

IN THE UNITED STATES
DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF
TEXAS HOUSTON DIVISION

Candace Louise Curtis	§	
Andrew Curtis	§	
Andrew Curtis Jr	§	
Plaintiffs	§	
	§	
vs.	§	
	§	Civil Action No.
Stephen A. Mendel	§	
Candace Kunz-Freed	§	
Bernard Lyle Mathews III	§	
Neal Spielman	§	
Bobbie G. Bayless	§	
Gregory Lester	§	
Anita Brunsting	§	Demand for Jury Trial
Clarina Comstock	§	
Cory Reed	§	
Does 1-100	§	
Defendants in their individual capacities	§	

Demand for Jury Trial

I. INTRODUCTION

1. The following RICO Case Statement summarizes and integrates the racketeering complaint, a memorandum of supporting facts consisting of five parts, more than 200 referenced exhibits and the exhibits list - into one unified, coherent presentation containing a clear factual narrative, legal analysis, comprehensive evidence references, and the relief requested.
2. The Complaint arises from a systematic and pervasive scheme perpetrated by what is herein designated as the “Probate Mafia,” an alleged criminal enterprise composed of attorneys, court officials, and related persons. The enterprise is accused of intentionally orchestrating staged litigation schemes in the probate courts with the

- primary purpose of generating fraudulent attorney's fees at the expense of unsuspecting citizens.
3. This unified case statement integrates and consolidates the racketeering, fiduciary breach, and unjust enrichment claims against defendants alleged to be participants in an in-fact criminal enterprise composed of attorneys, court officials, and other professionals who engage in staged litigation designed to produce fraudulent billing for attorney's fees while foreclosing remedy and unjustly reallocating family generational wealth to the participants in an enterprise commonly referred to as the "Probate Mafia."
 4. Through illicit alterations of trust documents and staged litigation schemes defendants have intercepted generational wealth transfers and unjustly enriched themselves by imposing fraudulent attorney's fees upon innocent beneficiaries.
 5. This complaint seeks relief under federal racketeering statute 18 U.S.C. § 1962, common law fiduciary duty claims, and various statutory schemes, as well as declaratory judgment, injunctive relief, compensatory damages, punitive damages, and attorneys' fees.
 6. Through a coordinated pattern of racketeering activity involving numerous felonies committed in violation of state and federal criminal statutes, the defendants have exploited the probate process to intercept generational wealth, subjecting families to financial and emotional devastation while unlawfully enriching themselves.

II. THE ALLEGED "PROBATE MAFIA" ENTERPRISE.

7. Defendants are alleged to have participated in a criminal enterprise known colloquially as the "Probate Mafia." The enterprise's operation involves a series of coordinated fraudulent acts—including obstruction of justice, denial of due process, mail fraud, wire fraud, extortion, conflicts of interest, conspiracy, and forged or otherwise illicit instruments, **tampering with and falsification of public records**—undertaken to manipulate trust documents, manufacture controversy and exploit the instigated litigation for personal gain while committing numerous felonies thereby violating both federal and state law.
8. This action seeks to address and remedy the ongoing harm inflicted by the defendants pursuant to the provisions of 18 U.S.C. § 1962, (RICO)

which prohibits the engagement in, or participation in, any enterprise's affairs through a pattern of racketeering activity.

9. The term "Probate Mafia" identifies an in-fact enterprise which operates within the probate court system. The enterprise comprises a hub and spoke network of individuals including attorneys, public officials, and other agents who collaborate to execute fraudulent litigation schemes.
10. This enterprise is distinct from individual defendants, as its operation relies on the concerted actions of the participating members to intercept family assets during staged and scripted proceedings.

A. Staged Litigation and Fraudulent Attorney Fees:

11. The enterprise arranges staged litigation, creating a facade of legitimate court proceedings while orchestrating fraudulent claims for attorney's fees.
12. Defendants allegedly design and implement various schemes that result in "billing" for attorney's fees that are inflated and unmerited.
13. Unsuspecting citizens, including trust beneficiaries and heirs to generational wealth, are ensnared in these staged litigation schemes.

B. Impact on Victims:

14. The orchestrated actions of the enterprise have resulted in significant financial losses and emotional distress for countless families.
15. Victims have been effectively held in a state of stasis, unable to access their rightful generational assets, while extortionate fees are extracted under duress.

C. Exhibits:

16. A comprehensive chronological record of the fraudulent activities, including over 200 attached exhibits, is compiled and referenced throughout this Complaint.
17. These exhibits serve as central evidence detailing the individual and collective acts, including documentation of theatrical litigation posturing, fraudulent billing, and the ensuing coerced settlement agreements designed to launder extorted ransoms by contract under the label of "fees for legal services".

III. LEGAL CLAIMS

A. Count I – Violation of 18 U.S.C. § 1962 (Racketeering)

Existence of an Enterprise:

18. Plaintiff alleges the existence of an in-fact enterprise (“Probate Mafia”), engaged in or affecting interstate or foreign commerce, as evidenced by the ongoing transfer of family generational wealth.
19. The enterprise, as defined under 18 U.S.C. § 1961(4), is composed of a network of defendants whose coordinated conduct is clearly distinguishable from that of any individual.

Pattern of Racketeering Activity:

20. Plaintiff asserts that the defendants engaged in a continuous and related course of racketeering activity by orchestrating at least two predicate acts of racketeering (e.g., mail fraud, wire fraud, extortion, obstruction, misapplication of fiduciary assets, exploitation of elder and disabled beneficiaries, obstruction and denial of due process) within a 10-year period in a continuing offense.
21. The predicate acts are delineated in the factual record and are supported by detailed allegations with reference to the accompanying exhibits.

B. Connection to the Enterprise:

22. Plaintiff alleges that the defendants knowingly conducted and participated in the affairs of the “Probate Mafia” by actively instituting and perpetuating the fraudulent litigation schemes.
23. Each fraudulent act was an integral part of the broader scheme to manufacture exorbitant attorney’s fees and to unjustly intercept generational wealth.

Causal Nexus:

24. Plaintiff further asserts that a direct causal link exists between the defendants’ racketeering activity and the substantial harm suffered by innocent victims and others.
25. The fraudulent practices and subsequent settlement pressures directly resulted in severe financial loss and emotional distress for the victims, thereby satisfying the causal nexus requirement.

IV. PLEADING SPECIFICITY:

C. Evidence Summary

Organization and Management of Exhibits:

26. Plaintiff's factual record is supported by over 200 attached exhibits, which are organized chronologically and thematically to demonstrate the systematic nature of the fraudulent activity.
27. These exhibits include, but are not limited to, court filings, internal communications, financial records, and digital correspondence, all of which show the scheme's development and execution.
28. A master exhibit index is attached as Appendix A, which categorizes the exhibits by date, individual event, and the specific aspect of the fraudulent scheme they illustrate.
29. For ease of reference during discovery and trial, the exhibits are hyperlinked within the digital copy of this Complaint and are maintained in a secure, searchable electronic repository in compliance with the Federal Rules of Civil Procedure.

D. Exhibit Referencing Strategy:

30. Each factual assertion in this Complaint is supported by documentary or digital evidence and contains a citation to the relevant exhibit(s).
31. The reader is directed to the master index (Appendix A) for reference to each exhibit referred to in the detailed descriptions contained in the Memorandum of Facts.

V. FACTUAL BACKGROUND

E. The Estate Planning and Trust Chronology

Formation of the 1996 Family Trust and Subsequent Amendments

1. In 1996, Elmer and Nelva Brunsting established the "Brunsting Family Living Trust" for their benefit and for the benefit of their five adult progeny. The original trust designated Elmer and Nelva as co-trustees with Anita Brunsting as the successor trustee. [Ex 1-4]

2. In 1999, an irrevocable Life Insurance Trust was established for the benefit of the issues, again naming Anita Brunsting as sole trustee. [Ex 1-5]
3. On January 12, 2005, the trust was restated (“2005 Restatement”), removing Anita as a designated successor trustee and replacing her with Carl and Amy, with Candace Curtis named as alternate by the estate planning attorneys. [Ex 1-6]

Events Following Elmer’s Incapacity and Death

4. On June 9, 2008, following medical certification declaring Elmer non compos mentis, the trust became irrevocable. Under Article III of the 2005 Restatement, subsequent amendments required both settlors’ signatures or court approval, neither of which was obtained. [Ex 1-8; Ex 1-9; Ex 1-10]
5. Following Elmer’s incapacity and subsequent passing on April 1, 2009, only the amendments previously executed in the 2007 amendment (signed by both Elmer and Nelva) were valid; further instruments altering trust provisions were unauthorized. [Ex 1-7; Ex 1-11]

Illicit Alterations and the “Bait and Switch”

6. Within two weeks after Elmer’s incapacity, estate planning attorney Candace Kunz-Freed—assisted by Bernard Lisle Mathews III—produced a series of change instruments aimed at altering trust provisions to benefit new successor trustees (Anita and Amy Brunsting), thus improperly displacing beneficiary Candace Curtis as a lawful co-trustee. [Ex 1-11; Ex 1-12; Ex 1-13]
7. A particularly critical instrument, the “Qualified Beneficiary Designation and Testamentary Power of Appointment” dated August 25, 2010, appears with inconsistent signature pages and is alleged to be a forgery, casting substantial doubt on its validity. [Ex 1-14 to Ex 1-35]. This (QBD) instrument claims to have amended the family trust that had become irrevocable at the passing of Elmer Brunsting on April 1, 2009 and contains a corruption of blood in Terrorem clause that violates public policy.
8. Subsequent state and federal filings reflect this pattern of alteration and back-end exploitation, including actions for breach of fiduciary duty. [Memorandum of Facts Parts 1–5.docx]

VI. RELIEF REQUESTED

A. Declaratory Judgement

1. Plaintiff seeks a declaratory judgment that the de jure trust instruments are the 2005 restatement as amended in 2007.
2. Plaintiff seeks a declaratory judgment that Carl Henry Brunsting and Candace Louise Curtis are the lawful co-trustees.
3. Plaintiff seeks a declaratory judgment that Amy Brunsting and Anita Brunsting are de facto co-trustees under illicit instruments created by Candace Kunz-Freed and Bernard Lisle Mathews III.
4. Plaintiff seeks a summary judgment finding that Amy Brunsting and Anita Brunsting as de facto co-trustees in adverse possession have breached the fiduciary duties of the office they claim to occupy causing injury to the other beneficiaries and benefitting themselves.
5. Plaintiff seeks a summary judgment finding that the following parsons are individually and severally liable as principals in racketeering and accessories in tort:
 1. Attorney Candace Kunz-Freed, Texas State Bar No. 24041282
 2. Attorney Bernard Lyle Matthews III, Texas State Bar No. 13187450
 3. Attorney Bobbie G. Bayless, Texas State Bar No. 01940600
 4. Attorney Jason B. Ostrom Texas State Bar No. 24027710, Fed. Id. No. 33680
 5. Attorney Stephen A Mendel, Texas State Bar No. 13930650
 6. Attorney Gregory Lester Texas State Bar No. 12235700
 7. Attorney Neal Spielman, Texas State Bar No. 00794678
 8. Attorney Jill Willard-Young Texas State Bar No. 00797670
 9. Attorney Zandra E. Foley, State Bar No. 24032085
 10. Attorney Cory S Reed, Texas Bar No. 24076640
 11. County Employee/Appointee (Associate Judge) Clarinda Comstock
6. Before we discuss the probate mafia process, we should point out that not everyone named in this dissertation is a bad guy. There are also

good guys but among the bad (named supra), there are no distinctions to be made between principal and accessory. Everyone that participated is a felon that belongs caged and wearing an orange jump suit for the protection of society. They only remain where they are because of the amount of money that passes through the probate mobs clutches. Because money is power and influence, [the legal system has been perverted](#) into a system of organized theft through collusion, coercion and cronyism.

Texas Penal Code §§7.01, 7.02, 7.03

TITLE 2. GENERAL PRINCIPLES OF CRIMINAL RESPONSIBILITY

CHAPTER 7. CRIMINAL RESPONSIBILITY FOR CONDUCT OF ANOTHER

SUBCHAPTER A. COMPLICITY

Sec. 7.01. PARTIES TO OFFENSES. (a) A person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both.

(b) Each party to an offense may be charged with commission of the offense.

(c) All traditional distinctions between accomplices and principals are abolished by this section, and each party to an offense may be charged and convicted without alleging that he acted as a principal or accomplice.

Sec. 7.02. CRIMINAL RESPONSIBILITY FOR CONDUCT OF ANOTHER.

(a) A person is criminally responsible for an offense committed by the conduct of another if:

(1) acting with the kind of culpability required for the offense, he causes or aids an innocent or nonresponsible person to engage in conduct prohibited by the definition of the offense;

(2) acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense; or

(3) having a legal duty to prevent commission of the offense and acting with intent to promote or assist its commission, he fails to make a reasonable effort to prevent commission of the offense.

(b) If, in the attempt to carry out a conspiracy to commit one felony,

another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy.

Texas Penal Code §31.02 Consolidation of Theft Offenses

Sec. 31.02 Theft as defined in Section 31.03 constitutes a single offense superseding the separate offenses previously known as theft, theft by false pretext, conversion by a bailee, theft from the person, shoplifting, acquisition of property by threat, swindling, swindling by worthless check, embezzlement, extortion, receiving or concealing embezzled property, and receiving or concealing stolen property.

[TEX. PENAL CODE ANN. § 38.12\(a\)](#) (West 2016).

[Section 38.12\(b\)](#) provides that a person commits an offense if the person “knowingly finances the commission of an offense under Subsection (a),” “invests funds the person knows or believes are intended to further the commission of an offense under Subsection (a),” or “is a professional who knowingly accepts employment within the scope of the person’s license, registration, or certification that results from the solicitation of employment in violation of Subsection (a).” Id. § 38.12(b).

Southwest Texas Pathology Associates v. Roosth, 27 S.W.3d 204, 208 (Tex. App. 2000) (“A third party who knowingly aids and assists in the breach of a fiduciary duty may also be liable. See *Kinzbach Tool Co. v. Corbett-Wallace Corp.*, [160 S.W.2d 509, 514](#) (Tex. 1942); *Connell*, [889 S.W.2d at 541](#)”)

Omohundro v. Matthews, 341 S.W.2d 401, 407 (Tex. 1960)

The abuse of the confidential relation in these cases consists merely in his failure to perform his promise.” 1 Scott on Trusts 253, § 44.2

The opinion also quotes 54 American Jurisprudence 178, § 233:

“A constructive trust arises where a conveyance is induced on the agreement of a fiduciary or confidant to hold in trust for a reconveyance or other purpose, where the fiduciary or confidential relationship is one upon which the grantor justifiably can and does rely and where the agreement is breached, since the breach of the agreement is an abuse of the confidence, and it is not necessary to establish such a trust to show fraud or intent not to perform the

agreement when it was made. The tendency of the courts is to construe the term 'confidence' or 'confidential relationship' liberally in favor of the confider and against the confidant, for the purpose of raising a constructive trust on a violation or betrayal thereof."

The opinion quotes also § 44 of the Restatement of Trusts which is to the same effect.

The following from § 194, Comment d., of the Restatement of Restitution is particularly pertinent:

"Where one person orally undertakes to purchase land on behalf of another, it may be urged that the other cannot enforce a constructive trust because the undertaking is oral and there is no compliance with the provisions of the Statute of Frauds. The answer to this objection is that the other is not enforcing an oral contract, but is enforcing a constructive trust based upon the violation of fiduciary duty.

* * * * * Omohundro v. Matthews, 341 S.W.2d 401, 407 (Tex. 1960)

Tex. Pen. Code § 32.45

“(a) For purposes of this section:**(1)** “Fiduciary” includes: **(A)** a trustee, guardian, administrator, executor, conservator, and receiver;**(B)** an attorney in fact or agent appointed under a durable power of attorney as provided by Subtitle P, Title 2, Estates Code;**(C)** any other person acting in a fiduciary capacity, but not a commercial bailee unless the commercial bailee is a party in a motor fuel sales agreement with a distributor or supplier, as those terms are defined by Section 162.001, Tax Code; and**(D)** an officer, manager, employee, or agent carrying on fiduciary functions on behalf of a fiduciary.**(2)** “Misapply” means deal with property contrary to: **(A)** an agreement under which the fiduciary holds the property; or**(B)** a law prescribing the custody or disposition of the property.**(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 \$100;**(2)** a Class B misdemeanor if the value of the property misapplied is \$100 or more but less than \$750;**(3)** a Class A misdemeanor if the value of the property misapplied is \$750 or more but less than \$2,500;**(4)** a state jail felony if the value of the property misapplied is \$2,500 or more but less than \$30,000;**(5)** a felony of the third degree if the value of the property misapplied is \$30,000 or more but less than \$150,000;**(6)** a felony of the

second degree if the value of the property misapplied is \$150,000 or more but less than \$300,000; or(7) a felony of the first degree if the value of the property misapplied is \$300,000 or more.(d) An offense described for purposes of punishment by Subsections (c)(1)-(6) is increased to the next higher category of offense if it is shown on the trial of the offense that the offense was committed against an elderly individual as defined by Section 22.04.(e) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.”

[Texas Penal Code §32.45](#) Misapplication of Fiduciary Property in Excess Of \$300,000

This is the objective of the probate mob from the onset.

[Texas Penal Code Section 32.46](#) – Fraudulent Securing of Document Execution

This is related to the convergence on Nelva in her home leaving her nowhere to retreat, after having had her subjected to a competency evaluation, knowing that guardianship was Nelva’s worst fear, they forced her to sign resignation and appointment instruments under duress. This was not possible under trust law relating to the merger of legal and equitable titles. Nelva had no plenary power to make any changes without a court of competent jurisdiction standing in for Elmer, the absent settlor/co-trustee.

[Texas Penal Code Section 32.47](#) – Fraudulent Destruction, Removal, Or Concealment of Writing

Where is this heinous August 25, 2010 Qualified Beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement they have been using to threaten the disenfranchised beneficiaries in effort to extort a “settlement agreement contract” (the next leg in the bait and switch sting).

[Texas Penal Code Section 32.48](#) – Simulating Legal Process

The Brunsting trust controversy is not a [probate matter, a probate case or a probate proceeding](#), as those terms are defined by the Texas Estates Code and there is no “estate” to administer as that term is defined by the Texas Estates Code.

[Texas Penal Code 32.53](#) – Exploitation of Child, Elderly Individual, Or Disabled Individual involves misapplication of property held in a fiduciary capacity for the benefit of a child, elder or disabled beneficiary.

B. Damages:

1. Plaintiff seeks compensatory damages for the financial losses incurred as a direct result of the fraudulent schemes, including but not limited to recovery of misappropriated assets and reimbursement of undue attorney's fees.
2. Plaintiff further seeks punitive damages, to the extent permitted under federal law, given the egregious and malicious nature of the defendants' conduct.
3. Plaintiff further seeks civil sanctions for violation of the federal injunction and would ask that these defendants be prosecuted criminally for their criminal conduct and that any damage awards not be dischargeable in bankruptcy nor protected under any limited liability alter-ego.
4. Plaintiff further seeks treble damages under the Racketeer Influenced Corrupt Organization statutes 18 U.S.C. § 1962 et seq.

C. Injunctive Relief:

5. Plaintiff requests a preliminary and permanent injunction enjoining the defendants from continuing to engage in the racketeering activities described herein and further requests sanctions and enforcement of the preliminary and permanent injunction already in place.
6. Such injunctive relief and enforcement is necessary to prevent further harm to current and future victims.

D. Attorneys' Fees and Costs:

7. Plaintiff seeks an award of attorneys' fees, costs, and such other relief as the Court deems just and proper pursuant to all applicable statutes and rules.

E. Declaratory Relief:

8. Plaintiff requests that the Court declare the actions of the defendants in violation of 18 U.S.C. § 1962, thereby affirming the illegality of the conduct associated with the "Probate Mafia."
9. Plaintiff requests that the Court declare the 2005 restatement as amended in 2007 as the only valid instruments that define the trust

relationship and that Carl Brunsting and Candace Curtis are the lawful co-trustees.

F. Other Relief:

10. Plaintiff requests any further relief that this Court may deem just and proper to fully redress the harm caused by the defendants' racketeering activities.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Enter judgment against Defendant(s) for violative conduct under 18 U.S.C. § 1962 as alleged herein;
- B. Award compensatory and punitive damages as outlined above;
- C. Issue a preliminary and permanent injunction against the defendants from further engaging in the unlawful activities described;
- D. Award reasonable attorneys' fees, costs, and expenses; and
- E. Grant any further relief that the Court deems just and proper.

Respectfully submitted,
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CERTIFICATE OF SERVICE