

NO. 412,249-401

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

IN PROBATE COURT  
NUMBER FOUR (4) OF  
HARRIS COUNTY, TEXAS

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

**Co-Trustees 1<sup>ST</sup> Amended Motion for An Interim Distribution  
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 first amended motion for an interim distribution 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. Per the summary judgment, 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. Prior to July 12, 2024, neither the Decedent's Trust nor the Survivor's Trust had the liquidity to pay reasonable attorneys' fees and expenses as incurred. This all changed on July 12, 2024, when as permitted by Court order, the Decedent's Trust 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 Co-Trustees 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). Carole Brunsting's request for acreage, in lieu of cash or a combination of cash was made on Friday, November 15, 2024, at The Mendel Law Firm's office and in the presence of her counsel (Mr. Bruse Loyd). Notwithstanding Carole Brunsting's prior election for acreage, she has since revoked the election and seeks to prevent any distributions whatsoever in either November or December 2024.
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. The Co-Trustees seek a disbursement for the reasonable attorneys' fees and expenses due and owing their respective counsel:
  - A. For the time period of September 2014 through August 31, 2024, the Co-Trustees seek \$267,738.13 as reasonable and necessary fees (\$264,872.87) and expenses (\$2,865.26) for Griffin & Matthews, the law firm that represents Co-Trustee Amy R. Brunsting.
  - B. For the time period of September 2014 through October 31, 2024, the Co-Trustees seek \$678,917.20 as reasonable and necessary fees (\$666,268.21) and expenses (\$12,648.99) for The Mendel Law Firm, L.P., and which law firm represents Co-Trustee Anita K. Brunsting.
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 Co-Trustees 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. Approve a distribution 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.
- 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 \$678,917.20 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 October 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 Co-Trustees 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: <a href="mailto:info@mendellawfirm.com">info@mendellawfirm.com</a>	Neal E. Spielman (SBN 00794678) Griffin & Matthews 1155 Dairy Ashford, Suite 300 Houston, TX 77079 O: 281-870-1124 F: 281-870-1647 E: <a href="mailto:nspielman@grifmatlaw.com">nspielman@grifmatlaw.com</a>
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

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Stephen A. Mendel

UNOFFICIAL COPY

## 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  
1155 Dairy Ashford, Suite 300  
Houston, TX 77079  
O: 281-870-1124 / F: 281-870-1647  
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Attorney for Co-Trustee, Amy R. Brunsting

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Attorney for Drina Brunsting,  
Alleged Attorney in Fact for Carl H.  
Brunsting

John Bruster Loyd (SBN 24009032)  
Jones, Gillaspia & Loyd, L.L.P.  
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Attorney for Carole A. Brunsting

via eService, email, telefax, or first-class mail, on this November 24, 2024.

// s // Stephen A. Mendel

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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  
Bar No. 13930650  
info@mendellawfirm.com  
Envelope ID: 94649681  
Filing Code Description: Amended Filing  
Filing Description: Co-Trustees 1st Amended Motion for An Interim Beneficiary Distribution & Payment of Co-Trustees Attorneys Fees & Expenses  
Status as of 11/25/2024 11:55 AM CST

Associated Case Party: ANITAKAYBRUNSTING

Name	BarNumber	Email	TimestampSubmitted	Status
Stephen A.Mendel		info@mendellawfirm.com	11/24/2024 8:26:55 PM	SENT

Associated Case Party: AMYRUTHBRUNSTING

Name	BarNumber	Email	TimestampSubmitted	Status
Neal Spielman		nspielman@grifmatlaw.com	11/24/2024 8:26:55 PM	SENT

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John BrusterLoyd		bruse@jgl-law.com	11/24/2024 8:26:55 PM	SENT

Associated Case Party: CANDACELKUNZ-FREED

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Cory SReed		creed@thompsoncoe.com	11/24/2024 8:26:55 PM	SENT