate court. It shall **probate wills, grant letters testamentary and of administration, settle accounts of personal representatives, and transact all business appertaining to estates subject to administration**, including the settlement, partition, and distribution of such estates. Acts 1955, 54th Leg., p. 88, ch. 55, eff. Jan. 1, 1956. Amended by Acts 1993, 73rd Leg., ch. 957, § 4, eff. Sept. 1, 1993.

TEXAS PROPERTY CODE

§ 115.001. JURISDICTION. (a) Except as provided by Subsection (d) of this section, **a district court has original and exclusive jurisdiction over all proceedings concerning trusts**, including proceedings to:

- (1) construe a trust instrument;
- (2) determine the law applicable to a trust instrument;
- (3) appoint or remove a trustee;
- (4) determine the powers, responsibilities, duties, and liability of a trustee;
- (5) ascertain beneficiaries;
- (6) make determinations of fact affecting the administration, distribution, or duration of a trust;
- (7) determine a question arising in the administration or distribution of a trust;
- (8) relieve a trustee from any or all of the duties, limitations, and restrictions otherwise existing under the terms of the trust instrument or of this subtitle;
- (9) require an accounting by a trustee, review trustee fees, and settle interim or final accounts; and
- (10) surcharge a trustee.

(b) The district court may exercise the powers of a court of equity in matters pertaining to trusts.

Text of subsec. (c) effective until January 1, 2006

(c) Unless specifically directed by a written order of the court, a proceeding does not result in continuing supervision by the court over the administration of the trust.

Text of subsec. (c) effective January 1, 2006

(c) The court may intervene in the administration of a trust

to the extent that the court's jurisdiction is invoked by an interested person or as otherwise provided by law. A trust is not subject to continuing judicial supervision unless the court orders continuing judicial supervision.

Text of subsec. (d) effective until January 1, 2006

(d) The jurisdiction of the district court over proceedings concerning trusts is exclusive except for jurisdiction conferred by law on a statutory probate court or a court that creates a trust under Section 867, Texas Probate Code.

Text of subsec. (d) effective January 1, 2006

(d) The jurisdiction of the district court over proceedings concerning trusts is exclusive except for jurisdiction conferred by law on a statutory probate court, a court that creates a trust under Section 867, Texas Probate Code, or a court that creates a trust under Section 142.005.

Amended by Acts 1983, 68th Leg., p. 3332, ch. 567, art. 2, § 2, eff. Jan. 1, 1984; Acts 1997, 75th Leg., ch. 1375, § 5, eff. Sept. 1, 1997; Acts 2005, 79th Leg., ch. 148, § 22, eff. Jan. 1, 2006.

TEXAS PENAL CODE

§ 32.45. MISAPPLICATION OF FIDUCIARY PROPERTY OR PROPERTY OF FINANCIAL INSTITUTION.

b) A person commits an offense if he intentionally, knowingly, or recklessly misapplies property he holds as a fiduciary or property of a financial institution in a manner that involves substantial risk of loss to the owner of the property or to a person for whose benefit the property is held.

(c) An offense under this section is:

(1) a Class C misdemeanor if the value of the property misapplied is less than \$20;

(2) a Class B misdemeanor if the value of the property misapplied is \$20 or more but less than \$500;

(3) a Class A misdemeanor if the value of the property misapplied is \$500 or more but less than \$1,500;

(4) a state jail felony if the value of the property

misapplied is \$1,500 or more but less than \$20,000;

(5) a felony of the third degree if the value of the property misapplied is \$20,000 or more but less than \$100,000;

(6) a felony of the second degree if the value of the property misapplied is \$100,000 or more but less than \$200,000; or

(7) a felony of the first degree if the value of the property misapplied is \$200,000 or more.