

**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (Houston)
CIVIL DOCKET FOR CASE #: 4:12-cv-00592
Internal Use Only**

Candace Louise Curtis v. Anita Kay Brunsting et al **Case remanded** Date Filed: 02/27/2012
to Harris County Probate Court No. 4. Date Terminated: 09/23/2020
Assigned to: Judge Kenneth M. Hoyt Jury Demand: Plaintiff
Cause: 28:1332 Diversity-Fraud Nature of Suit: 370 Other Fraud
Jurisdiction: Diversity

Special Master

William West
Accountant

represented by **Timothy Aaron Million**
Husch Blackwell
600 Travis Street
Suite 2350
Houston, TX 77002
713-525-6221
Fax: 713-647-6884
Email: tim.million@huschblackwell.com
ATTORNEY TO BE NOTICED

Plaintiff

Candace Louise Curtis

represented by **Candice Lee Schwager**
State Bar Information
2210 Village Dale Ave
Houston, TX 77059
United Sta
832-315-8489
Fax: 713-456-2453
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jason B Ostrom
Attorney at Law
4301 Yoakum Blvd
Houston, TX 77006
713-863-8891
Fax: 713-863-1051
Email: jason@ostrompc.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Carl Brunsting
Necessary Party and Involuntary Plaintiff

represented by **Carl Brunsting**
PRO SE

V.

Defendant

Anita Kay Brunsting

represented by **Bernard Lilse Mathews , III**
Green and Mathews LLP
14550 Torrey Chase Blvd
Suite 245
Houston, TX 77014
281-580-8100
Fax: 281-580-8104
Email: texlawyer@gmail.com
TERMINATED: 02/20/2013
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

George William Vie , III
Feldman and Feldman P.C.
3355 West Alabama
Suite 1220
Houston, TX 770098
713-986.9471
Fax: 713-986-9472
Email: george.vie@feldman.law
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stephen A Mendel
The Mendel Law Firm L.P.
1155 Dairy Ashford
Ste 104
Houston, TX 77079
281-759-3213
Fax: 281-759-3214
Email: steve@mendellawfirm.com
LEAD ATTORNEY

Defendant

Amy Ruth Brunsting

represented by **Bernard Lilse Mathews , III**
(See above for address)
TERMINATED: 02/20/2013
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

George William Vie , III
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stephen A Mendel
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Does 1-100

Defendant

Carole Ann Brunsting

Defendant

Candace L. Kunz-freed

Defendant

Albert E. Vacek Jr.

Defendant

Vacek & Freed, PLLC

Defendant

The Vacek Law Firm PLLC

Defendant

Bernard Lilse Mathews III

Date Filed	#	Docket Text
02/27/2012	1 (p.17)	PLAINTIFF'S ORIGINAL PETITION, COMPLAINT AND APPLICATION FOR EX PARTE TEMPORARY RESTRAINING ORDER, ASSET FREEZE, TEMPORARY AND PERMANENT INJUNCTION against Amy Ruth Brungsting, Anita Kay Brunsting (Filing fee \$ 350) filed by Candace Louise Curtis. (Attachments: # 1 (p.17) Continuation, # 2 (p.425) Continuation, # 3 (p.428) Continuation, # 4 (p.432) Continuation, # 5 (p.436) Continuation, # 6 (p.437) Continuation, # 7 (p.438) Continuation, # 8 (p.443) Continuation, # 9 (p.444) Continuation, # 10 (p.446) Continuation, # 11 (p.490) Continuation, # 12 (p.491) Continuation, # 13 (p.492) Continuation)(dterrell,) Modified on 2/27/2012 (dterrell,). (Entered: 02/27/2012)
02/27/2012	2 (p.425)	PROPOSED ORDER Injunctinctive Order Temporary Restraining Order, Asset Freeze, Production of Documents and Records, Appointment of Receiver, filed.(dterrell,) (Entered: 02/27/2012)
02/27/2012	3 (p.428)	INITIAL DISCLOSURES by Candace Louise Curtis, filed.(dterrell,) (Entered: 02/27/2012)
02/27/2012	4 (p.432)	REQUEST for Production of Documents from Anita Kay Brunsting and Amy Ruth Brunsting by Candace Louise Curtis, filed.(dterrell,) (Entered: 02/27/2012)
02/27/2012	5 (p.436)	NOTICE by Candace Louise Curtis, filed. (dterrell,) (Entered: 02/27/2012)
02/27/2012	6 (p.437)	NOTICE by Candace Louise Curtis, filed. (dterrell,) (Entered: 02/27/2012)
02/27/2012		Civil Filing fee re: 1 (p.17) Complaint,, : \$350.00, receipt number CC003143, filed. (dterrell,) (Entered: 02/27/2012)
02/27/2012		Summons Issued as to Amy Ruth Brungsting, Anita Kay Brunsting, filed.(dterrell,) (Entered: 02/27/2012)

02/28/2012	<u>7 (p.438)</u>	ORDER for Initial Pretrial and Scheduling Conference by Telephone and Order to Disclose Interested Persons. Counsel who filed or removed the action is responsible for placing the conference call and insuring that all parties are on the line. The call shall be placed to (713)250-5613. Telephone Conference set for 5/29/2012 at 09:30 AM by telephone before Judge Kenneth M. Hoyt.(Signed by Judge Kenneth M. Hoyt) Parties notified.(ckrus,) (Entered: 02/28/2012)
03/01/2012	<u>8 (p.443)</u>	ORDER denying the application for a temporary restraining order and for injunction.(Signed by Judge Kenneth M. Hoyt) Parties notified.(dpalacios,) (Entered: 03/01/2012)
03/05/2012	<u>9 (p.444)</u>	Letter from Rik Munson re: serving copies on parties, filed. (Attachments: # <u>1 (p.17)</u> cover letter) (saustin,) (Entered: 03/05/2012)
03/06/2012	<u>10 (p.446)</u>	EMERGENCY MOTION by Amy Ruth Brunsting, Anita Kay Brunsting, filed. Motion Docket Date 3/27/2012. (Attachments: # <u>1 (p.17)</u> Affidavit Affidavit of Amy Brunsting, # <u>2 (p.425)</u> Exhibit Property Appraisal, # <u>3 (p.428)</u> Exhibit Sale Contract, # <u>4 (p.432)</u> Exhibit Tax Appraisal, # <u>5 (p.436)</u> Supplement Request for Hearing, # <u>6 (p.437)</u> Proposed Order Proposed Order)(Mathews, Bernard) (Entered: 03/06/2012)
03/06/2012	<u>11 (p.490)</u>	Corrected MOTION Removal of Lis Pendens by Amy Ruth Brunsting, Anita Kay Brunsting, filed. Motion Docket Date 3/27/2012. (Mathews, Bernard) (Entered: 03/06/2012)
03/06/2012	<u>12 (p.491)</u>	NOTICE of Setting. Parties notified. Telephone Conference set for 3/7/2012 at 11:00 AM by telephone before Judge Kenneth M. Hoyt, filed. The call shall be placed to (713)250-5613. (chorace) (Entered: 03/06/2012)
03/08/2012	<u>13 (p.492)</u>	ORDER FOLLOWING TELEPHONE SCHEDULING CONFERENCE held on 3/7/12 Appearances: Candace L. Curtis, pro se, Bernard Lipse Mathews, III.. The Court will, sua sponte, dismiss the pltf's case by separate order for lack of jurisdiction. (Signed by Judge Kenneth M. Hoyt) Parties notified.(dpalacios,) (Entered: 03/08/2012)
03/08/2012	<u>14 (p.493)</u>	ORDER OF DISMISSAL (<i>Sua Sponte</i>) re: <u>10 (p.446)</u> EMERGENCY MOTION, <u>11 (p.490)</u> Corrected MOTION Removal of Lis Pendens. The Court lacks jurisdiction and this case is dismissed. To the extent that a <i>lis pendens</i> has been filed among the papers in federal Court in this case, it is cancelled and held for naught. (Signed by Judge Kenneth M. Hoyt) Parties notified.(dpalacios,) (Entered: 03/08/2012)
03/09/2012	<u>15 (p.495)</u>	Plaintiff's Answer to <u>11 (p.490)</u> Corrected MOTION Removal of Lis Pendens filed by Candace Louise Curtis. (pyebertsky,) (Entered: 03/12/2012)
03/12/2012	<u>16 (p.505)</u>	NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit re: <u>14 (p.493)</u> Order of Dismissal, by Candace Louise Curtis (Filing fee \$ 455), filed.(mlothmann) (Entered: 03/12/2012)
03/16/2012	<u>17 (p.507)</u>	Notice of Assignment of USCA No. 12-20164 re: <u>16 (p.505)</u> Notice of Appeal, filed.(sguevara,) (Entered: 03/16/2012)
03/26/2012	<u>18 (p.509)</u>	Notice of the Filing of an Appeal. DKT13 transcript order form was not mailed to appellant. Fee status: Not Paid. The following Notice of Appeal and related motions are pending in the District Court: <u>16 (p.505)</u> Notice of Appeal, filed. (Attachments: # <u>1 (p.17)</u> Order Dismissal, # <u>2 (p.425)</u> Notice of Appeal, # <u>3 (p.428)</u> Docket sheet, # <u>4 (p.432)</u> Motion IFP)(Ifilmore,) (Entered: 03/26/2012)

03/30/2012		USCA Appeal Fees received \$ 455, receipt number HOU022939 re: <u>16 (p.505)</u> Notice of Appeal, filed.(klove,) (Entered: 03/30/2012)
04/12/2012	<u>19</u> <u>(p.522)</u>	Form 22 TRANSCRIPT ORDER FORM by Candace Louise Curtis. Transcript is unnecessary for appeal purposes. This order form relates to the following: <u>16 (p.505)</u> Notice of Appeal, filed.(mlothmann) (Entered: 04/16/2012)
04/26/2012		(Court only) The Record on Appeal submission has been made, filed. (blacy,) (Entered: 04/26/2012)
04/26/2012		The Electronic record on appeal has now been certified to the Fifth Circuit Court of Appeals re: <u>16 (p.505)</u> Notice of Appeal USCA No. 12-20164, filed.(blacy,) (Entered: 04/26/2012)
05/18/2012		(Court only) ***(PRIVATE ENTRY) CD containing copy of record forwarded to Candace Curtis, filed. (glyons) (Entered: 05/18/2012)
08/16/2012	<u>20</u> <u>(p.524)</u>	Transmittal Letter on Appeal Certified re: <u>16 (p.505)</u> Notice of Appeal. A paper copy of the electronic record is being transmitted to the Fifth Circuit Court of Appeals in 3 volumes. (USCA No. 12-20164), filed.(hler,) (Additional attachment(s) added on 8/17/2012: # <u>1 (p.17)</u> UPS Tracking #) (hler,). (Entered: 08/16/2012)
08/20/2012	<u>21</u> <u>(p.526)</u>	Transmittal Letter on Appeal Certified re: <u>16 (p.505)</u> Notice of Appeal. CDs containing the electronic record are being sent to Bernard Lipse Mathews, III, filed.(hler,) (hler,). (Entered: 08/20/2012)
02/05/2013	<u>22</u> <u>(p.527)</u>	JUDGMENT of USCA for the Fifth Circuit re: <u>16 (p.505)</u> Notice of Appeal ; USCA No. 12-20164. The judgment of the District Court is REVERSED, and the cause is REMANDED to the District Court for further proceedings in accordance with the opinion of the Court. Case reopened on 2/5/2013, filed.(jdav,) (Entered: 02/05/2013)
02/05/2013	<u>23</u> <u>(p.528)</u>	Court of Appeals for the Fifth Circuit LETTER advising the record/original papers/exhibits are to be returned (USCA No. 12-20164), filed.(jdav,) (Entered: 02/05/2013)
02/05/2013	<u>24</u> <u>(p.529)</u>	OPINION of USCA for the Fifth Circuit re: <u>16 (p.505)</u> Notice of Appeal ; USCA No. 12-20164. The district court's dismissal of the case is REVERSED and the case is REMANDED for further proceedings. REVERSED AND REMANDED., filed.(jdav,) (Entered: 02/05/2013)
02/06/2013	<u>25</u> <u>(p.535)</u>	NOTICE of Setting. Parties notified. Status/Scheduling Telephone Conference set for 2/19/2013 at 08:45 AM before Judge Kenneth M. Hoyt, filed. (dpalacios,) (Entered: 02/06/2013)
02/17/2013	<u>26</u> <u>(p.536)</u>	NOTICE of Appearance by George W. Vie III on behalf of Amy Ruth Brunsting, Anita Kay Brunsting, filed. (Attachments: # <u>1 (p.17)</u> Proposed Order)(Vie, George) (Entered: 02/17/2013)
02/19/2013	<u>27</u> <u>(p.540)</u>	ORDER FOLLOWING TELEPHONE STATUS/SCHEDULING CONFERENCE held on February 19, 2013 at 8:45 a.m. Appearances: Candace Curtis, pro se, George Vie ETT: TBA. Jury trial. Joinder of Parties due by 4/30/2013 Pltf Expert Witness List due by 9/30/2013. Pltf Expert Report due by 9/30/2013. Deft Expert Witness List due by 10/30/2013. Deft Expert Report due by 10/30/2013. Discovery due by 12/30/2013. Dispositive Motion Filing due by 12/30/2013. Docket Call set for

		3/3/2014 at 11:30 AM in Courtroom 11A before Judge Kenneth M. Hoyt. The defendant's are to file an answer to the plaintiff's suit on or before March 4, 2013.(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 02/19/2013)
02/20/2013	<u>28</u> <u>(p.541)</u>	ORDER that George W. Vie III and the law firm of Mills Shirley L.L.P. are substituted as attorneys of record for Defendants in lieu of Bernard Lilse Mathews, III and the law firm of Green & Mathews, L.L.P.(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 02/20/2013)
02/20/2013		(Court only) *** Attorney Bernard Lilse Mathews, III terminated. (chorace) (Entered: 02/20/2013)
03/01/2013	<u>29</u> <u>(p.542)</u>	ANSWER to <u>1</u> <u>(p.17)</u> Complaint,, by Amy Ruth Brunsting, Anita Kay Brunsting, filed.(Vie, George) (Entered: 03/01/2013)
03/05/2013	<u>30</u> <u>(p.551)</u>	Court of Appeals LETTER advising Electronic record has been recycled (USCA No. 12-20164), filed.(smurdock,) (Entered: 03/05/2013)
03/11/2013	<u>31</u> <u>(p.552)</u>	CERTIFICATE OF INTERESTED PARTIES by Plaintiff, filed.(mmapps,) (Entered: 03/11/2013)
03/11/2013		(Court only) ***Party Computershare Investor Services, LLC, Edward Jones Securities, The Northern Trust Company and Bank of America added. (mlothmann,) (Entered: 03/13/2013)
03/14/2013	<u>32</u> <u>(p.555)</u>	REPLY to <u>29</u> <u>(p.542)</u> Answer to Complaint, filed by Candace Louise Curtis. (sclement,) (Entered: 03/20/2013)
03/14/2013	<u>33</u> <u>(p.573)</u>	CERTIFICATE OF SERVICE of <u>32</u> <u>(p.555)</u> Reply by Candace Louise Curtis, filed.(sclement,) (Entered: 03/20/2013)
03/14/2013	<u>34</u> <u>(p.574)</u>	AFFIDAVIT of Candace Louise Curtis in Support of Application for Injunction, filed.(sclement,) (Entered: 03/20/2013)
03/14/2013	<u>35</u> <u>(p.577)</u>	Renewed Application for Ex Parte Temporary Restraining Order, and Asset Freeze, Temporary and Permanent Injunction by Candace Louise Curtis, filed. Motion Docket Date 4/4/2013. (sclement,) (Additional attachment(s) added on 3/20/2013: # <u>1</u> <u>(p.17)</u> Proposed Order) (sclement,). (Entered: 03/20/2013)
03/14/2013	<u>36</u> <u>(p.3060)</u>	EXHIBITS re: <u>35</u> <u>(p.577)</u> MOTION for Temporary Restraining Order by Candace Louise Curtis, filed.(sclement,) (Entered: 03/20/2013)
03/14/2013		(Court only) 1 CD forwarded to filerom related to <u>32</u> <u>(p.555)</u> <u>33</u> <u>(p.573)</u> <u>34</u> <u>(p.574)</u> <u>35</u> <u>(p.577)</u> & <u>36</u> <u>(p.3060)</u> ***(PRIVATE ENTRY), filed. (smurdock,) (Entered: 03/20/2013)
03/22/2013	<u>37</u> <u>(p.591)</u>	NOTICE of Setting as to <u>35</u> <u>(p.577)</u> MOTION for Temporary Restraining Order. Parties notified. Injunction Hearing set for 4/9/2013 at 09:00 AM in Courtroom 11A before Judge Kenneth M. Hoyt, filed. (chorace) (Entered: 03/22/2013)
03/29/2013		***Plaintiff's email request to appear telephonically at the Injunction hearing set for April 9, 2013 at 9:00 a.m is Denied. Candace Curtis' appearance in person is required, filed. (chorace) (Entered: 03/29/2013)
04/01/2013	<u>38</u> <u>(p.592)</u>	Letter from Rik Munson re: the mailing of a copy of Rule 11 motion, filed. (mmapps,) (Entered: 04/02/2013)

04/04/2013	<u>39</u> (p.599)	RESPONSE in Opposition to <u>35</u> (p.577) MOTION for Temporary Restraining Order, filed by Amy Ruth Brunsting, Anita Kay Brunsting. (Attachments: # <u>1</u> (p.17) Proposed Order)(Vie, George) (Entered: 04/04/2013)
04/09/2013	40	Minute Entry for proceedings held before Judge Kenneth M. Hoyt. PRELIMINARY INJUNCTION HEARING held on 4/9/2013. Witness: 10 Anita Kay Brunsting. Pursuant to the courtroom ruling as stated on the record, the parties shall work toward resolving this matter w/i 90 days, or the Court shall appoint an independent firm or accountant to gather financial records of the Trust. The parties shall submit a name of an agreed accountant w/i one week. Defendant's shall submit a motion for approval of payment of the Trust taxes. No bond is required at this time. Appearances:Candace Curtis. George William Vie, III.(Court Reporter: F. Warner), filed.(chorace,) (Entered: 04/09/2013)
04/09/2013	<u>42</u> (p.633)	Exhibit List by Amy Ruth Brunsting, Anita Kay Brunsting, filed.(chorace) (Entered: 04/11/2013)
04/10/2013	<u>41</u> (p.610)	NOTICE of filing of state court lawsuit against parties by Amy Ruth Brunsting, Anita Kay Brunsting, filed. (Vie, George) (Entered: 04/10/2013)
04/11/2013	<u>43</u> (p.634)	MOTION for Approval of Tax Payments by Amy Ruth Brunsting, Anita Kay Brunsting, filed. Motion Docket Date 5/2/2013. (Attachments: # <u>1</u> (p.17) Proposed Order)(Vie, George) (Entered: 04/11/2013)
04/11/2013	<u>44</u> (p.638)	ORDER granting <u>43</u> (p.634) Motion for Approval of Tax Payments.(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 04/11/2013)
04/19/2013	<u>45</u> (p.639)	MEMORANDUM AND ORDER PRELIMINARY INJUNCTION. The Court shall appoint an independent firm or accountant to gather the financial records of the Trust(s) and provide an accounting of the income and expenses of the Trust(s) since December 21, 2010. The defendants are directed to cooperate with the accountant in this process.(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 04/19/2013)
04/19/2013	<u>46</u> (p.644)	NOTICE of Agreed CPA Firm pursuant to Court's Order for Accounting by Amy Ruth Brunsting, Anita Kay Brunsting, filed. (Vie, George) (Entered: 04/19/2013)
04/29/2013	<u>47</u> (p.646)	ORDER. In light of the accusations in the pleadings and the Courts instructions, the Court is of the opinion that the best course forward is a Court appointed accountant who will be responsible to the Court. The Court, therefore, rejects the parties agreed notice as an appointment. An Order designating an accountant will be entered shortly.(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) . (Entered: 04/29/2013)
05/01/2013	<u>48</u> (p.647)	STRICKEN Per # 57 Order. Plaintiff's First AMENDED complaint with jury demand against All Defendants filed by Candace Louise Curtis.(olindor,) (Entered: 05/01/2013)
05/01/2013	<u>49</u> (p.680)	MOTION for Joinder of Parties And Actions Demand For Show of Proof of Standing by Candace Louise Curtis, filed. Motion Docket Date 5/22/2013. (olindor) (Entered: 05/01/2013)
05/01/2013	<u>50</u> (p.690)	Plaintiff's Verified AFFIDAVIT In Support of Amended Complaint And In Support of Application For Joinder Candace Louise Curtis, filed. (Attachments: # <u>1</u> (p.17) Exhibit, # <u>2</u> (p.425) Exhibit)(olindor) (Entered: 05/01/2013)

05/01/2013	<u>51</u> (p.740)	NOTICE of lawsuit and request to waiver service by Candace Louise Curtis, filed. (ccarnew,) (Entered: 05/08/2013)
05/01/2013	<u>52</u> (p.741)	NOTICE of lawsuit and request to waive service by Candace Louise Curtis, filed. (ccarnew,) (Entered: 05/08/2013)
05/01/2013	<u>53</u> (p.742)	NOTICE of a Lawsuit and Request to Waive Service of a Summons by Candace Louise Curtis, filed. (isoto) (Entered: 05/08/2013)
05/01/2013	<u>54</u> (p.743)	Notice of Lawuit and Request for Waiver of a Summons as to Bernard Lilse Mathews III sent on 4/28/13 by Candace Louise Curtis, filed.(dgonzalez) (Entered: 05/08/2013)
05/09/2013		(Court only) ***Party William West added. (chorace) (Entered: 05/09/2013)
05/09/2013	<u>55</u> (p.744)	ORDER Pursuant to federal Rule of Civil Procedure 53, Appointing William G. West as Master to Perform Accounting <u>47</u> (p.646) .(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 05/09/2013)
05/21/2013	<u>56</u> (p.747)	RESPONSE in Opposition to <u>49</u> (p.680) MOTION for Joinder, filed by Amy Ruth Brunsting, Anita Kay Brunsting. (Attachments: # <u>1</u> (p.17) Proposed Order)(Vie, George) (Entered: 05/21/2013)
05/22/2013	<u>57</u> (p.764)	ORDER denying <u>49</u> (p.680) Motion for Joinder of Parties and Actions and Motion to Amend Complaint. The Amended Complaint <u>48</u> (p.647) was filed w/o leave of Court and is therefore STRICKEN from the record.(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 05/22/2013)
06/06/2013	<u>58</u> (p.765)	MOTION for Approval of Disbursement by Amy Ruth Brunsting, Anita Kay Brunsting, filed. Motion Docket Date 6/27/2013. (Attachments: # <u>1</u> (p.17) Appendix Exhibits 1 and 2, # <u>2</u> (p.425) Proposed Order)(Vie, George) (Entered: 06/06/2013)
06/10/2013	<u>59</u> (p.772)	ORDER granting <u>58</u> (p.765) Motion for Approval of Disbursements.(Signed by Judge Kenneth M. Hoyt) Parties notified.(kpicota) (Entered: 06/10/2013)
07/15/2013	<u>60</u> (p.773)	ORDER FOLLOWING TELEPHONE SCHEDULING CONFERENCE held on July 15, 2013 at 8:15 a.m. Appearances: William G. West (Accountant). Pursuant to phone conference, the Court conferred with Mr. West concerning his report due at the end of the month. Upon receipt, a hearing date will be set to address any concerns of the parties.(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 07/15/2013)
08/05/2013	<u>61</u> (p.774)	ORDER. Before the Court is the report of the Court-appointed accountant for the Brunsting Family Living Trust for the period December 21, 2010 through May 31, 2013. Objections to the report and the accountants invoice shall be filed on or before August 27, 2013. Miscellaneous Hearing set for 9/3/2013 at 01:30 PM at Courtroom 11A before Judge Kenneth M. Hoyt(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 08/05/2013)
08/08/2013	<u>62</u> (p.775)	NOTICE - <i>Report of Master - Accounting of Income/Receipts and Expenses/Distributions of the Brunsting Family Living Trust for the Period December 21, 2010 Through May 31, 2013</i> re: <u>55</u> (p.744) Order, <u>61</u> (p.774) Order, by William West, filed. (Million, Timothy) (Entered: 08/08/2013)
08/08/2013	<u>63</u> (p.3091)	Sealed Event, filed. (Entered: 08/08/2013)

08/26/2013	<u>64</u> <u>(p.813)</u>	MOTION for Approval of Disbursements to Pay Property Tax Bills by Amy Ruth Brunsting, Anita Kay Brunsting, filed. Motion Docket Date 9/16/2013. (Attachments: # <u>1</u> (p.17) Proposed Order)(Vie, George) (Entered: 08/26/2013)
08/27/2013	<u>65</u> <u>(p.822)</u>	MOTION for Approval of Renewal of Farm Lease under Existing Terms on August 31, 2013 by Amy Ruth Brunsting, Anita Kay Brunsting, filed. Motion Docket Date 9/17/2013. (Attachments: # <u>1</u> (p.17) Proposed Order)(Vie, George) (Entered: 08/27/2013)
08/27/2013	<u>66</u> <u>(p.833)</u>	ORDER granting <u>64</u> (p.813) Defendant's Motion for Approval of Disbursements to Pay Property Tax Bills.(Signed by Judge Kenneth M. Hoyt) Parties notified.(rosaldana) (Entered: 08/27/2013)
08/27/2013	<u>67</u> <u>(p.835)</u>	RESPONSE to Report of Master, filed by Amy Ruth Brunsting, Anita Kay Brunsting. (Attachments: # <u>1</u> (p.17) Appendix Tab 1, # <u>2</u> (p.425) Appendix Tab 2)(Vie, George) (Entered: 08/27/2013)
08/28/2013	<u>68</u> <u>(p.852)</u>	ORDER for Expedited Response; Motion-related deadline set re: <u>65</u> (p.822) MOTION for Approval of Renewal of Farm Lease under Existing Terms on August 31, 2013. Response to Motion due by 9/3/2013.(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 08/28/2013)
08/29/2013	<u>69</u> <u>(p.853)</u>	RESPONSE to <u>62</u> (p.775) Notice - Report of Master, filed by Candace Louise Curtis. (Attachments: # <u>1</u> (p.17) Proposed Order, # <u>2</u> (p.425) Proposed Order). (CD filed in Clerks Office.)(sscotch,) (Entered: 08/29/2013)
08/29/2013	<u>70</u> <u>(p.862)</u>	This document is a duplicate of DE <u>69</u> (p.853) ; this entry was made for case management purposes. Plaintiff's Response to the Report of Master and Applications for Orders by Candace Louise Curtis, filed. (CD filed in Clerks Office). Motion Docket Date 9/19/2013. (Attachments: # <u>1</u> (p.17) Proposed Order, # <u>2</u> (p.425) Proposed Order)(sscotch,) (Entered: 08/29/2013)
08/30/2013	<u>71</u> <u>(p.871)</u>	PROPOSED ORDER re: <u>67</u> (p.835) Response, filed.(Vie, George) (Entered: 08/30/2013)
09/03/2013	<u>72</u> <u>(p.872)</u>	OBJECTIONS to <u>65</u> (p.822) MOTION for Approval of Renewal of Farm Lease under Existing Terms on August 31, 2013, filed by Candace Louise Curtis. (mmapps,) (Entered: 09/03/2013)
09/03/2013	<u>73</u> <u>(p.883)</u>	OBJECTIONS to <u>62</u> (p.775) Notice (Other), Defendants Motion for Orders to Recommit Matters to Master for Consideration, filed by Candace Louise Curtis. (mmapps,) (Entered: 09/03/2013)
09/03/2013	<u>74</u> <u>(p.887)</u>	Plaintiff's Ex Parte Motion for Order to Show Cause and Application for Judgment of Civil Contempt by Candace Louise Curtis, filed. Modified on 9/3/2013 (chorace). (Entered: 09/03/2013)
09/03/2013	75	Minute Entry for proceedings held before Judge Kenneth M. Hoyt. MISCELLANEOUS HEARING held on 9/3/2013. There were no objection's by the parties to the Master's Report. Invoices are Ordered to be paid. Any and all pending motions not ruled on are DENIED. Appearances:Candace Louise Curtis, Maureen McCutchen, William Potter, George William Vie, III, Timothy Aaron Million.(Court Reporter: S. Carlisle), filed.(chorace) (Entered: 09/03/2013)
09/03/2013	<u>76</u> <u>(p.900)</u>	NOTICE of Setting as to <u>74</u> (p.887) MOTION for Order to Show Cause. Parties notified. Motion Hearing set for 10/2/2013 at 11:30 AM in Courtroom 11A before

		Judge Kenneth M. Hoyt, filed. (chorace) (Entered: 09/03/2013)
09/03/2013	<u>77</u> (p.901)	ORDER granting Approval of Disbursements to Special Master & Special Master's Attorney. (Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 09/03/2013)
09/03/2013	<u>78</u> (p.902)	ORDER granting <u>65</u> (p.822) Motion for Approval and Renewal of Farm Lease.(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 09/03/2013)
09/03/2013		(Court only) ***Motion(s) terminated as #69 is not a motion: <u>70</u> (p.862) MOTION Application for Orders. (chorace) (Entered: 09/03/2013)
09/18/2013	<u>79</u> (p.2908)	TRANSCRIPT re: TRO Hearing held on April 9, 2013 before Judge Kenneth M. Hoyt. Court Reporter/Transcriber FWarner. Release of Transcript Restriction set for 12/17/2013., filed. (fwarner,) (Entered: 09/18/2013)
09/19/2013	<u>80</u> (p.903)	Notice of Filing of Official Transcript as to <u>79</u> (p.2908) Transcript. Party notified, filed. (dhansen, 4) (Entered: 09/19/2013)
09/23/2013	<u>81</u> (p.904)	NOTICE of Resetting. Parties notified. Motion Hearing reset for 10/2/2013 at 09:00 AM (TIME CHANGE ONLY) in Courtroom 11A before Judge Kenneth M. Hoyt, filed. (chorace) (Entered: 09/23/2013)
09/23/2013	<u>82</u> (p.905)	RESPONSE in Opposition to <u>74</u> (p.887) MOTION for Order to Show Cause, filed by Amy Ruth Brunsting, Anita Kay Brunsting. (Attachments: # <u>1</u> (p.17) Appendix)(Vie, George) (Entered: 09/23/2013)
09/23/2013	<u>83</u> (p.920)	PROPOSED ORDER re: <u>82</u> (p.905) Response in Opposition to Motion, filed.(Vie, George) (Entered: 09/23/2013)
09/27/2013	<u>84</u> (p.2962)	TRANSCRIPT re: Hearing held on September 3, 2013 before Judge Kenneth M. Hoyt. Court Reporter/Transcriber S. Carlisle. Release of Transcript Restriction set for 12/26/2013., filed. (scarlisle) (Entered: 09/27/2013)
09/30/2013	<u>85</u> (p.921)	Notice of Filing of Official Transcript as to <u>84</u> (p.2962) Transcript. Party notified, filed. (dhansen, 4) (Entered: 09/30/2013)
10/02/2013	86	Minute Entry for proceedings held before Judge Kenneth M. Hoyt. MOTION HEARING held on 10/2/2013. Argument heard. Order to follow. Appearances:Candace Louise Curtis, Maureen Kuzik McCuchen. George William Vie, III.(Court Reporter: M. Malone), filed.(chorace) (Entered: 10/02/2013)
10/03/2013	<u>87</u> (p.922)	ORDER denying <u>74</u> (p.887) Motion for Order to Show Cause and Application for Judgment of Civil Contempt. The Court directs that the plaintiff employ counsel within 60 days so that the case may proceed according to the rules of discovery and evidence. (Signed by Judge Kenneth M. Hoyt) Parties notified.(rosaldana, 4) (Entered: 10/03/2013)
11/08/2013	<u>88</u> (p.924)	MOTION for Approval of Disbursement to pay invoice by Amy Ruth Brunsting, Anita Kay Brunsting, filed. Motion Docket Date 11/29/2013. (Attachments: # <u>1</u> (p.17) Appendix Invoice, # <u>2</u> (p.425) Proposed Order)(Vie, George) (Entered: 11/08/2013)
11/12/2013	<u>89</u> (p.929)	ORDER granting <u>88</u> (p.924) Motion for Approval of Disbursement.(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 11/12/2013)

12/05/2013	<u>90</u> <u>(p.930)</u>	PLAINTIFF'S MOTION for Approval of Disbursement to pay fee retainer by Candace Louise Curtis, filed. Motion Docket Date 12/26/2013. (Attachments: # <u>1</u> (p.17) Proposed Order)(sbejarano, 1) (Entered: 12/06/2013)
12/12/2013	<u>91</u> <u>(p.934)</u>	NOTICE of Setting as to <u>90</u> (p.930) MOTION for Approval of disbursement to pay fee retainer. Parties notified. Telephone Conference set for 12/18/2013 at 08:30 AM by telephone before Judge Kenneth M. Hoyt, filed. (chorace) (Entered: 12/12/2013)
12/18/2013	<u>92</u> <u>(p.935)</u>	RESPONSE to <u>90</u> (p.930) MOTION for Approval of disbursement to pay fee retainer filed by Amy Ruth Brunsting, Anita Kay Brunsting. (Attachments: # <u>1</u> (p.17) Proposed Order)(Vie, George) (Entered: 12/18/2013)
12/18/2013	<u>94</u> <u>(p.943)</u>	ORDER FOLLOWING TELEPHONE SCHEDULING CONFERENCE held on December 18, 2013 at 8:30 a.m. Appearances: Candace Curtis Curtis, Jason Ostrom, George Vie, III. Pursuant to phone conference, the parties agree to seek and agree upon an accommodation that satisfies the plaintiffs request for a disbursement for attorneys fees, if they can do so. The Court sanctions this process and sets December 30, 2013 as the deadline for filing any agreement.(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 01/06/2014)
12/30/2013	<u>93</u> <u>(p.939)</u>	Agreed PROPOSED ORDER re: <u>90</u> (p.930) MOTION for Approval of disbursement to pay fee retainer, filed. (Attachments: # <u>1</u> (p.17) Proposed Order Agreed proposed order)(Vie, George) (Entered: 12/30/2013)
01/06/2014	<u>95</u> <u>(p.944)</u>	NOTICE of Appearance by Jason B. Ostrom on behalf of Jason Ostrom, filed. (Ostrom, Jason) (Entered: 01/06/2014)
01/06/2014	<u>96</u> <u>(p.946)</u>	AGREED ORDER granting Approval of Disbursements. (Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 01/07/2014)
02/24/2014	<u>97</u> <u>(p.948)</u>	NOTICE of Setting. Parties notified. Telephone Conference set for 2/28/2014 at 08:30 AM by telephone before Judge Kenneth M. Hoyt, filed. (chorace) (Entered: 02/24/2014)
02/28/2014	<u>98</u> <u>(p.949)</u>	ORDER FOLLOWING TELEPHONE SCHEDULING CONFERENCE held on February 28, 2014 at 8:30 a.m. Appearances: Jason B. Ostrom, George William Vie, III. Pursuant to phone conference conducted this day, the plaintiff, who determines that additional parties and claims may be necessary for a complete resolution of the case, also fears loss of diversity jurisdiction on the part of the Court. In this regard, and with an eye toward resolving these concerns, the plaintiff is to report the nature and extent of this progress to the Court on or before March 30, 2014. Docket call is cancelled.(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 03/02/2014)
02/28/2014		(Court only) ***March 3, 2014 Docket Call is terminated. (chorace) (Entered: 03/02/2014)
03/08/2014	<u>99</u> <u>(p.950)</u>	MOTION for Approval of Disbursements to Pay Property Tax Bills by Amy Ruth Brunsting, Anita Kay Brunsting, filed. Motion Docket Date 3/31/2014. (Attachments: # <u>1</u> (p.17) Appendix Exhibit A, # <u>2</u> (p.425) Proposed Order)(Vie, George) (Entered: 03/08/2014)
03/10/2014	<u>100</u> <u>(p.959)</u>	Order Granting Defendants Motion for Approval of Disbursements to Pay Property Tax Bills <u>99</u> (p.950) Motion for Approval.(Signed by Judge Kenneth M. Hoyt) Parties notified.(sclement, 4) (Entered: 03/10/2014)

03/26/2014	<u>101</u> <u>(p.960)</u>	MOTION for Approval of Tax Payments by Amy Ruth Brunsting, Anita Kay Brunsting, filed. Motion Docket Date 4/16/2014. (Attachments: # <u>1</u> <u>(p.17)</u> Proposed Order)(Vie, George) (Entered: 03/26/2014)
03/27/2014	<u>102</u> <u>(p.963)</u>	ORDER granting <u>101</u> <u>(p.960)</u> Motion for Approval of Tax Payments.(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 03/27/2014)
04/15/2014	<u>103</u> <u>(p.964)</u>	MOTION for Approval of quarterly estimated income tax payments by Amy Ruth Brunsting, Anita Kay Brunsting, filed. Motion Docket Date 5/6/2014. (Attachments: # <u>1</u> <u>(p.17)</u> Proposed Order)(Vie, George) (Entered: 04/15/2014)
04/16/2014	<u>104</u> <u>(p.967)</u>	ORDER granting <u>103</u> <u>(p.964)</u> Motion for Approval of Quarterly Estimated Income Tax Payments. (Signed by Judge Kenneth M. Hoyt) Parties notified. (rosaldana, 4) (Entered: 04/16/2014)
04/22/2014	<u>105</u> <u>(p.968)</u>	MOTION for Approval of Disbursements by Amy Ruth Brunsting, Anita Kay Brunsting, filed. Motion Docket Date 5/13/2014. (Attachments: # <u>1</u> <u>(p.17)</u> Proposed Order)(Vie, George) (Entered: 04/22/2014)
04/22/2014	<u>106</u> <u>(p.975)</u>	ORDER granting <u>105</u> <u>(p.968)</u> Motion for Approval of Disbursements.(Signed by Judge Kenneth M. Hoyt) Parties notified.(chorace) (Entered: 04/22/2014)
05/09/2014	<u>107</u> <u>(p.976)</u>	Unopposed MOTION for Leave to File First Amended Petition by Candace Louise Curtis, filed. Motion Docket Date 5/30/2014. (Attachments: # <u>1</u> <u>(p.17)</u> Exhibit Exhibit A)(Ostrom, Jason) (Entered: 05/09/2014)
05/09/2014	<u>108</u> <u>(p.987)</u>	First AMENDED Complaint with Jury Demand against Amy Ruth Brunsting, Anita Kay Brunsting, Does 1-100 filed by Candace Louise Curtis.(Ostrom, Jason) (Entered: 05/09/2014)
05/09/2014	<u>109</u> <u>(p.993)</u>	Unopposed MOTION to Remand by Candace Louise Curtis, filed. Motion Docket Date 5/30/2014. (Ostrom, Jason) (Entered: 05/09/2014)
05/12/2014	<u>110</u> <u>(p.998)</u>	Unopposed PROPOSED ORDER <i>Granting Motion for Leave to File First Amended Petition</i> re: <u>107</u> <u>(p.976)</u> Unopposed MOTION for Leave to File First Amended Petition, filed.(Ostrom, Jason) (Entered: 05/12/2014)
05/15/2014	<u>111</u> <u>(p.999)</u>	ORDER granting <u>107</u> <u>(p.976)</u> Motion for Leave to File First Amended Petition.(Signed by Judge Kenneth M. Hoyt) Parties notified.(glyons, 4) (Entered: 05/15/2014)
05/15/2014	<u>112</u> <u>(p.1000)</u>	ORDER granting <u>109</u> <u>(p.993)</u> Motion to Remand to Harris County Probate Court No. 4.(Signed by Judge Kenneth M. Hoyt) Parties notified.(glyons, 4) (Entered: 05/15/2014)
05/15/2014		(Court only) Document(s) Sent by regular mail to Harris County Probate Court No. 4 re: Certified copy of <u>112</u> <u>(p.1000)</u> Order on Motion to Remand, filed. (glyons, 4) (Entered: 05/15/2014)
07/25/2016	<u>113</u> <u>(p.1002)</u>	MOTION for Permission for Electronic Case Filing by Candace Louise Curtis, filed. Motion Docket Date 8/15/2016. (Attachments: # <u>1</u> <u>(p.17)</u> Letter, # <u>2</u> <u>(p.425)</u> Proposed Order)(chorace) (Entered: 07/28/2016)
07/29/2016	<u>114</u> <u>(p.1005)</u>	ORDER denying <u>113</u> <u>(p.1002)</u> Motion for Permission for Electronic Case Filing..(Signed by Judge Kenneth M Hoyt) Parties notified.(chorace) (Entered: 07/29/2016)

08/03/2016	<u>115</u> <u>(p.1006)</u>	Plaintiff Candace Louise Curtis' Motion for Relief from Order Pursuant to Fed. Civ. P. 60(b)(3), Fed. R. Civ. P. 60(b)(6) and Fed. R. Civ. P. 60(d)(3) by Candace Louise Curtis, filed. Motion Docket Date 8/24/2016. (Attachments: # <u>1</u> <u>(p.17)</u> Proposed Order)(dgonzalez, 5) (Entered: 08/05/2016)
08/03/2016	<u>117</u> <u>(p.1350)</u>	Other EXHIBITS re: <u>115</u> <u>(p.1006)</u> MOTION., filed. (Attachments: # <u>1</u> <u>(p.17)</u> Continuation of Exhibits, # <u>2</u> <u>(p.425)</u> Continuation, # <u>3</u> <u>(p.428)</u> Continuation, # <u>4</u> <u>(p.432)</u> Continuation, # <u>5</u> <u>(p.436)</u> Continuation, # <u>6</u> <u>(p.437)</u> Continuation, # <u>7</u> <u>(p.438)</u> Continuation, # <u>8</u> <u>(p.443)</u> Continuation, # <u>9</u> <u>(p.444)</u> Continuation, # <u>10</u> <u>(p.446)</u> Continuation, # <u>11</u> <u>(p.490)</u> Continuation, # <u>12</u> <u>(p.491)</u> Continuation, # <u>13</u> <u>(p.492)</u> Continuation)(dgonzalez, 5) (Entered: 08/05/2016)
08/03/2016	<u>118</u> <u>(p.1714)</u>	Other EXHIBITS re: <u>115</u> <u>(p.1006)</u> MOTION by Candace Louise Curtis., filed. (Attachments: # <u>1</u> <u>(p.17)</u> Exhibits Continue, # <u>2</u> <u>(p.425)</u> Continuation, # <u>3</u> <u>(p.428)</u> Continuation, # <u>4</u> <u>(p.432)</u> Continuation, # <u>5</u> <u>(p.436)</u> Continuation, # <u>6</u> <u>(p.437)</u> Continuation, # <u>7</u> <u>(p.438)</u> Continuation, # <u>8</u> <u>(p.443)</u> Continuation, # <u>9</u> <u>(p.444)</u> Continuation, # <u>10</u> <u>(p.446)</u> Continuation, # <u>11</u> <u>(p.490)</u> Continuation, # <u>12</u> <u>(p.491)</u> Continuation, # <u>13</u> <u>(p.492)</u> Continuation, # <u>14</u> <u>(p.493)</u> Continuation)(dgonzalez, 5) (Entered: 08/05/2016)
08/03/2016	<u>119</u> <u>(p.2161)</u>	Other EXHIBITS re: <u>115</u> <u>(p.1006)</u> MOTION by Candace Louise Curtis., filed. (Attachments: # <u>1</u> <u>(p.17)</u> Exhibits Continue, # <u>2</u> <u>(p.425)</u> Continuation, # <u>3</u> <u>(p.428)</u> Continuation, # <u>4</u> <u>(p.432)</u> Continuation, # <u>5</u> <u>(p.436)</u> Continuation, # <u>6</u> <u>(p.437)</u> Continuation, # <u>7</u> <u>(p.438)</u> Continuation, # <u>8</u> <u>(p.443)</u> Continuation, # <u>9</u> <u>(p.444)</u> Continuation, # <u>10</u> <u>(p.446)</u> Continuation)(dgonzalez, 5) (Entered: 08/05/2016)
08/05/2016	<u>116</u> <u>(p.1034)</u>	Other EXHIBITS re: <u>115</u> <u>(p.1006)</u> MOTION., filed. (Attachments: # <u>1</u> <u>(p.17)</u> Exhibits, # <u>2</u> <u>(p.425)</u> Continuation, # <u>3</u> <u>(p.428)</u> Continuation, # <u>4</u> <u>(p.432)</u> Continuation, # <u>5</u> <u>(p.436)</u> Continuation, # <u>6</u> <u>(p.437)</u> Continuation, # <u>7</u> <u>(p.438)</u> Continuation, # <u>8</u> <u>(p.443)</u> Continuation, # <u>9</u> <u>(p.444)</u> Continuation, # <u>10</u> <u>(p.446)</u> Continuation)(dgonzalez, 5) (Entered: 08/05/2016)
08/05/2016	<u>120</u> <u>(p.2461)</u>	Plaintiff Candace Louise Curtis Motion for Sanctions With Points and Authorities Preliminary Statement by Candace Louise Curtis, filed. Motion Docket Date 8/26/2016. (Attachments: # <u>1</u> <u>(p.17)</u> Exhibit Transcript, # <u>2</u> <u>(p.425)</u> Exhibit)(mxperez, 5) (Entered: 08/09/2016)
08/10/2016	<u>121</u> <u>(p.2585)</u>	PLAINTIFF'S NOTICE OF RELATED CASE (Local Rule 5.2) by Candace Louise Curtis, filed. (szellers, 7) (Entered: 08/11/2016)
08/10/2016	<u>122</u> <u>(p.2586)</u>	PLAINTIFF CANDACE LOUISE CURTIS' MOTION FOR PERMISSION FOR ELECTRONIC CASE FILING by Candace Louise Curtis, filed. Motion Docket Date 8/31/2016. (Attachments: # <u>1</u> <u>(p.17)</u> Proposed Order)(szellers, 7) (Entered: 08/11/2016)
03/09/2017	<u>123</u> <u>(p.2591)</u>	ORDER denying <u>122</u> <u>(p.2586)</u> Motion or Access to the Courts Electronic Filing System.(Signed by Judge Kenneth M Hoyt) Parties notified.(chorace) (Entered: 03/09/2017)
03/20/2019	<u>124</u> <u>(p.2592)</u>	MOTION for Order to Show Cause Why Defendants and Their Counsel Should not be Held in Contempt of this Court's Injunctive Orders by Candace Louise Curtis, filed. Motion Docket Date 4/10/2019. (sguevara, 4) (Entered: 03/20/2019)
04/15/2019	<u>125</u> <u>(p.2657)</u>	AFFIDAVIT of Candace Louise Curtis in Support re: <u>124</u> <u>(p.2592)</u> MOTION for Order to Show Cause as to Held in Contempt of this Court's Injunctive Orders, filed. (Attachments: # <u>1</u> <u>(p.17)</u> Proposed Order)(dwilkerson, 3) (Entered: 04/16/2019)

04/23/2019	<u>126</u> <u>(p.2670)</u>	NOTICE of Setting as to <u>124 (p.2592)</u> MOTION for Order to Show Cause as to Held in Contempt of this Court's Injunctive Orders. Parties notified. Telephone Conference set for 5/8/2019 at 09:15 AM before Judge Kenneth M Hoyt, filed. (On "Meet-Me" Line) (chorace) (Entered: 04/24/2019)
05/08/2019	<u>127</u> <u>(p.2671)</u>	ORDER FOLLOWING TELEPHONE SCHEDULING CONFERENCE held on May 8, 2019 at 9:15 a.m. Appearances: Candace Curtis (pro se). (Court Reporter: J. Sanchez) Before the Court is the pro se plaintiffs, Candace Curtis, motion for an order directed to certain defendants to show cause why they should not be held in contempt for violating the Courts Preliminary Injunction entered on April 19, 2013. The Court is of the opinion that, having transferred the case to the Harris County Probate Court, it no longer has jurisdiction of the case. Therefore, the relief requested is Denied. (Signed by Judge Kenneth M Hoyt) Parties notified.(chorace) (Entered: 05/09/2019)
07/17/2020	<u>128</u> <u>(p.2672)</u>	Ex Parte MOTION for Relief from Judgment by Candace Louise Curtis, filed. Motion Docket Date 8/7/2020. (Attachments: # <u>1 (p.17)</u> Exhibit Exhibit A, # <u>2 (p.425)</u> Exhibit Exhibit B, # <u>3 (p.428)</u> Exhibit Exhibit C, # <u>4 (p.432)</u> Exhibit Exhibit D, # <u>5 (p.436)</u> Exhibit Exhibit E, # <u>6 (p.437)</u> Exhibit Exhibit F, # <u>7 (p.438)</u> Exhibit G)(Schwager, Candice) (Entered: 07/17/2020)
07/17/2020	<u>129</u> <u>(p.2753)</u>	Ex Parte PROPOSED ORDER <i>on Rule 60 motion for relief</i> re: <u>128 (p.2672)</u> Ex Parte MOTION for Relief from Judgment, filed.(Schwager, Candice) (Entered: 07/17/2020)
07/17/2020	<u>130</u> <u>(p.2757)</u>	NOTICE of Appearance by Candice Leonard Schwager on behalf of Candace Louise Curtis, filed. (Schwager, Candice) (Entered: 07/17/2020)
08/13/2020	<u>131</u> <u>(p.2758)</u>	Joint RESPONSE in Opposition to <u>128 (p.2672)</u> Ex Parte MOTION for Relief from Judgment, filed by Amy Ruth Brunsting, Anita Kay Brunsting. (Attachments: # <u>1 (p.17)</u> Exhibit Doc 87 Order, # <u>2 (p.425)</u> Exhibit Doc 127 Tel Hrg Notes, # <u>3 (p.428)</u> Exhibit Docket Report, # <u>4 (p.432)</u> Exhibit Order Remanding Case, # <u>5 (p.436)</u> Exhibit Curtis Ntc Substitution, # <u>6 (p.437)</u> Exhibit Curtis Correspondence, # <u>7 (p.438)</u> Exhibit Curtis RICO Complaint, # <u>8 (p.443)</u> Exhibit Plaintiff Curtis Answer to Ostrom Motion to Dismiss, # <u>9 (p.444)</u> Exhibit Order Dismissing RICO Case, # <u>10 (p.446)</u> Exhibit 5th Circuit Opinion, # <u>11 (p.490)</u> Exhibit Probate Ct Order Denying Curtis Pleas & Mtns, # <u>12 (p.491)</u> Exhibit Probate Court Order Sanctions Against Curtis, # <u>13 (p.492)</u> Exhibit Probate Court Order for Contempt, # <u>14 (p.493)</u> Exhibit Doc 45 Preliminary Injunction)(Mendel, Stephen) (Entered: 08/13/2020)
08/14/2020	<u>132</u> <u>(p.2847)</u>	PROPOSED ORDER re: <u>131 (p.2758)</u> Response in Opposition to Motion,, <u>128 (p.2672)</u> Ex Parte MOTION for Relief from Judgment, filed.(Mendel, Stephen) (Entered: 08/14/2020)
08/28/2020	<u>133</u> <u>(p.2850)</u>	Opposed MOTION to Reopen Case by Candace Louise Curtis, filed. Motion Docket Date 9/18/2020. (Attachments: # <u>1 (p.17)</u> Affidavit Affidavit Candace Curtis, # <u>2 (p.425)</u> Exhibit Docket sheet probate court, # <u>3 (p.428)</u> Exhibit Docket sheet missing matters, # <u>4 (p.432)</u> Exhibit Email from Assoc. Judge stating consolidation never occurred, # <u>5 (p.436)</u> Exhibit Bayless email re consolidation, # <u>6 (p.437)</u> Exhibit Trustee counsel email distribution denied, # <u>7 (p.438)</u> Exhibit Motion to Transfer, Answer and Contempt, # <u>8 (p.443)</u> Exhibit order re contempt)(Schwager, Candice) (Entered: 08/28/2020)
09/03/2020	<u>134</u> <u>(p.2898)</u>	NOTICE of Setting as to <u>128 (p.2672)</u> Ex Parte MOTION for Relief from Judgment. Parties notified. Telephone Conference set for 9/10/2020 at 09:00 AM before Judge

		Kenneth M Hoyt, filed. (On "Meet-Me" Line) (chorace) (Entered: 09/03/2020)
09/10/2020	<u>135</u> (p.2899)	AO 435 TRANSCRIPT REQUEST by Stephen A. Mendel for Transcript of Motion Hearing on 09/10/2020 before Judge Hoyt. Hourly turnaround requested. Court Reporter/Transcriber: Kathy Metzger, filed. (Mendel, Stephen) (Entered: 09/10/2020)
09/10/2020	<u>138</u> (p.2901)	ORDER FOLLOWING TELEPHONE CONFERENCE held on September 10, 2020 at 9:00 a.m. Appearances: Candice Curtis, Neal Spielman, Carol Brunsting, Amy Brunsting, Anita Brunsting Stephen A Mendel, Jason B Ostrom, Candice Lee Schwager. (Court Reporter: K. Metzger). Pursuant to phone conference conducted this day, the Court reopens this case for the limited purpose of considering the plaintiff's exparte motion for relief (Dkt. No. 128). This re-opening does not interfere of intervene in the matters pending or occurring in Probate Court No. 4 of Harris County, Texas. (Signed by Judge Kenneth M Hoyt) Parties notified.(chorace) (Entered: 09/30/2020)
09/10/2020		(Court only) ***Case Reopened for the limited purpose of considering the plaintiff's exparte motion for relief <u>128 (p.2672)</u> . This re-opening does not interfere of intervene in the matters pending or occurring in Probate Court No. 4 of Harris County, Texas. (chorace) (Entered: 09/30/2020)
09/12/2020	<u>136</u> (p.3023)	TRANSCRIPT re: Telephone Conference held on 9/10/20 before Judge Kenneth M Hoyt. Court Reporter/Transcriber K. Metzger. Ordering Party Stephen A. Mendel Release of Transcript Restriction set for 12/11/2020., filed. (kmetzger) (Entered: 09/12/2020)
09/14/2020	<u>137</u> (p.2900)	Notice of Filing of Official Transcript as to <u>136 (p.3023)</u> Transcript. Party notified, filed. (dhansen, 4) (Entered: 09/14/2020)
09/23/2020	<u>139</u> (p.2902)	ORDER denying <u>128 (p.2672)</u> Ex Parte MOTION for Relief from Judgment and <u>133 (p.2850)</u> Opposed MOTION to Reopen Case. Case terminated on 9/23/2020.(Signed by Judge Kenneth M Hoyt) Parties notified.(chorace) (Entered: 09/30/2020)
10/23/2020	<u>140</u> (p.2904)	NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit by Candace Louise Curtis (Filing fee \$ 505, receipt number 0541-25403999), filed. (Schwager, Candice) (Entered: 10/23/2020)
10/26/2020	<u>141</u> (p.2906)	Clerks Notice of Filing of an Appeal. The following Notice of Appeal and related motions are pending in the District Court: <u>140 (p.2904)</u> Notice of Appeal. Fee status: Paid. Reporter(s): M. Malone, filed. (dnoriega, 1) (Entered: 10/26/2020)
10/26/2020		Appeal Review Notes re: <u>140 (p.2904)</u> Notice of Appeal. Fee status: Paid. The appeal filing fee has been paid.Hearings were held in the case. DKT13 transcript order form(s) due within 14 days of the filing of the notice of appeal.Hearings were held in the case - transcripts were produced. Number of DKT-13 Forms expected: 1, filed.(dnoriega, 1) (Entered: 10/26/2020)
11/05/2020		Notice of Assignment of USCA No. 20-20566 re: <u>140 (p.2904)</u> Notice of Appeal, filed.(JenniferLongoria, 1) (Entered: 11/05/2020)
11/09/2020	<u>142</u> (p.2907)	DKT13 TRANSCRIPT ORDER REQUEST by Candace Curtis. This is to order a transcript of Rule 60 motion hearing held 9/10/2020 before the Honorable Kenneth Hoyt. Court Reporter/Transcriber: Kathy Metzger. This order form relates to the following: <u>140 (p.2904)</u> Notice of Appeal, filed.(jday, 4) (Entered: 11/10/2020)

11/30/2020

(Court only) ***(PRIVATE ENTRY) EROA requested by the 5th Circuit; due by 12/15/20 (20-20566 ABT), filed. (EdnitaPonce, 1) (Entered: 11/30/2020)

United States Courts
Southern District of Texas
FILED

FEB 27 2012

David J. Bradley, Clerk of Court

United States District Court
for the
Southern District of Texas

CANDACE LOUISE CURTIS,
Plaintiff,

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VS.

Civil Action No. _____

ANITA KAY BRUNSTING, and
AMY RUTH BRUNSTING
And Does 1-100
Defendants

Jury Trial Demanded

PLAINTIFF'S ORIGINAL PETITION, COMPLAINT AND APPLICATION FOR EX
PARTE TEMPORARY RESTRAINING ORDER, ASSET FREEZE, TEMPORARY
AND PERMANENT INJUNCTION.

I.
Parties

1. Plaintiff, Candace Louise Curtis, is a citizen of the State of California.
Defendant Anita Kay Brunsting, is a citizen of the State of Texas and
Defendant Amy Ruth Brunsting a citizen of the State of Texas.

II.
Jurisdiction and Venue

2. This Court has federal subject matter and diversity jurisdiction of the
state law claims alleged herein pursuant to 28 USC §1332 (a) (1) - 28 USC
§1332 (b) and 28 USC §1332 (C) (2) in that this action is between parties who

are citizens of different states and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs.

3. The Res in this matter is the Brunsting Family Living Trust (the Trust). Known real property of the Trust is located in Texas and Iowa. No known actions have been previously filed with any court involving the Trust or the trust Res and neither the Will nor the Pour Over Will of either Settlor has been filed with any court for probate.

4. Defendant Anita Brunsting resides in the county of Victoria and Defendant Amy Brunsting resides in the county of Comal. The United States District Court for the Southern District of Texas is the proper venue under 28 USC §1391(a)(1).

III.

Nature of Action

5. This is a diversity action alleging breach of fiduciary duty, extrinsic and constructive fraud and intentional infliction of emotional distress. The nature of action in breach is focused upon failures to disclose and failures to give notice. Plaintiff reserves the right to amend this complaint to add additional causes at any time prior to judgment.

IV.

CAUSES OF ACTION COUNT ONE

Breach of Fiduciary Obligation

Breach of Trust

It is settled law that no more than affidavits are necessary to make a prima facie case, U.S. V. Kis, 658 F. 2d 536 (CA7, 1981 Cert den, 50 U.S.L.W. 2169 (1982))

6. Attached Declaration of Candace Louise Curtis is incorporated herein by reference as if fully restated.

7. Plaintiff alleges that Defendant(s) Anita Brunsting and Amy Brunsting have accepted the appointment and are acting jointly as co-trustees for the Brunsting Family Living Trust (the Trust) of which I am a beneficiary and named successor beneficiary.

8. Defendant(s) Anita Brunsting and Amy Brunsting acting as co-trustees for the Trust owe a fiduciary duty to plaintiff, under the common law and under the property statutes of Texas, to provide all beneficiaries and successor beneficiaries of the Trust with information concerning trust administration, copies of trust documents, and semi-annual accounting. As co-trustees for the Trust both defendants owe a fiduciary duty to provide notice to all beneficiaries prior to any changes to the trust that would affect their beneficial interest.

9. Defendant(s) Anita Brunsting and Amy Brunsting acting individually and severally as co-trustees for the Trust have exercised all of the powers of trustees while refusing or otherwise failing to meet their first obligation under that power, to provide full, accurate, complete and timely accounting to the beneficiaries, to provide copies of material documents or other information relating to administration of the Trust, and to provide notice to all beneficiaries and successor beneficiaries of proposed changes to the trust that may tend to affect their beneficial interests.

10. Defendant(s) individually and severally damaged Plaintiff through their breach of fiduciary obligations. Upon information and belief, Defendant(s)

individually and severally benefited through their breach of fiduciary obligations to Plaintiff.

11. Defendant(s) Anita Brunsting and Amy Brunsting are liable for all of the damages, both general and special, caused by the breach of fiduciary duties owed to Plaintiff by Defendants.

12. Defendant(s) Anita Brunsting and Amy Brunsting are liable for punitive damages arising from wrongful acts constituting breach of fiduciary duties insofar as conduct in furtherance of wrongful acts as set forth above amounted to egregious and intentional and/or reckless conduct carried out by Defendant(s) as fiduciaries against Plaintiff, whom they intentionally kept in an inferior position of knowledge.

COUNT TWO

Extrinsic Fraud

13. Attached Declaration of Candace Louise Curtis and all previous allegations are incorporated herein by reference as if fully re-alleged and restated.

14. Defendant(s) Anita Brunsting and Amy Brunsting acting individually and severally as co-trustees for the Trust have refused or otherwise failed to meet their obligations to provide full, accurate, complete and timely accounting or to provide copies of material documents or notification of material facts relating to trust administration, the concealing of which constitutes extrinsic fraud.

15. Defendant(s) individually and severally damaged Plaintiff through their breach of fiduciary obligations. Upon information and belief, Defendant(s) individually and severally benefited through their breach of fiduciary obligations.

16. Defendant(s) Anita Brunsting and Amy Brunsting are liable for all of the damages caused by the breach of fiduciary duties owed to Plaintiffs through their fraudulent concealment.

17. Defendant(s) Anita Brunsting and Amy Brunsting are liable for punitive damages arising from wrongful acts constituting breach of fiduciary duties insofar as conduct in furtherance of wrongful acts as set forth above amounted to egregious and intentional and/or reckless conduct carried out by Defendant(s) as fiduciaries against Plaintiff, whom they intentionally kept in an inferior position of knowledge.

COUNT THREE

Constructive Fraud

18. Attached Declaration of Candace Louise Curtis and all previous allegations are incorporated herein by reference as if fully re-alleged and restated.

19. Plaintiff alleges the existence of conflicts of interest in that both Defendant(s), acting individually and severally as co-trustees for the Trust, were at all times complained of herein, beneficiaries or successor beneficiaries of the Trust.

20. Plaintiff further alleges the existence of conflicts of interest in that Anita Brunsting, while being a successor beneficiary to the Trust, held a general Power of Attorney for Settlor Nelva Brunsting, an original trustee who at some point resigned making Defendant Anita Brunsting her successor trustee.

21. Defendant Anita Brunsting acting as a successor trustee for the Trust has transgressed the limitation placed upon her authority by the Trust and by the rule of law and has refused or otherwise failed to meet her obligations to provide full, accurate, complete and timely accounting or to provide copies of material documents and facts relating to trust administration, the concealing of which, coupled with multiple conflicts of interest constitute manifest acts of constructive fraud.

22. Defendant(s) individually and severally damaged Plaintiff through their breach of fiduciary obligations. Upon information and belief, Defendant(s) individually and severally benefited through their breach of fiduciary obligations.

23. Defendant(s) Anita Brunsting and Amy Brunsting are liable for all of the damages caused by the breach of fiduciary duties owed to Plaintiff through their fraudulent concealment.

24. Defendant(s) Anita Brunsting and Amy Brunsting are liable for punitive damages arising from wrongful acts constituting breach of fiduciary duties insofar as conduct in furtherance of wrongful acts as set forth above amounted to egregious and intentional and/or reckless conduct carried out by Defendant(s) as fiduciaries against Plaintiff, whom they intentionally kept in an inferior position of knowledge.

COUNT FOUR

Intentional Infliction of Emotional Distress

25. Attached Declaration of Candace Louise Curtis and all previous allegations are incorporated herein by reference as if fully re-alleged and restated.
26. Defendant(s) Anita Brunsting and Amy Brunsting acting individually and severally as co-trustees for the Trust have refused or otherwise failed to meet their obligations to provide full, accurate, complete and timely accounting or to provide copies of material documents and facts relating to trust administration.
27. Since the death of Nelva Brunsting, plaintiff has attempted verbally, via email, and by certified mail to obtain information from Defendant(s) regarding the Trust and the Trust's administration. Defendant co-trustee Amy Brunsting has remained totally silent and her part in the perceived fraud may be limited. Defendant co-trustee Anita Brunsting has been disingenuous and manipulative while avoiding answer and disseminating limited numbers of documents in piecemeal fashion. Defendant co-trustee Anita Brunsting is the principal defendant in this action.
28. As detailed in the attached Declaration of Candace Louise Curtis, Defendant(s) acted intentionally or recklessly and the conduct was both extreme and outrageous. The acts of Defendant(s) caused and continue to cause Plaintiff to suffer severe emotional distress.

29. Defendant(s) Anita Brunsting and Amy Brunsting are liable to plaintiff for damages caused by their reprehensible and egregious acts of intentionally inflicting emotional distress and suffering upon Plaintiff.

V.
MEMORANDUM OF POINTS AND AUTHORITIES

For present purposes little more is needed than Restatement of the Law of Trusts 2nd

DISCLOSURE BY A FIDUCIARY/TRUSTEE OUTSIDE FORMAL DISCOVERY: NON-TRADITIONAL RULES AND ALTERNATIVE METHODS

1. INTRODUCTION

This paper contains an analysis of a trustee's duty to disclose information to trust beneficiaries. While it is outside the scope of this paper, many of these duties apply to other fiduciaries such as executors and administrators. The duty of a trustee to disclose information is an **equitable duty**. Enforcement of this duty should therefore be through an **equitable remedy** rather than by the formal legal remedies that are set forth in the Texas Rules of Civil Procedure and apply to legal causes of action. Many Texas courts, however, have trouble recognizing this distinction.

2. AN OVERVIEW OF THE TRUSTEE'S DUTY TO DISCLOSE

The Commentators

American Law Institute, *Restatement Of The Law, Trusts 2d*, §173 states that:

"The trustee is under a duty to the beneficiary to give him upon his request at reasonable times complete and accurate information as to the nature and amount of the trust property, and to permit him, or a person duly authorized by him, to inspect the subject matter of the trust and the accounts and vouchers and other documents relating to the trust."

William E. Fratcher, *Scott On Trusts*, §173 (Fourth Edition) states that:

"The trustee is under a duty to the beneficiaries to give them on their request at reasonable times complete and accurate information as to the administration of the trust. The beneficiaries are entitled to know what the trust property is and how the trustee has dealt with it. They are entitled to examine the trust property and the accounts and vouchers and other documents relating to the trust and its administration. Where a trust is created for several beneficiaries, each of them is entitled to information as to the trust. Where the trust is created in favor of successive beneficiaries, a beneficiary who has a future interest under the trust, as well as a beneficiary who is presently entitled to receive income, is entitled to such information, whether his interest is vested or contingent."

George Gleason Bogert and George Taylor Bogert,

The Law of Trusts and Trustees, § 961(Revised Second Edition) explain this duty in the following manner:

“The beneficiary is the equitable owner of the trust property, in whole or in part. The trustee is the mere representative whose function is to attend to the safety of the trust property and to obtain its avails for the beneficiary in the manner provided by the trust instrument. That the settlor has created a trust and thus required that the beneficiary enjoy his property interest indirectly does not imply that the beneficiary is to be kept in ignorance of the trust, the nature of the trust property and the details of its administration. **If the beneficiary is to be able to hold the trustee to proper standards of care and honesty and to obtain the benefits to which the trust instrument and doctrines or equity entitle him, he must know what the trust property consists and how it is being managed.** (emphasis supplied)

From these considerations it follows that the trustee has the duty to inform the beneficiary of important matters concerning the trust and that the beneficiary is entitled to demand of the trustee all information about the trust and its execution for which he has any reasonable use. It further follows that the trustee is under a duty to notify the beneficiary of the existence of the trust so that he may exercise his rights to secure information about trust matters and to compel an accounting from the trustee. **For the reason that only the beneficiary has the right and power to enforce the trust and to require the trustee to carry out the trust for the sole benefit of the beneficiary, the trustee’s denial of the beneficiary’s right to information consists of a breach of trust.** (emphasis supplied)

If the beneficiary asks for relevant information about the terms of the trust, its present status, past acts of management, the intent of the trustee as to future administration, or other incidents of the administration of the trust, and these requests are made at a reasonable time and place and not merely **vexatiously**, it is the duty of the trustee to give the beneficiary the information which he is asked. Furthermore, the trustee must permit the beneficiary to examine the account books of the trust, trust documents and papers, and trust property, when a demand is made at a reasonable time and place and such inspection would be of benefit to the beneficiary.”

2. The Cases

In examining Texas cases involving this duty it is important to distinguish between cases that relate to transactions where a trustee has some personal dealing with a beneficiary (which impose very harsh disclosure requirements) from those cases that relate to disclosure in general. The following cases relate to the general disclosure rules.

In *Shannon v. Frost National Bank*, 533 S.W.2d 389 (Tex. App. - San Antonio, 1975, writ ref’d n.r.e), the court stated that: “However, it is well settled that a trustee owes a duty to give to the beneficiary upon request complete and accurate information as to the administration of the trust. 2 Scott, Trusts §173 (3rd. ed. 1967).”

In *Montgomery v. Kennedy*, 669 S.W.2d 309 (Tex. 1984) the Texas Supreme Court held that: "As trustees of a trust and executors of an estate with Virginia Lou as a beneficiary, Jack Jr. and his mother owed Virginia Lou a fiduciary duty of full disclosure of all material facts known to them that might affect Virginia Lou's rights....The existence of strained relations between the parties did not lessen the fiduciary's duty of full and complete disclosure..... The concealment of a material fact by a fiduciary charged with the duty of full disclosure is extrinsic fraud."

30. FURTHER, the Texas legislature has codified the common law duty a trustee owes to a beneficiary in the Texas Property Code.

§ 113.060. INFORMING BENEFICIARIES. The trustee shall keep the beneficiaries of the trust reasonably informed concerning:

- (1) the administration of the trust; and
- (2) the material facts necessary for the beneficiaries

to protect the beneficiaries' interests.

Added by Acts 2005, 79th Leg., ch. 148, § 15, eff. Jan. 1, 2006.

§ 113.151. DEMAND FOR ACCOUNTING. (a) A beneficiary by written demand may request the trustee to deliver to each beneficiary of the trust a written statement of accounts covering all transactions since the last accounting or since the creation of the trust, whichever is later. If the trustee fails or refuses to deliver the statement on or before the 90th day after the date the trustee receives the demand or after a longer period ordered by a court, any beneficiary of the trust may file suit to compel the trustee to deliver the statement to all beneficiaries of the trust.

The court may require the trustee to deliver a written statement of account to all beneficiaries on finding that the nature of the beneficiary's interest in the trust or the effect of the administration of the trust on the beneficiary's interest is sufficient to require an accounting by the trustee. However, the trustee is not obligated or required to account to the beneficiaries of a trust more frequently than once every 12 months unless a more frequent accounting is required by the court. If a beneficiary is successful in the suit to compel a statement under this section, the court may, in its discretion, award all or part of the costs of court and all of the suing beneficiary's reasonable and necessary attorney's fees and costs against the trustee in the trustee's individual capacity or in the trustee's capacity as trustee.

(b) An interested person may file suit to compel the trustee to account to the interested person. The court may require the trustee to deliver a written statement of account to the interested person on finding that the nature of the interest in the trust of, the claim against the trust by, or the effect of the administration of the trust on the interested person is sufficient to require an accounting by the trustee.

Added by Acts 1983, 68th Leg., p. 3332, ch. 567, art. 2, § 2, eff. Jan. 1, 1984.
Amended by Acts 2003, 78th Leg., ch. 550, § 3, eff. Sept. 1, 2003.

(b) Notwithstanding Subsection (a)(9), a person other than a beneficiary who, without knowledge that a trustee is exceeding or improperly exercising the trustee's powers, in good faith assists a trustee or in good faith and for value deals with a trustee is protected from liability as if the trustee had or properly exercised the power exercised by the trustee.

Added by Acts 2005, 79th Leg., ch. 148, § 21, eff. Jan. 1, 2006.

VI
PRAYERS FOR RELIEF

32. **WHEREFORE**, Plaintiff prays for judgment and relief as follows, where applicable, including but not limited to the following:

33. Awarding compensatory damages in favor of Plaintiff against Defendant(s) for the damages sustained as a result of the wrongful conduct alleged as will be established through discovery or at trial, together with interest thereon, in an amount in excess of \$75,000 from each Defendant for each offense found,

34. Awarding punitive damages to Plaintiff against the Defendant(s) for the egregiously wrongful conduct alleged herein,

35. Granting declaratory and/or injunctive relief as appropriate,

36. Awarding legal fees and costs to plaintiff and,

37. Such other and further relief as the Court may deem equitable and proper.

REQUEST FOR EX-PARTE TEMPORARY RESTRAINING ORDER

38. Further, Plaintiff seeks an emergency order for injunctive relief and herein alleges irreparable harm will occur unless the court prevents the trustees from wasting the estate, and compels the trustees to produce a full, true and complete accounting of all assets.

Financial Misconduct and Need for Accounting

39. A cursory review of the preliminary accounting spreadsheet of the Trust assets provided the Plaintiff reveals possibly significant discrepancies in the value of some trust assets, while other previously known trust assets are unaccounted for.

As trustees for the survivor's trust, created under the Brunsting Family Living Trust after the death of the first Settlor, Anita Brunsting and Amy Brunsting are responsible for maintaining accurate books and records for the survivor's trust created under the Brunsting Family Living Trust. Under the terms of the Trust trustees are to provide an accounting to the beneficiaries every 6 months. Even under Texas law an accounting to the beneficiaries is required annually. No proper accounting has ever been received.

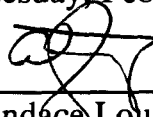
40. Further, Anita Brunsting, holding Power of Attorney for Nelva Brunsting, and serving as successor trustee for the Nelva E. Brunsting Survivor's Trust, had an ongoing duty to account and, as a successor beneficiary of the Trust and its sub trusts, had an even greater level of loyalty and fidelity owed to the other four successor beneficiaries. Anita Brunsting had an ongoing obligation to report and account to the other successor beneficiaries, and to seek their approval before accepting gifts from Nelva Brunsting or the Trust.

41. By the acts alleged herein, Anita Brunsting and Amy Brunsting have breached fiduciary duties of loyalty, care and good faith owed directly to Plaintiff as co-trustees for the BFLT by acting in bad faith and for the purpose of benefiting themselves and harming Plaintiff; by misappropriating trust

property; and by failing to keep and maintain accurate and reliable books and accounting records; and by failing to report on the administration of the Trust; and by failing to notice Plaintiff of actions adversely affecting Plaintiff's rights and beneficial interest in the Trust Res.

42. Due to the lack of proper inventory, accounting and disclosure it is imperative that this court act quickly to protect the Trust property and assets, and to ascertain the reasons for the trustees' refusal to answer and to account.

Tuesday, February 21, 2012



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

AFFIDAVIT OF CANDACE LOUISE CURTIS

I, Candace Louise Curtis (Affiant), am a competent witness over the age of 18 years of age, have personal knowledge of the information stated herein, and do solemnly declare and state to be true as follows:

I am an heir to the estate of the late Elmer H. Brunsting and Nelva E. Brunsting of Houston, Texas, and I am a beneficiary of the BRUNSTING FAMILY LIVING TRUST initially dated October 10, 1996 and amended January 12, 2005 ("BFLT").

My Father, Elmer Brunsting, died on April 1, 2009 and my Mother, Nelva Brunsting died on November 11, 2011. Both of them ultimately required round-the-clock, in home, care. When Dad could no longer manage the affairs of their finances and estate, Mother took over and carried on, until it became too much for her in late 2010. At that point she turned some of these duties over to my sister Anita. Exactly what occurred before or after that is unclear, as my efforts to obtain even the most basic information about the trust, or the trust assets, have been frustrated. The documents I have received over the years are inadequate, incomplete, and contain redactions and strikeouts, but would indicate that changes have been made to the BFLT that affect my beneficial interest. These changes were made without any notice to me. Additionally, there appear to be some discrepancies in a recent preliminary asset list, and some of the previously known assets are unaccounted for. This list is the only accounting I have ever received.

My husband, our two sons and I, moved to California in September of 1995, after having lived in Houston for 30 years. In Houston we lived only a couple of miles from my parents and the boys had a very close relationship with their grandparents while they were growing up. After we moved to California my parents came to visit us several times and we enjoyed the occasions immensely.

Although I lived 1,700 miles away, as his eldest daughter Dad talked to me throughout the process, about his intentions and goals in forming the Brunsting Family Living Trust. He told me the primary reason was to make sure they could die at home, if they so chose, and have the financial means to do so. Secondly, anything left over would be divided 5 ways among us (Carole, Carl, Amy, Anita and myself) and he wanted no misunderstandings when it came time to divvy up the assets or family heirlooms. He explained how the trust was set up, and that my brother Carl was executor of the estate. Dad handed me the first trust documents personally at a family gathering. I knew what the documents said, so I stuck them in my suitcase. They ended up in a drawer after I got home.

At approximately the same time that the BFLT was formed, a separate trust, The Brunsting Family Irrevocable Trust, was created for a last-to-die life insurance policy, of which the five of us were beneficiaries, naming Anita as original and sole trustee. My Father said that this was done so that if their estate was exhausted during their lifetimes, we would at least have something after they both passed away. He said that the trustee job would be easy, because all one had to do was send out a notice to the beneficiaries

each year and keep the signed copies in the trust file. He asked me if I would serve as trustee, and I agreed to, but ultimately he chose Anita, because she was the youngest.

I do not recall exactly when, but I think I first became aware that our Father was exhibiting signs of dementia sometime in 2006. I was visiting my parents at the time and some of my sisters were there. To see my Father's behavior and subsequent treatment by his own daughters was heartbreaking. I was dumbfounded to witness this ignorant cruelty and impatience in my sisters. One afternoon it was just he and I. In a fleeting moment of lucidity my Father asked me if his net worth was still such and such. Since he had kept me well informed over the years, I knew that it was and confirmed it. He smiled. He was always so proud of what he had created for his family. I gave him a hug and a kiss. He nodded off. That was the last time I saw him. He died in his OWN HOME, because Mother honored his wishes. Years later, when I started to realize something was "**going on**" with the trust, and began to question things, my sister Carole told me something like – Candy, if it makes you feel any better, Daddy asked for you by name the Sunday before he died.

In July of 2007, Mother asked me if I would be willing to replace Amy as successor co-trustee of the BFLT with Carl (attached as Plaintiff Exhibit P-1). She wrote that she did not think Amy was stable enough and that she thought I had a better relationship with my siblings than she. I said sure, and that is the last I heard of it until March of 2008, when I received an email from Mother asking if I minded if she made Anita successor co-trustee with Carl (P-2). She said she realized now that

"Anita has a handle on everything from the insurance policy and the trust better than anybody."

At the time I had no reason to care one way or the other and I never gave it another thought.

Our Father passed away April 1, 2009. The cause of death was "dementia, likely vascular type". My sons were pallbearers for their grandpa. They loved their grandpa very much and were heartbroken and distraught when he passed away. They were very worried about their grandma being alone and volunteered to stay with her and take care of her if she wanted them to. After the funeral we returned home and it never crossed my mind that I might expect paperwork in connection with the settlement of the estate. I had no idea what, if anything, should happen. I knew that when Dad died, the terms of the trust became irrevocable. I also knew that I would not receive any inheritance until Mother was gone.

It began to occur to me in March of 2010 that something was amiss, but I could not quite put my finger on it. Anita emailed Amy and I (P-3) requesting that we print out and sign five undated "Notification of Demand Right" letters (P-4) (for the life insurance trust) and get them to her in the next couple of weeks. I asked her to send me a copy of the trust document and a current statement of account, because I do not like signing these

undated forms. I also thought that, as a beneficiary, I might actually be entitled to a copy of the trust. Her reply,

“For now could you please send me a signed waiver dated 3/19/09, for last year’s files?” (P-3)

It appeared that Anita was falling down on the easy trustee job.

On about July 2, 2010 Carl, our only brother, was stricken with encephalitis. When Carole called to tell me, she was crying and said that our brother might die. I could barely understand her she was sobbing so hard. They did not have a diagnosis at the time. I was so scared for him and his family. The next day I wanted to find out how he was doing, but could not reach Carole, so I called Anita. I started to ask about Carl, but before I could say anything she began to criticize Drina, Carl’s wife of 36 years. I was somewhat dismayed at what I was being told, but Drina and I are the same age, have many of the same interests, and have always gotten along very well, so I figured I would react the same way in her situation. My main concern at the time was Carl, as was Drina’s. I was unaware until just recently, that a few days later Amy drove in from New Braunfels and found it necessary to harangue Drina about their finances, at Carl’s bedside. Carl is a self-employed architect. I was sure Drina was very worried about how she would be able to care for him financially with no income, but I doubt that was the most important thing on her mind at the time. Within days Amy and Anita started conjuring up totally unfounded scenarios of such things as Drina running off with Carl’s money, divorcing him, killing him, and all kinds of other machinations having to do with Carl’s future inheritance.

Mother was at the hospital visiting one day and offered to help Carl and Drina financially if they needed it. When they subsequently took her up on the offer, all of a sudden the entire situation blew up into a massive, unfounded character assassination of Drina, which I now know Anita started several years prior. Anita began to badger Mother and kept stopping her from acting on her promise to help. According to Carole, Anita was bullying and badgering Mother to the point that she was afraid to spend her own money to help her own son. In reviewing email communications, it was discovered that Anita had criticized our Father for his investments, expressed how Mother is finally “listening to reason”, and regularly degraded one thing or another about each of us. Apparently Anita has sat in judgment of everyone except herself.

I continued to argue for help for Carl and Drina, even going so far as offering up any of my inheritance if they needed it to survive this and become whole again. Money means little to me in the face of family crisis and Carl is my only brother. I almost lost him once. I was not going to lose him for lack of money and care.

The character assassination continued in earnest. Amy and Anita were very aggressive in their attempts to prevent what they were convinced was happening. They kept coming up with ideas to keep Drina from touching Carl’s money, even if it went directly for his care and well being. They were all consumed with this and never spoke about how his

recovery was progressing. I did not know that he almost died again, or that he lapsed into a coma and had to be put on a ventilator in ICU, before he started to mend ever so slowly.

Carl had a setback and Mother got pneumonia and was hospitalized. I attribute this to the stress my sisters were causing in both of them. At the same time I became concerned as to what this was doing to Drina's health and state of mind.

In October 2010 there was a flurry of activity regarding changes to the trust and Mother's competency, starting with an email (P-5) from Carole asking if I was okay with Anita taking over as Power of Attorney for Mother? She wrote "The paperwork is being drawn up today." She later said she was concerned that the trustee had more authority than we realize. I told her I needed a copy of the trust documents to figure out just what can and cannot be done.

On October 13, 2010 Anita, Carole, Amy, and I received an email (P-6, 4 pgs.) from Summer Peoples on behalf of attorney Candace Freed saying that Candace would like to have a conference call with "you and your Mother", reserving some times for "next week". Carl did not receive this email. Carole wrote back and asked Summer what the meeting was in reference to. Carole did not know if she could make the meeting and wanted to know if that would be a problem. Summer replied:

"Ms. Brunsting: To answer your questions – This teleconference meeting is to discuss changes to your Mother's trust. If you are unable to attend, it simply means that you will have no say in what changes will be made. It will not be a problem if you cannot attend. However, Ms. Freed wants to extend the invitation to all Mrs. Brunsting's children."

I did not understand why Carl was not included, since he was executor of our parents' wills and a successor co-trustee of the Brunsting Family Living Trust, as well as one of "Mrs. Brunsting's children".

I wrote Anita that same day and reminded her that she had mentioned that she had a copy of the trust document. I asked if she would scan it and send it to me in the next day or two. I wanted to read it before the conference call. I still had not received anything by October 20, 2010 and was not planning on participating in the conference call without seeing the trust we would be discussing changes to. On October 23, 2010 Anita sent twelve documents in four separate emails (P-7, 5 pgs.). I could not believe my eyes when I started to read what she sent. Apparently the changes to which this conference call was in reference to, which by the way no one would clarify, had to do with changes THAT HAD ALREADY BEEN MADE - WITHOUT NOTICE.

The conference call was held on or about October 25, 2010. Neither Mother nor Carl participated. Anita began by asking how much power she had by virtue of the power of attorney. I wanted to know why someone thought it necessary to convert Carl's and my personal asset trusts, giving Anita and Amy control. Attorney Candace jumped in and said I was not entitled to those document copies, as Mother was the only beneficiary, and

that Anita should not have sent them in the first place. Amy jumped in and kept screeching that Drina needed to get a job, Carole kept asking her who is going to take care of Carl with Drina working. Finally Amy said I don't care and Carole hung up. The discussion then segued into having Mother declared incompetent. I wanted to know why, and no one would answer. At that point I hung up because the changes had already been made and it appeared there was nothing I could do about it. I am still not sure what the purpose of the call was, other than an attempt to lend some form of legitimacy to the changes that had apparently already occurred.

As I look at the email (P-7, supra) I received regarding this call, neither Carl nor Mother was copied on that communication.

The day after the call I spoke with Mother. She affirmed that she DID NOT know the full implications of what she signed. She said she should have been included on the call. She said that she would not have given Anita the authority to manage Carl's and my money. I told her it seems as though Amy and Anita were conspiring with Attorney Candace to have her declared incompetent so they can take control. She said Anita was driving her crazy. After talking to her for over 30 minutes I realized that she was NOT incompetent, simply left in the dark. I passed this information on to Carole in an email, (P-8, 4 pgs.) to which she replied,

“Anita is going to be the one responsible for keeping Mother sick because she is such a control freak and will not LET IT GO!! Let Mother decide what she wants to do. It is Mother's money, not ANITA'S and not AMY's.”

On or about 11/21/2010, after Anita had taken control of Mother's finances under the power of attorney, Amy apparently received a “gift”, allegedly from Mother, of \$13,000, and Anita's son Luke apparently received an unknown sum of money for a truck, also allegedly from Mother.

Much later, in March of 2011, I received a phone call from Carole regarding a meeting with Candace at Vacek and Freed. Carole had been asked by Anita to take Mother to sign some papers. During the meeting apparently Candace asked Mother if she REALLY understood what she was being asked to sign. She asked her if she REALLY wanted to disinherit her granddaughter Marta (Carl's daughter) and Mother said emphatically – NO.

On March 8, 2011, Anita emailed (P-9) Amy, Carol and I and wrote

“I spoke w/mom about the whole situation; she listens to reason and can understand our concerns for Carl, and will sign the changes to the trust next week. I have been very forthright in explaining the changes in the trust to her, and that they would be done in order to minimize any pathway that Drina might have to Carl's money. The changes are not to penalize Carl, but to ensure the money goes for his care. I told her to ‘just say No’ to Carl or Drina if they brought up the trust or money and to refer them to me. I reminded her that she isn't trustee anymore and doesn't have access to the trust accounts – she seems fine w/everything, and expressed no desire to put Carl

back on as a trustee. I told her that in the event she did that, that it would not be fair to the rest of us, as we would end up having to deal w/Drina, not Carl. Mom begrudgingly admits to knowledge of the unpleasantness of this whole situation and Drina's past behavior since Carl has been ill, but I think she is really naïve regarding the lengths to which Drina may go through to get Carl's inheritance."

It is difficult from this remote location and from listening to all of the "rumors" to really place validity on any particular claim. But this communication is **very** telling and gives great weight to Carole's concerns about Anita bullying Mother.

On January 8, 2011 I received an email (P-10) from Amy asking for my husband's phone number. She wanted to ask him a question about private investigators. I supplied the number.

In March of 2011 the character assassination of Drina and the rest of us resumed with a vengeance. I am so ashamed that I was a party to any of it, if only to listen to their lies and misplaced judgment. They were so aggressive with their assertions that at times I was convinced that what they were saying was true. They alleged having taped, in-person, conversations between Mother and others, taped telephone conversations between Mother and others, and video of the behavior and actions of others in Mother's house. I was told a private investigator had been hired to follow Drina around. Apparently, a GPS unit was affixed to her vehicle. They would not share this alleged "evidence" in its physical form, they only told me what was said and done. After telling me that my own character was assassinated by Carl in one of the videos, I almost lost my faith and hope that Carl would get his life back and that our brother/sister relationship could someday be renewed. What they were telling me was totally unbelievable and left me feeling devastated and in shock.

At this point Mother's health began to decline rather rapidly. I spoke to her at least once a week on the telephone. Several times neither she nor her caregiver answered the phone when I called. I would then call Carole, Amy, Anita, and the caregivers until I reached someone, only to find out that Mother was in the hospital, AGAIN. I had to drag the phone number to Mother's room out of someone each time, usually getting it from Tino or Robert (my Mother's caregivers), rather than one of my sisters. This happened for the last time on November 8, 2011,(P-11) just three days before Mother passed away. I had been urging them to get her home before it was too late. It now appears that both Carl and I were being purposely prevented from seeing or talking to our Mother in the last days of her life. WHY? On November 11, 2011 Carole called Carl, apparently much to the dismay of Anita, and told him to get to the hospital right away. He arrived just in time to say goodbye to Mother, who he loved very much. I was on my way to Houston, having not been told of the seriousness of her condition until that day, and not having had any opportunity to know where she was or to even have contact with her until it was too late. She died when I was on my way to the airport. Had they been forthcoming and honest with me I would have been there.

Also around March of 2011, Anita called and said she had “found” some Exxon Mobil stock that was not in the trust. She said Attorney Candace was going to figure out what had to be done to get one half in Dad’s side and the other half in Mother’s side. Anita said she planned to give us each “gifts” from Mother’s share. I did not know the total value of the stock, but I did receive 160 shares on June 15, 2011 (p-12). Apparently Carole also received a “gift”, but I do not know how much it was, or what happened to the remainder of the stock. I do know that Carl did not receive any stock, and knew nothing about the “finding” of it until I told him last month.

I recently received copies of two asset schedules from Carl, one dated 2005 (P-13) and one dated 1/27/10. (P-14, 7 pgs.) In 2005 there were 3,522.42 shares of Exxon-Mobil listed. In 2010 there was no Exxon-Mobil listed.

Later, Anita supplied us all, via email, (P-15, 2 pgs.) with a “preliminary tally” of assets as of 1/20/12, with 1,259 shares of Exxon-Mobil listed. I wonder what happened to 2,264 shares between then and now?

I saw Carl and Drina for the first time since our Father’s death, at our Mother’s funeral. I did not know what to expect. Carl was talking to someone when Drina and I saw each other. In the blink of an eye we were hugging each other and crying. The deep wounds created by what had transpired over the last 16 months immediately began to heal. The bond between Carl, Drina and I was rekindled over the next few days. The difficulty for all of us was coming to grips with the notion that, apparently, behind our backs, Anita had made a concentrated effort to take control of the entire trust, and our individual inheritances, in such a manner that if Carl and I complain about it, she gets to keep it, all the while asserting to others that our Mother made this decision ON HER OWN. I know she did not, because she said so to me on the phone. She took my concern to heart and subsequently sent me a handwritten note saying, again, that it was not true.(P-16, 2 pgs.)

I returned home to California a few days after the funeral. The unexpected time off had disrupted my workflow and I spent the following weeks catching up on things, putting my concerns about the trust and my inheritance aside. I was so happy that Carl was quickly returning to good health and that we were in touch again. All of a sudden the holidays were upon us. I started to miss Mother, a lot. I wondered what was happening with the trust, the house, the life insurance, the farm, the settlement process and so on. I had heard nothing whatsoever for over a month.

I could not sit by and wonder, so I wrote a “Formal Demand for Full and Complete Disclosure and Accounting” letter, dated December 19, 2011, (P-17, 2 pgs) and sent it certified mail to both Amy and Anita, with copies to Carole, Carl, and Candace Freed. Anita signed for hers on December 31, 2011, and Amy signed for hers on January 5, 2012.

The first “trust update” I received was an email from Anita (P-18) on December 20, 2011, prior to her receipt of my demand letter. She advised that the life insurance

paperwork was being processed. She also said the beneficiaries are entitled to a copy of the trust which we would receive shortly.

On or about December 21, 2011 I received an envelope from Anita containing a copy of the Restatement of The Brunsting Family Living Trust, dated January 12, 2005, and a copy of the Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement, dated August 25, 2010.

December 28, 2011, Anita emailed me, (P-19) with a cc to Amy, re mom's house, wherein she stated that a realtor had been contacted and they hoped to

“...get it on the market next week”... “After we get the house sold, we'll figure out the farm and the remaining liquid assets. Just double-checking, you still want to hold onto your portion of the farm right? If so, are you interested in “trading” some of the liquid assets (like your portion of the remaining stock/mutual funds or cash from the sale of the house) for more farmland? I'm just trying to get an idea of what everyone wants.”... “We're still working w/ the lawyer to get a final tally of the worth of all the assets, when that's complete, you will get a spreadsheet that lists them.”

I am not really sure how I was expected to make a major decision like this without knowing exactly what my assets are.

Being virtually in the dark about everything, I began to have a renewed sense of grave concern about the safety of the trust assets and was compelled to send a “Statutory Demand for Full and Complete Disclosure and Accounting” letter, dated January 3, 2012, (P-20, 4 pgs.) sent certified mail to Anita, with copies going to Amy, Carole, Carl and Mom's trust attorney Candace Freed. Anita's letter was signed for on January 9, 2012. Within that letter I asked her to

“Please confirm to me in writing, within ten (10) days of your receipt of this demand, that you intend to furnish all of the information requested in this demand on or before the dates specified.” “...inform me of the identities and contact information for the Trust Protector and the Special Co-Trustee, in writing, immediately, upon receipt of this demand.”

The deadline for confirmation was January 19, 2012. To date I have not received a confirmation.

January 22, 2012, Anita emailed me, with cc's to Attorney Candace and Amy, writing “Attached please find the appointment of successor trustees dated 12/21/10 and Mother's will.”

It seems to me I should have received some type of notice, as well as a copy of the appointment document more than a year previous. I was already angered by her blatant disregard of her legal obligations to the beneficiaries thus far and was compelled once

again to write and demand that she carry out the legal obligations of her position as trustee. On January 23, 2012, via email, (P-21, 2 pgs.) I explained that,

“You received a written demand for disclosure of the identity of the trust protector or the special co-trustee(s) if any. Your lack of disclosure of this basic information, or any expression of good faith, leaves me with concerns that there is something you fear or want to conceal...”

On January 25, 2012 Anita replied, via email, (P-21, supra) with cc’s to Attorney Candace and Amy, stating

“Provisions for the Trust Protector and Special Co-Trustee can be found in the Qualified Beneficiary Designation on pages 15 and 28 respectively.”

Directly following this email was a second email from Anita to Carl, Amy, Carole and myself, cc to Attorney Candace, regarding the life insurance money having been received on 1/17/12, eight days prior.

On or about January 23, 2012 I received a certified mail envelope with a cover letter that stated, “Per your request, enclosed please find the trust document regarding the life insurance policy mom and Dad had, as well as their death certificates.”

It should be noted that I had requested a copy of this particular document back in March of 2010, almost two years earlier, when I was asked by Anita, the trustee, to sign blank, undated Notification of Demand Right forms.

On January 24, 2012 Anita sent an email (P-22) to Carl, Carol and myself, cc to Attorney Candace, writing

“Attached please find a preliminary tally of trust assets and expenses (with a list of future liabilities). We are still working with Candace to complete the formal list.”

As stated earlier in this affidavit, there appears to be a discrepancy in the amount of some ExxonMobil stock that was “found” not to be in the trust. It had been accounted for in 2005, was not included in an accounting from 2010, and was listed on the “tally” attached (P-15, supra). In 2005 there were 3,522.42 shares listed. The “tally” listed 1,258.91. It seems the beneficiaries have a right to know what happened to the difference. It will be difficult to determine without any accounting records.

I have received no other response to my recent demands for information, no notice, no other copies of trust documents and no expression of good faith.

The law is clear. Trustees have obligations and beneficiaries have rights. I can think of no legitimate purpose for the trustees’ breach of their duty to disclose. To date I am in possession of the following documents, some of which were obtained from another

beneficiary and not from the trustees, who still refuse to fully answer, and the bulk of which were obtained from Anita in October 2010.

Ordered by Document Date

AKB denotes documents received via email from Anita on 10/23/10

CHB denotes documents received from Carl in January 2012

All other documents were received from Anita pursuant to my demand letters, and received on the date noted

AKB Quit Claim Deed, State of Iowa, signed by EHB and NEB 10/29/96 and recorded in Sioux County Iowa 11/18/96 (P-23, 7 pgs.), which contained 3 asset schedules, A, B, C, all blank

The Brunsting Family Irrevocable Trust dated February 12, 1997 (life insurance trust) received from Anita on or about 1/26/2011, Anita Kay Riley trustee. (P-24, 53 pgs.)

AKB Affidavit of Trust made 1/12/2005 (only first page) (P-25)

AKB Certificate of Trust dated 1/12/05, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees. (P-26, 2 pgs.)

AKB Certificate of Trust dated 1/12/05, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees UNSIGNED WITH AMY RUTH TSCHIRHART CROSSED OUT (P-27, 2 pgs.)

AKB Affidavit of Trust made 1/12/05, with selected provisions attached, Article IV Our Trustees, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees with Amy Ruth Tschirhart crossed out. (I do not know when it was crossed out – before or after it was signed) (P-28, 32 pgs.)

AKB The Restatement of The Brunsting Family Living Trust, dated 1/12/05, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees with Amy Ruth Tschirhart crossed out. (I do not know when it was crossed out – before or after it was signed) (P-29 102 pgs.)

The Restatement of The Brunsting Family Living Trust, dated 1/12/05, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees with Amy Ruth Tschirhart crossed out. (I do not know when it was crossed out – before or after it was signed), received from Anita Kay Brunsting on or about 12/21/11 (duplication of P-29, printed front and back – copy omitted)

AKB Transfer To Grantor Trust Subject To Withdrawal Contribution Agreement, UNSIGNED, dated 01/12/05 (P-30, 2 pgs.)

AKB Last Will of Elmer H. Brunsting (Pour-Over Will), UNSIGNED, WITH ARTICLE III (Appointment of Personal Representative) redacted, dated 01/12/2005 (P-31, 14 pgs.)

AKB Last Will of Nelva E. Brunsting (Pour-Over Will), UNSIGNED, Elmer H. Brunsting personal representative, Carl Henry Brunsting first alternate, Amy Ruth Brunsting second alternate, Candace Louise Curtis third alternate, dated 01/12/05 (P-32, 11 pgs.)

AKB Living Will also known as the "Physician's Directive" signed by NEB, dated 01/12/05 (P-33, 5 pgs.)

Last Will of Nelva E. Brunsting, signed 01/12/05, EHB personal representative, Carl Henry Brunsting first successor, Amy Ruth Tschirhart second successor, Candace Louise Curtis third successor, received 1/22/12 via email from Anita (P-34, 11 pgs.)

CHB First Amendment to the Restatement to the Brunsting Family Living Trust dated October 10, 1996 as restated on January 12, 2005, Article IV, Section B amended and attached as Exhibit "A", dated 09/06/07, Carl Henry Brunsting and Candace Louise Curtis successor co-trustees. ***CHB and CLC "shall each have the authority to appoint his or her own successor Trustee by appointment in writing."***, THE FROST NATIONAL BANK alternate (P-35, 2 pgs.)

AKB General Durable Power of Attorney of Nelva E. Brunsting, marked copy, unsigned, and only dated 2010, Anita Kay Brunsting initial agent, Carol Ann Brunsting first successor, Amy Ruth Tschirhart second successor (P-36, 27 pgs.)

CHB Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement, executed 6/15/10, in connection with advances against our inheritances AFTER JUNE 1, 2010 (P-37, 3 pgs.)

AKB Information Concerning The Medical Power of Attorney signed by NEB, dated 08/25/10 (P-38, 5 pgs.)

AKB Medical Power of Attorney Designation of Health Care Agent signed by NEB, dated 08/25/10, Carol A. Brunsting appointed, Anita Kay Brunsting first alternate, Amy Ruth Tschirhart second alternate (P-39, 5 pgs.)

AKB Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement, signed by Nelva E. Brunsting as Trustee, and Founder and Beneficiary on August 25, 2010. (P-40, 37 pgs.)

Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement, signed by Nelva E. Brunsting as Trustee, and Founder and Beneficiary on August 25, 2010, received from Anita Kay Brunsting on or about 12/21/11 (duplication of P-40, printed front and back – copy omitted)

AKB Appointment of Successor Trustees, signed by Nelva E. Brunsting as Founder and Original Trustee, dated 08/25/10, Anita Kay Brunsting and Amy Ruth Tschirhart successor co-trustees, FROST NATIONAL BANK alternate. (P-41, 5 pgs.)

Hand written note from Nelva Brunsting to Candy Brunsting, dated Sunday, referencing trick or treaters' that evening, postmark illegible except for 2010. (P-16, supra)

Appointment of Successor Trustees, marked law firm copy, signed 12/21/10, if NEB resigns as Trustee, Anita Kay Brunsting first successor, Amy Ruth Brunsting second successor, THE FROST NATIONAL BANK third successor; if NEB fails or ceases to serve, Anita Kay Brunsting and Amy Ruth Tschirhart successor co-trustees, THE FROST NATIONAL BANK successor trustee, emailed to me by Anita on 01/22/12 (P-42, 6 pgs.)

CHB Appointment of Successor Trustees, marked law firm copy, signed 12/21/10, if NEB resigns as Trustee, Anita Kay Brunsting first successor, Amy Ruth Brunsting second successor, THE FROST NATIONAL BANK third successor; if NEB fails or ceases to serve, Anita Kay Brunsting and Amy Ruth Tschirhart successor co-trustees, THE FROST NATIONAL BANK successor trustee (duplicate of P-42, copy omitted)

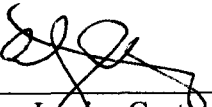
CHB Resignation of Original Trustee, Nelva E. Brunsting, signed 12/21/10, appointing Anita Kay Brunsting as trustee of BFLT dated October 10, 1996, as amended, as well as the subtrusts known as the NEB Survivor's Trust and the EHB Decedent's Trust. (P-43)

CHB Acceptance by Successor Trustee, Anita Kay Brunsting, signed 12/21/10 (P-44)

Certified Death Certificate EHB issued 3/10/2011 received from Anita on or about 1/26/2011, State file number 142-09-043-770

Certified Death Certificate NEB issued 11/18/2011 received from Anita on or about 1/26/2011, State file number 142-11-142-463

I, Candace Louise Curtis, declare under penalty of perjury pursuant to the laws of the United States, that the above declaration of facts is true and correct and based upon personal knowledge, except for those things averred upon information and belief, and as to those things, I believe them to be true as well.

 2/20/2012

Candace Louise Curtis, Plaintiff

ACKNOWLEDGMENT

THE STATE OF CALIFORNIA §
 §
COUNTY OF §

This instrument was acknowledged before me on this _____ day of February 2012, by Candace Louise Curtis.

Kenny C. Lim, Notary Public

Notary Public – State of California

See Attached California Jurat

CALIFORNIA JURAT WITH AFFIANT STATEMENT

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-5 to be completed only by document signer[s], *not* Notary)

 Signature of Document Signer No. 1

 Signature of Document Signer No. 2 (if any)

State of California

County of NAPA

Subscribed and sworn to (or affirmed) before me on this

20th day of FEB, 2012; by
Date Month Year

(1) CANDACE LOUISE CURTIS
Name of Signer

proved to me on the basis of satisfactory evidence to be the person who appeared before me (.) (,)

~~(and~~

~~(2)~~ _____
Name of Signer

proved to me on the basis of satisfactory evidence to be the person who appeared before me.)

Signature _____
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

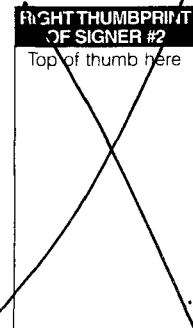
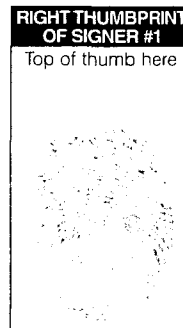
Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Further Description of Any Attached Document

Title or Type of Document: AFFIDAVIT OF CANDACE L. CURTIS

Document Date: 2/20/12 Number of Pages: (13)

Signer(s) Other Than Named Above: NONE



CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Candace Louise Curtis

(b) County of Residence of First Listed Plaintiff Contra Costa (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Pro se

DEFENDANTS

Anita Brunsting & Amy Brunsting

County of Residence of First Listed Defendant Victoria (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from another district (specify), 6 Multidistrict Litigation, 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity): 28 USC 1332 (a) (1) - 28 USC 1332 (b) - 28 USC 1332 (c) (2)

Brief description of cause: Breach of fiduciary, extrinsic fraud, failure to disclose, failure to notice

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23, DEMAND \$ 600,000.00, CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE

02/21/2012

SIGNATURE OF ATTORNEY OF RECORD

[Handwritten signature]

Plaintiff Pro Se

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

From: Nelva Brunsting <elmernelva@sbcglobal.net>

Date: 7/28/2007 7:16 AM

To: Candy Curtis <occurtis@sbcglobal.net>

Hi: I have a question for you Candy. Would you be willing to serve as co-trustee with Carl? Amy is on there now but I'm going to take her off because I don't think she is stable enough. I'll think of a good excuse so she won't get her feelings hurt. It might entail a trip or two when the time comes(doesn't that sound ominous???) but you would b paid for your traveling expenses. I think you have a better relationship with your siblings than she. Let me know.

From: Nelva Brunsting <elmernelva@sbcglobal.net>

Date: 3/1/2008 3:06 PM

To: Candy Curtis <occurtis@sbcglobal.net>

Hope you are having as lovely weather as we are. It got up to 77 today as is did yesterday. The carolina jasmine and azaleas are in full bloom as are my petunias and snapdragons. Sometimes I think flowers do better when you neglect them. I'm doing a little better every day. Have dismissed the caregivers and are on our own. Seems like I told you this already. It's slow going but we're making it. Are going to try and go to S.S. tomorrow morning for the first time since early January. If I don't take a benadryl before I go to sleep I'm not as groggy all morning. Some nights are kind of up and down. Say Candy, do you mind if I make Anita as the alternate trustee.? I was trying to spread the jobs around evenly but I now realize Anita has a handle on everything from the insurance policy and the trust better than anybody. Besides the trustee book is so big and heavy it probably would cost a bundle to get it to you. I don't know how much there is to being a trustee but I suspect there will be several times you would have to be here and that might be difficult for you. Since Carole, Carl and Anita seem to be handling most of the stuff anyway and they're not far away I think it would be best if I do that. Anita has already talked to our broker about the policy, etc and she seems to have a handle on it. Hope you won't feel hurt. It's just that it seems the best way to handle things. Hope everone is well there. Did you hear of the flu in your area. This kind the flu shots didn't help. Hope I never get pneumonia again. Take care. Love you. MMother

From: Anita Brunsting (akbrunsting@suddenlink.net)
To: occurtis@sbcglobal.net;
Date: Tue, March 2, 2010 7:50:26 PM
Cc:
Subject: RE: trust waiver docs

For now could you please send me a signed waiver dated 3/19/09, for last years files? With dad's death I didn't get all the paperwork done. I think you sent mom some signed copies last year, but they have gotten lost w/ all of the paperwork she had to complete last year.

From: Candace Curtis [mailto:occurtis@sbcglobal.net]
Sent: Tuesday, March 02, 2010 11:15 AM
To: Anita Brunsting
Subject: Re: trust waiver docs

Hi Anita,

Please send me a copy of the trust document and a current statement of the account. I'm sorry to be such a pain, but I'd like to know what I'm waiving before I sign a blank form.

Thanks.

--- On **Mon, 3/1/10, Anita Brunsting** <akbrunsting@suddenlink.net> wrote:

From: Anita Brunsting <akbrunsting@suddenlink.net>
Subject: trust waiver docs
To: "Candace Curtis" <occurtis@sbcglobal.net>, "Amy Tschirhart" <at.home3@yahoo.com>
Date: Monday, March 1, 2010, 8:18 PM

Hi,

I need some more copies of your signed "Notification of Demand Right". Could you print out about 5 copies, sign the bottom (leave date blank) and mail them back to me? I would have you scan them and send me an electronic version, but I'm not sure what the trust requires, so I'd rather err on the safe side. If you could get them to me in the next couple of weeks, I'd appreciate it.

Thanks, Anita

203 Bloomingdale Circle
Victoria, TX 77904

NOTIFICATION OF DEMAND RIGHT

This notice is to inform you that on _____ a gift was made to the BRUNSTING FAMILY IRREVOCABLE TRUST, dated February 12, 1997, under which you are a beneficiary. As a beneficiary, you have the right to withdraw your share of this gift within thirty (30) days after the date of this Notification of Demand Right. In no event can the total amount withdrawable by you in this calendar year exceed the annual limit on withdrawals as provided in the trust.

Your withdrawal right is noncumulative and, to the extent you do not exercise it, will lapse thirty (30) days after the date of this Notification of Demand Right.

If you need any additional information to assist you in making a decision regarding the exercise of your withdrawal rights, or if you wish to exercise your withdrawal rights, you must contact the Trustee in writing.

Dated: _____

ANITA KAY BRUNSTING, Trustee

WAIVER OF WITHDRAWAL

I acknowledge receipt of this Notification of Demand Right. I waive my right to demand my share of this gift from the trust. I do not waive my right to subsequent gifts made to the trust.

Dated: _____

CANDACE LOUISE CURTIS

From: Candace Curtis (occurtis@sbcglobal.net)
To: occurtis@sbcglobal.net;
Date: Sat, February 18, 2012 10:46:12 AM
Cc:
Subject: [No Subject]

----- Forwarded Message -----

From: Carole Brunsting <cbrunsting@sbcglobal.net>
To: Candace Curtis <occurtis@sbcglobal.net>
Sent: Thu, October 7, 2010 12:35:47 PM
Subject: Re: Carl

Are you okay with Anita taking over as Power of Attorney for Mother? The paper work is being drawn up today.

|||

From: Carole Brunsting (cbrunsting@sbcglobal.net)
To: Summer@vacek.com;
Date: Wed, October 13, 2010 8:47:15 AM
Cc: occurtis@sbcglobal.net; at.home3@yahoo.com; akbrunsting@suddenlink.net; candace@vacek.com;
Subject: RE: Brunsting Trust

Summer,

Thank you for your response. Now I understand the nature of the meeting, could you please clarify what you mean by "have no say". I assumed the "say" belonged to our Mother. If I am not understanding that correctly please let me know.

Thanks again,
Carole

--- On Wed, 10/13/10, Summer Peoples <Summer@vacek.com> wrote:

From: Summer Peoples <Summer@vacek.com>
Subject: RE: Brunsting Trust
To: "Carole Brunsting" <cbrunsting@sbcglobal.net>
Cc: occurtis@sbcglobal.net, at.home3@yahoo.com, "Anita Brunsting" <akbrunsting@suddenlink.net>, "Candace Freed" <candace@vacek.com>
Date: Wednesday, October 13, 2010, 10:09 AM

Ms. Brunsting:

To answer your questions --

This teleconference meeting is to discuss changes to your mother's trust. If you are unable to attend, it simply means that you will have no say in what changes will be made. It will not be a problem if you cannot attend. However, Mrs. Freed wants to extend the invitation to all Mrs. Brunsting's children.

Thanks,

Summer Peoples, CP

Certified Paralegal

Vacek & Freed, PLLC

14800 St. Mary's Lane, Suite 230

Houston, Texas 77079

Telephone: 281.531.5800

P-6

20-20566.50

2/18/2012 10:57 AM

Toll Free: 1.800.229.3002

Facsimile: 281.531.5885

E-mail: summer@vacek.com

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From: Carole Brunsting [mailto:cbrunsting@sbcglobal.net]
Sent: 10/13/2010 9:06 AM
To: Summer Peoples
Subject: Re: Brunsting Trust

Summer,

What is this meeting in reference to? From looking at the time choices available, I may not be able to make the meeting and would like to know if that will be a problem.

Thanks

Carole Brunsting

--- On Wed, 10/13/10, Summer Peoples <Summer@vacek.com> wrote:

From: Summer Peoples <Summer@vacek.com>
Subject: Brunsting Trust
To: occurtis@sbcglobal.net, "Anita Brunsting" <akbrunsting@suddenlink.net>, cbrunsting@sbcglobal.net, at.home3@yahoo.com
Cc: "Candace Freed" <candace@vacek.com>
Date: Wednesday, October 13, 2010, 8:42 AM

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):

20-20566.51

2/18/2012 10:57 AM

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.

Thanks,

Summer Peoples, CP

Certified Paralegal

Vacek & Freed, PLLC

14800 St. Mary's Lane, Suite 230

Houston, Texas 77079

Telephone: 281.531.5800

Toll Free: 1.800.229.3002

Facsimile: 281.531.5885

E-mail: summer@vacek.com

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20-20566.52

2/18/2012 10:57 AM

error, please notify us immediately by reply e-mail or by telephone (1-800-229-3002) and destroy the original transmission and its attachments without reading or saving them to disk or otherwise.**

From: Anita Brunsting (akbrunsting@suddenlink.net)
To: at.home3@yahoo.com; occurtis@sbcglobal.net; cbrunsting@sbcglobal.net;
Date: Sat, October 23, 2010 10:46:35 AM
Cc:
Subject: trust docs

There are 12 docs in all - I'm sending them a few at a time.

From: Anita Brunsting (akbrunsting@suddenlink.net)
To: at.home3@yahoo.com; cbrunsting@sbcglobal.net; occurtis@sbcglobal.net;
Date: Sat, October 23, 2010 10:47:40 AM
Cc:
Subject: [No Subject]

This should make it 9 docs

From: Anita Brunsting (akbrunsting@suddenlink.net)
To: at.home3@yahoo.com; cbrunsting@sbcglobal.net; occurtis@sbcglobal.net;
Date: Sat, October 23, 2010 10:47:40 AM
Cc:
Subject: [No Subject]

Next 3

From: Anita Brunsting (akbrunsting@suddenlink.net)
To: at.home3@yahoo.com; cbrunsting@sbcglobal.net; occurtis@sbcglobal.net;
Date: Sat, October 23, 2010 10:48:16 AM
Cc:
Subject: [No Subject]

This is the last 3

From: Anita Brunsting (akbrunsting@suddenlink.net)
To: occurtis@sbcglobal.net;
Date: Sun, October 24, 2010 12:56:07 PM
Cc:
Subject: RE:

You're welcome, it wasn't that big a deal. Hope Kevan is ok. Love, Anita

From: Candace Curtis [mailto:occurtis@sbcglobal.net]
Sent: Sunday, October 24, 2010 1:19 PM
To: Anita Brunsting
Subject: Re:

Thank you Anita. I know it was a lot of work.

From: Anita Brunsting <akbrunsting@suddenlink.net>
To: at.home3@yahoo.com; cbrunsting@sbcglobal.net; Candy <occurtis@sbcglobal.net>
Sent: Sat, October 23, 2010 10:48:16 AM
Subject:

This is the last 3

From: Carole Brunsting (cbrunsting@sbcglobal.net)
To: occurtis@sbcglobal.net;
Date: Tue, October 26, 2010 10:12:27 AM
Cc:
Subject: Re:

Oh Candy thank you!!! I feel that I have been fighting this battle with Anita and now Amy alone. Anita is going to be the one responsible for keeping Mother sick because she is such a control freak and will not LET IT GO!! Let Mother decide what she wants to do. It is Mother's money, not ANITA's and not AMY's.

--- On Tue, 10/26/10, Candace Curtis <occurtis@sbcglobal.net> wrote:

From: Candace Curtis <occurtis@sbcglobal.net>
Subject: Re:
To: "Carole Brunsting" <cbrunsting@sbcglobal.net>
Date: Tuesday, October 26, 2010, 12:05 PM

I just called Mother. She DID NOT know the full implications of what she signed. I told her Anita had been manipulating her since Daddy passed away. She said she should have been included on the call. She said that she would not have given Anita the authority to manage MY MONEY. I told her that Amy and Anita are conspiring with Candace to have her declared incompetent so they can take CONTROL.

I don't really know what will happen now. I think that the August document should be declared null and void.

After talking to her for at least 30 minutes I realized that she is NOT incompetent. It's her memory that is failing, not her ability to manager her affairs. This happens when people get old. She might not remember to pay a bill, but she knows that bills must be paid. She doesn't remember that I know Carl had encephalitis, but she knows Carl had encephalitis. She has the ability to UNDERSTAND something when it's explained to her, although she might not remember what it is that she understood at the time.

Please change the password on Mother's bank account. Please also tell Mother that Anita checks her bank account to see what she is doing and that she also reads her private emails.

Mother did say that Anita drives her crazy.

Love you,

C

From: Carole Brunsting <cbrunsting@sbcglobal.net>
To: Candace Curtis <occurtis@sbcglobal.net>
Sent: Tue, October 26, 2010 9:34:02 AM
Subject: Re:

I am glad you wrote because I could not sleep last night either and it is difficult to keep my mind on my work. I went over and over all the events of what has happened since Daddy passed away and Anita has been scheming and manipulating with Mother and even tried to get Carl involved. Candace has not been looking out for Mother's best interest. Candace has been allowing Anita to be the one to strong arm Mother into signing papers when I do not believe she understood what she was signing, she only wanted to shut Anita up.

All Anita was suppose to do or find out was placing Carl's money in medical trust for MOTHER to manage and now all of a sudden Amy is co-trustee and your money is in trust and I wonder about mine as well.

I am working on a time line of how and when all this happened and will show that they pressured Mother to make changes when she A) was accepting the fact that Carl was gravely ill B) she found out she had cancer C) she got pneumonia and was in the hospital D) had Drina breathing down her back because ANITA was to chicken to call Drina back E) had to decide on her own about giving Drina money because ANITA and AMY were to busy to be bothered to call me or Mother back and it is what Mother wanted to do but she knew Anita was going to chastise her for giving her money that was her own to give away as she saw fit. F) also during that time Mother had 2 PET scans, a CT scan and a bron scope for which she was sedated.

Now I understand why Mother kept putting off signing the changes to the Trust. I thought the papers were written only to put Carl's money in trust. I did not know that Amy was replacing Carl and your money was going into trust. I never saw the documents as Candace had them at her office, but Mother kept delaying going over there with various excuses. She was afraid to tell Anita she did not want to make all the changes, but Anita talked her into it.

The closer Anita comes to taking control the comments to me have been: A) it is a good thing I am trustee now and not Carl because you can make more changes to the trust than you realize and Carl would have been making all the decision and had final say over distribution B) she was going to find a way to fold Carl's money back into the trust if Carl died before Drina C) she was taking over all investment when ANITA is the one that moved the money over to this Edwards office that Mother works with and attended all the meetings D) Anita wanted to find out if she could sell the farm as one unit because she said she could get more per acre rather than us each sell our parcels when we wanted too. E) Now I find out that ANITA contacted Carl about a year ago about putting both our money in trust that she and Carl would control and Carl said no.

Candy I am so deeply hurt by all of this and disgusted at the same time. I am so angry with Candace because she allowed all this to happen and it impacts Mother. Amy will just go along with Anita now that her name is on the trust. But if she only knew that ANITA called CPS and they went out and spoke with Amy's neighbors about her kids and spied on her house for a report back to Anita and the report was they did not find any reason to take Jack and Ann. Anita wanted Carl and Drina to adopt them.

I think at this point I need to find an attorney to speak with. Now that Anita sent out the trust documents even though she should not have, Drina will hire a lawyer and this will never see the of day. And she will have Carl's full support.

--- On Tue, 10/26/10, Candace Curtis <occurtis@sbcglobal.net> wrote:

From: Candace Curtis <occurtis@sbcglobal.net>
Subject: Re:
To: "Carole Brunsting" <cbrunsting@sbcglobal.net>
Date: Tuesday, October 26, 2010, 11:07 AM

Carole,

I promised myself when I hung up from the call that I was through with all of this. I broke my promise all night last night and didn't get a wink of sleep. I cannot let it go. Anita has been manipulating Mother since Daddy passed away. Rather than say "Candy, you are NO LONGER entitled to know anything about any of it" she has been lying and saying she had no idea what was going on. The fact that she has been talking to Candace and pushing for Mother to resign as trustee is truly sick. Now that she and Amy are dead set on having Mother declared incompetent I DON'T WANT THEM TO HAVE CONTROL OF MY SHARE OF THE TRUST. But they do, thanks to Candace, who does not know me from Adam. I don't think Mother realized what she was signing in August. She is not a stupid woman and would certainly understand the intent of the document if anyone explained it to her. THEY DID NOT. If they did explain it to her until she understood, I think she would have had second thoughts.

How dare Candace tell you that if you don't participate in the call you will not have any say in it. YOU DON'T HAVE ANY SAY IN IT ANYWAY. At least Mother and Anita think you're smart enough to be your own trustee.

When Amy and Anita were griping about Edward Jones and I suggested that they write a letter for Mother to sign, Amy ONLY thought that was a good idea. Anita said nothing. SHE WANTS TO GET HER HANDS ON THE MONEY SO SHE CAN DO A BETTER JOB OF INVESTING.

Bottom line. I'm truly scared about my future security and the fact that I have no control whatsoever over my destiny. If that's what Mother intended I would really have liked to hear it from her. I would also like to know what I did that made her feel it was necessary to take such drastic measures without consulting me.

I cannot sleep, I cannot keep my mind on my work, and I cannot get these thoughts out of my head.

From: Carole Brunsting <cbrunsting@sbcglobal.net>
To: Candace Curtis <occurtis@sbcglobal.net>
Sent: Mon, October 25, 2010 9:17:05 PM
Subject: Re:

Based on the comments that Anita has been making to me for the past 4 months, I am concerned too, that she wants to see how much control she has.

--- On Mon, 10/25/10, Candace Curtis <occurtis@sbcglobal.net> wrote:

From: Candace Curtis <occurtis@sbcglobal.net>
Subject:
To: "Carole Brunsting" <cbrunsting@sbcglobal.net>
Date: Monday, October 25, 2010, 6:01 PM

Now the truth comes out. None of us is entitled to copies of the trust documents, since Mother is the only beneficiary. Amy and Anita are trying to take over and will probably do anything and everything they can to cut the rest of us out. I was already depressed today. I'm over the edge now.

From: Candace Curtis (occurtis@sbcglobal.net)
To: occurtis@sbcglobal.net;
Date: Sat, February 18, 2012 11:29:12 AM
Cc:
Subject: Fw: New Development

----- Forwarded Message -----

From: Anita Brunsting <akbrunsting@suddenlink.net>
To: Candace Curtis <occurtis@sbcglobal.net>; Amy <at.home3@yahoo.com>; Carole Brunsting <cbrunsting@sbcglobal.net>
Sent: Tue, March 8, 2011 7:15:32 PM
Subject: RE: New Development

I got the same TM from Tino. I hesitate to promise them anything in writing about money. Rather than a monthly payment, I would rather grant them a certain amount each year, but only through the direct payment of their bills - for example; mom could gift Carl \$13,000/year, but only if they send me the bill statements to pay directly, and only for bills for living/medical expenses - when the trust has paid \$13,000 in bills for the year, that's the end of the money for that year. We could ask them to sign for this money against his inheritance, but then we'd have another form that we'd have to get them to sign (probably notarized), and as we don't know if she's had Carl declared incompetent, the validity of any form he signs might be questionable.

I do like the idea of a letter telling Drina that she may have no contact w/ mom (physical, verbal, visual, phone or electronic means) and she is not to enter mom's house. She can bring Carl to visit mom, but she must remain outside the house - any violation of this letter will be considered harassment and the police will be called if she does not comply. I would also like to add in the letter that Carl's inheritance will be put into a Personal Asset Trust for his care and living expenses - I think this information might be enough to tip her hand.

I would also like to ask Candace, what this letter would do for us legally - like if we did end up calling the police would the letter lend any credence to our case?

I won't do anything until we can come upon an agreement as what to do - I can also write this letter in the role of mom's power of attorney (which she signed last year).

I spoke w/ mom about the whole situation; she listens to reason and can understand our concerns for Carl, and will sign the changes to the trust next week. I have been very forthright in explaining the changes in the trust to her, and that they would be done in order to minimize any pathway that Drina might have to Carl's money. The changes are not to penalize Carl, but to ensure the money goes for his care. I told her to "just say No" to Carl or Drina if they brought up the trust or money and to refer them to me. I reminded her that she isn't trustee anymore and doesn't have access to the trust accounts - she seems fine w/ everything, and expressed no desire to put Carl back on as a trustee. I told her that in the event she did that, that it would not be fair to the rest of us, as we would end up having to deal w/ Drina, not Carl. Mom begrudgingly admits to knowledge of the unpleasantness of this whole situation and Drina's past behavior since Carl has been ill, but I think she is really naive regarding the lengths to which Drina may go through to get Carl's inheritance.

From: Amy Tschirhart (at.home3@yahoo.com)
To: occurtis@sbcglobal.net;
Date: Sat, January 8, 2011 7:34:10 PM
Cc:
Subject: Phone number

Hi Candy,
Could you send me Owen's phone number? I wanted to ask him a question about private investigators.
Thanks,
Amy

From: Candace Curtis (occurtis@sbcglobal.net)
To: at.home3@yahoo.com; akbrunsting@suddenlink.net; cbrunsting@sbcglobal.net;
Date: Tue, November 8, 2011 11:38:04 AM
Cc:
Subject: Mother

I am sorry for any animosity I have created over the last week. I have only been seeking information about her status. When I am unable to reach her by phone I never know why because I am not in the information loop.

I have been trying to call Mother just to say hello. The phone numbers I have been given are never answered. If she is unable to talk, please let me know and I will stop trying. If one of you, or a caregiver, is with her and she's awake, I would really appreciate a cell phone call so I could say hi to her. If it's not already too late, it may be the last time I speak to her while she still knows who I am.

My fears are based upon information I have gathered speaking to one of you, or Tino, or Robert. It appears that everyone sees the situation in a slightly different light. I have no idea what is best for Mother. All I know is that when I put myself in Mother's shoes I become Dorothy - "THERE'S NO PLACE LIKE HOME"

C



Computershare Trust Company, N.A.
 PO Box 43078
 Providence, RI 02940-3078
 Within USA, US territories & Canada 800 252 1800
 Outside USA, US territories & Canada 781 575 2058
 www.computershare.com/exxonmobil
 Exxon Mobil Corporation is incorporated under the laws of the State of NJ.

001026



CANDACE CURTIS
 1215 ULFINIAN WAY
 MARTINEZ CA 94553

Holder Account Number

C0009516387



SSN/TIN Certified
 Yes

Symbol
 XOM

001CS0003.D.L.MIX_3285/001026/001026/i

Exxon Mobil Corporation - Summary of Account Holdings and Transaction Form

It is important to retain this statement for tax reporting purposes and for use as a reference when you access your account online at our website or when contacting Computershare.

Holder Account Number: C0009516387

ACCOUNT SUMMARY

As of close of stock market on 15 Jun 2011

Stock Class Description	Certificated Shares/ Units Held by You	Direct Registration Book Shares/Units	Investment Plan Book Shares/Units	Total Shares/Units	Closing Price Per Share/Unit (\$)	Market Value (\$)
DSPP - Common Stock	0.000000	0.000000	160.000000	160.000000		

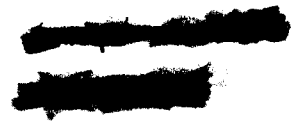
Transaction History

From: 15 Jun 2011

To: 15 Jun 2011

This section pertains only to book-entry shares/units.

Date	Transaction Description	Transaction Amount (\$)	Deduction Description	Deduction Amount (\$)	Net Amount (\$)	Price Per Share/Unit (\$)	Transaction Shares/Units	Total Book Shares/Units
	Plan Transactions DSPP - Common Stock							
	Balance Forward							0.000000
15 Jun 2011	Transfer						160.000000	160.000000



**NET WORTH - ELMER & NELVA BRUNSTING
FEBRUARY 17, 2005**

Chevron-Texaco	1584.17 x 53.65	94288.11	
Deere 2/103	559.77 x 66.70	37,310	
Exxon-Mobil	3522.42 x 58.48	205,991.12	
Franklin Fund	854,01 x 2.17	17,377.55	
Met Life		<u>9,141</u>	
			\$364,107.78
Elmer/Nelva Joint Trust		\$ 465,328	
Nelva/IRA		22,768.18	
Elmer/IRA		42,155.88	
60 Mo. CD		15,762.89	
EE & HH Bonds		48,200	
Bal. checking 3/31/04		<u>21,660.53</u>	
			\$615,785.48
Farm		\$640,000	
House		300,000	
Life Insurance		75,000	
Last-to-die Insurance		<u>250,000</u>	
in Irrevocable Trust Notebook			<u>\$1,265,000</u>
			\$2,244,893.26

Case 4:12-cv-00592 Document 1-1 Filed on 02/27/12 in TXSD Page 24 of 30

ARE TO INDIVIDUAL BENEFICIARIES, NOT TRUSTS!
BRUNSTING FUNDING ALLOCATIONS

OWNER	ASSET CATEGORY	04/01/09 VALUES	NELVA BRUNSTING	SURVIVOR'S TRUST?	DECEDENT'S TRUST	01/27/10 WS-1 TOTALS
REAL PROPERTY						
LT	VHS-Lt 31 Blk 4 Wilchester West Sec 1, 13630 Pinerock Ln., Houston, TX	\$253,272.00		\$253,272.00		\$253,272.00
H-SP (in LT)	Frl. NW1/4 of Section 2, T96N - R45W of the 5th P.M., Except a tract of 542.5 ft by 660 ft which is the acreage site. 140.22 Acres, Iowa (Based on Realtor Opinion)	\$1,294,617.50			\$0.00	\$0.00
STOCK CERTIFICATES						
LT	612 shares of Chevron Corporation Cert # ZQ SFZ 862711	\$41,166.18			\$41,166.18	\$41,166.18
H	95 shares of MetLife stock thru ChaseMellon Shareholder Services	\$2,130.38	\$2,130.38			\$2,130.38
INVESTMENT ACCOUNTS						
LT	Edward Jones Acct #609-07698-1-8	\$350,735.49		\$55,476.28	\$295,259.21	\$350,735.49
CASH ACCOUNTS						
LT	Bank of America Ckg Acct #008519001143	\$12,253.93		\$12,253.93		\$12,253.93
H ROS?	Blue Bonnet Credit Union ? Acct #5805	\$31.75	\$31.75			\$31.75
W ROS?	Blue Bonnet Credit Union ? Acct #13332	\$10.91	\$10.91			\$10.91
MISCELLANEOUS						
LT	Household and Personal Goods (Includes gold Watch \$50 and 10 silver dollars as well as \$10.00 worth of 50cent pieces)	\$5,070.00		\$5,070.00		\$5,070.00
JT	2000 Buick LeSabre, VIN #1G4HR54K3YU229418	\$6,915.00	\$6,915.00			\$6,915.00
H	John Hancock NQ annuity contract # ...8905 payable for life of spouse bene; \$30.40/month	\$2,379.82	\$2,379.82			\$2,379.82
LIFE INSURANCE						
W	MetLife contract #M9232883; Bene: LT; Accidental Death Benefit Amount; Measuring Life = W (Cancelled in June 1999 per client)	\$0.00	\$0.00			\$0.00
H	\$37,000.00, MetLife-Chevron, Policy #GO-416-A-47, W is bene; deposited in checking acct	\$37,000.00	\$37,000.00			\$37,000.00
H	\$9,141.00, MetLife, Policy #21 282 000, W is bene; deposited in checking acct	\$9,792.33	\$9,792.33			\$9,792.33
H	\$6,000.00, Ohio State Life Ins, Policy #49-03223450, W is bene; now at Edward Jones	\$6,542.32	\$6,542.32			\$6,542.32
H	\$9,000.00, Ohio State Life Ins, Policy #00605102, W is bene; moved to Edward Jones	\$9,120.76	\$9,120.76			\$9,120.76
H	\$3,735.00, The Traveler's Ins Co-John Deere, Policy #G-164400, ? is bene	\$0.00				\$0.00
H	\$10,000.00, VA, Policy #V1708 75 02 2, LT is bene; deposited in chkg	\$10,353.18		\$10,353.18		\$10,353.18
FARM & RANCH INTERESTS						
LT	Farm Lease (yr. lease for \$28,200; recd pymt of \$10,575.00 on 2/18/09) for lease commencing 03/01/2009 to February 28, 2010. Value at Right is the entire amount received although actually a debt of the estate (\$1,762.50/month for 6 months); \$8,812.50 in the estate that was not yet due although paid by payee in advance	\$1,762.50	\$1,762.50			\$1,762.50
IRAs/401k, etc.						
W	Edward Jones Acct #609-91956-1-9, H (as of 3/28/09) is bene	\$14,278.70	\$14,278.70			\$14,278.70
H	Edward Jones Acct #609-91955-1-0, W (as of 3/28/09) is bene	\$17,769.29	\$17,769.29			\$17,769.29
PENSIONS						
H	Chevron pension for \$776.81/mth for life for Spouse beneficiary	\$60,811.56	\$60,811.56			\$60,811.56
H	John Deere (Minnesota Mutual Life) Securian NQ Pension annuity contract # 8074; \$91.78 a month for life of Nelva Brunsting (W)	\$7,184.88	\$7,184.88			\$7,184.88
GRAND TOTAL						
		\$2,143,198.48	\$175,730.20	\$336,425.39	\$336,425.39	\$848,580.98
	Less Elmer's Separate Property	\$1,294,617.50				
	Less assets direct to (surv spouse)	\$175,730.20			\$1,294,617.50	
	Total Comm / Prop in LT	\$672,850.78				
	1/2 Comm / Prop in LT					
	Total to be funded into Dec Tru	\$336,425.39				
	Total FET credit equivalent utilized		\$175,730.20	\$336,425.39	\$1,631,042.89	\$2,143,198.48

Need to meet w Edward Jones for valye split

20-20566.68

+ \$250.00

mom will ref to bank account

PREMIUM ESTATE VALUATION REPORT

Prepared for: ELMER H BRUNSTING

Date: May 28, 2009

Prepared by: Joe and Doug Williams

Financial Advisor

713-464-6071

9525 Katy Freeway

Suite 122

Houston, TX 77024

To Keep You Informed About Your Investments

Please call me at _____.

Here's some information for your review.

Per your request

Diversification issue: please call me at _____.

We should discuss this. Please call me at _____.

Enclosed is important account information. Please check it for accuracy.

Enclosed is a request for important information regarding your account(s). Please complete this form (these forms) where indicated and return it/them to me.

If you have any questions call me at

713-464-6071

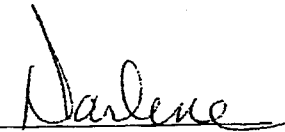
For your information

Please call me to set an appointment.

My number is _____.

A copy for your records

www.edwardjones.com



Edward Jones

ITEM# 2194 MIS-367 11-JAN-2005

www.edwardjones.com Member SIPC

Edward Jones

MAKING SENSE OF INVESTING

Edward Jones, its employees and financial advisors are not estate planners and cannot provide tax or legal advice. You should consult a qualified attorney for professional advice on your specific situation.

Estate Valuation

Date of Death: 04/01/2009
 Valuation Date: 04/01/2009
 Processing Date: 05/28/2009

Estate of: ELMER H BRUNSTING
 Account: 609-07698
 Report Type: Date of Death
 Number of Securities: 20
 File ID: 609-07698

Shares or Par	Security Description	High/Ask	Low/Bid	Mean and/or Div and Int Adjustments Accruals	Security Value
1)	4994.66 MONEY MARKET INVESTMENT FUND (MNYMKT)				4,994.66
2)	5000 UNIVERSITY TEX PERM UNIV FD REF BDS (915115K57) Financial Times Interactive Data DTD: 05/15/1992 Mat: 07/01/2013 6.25% 04/01/2009 Int: 01/01/2009 to 04/01/2009		116.36100 Mkt	116.361000 78.13	5,818.05
3)	10000 MONROE CNTY N Y ARPT AUTH ARPT REF BDS (610749DS9) Financial Times Interactive Data DTD: 03/04/2004 Mat: 01/01/2018 4% 04/01/2009 Int: 01/01/2009 to 04/01/2009		89.89600 Mkt	89.896000 100.00	8,989.60
4)	30000 INDIANA MUN PWR AGY PWR SUPPLY REV BDS (454898PV3) Financial Times Interactive Data DTD: 06/20/2006 Mat: 01/01/2026 5% 04/01/2009 Int: 01/01/2009 to 04/01/2009		102.63700 Mkt	102.637000 375.00	30,791.10
5)	10000 DALLAS TEX AREA RAPID TRAN SAL SR LIEN S (235241EW2) Financial Times Interactive Data DTD: 03/08/2007 Mat: 12/01/2027 4.5% 04/01/2009 Int: 12/01/2008 to 04/01/2009		98.75100 Mkt	98.751000 150.00	9,875.10

Disclaimer: This report was produced by Edward Jones DOD Valuation Service. This report was calculated using EstateVal, a product of Estate Valuations & Pricing Systems Inc. Please review all contents for accuracy and completeness. If you have questions, please contact Edward Jones Valuation Service at 1-888-441-5475 (Revision 7.1.1).

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Date of Death: 04/01/2009
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Estate of: ELMER H BRUNSTING
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 Report Type: Date of Death
 Number of Securities: 20
 File ID: 609-07698

Shares or Par	Security Description	High/Ask	Low/Bid	Mean and/or Adjustments	Div and Int Accruals	Security Value
6)	30000 HAYS TEX CONS INDPT SCH DIST SCH BLDG (421110G76) Financial Times Interactive Data DTD: 07/01/2008 Mat: 08/15/2033 5% 04/01/2009 Int: 02/15/2009 to 04/01/2009		100.73700 Mkt	100.737000	191.67	30,221.10
7)	20000 DISTRICT COLUMBIA REV REV BDS (2548393J0) Financial Times Interactive Data DTD: 12/17/1998 Mat: 08/15/2038 5% 04/01/2009 Int: 02/15/2009 to 04/01/2009		86.21300 Mkt	86.213000	127.78	17,242.60
8)	9000 GENERAL MTRS ACCEP CPSMARTNBE (37042GZ90) Financial Times Interactive Data DTD: 03/25/2003 Mat: 03/15/2018 7.05% 04/01/2009 Int: 03/15/2009 to 04/01/2009		25.91970 Mkt	25.919700	28.20	2,332.77
9)	5000 TOYOTA MTR CR CORP TMCC CORENO (89240AHB9) Financial Times Interactive Data DTD: 07/18/2007 Mat: 07/20/2027 6% 04/01/2009 Int: 03/20/2009 to 04/01/2009		90.41920 Mkt	90.419200	9.17	4,520.96

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 Number of Securities: 20
 File ID: 609-07698

Shares or Par	Security Description	High/Ask	Low/Bid	Mean and/or Div and Int Adjustments Accruals	Security Value
10)	10000 GEORGIA PWR CO (373334JG7) Financial Times Interactive Data DTD: 08/30/2007 Mat: 09/01/2040 6% 04/01/2009 Full coupon paid on 04/01/2009		93.96890 Mkt	93.968900	9,396.89
11)	930 CHEVRON CORP NEW (16676410; CVX) COM New York Stock Exchange 04/01/2009	68.70000	65.83000 H/L	67.265000	62,556.45
12)	2580 CITIGROUP INC (17296710; C) COM New York Stock Exchange 04/01/2009	2.75000	2.43000 H/L	2.590000	6,682.20
13)	1789 DEERE & CO (24419910; DE) COM New York Stock Exchange 04/01/2009 Div: 0.28 Ex: 03/27/2009 Rec: 03/31/2009 Pay: 05/01/2009	34.68000	31.88000 H/L	33.280000 500.92	59,537.92

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Shares or Par	Security Description	High/Ask	Low/Bid	Mean and/or Adjustments	Div and Int Accruals	Security Value
14)	200 DU PONT E I DE NEMOURS & CO (26353410; DD) COM New York Stock Exchange 04/01/2009	23.65000	21.62000 H/L	22.635000		4,527.00
15)	269 EXXON MOBIL CORP (30231G10; XOM) COM New York Stock Exchange 04/01/2009	69.48000	66.50000 H/L	67.990000		18,289.31
16)	150 JOHNSON & JOHNSON (47816010; JNJ) COM New York Stock Exchange 04/01/2009	53.20000	51.88000 H/L	52.540000		7,881.00
17)	300 PROCTER & GAMBLE CO (74271810; PG) COM New York Stock Exchange 04/01/2009	48.48000	46.29000 H/L	47.385000		14,215.50
18)	159.709 CAPITAL INCOME BLDR FD (14019310; CAIBX) SH BEN INT Mutual Fund (as quoted by NASDAQ) 04/01/2009		37.84000 Mkt	37.840000		6,043.39

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Estate Valuation

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 Account: 609-07698
 Report Type: Date of Death
 Number of Securities: 20
 File ID: 609-07698

Shares or Par	Security Description	High/Ask	Low/Bid	Mean and/or Adjustments	Div and Int Accruals	Security Value
19) 220.933	CAPITAL WORLD GROWTH & INCOME (14054310; CWGIX) COM Mutual Fund (as quoted by NASDAQ) 04/01/2009		24.02000 Mkt		24.020000	5,306.81
20) 3343.281	INCOME FD AMER INC (45332010; AMECX) COM Mutual Fund (as quoted by NASDAQ) 04/01/2009		11.95000 Mkt		11.950000	39,952.21
Total Value:						
Total Accrual:						\$349,174.62
Total: \$350,735.49						\$1,560.87

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Brunsting Family Survivor's and Decedent's Assets

Asset	# shares	price/share *	Amount*
Chevron/Texaco-decedent	609.6515	106.89	\$65,165.65
Chevron/Texacos-survivor	37.131	106.89	\$3,968.93
Chevron - Decedent	612	106.89	\$65,416.68
ExxonMobil-Decedent	583	87.49	\$51,006.67
ExxonMobil-survivor	675.910671	87.49	\$59,135.42
MetLife - Survivor	95	36.35	\$3,453.25
Survivor's Trust Edward Jones			\$1.05
Decedent's Trust Edward Jones			\$240,637.33
Survivor's Trust Checking			\$23,611.65
Decedent's Trust Checking			\$14,765.55
Misc. Coins			\$690.00
Gold Watches/misc jewelry			
Total Liquid Assets			\$527,852.19
Farm (acres)	141		\$0.00
House			\$410,000.00
Total Trust			

*values as of 1/20/2012

includes deposit of IRS refund: \$6215.87

Includes deposit of remaining farm rent for 2011: \$13902.51 and Chevron Dividend: \$495.72

appraisal pending

appraisal pending

appraised value

Trust Expenses

Date	Vendor	Purpose	Amount
11/12/2011	Kroger - Houston	Groceries when cleaning/packing house	\$ 23.31
11/16/2011	Phillips 66 - Houston	Transportation	\$ 56.20
11/22/2011	Phillips 66 - Houston	Transportation	\$ 49.08
12/26/2011	Home Depot	Home Repair/Security	\$ 92.56
12/26/2011	Exxon - Victoria	Transportation	\$ 45.15
12/28/2011	Kroger - Houston	Groceries when cleaning/packing house	\$ 16.31
12/28/2011	HEB - Houston	Groceries when cleaning/packing house	\$ 3.50
12/28/2011	Ace Hardware	Supplies to pack up house	\$ 66.53
12/29/2011	Shell - Victoria	Transportation	\$ 44.51
12/21/2011	USPS	Trust Docs	\$ 1.28
12/11/2011	Vacek	Legal	\$ 4,500.00
12/12/2011	Wilchester West Fund	subdivision dues	\$ 359.00
12/11/2012	Memorial Hermann	mom's medical	\$ 41.72
12/11/2011	US Treasury	tax payment for Decedent Trust	\$ 1,780.00
12/18/2011	Mr. Pham Chen	Lawn care - 2 mos	\$ 200.00
12/18/2011	Centerpoint Energy	natl gas for house	\$ 54.62
12/18/2011	Kelsey-Seybold	mom's medical	\$ 13.92
12/18/2011	Memorial Hermann	mom's medical	\$ 226.40
12/18/2011	ACS Primary Care	mom's medical	\$ 6.87
12/28/2011	Herb Jamison	house appraisal	\$ 450.00
12/29/2011	Amy Brunsting	tires for mom's car/house repairs/transpc	\$ 425.94
1/9/2012	Exxon - Victoria	Transportation	\$ 49.57
1/10/2012	Dr. Annie Uralil	mom's medical	\$ 44.06
1/16/2012	Northwoods Urology Associates	mom's medical	\$ 740.77
1/17/2012	Don Sumners Tax Asses/Collect	2011 property tax for mom's house	\$ 1,285.05
Total			\$ 10,576.35

Liabilities

Farm Taxes
 Property tax on house
 Remaining medical bills
 Insurance on house and car
 Electricity/gas/water on house
 Remaining repairs on house
 Farm appraisal
 Decedent & Survivor Trust tax prep
 Trustee Expenses

Hi,
Sunday

It's almost 10pm but I'm not sleepy and my computer won't cooperate tonight.

So I heard you were concerned about any money issue involved after I "beat" the mental bid. I will be put in a trust and Anita would have to deal it out.

After that time, you'll still get whatever share is yours. If you don't know how to manage money

in accounts for it, I'm not any further quite a bit of the time now, even sleep with it. She from a other meter is rather loathing.

I had about 2000 so I checked the evening. I'm not doing doing the good out.

Curious the is still going on but so very dry. Glad I'm not a farmer. I'm farmers are doing better.

In watching the Grand Prix. Looks like your guys are winning.

Acnt these cards pretty? I'd like to get them for me, please

Some days I'm gonna get a lap desk. I guess I'm too lazy to sit at the desk. I usually write while watching TV at night.

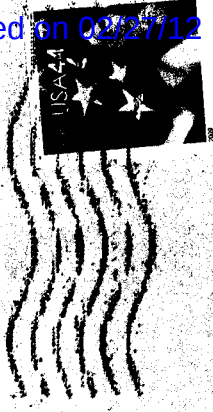
Wish I had your lovely handwriting. I started out left handed but my 1st gr. teacher made me write right handed so I ~~was~~ blame her.

Hallmark
STATIONERY

CNT3025
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MADE IN U.S.A.
Hallmark.com

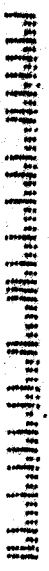
I can't even read my own writing!

Love you, Mother



POSTAGE & FEES PAID
NELVA BRUNSTING
13630 PINEROCK LN.
HOUSTON, TX 77060

Candy Cortez,
1215 W. Indian Way
Murphy, CA
94555



72

CANDACE L. CURTIS
1215 Ulfinian Way
Martinez CA 94553

December 19, 2011

CERTIFIED MAIL R.R.R
ARTICLE NO. 7010 0290 0002 8531 8903

Ms. Anita Kay Brunsting
Co-Trustee
203 Bloomingdale Circle
Victoria TX 77904

CERTIFIED MAIL R.R.R
ARTICLE NO. 7010 0290 0002 8531 8866

Ms. Amy Ruth Brunsting
Co-Trustee
2582 Country Ledge
New Braunfels TX 78132

RE: Brunsting Family Living Trust, dated October 10, 1996, as amended
Formal Demand for Full and Complete Disclosure and Accounting

Dear Amy and Anita,

This letter shall stand as my formal written demand for you to provide me copies of the trust documents forthwith, including but not limited to wills, trusts as amended, declarations of trusts, indentures, death certificates, life insurance policies, and anything else relevant to the trust assets and/or the beneficiaries' beneficial interests.

As co-trustees you are hereby notified that before any of the trust assets are distributed, sold, or otherwise disposed of, you are required to provide all beneficiaries with prior notice, as required by Texas Property Code.

Furthermore, with this letter I demand a full and complete accounting of the trust assets. If you have questions regarding what that entails I suggest you begin by reviewing § 113.152 of the property code. To date I have never received an accounting, therefore, the period covered by this demand shall begin the moment one or both of you became a trustee or in any other manner assumed fiduciary capacity over Mother's financial affairs.

I am quite troubled by the simple fact that I have received no communication from you, of any type, since I left Houston after Mother's funeral. Your distribution of assets and personal effects in direct disregard for our Mother's express wishes is equally troubling.

Ms. Anita Kay Brunsting
Ms. Amy Ruth Brunsting
December 19, 2011
Page 2

Your tampering with the intent of our parent's trust constitutes a challenge to that trust under the terms of which you can be disinherited. I do not think you want push to come to shove on these kinds of issues. You both know what you have done and so do the rest of us.

At this juncture, you still retain the opportunity to cure and to save face. As long as we are all in agreement that the original intent of this trust will be the result of the estate's proper distribution, and we are all in agreement with that distribution, court intervention will not be necessary.

However, the conniving, deceitful manner in which you obtained control over the trust, trust assets, and the individual trust accounts for both Carl and myself, may soon be the subject of much inquiry. May I advise you that by accepting both the role of fiduciary AND gifts from the principal, you have consented to have your conduct measured by a higher standard of loyalty. You should also note that the violation of the duty that the fiduciary owes the principal CAN result in a felony conviction. I strongly suggest you execute your fiduciary obligations pursuant to the intent of the original trusts' terms and not according to the terms of your own manufacture.

Sincerely,


Candy

/cc

Cc: ✓ Ms. Carole Ann Brunsting
5822 Jason
Houston TX 77074

Mr. Carl Henry Brunsting
5629 Flack Drive
Houston TX 77081

Ms. Candace Freed
Vacek and Freed PLLC
11777 Katy Freeway
Suite 300 South
Houston, Texas 77079

From: Anita Brunsting (akbrunsting@suddenlink.net)
To: cbrunsting@sbcglobal.net; occurtis@sbcglobal.net; drinabrunsting@sbcglobal.net;
Date: Tue, December 20, 2011 2:41:15 PM
Cc: at.home3@yahoo.com;
Subject: trust updates

The life insurance paperwork is being processed. It was under a separate trust. The trust will receive the \$250,000 in a bank account set up by the life insurance company. Once the deposit is made, you will receive a check sent to you (or the beneficiary) by certified mail with a signature required. If electronic transfer is available on this account I will transfer it that way. I have no idea how long it will take the life insurance company to disburse the funds.

As a beneficiary of the Brunsting Family Living Trust, you (or the beneficiary) are entitled to a copy of the trust which you will be receiving in the mail shortly.

Anita

From: Anita Brunsting (akbrunsting@suddenlink.net)
To: occurtis@sbcglobal.net;
Date: Wed, December 28, 2011 8:13:20 PM
Cc: at.home3@yahoo.com;
Subject: mom's house

Is this going to stay your email address? Also, do you want me to keep sending any certified/registered mail materials to your house on Ulfian Way or do you have another address that you want me to use? For some of this mail, it will have to be you that signs for it.

We have almost finished cleaning up the house and we will have everything moved out in a few weeks. We've engaged a realtor and she said the house looked well taken care of (she was very impressed based on a lot of others she has seen in the same age range) and didn't think it would be a tear down, just something for someone to update. Said the floor plan and large amount of storage was a big plus. The fault is the only detractor, but I found daddy's records of all the repairs and it has a transferrable warranty, so the realtor said that was a really good thing. We hope to get it on the market next week - she said that would be a good window to start as there's not much on the market right now, but more should come on by the end of the month.

After we get the house sold, we'll figure out the farm and the remaining liquid assets. Just double checking, you still want to hold onto your portion of the farm right? If so, are you interested in "trading" some of the liquid assets (like your portion of the remaining stock/mutual funds or cash from the sale of the house) for more farm land? I'm just trying to get an idea of what everyone wants. The farm is already rented for this year, so we'll just divide the income from that by 5, so this gives us a little more time to figure out the farm in the long run.

We're still working w/ the lawyer to get a final tally of the worth of all the assets, when that's complete, you will get a spreadsheet that lists them.

Anita

CANDACE L. CURTIS
1215 Ulfinian Way
Martinez CA 94553

January 3, 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
ARTICLE NO. 7010 0290 0000 7314 5063

Ms. Anita Kay Brunsting
De facto Co-Trustee
203 Bloomingdale Circle
Victoria TX 77904

RE: Brunsting Family Living Trust, dated October 10, 1996, as amended
Statutory Demand for Full and Complete Disclosure and Accounting

Dear Anita:

When our Father and Mother created the above-referenced trust, it was a typical trust with boilerplate forms. They filled in the blanks with THEIR intent. It was obvious they wanted everything to go smoothly when they “left this mortal coil”, avoiding probate, taxes, AND SQUABBING. They were BOTH of sound mind at the time and Daddy was quite proud to have done so well for his family. NEITHER PARENT WOULD EVER HAVE CONCEIVED THE NOTION TO PUT ONE SIBLING IN CHARGE OF ANOTHER’S INHERITANCE. Moreover, if you had even SUGGESTED to Daddy that Carl’s family be disinherited for any reason, he would have cut you off so quickly your head would spin. As it stands, you have bullied and tricked Mother into thinking she was helping Carl, when in fact she was being used to help YOU cut off (rob) his family.

Reviewing old emails I find evidence of your machinations BEFORE Daddy passed away. These machinations included trying to convince Mother to sell the farm AFTER Daddy passed away. You also tried to convince her that YOU could do a better job with investments than Daddy. Mother was offended by that suggestion and told you so. After he passed away you tried to convince Mother to cancel the last-to-die life insurance policy. You clearly were not thinking of anything but your own selfishness and greed. Finally, I understand that after Daddy passed away you tried to convince Carl to put Carole’s and my personal asset trusts in quasi-conservatorship.

If I were in your shoes, I would do some crash reading on fiduciary obligation and, in your particular case, I would begin with the common dictionary definition of the word trust. If that is not clear enough, please refer to Black’s Law Dictionary AND Subtitle B,

Sections 111-117, of Title 9 of the Texas Property Code. After that I would consult with a really good criminal attorney.

If, at this juncture, you are wondering if I am questioning your loyalty and trustworthiness, make no mistake about it. The information which has come to my attention, including physical evidence, has me not merely appalled and sickened, but I am emotionally distressed and, quite frankly, a little angry as well.

It is my understanding that you are presently acting as a Trustee for the Brunsting Family Living Trust. As a beneficiary of the Trust, I have standing to demand a written statement of account and other information from you. As a trustee you have a corresponding legal obligation to provide the information requested.

Your failure or refusal to meet your mandatory disclosure obligations is a breach of trust and I hereby demand that you inform me of the identities and contact information for the Trust Protector and the Special Co-Trustee, in writing, immediately, upon receipt of this demand. In addition, at the same time you are to provide me with copies of all appointment documents related thereto.

This letter also constitutes actual and constructive notice of a formal demand for a true and complete copy of all trust related documents including, but not limited to, a full and complete accounting covering ALL transactions since the last accounting, or since the creation of the Trust, whichever is later. To the extent that written statements of account with respect to such trusts have been prepared for any prior period or periods, and have been delivered to any beneficiary, this letter constitutes formal legal demand for true and complete copies of such statements of account.

Had you endeavored to understand your fiduciary obligations, rather than pursuing your own self-interest, you would never have attempted to rupture this Trust, as you would have realized your efforts would be of no avail unless you followed the established rules. Had you followed the rules, attempted changes to the trust would not have occurred and you would never have pretended any alleged changes to be valid.

In so doing you have all but confessed your abject moral bankruptcy and, as opposed to consolidating unbridled power unto yourself, you enmeshed yourself in conflicts of interest and made yourself both liable and culpable. Withholding information you have a duty to divulge only sinks you in deeper.

I am particularly interested in how we got from Carl and Amy as successor co-trustees, with me as alternate, to you and Amy as successor co-trustees AND QUASI-CONSERVATORS of Carl's and my personal asset trusts, WITHOUT ANY NOTICE WHATSOEVER. The last I heard about it from Mother was several years back. She felt Amy was unstable and wanted to replace her with me. She asked me if I would do it and I agreed. Then, all of a sudden, Mother decided it would be easier to replace Amy with you. She said she hoped her decision did not hurt my feelings.

My previous letter pointed you to the law regarding what you must produce to constitute a full and complete accounting. I hereby demand this accounting to specifically include a list describing all gifts, gratuities and compensation received by you, whether from Nelva Brunsting or from the trust Res, including when and how received, as well as copies of all attorney bills paid for with trust funds.

With this letter I also demand a written update as to the status of the last-to-die life insurance proceeds. It has been more than six weeks and based upon your past and present refusal to educate the beneficiaries about this policy, while asking them to sign blank, undated waivers year after year, I am starting to get worried that there is something else we don't know about yet.

Tex. Trust Code Ann. §113.151 provides that ALL of the trust documents and the full and complete accounting be delivered to me within a "reasonable time." Having made a common law demand for accounting mailed December 18, 2011, and receiving no responsive documents, it is my position that a reasonable time is on or before sixty (60) days after your receipt of this statutory demand.

The documents and accounting should be sent to the undersigned at 1215 Ulfian Way, Martinez, CA 94553, not later than 5:00 p.m., on or before the first business day to occur sixty (60) days after your receipt of this demand.

Please confirm to me in writing, within ten (10) days of your receipt of this demand, that you intend to furnish all of the information requested in this demand on or before the dates specified.

If I do not receive written confirmation within such time, then I reserve the right to immediately file a motion in any court of competent jurisdiction to compel compliance with this demand. Any motion to compel compliance with this demand may also contain a request that, because of your breach of the fiduciary duty to disclose, you, acting in your individual capacity, pay all legal fees and costs incident to the enforcement of this demand.

If you believe this request is over burdensome or unreasonable, you will provide my designated agent with access to the books and records in your possession, and you will do so without delay. You are advised that this will be my last non-judicial effort to compel you to meet your fiduciary obligations. I have everything I need to get an injunction and I would not advise trying my patience any further.

If you have any questions regarding this matter please do not hesitate to contact me in writing to express your concerns. If you have legal counsel you are to communicate through that counsel.

Very truly yours,

Candace L. Curtis

/cc

Cc: Mr. Carl Henry Brunsting
Co-Trustee
5629 Flack Drive
Houston TX 77081

Ms. Amy Ruth Brunsting
Co-Trustee
2582 Country Ledge
New Braunfels TX 78132

Ms. Carole Ann Brunsting
5822 Jason
Houston TX 77074

Ms. Candace Freed
Vacek and Freed PLLC
11777 Katy Freeway
Suite 300 South
Houston TX 77079

paperwork was being processed. She also said the beneficiaries are entitled to a copy of the trust which we would receive shortly.

On or about December 21, 2011 I received an envelope from Anita containing a copy of the Restatement of The Brunsting Family Living Trust, dated January 12, 2005, and a copy of the Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement, dated August 25, 2010.

December 28, 2011, Anita emailed me, (P-19) with a cc to Amy, re mom's house, wherein she stated that a realtor had been contacted and they hoped to

“...get it on the market next week”... “After we get the house sold, we'll figure out the farm and the remaining liquid assets. Just double-checking, you still want to hold onto your portion of the farm right? If so, are you interested in “trading” some of the liquid assets (like your portion of the remaining stock/mutual funds or cash from the sale of the house) for more farmland? I'm just trying to get an idea of what everyone wants.”... “We're still working w/ the lawyer to get a final tally of the worth of all the assets, when that's complete, you will get a spreadsheet that lists them.”

I am not really sure how I was expected to make a major decision like this without knowing exactly what my assets are.

Being virtually in the dark about everything, I began to have a renewed sense of grave concern about the safety of the trust assets and was compelled to send a “Statutory Demand for Full and Complete Disclosure and Accounting” letter, dated January 3, 2012, (P-20, 4 pgs.) sent certified mail to Anita, with copies going to Amy, Carole, Carl and Mom's trust attorney Candace Freed. Anita's letter was signed for on January 9, 2012. Within that letter I asked her to

“Please confirm to me in writing, within ten (10) days of your receipt of this demand, that you intend to furnish all of the information requested in this demand on or before the dates specified.” “...inform me of the identities and contact information for the Trust Protector and the Special Co-Trustee, in writing, immediately, upon receipt of this demand.”

The deadline for confirmation was January 19, 2012. To date I have not received a confirmation.

January 22, 2012, Anita emailed me, with cc's to Attorney Candace and Amy, writing “Attached please find the appointment of successor trustees dated 12/21/10 and Mother's will.”

It seems to me I should have received some type of notice, as well as a copy of the appointment document more than a year previous. I was already angered by her blatant disregard of her legal obligations to the beneficiaries thus far and was compelled once

again to write and demand that she carry out the legal obligations of her position as trustee. On January 23, 2012, via email, (P-21, 2 pgs.) I explained that,

“You received a written demand for disclosure of the identity of the trust protector or the special co-trustee(s) if any. Your lack of disclosure of this basic information, or any expression of good faith, leaves me with concerns that there is something you fear or want to conceal...”

On January 25, 2012 Anita replied, via email, (P-21, supra) with cc's to Attorney Candace and Amy, stating

“Provisions for the Trust Protector and Special Co-Trustee can be found in the Qualified Beneficiary Designation on pages 15 and 28 respectively.”

Directly following this email was a second email from Anita to Carl, Amy, Carole and myself, cc to Attorney Candace, regarding the life insurance money having been received on 1/17/12, eight days prior.

On or about January 23, 2012 I received a certified mail envelope with a cover letter that stated, “Per your request, enclosed please find the trust document regarding the life insurance policy mom and Dad had, as well as their death certificates.”

It should be noted that I had requested a copy of this particular document back in March of 2010, almost two years earlier, when I was asked by Anita, the trustee, to sign blank, undated Notification of Demand Right forms.

On January 24, 2012 Anita sent an email (P-22) to Carl, Carol and myself, cc to Attorney Candace, writing

“Attached please find a preliminary tally of trust assets and expenses (with a list of future liabilities). We are still working with Candace to complete the formal list.”

As stated earlier in this affidavit, there appears to be a discrepancy in the amount of some ExxonMobil stock that was “found” not to be in the trust. It had been accounted for in 2005, was not included in an accounting from 2010, and was listed on the “tally” attached (P-15, supra). In 2005 there were 3,522.42 shares listed. The “tally” listed 1,258.91. It seems the beneficiaries have a right to know what happened to the difference. It will be difficult to determine without any accounting records.

I have received no other response to my recent demands for information, no notice, no other copies of trust documents and no expression of good faith.

The law is clear. Trustees have obligations and beneficiaries have rights. I can think of no legitimate purpose for the trustees' breach of their duty to disclose. To date I am in possession of the following documents, some of which were obtained from another

beneficiary and not from the trustees, who still refuse to fully answer, and the bulk of which were obtained from Anita in October 2010.

Ordered by Document Date

AKB denotes documents received via email from Anita on 10/23/10

CHB denotes documents received from Carl in January 2012

All other documents were received from Anita pursuant to my demand letters, and received on the date noted

AKB Quit Claim Deed, State of Iowa, signed by EHB and NEB 10/29/96 and recorded in Sioux County Iowa 11/18/96 (P-23, 7 pgs.), which contained 3 asset schedules, A, B, C, all blank

The Brunsting Family Irrevocable Trust dated February 12, 1997 (life insurance trust) received from Anita on or about 1/26/2011, Anita Kay Riley trustee. (P-24, 53 pgs.)

AKB Affidavit of Trust made 1/12/2005 (only first page) (P-25)

AKB Certificate of Trust dated 1/12/05, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees. (P-26, 2 pgs.)

AKB Certificate of Trust dated 1/12/05, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees **UNSIGNED WITH AMY RUTH TSCHIRHART CROSSED OUT** (P-27, 2 pgs.)

AKB Affidavit of Trust made 1/12/05, with selected provisions attached, Article IV Our Trustees, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees with Amy Ruth Tschirhart crossed out. (I do not know when it was crossed out – before or after it was signed) (P-28, 32 pgs.)

AKB The Restatement of The Brunsting Family Living Trust, dated 1/12/05, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees with Amy Ruth Tschirhart crossed out. (I do not know when it was crossed out – before or after it was signed) (P-29 102 pgs.)

The Restatement of The Brunsting Family Living Trust, dated 1/12/05, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees with Amy Ruth Tschirhart crossed out. (I do not know when it was crossed out – before or after it was signed), received from Anita Kay Brunsting on or about 12/21/11 (duplication of P-29, printed front and back – copy omitted)

AKB Transfer To Grantor Trust Subject To Withdrawal Contribution Agreement, **UNSIGNED**, dated 01/12/05 (P-30, 2 pgs.)

AKB Last Will of Elmer H. Brunsting (Pour-Over Will), UNSIGNED, WITH ARTICLE III (Appointment of Personal Representative) redacted, dated 01/12/2005 (P-31, 14 pgs.)

AKB Last Will of Nelva E. Brunsting (Pour-Over Will), UNSIGNED, Elmer H. Brunsting personal representative, Carl Henry Brunsting first alternate, Amy Ruth Brunsting second alternate, Candace Louise Curtis third alternate, dated 01/12/05 (P-32, 11 pgs.)

AKB Living Will also known as the "Physician's Directive" signed by NEB, dated 01/12/05 (P-33, 5 pgs.)

Last Will of Nelva E. Brunsting, signed 01/12/05, EHB personal representative, Carl Henry Brunsting first successor, Amy Ruth Tschirhart second successor, Candace Louise Curtis third successor, received 1/22/12 via email from Anita (P-34, 11 pgs.)

CHB First Amendment to the Restatement to the Brunsting Family Living Trust dated October 10, 1996 as restated on January 12, 2005, Article IV, Section B amended and attached as Exhibit "A", dated 09/06/07, Carl Henry Brunsting and Candace Louise Curtis successor co-trustees. ***CHB and CLC "shall each have the authority to appoint his or her own successor Trustee by appointment in writing."***, THE FROST NATIONAL BANK alternate (P-35, 2 pgs.)

AKB General Durable Power of Attorney of Nelva E. Brunsting, marked copy, unsigned, and only dated 2010, Anita Kay Brunsting initial agent, Carol Ann Brunsting first successor, Amy Ruth Tschirhart second successor (P-36, 27 pgs.)

CHB Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement, executed 6/15/10, in connection with advances against our inheritances AFTER JUNE 1, 2010 (P-37, 3 pgs.)

AKB Information Concerning The Medical Power of Attorney signed by NEB, dated 08/25/10 (P-38, 5 pgs.)

AKB Medical Power of Attorney Designation of Health Care Agent signed by NEB, dated 08/25/10, Carol A. Brunsting appointed, Anita Kay Brunsting first alternate, Amy Ruth Tschirhart second alternate (P-39, 5 pgs.)

AKB Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement, signed by Nelva E. Brunsting as Trustee, and Founder and Beneficiary on August 25, 2010. (P-40, 38 pgs.)

Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement, signed by Nelva E. Brunsting as Trustee, and Founder and Beneficiary on August 25, 2010, received from Anita Kay Brunsting on or about 12/21/11 (duplication of P-40, printed front and back – copy omitted)

AKB Appointment of Successor Trustees, signed by Nelva E. Brunsting as Founder and Original Trustee, dated 08/25/10, Anita Kay Brunsting and Amy Ruth Tschirhart successor co-trustees, FROST NATIONAL BANK alternate. (P-41, 5 pgs.)

Hand written note from Nelva Brunsting to Candy Brunsting, dated Sunday, referencing trick or treaters' that evening, postmark illegible except for 2010. (P-16, supra)

Appointment of Successor Trustees, marked law firm copy, signed 12/21/10, if NEB resigns as Trustee, Anita Kay Brunsting first successor, Amy Ruth Brunsting second successor, THE FROST NATIONAL BANK third successor; if NEB fails or ceases to serve, Anita Kay Brunsting and Amy Ruth Tschirhart successor co-trustees, THE FROST NATIONAL BANK successor trustee, emailed to me by Anita on 01/22/12 (P-42, 6 pgs.)

CHB Appointment of Successor Trustees, marked law firm copy, signed 12/21/10, if NEB resigns as Trustee, Anita Kay Brunsting first successor, Amy Ruth Brunsting second successor, THE FROST NATIONAL BANK third successor; if NEB fails or ceases to serve, Anita Kay Brunsting and Amy Ruth Tschirhart successor co-trustees, THE FROST NATIONAL BANK successor trustee (duplicate of P-42, copy omitted)

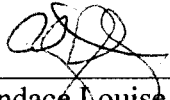
CHB Resignation of Original Trustee, Nelva E. Brunsting, signed 12/21/10, appointing Anita Kay Brunsting as trustee of BFLT dated October 10, 1996, as amended, as well as the subtrusts known as the NEB Survivor's Trust and the EHB Decedent's Trust. (P-43)

CHB Acceptance by Successor Trustee, Anita Kay Brunsting, signed 12/21/10 (P-44)

Certified Death Certificate EHB issued 3/10/2011 received from Anita on or about 1/26/2011, State file number 142-09-043-770

Certified Death Certificate NEB issued 11/18/2011 received from Anita on or about 1/26/2011, State file number 142-11-142-463

I, Candace Louise Curtis, declare under penalty of perjury pursuant to the laws of the United States, that the above declaration of facts is true and correct and based upon personal knowledge, except for those things averred upon information and belief, and as to those things, I believe them to be true as well.


2/19/2012
Candace Louise Curtis, Plaintiff

From: Anita Brunsting (akbrunsting@suddenlink.net)
To: occurtis@sbcglobal.net;
Date: Wed, January 25, 2012 7:31:05 PM
Cc: candace@vacek.com; at.home3@yahoo.com;
Subject: RE: requested documents

Candy,

Regarding your request at the bottom of your e-mail. Provisions for the Trust Protector and Special Co-Trustee can be found in the Qualified Beneficiary Designation on pages 15 and 28 respectively. This document was mailed to you on Dec. 21, 2011 by certified mail.

Anita

From: Candace Curtis [mailto:occurtis@sbcglobal.net]
Sent: Monday, January 23, 2012 11:38 AM
To: Anita Brunsting; Carl and Drina Brunsting; Carole Brunsting
Cc: Candace Freed; Amy Brunsting; al@vasek.com
Subject: Re: requested documents

Dear Anita,

If you think that sending me incomplete or inaccurate records in this piecemeal fashion somehow satisfies my demands for production, or your legal obligation to produce said records, you should probably read the Texas statutes and your trustee handbook, where you will find that your first obligation as an alleged trustee is full and complete disclosure. Your piecemeal dissemination is merely evidence of your refusal or otherwise failure to meet your obligations. This is known in the law of trusts as BREACH. The more information I get, the less I am convinced that you have ANY authority to act as a trustee. You might want to check on how and when powers of attorney terminate.

Further, any intended action which may affect the interest of any beneficiary, requires written notice, by certified mail, no less than 30 days prior to any such action. You are required by law to notify ALL named trustees and successor trustees, and ALL beneficiaries and successor beneficiaries, in writing, by certified mail. You have failed to do so, over and over and over again, which means that NONE of your actions are valid.

If you intend to act on the basis of your alleged appointment, which no one forced you to accept, then you should probably apprise yourself of the law regarding your LEGAL OBLIGATIONS. Secondly, if you intend to act in any way whatsoever, you should probably be absolutely certain that your actions are lawful. It's too bad you didn't get a second opinion, or at least had an attorney who read her partner's "in terrorem" article before thinking you could exacerbate exculpatory or no-contest clauses in your fake ass qualified beneficiary designation. All those fatuous exacerbations are just further evidence of your moral turpitude, misfeasance and mal intent.

I could be mistaken, but with your refusal to provide full and complete disclosure, rather just doling out the documents in bits and pieces as you see fit, would appear to compel a presumption of impropriety as a matter of law. It's called extrinsic fraud.

Oh, and one more thing regarding your fake ass qualified beneficiary designation. If you intend to act on that document's alleged grant of authority and you think you are prepared to litigate the question of its

validity, you should probably try to figure out what EACH paragraph means and how in the world ANYONE could have explained that to our Mother. You assert that Mother signed those documents making those changes, knowing full well what she was signing. I, however, upon receipt of your initial piecemeal documents, contacted Mother by telephone and she assured me in no uncertain terms that she did no such thing. Better yet, she followed it with a written communication reciting our conversation and saying very clearly "that is not true". Disclaiming will not cure the past.

I have not bothered to consult with or retain counsel because I CAN READ AND COMPREHEND THE LAW. I have over 30 years of experience in contracts, accounting, and business management for multi-million dollar corporations. I am familiar with trust law because as a property manager all properties were managed under trusts. I am VERY FAMILIAR with NOTICE and accounting requirements.

How you managed to obtain a PhD without the ability to read and comprehend is a mystery to me. If you understood trust law AT ALL your disrespectful conduct and power arrogance would be VERY different or nonexistent. I guess that why it is said that those that cannot do, TEACH.

As it regards your actual trustee delegation, you are and have always been the sole trustee for the last-to-die life insurance policy. Daddy told me that the purpose of that policy was so that we would all have means pending the trust administration and final distribution, if any. You have failed to communicate any quality information about the proceeds of that policy. It has been 85 days since Mother's death and the majority of life insurance companies settle such claims within the first 90 days. I can envision no complications as it was not an accidental or other limited policy. So, WHERE IS MY MONEY? I have several emails from you over the years asking me to sign blank forms regarding the insurance. I have always asked for copies of the life insurance trust document so that I would know what it was I was waiving. You have consistently refused or otherwise failed to provide this to me, as you are obliged to do by your own voluntary acceptance of the fiduciary obligation.

And just one last item. You received a written demand for disclosure of the identity of the trust protector or the special co-trustee(s) if any. Your lack of disclosure of this basic information, or any expression of good faith, leaves me with concerns that there is something you fear or want to conceal, but don't worry, what ever it is, we'll get to the bottom of it.

Sincerely,

Candy

From: Anita Brunsting <akbrunsting@suddenlink.net>
To: Candace Curtis <occurtis@sbcglobal.net>
Cc: Candace Freed <candace@vacek.com>; Amy Brunsting <at.home3@yahoo.com>
Sent: Sun, January 22, 2012 9:02:11 PM
Subject: requested documents

Dear Candy,

Attached please find the appointment of successor trustees dated 12/21/10 and mother's will.

Anita

20-20566.93

2/18/2012 5:02 PM

From: Anita Brunsting (akbrunsting@suddenlink.net)
To: cbrunsting@sbcglobal.net; occurtis@sbcglobal.net; cbarch@sbcglobal.net;
Date: Tue, January 24, 2012 6:37:58 PM
Cc: candace@vacek.com;
Subject: preliminary trust accounting

Attached please find a preliminary tally of trust assets and expenses (with a list of potential future liabilities). We are still working with Candace to complete the formal list.

Anita



TITLE TRANSFER DOCUMENTS

This portion of your portfolio should contain copies of all documents which show that title to various assets has been transferred to your Living Trust. The original documents should be kept in a safe place, such as a safe deposit box. In order to help your trustees in the event of death or disability, you should keep records of all assets that have been transferred to your Living Trust in this section.

RECORDED SIOUX COUNTY IOWA

'96 NOV 18 AM 9 44

5407
5407

FILE 1996 CARD 5407
Arita K. Van Bruggen
A. VAN BRUGGEN RECORDER

Prepared by: Dennis D. Duffy, 2550 Middle Road, Suite 101, Bettendorf, IA 52722, (319) 355-7070

**QUIT CLAIM DEED
STATE OF IOWA,**

Sioux County

STATE OF IOWA

November 18th
18th
Nov 18 96
af
Rec'd 11-18-96
af

THIS INDENTURE WITNESSETH, THAT THE GRANTORS,

**ELMER HENRY BRUNSTING and NELVA E.
BRUNSTING, individually and as husband and wife,**

of the County of Harris and the State of Texas for and in consideration of Ten (\$10) Dollars and other good and valuable consideration in hand paid, QUIT CLAIMS unto

**ELMER H. BRUNSTING and NELVA E. BRUNSTING,
Trustees, or their successors in trust, under the BRUNSTING
FAMILY LIVING TRUST dated October 10, 1996 and
any amendments thereto,**

the following described real estate in the County of Sioux, State of Iowa, hereby relinquishing all rights of dower, homestead and distributive share in and to the real estate, to-wit:

The Northwest Fractional Quarter (NW Frt. 1/4) of Section Two (2), Township Ninety-six (96), Range Forty-five (45) West of the 5th P.M. EXCEPT the North 542.5 Feet of the West 660 Feet in Sioux County, Iowa,

subject to all easements and restrictions of record.

The consideration for this transfer is less than \$500.00 so this conveyance is exempt from transfer tax, pursuant to Iowa Code Chapter 428A.2(21).

Grantors warrant that the trust named as grantee herein is a revocable trust as defined in Iowa Code Chapter 9H.1(20).

TO HAVE AND TO HOLD the said premises with the appurtenances, upon the trusts and for uses and purposes herein and in said trust agreement set forth.

Full power and authority is hereby granted to said trustee to improve, manage and protect said premises or any part thereto, to contract to sell, to grant options to purchase, to sell on any terms, to convey, either with or without consideration; to convey said premises or any part thereof to a successor or successors in trust and to grant to such successor or successors in trust all of the title, estate, powers and authorities vested in said Trustee; to donate to dedicate, to mortgage, pledge or otherwise encumber, said property, or any part thereof, to lease said property, or any part thereof; from time to time, and upon any terms and for any period or periods of time, to grant easements or charges of any kind, to release, convey or assign any right, title or interest in or about or easement appurtenant to said premises or any part thereof, and to deal with said property and every part thereof in all other ways and for such other considerations as it would be lawful for any person owning the same to deal with the same, whether similar to or different from the ways above specified, at any time or times hereafter.

In no case shall any party dealing with said trustee in relation to said premises, or to whom said premises or any part thereof shall be conveyed, contracted to be sold, leased or mortgaged by said trustee, be obliged to see to the application of any purchase money, rent or money borrowed or advanced on said premises, or be obliged to see that the terms of this trust have been complied with, or be obliged to inquire into the necessity or expediency of any act of said trustee, or be obliged or privileged to inquire into any of the terms of said trust agreement; and every deed, trust deed, mortgage, lease or other instrument executed by said trustee in relation to said real estate shall be conclusive evidence in favor of every person relying upon or claiming under any such conveyance, lease or other instrument that

(a) at the time of the delivery of this deed the trust stated in this Indenture as grantee was in full force and effect,

(b) that such conveyance or other instrument was executed in accordance with the trusts, conditions and limitations contained in this Indenture and in said trust agreement or in some amendment thereof and binding upon all beneficiaries thereunder,

(c) that said trustee was duly authorized and empowered to execute and deliver every such deed, trust deed, lease, mortgage or other instrument, and

(d) if the conveyance is made to a successor or successors in trust, that such successor or successors in trust have been properly appointed and are fully vested with all the title, estate, rights, powers, authorities, duties and obligations of its, his or their predecessor in trust.

IN WITNESS WHEREOF, the grantors have signed this on October 29, 1996.

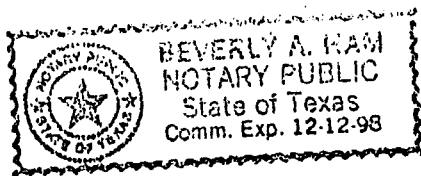
Elmer Henry Brunsting
Elmer Henry Brunsting

Nelva E. Brunsting
Nelva E. Brunsting

STATE OF TEXAS)
) ss.
COUNTY OF Harris)

I, the undersigned, a Notary Public, in and for said County and State, aforesaid, DO HEREBY CERTIFY, that **ELMER HENRY BRUNSTING** and **NELVA E. BRUNSTING**, individually and as husband and wife, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal on OCTOBER 29, 1996.



Beverly Ham
Notary Public

THIS INSTRUMENT PREPARED BY AND RETURN TO:

Dennis D. Duffy
Attorney at Law
101 Northwest Bank Tower
2550 Middle Road
Bettendorf, Iowa 52722
(319) 355-7070

**THE
BRUNSTING FAMILY
IRREVOCABLE TRUST**

Prepared By

Albert E. Vacek, Jr.

Law Offices of Albert E. Vacek, Jr., P.C.

11757 Katy Freeway Suite 840
Houston, Texas 77079

Telephone: (281) 531-5800

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THE BRUNSTING FAMILY IRREVOCABLE TRUST

Article I

The Creation of Our Irrevocable Trust

Section A. Our Declaration of Trust

This trust declaration is made this day by ELMER HENRY BRUNSTING, also known as ELMER H. BRUNSTING, and wife, NELVA ERLEEN BRUNSTING, also known as NELVA E. BRUNSTING, (together called "Founders") who presently reside in Harris County, Texas. This is our irrevocable trust. The initial Trustee of this irrevocable trust shall be ANITA KAY RILEY.

Section B. The Title of Our Trust

Although the name we have given to our irrevocable trust for our own convenience is the BRUNSTING FAMILY IRREVOCABLE TRUST, the full legal name of our irrevocable trust for purposes of transferring assets into the trust, holding title to assets and conducting business for and on behalf of the trust, shall be known as:

ANITA KAY RILEY, Trustee, or the successor Trustees, under the BRUNSTING FAMILY IRREVOCABLE TRUST dated February 12, 1997, as amended.

Section C. An Irrevocable Trust

This trust is irrevocable. Neither Founder shall have any power to control and direct payments, remove trust property, or alter, amend, revoke or terminate this trust, either in whole or in part.

Section D. Forfeiture of Founders' Rights in this Trust

Subsequent to the execution of this irrevocable trust agreement, neither Founder shall have any right, title nor interest in the income or principal of this irrevocable trust. In addition, neither Founder shall have any right, title, interest, power, incident of ownership nor any

other benefit in any property or asset of this irrevocable trust. Neither Founder nor the respective estates of either Founder shall have any reversionary or similar interest in this irrevocable trust or the property or assets contained in it.

Section E. Our Beneficiaries and Family

This irrevocable trust is created for the use and the benefit of the children named herein. Such children shall be the beneficiaries of the lifetime separate trusts created under this trust agreement.

For reference, our children are:

<u>Name</u>	<u>Birth Date</u>
CANDACE LOUISE CURTIS	March 12, 1953
CAROL ANN BRUNSTING	October 16, 1954
CARL HENRY BRUNSTING	July 31, 1957
AMY RUTH TSCHIRHART	October 7, 1961
ANITA KAY RILEY	August 7, 1963

All references to our children or to our descendants are to these named children, as well as any children subsequently born to us or legally adopted by us.

The terms "trust beneficiary" or "beneficiary" will also mean any and all persons, organizations, trusts and entities who may have or may acquire a beneficial interest in this trust, whether vested or contingent in nature, including a transfer of an interest in the trust during our lives, from either of us, or both, or from an exercise of a power of appointment by a trust beneficiary or otherwise.

Article II

Transfers of Assets to Our Trust

Section A. Our Initial Contribution

We have delivered to the Trustee \$10.00 and such other certain property, as set forth in the schedule attached hereto and incorporated herein for all purposes, as the initial assets of this trust, the receipt of which is acknowledged.

Section B. Additions to Our Trust

Any person, including either of us, a trust or entity may add property of any character to this trust by a last will and testament, from another trust (regardless of whether such trust is a living trust or a trust contained in a Will), by a deed or any other legally accepted method of assignment, conveyance, delivery or transfer, subject only to the acceptance of such property or asset by the Trustee. All property interests transferred, assigned, conveyed or delivered to the Trustee shall be subject to all of the terms and conditions set forth in this agreement. All such interests transferred, assigned, conveyed or delivered to the Trustee in trust shall be absolute and irrevocable.

Article III

Trust Administration During The Founders' Lives

Section A. Division of Shares

While either Founder is living, the Trustee shall divide all contributions to this trust into equal shares for each living beneficiary named herein. Such division shall occur at the time the contribution is made. Each share which is established for a beneficiary shall be held in a lifetime separate trust for the beneficiary as provided in this Article.

Section B. Income and Principal Distributions

The Trustee shall pay to, or apply for the benefit of, each beneficiary as much of the net income and principal of such beneficiary's lifetime separate trust as the Trustee, in its sole and absolute discretion, determines to be necessary or advisable for such beneficiary's health, education, maintenance and support. The Trustee shall accumulate and add to the principal of each respective lifetime separate trust all net income which is not distributed pursuant to this Section.

The decision to make distributions pursuant to this Section shall be in the Trustee's sole and absolute discretion. Therefore, any income or other resource which is available to a beneficiary outside of this trust and is known to the Trustee may be considered prior to making distributions pursuant to this Section.

In no event shall the Trustee make any payment or distribution which would in any way discharge any legal obligation of either Founder, or which would otherwise benefit either Founder monetarily.

During the Founders' lives, each beneficiary will have the authority to issue a written directive to the Trustee to convert trust property which does not produce an income, or which is underproductive, into property which is income producing or which will provide a greater income to the trust. The Trustee shall convert the property immediately after receiving written direction to that effect.

The Trustee may convert the property by selling the unproductive or underproductive asset upon such terms and conditions as are prudent and reasonable under all circumstances which may then exist (including the acceptance of an income or interest bearing obligation as the whole or a part of the sales price), and investing the proceeds of the sale in income producing instruments or obligations.

Section C. A Beneficiary's Right to Withdraw

Prior to the deaths of both Founders, each living beneficiary shall have the right to withdraw that beneficiary's share of any property which is given or deemed to be given to the trust during a calendar year by a direct or indirect transfer of property to the trust. Such right to withdraw shall exist during such calendar year. For purposes of determining the value of the withdrawal rights, the value of the gift contributed shall be used. Each beneficiary's right to withdraw shall be subject only to the limitations and qualifications as are provided in the provisions of this Article which follow.

In no event shall the total amount which a beneficiary may withdraw by reason of an addition or additions to his or her lifetime separate trust in any one calendar year exceed twice the gift tax annual exclusion under Section 2503(b) of the Internal Revenue Code (currently \$10,000 per donee) or any other corresponding provisions of any subsequent federal tax laws in effect in the calendar year of withdrawal.

Section D. Exercising the Right to Withdraw

A beneficiary may exercise his or her right to withdraw at any time within thirty (30) days from the date of the notice by the Trustee to the withdrawal right beneficiary of the transfer to the trust. Each beneficiary's withdrawal right shall be vested as of the date of the transfer to the trust which results in a withdrawal right. A beneficiary shall exercise his or her right to withdraw by delivering a written request to the Trustee within thirty (30) days from the date of the Trustee's notice of such withdrawal right.

A beneficiary's right to withdraw is non-cumulative. To the extent that the withdrawal right has not been exercised at the end of thirty (30) days after the date of the notice, or to the extent that the withdrawal right has been waived in writing by the withdrawal right beneficiary at any time prior to the end of the thirty (30) day period, such withdrawal right shall lapse.

A beneficiary's vested withdrawal right shall not terminate by reason of such beneficiary's death. Upon the death of a withdrawal right beneficiary, the personal representative of the beneficiary's estate shall have the right to exercise the beneficiary's vested withdrawal right on behalf of the beneficiary's estate.

Section E. Trustee's Notice

Within fifteen (15) days following the transfer of property to this trust, the Trustee shall provide written notice to each beneficiary who is then entitled to a right to withdraw that

property has been transferred to the trust. Such notice shall inform the beneficiary of such beneficiary's right to withdraw and shall be delivered by hand or by mail to the last known address of the beneficiary.

If an indirect transfer is made to the trust, the Trustee shall provide written notice to each beneficiary then entitled to a right to withdraw that property has been transferred to the trust. Such notice shall be provided within fifteen days of the Trustee's actual notice of such indirect transfer. The notice shall inform the beneficiary of the right of the beneficiary to withdraw and shall be delivered by hand or by mail to the last known address of the beneficiary.

Neither Founder shall be permitted to add beneficiaries or expand the class of individuals to be beneficiaries subsequent to the date that this trust is executed. In any event, if additional individuals subsequently become qualified to be beneficiaries of the trust as a result of being born or adopted after this trust is signed, the Trustee shall give written notice to or on behalf of that beneficiary within a reasonable time after being informed of the additional beneficiary.

Section F. Minor or Disabled Beneficiaries

If a beneficiary entitled to make a withdrawal is a minor or is under any other form of legal disability during all or part of any withdrawal period, the beneficiary's legal or natural guardian, conservator or personal representative shall be informed of, and may exercise, the withdrawal right on behalf of the beneficiary.

Section G. Additional Duties of the Trustee

In order to satisfy any outstanding withdrawal rights, the Trustee shall retain sufficient liquid trust property or other trust property which is transferable. The Trustee may distribute trust property in cash or in kind, including insurance policies held in the trust or interests in such policies, to a beneficiary making a withdrawal. In addition, the Trustee is authorized to borrow, upon such terms as are reasonable and necessary, in order to provide for payment of amounts required by any exercise of withdrawal rights by a beneficiary.

Section H. Indirect Transfers

If any payment is made directly to an insurance company by any party other than the Trustee of all or any part of a premium on a life insurance policy owned by the trust on the joint lives of the Founders, or on the life of either Founder, the amount of such payment shall be

deemed a transfer to the trust. To the extent that the payment is deemed to be a gift from one or both of the Founders to the beneficiaries for federal gift tax purposes, the date of the premium payment shall also be the date of the transfer. Any such indirect transfer shall create withdrawal rights in an amount equal to the value of the deemed gift.

Section I. Property Not Withdrawn

Any amount which is subject to a withdrawal right and which is not withdrawn by the beneficiary of the withdrawal right, either because of lapse or a signed waiver, shall be retained as a part of such beneficiary's lifetime separate trust and shall be subject to the terms of the lifetime separate trust under this Article.

Section J. Beneficiary's Death Prior to Founders' Deaths

If a beneficiary dies while either Founder is still living, such beneficiary's lifetime separate trust shall terminate upon the death of the beneficiary for whom it was held.

In addition, if a beneficiary dies prior to the death of both Founders, such beneficiary shall have the unlimited and unrestricted general power to appoint the cumulative value of the amounts subject to the beneficiary's withdrawal power during the term of the trust and not withdrawn during the beneficiary's lifetime or not distributed to the beneficiary by the Trustee as a discretionary distribution. Such appointment may be among persons, corporations, such beneficiary's estate or other entities in any proportion, and on such terms and conditions as such beneficiary may elect. The right to exercise this general power of appointment is the sole and exclusive right of such beneficiary. The Trustee shall distribute the appointed portion of such beneficiary's property over which the beneficiary had a withdrawal power according to such appointment if exercised and specifically referred to in a valid last will and testament or living trust agreement executed by the deceased beneficiary.

To the extent this general power of appointment is not exercised by a beneficiary, the Trustee shall retain the unappointed principal and accumulated income of the lifetime separate trust until the death of the last Founder to die. After both Founders have died, the Trustee shall administer and distribute the principal and accumulated income of the deceased beneficiary's lifetime separate trust as provided in the subsequent provisions of this trust agreement relating to distribution after both Founders' deaths.

Section K. Administration of Lifetime Separate Trusts Subsequent to Both Founders' Deaths

When the surviving Founder dies, each separate lifetime trust held for a beneficiary who is living at the death of the surviving Founder shall be held, administered and distributed according to the following guidelines and in the following order:

The Trustee shall maintain the lifetime separate trust under this Article for a beneficiary who is living after both of us are deceased. The Trustee shall hold, administer and distribute the income and principal of this lifetime separate trust in the same manner as the income and principal is held, administered and distributed under the separate trust created for that beneficiary in Article VI of this trust agreement.

Notwithstanding anything in Article VI to the contrary, a beneficiary's lifetime separate trust created under this Article and being administered according to the provisions of the separate trust for the beneficiary as provided in Article VI shall be subject to a general power of appointment.

The beneficiary shall have the unlimited and unrestricted testamentary general power to appoint all of the value of the lifetime separate trust among persons, corporations, such beneficiary's estate or other entities in any proportion and on such terms and conditions as such beneficiary may elect. The right to exercise this testamentary general power of appointment is the sole and exclusive right of the beneficiary. The Trustee shall distribute the appointed portion of the value of the lifetime separate trust according to such appointment if exercised and specifically referred to in a valid last will and testament or living trust agreement executed by the beneficiary.

This testamentary general power of appointment specifically grants to the beneficiary the right to appoint property to the beneficiary's own estate.

To the extent this testamentary general power of appointment is not exercised by a beneficiary, the Trustee shall distribute the trust principal and accrued income under the lapse provisions for the separate trust created for the beneficiary under Article VI.

A lifetime separate trust shall not include the proceeds of any death benefit payable to the trust with respect to any life insurance policy on the lives of either or both Founders. The principal of the lifetime separate trust shall be computed to include only the value of a life insurance policy on the lives of either or both Founders immediately prior to the death that creates the death benefit. The death benefit shall be administered and disposed of under the subsequent provisions of this trust agreement which relate to distributions after the deaths of both Founders.

Although the death benefit under any policy of life insurance on the lives of either or both Founders will not be included in the value of a lifetime separate trust, the Trustee may use the death benefit to fund, in whole or in part, the value of any lifetime separate trust created under this Article.

Article IV

Life Insurance

Section A. Purchase of Life Insurance

The Trustee may purchase and hold as trust property a policy or policies of insurance on either Founders' life or lives, the Founders' joint lives, the life of any trust beneficiary, or on the life of any person in whom any trust beneficiary has an insurable interest. The Trustee may also receive any such policies made as a gift to the trust, and thereafter may hold and deal with the policies as the owner.

In addition to all other powers that a policy owner may possess, the Trustee shall have, in its sole and absolute discretion, the following powers:

1. To execute or cancel any automatic premium loan agreement with respect to any policy.
2. To elect or cancel any automatic premium loan provision in a life insurance policy.
3. To borrow money with which to pay premiums due on any policy either from the company issuing the policy or from any other source.
4. To assign any such policy as security for such loan.
5. To exercise any option contained in a policy with regard to any dividend or share of surplus apportioned to the policy.
6. To reduce the amount of a policy or convert or exchange the policy.
7. To surrender a policy at any time for its cash value.
8. To elect any paid-up insurance or any extended-term insurance nonforfeiture option contained in a policy.
9. To sell policies at their fair market value to the insured or to anyone having an insurable interest in the policy.

10. To exercise any other right, option or benefit contained in a policy or permitted by the insurance company issuing that policy.

Upon the termination of this trust, the Trustee shall have the power to transfer and assign the policies held by the trust as a distribution of trust property.

The Trustee shall make every effort to transfer any policy insuring a beneficiary's life to that beneficiary as part of that beneficiary's distributive share.

Section B. Upon the Death of an Insured

Upon the death of an insured, the Trustee shall make all appropriate after-death elections with respect to insurance policies on the life of the insured then held by the trust including, but not limited to, the following:

The Trustee shall make every effort to collect all sums made payable to this trust or the Trustee upon the death of an insured. In collecting such sums, the Trustee may, in its sole and absolute discretion, exercise settlement options available under the terms of a policy held by this trust. However, the Trustee shall not be liable to any beneficiary for the settlement option ultimately selected.

In order to enforce the payment of any death proceeds, the Trustee may institute any legal, equitable, administrative or other proceeding. However, the Trustee need not take any action to enforce any payment until the Trustee, in its sole judgment, has been indemnified to its satisfaction for all expenses and liabilities to which it may be subjected. The Trustee is expressly authorized, in its sole and absolute discretion, to adjust, settle and compromise any and all claims that may arise from the collection of any death proceeds. Any decision made by the Trustee, pursuant to this Section, shall be binding and conclusive on all beneficiaries.

Any person or entity which pays any type of death proceeds to the Trustee, as beneficiary, shall not be required to inquire into any of the provisions of this trust agreement, nor will they be required to see to the application of any such proceeds by the Trustee. The Trustee's receipt of death proceeds shall relieve the payor of any further liability as a result of making such payment.

Article V

Trust Administration on a Founder's Death

Section A. Purchase of Assets and Loans

Notwithstanding anything in this agreement to the contrary, the Trustee shall not have the power to use any trust property for the benefit of either Founders' estates as defined in Section 20.2042-1(b) of Title 26 of the Code of Federal Regulations, as amended, unless such property is included in a deceased Founder's gross estate for federal estate tax purposes.

Otherwise, the Trustee is authorized to purchase and retain in the form received, as an addition to the trust, any property which is a part of the probate or trust estate of a deceased Founder. In addition, the Trustee may make loans, with or without security, to such probate or trust estate. The Trustee shall not be liable for any loss suffered by the trust as a result of the exercise of the powers granted in this Section.

Section B. Distributions of Amounts Included in a Founder's Estate

If any asset of this trust is includable in a deceased Founder's gross estate for federal estate tax purposes, the Trustee shall distribute an amount equal to the value of such asset to the living trust of the deceased Founder. Any amount so distributed shall be added to the property of the living trust and disposed of in accordance with its terms. However, if either Founder dies and a respective living trust is not in existence, the Trustee shall distribute the amount called for under this Section to the surviving Founder. If there is no surviving Founder, then the distribution shall be made to the Founders' descendants, per stirpes.

The value of any asset of our trust distributed under this Section shall be its value as finally determined for federal estate tax purposes.

Section C. Administration of the Balance of the Trust Property

If one Founder survives the other, the balance of the trust property shall continue to be held by the Trustee and administered in accordance with the prior provisions of this trust agreement. Upon the death of the surviving Founder, or if neither Founder survives the other, the balance of the trust property not disposed of under the prior provisions of this trust agreement shall be administered as provided in the Articles that follow.

Article VI

Upon the Death of the Surviving Founder

Section A. Our Beneficiaries

All trust property not previously distributed under the terms of this trust shall be divided and distributed in accordance with the terms of this trust declaration and as follows:

<u>Beneficiary</u>	<u>Share</u>
CANDACE LOUISE CURTIS	1/5
CAROL ANN BRUNSTING	1/5
CARL HENRY BRUNSTING	1/5
AMY RUTH TSCHIRHART	1/5
ANITA KAY RILEY	1/5

Section B. Distribution to our Beneficiaries

1. (a) Distribution of the share of CANDACE LOUISE CURTIS

The trust share set aside for CANDACE LOUISE CURTIS shall forthwith terminate and our Trustee shall distribute all undistributed net income and principal to CANDACE LOUISE CURTIS, free of the trust.

(b) Distribution on the Death of CANDACE LOUISE CURTIS

If CANDACE LOUISE CURTIS should predecease us or die before the complete distribution of her trust share, the trust share set aside for CANDACE LOUISE CURTIS shall terminate and our Trustee shall distribute the balance of the trust share to such beneficiary's then living descendants, per stirpes. However, if CANDACE LOUISE CURTIS has no then living descendants, our Trustee shall distribute the balance of the trust share to our then living descendants, per stirpes. In the event we have no then living

descendants, our Trustee shall distribute the balance of the trust share as provided in Section G of this Article.

2. (a) Distribution of the share of CAROL ANN BRUNSTING

The trust share set aside for CAROL ANN BRUNSTING shall forthwith terminate and our Trustee shall distribute all undistributed net income and principal to CAROL ANN BRUNSTING, free of the trust.

(b) Distribution on the Death of CAROL ANN BRUNSTING

If CAROL ANN BRUNSTING should predecease us or die before the complete distribution of her trust share, the trust share set aside for CAROL ANN BRUNSTING shall terminate and our Trustee shall distribute the balance of the trust share to such beneficiary's then living descendants, per stirpes. However, if CAROL ANN BRUNSTING has no then living descendants, our Trustee shall distribute the balance of the trust share to our then living descendants, per stirpes. In the event we have no then living descendants, our Trustee shall distribute the balance of the trust share as provided in Section G of this Article.

3. (a) Distribution of the share of CARL HENRY BRUNSTING

The trust share set aside for CARL HENRY BRUNSTING shall forthwith terminate and our Trustee shall distribute all undistributed net income and principal to CARL HENRY BRUNSTING, free of the trust.

(b) Distribution on the Death of CARL HENRY BRUNSTING

If CARL HENRY BRUNSTING should predecease us or die before the complete distribution of his trust share, the trust share set aside for CARL HENRY BRUNSTING shall terminate and our Trustee shall distribute the balance of the trust share to such beneficiary's then living descendants, per stirpes. However, if CARL HENRY BRUNSTING has no then living descendants, our Trustee shall distribute the balance of the trust share to our then living descendants, per stirpes. In the event we have no then living descendants, our Trustee shall distribute the balance of the trust share as provided in Section G of this Article.

4. (a) Distribution of the share of AMY RUTH TSCHIRHART

The trust share set aside for AMY RUTH TSCHIRHART shall forthwith terminate and our Trustee shall distribute all undistributed net income and principal to AMY RUTH TSCHIRHART, free of the trust.

(b) Distribution on the Death of AMY RUTH TSCHIRHART

If AMY RUTH TSCHIRHART should predecease us or die before the complete distribution of her trust share, the trust share set aside for AMY RUTH TSCHIRHART shall terminate and our Trustee shall distribute the balance of the trust share to such beneficiary's then living descendants, per stirpes. However, if AMY RUTH TSCHIRHART has no then living descendants, our Trustee shall distribute the balance of the trust share to our then living descendants, per stirpes. In the event we have no then living descendants, our Trustee shall distribute the balance of the trust share as provided in Section G of this Article.

5. (a) Distribution of the share of ANITA KAY RILEY

The trust share set aside for ANITA KAY RILEY shall forthwith terminate and our Trustee shall distribute all undistributed net income and principal to ANITA KAY RILEY, free of the trust.

(b) Distribution on the Death of ANITA KAY RILEY

If ANITA KAY RILEY should predecease us or die before the complete distribution of her trust share, the trust share set aside for ANITA KAY RILEY shall terminate and our Trustee shall distribute the balance of the trust share to such beneficiary's then living descendants, per stirpes. However, if ANITA KAY RILEY has no then living descendants, our Trustee shall distribute the balance of the trust share to our then living descendants, per stirpes. In the event we have no then living descendants, our Trustee shall distribute the balance of the trust share as provided in Section G of this Article.

Section C. Administration of the Share of a Descendant of a Deceased Beneficiary

Notwithstanding the foregoing provisions as to the disposition of a trust share upon the death of a beneficiary, each share set aside for a deceased beneficiary who has then living

descendants shall be held in trust if the descendant of the deceased beneficiary is under 21 years of age, or is disabled or incapacitated.

Our Trustee shall administer and distribute each such share according to the provisions of Article VII, Section D.

Section D. Subsequent Children

Notwithstanding the provisions of this Article wherein beneficiaries are named, if, subsequent to the creation of this trust declaration, we have additional children or legally adopt children who are under the age of 18, each such child shall be included among the beneficiaries named in this Article and an equal trust share shall be created for each such beneficiary.

Our Trustee shall administer and distribute each such share according to the provisions of Article VII, Section D.

Section E. Guidelines for Discretionary Distributions

Whenever we have given the Trustee any discretionary authority over the distribution of income or principal to any named beneficiary, the Trustee shall be liberal in exercising such discretion and shall give such beneficiary assistance for any opportunity or expense deemed by the Trustee to be in the best interest of such beneficiary. However, before making discretionary distributions, the Trustee shall take into consideration any additional sources of income and principal available to such beneficiary which exist outside of this agreement and are known to the Trustee, and the future probable needs of such beneficiary.

Section F. Guidelines for All Distributions

Whenever any provision of this Article authorizes or requires a distribution to any beneficiary, then the Trustee shall retain such distribution in trust at such beneficiary's written request. The Trustee shall pay to or apply for the benefit of the beneficiary such amounts of income and principal as the beneficiary may at any time request in writing. No limitations shall be placed upon the beneficiary regarding withdrawals from his or her respective trust share. In addition, the Trustee, in its sole and absolute discretion, may distribute to or apply for the benefit of the beneficiary as much of the principal and income of the beneficiary's trust share as the Trustee deems advisable, in its sole and absolute discretion, for the health, education, maintenance and support of the beneficiary.

Section G. Ultimate Distribution

If at any time there is no person, corporation or other entity entitled to receive all or any part of the trust property of one of us, it shall be distributed as follows:

<u>Beneficiary</u>	<u>Share %</u>
CENTRAL COLLEGE OF IOWA Pella, Iowa	100%

If the CENTRAL COLLEGE OF IOWA, Pella, Iowa, is no longer in existence at the date of distribution, but has designated a successor, such successor shall receive such beneficiary's share. However, if no such successor has been designated, the share of such beneficiary shall pass one-half to those persons who would be the wife Founder's heirs as if she had died intestate owning such property and the balance shall pass to those persons who would be the husband Founder's heirs as if he had died intestate owning such property.

The distribution of trust property, for purposes of this Section, shall be determined by the laws of descent and distribution for intestate estates in the State of Texas as such laws are in effect at the time of any distribution under this Article.

Section H. A Beneficiary's General Power to Appoint Trust Property

If a beneficiary under this Article should die before the complete distribution of his or her trust, the trust shall terminate and all of the trust property shall be distributed to such persons, corporations or other entities, including the beneficiary's own estate, in the manner in which the beneficiary shall elect.

This general power of appointment is the sole and exclusive right of the beneficiary and must be exercised by the beneficiary by either (i) a last will and testament; (ii) a living trust agreement; or (iii) a written exercise of power of appointment, either of which specifically refers to this power of appointment.

To the extent this general power of appointment is not exercised, the Trustee shall distribute the remaining trust property to the then living descendants of the beneficiary, per stirpes.

If the beneficiary has no then living descendants, the Trustee shall distribute the remaining trust property to our then living descendants, per stirpes. If we have no then living descendants, the Trustee shall distribute the remaining trust property as provided in Section G of this Article.

Article VII

Protection of Beneficial Interests

Section A. Protection of the Interests of Our Beneficiaries

To the fullest extent permitted by law, no beneficiary will have the power to anticipate, encumber or transfer any interest in the trust while such interests remain trust property, unless specifically authorized by the terms of this agreement. No part of the trust will be liable for or charged with any debts, contracts, liabilities or torts of a beneficiary or subject to seizure or other process by any creditor of a beneficiary.

Section B. Unproductive or Underproductive Assets

During the Founders' lives, each beneficiary will have the authority to issue a written directive to the Trustee to convert trust property which does not produce an income, or which is underproductive, into property which is income producing or which will provide a greater income to the trust. The Trustee shall convert the property immediately after receiving written direction to that effect.

The Trustee may convert the property by selling the unproductive or underproductive asset upon such terms and conditions as are prudent and reasonable under all circumstances which may then exist (including the acceptance of an income or interest bearing obligation as the whole or a part of the sales price), and investing the proceeds of the sale in income producing instruments or obligations.

Section C. No Contest of This Trust

The Founders vest in the Trustee the authority to construe this trust instrument and to resolve all matters pertaining to disputed issues or controverted claims. Founders do not want to burden this trust with the cost of a litigated proceeding to resolve questions of law or fact unless the proceeding is originated by the Trustee or with the Trustee's written permission.

Any person, agency or organization who shall originate (or who shall cause to be instituted) a judicial proceeding to construe or contest this trust instrument, or any will which requires distribution of property to this trust, or to resolve any claim or controversy in the nature of reimbursement, or seeking to impress a constructive or resulting trust, or alleging any other theory which, if assumed as true, would enlarge (or originate) a claimant's interest in this

trust or in the Founders' estates, without the Trustee's written permission, shall forfeit any amount to which that person, agency or organization is or may be entitled and the interest of any such litigant or contestant shall pass as if he or she or it had predeceased us, regardless of whether or not such contestant is a named beneficiary.

These directions shall apply even though the person, agency or organization shall be found by a court of law to have originated the judicial proceeding in good faith and with probable cause and even though the proceedings may seek nothing more than to construe the application of this no contest provision.

This requirement is to be limited, even to the exclusion thereof, in the event it operates to deny the benefits of the federal estate tax or federal gift tax marital deduction.

Section D. Our Trustee's Authority to Keep Property in Trust

If any trust property becomes distributable to a beneficiary when the beneficiary is under 21 years of age, or when the beneficiary is under any form of legal disability, as defined in Article X, the Trustee shall retain that beneficiary's share in a separate trust until he or she attains 21 years of age, or until his or her legal disability has ceased, to be administered and distributed as follows:

1. Distributions of Trust Income and Principal

The Trustee shall pay to or apply for the benefit of the beneficiary as much of the net income and principal of the trust as the Trustee, in its sole and absolute discretion, deems necessary or advisable for the beneficiary's health, education, maintenance and support.

In making any distributions of income and principal under this Section, the Trustee shall be mindful of, and take into consideration to the extent it deems necessary, any additional sources of income and principal available to the beneficiary which arise outside of this agreement.

Any net income not distributed to a beneficiary shall be accumulated and added to principal.

2. Methods of Distribution

Distributions to an incompetent or disabled beneficiary, or a minor beneficiary, may be made in any of the following ways as in the Trustee's opinion will be most beneficial to the interests of the beneficiary:

- (a) Directly to such beneficiary;
- (b) To his or her parent, guardian or legal representative;
- (c) To a custodian for said beneficiary under any Uniform Gifts to Minors Act and/or Gifts of Securities to Minors Act in the jurisdiction of residence of such beneficiary;
- (d) To any person with whom he or she is residing;
- (e) To some near relative or close friend; or
- (f) By the Trustee using such payment directly for the benefit of such beneficiary, including payments made to or for the benefit of any person or persons whom said beneficiary has a legal obligation to support;
- (g) To persons, corporations or other entities for the use and benefit of the beneficiary;
- (h) To an account in a commercial bank or savings institution in the name of the beneficiary, or in a form reserving the title, management and custody of the account to a suitable person, corporation or other entity for the use and benefit of the beneficiary; or
- (i) In any prudent form of annuity purchased for the use and benefit of the beneficiary.

The Trustee may instead, in the Trustee's sole discretion, hold such income or corpus for the account of such beneficiary as custodian. A receipt from a beneficiary or from his parent, guardian, legal representative, relative or close friend or other person described above shall be a sufficient discharge to the Trustee from any liability for making said payments.

The Trustee is likewise authorized to consult with and act upon the advice of the parent, guardian, custodian or legal representative of any beneficiary who is either an incompetent or a minor with respect to any and all matters which may arise under this trust and as it concerns the rights or interests of said beneficiary.

All statements, accounts, documents, releases, notices or other written instruments, including but not limited to, written instruments concerning the resignation or replacement of any Trustee or Trustees, required to be delivered to or executed by such beneficiary, may be delivered to or executed by the parent, guardian, custodian or legal representative of said incompetent or minor beneficiary, and when so delivered or executed shall be binding upon said incompetent or minor beneficiary, and shall be of the same force and effect as though delivered to or executed by a beneficiary acting under no legal disability.

3. Termination and Ultimate Distribution

Our Trustee shall distribute the trust property to a beneficiary:

When he or she attains 21 years of age, or

When he or she ceases to be disabled.

4. A Beneficiary's General Power to Appoint Trust Property

If a beneficiary under this Section should die before the complete distribution of his or her trust, the trust shall terminate and all of the trust property shall be distributed to such persons, corporations or other entities, including the beneficiary's own estate, in the manner in which the beneficiary shall elect.

This general power of appointment must be exercised by the beneficiary by either a last will and testament or a living trust agreement, either of which specifically refers to this power of appointment.

To the extent this general power of appointment is not exercised, the Trustee shall distribute the remaining trust property to the then living descendants of the beneficiary, per stirpes.

If the beneficiary has no then living descendants, the Trustee shall distribute the remaining trust property to our then living descendants, per stirpes. If we have no then living descendants, the Trustee shall distribute the remaining trust property as provided in Article VI, Section G of this agreement.

Article VIII

The Trustee

Section A. Original Trustee

Founders appoint ANITA KAY RILEY as the original Trustee of this trust.

Section B. Successor Trustees

If the original Trustee fails or ceases to serve by reason of death, disability, resignation or for any other reason, then the following individuals or entities will serve as Trustee in the following order:

First, CARL HENRY BRUNSTING

Second, AMY RUTH TSCHIRHART

The original Trustee shall be replaced by the next named successor in the order listed above when he or she has resigned or is unable to continue to serve as Trustee due to death, disability or any other reason. Successor Trustees will have the authority vested in the original Trustee under this trust document.

A successor Trustee will not be obliged to examine the records, accounts and acts of the previous Trustee or Trustees, nor will a successor Trustee in any way or manner be responsible for any act or omission to act on the part of any previous Trustee.

Section C. No Bond is Required of the Trustee

No one serving as Trustee will be required to furnish a fiduciary bond as a prerequisite to service.

Section D. Resignation or Removal of the Trustee

Any Trustee may resign at any time and without cause, and the instructions in this trust will determine who the successor will be. All resignations must be in writing and delivered to the successor Trustee and all beneficiaries then eligible to receive mandatory or discretionary distributions of income from any trust created under this agreement.

A majority of all adult beneficiaries and the legal guardians of all minor or disabled beneficiaries who are then entitled to receive mandatory or discretionary distributions of income from the trust, or distributions of income from any separate trust created by this document, may remove any Trustee then serving, without cause, the notice of removal to be delivered in writing to the said Trustee.

In the event that no Trustee is remaining who has been designated in this trust, a majority of all adult income beneficiaries and the legal guardians of all minor or disabled beneficiaries of the trust shares created hereunder shall have the power to appoint any corporate or banking institution having trust powers as the successor Trustee. Such power shall be exercised in a written instrument in recordable form which identifies this power, identifies the successor Trustee, contains an acceptance of office by such successor Trustee and identifies the effective time and date of such succession.

If such beneficiaries fail to appoint a successor corporate or institutional Trustee, the selection of a successor to the Trustee will be made by a court of competent jurisdiction.

Section E. Affidavit of Authority to Act

Any person or entity dealing with the trust may rely upon an affidavit of a Trustee or Trustees in substantially the following form:

On my oath, and under the penalties of perjury, I swear that I am the duly appointed and authorized Trustee of the BRUNSTING FAMILY IRREVOCABLE TRUST. I certify that the trust has not been revoked and remains in full force and effect, I have not been removed as Trustee and I have the authority to act for, and bind, the BRUNSTING FAMILY IRREVOCABLE TRUST in the transaction of the business for which this affidavit is given as affirmation of my authority.

Signature Line

Sworn, subscribed and acknowledged before me, the undersigned authority, on this the _____ day of _____, 19_____.

Notary Public - State of Texas

Section F. Documentary Succession of the Trustee

The successor to any Trustee may document succession with an affidavit setting forth that the preceding Trustee is unwilling to serve or has failed or ceased to serve due to death or disability and the successor has assumed the duties of the Trustee.

The affidavit may, at the Trustee's discretion, be filed in the deed records in each county in which real property held in trust is located or in the county in which the principal assets and records of the trust are located. The public and all persons interested in and dealing with the trust and the Trustee may rely upon a certified copy of the recorded affidavit as conclusive evidence of a successor's authority to serve and act as the Trustee of the trust.

Section G. The Trustee's Compensation

Any person who serves as Trustee may elect to receive reasonable compensation to be measured by the time required in the administration of the trust and the responsibility assumed in the discharge of the duties of office.

A corporate or bank Trustee will be entitled to receive as its compensation such fees as are then prescribed by its published schedule of charges for trusts of a similar size and nature and additional compensation for extraordinary services performed by the corporate Trustee.

If an attorney, accountant or other professional shall be selected as Trustee, such professional shall be entitled to compensation for professional services rendered to a trust by himself or by a member of his firm in addition to compensation for services as Trustee.

A Trustee will be entitled to full reimbursement for expenses, costs or other obligations incurred as the result of service, including attorney's, accountant's and other professional fees.

Section H. Multiple Trustees

In the event there are two or more Trustees serving the trust, the authority vested in such Trustees must be exercised by a majority of the Trustees. If only two Trustees are acting, the concurrence or joinder of both shall be required.

When more than two Trustees are acting, any dissenting or abstaining Trustee may be absolved from personal liability by registering a written dissent or abstention with the records of the trust; the dissenting Trustee shall thereafter act with the other Trustees in any manner necessary or appropriate to effectuate the decision of the majority.

Section I. Delegation of Authority

Any Trustee may delegate to any other Trustee named in our trust the powers and authority vested in him or her by this declaration. A delegating Trustee may evidence such delegation in writing and may revoke it in writing at any time.

Section J. Successor Corporate Trustees

Any successor corporate or bank Trustee must be a United States bank or trust company vested with trust powers pursuant to state or federal law, and must have a combined capital and surplus of 20 million dollars.

Any bank or trust company succeeding to the business of any corporate or bank Trustee serving by virtue of this declaration because of change of name, reorganization, merger or any other reason shall immediately succeed as Trustee of this trust, without the necessity of court intervention or any other action whatsoever.

Section K. Partial and Final Distributions

The Trustee, in making or preparing to make a partial or final distribution, may prepare an accounting and may require, as a condition to payment, a written and acknowledged statement from each distributee that the accounting has been thoroughly examined and accepted as correct; a discharge of the Trustee; a release from any loss, liability, claim or question concerning the exercise of due care, skill and prudence of the Trustee in the management, investment, retention and distribution of property during the Trustee's term of service, except for any undisclosed error or omission having basis in fraud or bad faith; and an indemnity of the Trustee, to include the payment of attorney's fees, from any asserted claim of any taxing agency, governmental authority or other claimant.

Section L. Court Supervision Not Required

All trusts created under this agreement shall be administered free from the active supervision of any court.

Any proceedings to seek judicial instructions or a judicial determination shall be initiated by the Trustee in the appropriate state court having original jurisdiction of those matters relating to the construction and administration of trusts.

Article IX

Our Trustee's Powers and Authority

Section A. Applicability of Texas Trust Code and Other Statutes

The Trustee shall have the powers, duties, and liabilities set forth in this declaration and as more specifically stated in this Article, as well as such powers, duties and liabilities set forth in the Texas Trust Code, and all other applicable state and federal statutes, as now enacted and as hereafter amended, except to the extent the same may be inconsistent with the provisions of this declaration, in which case the provisions of this declaration shall govern.

Section B. Powers to Be Exercised in the Best Interests of the Beneficiaries

The Trustee shall exercise the following administrative and investment powers without the order of any court, as the Trustee determines in its sole and absolute discretion to be in the best interests of the beneficiaries.

Notwithstanding anything to the contrary in this agreement, the Trustee shall not exercise any power in a manner inconsistent with the beneficiaries' right to the beneficial enjoyment of the trust property in accordance with the general principles of the law of trusts.

The Trustee may perform every act reasonably necessary to administer each and every share or trust created under this agreement.

Section C. General Investment and Management Powers

The Trustee is authorized to invest in such investments as the Trustee deems proper and prudent, even if such investments fail to constitute properly diversified trust investments or for any other reason could be considered to be improper trust investments. The Trustee's investment authority is intended to be quite broad, and shall include, but is not limited to, all authority that follows, except as that authority has been limited by other provisions contained in this trust declaration.

In addition, the Trustee is granted the authority to exercise any managerial powers of an individual with respect to matters affecting a trust, it being our intention to grant broad

managerial discretion to the Trustee that is consistent with the management and administration of a trust, including the following managerial authorities, except as otherwise provided in this trust declaration.

Originally Contributed Properties

The Trustee may continue to hold and maintain all assets originally contributed to any trust.

Additional Properties

The Trustee is authorized to receive additional trust property, whether by gift, will, or otherwise, either from us, from either of us, or from any other person, corporation, or entity.

Upon receipt of any additional property, the Trustee shall administer and distribute the same as part of the trust property.

The Trustee may retain, without liability for depreciation or loss resulting from such retention, all property constituting the trust estate at the time of its creation or thereafter received from other sources.

The foregoing shall be acceptable even though such property may not be of the character prescribed by law for the investment of trust funds or may result in inadequate diversification of the trust property.

Securities Powers

The Trustee may invest and reinvest in such classes of stocks, bonds, securities, commodities, options, metals, or other property real or personal, as it shall determine.

The Trustee is authorized to buy, sell, and trade in securities of any nature, including short sales on margin. The Trustee may maintain and operate margin accounts with brokers, and may pledge any securities held or purchased by other Trustees with such brokers as securities for loans and advances made to the Trustee.

The Trustee may retain, exercise, or sell rights of conversion or subscription with respect to any securities held as part of the trust property.

The Trustee may vote or refrain from voting at corporate meetings either in person or by proxy, whether general or limited, and with or without substitutions.

Investment of Cash Assets

A corporate entity serving as Trustee may deposit trust funds with itself as either a permanent or temporary investment, and may place trust funds under its administration in common trust funds established and maintained by such corporate trustee or its affiliate. In determining where to invest cash resources, the Trustee may consider all factors, including facility of access and security of funds invested, as well as the stated rate of return.

Unproductive or Wasting Assets

Except as otherwise provided in this agreement, the Trustee may receive, acquire and maintain assets that may constitute unproductive, underproductive or wasting assets if the Trustee believes it is reasonable to do so. Upon the sale or disposition of any such asset, the Trustee need not make an allocation of any portion of the principal element of such sale proceeds to the income beneficiaries of the trust.

Mineral Properties

The Trustee shall have the power to acquire, exchange, maintain or sell mineral interests, and to make oil, gas and mineral leases covering any lands or mineral interests forming a part of a trust estate, including leases for periods extending beyond the duration of the trust.

The Trustee may pool or unitize any or all of the lands, mineral leaseholds or mineral interests of a trust with others for the purpose of developing and producing oil, gas or other minerals, and may make leases or assignments containing the right to pool or unitize.

The Trustee may enter into contracts and agreements relating to the installation or operation of absorption, repressuring and other processing plants, may drill or contract for the drilling of wells for oil, gas or other minerals, may enter into, renew and extend operating agreements and exploration contracts, may engage in secondary and tertiary recovery operations, may make "bottom hole" or "dry hole" contributions, and may deal otherwise with respect to mineral properties as an individual owner might deal with his own properties.

The Trustee may enter into contracts, conveyances and other agreements or transfers deemed necessary or desirable to carry out these powers, including division orders, oil, gas or other hydrocarbon sales contracts, processing agreements, and other contracts relating to the processing, handling, treating, transporting and marketing of oil, gas or other mineral production.

Any lease or other agreement may have a duration that the Trustee deems reasonable, even though extending beyond the duration of any trust created in this agreement.

The Trustee may drill, test, explore, mine, develop, and otherwise exploit any and all oil, gas, coal, and other mineral interests, and may select, employ, utilize, or participate in any business form, including partnerships, joint ventures, co-owners' groups, syndicates, and corporations, for the purpose of acquiring, holding, exploiting, developing, operating, or disposing of oil, gas, coal, and other mineral interests.

The Trustee may employ the services of consultants or outside specialists in connection with the evaluation, management, acquisition, disposition, or development of any mineral interests, and may pay the cost of such services from the principal or income of the trust property.

The Trustee may use the general assets of the trusts created under this agreement for the purposes of acquiring, holding, managing, developing, pooling, unitizing, repressuring, or disposing of any mineral interests.

The term "mineral" shall mean minerals of whatever kind and wherever located, whether surface or subsurface deposits, including (without limitation) coal, lignite and other hydrocarbons, iron ore, and uranium.

Power to Enter Into or Continue Business Activities

The Trustee shall have the authority to enter into, engage in, expand, carry on, terminate and liquidate any and all business activities, whether in proprietary, general or limited partnership, joint venture or corporate form, with such persons and entities as the Trustee deems proper. This power pertains to business activities in progress at the date of our deaths, and to business opportunities arising thereafter. Business activities conducted by the Trustee should be related to the administration and investment of the trust estate, for it is not our intention to convert any trust into an entity that would be taxable as an association for federal tax purposes.

Banking Authority

The Trustee is authorized to establish and maintain bank accounts of all types in one or more banking institutions that the Trustee may choose.

Corporate Activities

The Trustee may form, reorganize or dissolve corporations, and may exercise all rights of a stockholder, including the right to vote for or against mergers, consolidations and liquidations, and to act with or without substitution. An individual serving as Trustee may elect himself as an officer or director of a corporation owned in part or in whole by a trust created by this declaration, and a corporate entity serving as Trustee may elect one of its

officers to such a position, and in each such instance the person so elected may be paid reasonable compensation for services rendered to such corporation in such capacity. The Trustee may retain, exercise or sell rights of conversion or subscription to any securities held as part of the trust property.

Agricultural Powers

The Trustee may retain, sell, acquire, and continue any farm or ranching operation whether as a sole proprietorship, partnership, or corporation.

The Trustee may engage in the production, harvesting, and marketing of both farm and ranch products either by operating directly or with management agencies, hired labor, tenants, or sharecroppers.

The Trustee may engage and participate in any government farm program, whether state or federally sponsored.

The Trustee may purchase or rent machinery, equipment, livestock, poultry, feed, and seed.

The Trustee may improve and repair all farm and ranch properties; construct buildings, fences, and drainage facilities; acquire, retain, improve, and dispose of wells, water rights, ditch rights, and priorities of any nature.

The Trustee may, in general, do all things customary or desirable to operate a farm or ranch operation for the benefit of the beneficiaries of the various trusts created under this agreement.

Real Estate

The Trustee may purchase or sell real property, and may exchange, partition, subdivide, develop, manage, and improve real property. The Trustee may grant or acquire easements, may impose deed restrictions, may adjust boundaries, may raze existing improvements, and may dedicate land or rights in land for public use. The Trustee may construct, repair, alter, remodel, demolish or abandon improvements. The Trustee may take any other action reasonably necessary for the preservation of real estate and fixtures comprising a part of the trust property or the income therefrom.

Authority to Sell or Lease and Other Dispositive Powers

The Trustee may sell, lease or grant options to lease trust property without the consent or ratification of any court, remainderman, or third party, including the authority to lease beyond the anticipated term of a trust, upon such terms and for such consideration as the

Trustee deems appropriate. The Trustee may make such contracts, deeds, leases, and other instruments it deems proper under the circumstances, and may deal with the trust property in all other ways in which a natural person could deal with his or her property.

Warranties and Covenants

The Trustee may convey properties with such covenants and warranties of title (general or special) as the Trustee deems appropriate.

Trustee's Compensation

The Trustee shall pay itself reasonable compensation for its services as fiduciary as provided in this agreement.

Employment and Delegation of Authority to Agents

The Trustee may employ and compensate, and may discharge, such advisors and agents as the Trustee deems proper, and may delegate to an agent such authorities (including discretionary authorities) as the Trustee deems appropriate, by duly executed powers of attorney or otherwise.

Power to Release or Abandon Property or Rights, and to Pursue Claims

The Trustee may release, compromise or abandon claims or rights to property for such consideration (including no consideration) as the Trustee determines to be appropriate when the Trustee determines it is prudent to do so. The Trustee is authorized to institute suit on behalf of and to defend suits brought against a trust estate, and to accept deeds in lieu of foreclosure.

Nominal Title and Use of Nominees

With or without disclosing fiduciary capacity, the Trustee may acquire title to property in the name of the Trustee or in the name of one or more nominees, and may allow its nominees to take possession of trust assets with or without direct custodial supervision by the Trustee.

Power to Lend Money and Guarantee Obligations

The Trustee may lend money to any person, to any business entity, to an estate, or to any trust, if the Trustee deems the loan to be in the best interests of the trust beneficiaries,

provided that any such loan (except loans to beneficiaries) shall be adequately secured and shall bear a reasonable rate of interest.

The Trustee, in the Trustee's discretion, may endorse, guarantee, become the surety of or otherwise become obligated for or with respect to the debts or other obligations of any person or legal entity, whether with or without consideration, when the Trustee believes such actions advance the purposes of any trust created hereunder.

The Trustee may make loans from a beneficiary's trust share to or for the benefit of such a beneficiary on an unsecured basis, and for such rate of interest as the Trustee deems appropriate, when in the Trustee's judgment, such loan would be consistent with the purposes of such trust.

Power to Borrow

The Trustee may create indebtedness and raise money by any means, including margin trading in securities, when the Trustee believes such borrowing will be beneficial to the trust estate.

The Trustee is authorized to secure the payment of each such indebtedness, and all renewals, extensions and refinancing of same, by pledge, mortgage, deed of trust or other encumbrance covering and binding all or any part of the trust estate of a trust.

The Trustee may loan its own monies to a trust and may charge and recover the then usual and customary rate of interest thereon when, in the discretion of Trustee, it is prudent to do so.

Payment of Indebtedness and Settlement Costs

The Trustee may in its sole discretion pay the funeral and burial expenses, expenses of the last illness, and valid claims and expenses of an income beneficiary of any trust created under this agreement.

Funeral and burial expenses shall include, but not be limited to, the cost of memorials of all types and memorial services of such kind as the Trustee shall approve. Valid claims and expenses shall include, but not be limited to, all state and federal death taxes.

The payments shall be paid from the assets of the trust or trusts from which the beneficiary was receiving income.

Transactions Between the Trustee and Our Personal Representatives

The Trustee is authorized to accept from our personal representatives, upon the termination or during the administration of our respective probate estates, if any, assets delivered by our personal representatives to the Trustee on the basis of the accounting submitted by the personal representatives, without requiring an audit or other independent accounting of the acts of our personal representatives, and the Trustee shall not have liability for the acts or omissions of our personal representatives. The foregoing shall not limit the right of the Trustee to request an accounting from our personal representatives and our personal representatives shall, upon request from the Trustee, furnish a complete accounting for their actions.

The Trustee shall have the power to purchase property from our estates at its fair market value, as determined by our personal representatives and by the Trustee, and to the extent required to permit such purchase of assets and to permit loans from the Trustee to our estate, we specifically waive application of the provisions of Section 352 of the Texas Probate Code and Sections 113.053 and 113.054 of the Texas Trust Code.

Commingling Trust Estates

For the purpose of convenience with regard to the administration and investment of the trust property, the Trustee may hold the several trusts created under this agreement as a common fund.

The Trustee may make joint investments with respect to the funds comprising the trust property.

The Trustee may enter into any transaction authorized by this Article with fiduciaries of other trusts or estates in which any beneficiary hereunder has an interest, even though such fiduciaries are also Trustees under this agreement.

Addition of Accumulated Income to Principal

The Trustee shall, on a convenient periodic basis, add the accumulated undistributed income of any trust which does not provide for mandatory income distributions to specified beneficiaries, and which does not require that any undistributed income be maintained separately for ultimate distribution to specified beneficiaries, to the principal of such trust.

Distributions Not Treated as Advancements

No distributions to a beneficiary of any trust created hereunder shall be treated as an advancement against the beneficiary's share of such trust unless the distribution is specially

so treated on the Trustee's records at the time of the distribution or unless the Trustee gives notice of such fact to the beneficiary at the time of the distribution. If the Trustee has the discretion to make distributions from a trust to more than one beneficiary, the Trustee ordinarily should not treat distributions to any particular beneficiary as an advancement of that beneficiary's share of the trust unless an event has occurred causing the termination of such trust.

**Transactions in Which the Trustee
Has A Direct or Indirect Interest**

We expressly waive prohibitions existing under the common law and the Texas Trust Code that might otherwise prohibit a person or entity who is serving as a Trustee from engaging in transactions with himself or itself personally, so long as the consideration exchanged in any such transaction is fair and reasonable to the trust created by this declaration. Specifically, we authorize the Trustee (a) to buy or sell trust property from or to an individual or entity serving as a Trustee, or from or to a relative, employee, business associate or affiliate of such individual serving as Trustee; (b) to sell or exchange and to transact other business activities involving properties of one trust with another trust under the control of the Trustee; and (c) to sell or purchase from a trust the stock, bonds, obligations or other securities of the Trustee or its affiliate.

Notwithstanding the general powers conferred upon the Trustee, or anything to the contrary contained in this agreement, no individual Trustee shall exercise or participate in the exercise of discretion with respect to the distribution of trust income or principal to or for the benefit of such Trustee.

No individual Trustee shall exercise or participate in the exercise of such discretionary power with respect to distributions to any person or persons such Trustee is legally obligated to support as to that support obligation.

Section D. Apportionment of Receipts and Expenses Between Income and Principal

The Trustee shall have the power, exercisable in such Trustee's reasonable and sole discretion, to determine what is principal or income of a trust or trust share. The Trustee shall pay from income or principal all of the reasonable expenses attributable to the administration of the respective trusts created in this agreement. The Trustee shall have the power to establish a reasonable reserve for depreciation or depletion and to fund the same by appropriate charges against income of the trust estate. For purposes of determining an appropriate reserve for depreciable or depletable assets, the Trustee may (but need not) adopt the depreciation or depletion allowance available for federal income tax purposes.

However, all increases in the value of any life insurance policies held by this trust prior to the death of the insured shall be principal and not income.

Section E. Records, Books of Account and Reports

The Trustee shall promptly set up and thereafter maintain, or cause to be set up and maintained, proper books of account which shall accurately reflect the true financial condition of the trust estate. Such books of account shall at all reasonable times be open for the inspection or audit of the beneficiaries, their parent or court appointed guardians, and the duly authorized agents, attorneys, representatives and auditors of each, at the expense of the beneficiary making such inspection or audit.

The Trustee shall make a written financial report, at least semi-annually, to each beneficiary to the trust who is or could be entitled to receive a present income distribution, unless such beneficiary, or such beneficiary's parent or legal guardian, has executed a written waiver of the right to receive such a report. The Trustee shall not be obligated to provide financial reports to a beneficiary who is less than eighteen years old if such reports are being provided to a parent of such beneficiary. Such reports shall be submitted to the parent or guardian of a minor beneficiary, or to the guardian or other legal representative of any incapacitated beneficiary.

The first financial report shall identify all property initially received by the Trustee. The first report and each subsequent report shall include a statement of all property on hand at the end of such accounting period, of all property that has come to the knowledge or possession of the Trustee that has not been previously listed as property of the trust, of all known liabilities, of all receipts and disbursements during such period (including a statement as to whether the receipt or disbursement is of income or principal), and of such other facts as the Trustee deems necessary to furnish in order to provide adequate information as to the condition of the trust estate.

Except as otherwise provided in this declaration, should any person interested in a trust estate request an accounting for the Trustee's actions that is more extensive or more frequent than the accounting normally to be rendered, the Trustee may require such person to pay the additional costs incurred in preparing the same before complying with such request.

Section F. Trustee's Liability

No person or entity serving as Trustee without compensation shall be liable for any error of judgment or mistake of fact or law or for ordinary negligence, but shall be liable for acts involving willful misconduct, gross negligence or bad faith.

Unless otherwise provided, no person or entity serving as Trustee who is receiving compensation for his or its services hereunder shall be liable for any loss which may occur as a result of any actions taken or not taken by the Trustee if such person or entity has exercised the reasonable care, skill and prudence generally exercised by a compensated fiduciary with respect to the administration, investment, and management of similar estates.

No person or entity serving as Trustee shall be liable for the acts, omissions or defaults of any other person or entity serving as Trustee, agent or other person to whom duties may be properly delegated hereunder (except that each corporate trustee shall be liable for the acts, omissions and defaults of its officers and regular employees) if such agent or other person was engaged with reasonable care.

Unless a Trustee shall expressly contract and bind himself or itself individually, no Trustee shall incur any personal liability to any person or legal entity dealing with the Trustee in the administration of a trust. The Trustee shall be entitled to reimbursement from the properties of a trust for any liability or expense, whether in contract, tort or otherwise, incurred by the Trustee in the proper administration of a trust.

The Trustee shall be indemnified from the trust property for any damages sustained by the Trustee as a result of its exercising, in good faith, any of the authorities granted it under this trust declaration.

Section G. Duty of Third Parties Dealing with Trustee

No person dealing with the Trustee shall be responsible for the application of any assets delivered to the Trustee, and the receipt of the Trustee shall be a full discharge to the extent of the property delivered. No purchaser from or other person dealing with the Trustee, and no issuer or transfer agent of any securities to which any dealing with the Trustee shall relate, shall be under any duty to ascertain the power of the Trustee to purchase, sell, exchange, transfer, encumber or otherwise in any manner deal with any property held by the Trustee. No person dealing with the Trustee in good faith shall be under any duty to see that the terms of a trust are complied with or to inquire into the validity or propriety of any act of the Trustee.

Section H. Division and Distribution of Trust Estate

When the Trustee is required to divide or make distribution from a trust estate, in whole or in part, such division or distribution may be made by the Trustee in cash or in kind, or partly in cash and partly in kind, and the Trustee may assign or apportion to the distributees undivided interests in any assets then constituting a part of such trust estate. The Trustee

may encumber property, may sell property, and may make non-pro-rata distributions when the Trustee believes it is practical or desirable and equitable to do so in order to effectuate a trust distribution regardless of the income tax basis of any asset.

If non-pro-rata distributions are to be made, the Trustee should attempt to allocate the tax basis of the assets distributed in an equitable manner among the beneficiaries of the trust, but the Trustee may at all times rely upon the written agreement of the trust beneficiaries as to the apportionment of assets. To the extent non-pro-rata distributions are made and the tax basis of the assets so distributed is not uniformly apportioned among beneficiaries, the Trustee may, but need not, make any equitable adjustments among such beneficiaries as a result of such nonuniformity in basis.

Section I. Life Insurance

The Trustee shall have the powers with regard to life insurance as set forth in this Section, except as otherwise provided in this agreement.

The Trustee may purchase, accept, hold, and deal with as owner, policies of insurance on both Founders' individual or joint lives, the life of any trust beneficiary, or on the life of any person in whom any trust beneficiary has an insurable interest.

The Trustee shall have the power to execute or cancel any automatic premium loan agreement with respect to any policy, and shall have the power to elect or cancel any automatic premium loan provision in a life insurance policy.

The Trustee may borrow money with which to pay premiums due on any policy either from the company issuing the policy or from any other source and may assign any such policy as security for the loan.

The Trustee shall have the power to exercise any option contained in a policy with regard to any dividend or share of surplus apportioned to the policy, to reduce the amount of a policy or convert or exchange the policy, or to surrender a policy at any time for its cash value.

The Trustee may elect any paid-up insurance or any extended-term insurance nonforfeiture option contained in a policy.

The Trustee shall have the power to sell policies at their fair market value to the insured or to anyone having an insurable interest in the policies.

The Trustee shall have the right to exercise any other right, option, or benefit contained in a policy or permitted by the insurance company issuing that policy.

Upon termination of any trust created under this agreement, the Trustee shall have the power to transfer and assign the policies held by the trust as a distribution of trust property.

Section J. Insured Trustee's Authority

Any individual Trustee under this agreement, other than either Founder, is prohibited from exercising any power conferred on the owner of any policy which insures the life of such individual Trustee and which is held as part of the trust property.

If the Trustee holds any such policy or policies as a part of the trust property, the powers conferred on the owner of such a policy shall be exercised only by the other then acting Trustee or a substitute Trustee.

If the insured Trustee is the only then acting Trustee, then such powers shall be exercised by a substitute Trustee designated pursuant to the provisions of this agreement dealing with the trusteeship.

If any rule of law or court decision construes the ability of the insured Trustee to name a substitute Trustee as an incident of ownership, the substitution process shall be implemented by a majority of the then current mandatory and discretionary income beneficiaries, excluding the insured Trustee if the insured Trustee is a beneficiary.

Section K. Estimated Income Tax Payment Allocation

The Trustee, in its sole discretion, may elect or not elect to treat all or any portion of federal estimated taxes paid by any trust to be treated as a payment made by any one or more beneficiaries of such trust who are entitled to receive current distributions of income or principal from such trust. The election need not be made in a pro rata manner among all beneficiaries of the trust.

If there is an individual serving as a co-trustee who is a beneficiary of a trust created by this declaration, that individual may not take part in any decision to treat any trust estimated income tax payment as a payment by such individual.

In exercising or choosing not to exercise the discretion granted in this paragraph, the Trustee shall not be liable to any beneficiary or to any other persons directly or indirectly for any action or inaction so taken except for its willful fraud or gross negligence.

Section L. Merger of Trusts

If at any time the Trustee determines it would be in the best interest of the beneficiary or beneficiaries of any trust created by this declaration to transfer or merge all of the assets held in such trust with any other trust created either by trust instrument or by will for the benefit of the same beneficiary or beneficiaries and under substantially similar trusts, terms and conditions, the Trustee under this declaration, after giving not less than thirty days advance written notice to its beneficiaries, is authorized to transfer to or merge all of the assets held under the trust created by this declaration to such other substantially similar trust, and to terminate the trust created under this declaration regardless of whether the Trustee under this declaration also is acting as the trustee of such other trust.

The Trustee under this declaration shall not be subject to liability for delegation of its duties for any such transfer to a substantially similar trust having a different person or entity serving as trustee, and shall have no further liability with respect to trust assets properly delivered to the trustee of any such other substantially similar trust. Similarly, the Trustee of any trust created by this declaration is authorized to receive from the trustee of any other substantially similar trust the assets held under such other trust.

Section M. Termination and Distribution of Small Trust

If, in the discretionary judgment of the person(s) or entity serving as Trustee, any trust shall at any time be a size which, in the Trustee's sole judgment, shall make it inadvisable or unnecessary to continue such trust, then the Trustee may distribute the trust estate of such trust to its beneficiaries in proportion to their respective presumptive interests in such trust at the time of such termination.

Section N. Elimination of Duty to Create Identical Trusts

If the provisions of this trust direct the Trustee to hold any portion of its trust estate at its termination as the trust estate of a new trust for the benefit of any person or persons who already are beneficiaries of an existing identical trust, that portion of the terminating trust shall be added to the existing identical trust, and no new trust shall be created.

Section O. Powers of Trustee Subsequent to an Event of Termination

The Trustee shall have a reasonable period of time after the occurrence of an event of termination in which to wind up the administration of a trust and to make a distribution of

its assets. During this period of time the Trustee shall continue to have and shall exercise all powers granted herein to the Trustee or conferred upon the Trustee by law until all provisions of this declaration are fully executed.

Section P. Requesting Financial Information of Trust Beneficiaries

In exercising its discretion to make any discretionary distributions to the beneficiaries of any trust created hereunder, the Trustee is authorized to request any financial information, including prior federal income tax returns, from the respective beneficiaries that the Trustee deems necessary in order to exercise its discretion in accordance with the provisions for making such distributions under this declaration.

Section Q. Qualification as a Qualified Subchapter S Trust

If any stock of an S corporation becomes distributable to a trust created under this agreement, and such trust is not a qualified Subchapter S trust, the Trustee may implement any of the following alternatives with respect to the S corporation stock:

1. A Sole Beneficiary

Where the original trust is for a sole beneficiary, the Trustee may create for that beneficiary a separate trust that qualifies as a Subchapter S trust, and then distribute such stock to the newly created trust.

2. Multiple Beneficiaries

Where the original trust is for multiple beneficiaries, the Trustee may divide the trust into separate trusts for each of the beneficiaries. Each newly created trust shall hold that beneficiary's pro rata share of the S corporation stock, and shall qualify as a Subchapter S trust.

3. Outright Distribution

If circumstances prevent the Trustee from accomplishing the first two alternatives under this paragraph, the Trustee may, in its sole and absolute discretion, distribute such stock to the beneficiaries as if the trust had terminated, while continuing to hold any other non-S corporation property in trust.

Each newly created S corporation trust shall have mandatory distributions of income and shall not provide for powers of appointment that can be exercised by the beneficiary during the beneficiary's lifetime. In all other respects, the newly created trusts shall be as consistent as possible with the original trusts and still qualify as Subchapter S trusts.

The Trustee may take any action necessary with regard to S corporations, including making any elections required to qualify stock as S corporation stock, and may sign all required tax returns and forms.

Article X

Definitions

For purposes of this trust declaration, the following words and phrases shall be defined as follows:

1. Adopted and Afterborn Persons. Persons who are legally adopted while they are under 18 years of age shall be treated for all purposes under this agreement as though they were the naturally born children of their adopting parents.

A child in gestation who is later born alive shall be considered a child in being throughout the period of gestation.

2. Descendants. The term "descendants" means the lawful lineal blood descendants of the person or persons to whom reference is made. A descendant in gestation who is later born alive shall be considered a descendant in being throughout the period of gestation. An adopted person, and all persons who are the descendants by blood or by legal adoption while under the age of 18 years of such adopted person, shall be considered descendants of the adopting parents as well as the adopting parents' ancestors.

3. Education. As used in this trust, "education" shall include:

Any course of study or instruction at an accredited college or university granting undergraduate or graduate degrees.

Any course of study or instruction at any institution for specialized, vocational or professional training.

Any curriculum offered by any institution that is recognized for purposes of receiving financial assistance from any state or federal agency or program.

Any course of study or instruction which may be useful in preparing a beneficiary for any vocation consistent with the beneficiary's abilities and interests.

Distributions for education may include tuition, fees, books, supplies, living expenses, travel and spending money to the extent that they are reasonable.

4. Founders. The term "Founders" means the "grantors", "trustors", "settlers" or any other name given to the makers of this trust either by law or by popular usage.
5. Heirs at Law. Whenever a Trustee, or a legal advisor to the Trustee, is called upon to determine the heirs at law of the Founders, or any other person beneficially interested in this trust, the determination will be made to identify those individuals, other than creditors, who would receive the personal property of a decedent upon his or her death as determined in accordance with the laws of intestate succession of the State of Texas, United States of America, and further determined as if the Founders of this trust had predeceased the person or persons so named or described.
6. Incompetence or Disability. A Founder, Trustee or beneficiary will be considered "incompetent," "disabled" or "legally incapacitated" if he or she is incapacitated to an extent which makes it impossible or impractical for him or her to give prompt and intelligent consideration to their property or financial matters.

The Trustee may rely on a judicial declaration of incompetency by a court of competent jurisdiction, or the Trustee may rely upon the written opinion of two licensed physicians as to the disability of any Founder, Trustee or beneficiary and may utilize such written opinion as conclusive evidence of such incompetence or disability in any dealings with third parties.

In addition, if a guardian, conservator or other personal representative of a Founder, Trustee or beneficiary has been appointed by a court of competent jurisdiction, then such Founder, Trustee or beneficiary will be considered incompetent or disabled.

7. Minor and Adult Beneficiary. The term "minor beneficiary" identifies a beneficiary who is less than 21 years of age. The term "adult beneficiary" identifies a beneficiary who is 21 years of age or older.
8. Per Stirpes Distributions. Whenever a distribution is to be made to a person's descendants, per stirpes, the distributable assets are to be divided into as many shares as there are then living children of such person and deceased children of such person who left then living descendants. Each then living child shall receive one share and the share of each deceased child shall be divided among such child's then living descendants in the same manner.
9. Personal Representative. For the purposes of this agreement, the term "personal representative" shall include an executor, administrator, guardian, custodian, conservator, Trustee or any other form of personal representative.

10. Power of Appointment or Qualified Beneficiary Designation. Whenever this trust declaration gives a trust beneficiary the power or authority to appoint a beneficiary of the trust, the designation must be in writing and be acknowledged in the form required of acknowledgements by Texas law or exercised by a will executed with the formalities required by law of the trust beneficiary's residence.

It must clearly evidence the interest of the trust beneficiary to exercise a power of appointment; and, the written beneficiary designation must have been delivered to the Trustee prior to the trust beneficiary's death or, if exercised by will, must subsequently be admitted to probate no matter the time interval.

The term of this trust may be extended if the qualified beneficiary designation requires that a beneficiary's interest remain in trust, or may be divided and be held as a separate trust which is governed by the terms of this trust declaration.

11. Relative or Relatives. Reference to a "relative" or "relatives" will identify any person or persons related to the Founders by blood or lawful adoption in any degree.
12. Trust. "Trust" means the irrevocable trust created by this trust declaration as well as any trusts created in it.
13. Trust Fund. The terms "trust fund", "trust property" or "trust assets" mean all property comprising: the initial contribution of corpus to the trust; all property paid or transferred to, or otherwise vested in, the Trustee as additions to the corpus of this trust; accumulated income, if any, whether or not added to the corpus of this trust; and, the investments and reinvestment of the trust property, including the increase and decrease in the values thereof as determined from time to time. The terms "corpus", "principal" and "assets" are used interchangeably.
14. Trustee. All references to "Trustee" shall refer to the original Trustee, if serving in such capacity, as well as the successor Trustees who are then serving in such capacity, under this trust declaration. For convenience, the term "Trustee", used in the singular, will mean and identify multiple Trustees serving and acting pursuant to the directions of this trust declaration. The term "corporate Trustee" will identify a banking or trust corporation with trust powers.

Article XI

Miscellaneous Matters

Section A. The Rule Against Perpetuities

In no event will the term of this trust continue for a term greater than 21 years after the death of the last survivor of the Founders and all relatives of the Founders living on the effective date of this trust declaration.

Any continuation of the trust by the qualified exercise of a power of appointment will be construed as the creation of a separate trust and an extension of the rule against perpetuities to the extent permitted by law. A court of competent jurisdiction is to liberally construe and apply this provision to validate an interest consistent with the Founders' intent and may reform or construe an interest according to the doctrine of cy pres.

Section B. Jurisdiction

The jurisdiction of this trust will be the State of Texas. Any issue of law or fact pertaining to the creation, continuation, administration and termination of the trust, or any other matter incident to this trust, is to be determined with reference to the specific directions in the trust declaration and then under the laws of the State of Texas.

If an Article or Section of this trust declaration is in conflict with a prohibition of state law or federal law, the Article or Section, or the trust declaration as a whole, is to be construed in a manner which will cause it to be in compliance with state and federal law and in a manner which will result in the least amount of taxes and estate settlement costs.

Section C. Maintaining Property in Trust

If, on the termination of any separate trust created under this agreement, a final distribution is to be made to a beneficiary for whom the Trustee holds a trust created under this agreement, such distribution shall be added to such trust rather than being distributed.

The property that is added to the trust shall be treated for purposes of administration as though it had been an original part of the trust.

Article XII

Our Trustees' Powers and Authority

Section A. Applicability of Texas Trust Code and Other Statutes

The Trustee shall have the powers, duties, and liabilities set forth in this declaration and as more specifically stated in this Article, as well as such powers, duties and liabilities set forth in the Texas Trust Code, and all other applicable state and federal statutes, as now enacted and as hereafter amended, except to the extent the same may be inconsistent with the provisions of this declaration, in which case the provisions of this declaration shall govern.

Section B. Powers to Be Exercised in the Best Interests of the Beneficiaries

The Trustee shall exercise the following administrative and investment powers without the order of any court, as the Trustee determines in its sole and absolute discretion to be in the best interests of the beneficiaries.

Notwithstanding anything to the contrary in this agreement, the Trustee shall not exercise any power in a manner inconsistent with the beneficiaries' right to the beneficial enjoyment of the trust property in accordance with the general principles of the law of trusts.

The Trustee may perform every act reasonably necessary to administer each and every share or trust created under this agreement.

Section C. General Investment and Management Powers

The Trustee is authorized to invest in such investments as the Trustee deems proper and prudent, even if such investments fail to constitute properly diversified trust investments or for any other reason could be considered to be improper trust investments. The Trustee's investment authority is intended to be quite broad, and shall include, but is not limited to, all authority that follows.

In addition, the Trustee is granted the authority to exercise any managerial powers of an individual with respect to matters affecting a trust, it being our intention to grant broad managerial discretion to the Trustee that is consistent with the management and administration of a trust, including the following managerial authorities.

Originally Contributed Properties

The Trustee may continue to hold and maintain all assets originally contributed to any trust.

Additional Properties

The Trustee is authorized to receive additional trust property, whether by gift, will, or otherwise, either from us, from either of us, or from any other person, corporation, or entity.

Upon receipt of any additional property, the Trustee shall administer and distribute the same as part of the trust property.

The Trustee may retain, without liability for depreciation or loss resulting from such retention, all property constituting the trust estate at the time of its creation or thereafter received from other sources.

The foregoing shall be acceptable even though such property may not be of the character prescribed by law for the investment of trust funds or may result in inadequate diversification of the trust property.

Securities Powers

The Trustee may invest and reinvest in such classes of stocks, bonds, securities, commodities, options, metals, or other property real or personal, as it shall determine.

The Trustee is authorized to buy, sell, and trade in securities of any nature, including short sales on margin. The Trustee may maintain and operate margin accounts with brokers, and may pledge any securities held or purchased by other Trustees with such brokers as securities for loans and advances made to the Trustee.

The Trustee may retain, exercise, or sell rights of conversion or subscription with respect to any securities held as part of the trust property.

The Trustee may vote or refrain from voting at corporate meetings either in person or by proxy, whether general or limited, and with or without substitutions.

Investment of Cash Assets

A corporate entity serving as Trustee may deposit trust funds with itself as either a permanent or temporary investment, and may place trust funds under its administration in common trust funds established and maintained by such corporate trustee or its affiliate. In

determining where to invest cash resources, the Trustee may consider all factors, including facility of access and security of funds invested, as well as the stated rate of return.

Unproductive or Wasting Assets

Except as otherwise provided in this agreement, the Trustee may receive, acquire and maintain assets that may constitute unproductive, underproductive or wasting assets if the Trustee believes it is reasonable to do so. Upon the sale or disposition of any such asset, the Trustee need not make an allocation of any portion of the principal element of such sale proceeds to the income beneficiaries of the trust.

Personal Residence and Furnishings of Personal Residence

To the extent that the personal residence that we occupied at the date of the death of the first of us to die and any furnishings of such residence become part of a trust estate, the Trustee is authorized to continue to retain and use, to distribute in kind, or to sell any such assets should the Trustee believe the retention, use, distribution or sale of such assets would be beneficial to the survivor of us.

Mineral Properties

The Trustee shall have the power to acquire, exchange, maintain or sell mineral interests, and to make oil, gas and mineral leases covering any lands or mineral interests forming a part of a trust estate, including leases for periods extending beyond the duration of the trust.

The Trustee may pool or unitize any or all of the lands, mineral leaseholds or mineral interests of a trust with others for the purpose of developing and producing oil, gas or other minerals, and may make leases or assignments containing the right to pool or unitize.

The Trustee may enter into contracts and agreements relating to the installation or operation of absorption, repressuring and other processing plants, may drill or contract for the drilling of wells for oil, gas or other minerals, may enter into, renew and extend operating agreements and exploration contracts, may engage in secondary and tertiary recovery operations, may make "bottom hole" or "dry hole" contributions, and may deal otherwise with respect to mineral properties as an individual owner might deal with his own properties.

The Trustee may enter into contracts, conveyances and other agreements or transfers deemed necessary or desirable to carry out these powers, including division orders, oil, gas or other hydrocarbon sales contracts, processing agreements, and other contracts relating to the processing, handling, treating, transporting and marketing of oil, gas or other mineral production.

Any lease or other agreement may have a duration that the Trustee deems reasonable, even though extending beyond the duration of any trust created in this agreement.

The Trustee may drill, test, explore, mine, develop, and otherwise exploit any and all oil, gas, coal, and other mineral interests, and may select, employ, utilize, or participate in any business form, including partnerships, joint ventures, co-owners' groups, syndicates, and corporations, for the purpose of acquiring, holding, exploiting, developing, operating, or disposing of oil, gas, coal, and other mineral interests.

The Trustee may employ the services of consultants or outside specialists in connection with the evaluation, management, acquisition, disposition, or development of any mineral interests, and may pay the cost of such services from the principal or income of the trust property.

The Trustee may use the general assets of the trusts created under this agreement for the purposes of acquiring, holding, managing, developing, pooling, unitizing, repressuring, or disposing of any mineral interests.

The term "mineral" shall mean minerals of whatever kind and wherever located, whether surface or subsurface deposits, including (without limitation) coal, lignite and other hydrocarbons, iron ore, and uranium.

Power to Enter Into or Continue Business Activities

The Trustee shall have the authority to enter into, engage in, expand, carry on, terminate and liquidate any and all business activities, whether in proprietary, general or limited partnership, joint venture or corporate form, with such persons and entities as the Trustee deems proper. This power pertains to business activities in progress at the date of our deaths, and to business opportunities arising thereafter. Business activities conducted by the Trustee should be related to the administration and investment of the trust estate, for it is not our intention to convert any trust into an entity that would be taxable as an association for federal tax purposes.

Banking Authority

The Trustee is authorized to establish and maintain bank accounts of all types in one or more banking institutions that the Trustee may choose.

Corporate Activities

The Trustee may form, reorganize or dissolve corporations, and may exercise all rights of a stockholder, including the right to vote for or against mergers, consolidations and

liquidations, and to act with or without substitution. An individual serving as Trustee may elect himself as an officer or director of a corporation owned in part or in whole by a trust created by this declaration, and a corporate entity serving as Trustee may elect one of its officers to such a position, and in each such instance the person so elected may be paid reasonable compensation for services rendered to such corporation in such capacity. The Trustee may retain, exercise or sell rights of conversion or subscription to any securities held as part of the trust property.

Agricultural Powers

The Trustee may retain, sell, acquire, and continue any farm or ranching operation whether as a sole proprietorship, partnership, or corporation.

The Trustee may engage in the production, harvesting, and marketing of both farm and ranch products either by operating directly or with management agencies, hired labor, tenants, or sharecroppers.

The Trustee may engage and participate in any government farm program, whether state or federally sponsored.

The Trustee may purchase or rent machinery, equipment, livestock, poultry, feed, and seed.

The Trustee may improve and repair all farm and ranch properties; construct buildings, fences, and drainage facilities; acquire, retain, improve, and dispose of wells, water rights, ditch rights, and priorities of any nature.

The Trustee may, in general, do all things customary or desirable to operate a farm or ranch operation for the benefit of the beneficiaries of the various trusts created under this agreement.

Real Estate

The Trustee may purchase or sell real property, and may exchange, partition, subdivide, develop, manage, and improve real property. The Trustee may grant or acquire easements, may impose deed restrictions, may adjust boundaries, may raze existing improvements, and may dedicate land or rights in land for public use. The Trustee may construct, repair, alter, remodel, demolish or abandon improvements. The Trustee may take any other action reasonably necessary for the preservation of real estate and fixtures comprising a part of the trust property or the income therefrom.

Authority to Sell or Lease and Other Dispositive Powers

The Trustee may sell, lease or grant options to lease trust property without the consent or ratification of any court, remainderman, or third party, including the authority to lease beyond the anticipated term of a trust, upon such terms and for such consideration as the Trustee deems appropriate. The Trustee may make such contracts, deeds, leases, and other instruments it deems proper under the circumstances, and may deal with the trust property in all other ways in which a natural person could deal with his or her property.

Warranties and Covenants

The Trustee may convey properties with such covenants and warranties of title (general or special) as the Trustee deems appropriate.

Trustee's Compensation

The Trustee shall pay itself reasonable compensation for its services as fiduciary as provided in this agreement.

Employment and Delegation of Authority to Agents

The Trustee may employ and compensate, and may discharge, such advisors and agents as the Trustee deems proper, and may delegate to an agent such authorities (including discretionary authorities) as the Trustee deems appropriate, by duly executed powers of attorney or otherwise.

Power to Release or Abandon Property or Rights, and to Pursue Claims

The Trustee may release, compromise or abandon claims or rights to property for such consideration (including no consideration) as the Trustee determines to be appropriate when the Trustee determines it is prudent to do so. The Trustee is authorized to institute suit on behalf of and to defend suits brought against a trust estate, and to accept deeds in lieu of foreclosure.

Nominal Title and Use of Nominees

With or without disclosing fiduciary capacity, the Trustee may acquire title to property in the name of the Trustee or in the name of one or more nominees, and may allow its nominees to take possession of trust assets with or without direct custodial supervision by the Trustee.

Power to Lend Money and Guarantee Obligations

The Trustee may lend money to any person, to any business entity, to an estate, or to any trust, if the Trustee deems the loan to be in the best interests of the trust beneficiaries, provided that any such loan (except loans to beneficiaries) shall be adequately secured and shall bear a reasonable rate of interest.

The Trustee, in the Trustee's discretion, may endorse, guarantee, become the surety of or otherwise become obligated for or with respect to the debts or other obligations of any person or legal entity, whether with or without consideration, when the Trustee believes such actions advance the purposes of any trust created hereunder.

The Trustee may make loans from a beneficiary's trust share to or for the benefit of such a beneficiary on an unsecured basis, and for such rate of interest as the Trustee deems appropriate, when in the Trustee's judgment, such loan would be consistent with the purposes of such trust.

Power to Borrow

The Trustee may assume the payment of and renew and extend any indebtedness previously created by either or both Founders, and the Trustee may create new indebtedness and raise money by any means, including margin trading in securities, when the Trustee believes such borrowing will be beneficial to the trust estate.

The Trustee is authorized to secure the payment of each such indebtedness, and all renewals, extensions and refinancing of same, by pledge, mortgage, deed of trust or other encumbrance covering and binding all or any part of the trust estate of a trust.

The Trustee may loan its own monies to a trust and may charge and recover the then usual and customary rate of interest thereon when, in the discretion of Trustee, it is prudent to do so.

Payment of Indebtedness and Settlement Costs

The Trustee may in its sole discretion pay the funeral and burial expenses, expenses of the last illness, and valid claims and expenses of an income beneficiary of any trust created under this agreement.

Funeral and burial expenses shall include, but not be limited to, the cost of memorials of all types and memorial services of such kind as the Trustee shall approve. Valid claims and expenses shall include, but not be limited to, all state and federal death taxes.

The payments shall be paid from the assets of the trust or trusts from which the beneficiary was receiving income.

Transactions Between the Trustee and Our Personal Representatives

The Trustee is authorized to accept from our personal representatives, upon the termination or during the administration of our respective probate estates, if any, assets delivered by our personal representatives to the Trustee on the basis of the accounting submitted by the personal representatives, without requiring an audit or other independent accounting of the acts of our personal representatives, and the Trustee shall not have liability for the acts or omissions of our personal representatives. The foregoing shall not limit the right of our Trustee to request an accounting from our personal representatives and our personal representatives shall, upon request from the Trustee, furnish a complete accounting for their actions.

The Trustee shall have the power to purchase property from our estates at its fair market value, as determined by our personal representatives and by our Trustee, and to the extent required to permit such purchase of assets and to permit loans from the Trustee to our estate, we specifically waive application of the provisions of Section 352 of the Texas Probate Code and Sections 113.053 and 113.054 of the Texas Trust Code.

Commingling Trust Estates

For the purpose of convenience with regard to the administration and investment of the trust property, the Trustee may hold the several trusts created under this agreement as a common fund.

The Trustee may make joint investments with respect to the funds comprising the trust property.

The Trustee may enter into any transaction authorized by this Article with fiduciaries of other trusts or estates in which any beneficiary hereunder has an interest, even though such fiduciaries are also Trustees under this agreement.

Addition of Accumulated Income to Principal

The Trustee shall, on a convenient periodic basis, add the accumulated undistributed income of any trust which does not provide for mandatory income distributions to specified beneficiaries, and which does not require that any undistributed income be maintained separately for ultimate distribution to specified beneficiaries, to the principal of such trust.

Distributions Not Treated as Advancements

No distributions to a beneficiary of any trust created hereunder shall be treated as an advancement against the beneficiary's share of such trust unless the distribution is specially so treated on the Trustee's records at the time of the distribution or unless the Trustee gives notice of such fact to the beneficiary at the time of the distribution. If the Trustee has the discretion to make distributions from a trust to more than one beneficiary, the Trustee ordinarily should not treat distributions to any particular beneficiary as an advancement of that beneficiary's share of the trust unless an event has occurred causing the termination of such trust.

Tax Elections

The Trustee may exercise any available elections regarding state or federal income, inheritance, estate, succession or gift tax law including the right to elect any alternate valuation date for federal estate or inheritance tax purposes, the right to elect whether all or any parts of the administration of a deceased Founder's estate are to be used as estate tax deductions or income tax deductions, the right to make compensating adjustments between income and principal as a result of such elections if necessary, and the right to elect to have trust property qualify for the federal estate tax marital deduction as qualified terminable interest property under the appropriate provisions of the Internal Revenue Code and its regulations. The Trustee may also sign tax returns; pay any taxes, interest or penalties with regard to taxes; apply for and collect tax refunds thereon.

The Trustee is authorized to make elections available under applicable tax laws as the Trustee determines, in its discretion, to be advisable even though such elections may affect the interests of trust beneficiaries. The Trustee need not, but may, in its sole discretion, make equitable adjustments of the interests of the trust beneficiaries in light of the effect of such elections.

Transactions in Which the Trustee Has A Direct or Indirect Interest

We expressly waive prohibitions existing under the common law and the Texas Trust Code that might otherwise prohibit a person or entity who is serving as a Trustee from engaging in transactions with himself or itself personally, so long as the consideration exchanged in any such transaction is fair and reasonable to the trust created by this declaration. Specifically, we authorize the Trustee (a) to buy or sell trust property from or to an individual or entity serving as a Trustee, or from or to a relative, employee, business associate or affiliate of such individual serving as Trustee; (b) to sell or exchange and to transact other business activities involving properties of one trust with another trust under

the control of the Trustee; and (c) to sell or purchase from a trust the stock, bonds, obligations or other securities of the Trustee or its affiliate.

Notwithstanding the general powers conferred upon the Trustee, or anything to the contrary contained in this agreement, no individual Trustee shall exercise or participate in the exercise of discretion with respect to the distribution of trust income or principal to or for the benefit of such Trustee.

No individual Trustee shall exercise or participate in the exercise of such discretionary power with respect to distributions to any person or persons such Trustee is legally obligated to support as to that support obligation.

Section D. Apportionment of Receipts and Expenses Between Income and Principal

The Trustee shall have the power, exercisable in such Trustee's reasonable and sole discretion, to determine what is principal or income of a trust or trust share. The Trustee shall pay from income or principal all of the reasonable expenses attributable to the administration of the respective trusts created in this agreement. The Trustee shall have the power to establish a reasonable reserve for depreciation or depletion and to fund the same by appropriate charges against income of the trust estate. For purposes of determining an appropriate reserve for depreciable or depletable assets, the Trustee may (but need not) adopt the depreciation or depletion allowance available for federal income tax purposes.

Section E. Records, Books of Account and Reports

The Trustee shall promptly set up and thereafter maintain, or cause to be set up and maintained, proper books of account which shall accurately reflect the true financial condition of the trust estate. Such books of account shall at all reasonable times be open for inspection or audit only by current, mandatory income beneficiaries, their parent or court appointed guardians, and the duly authorized agents, attorneys, representatives and auditors of each, at the expense of the beneficiary making such inspection or audit.

The Trustee shall make a written financial report, at least semi-annually, to each beneficiary of the trust who is entitled to receive a present, mandatory income distribution, unless such beneficiary, or such beneficiary's parent or legal guardian, has executed a written waiver of the right to receive such a report. The Trustee shall not be obligated to provide financial reports to a beneficiary who is less than eighteen years old if such reports are being provided to a parent of such beneficiary. Such reports shall be submitted to the parent or guardian of a minor beneficiary, or to the guardian or other legal representative of any incapacitated beneficiary.

The first financial report shall identify all property initially received by the Trustee. The first report and each subsequent report shall include a statement of all property on hand at the end of such accounting period, of all property that has come to the knowledge or possession of the Trustee that has not been previously listed as property of the trust, of all known liabilities, of all receipts and disbursements during such period (including a statement as to whether the receipt or disbursement is of income or principal), and of such other facts as the Trustee deems necessary to furnish in order to provide adequate information as to the condition of the trust estate.

Except as otherwise provided in this declaration, should any person interested in a trust estate request an accounting for the Trustee's actions that is more extensive or more frequent than the accounting normally to be rendered, the Trustee may require such person to pay the additional costs incurred in preparing the same before complying with such request.

Section F. Trustee's Liability

No person or entity serving as Trustee without compensation shall be liable for any error of judgment or mistake of fact or law or for ordinary negligence, but shall be liable for acts involving willful misconduct, gross negligence or bad faith.

Unless otherwise provided, no person or entity serving as Trustee who is receiving compensation for his or its services hereunder shall be liable for any loss which may occur as a result of any actions taken or not taken by the Trustee if such person or entity has exercised the reasonable care, skill and prudence generally exercised by a compensated fiduciary with respect to the administration, investment, and management of similar estates.

No person or entity serving as Trustee shall be liable for the acts, omissions or defaults of any other person or entity serving as Trustee, agent or other person to whom duties may be properly delegated hereunder (except that each corporate trustee shall be liable for the acts, omissions and defaults of its officers and regular employees) if such agent or other person was engaged with reasonable care.

Unless a Trustee shall expressly contract and bind himself or itself individually, no Trustee shall incur any personal liability to any person or legal entity dealing with the Trustee in the administration of a trust. The Trustee shall be entitled to reimbursement from the properties of a trust for any liability or expense, whether in contract, tort or otherwise, incurred by the Trustee in the proper administration of a trust.

The Trustee shall be indemnified from the trust property for any damages sustained by the Trustee as a result of its exercising, in good faith, any of the authorities granted it under this trust declaration.

Section G. Duty of Third Parties Dealing with Trustee

No person dealing with the Trustee shall be responsible for the application of any assets delivered to the Trustee, and the receipt of the Trustee shall be a full discharge to the extent of the property delivered. No purchaser from or other person dealing with the Trustee, and no issuer or transfer agent of any securities to which any dealing with the Trustee shall relate, shall be under any duty to ascertain the power of the Trustee to purchase, sell, exchange, transfer, encumber or otherwise in any manner deal with any property held by the Trustee. No person dealing with the Trustee in good faith shall be under any duty to see that the terms of a trust are complied with or to inquire into the validity or propriety of any act of the Trustee.

Section H. Division and Distribution of Trust Estate

When the Trustee is required to divide or make distribution from a trust estate, in whole or in part, such division or distribution may be made by the Trustee in cash or in kind, or partly in cash and partly in kind, and the Trustee may assign or apportion to the distributees undivided interests in any assets then constituting a part of such trust estate. The Trustee may encumber property, may sell property, and may make non-pro-rata distributions when the Trustee believes it is practical or desirable and equitable to do so in order to effectuate a trust distribution regardless of the income tax basis of any asset.

If non-pro-rata distributions are to be made, the Trustee should attempt to allocate the tax basis of the assets distributed in an equitable manner among the beneficiaries of the trust, but the Trustee may at all times rely upon the written agreement of the trust beneficiaries as to the apportionment of assets. To the extent non-pro-rata distributions are made and the tax basis of the assets so distributed is not uniformly apportioned among beneficiaries, the Trustee may, but need not, make any equitable adjustments among such beneficiaries as a result of such nonuniformity in basis.

Section I. Life Insurance

The Trustee shall have the powers with regard to life insurance as set forth in this Section I, except as otherwise provided in this agreement.

The Trustee may purchase, accept, hold, and deal with as owner, policies of insurance on both Founders' individual or joint lives, the life of any trust beneficiary, or on the life of any person in whom any trust beneficiary has an insurable interest.

The Trustee shall have the power to execute or cancel any automatic premium loan agreement with respect to any policy, and shall have the power to elect or cancel any automatic premium loan provision in a life insurance policy.

The Trustee may borrow money with which to pay premiums due on any policy either from the company issuing the policy or from any other source and may assign any such policy as security for the loan.

The Trustee shall have the power to exercise any option contained in a policy with regard to any dividend or share of surplus apportioned to the policy, to reduce the amount of a policy or convert or exchange the policy, or to surrender a policy at any time for its cash value.

The Trustee may elect any paid-up insurance or any extended-term insurance nonforfeiture option contained in a policy.

The Trustee shall have the power to sell policies at their fair market value to the insured or to anyone having an insurable interest in the policies.

The Trustee shall have the right to exercise any other right, option, or benefit contained in a policy or permitted by the insurance company issuing that policy.

Upon termination of any trust created under this agreement, the Trustee shall have the power to transfer and assign the policies held by the trust as a distribution of trust property.

Section J. Insured Trustee's Authority

Any individual Trustee under this agreement, other than either Founder, is prohibited from exercising any power conferred on the owner of any policy which insures the life of such individual Trustee and which is held as part of the trust property.

If the Trustee holds any such policy or policies as a part of the trust property, the powers conferred on the owner of such a policy shall be exercised only by the other then acting Trustee.

If the insured Trustee is the only then acting Trustee, then such powers shall be exercised by a substitute Trustee designated pursuant to the provisions of this agreement dealing with the trusteeship.

If any rule of law or court decision construes the ability of the insured Trustee to name a substitute Trustee as an incident of ownership, the substitution process shall be implemented

by a majority of the then current mandatory and discretionary income beneficiaries, excluding the insured Trustee if the insured Trustee is a beneficiary.

Section K. Estimated Income Tax Payment Allocation

The Trustee, in its sole discretion, may elect or not elect to treat all or any portion of federal estimated taxes paid by any trust to be treated as a payment made by any one or more beneficiaries of such trust who are entitled to receive current distributions of income or principal from such trust. The election need not be made in a pro rata manner among all beneficiaries of the trust.

If there is an individual serving as a co-trustee who is a beneficiary of a trust created by this declaration, that individual may not take part in any decision to treat any trust estimated income tax payment as a payment by such individual.

In exercising or choosing not to exercise the discretion granted in this paragraph, the Trustee shall not be liable to any beneficiary or to any other persons directly or indirectly for any action or inaction so taken except for its willful fraud or gross negligence.

Section L. Merger of Trusts

If at any time the Trustee determines it would be in the best interest of the beneficiary or beneficiaries of any trust created by this declaration to transfer or merge all of the assets held in such trust with any other trust created either by trust instrument or by will for the benefit of the same beneficiary or beneficiaries and under substantially similar trusts, terms and conditions, the Trustee under this declaration, after giving not less than thirty days advance written notice to its beneficiaries, is authorized to transfer to or merge all of the assets held under the trust created by this declaration to such other substantially similar trust, and to terminate the trust created under this declaration regardless of whether the Trustee under this declaration also is acting as the trustee of such other trust.

The Trustee under this declaration shall not be subject to liability for delegation of its duties for any such transfer to a substantially similar trust having a different person or entity serving as trustee, and shall have no further liability with respect to trust assets properly delivered to the trustee of any such other substantially similar trust. Similarly, the Trustee of any trust created by this declaration is authorized to receive from the trustee of any other substantially similar trust the assets held under such other trust.

Section M. Termination and Distribution of Small Trust

If, in the discretionary judgment of the person(s) or entity serving as Trustee, other than a surviving Founder acting as Trustee, any trust shall at any time be a size which, in the Trustee's sole judgment, shall make it inadvisable or unnecessary to continue such trust, then the Trustee may distribute the trust estate of such trust to its beneficiaries in proportion to their respective presumptive interests in such trust at the time of such termination.

If either or both of us are a beneficiary of a trust terminated pursuant to this paragraph and are surviving at the date of such termination, the Trustee (other than a surviving Founder acting as Trustee) shall distribute the assets of such terminated trust to both of us or the survivor of us. The Trustee shall not be liable either for terminating or for refusing to terminate a trust as authorized by this paragraph.

Section N. Elimination of Duty to Create Identical Trusts

If the provisions of this trust direct the Trustee to hold any portion of its trust estate at its termination as the trust estate of a new trust for the benefit of any person or persons who already are beneficiaries of an existing identical trust, that portion of the terminating trust shall be added to the existing identical trust, and no new trust shall be created.

Section O. Powers of Trustee Subsequent to an Event of Termination

The Trustee shall have a reasonable period of time after the occurrence of an event of termination in which to wind up the administration of a trust and to make a distribution of its assets. During this period of time the Trustee shall continue to have and shall exercise all powers granted herein to the Trustee or conferred upon the Trustee by law until all provisions of this declaration are fully executed.

Section P. Requesting Financial Information of Trust Beneficiaries

In exercising its discretion to make any discretionary distributions to the beneficiaries of any trust created hereunder, the Trustee is authorized to request any financial information, including prior federal income tax returns, from the respective beneficiaries that the Trustee deems necessary in order to exercise its discretion in accordance with the provisions for making such distributions under this declaration.

Section Q. Retirement Plan Elections

Except as otherwise provided in this trust declaration, the Trustee may receive or disclaim any and all proceeds from retirement plans, including, but not limited to, qualified pension, profit sharing, Keogh, individual retirement accounts, or any other form or type of plan. The Trustee may make such elections and exercise options as provided in such plan, without liability to any beneficiary for the election made or option elected. Any disclaimed proceeds or benefits shall be paid in accordance with the terms, conditions, and directives set forth in the subject plan.

Section R. Qualification as a Qualified Subchapter S Trust

If any stock of an S corporation becomes distributable to a trust created under this agreement, and such trust is not a qualified Subchapter S trust, the Trustee may implement any of the following alternatives with respect to the S corporation stock:

1. A Sole Beneficiary

Where the original trust is for a sole beneficiary, the Trustee may create for that beneficiary a separate trust that qualifies as a Subchapter S trust, and then distribute such stock to the newly created trust.

2. Multiple Beneficiaries

Where the original trust is for multiple beneficiaries, the Trustee may divide the trust into separate trusts for each of the beneficiaries. Each newly created trust shall hold that beneficiary's pro rata share of the S corporation stock, and shall qualify as a Subchapter S trust.

3. Outright Distribution

If circumstances prevent the Trustee from accomplishing the first two alternatives under this paragraph, the Trustee may, in its sole and absolute discretion, distribute such stock to the beneficiaries as if the trust had terminated, while continuing to hold any other non-S corporation property in trust.

Each newly created S corporation trust shall have mandatory distributions of income and shall not provide for powers of appointment that can be exercised by the beneficiary during the beneficiary's lifetime. In all other respects, the

newly created trusts shall be as consistent as possible with the original trusts and still qualify as Subchapter S trusts.

The Trustee may take any action necessary with regard to S corporations, including making any elections required to qualify stock as S corporation stock, and may sign all required tax returns and forms.

Section S. Elective Deductions

A Trustee will have the discretionary authority to claim any obligation, expense, cost or loss as a deduction against either estate tax or income tax, or to make any election provided by Texas law, the Internal Revenue Code, or other applicable law, and the Trustee's decision will be conclusive and binding upon all interested parties and shall be effective without obligation to make an equitable adjustment or apportionment between or among the beneficiaries of this trust or the estate of a deceased beneficiary.

We, ELMER H. BRUNSTING and NELVA E. BRUNSTING, attest that we execute this trust declaration and the terms thereof will bind us, our successors and assigns, our heirs and personal representatives, and any Trustee of this trust. This instrument is to be effective upon the date recorded immediately below.

Dated: January 12, 2005


ELMER H. BRUNSTING, Founder


NELVA E. BRUNSTING, Founder


ELMER H. BRUNSTING, Trustee

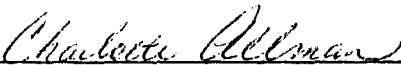

NELVA E. BRUNSTING, Trustee

THE STATE OF TEXAS

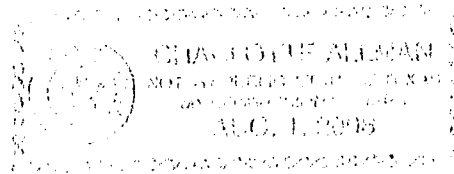
COUNTY OF HARRIS

On January 12, 2005, before me, a Notary Public of said State, personally appeared ELMER H. BRUNSTING and NELVA E. BRUNSTING, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same as Founders and Trustees.

WITNESS MY HAND and official seal.



Notary Public, State of Texas



Affidavit of Trust

1. The following trust is the subject of this Affidavit:

ELMER H. BRUNSTING or NELVA E. BRUNSTING, Trustees, or the successor Trustees, under the BRUNSTING FAMILY LIVING TRUST, dated October 10, 1996, as amended.

On January 12, 2005, the said BRUNSTING FAMILY LIVING TRUST was restated and amended. The Restatement replaces and supersedes our original trust agreement and all prior amendments.

2. The names and addresses of the currently acting Trustees of the trust are as follows:

Names:

ELMER H. BRUNSTING
NELVA E. BRUNSTING

Address:

13630 Pinerock
Houston, Texas 77079

3. The trust is currently in full force and effect.
4. Attached to this Affidavit and incorporated in it are selected provisions of the trust evidencing the following:

a.	Article I	-	Restatement of the trust and initial Trustees
b.	Article III	-	Statement of revocability of the trust
c.	Article IV	-	Successor Trustees
d.	Article VII	-	Upon the Death of One of Us
e.	Article XII	-	Powers of the Trustees
f.	Article XIV	-	Signature pages



CERTIFICATE AND AFFIDAVIT OF TRUST

When you transfer assets that you currently own to the trust, acquire property in the name of the trust or sell property already titled in the trust name, evidence may be required as to the identity of the trustees having authority to sign legal documents on behalf of the trust. For these purposes, your Certificate of Trust or Affidavit of Trust may be furnished to relevant third parties in order to provide the requested information while avoiding the necessity of providing a complete copy of the Living Trust.

Certificate of Trust

The undersigned Founders hereby certify the following:

1. This Certificate of Trust refers to a joint revocable living trust agreement executed by ELMER H. BRUNSTING and NELVA E. BRUNSTING, Founders and initial Trustees on October 10, 1996.

The Restatement, dated January 12, 2005, hereby replaces and supersedes our original trust agreement and all prior amendments.

Either Founder while acting as Trustee may conduct business on behalf of the trust without the consent of any other Trustee. The full legal name of our trust for purposes of transferring assets into the trust, holding title of assets and conducting business for and on behalf of the trust, shall be known as:

ELMER H. BRUNSTING or NELVA E. BRUNSTING, Trustees, or the successor Trustees, under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

2. Should either original Trustee fail or cease to serve as Trustee by reason of death, disability or for any reason, the remaining original Trustee will continue to serve alone.
3. If both of the original Trustees fail or cease to serve as Trustee by reason of death, disability or for any reason, then the following individuals will serve as Co-Trustees:

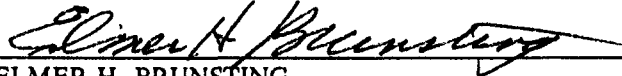
CARL HENRY BRUNSTING and AMY RUTH TSCHIRHART

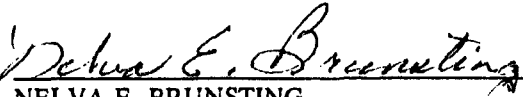
If a successor Co-Trustee should fail or cease to serve by reason of death, disability or for any other reason, then CANDACE LOUISE CURTIS shall serve as Co-Trustee in his or her place, with the remaining Co-Trustee then serving. However, if there is only one successor Co-Trustee able or willing to serve, such successor Co-Trustee shall serve alone.

On January 12, 2005, the said BRUNSTING FAMILY LIVING TRUST was restated and amended naming the above said successor Trustees.

4. The Trustee(s) under the trust agreement are authorized to acquire, sell, convey, encumber, lease, borrow, manage and otherwise deal with interests in real and personal property in trust name. All powers of the Trustee(s) are fully set forth in Article Twelve of the trust agreement.
5. The trust has not been revoked and there have been no amendments limiting the powers of the Trustee(s) over trust property.
6. No person or entity paying money to or delivering property to any Trustee shall be required to see to its application. All persons relying on this document regarding the Trustees and their powers over trust property shall be held harmless for any resulting loss or liability from such reliance. A copy of this Certificate of Trust shall be just as valid as the original.

The undersigned certify that the statements in this Certificate of Trust are true and correct and that it was executed in the County of Harris, in the State of Texas, on January 12, 2005.


ELMER H. BRUNSTING,
Founder and Trustee


NELVA E. BRUNSTING,
Founder and Trustee

Certificate of Trust

The undersigned Founders hereby certify the following:

- 1. This Certificate of Trust refers to a joint revocable living trust agreement executed by ELMER H. BRUNSTING and NELVA E. BRUNSTING, Founders and initial Trustees, on October 10, 1996.

The Restatement, dated January 12, 2005, hereby replaces and supersedes our original trust agreement and all prior amendments.

Either Founder while acting as Trustee may conduct business on behalf of the trust without the consent of any other Trustee. The full legal name of our trust for purposes of transferring assets into the trust, holding title of assets and conducting business for and on behalf of the trust, shall be known as:

ELMER H. BRUNSTING or NELVA E. BRUNSTING, Trustees, or the successor Trustees, under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

- 2. Should either original Trustee fail or cease to serve as Trustee by reason of death, disability or for any reason, the remaining original Trustee will continue to serve alone.
- 3. If both of the original Trustees fail or cease to serve as Trustee by reason of death, disability or for any reason, then the following individuals will serve as Co-Trustees:

CARL HENRY BRUNSTING and ~~AMY RUTH TSCHIRLART~~

If a successor Co-Trustee should fail or cease to serve by reason of death, disability or for any other reason, then CANDACE LOUISE CURTIS shall serve as Co-Trustee in his or her place, with the remaining Co-Trustee then serving. However, if there is only one successor Co-Trustee able or willing to serve, such successor Co-Trustee shall serve alone.

On January 12, 2005, the said BRUNSTING FAMILY LIVING TRUST was restated and amended naming the above said successor Trustees.

- 4. The Trustee(s) under the trust agreement are authorized to acquire, sell, convey, encumber, lease, borrow, manage and otherwise deal with interests in real and personal property in trust name. All powers of the Trustee(s) are fully set forth in Article Twelve of the trust agreement.
- 5. The trust has not been revoked and there have been no amendments limiting the powers of the Trustee(s) over trust property.
- 6. No person or entity paying money to or delivering property to any Trustee shall be required to see to its application. All persons relying on this document regarding the Trustees and their powers over trust property shall be held harmless for any resulting loss or liability from such reliance. A copy of this Certificate of Trust shall be just as valid as the original.

The undersigned certify that the statements in this Certificate of Trust are true and correct and that it was executed in the County of Harris, in the State of Texas, on _____, _____.

ELMER H. BRUNSTING,
Founder and Trustee

NELVA E. BRUNSTING,
Founder and Trustee

STATE OF TEXAS
COUNTY OF HARRIS

The foregoing Certificate of Trust was acknowledged before me on _____, _____, by ELMER H. BRUNSTING and NELVA E. BRUNSTING, as Founders and Trustees.

Witness my hand and official seal.

Notary Public, State of Texas

Affidavit of Trust

1. The following trust is the subject of this Affidavit:

ELMER H. BRUNSTING or NELVA E. BRUNSTING, Trustees, or the successor Trustees, under the BRUNSTING FAMILY LIVING TRUST, dated October 10, 1996, as amended.

On January 12, 2005, the said BRUNSTING FAMILY LIVING TRUST was restated and amended. The Restatement replaces and supersedes our original trust agreement and all prior amendments.

2. The names and addresses of the currently acting Trustees of the trust are as follows:

Names:

ELMER H. BRUNSTING
NELVA E. BRUNSTING

Address:

13630 Pinerock
Houston, Texas 77079

3. The trust is currently in full force and effect.
4. Attached to this Affidavit and incorporated in it are selected provisions of the trust evidencing the following:

a.	Article I	-	Restatement of the trust and initial Trustees
b.	Article III	-	Statement of revocability of the trust
c.	Article IV	-	Successor Trustees
d.	Article VII	-	Upon the Death of One of Us
e.	Article XII	-	Powers of the Trustees
f.	Article XIV	-	Signature pages

5. The trust provisions which are not attached to this Affidavit are of a personal nature and set forth the distribution of trust property. They do not modify the powers of the Trustees.
6. The signatories of this Affidavit are currently the acting Trustees of the trust and declare that the foregoing statements and the attached trust provisions are true and correct, under penalty of perjury.
7. This Affidavit is dated January 12, 2005.

Elmer H. Brunsting
ELMER H. BRUNSTING, Trustee

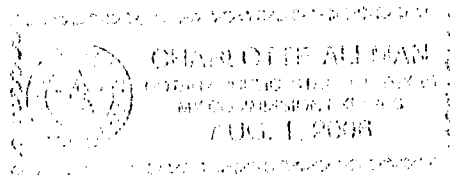
Nelva E. Brunsting
NELVA E. BRUNSTING, Trustee

STATE OF TEXAS
COUNTY OF HARRIS

The foregoing Affidavit of Trust was acknowledged before me on January 12, 2005, by ELMER H. BRUNSTING and NELVA E. BRUNSTING, as Trustees.

Witness my hand and official seal.

Charlotte Allman
Notary Public, State of Texas



THE RESTATEMENT OF THE BRUNSTING FAMILY LIVING TRUST

Article I

Our Family Living Trust

Section A. The Restatement of Our Trust

This restatement of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996 is made this day by ELMER HENRY BRUNSTING, also known as ELMER H. BRUNSTING, and wife, NELVA ERLEEN BRUNSTING, also known as NELVA E. BRUNSTING, (together called "Founders") who presently reside in Harris County, Texas.

We now wish to restate that original trust agreement and any amendments thereto, in their entirety.

This restatement, dated January 12, 2005, shall replace and supersede our original trust agreement and all prior amendments.

We shall serve together as the initial Trustees of this joint revocable living trust.

Notwithstanding anything in our trust declaration to the contrary, when we are serving as Trustees under our trust declaration, either of us may act for and conduct business on behalf of our trust as a Trustee without the consent of any other Trustee.

Section B. The Title of Our Trust

Although the name we have given to our trust for our own convenience is the BRUNSTING FAMILY LIVING TRUST, the full legal name of our trust for purposes of transferring assets into the trust, holding title to assets and conducting business for and on behalf of the trust, shall be known as:

ELMER H. BRUNSTING or NELVA E. BRUNSTING,
Trustees, or the successor Trustees, under the BRUNSTING
FAMILY LIVING TRUST dated October 10, 1996, as
amended.

Article III

Our Right to Amend or Revoke This Trust

Section A. We May Revoke Our Trust

While we are both living, either of us may revoke our trust. However, this trust will become irrevocable upon the death of either of us. Any Trustee, who is serving in such capacity, may document the non-revocation of the trust with an affidavit setting forth that the trust remains in full force and effect.

The affidavit may, at the Trustee's discretion, be filed in the deed records in each county in which real property held in trust is located or in the county in which the principal assets and records of the trust are located. The public and all persons interested in and dealing with the trust and the Trustee may rely upon a certified copy of the recorded affidavit as conclusive evidence that the trust remains in full force and effect.

Section B. We May Amend Our Trust

This trust declaration may be amended by us in whole or in part in a writing signed by both of us for so long as we both shall live. Except as to a change of trust situs, when one of us dies, this trust shall not be subject to amendment, except by a court of competent jurisdiction.

Each of us may provide for a different disposition of our share in the trust by using a qualified beneficiary designation, as we define that term in this agreement, and the qualified beneficiary designation will be considered an amendment to this trust as to that Founder's share or interest alone.

Section C. Income Tax Matters

For so long as this trust remains subject to amendment or revocation in its entirety, and for so long as a Founder is a Trustee of the trust, this trust will be treated for income tax reporting purposes as a "grantor trust" as that term is used by the Internal Revenue Service, particularly in Treasury Regulation Section 1.671-4(b).

For so long as a Founder is a Trustee of the trust, the tax identification numbers will be the social security numbers of the Founders and all items of income, gain, loss, credit and

deduction are to be reported on the Founders' individual or joint income tax returns. At such time as the trust becomes irrevocable, in whole or in part, because of the death of one of us, the trust is to be treated for income tax purposes as required by Subchapter J of the Internal Revenue Code.

Article IV

Our Trustees

Section A. Original Trustees

Founders appoint ELMER H. BRUNSTING and NELVA E. BRUNSTING as the original Trustees of this trust. However, either of us may conduct business and act on behalf of this trust without the consent or authority of any other Trustee. Any third party may conclusively rely on the authority of either of us without the joinder of the other.

Section B. Our Successor Trustees

Each of the original Trustees will have the right to appoint their own successor or successors to serve as Trustees in the event that such original Trustee ceases to serve by reason of death, disability or for any reason, and may specify any conditions upon succession and service as may be permitted by law. Such appointment, together with any specified conditions, must be in writing.

If an original Trustee does not appoint a successor, the remaining original Trustee or Trustees then serving will continue to serve alone.

If both of the original Trustees fail or cease to serve by reason of death, disability or for any reason without having appointed a successor or successors, then the following individuals will serve as Co-Trustees:

CARL HENRY BRUNSTING and ~~AMY RUTH TSCHIRHART~~

If a successor Co-Trustee should fail or cease to serve by reason of death, disability or for any other reason, then CANDACE LOUISE CURTIS shall serve as Co-Trustee in his or her place, with the remaining Co-Trustee then serving. However, if there is only one successor Co-Trustee able or willing to serve, such successor Co-Trustee shall serve alone.

Successor Trustees will have the authority vested in the original Trustees under this trust document, subject to any lawful limitations or qualifications upon the service of a successor imposed by any Trustee in a written document appointing a successor.

Article VII

Upon the Death of One of Us

Section A. Settlement of Affairs

Upon the death of the first Founder to die, our Trustee is authorized, but not directed, to pay the following expenses, claims and liabilities which are attributable to the first Founder to die:

Funeral, burial and expenses of last illness

Statutory or court-ordered allowances for qualifying family members

Expenses of administration of the estate

Legally enforceable claims against the deceased Founder or the deceased Founder's estate

Taxes occasioned by death

Any payment authorized above is discretionary. No claim or right to payment may be enforced against this trust by virtue of such discretionary authority.

1. Deceased Founder's Probate Estate

Payments authorized under this Section shall be paid only to the extent that the probate assets (other than real estate, tangible personal property or property that, in our Trustee's judgment, is not readily marketable) are insufficient to make these payments. However, if our trust holds United States Treasury Bonds which are eligible for redemption at par in payment of the federal estate tax, our Trustee shall redeem such bonds to the extent necessary to pay federal estate tax as a result of a death.

Payments authorized under this Section may be made by our Trustee, in its sole and absolute discretion, either directly to the appropriate persons or institutions or to the personal representative of the deceased Founder's probate estate. If our Trustee makes payments directly to the personal representative

of the deceased Founder's probate estate, our Trustee shall not have any duty to see to the application of such payments. Any written statement of the deceased Founder's personal representative regarding material facts relating to these payments may be relied upon by our Trustee.

As an addition to our trust, our Trustee is authorized to purchase and retain in the form received any property which is a part of the deceased Founder's probate estate. In addition, our Trustee may make loans to the deceased Founder's probate estate with or without security. Our Trustee shall not be liable for any loss suffered by our trust as a result of the exercise of the powers granted in this paragraph.

Our Trustee shall be under no obligation to examine the records or accounts of the personal representative of the deceased Founder's probate estate and is authorized to accept distributions from the personal representative of the deceased Founder's probate estate without audit.

2. Exempt Property Excluded

Our Trustee shall not use any property in making any payments pursuant to this Section to the extent that such property is not included in the deceased Founder's gross estate for federal estate tax purposes. However, if our Trustee makes the determination, in its sole and absolute discretion, that other non-exempt property is not available for payments authorized under this Section, it may then use such exempt property where it is not economically prudent to use non-exempt property for the payment of such expenses.

3. Apportionment of Payments

Except as otherwise specifically provided in this trust declaration, all expenses and claims, and all estate, inheritance and death taxes, excluding any generation-skipping transfer tax, resulting from the death of a Founder shall be paid without apportionment and without reimbursement from any person.

Notwithstanding anything to the contrary in our trust, no death taxes payable as a result of the death of the first Founder to die shall be allocated to or paid from the Survivor's Trust or from any assets passing to the surviving Founder and qualifying for the federal estate tax marital deduction unless our Trustee has first used all other assets available to our Trustee.

Notwithstanding anything to the contrary in our trust declaration, estate, inheritance and death taxes assessed with regard to property passing outside

of our trust or outside of our probate estates, but included in the gross estate of a Founder for federal estate tax purposes, shall be chargeable against the persons receiving such property.

Section B. Division and Distribution of Trust Property

Our Trustee shall divide the remaining trust property into two separate trusts upon the death of the first one of us to die. The resulting trusts shall be known as the Survivor's Trust and the Decedent's Trust.

1. Creation of the Survivor's Trust

The Survivor's Trust shall consist of the surviving Founder's interest in the community portion of the trust property, if any, and his or her separate portion of the trust property. In addition, the Survivor's Trust shall be the fractional share of the deceased Founder's trust property as follows:

a. Numerator of the Fractional Share

The numerator of the fractional share shall be the smallest amount which, if allowed as a marital deduction, would result in the least possible federal estate tax being payable as a result of the deceased Founder's death, after allowing for the unified credit against federal estate tax (after taking into account adjusted taxable gifts, if any) as finally determined for federal estate tax purposes, and the credit for state death taxes (but only to the extent that the use of this credit does not require an increase in the state death taxes paid).

The numerator shall be reduced by the value, for federal estate tax purposes, of any interest in property that qualifies for the federal estate tax marital deduction and which passes or has passed from the deceased Founder to the surviving Founder other than under this Article.

b. Denominator of the Fractional Share

The denominator of the fractional share shall consist of the value, as finally determined for federal estate tax purposes, of all of the deceased Founder's trust property under this agreement.

2. Creation of the Decedent's Trust

The Decedent's Trust shall consist of the balance of the trust property.

Section C. Valuation of Property Distributed to the Survivor's Trust

Our Trustee shall use those values as finally determined for federal estate tax purposes in making any computation which is necessary to determine the amount distributed to the Survivor's Trust. On the dates of distribution, the fair market value of all of the deceased Founder's property shall in no event be less than the amount of the Survivor's Trust as finally determined for federal estate tax purposes.

Section D. Conversion of Nonproductive Property

The surviving Founder shall at any time have the absolute right to compel our Trustee to convert nonproductive property held as an asset of the Survivor's Trust to productive property. Such right exists notwithstanding any contrary term in this agreement. The surviving Founder shall exercise this right by directing our Trustee in writing to convert such property.

Section E. Survivor's Right to Refuse Property or Powers Granted

With respect to property passing to the surviving Founder or for the surviving Founder's benefit, any portion of any interest in such property or power may be disclaimed by the surviving Founder within the time and under the conditions permitted by law with regard to disclaimers.

Any interest disclaimed by the surviving Founder with respect to any portion of the Survivor's Trust shall be added to the Decedent's Trust. Any interest disclaimed by the surviving Founder with respect to any portion of the Decedent's Trust shall be disposed of under the appropriate provisions of this agreement as though the surviving Founder had predeceased the first Founder to die.

Any disclaimer exercised must be an irrevocable and unqualified refusal to accept any portion of such interest in the property or power disclaimed. Such disclaimer must be delivered to our Trustee in writing.

Section F. Allocation of Trust Property

Subject to the conditions of Section B.1 of this Article, our Trustee shall have the complete authority to make allocations of the deceased Founder's trust property between the Survivor's and Decedent's Trusts.

Our Trustee may make allocations in cash or its equivalent, in kind, in undivided interests, or in any proportion thereof between the two trusts. Our Trustee may also, in its sole discretion, allocate such assets in kind based on the date of distribution values, rather than an undivided interest in each and every asset.

Our Trustee shall not allocate any property or assets, or proceeds from such property or assets, to the Survivor's Trust which would not qualify for the federal estate tax marital deduction in the deceased Founder's estate.

Our Trustee shall not allocate any policies of life insurance insuring the life of the surviving Founder to the Survivor's Trust that are the sole and separate property of the deceased Founder.

To the extent that there are insufficient assets qualifying for the marital deduction to fully fund this Survivor's Trust, the amount of the funding to the Survivor's Trust shall be reduced accordingly.

Our Trustee shall consider the tax consequences of allocating property subject to foreign death tax, property on which a tax credit is available, or property which is income in respect of a decedent under applicable tax laws prior to allocating the deceased Founder's property to the Survivor's Trust.

Section G. Distributions from Retirement Plan to the Survivor's Trust

If Retirement Plan distributions are included in the Survivor's Trust, or in any Survivor's Trust Share, our Trustee shall comply with the following guidelines.

1. Form of Distribution

Our Trustee may elect to receive distributions from any pension, profit sharing, individual retirement account, or other retirement plan ("Retirement Plan") for which our Trust, or any subtrust provided for herein, is named as beneficiary, in installments or in a lump sum.

2. Income Requirement

Our Trustee shall elect to receive distributions from a Retirement Plan payable to the Survivor's Trust or any Survivor's Trust Share in compliance with the minimum distribution rules of the Internal Revenue Code if applicable and also so that at least all income earned by the Retirement Plan each calendar year is distributed to the Trust and allocated to trust income during the year. If distributions from the Retirement Plan total less than all income earned by the Retirement Plan for a calendar year, our Trustee shall demand additional distributions equal to at least the shortfall so that the surviving Founder will receive all income earned by the Retirement Plan at least annually. The surviving Founder shall have full power, in such surviving Founder's discretion, to compel our Trustee to demand such distributions and to compel the Retirement Plan Trustee to convert any nonproductive property to productive property.

3. Retirement Plan Expenses

In calculating "all income earned by the Retirement Plan," our Trustee shall allocate all Retirement Plan expenses, including income taxes and Trustee's fees, that are attributable to principal distributions so that all income distributions from the Retirement Plan are not reduced.

Section D. Survival

Except as otherwise provided in this trust declaration, for the purpose of vesting in the event two or more persons who have an interest in the trust die within a short time of one another, one must have survived the other for a period of at least 90 days as a condition to vesting.

Section E. Changing the Trust Situs

After the death or disability of one of us, the situs of this agreement may be changed by the unanimous consent of all of the beneficiaries then eligible to receive mandatory or discretionary distributions of net income under this agreement.

If such consent is obtained, the beneficiaries shall notify the Trustee in writing of such change of trust situs, and shall, if necessary, designate a successor corporate fiduciary in the new situs. This notice shall constitute removal of the current Trustee, if appropriate, and any successor corporate Trustee shall assume its duties as provided under this agreement.

A change in situs under this Section shall be final and binding, and shall not be subject to judicial review.

Section F. Construction

Unless the context requires otherwise, words denoting the singular may be construed as denoting the plural, and words of the plural may be construed as denoting the singular. Words of one gender may be construed as denoting another gender as is appropriate within such context.

Section G. Headings of Articles, Sections and Paragraphs

The headings of Articles, Sections and Paragraphs used within this agreement are included solely for the convenience and reference of the reader. They shall have no significance in the interpretation or construction of this agreement.

Section H. Notices

All notices required to be given in this agreement shall be made in writing by either:

Personally delivering notice to the party requiring it, and securing a written receipt, or

Mailing notice by certified United States mail, return receipt requested, to the last known address of the party requiring notice.

The effective date of the notice shall be the date of the written receipt or the date of the return receipt, if received, or if not, the date it would have normally been received via certified mail, provided there is evidence of mailing.

Section I. Delivery

For purposes of this agreement "delivery" shall mean:

Personal delivery to any party, or

Delivery by certified United States mail, return receipt requested, to the party making delivery.

The effective date of delivery shall be the date of personal delivery or the date of the return receipt, if received, or if not, the date it would have normally been received via certified mail, provided there is evidence of mailing.

Section J. Duplicate Originals

This agreement may be executed in several counterparts; each counterpart shall be considered a duplicate original agreement.

Section K. Severability

If any provision of this agreement is declared by a court of competent jurisdiction to be invalid for any reason, such invalidity shall not affect the remaining provisions of this agreement. The remaining provisions shall be fully severable, and this agreement shall be construed and enforced as if the invalid provision had never been included in this agreement.

Section L. Gender, Plural Usage

The use of personal pronouns, such as he, she or it are to be construed in context. The term "person" will include a non-person, such as a corporation, trust, partnership or other entity as is appropriate in context. The identification of person in the plural will include the singular and vice versa, as is appropriate in context.

Section M. Generation Skipping Transfers

The Trustee, in the Trustee's sole discretion, may allocate or assist either Founders' personal representatives or trustees in the allocation of any remaining portion of either Founder's GST exemptions to any property as to which such Founder is the transferor, including any property transferred by such Founder during life as to which such Founder did not make an allocation prior to his or her death and/or among any generation skipping transfers (as defined in Section 2611 of the Internal Revenue Code) resulting under this trust declaration and/or that may later occur with respect to any trust established under this trust declaration, and the Trustee shall never be liable to any person by reason of such allocation, if it is made in good faith and without gross negligence. The Trustee may, in the Trustee's sole discretion, set apart, to constitute two separate trusts, any property which would otherwise have been allocated to any trust created hereunder and which would have had an inclusion ratio, as defined in Section 2642(a)(1) of the Internal Revenue Code, of neither one hundred percent nor zero so that one such trust has an inclusion ratio of one hundred percent and the other such trust has an inclusion ratio of zero. If either Founder's personal representative or trustee and/or the Trustee exercises the special election provided by Section 2652(a)(3) of the Internal Revenue Code, as to any share of either Founder's property that is to be held in trust under this trust declaration, then the Trustee is authorized, in the Trustee's sole discretion, to set apart property constituting such share in a separate trust so that its inclusion ratio of such trust is zero.

We, ELMER H. BRUNSTING and NELVA E. BRUNSTING, attest that we execute this irrevocable trust agreement and the terms thereof will bind us, our successors and assigns, our heirs and personal representatives, and any Trustee of this trust. We approve this irrevocable trust agreement in all particulars and request the Trustee to execute it. This instrument is to be effective upon the date recorded immediately below.

Dated: February 12, 1997


ELMER H. BRUNSTING, Founder

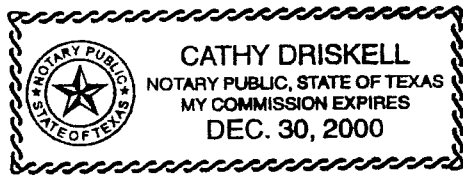

NELVA E. BRUNSTING, Founder


ANITA KAY RILEY, Trustee

THE STATE OF TEXAS
COUNTY OF HARRIS

On February 12, 1997, before me, a Notary Public of said State, personally appeared ELMER H. BRUNSTING and NELVA E. BRUNSTING, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same as Founders.

WITNESS MY HAND and official seal.

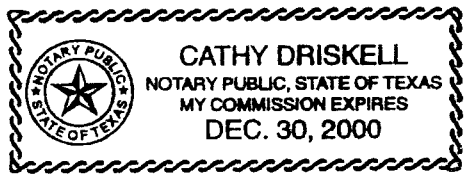


Cathy Driskell
Notary Public, State of Texas

THE STATE OF TEXAS
COUNTY OF Harris

On February 12, 1997, before me, a Notary Public of said State, personally appeared ANITA KAY RILEY, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged that (s)he executed the same as Trustee, or in the capacity indicated above, if any, on behalf of such Trustee.

WITNESS MY HAND and official seal.



Cathy Driskell
Notary Public, State of Texas

Notary's Printed Name

My Commission Expires: _____

Schedule A

Initial Contribution

Ten Dollars (\$10.00), the receipt of which is acknowledged

**THE RESTATEMENT OF
THE BRUNSTING FAMILY
LIVING TRUST**

Prepared By

Albert E. Vacek, Jr.

The Vacek Law Firm, PLLC

11511 Katy Freeway Suite 520
Houston, Texas 77079

Telephone: (281) 531-5800

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SUMMARY
OF
THE BRUNSTING FAMILY LIVING TRUST

NAME OF TRUST:

THE BRUNSTING FAMILY LIVING TRUST

DATE ESTABLISHED:

October 10, 1996

INITIAL TRUSTEES:

ELMER H. BRUNSTING
NELVA E. BRUNSTING

SUCCESSOR TRUSTEES:

First, CARL HENRY BRUNSTING
Second, AMY RUTH TSCHIRHART
Third, CANDACE LOUISE CURTIS

TITLE TO ALL ASSETS IN THE TRUST ARE VESTED IN THE NAME OF:

ELMER H. BRUNSTING or NELVA E. BRUNSTING, Trustees, or the successor Trustees, under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended

THIS SUMMARY IS NOT PART OF THE TRUST

THE BRUNSTING FAMILY LIVING TRUST
ELMER H. BRUNSTING NELVA E. BRUNSTING
 Co-Trustees

Period #1
 Both Spouses
 Living

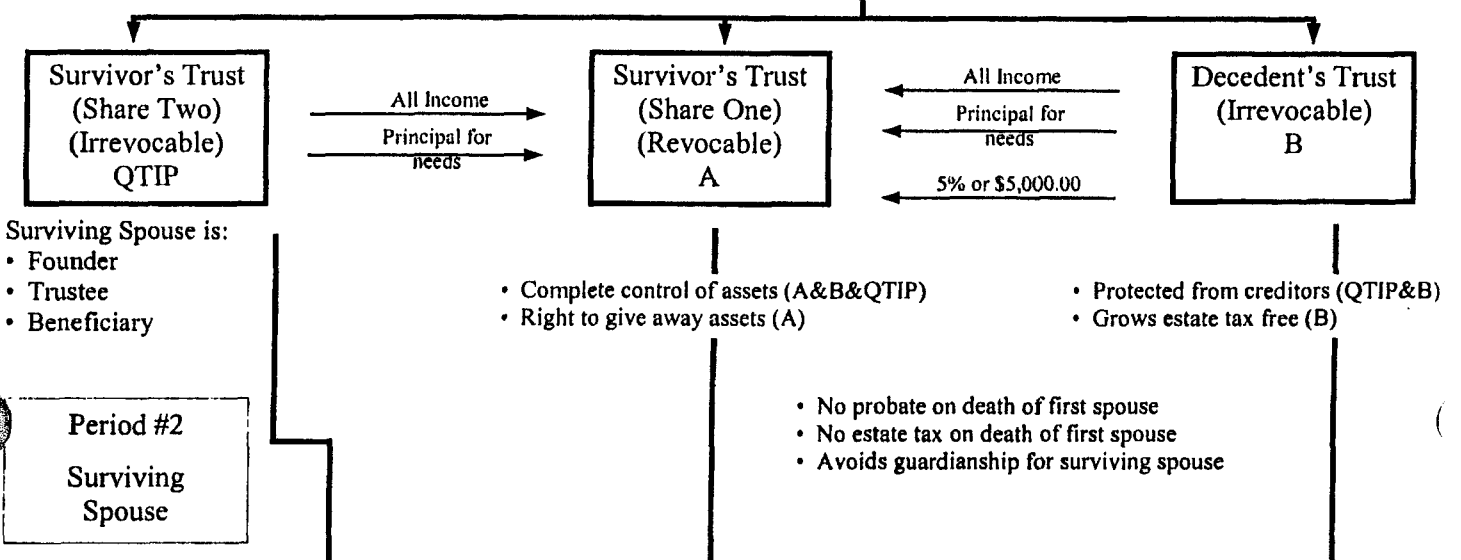
Husband & Wife are:

- Founders
- Trustees
- Beneficiaries

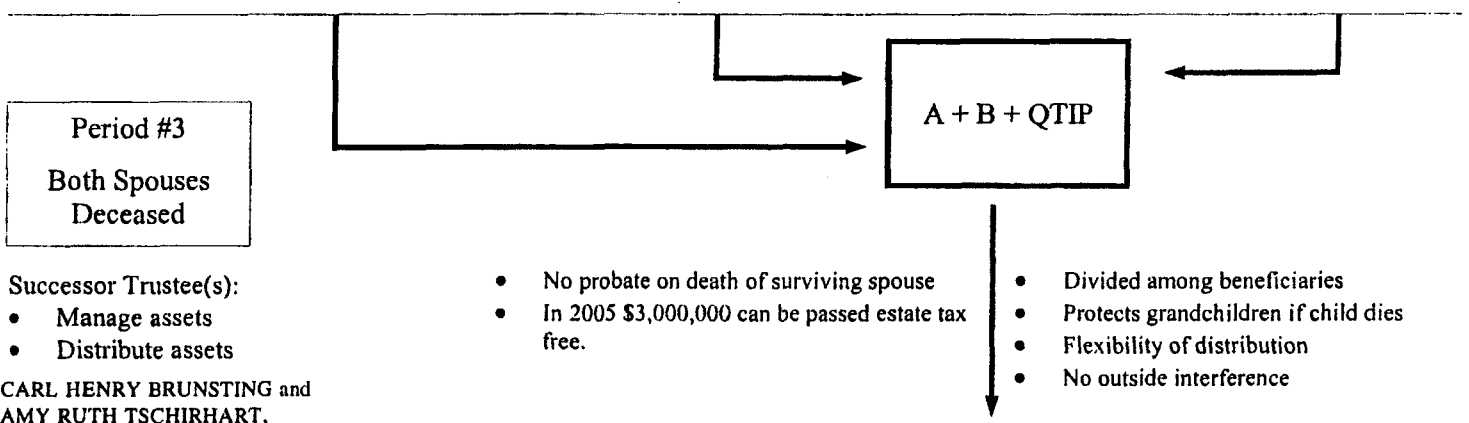
- Complete control of assets
- Avoids guardianship

- Can be amended or revoked
- No change in income taxes

DEATH OF FIRST SPOUSE



DEATH OF SURVIVING SPOUSE



CANDACE LOUISE CURTIS	1/5
CAROL ANN BRUNSTING	1/5
CARL HENRY BRUNSTING	1/5
AMY RUTH TSCHIRHART	1/5
ANITA KAY RILEY	1/5

Beneficiaries

IMPORTANT REMINDER

Your Living Trust will only control property which has been transferred into the name of the Trust. If property is not in the name of your Trust, it may be subject to guardianship and probate court proceedings, and may not pass according to your estate plan. All assets should be identified by listing them on the Schedules in the section entitled, "Title Transfer Documents". Copies of correspondence and documents of ownership for Trust assets should also be placed in that section.

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THE RESTATEMENT OF THE BRUNSTING FAMILY LIVING TRUST

Article I

Our Family Living Trust

Section A. The Restatement of Our Trust

This restatement of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996 is made this day by ELMER HENRY BRUNSTING, also known as ELMER H. BRUNSTING, and wife, NELVA ERLEEN BRUNSTING, also known as NELVA E. BRUNSTING, (together called "Founders") who presently reside in Harris County, Texas.

We now wish to restate that original trust agreement and any amendments thereto, in their entirety.

This restatement, dated January 12, 2005, shall replace and supersede our original trust agreement and all prior amendments.

We shall serve together as the initial Trustees of this joint revocable living trust.

Notwithstanding anything in our trust declaration to the contrary, when we are serving as Trustees under our trust declaration, either of us may act for and conduct business on behalf of our trust as a Trustee without the consent of any other Trustee.

Section B. The Title of Our Trust

Although the name we have given to our trust for our own convenience is the BRUNSTING FAMILY LIVING TRUST, the full legal name of our trust for purposes of transferring assets into the trust, holding title to assets and conducting business for and on behalf of the trust, shall be known as:

ELMER H. BRUNSTING or NELVA E. BRUNSTING,
Trustees, or the successor Trustees, under the BRUNSTING
FAMILY LIVING TRUST dated October 10, 1996, as
amended.

Our trust may also be known as:

ELMER H. BRUNSTING and NELVA E. BRUNSTING,
Trustees, or the successor Trustees, under the BRUNSTING
FAMILY LIVING TRUST dated October 10, 1996, as
amended.

In addition to the above descriptions, any description for referring to this trust shall be effective to transfer title to the trust or to designate the trust as a beneficiary as long as that format includes the date of this trust, the name of at least one initial or successor Trustee, and any reference that indicates that assets are to be held in a fiduciary capacity.

Section C. Our Beneficiaries and Family

This trust is created for the use and the benefit of ELMER H. BRUNSTING and NELVA E. BRUNSTING, and to the extent provided in this trust, for the other trust beneficiaries named herein.

The term "spouse" will refer to either of us, whichever is appropriate in context, and the term "both spouses" will mean both of us. The term "surviving spouse" or "surviving Founder" will identify the spouse who is living at the time of the other spouse's death (the "deceased spouse" or "deceased Founder").

For reference, our children are:

<u>Name</u>	<u>Birth Date</u>
CANDACE LOUISE CURTIS	March 12, 1953
CAROL ANN BRUNSTING	October 16, 1954
CARL HENRY BRUNSTING	July 31, 1957
AMY RUTH TSCHIRHART	October 7, 1961
ANITA KAY RILEY	August 7, 1963

All references to our children or to our descendants are to these named children, as well as any children subsequently born to us or legally adopted by us.

The terms "trust beneficiary" or "beneficiary" will also mean any and all persons, organizations, trusts and entities who may have or may acquire a beneficial interest in this trust, whether vested or contingent in nature, including a transfer of an interest in the trust

during our lives, from either of us, or both, or from an exercise of a power of appointment by a trust beneficiary or otherwise.

Article II

Transfers of Assets to Our Trust

Section A. Our Initial Contribution

We have delivered to our Trustees certain property as the initial assets of this trust, the receipt of which is acknowledged.

Section B. Additions to Our Trust

Any person, trust or entity may add property of any character to this trust by a last will and testament, from another trust (regardless of whether such trust is a living trust or a trust contained in a Will), by a deed or any other legally accepted method of assignment, conveyance, delivery or transfer, subject only to the acceptance of such property or asset by the Trustee.

Section C. Our Separate and Community Accounts

Any contributions of separate property to the trust by, or for the benefit of, either Founder shall remain the separate property of such Founder. A separate schedule signed by both of the Founders may be maintained for purposes of identifying such separate property and its ownership.

Each of us may withdraw, remove, sell or otherwise deal with our respective separate property interests without any restrictions. Should we revoke our trust, all separate property shall be transferred, assigned, or conveyed back to the owning Founder as his or her respective separate property.

All community property, as well as the income from and proceeds of such community property, shall retain its community property characterization under the law unless we change such characterization by virtue of a duly executed marital partition agreement.

All community property withdrawn or removed from our trust shall retain its community characterization. Should we revoke our trust, all community property shall be transferred, assigned or conveyed back to us as community property.

Article III

Our Right to Amend or Revoke This Trust

Section A. We May Revoke Our Trust

While we are both living, either of us may revoke our trust. However, this trust will become irrevocable upon the death of either of us. Any Trustee, who is serving in such capacity, may document the non-revocation of the trust with an affidavit setting forth that the trust remains in full force and effect.

The affidavit may, at the Trustee's discretion, be filed in the deed records in each county in which real property held in trust is located or in the county in which the principal assets and records of the trust are located. The public and all persons interested in and dealing with the trust and the Trustee may rely upon a certified copy of the recorded affidavit as conclusive evidence that the trust remains in full force and effect.

Section B. We May Amend Our Trust

This trust declaration may be amended by us in whole or in part in a writing signed by both of us for so long as we both shall live. Except as to a change of trust situs, when one of us dies, this trust shall not be subject to amendment, except by a court of competent jurisdiction.

Each of us may provide for a different disposition of our share in the trust by using a qualified beneficiary designation, as we define that term in this agreement, and the qualified beneficiary designation will be considered an amendment to this trust as to that Founder's share or interest alone.

Section C. Income Tax Matters

For so long as this trust remains subject to amendment or revocation in its entirety, and for so long as a Founder is a Trustee of the trust, this trust will be treated for income tax reporting purposes as a "grantor trust" as that term is used by the Internal Revenue Service, particularly in Treasury Regulation Section 1.671-4(b).

For so long as a Founder is a Trustee of the trust, the tax identification numbers will be the social security numbers of the Founders and all items of income, gain, loss, credit and

deduction are to be reported on the Founders' individual or joint income tax returns. At such time as the trust becomes irrevocable, in whole or in part, because of the death of one of us, the trust is to be treated for income tax purposes as required by Subchapter J of the Internal Revenue Code.

Article IV

Our Trustees

Section A. Original Trustees

Founders appoint ELMER H. BRUNSTING and NELVA E. BRUNSTING as the original Trustees of this trust. However, either of us may conduct business and act on behalf of this trust without the consent or authority of any other Trustee. Any third party may conclusively rely on the authority of either of us without the joinder of the other.

Section B. Our Successor Trustees

Each of the original Trustees will have the right to appoint their own successor or successors to serve as Trustees in the event that such original Trustee ceases to serve by reason of death, disability or for any reason, and may specify any conditions upon succession and service as may be permitted by law. Such appointment, together with any specified conditions, must be in writing.

If an original Trustee does not appoint a successor, the remaining original Trustee or Trustees then serving will continue to serve alone.

If both of the original Trustees fail or cease to serve by reason of death, disability or for any reason without having appointed a successor or successors, then the following individuals will serve as Co-Trustees:

CARL HENRY BRUNSTING and ~~AMY RUTH TSCHIRHART~~

If a successor Co-Trustee should fail or cease to serve by reason of death, disability or for any other reason, then CANDACE LOUISE CURTIS shall serve as Co-Trustee in his or her place, with the remaining Co-Trustee then serving. However, if there is only one successor Co-Trustee able or willing to serve, such successor Co-Trustee shall serve alone.

Successor Trustees will have the authority vested in the original Trustees under this trust document, subject to any lawful limitations or qualifications upon the service of a successor imposed by any Trustee in a written document appointing a successor.

A successor Trustee will not be obliged to examine the records, accounts and acts of the previous Trustee or Trustees, nor will a successor Trustee in any way or manner be responsible for any act or omission to act on the part of any previous Trustee.

Section C. No Bond is Required of Our Trustees

No one serving as Trustee will be required to furnish a fiduciary bond as a prerequisite to service.

Section D. Resignation or Removal of Our Trustees

We may each remove any Trustee we may have individually named as our respective successors. Any appointee serving or entitled to serve as Trustee may resign at any time and without cause, and the instructions in this trust will determine who the successor will be. All removals or resignations must be in writing.

In the event that no Trustee is remaining who has been designated in this trust, a majority of all adult income beneficiaries and the legal guardians of all minor or disabled beneficiaries of the trust shares created hereunder shall have the power to appoint any corporate or banking institution having trust powers as the successor Trustee. Such power shall be exercised in a written instrument in recordable form which identifies this power, identifies the successor Trustee, contains an acceptance of office by such successor Trustee and identifies the effective time and date of such succession.

A majority of all adult beneficiaries and the legal guardians of all minor or disabled beneficiaries who are then entitled to receive distributions of income from the trust, or distributions of income from any separate trust created by this document, may only remove any corporate or institutional Trustee then serving, the notice of removal to be delivered in writing to the said Trustee.

If such beneficiaries shall fail to appoint a successor corporate or institutional Trustee, the selection of a successor to the Trustee will be made by a court of competent jurisdiction.

Section E. Affidavit of Authority to Act

Any person or entity dealing with the trust may rely upon our Affidavit of Trust, regardless of its form, or the affidavit of a Trustee or Trustees in substantially the following form:

On my oath, and under the penalties of perjury, I swear that I am the duly appointed and authorized Trustee of the BRUNSTING FAMILY LIVING TRUST. I certify that the trust has not been revoked and remains in full force and effect, I have not been removed as Trustee and I have the authority to act for, and bind, the BRUNSTING FAMILY LIVING TRUST in the transaction of the business for which this affidavit is given as affirmation of my authority.

Signature Line

Sworn, subscribed and acknowledged before me, the undersigned authority, on this the ____ day of _____, 20____.

Notary Public - State of Texas

Section F. Documentary Succession of Our Trustees

The successor to any Trustee may document succession with an affidavit setting forth that the preceding Trustee is unwilling to serve or has failed or ceased to serve due to death or disability and the successor has assumed the duties of the Trustee.

The affidavit may, at the Trustee's discretion, be filed in the deed records in each county in which real property held in trust is located or in the county in which the principal assets and records of the trust are located. The public and all persons interested in and dealing with the trust and the Trustee may rely upon a certified copy of the recorded affidavit as conclusive evidence of a successor's authority to serve and act as the Trustee of the trust.

Section G. Our Trustees' Compensation

Any person who serves as Trustee may elect to receive reasonable compensation to be measured by the time required in the administration of the trust and the responsibility assumed in the discharge of the duties of office.

A corporate or bank Trustee will be entitled to receive as its compensation such fees as are then prescribed by its published schedule of charges for trusts of a similar size and nature and additional compensation for extraordinary services performed by the corporate Trustee.

If an attorney, accountant or other professional shall be selected as Trustee, such professional shall be entitled to compensation for professional services rendered to a trust by himself or by a member of his firm in addition to compensation for services as Trustee.

A Trustee will be entitled to full reimbursement for expenses, costs or other obligations incurred as the result of service, including attorney's, accountant's and other professional fees.

Section H. Multiple Trustees

In the event there are two or more Trustees serving the trust, other than the Founders, the authority vested in such Trustees must be exercised by a majority of the Trustees. If only two Trustees are acting, the concurrence or joinder of both shall be required.

When more than two Trustees are acting, any dissenting or abstaining Trustee may be absolved from personal liability by registering a written dissent or abstention with the records of the trust; the dissenting Trustee shall thereafter act with the other Trustees in any manner necessary or appropriate to effectuate the decision of the majority.

Section I. Delegation of Authority

Any Trustee may delegate to any other Trustee named in our trust the powers and authority vested in him or her by this declaration. A delegating Trustee may evidence such delegation in writing and may revoke it in writing at any time.

Section J. Successor Corporate Trustees

Any successor corporate or bank Trustee must be a United States bank or trust company vested with trust powers pursuant to state or federal law, and must have a combined capital and surplus of 20 million dollars.

Any bank or trust company succeeding to the business of any corporate or bank Trustee serving by virtue of this declaration because of change of name, reorganization, merger or any other reason shall immediately succeed as Trustee of this trust, without the necessity of court intervention or any other action whatsoever.

Section K. Partial and Final Distributions

The Trustee, in making or preparing to make a partial or final distribution, may prepare an accounting and may require, as a condition to payment, a written and acknowledged statement from each distributee that the accounting has been thoroughly examined and accepted as correct; a discharge of the Trustee; a release from any loss, liability, claim or question concerning the exercise of due care, skill and prudence of the Trustee in the management, investment, retention and distribution of property during the Trustee's term of service, except for any undisclosed error or omission having basis in fraud or bad faith; and an indemnity of the Trustee, to include the payment of attorney's fees, from any asserted claim of any taxing agency, governmental authority or other claimant.

Section L. Court Supervision Not Required

All trusts created under this agreement shall be administered free from the active supervision of any court.

Any proceedings to seek judicial instructions or a judicial determination shall be initiated by our Trustee in the appropriate state court having original jurisdiction of those matters relating to the construction and administration of trusts.

Section M. Health Insurance Portability and Accountability Act (HIPAA) of 1996 Compliance

In order to maintain the integrity of this trust declaration and to meet our estate planning desires and goals, our Trustees shall comply with the directive set forth in this Section to assure compliance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

1. Successor Trustee Required to Provide an Authorization For Release of Protected Health Information

Each successor Trustee (or Co-Trustee) shall be required to execute and deliver to the Co-Trustee (if any) or next successor Trustee an "Authorization for Release of Protected Health Information" pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and any other similarly applicable federal and state laws, authorizing the release of said successor's protected health and medical information to said successor's Co-Trustees (if any) and to all alternate successor Trustees (or Co-Trustees) named under this Trust Agreement, to be used only for the purpose of determining in the future whether said successor has become incapacitated (as defined in this Trust Agreement).

If said successor is already acting in the capacity of Trustee (or Co-Trustee) and fails to so execute and deliver such Authorization within thirty (30) days of actual notice of said requirement, or if an event has occurred which triggers said successor's power to act but said successor has not yet begun to act in said capacity and fails to so execute and deliver such Authorization within thirty (30) days of actual notice of said requirement, then for purposes of the Trust Agreement, said successor shall be deemed incapacitated.

"Actual notice" shall occur when a written notice, signed by the Co-Trustees (if any) or next successor Trustee, informing said successor of the need to timely execute and

deliver an authorization as set forth above (and, in the case where said successor has not yet begun to act, informing him or her of the event that has triggered said successor's power to act), is (i) deposited in the United States mail, postage prepaid, addressed to the last address of said successor known to the Co-Trustees or next successor Trustee or (ii) hand delivered to said successor, provided such delivery is witnessed by a third party independent from the Co-Trustees or next successor Trustee within the meaning of Internal Revenue Code Sections 672(c) and 674(c) and said witness signs a statement that he or she has witnessed such delivery.

2. Obtain the Release of Protected Health Information

The Trustee is empowered to request, receive and review any information, verbal or written, regarding Founders' physical or mental health, including, but not limited to, protected health and medical information, and to consent to their release or disclosure. Each of the Founders have separately signed on this same date or an earlier date an "Authorization For Release of Protected Health Information," in compliance with HIPAA, immediately authorizing the release of any and all health and medical information to the Trustee (or next successor Trustee, even if not yet acting) for the purposes of determining the Founder's incapacity (or for other stated purposes therein).

In the event said authorization cannot be located, is by its own terms no longer in force or is otherwise deemed invalid in whole or in part, each of the Founders hereby grant the Trustee (or next successor Trustee, even if not yet acting) the power and authority, as Founder's legal representative, to execute a new authorization on Founder's behalf, immediately authorizing the release of any and all health and medical information for the purpose of determining the Founder's incapacity (and for the purpose of carrying out any of the Trustee's powers, rights, duties and obligations under this trust agreement), naming the Trustee (or next successor Trustee even if not yet acting) as the Founder's "Personal Representative," "Authorized Representative" and "Authorized Recipient."

3. Determination of "Incompetence" or "Incapacity"

For purposes of this Trust, and notwithstanding any other conflicting provisions contained in this Trust Declaration or any previous amendments thereto, the term "incompetency" and/or "incapacity" shall mean any physical or mental incapacity, whether by reason of accident, illness, advanced age, mental deterioration, alcohol, drug or other substance abuse, or similar cause, which in the sole and absolute discretion of the Trustee makes it impracticable for a person to give prompt, rational and prudent consideration to financial matters and, if said disabled person is a Trustee (including an appointed Trustee who has yet to act), (i) a guardian of said person or

estate, or both, of said person has been appointed by a court having jurisdiction over such matters or (ii) two (2) attending physicians of said person, who are licensed to practice and who are not related by blood or marriage to such person, have stated in writing that such incompetency or incapacity exists.

If said disabled person is a Trustee (including an appointed Trustee who has yet to act), upon the court determination of the person's competency or capacity or upon the revocation of the writings of the two (2) attending physicians above or upon written determination of competency or capacity to give prompt, rational and prudent consideration to financial matters by two (2) other attending physicians, who are licensed to practice and who are not related by blood or marriage to such person, subject to written notice being given to the then acting successor Trustee, the original Trustee (including an appointed Trustee who has yet to act) removed for "incompetency" or "incapacity" shall be reinstated as Trustee.

Any third party may accept physicians' writings as proof of competency or capacity or incompetency or incapacity as set forth above without the responsibility of further investigation and shall be held harmless from any loss suffered or liability incurred as the result of good faith reliance upon such writings.

In addition to any "Authorization for Release of Protected Health Information" executed by the Founders, the Founders hereby voluntarily waive any physician-patient privilege or psychiatrist-patient privilege and authorize physicians and psychiatrists to examine them and disclose their physical or mental condition, or other personal health or medical information, in order to determine their competency or incompetency, or capacity or incapacity, for purposes of this document. Each person who signs this instrument or an acceptance of Trusteeship hereunder does, by so signing, waive all provisions of law relating to disclosure of confidential or protected health and medical information insofar as that disclosure would be pertinent to any inquiry under this paragraph. No Trustee shall be under any duty to institute any inquiry into a person's possible incompetency or incapacity (such as, but not limited to, by drug testing), but if the Trustee does so, the expense of any such inquiry may be paid from the Trust Estate of said person's trust or, if no such trust exists, the Trust Estate of the Trust.

It is the Founders' desire that, to the extent possible, a named successor Trustee be able to act expeditiously, without the necessity of obtaining a court determination of a Founder's incapacity or the incapacity of a preceding appointed successor Trustee (including if that preceding appointed successor Trustee has not yet acted). Therefore, if an Authorization for Release of Protected Health Information executed by a Founder, or an appointed successor Trustee (even if not yet acting), or by a "personal representative" or "authorized representative" on behalf of a Founder or

such an appointed successor Trustee, is not honored in whole or in part by a third party such that physicians' writings cannot be obtained as necessitated by this subparagraph, then the Trust Protector named under this Trust Agreement (if any), or if there is no such Trust Protector provided under this Trust Agreement then the next succeeding Trustee (even if not yet acting) who is independent, that is not related to or subordinate to, said Founder or such appointed successor Trustee within the meaning of Internal Revenue Code Section 672(c), may declare in writing said Founder or such appointed successor Trustee to be incapacitated; provided, however, the Trust Protector or next succeeding Trustee making such declaration shall have first made good faith efforts to obtain the physicians' writings described above, and the provisions above relating to reinstatement upon two (2) physicians' written determination of competency or capacity shall continue to apply.

In the event this Trust Declaration does not provide for an Independent Trustee as set forth in the above paragraph, such an Independent Trustee shall be elected by a majority vote of the then current adult income beneficiaries of this trust (or by the legal guardians of all minor or disabled current income beneficiaries) and such Independent Trustee shall not be related to nor subordinate to any of the beneficiaries participating in the said vote within the meaning of Internal Revenue Code 672(c). In the event that there are only two (2) beneficiaries, one of which is acting as Trustee, the remaining beneficiary may appoint such an Independent Trustee who is neither related to nor subordinate to such beneficiary as those terms are defined in and within the meaning of Internal Revenue Code 672(c).

Each of the Founders have separately signed on this same date or on an earlier date an "Authorization for Release of Protected Health Information," in compliance with HIPAA, immediately authorizing the release of health and medical information to the Trustee (or next successor Trustee, even if not yet acting), so the Trustee may legally defend against or otherwise resist any contest or attack of any nature upon any provision of this trust agreement or amendment to it (or defend against or prosecute any other legal matter within his or her powers set forth in the Trust Agreement). In the event said authorization cannot be located, is by its own terms no longer in force or is otherwise deemed invalid or not accepted in whole or in part, each of the Founders hereby grant the Trustee (or next successor Trustee, even if not yet acting) the power and authority, as the Founder's legal representative to execute a new authorization on the Founder's behalf, even after Founder's death, immediately authorizing the release of any and all health and medical information for the purpose of determining the Founder's incapacity (and for the purpose of carrying out any of the Trustee's powers, rights, duties and obligations under the trust agreement naming the Trustee (or next successor Trustee, even if not yet acting) as the Founder's "Personal Representative," "Authorized Representative" and "Authorized Recipient."

Article V

Insurance Policies and Retirement Plans

Section A. Our Authority While We Are Living

To the extent of a Founder's community or separate interest in insurance policies, retirement plans or any other third party beneficiary contract, during the life of a Founder, each shall have the following rights, and the Trustee of this trust declaration shall have the following duties with respect to any third party beneficiary contract owned by or made payable to this trust.

1. The Founder's Rights

Each Founder reserves all of the rights, powers, options and privileges with respect to any insurance policy, retirement plan or any other third party beneficiary contract made payable to this trust or deposited with our Trustee. Each Founder may exercise any of the rights, powers, options and privileges with respect to such third party beneficiary contract without the approval of our Trustee or any beneficiary.

Neither Founder shall be obligated to maintain any insurance policy, retirement plan or any other third party beneficiary contract in force.

2. Our Trustee's Obligations

Upon a Founder's written request, our Trustee shall deliver to the requesting Founder or the Founder's designee any and all third party beneficiary contracts and related documents which are owned by or deposited with our Trustee pursuant to our trust declaration. Our Trustee shall not be obligated to have any of such documents returned to the Trustee.

Our Trustee shall provide for the safekeeping of any third party beneficiary contract, as well as any documents related thereto, which are deposited with our Trustee. Otherwise, our Trustee shall have no obligation with respect to any third party beneficiary contract, including payment of sums due and payable under such contracts, other than those obligations set forth in this Article.

Section B. Upon the Death of a Founder

Upon a Founder's death, our Trustee shall have authority to and shall make all appropriate elections with respect to any insurance policies, retirement plans and other death benefits which are the separate estate of the deceased Founder. With respect to any insurance policies, retirement plans and other death benefits which are a part of the community estate, our Trustee and the surviving Founder shall have the authority and shall make all appropriate elections consistent with the laws of the state having jurisdiction over such property.

1. Collection of Non-Retirement Death Proceeds

Regarding any life insurance policy, or any other non-retirement death benefit plan, wherein death benefits are made payable to or are owned by our trust, our Trustee shall make every reasonable effort to collect any and all such sums. In collecting such sums, our Trustee may, in its sole and absolute discretion, exercise any settlement option available under the terms of a policy or any other third party beneficiary contract with regard to the interest of the deceased Founder in those policies or death benefit proceeds. However, our Trustee shall not be liable to any beneficiary for the settlement option ultimately selected.

2. Retirement Plan Elections

To the extent of the interest of the deceased Founder, our Trustee shall have the right, in its sole and absolute discretion, to elect to receive any retirement plan death proceeds either in a lump sum or in any other manner permitted by the terms of the particular retirement plan. Such right shall exist and pertain to any retirement plan including, but not limited to, any qualified pension plan, profit sharing plan, Keogh plan and individual retirement account. Our Trustee shall not be liable to any beneficiary for the death benefit election ultimately selected.

Any benefit of any retirement plan which is payable to our trust, including individual retirement accounts that are payable to our trust, may be disclaimed by our Trustee in its sole and absolute discretion. Such disclaimed benefits shall be payable in accordance with such plan.

3. Collection Proceedings

In order to enforce the payment of any death proceeds, our Trustee may institute any legal, equitable, administrative or other proceeding. However, our Trustee need not take any action to enforce any payment until our Trustee,

in its sole judgment, has been indemnified to its satisfaction for all expenses and liabilities to which it may be subjected.

Our Trustee is expressly authorized, in its sole and absolute discretion, to adjust, settle and compromise any and all claims that may arise from the collection of any death proceeds. Any decision made by our Trustee pursuant to this Section B.3 shall be binding and conclusive on all beneficiaries.

4. Payor's Liability

Any person or entity which pays any type of death proceeds to our Trustee as beneficiary, shall not be required to inquire into any of the provisions of this trust declaration, nor will they be required to see to the application of any such proceeds by our Trustee. Our Trustee's receipt of death proceeds shall relieve the payor of any further liability as a result of making such payment.

Section C. Special Provisions Pertaining to Tax-Deferred Trust Assets

Since the Founders anticipate that tax-deferred plans such as 401(k) plans, IRA's, SEP's and similar retirement plans and tax-deferred accounts might name this trust as the designated beneficiary in the event of the death of the Founders, the following provisions will hereby apply in all respects with regard to the assets and proceeds of such plans, notwithstanding that other provisions in this Agreement are in conflict with the following provisions:

1. Minimum Distribution

It is the purpose and intent of the Founders that this trust will qualify as a "designated beneficiary" pursuant to Section 401(a)(9) of the Internal Revenue Code and the term "Minimum Required Distribution" shall mean such mandatory distributions as are required to qualify this trust pursuant to the said Section 401(a)(9) of the Internal Revenue Code.

2. Distribution Restrictions

Notwithstanding any other provision in this trust declaration, and except as provided in this Article, the Trustee may not distribute to or for the benefit of the estate of either Founder, any charity or any other non-individual beneficiary, any benefits payable to this trust under any qualified retirement plan, individual retirement account or other retirement arrangement subject to the "Minimum Required Distribution Rules" of Section 401(a)(9) of the Internal Revenue Code, or other comparable provisions of law. It is the intent

of the Founders that all such retirement benefits be distributed to or held only for individual beneficiaries within the meaning of Section 401(a)(9) and applicable regulations. This paragraph shall not apply to any charitable bequest which is specifically directed to be funded with assets other than those encompassed by this provision.

3. Exclusion of Older Adopted "Descendants"

Notwithstanding any other provision hereof or state law, the class of the Founders' (or any other persons) "issue" or "descendants" shall not include an individual who is the Founders' (or such persons') "issue" or "descendants" by virtue of legal adoption if such individual (i) was so adopted after the Required Beginning Date of a Founder or a Founder's death, whichever occurs first, and (ii) is older than the oldest beneficiary of this trust who was a living member of said class on the earlier of said dates. The "Required Beginning Date," for purposes of this paragraph means April 1 of the year following the year in which the plan participant reaches 70½, or, if later, the date on which this trust is first named as a beneficiary of any retirement plan, benefit or arrangement subject to the "Minimum Distribution Rules" of Section 401(a)(9) of the Internal Revenue Code. The said Section 401(a)(9) of the Internal Revenue Code is incorporated by reference in this trust declaration for all purposes, together with applicable treasury regulations pertaining thereto.

4. Payment of Estate Taxes of Plan Participant

Except as required by state law, the trustee shall not use any plan benefits to pay a plan participant's estate taxes.

5. Delivery of Trust to Plan Administrator

If the Founders have not previously done so, the Trustee shall deliver a copy of this trust declaration to any plan administrator within the time limits required by applicable statute, as well as final and proposed treasury regulations.

6. Distribution to the Beneficiaries

Notwithstanding any other provision contained in this trust declaration to the contrary, the Trustee shall withdraw from the individual retirement account or other retirement plan payable to the trust, and distribute directly to the beneficiaries named herein, each year, the Minimum Required Distribution for such year based on the oldest beneficiary's life expectancy. After the death

of a beneficiary, the Trustee shall pay income of the trust and such Minimum Required Distribution to the descendants of such deceased or remainder beneficiary, as specified in Article X of this trust declaration.

7. Distribution of More Than the Minimum Distribution

The Trustee is authorized in its sole and absolute discretion, to distribute to the beneficiary and contingent beneficiaries more than the Minimum Required Distribution if deemed necessary and appropriate prior to the mandatory distributions of trust assets provided in Article X of this trust declaration.

Article VI

For So Long As We Both Shall Live

Section A. Our Use of Income and Assets

While we are both living, the net income of the trust is to be paid at least monthly to us, or to be used for our benefit. Any unused income will be accumulated and added to the principal assets of this trust.

While we are both living, we shall have the absolute right, either individually or jointly, to add to the trust property at any time.

While we are both living, we shall each have the right to withdraw, use or benefit from all or any part of our own separate property and our respective interests in any community property. However, the surviving spouse will be entitled to the use and benefit of the deceased spouse's interest as provided in this trust declaration.

Either of us, individually, may make gifts of our separate property contributed to the trust or may make gifts of our interests or shares in the trust itself to the extent permitted by law, including our community property interests. Neither of us shall have the power to direct our Trustee to make gifts of any trust principal or income. If any such gift is made directly to a third party, such gift shall be deemed to have first been distributed directly to either or both of us and then distributed as a gift from either or both of us to such third party.

Section B. If One or Both of Us Are Disabled

If one or both of us should become disabled, our Trustee shall provide to both of us, and to any person deemed by our Trustee to be dependent on either or both of us, such portions of income and principal from each of our respective interests in separate property and from our respective one-half interests in our community property, as deemed necessary or advisable in its sole discretion, for our health, education, maintenance and support, as well as for the health, education, maintenance and support of any person deemed by our Trustee to be dependent on either or both of us.

Our Trustee's discretion may include the payment of insurance premiums pursuant to contracts for insurance owned by one of us or by our trust. Premiums paid on a separate property policy shall be paid out of separate property funds of the owner of that policy.

During any period that one or both of us are disabled, it is the intention of each of us that we be cared for in our residence or in the private residence of another who is dear to us. It is our preference that neither of us be admitted to a convalescent care facility or similar facility unless our condition mandates such placement.

Valid obligations of either of us which are confirmed by our Trustee shall be provided for by our Trustee from such portions of income and principal from each of our separate property accounts and from our respective one-half interests in our community accounts, as deemed necessary or advisable in our Trustee's sole discretion.

If, prior to the disability of either one or both of us, one or both of us were making regular lifetime gifts to our children for purposes of estate tax planning, then our Trustee shall continue such gifting program to our children; provided, however, no such gifts shall be made until our support and obligations have been provided for.

Section C. Income Tax Matters

If any interest or share in the trust is irrevocable for so long as one or both of us are living, and if the Trustee of the trust is classified as subordinate or related to either of us, the distribution of trust corpus to the beneficiary of an irrevocable share, to the extent of his or her share or interest alone, will be limited to discretionary distributions necessary or appropriate to provide for the beneficiary's health, education, maintenance and support, and this standard shall be construed and limited according to the requirements of Section 674(b)(5)(A) of the Internal Revenue Code.

Section D. Residence Homestead

Pursuant to Section 11.13 of the Texas Property Tax Code, a qualifying trust may claim the statutory homestead exemption provided by the said Texas Property Tax Code as well as other provisions of Texas law. In order to comply with the said Texas Property Tax Code provisions, the Founders hereby agree as follows:

1. Our residence shall be owned by us through a beneficial interest in this qualifying trust;
2. Our residence shall be designed or adapted for human residence;

3. Such property shall at all times be used as our residence;
4. Such property will be occupied by us as Founders or Trustors of this trust as a result of our beneficial interest in this qualifying trust;
5. By separate deed of our residential property, we have conveyed our interest in such real property to this qualifying trust and are therefore qualified as "Trustors" pursuant to the said Code;
6. This revocable intervivos trust is a "Qualifying Trust" in that we specifically provide that as Trustors of the trust we have the right to use and occupy as our principal residence the residential property rent free and without charge except for taxes and other costs and expenses which may be specified in this instrument. Such right to use and occupation shall be for life or until the date the trust is revoked or terminated by an instrument that describes the property with sufficient certainty to identify it and is recorded in the real property records of the county in which the property is located; and
7. This trust has acquired the property in an instrument of title that
 - a. describes the property with sufficient certainty to identify it and the interest acquired;
 - b. is recorded in the real property records of the county in which the property is located; and
 - c. is executed by one or both of us as Trustors or by our personal representatives.

Article VII

Upon the Death of One of Us

Section A. Settlement of Affairs

Upon the death of the first Founder to die, our Trustee is authorized, but not directed, to pay the following expenses, claims and liabilities which are attributable to the first Founder to die:

Funeral, burial and expenses of last illness

Statutory or court-ordered allowances for qualifying family members

Expenses of administration of the estate

Legally enforceable claims against the deceased Founder or the deceased Founder's estate

Taxes occasioned by death

Any payment authorized above is discretionary. No claim or right to payment may be enforced against this trust by virtue of such discretionary authority.

1. Deceased Founder's Probate Estate

Payments authorized under this Section shall be paid only to the extent that the probate assets (other than real estate, tangible personal property or property that, in our Trustee's judgment, is not readily marketable) are insufficient to make these payments. However, if our trust holds United States Treasury Bonds which are eligible for redemption at par in payment of the federal estate tax, our Trustee shall redeem such bonds to the extent necessary to pay federal estate tax as a result of a death.

Payments authorized under this Section may be made by our Trustee, in its sole and absolute discretion, either directly to the appropriate persons or institutions or to the personal representative of the deceased Founder's probate estate. If our Trustee makes payments directly to the personal representative

of the deceased Founder's probate estate, our Trustee shall not have any duty to see to the application of such payments. Any written statement of the deceased Founder's personal representative regarding material facts relating to these payments may be relied upon by our Trustee.

As an addition to our trust, our Trustee is authorized to purchase and retain in the form received any property which is a part of the deceased Founder's probate estate. In addition, our Trustee may make loans to the deceased Founder's probate estate with or without security. Our Trustee shall not be liable for any loss suffered by our trust as a result of the exercise of the powers granted in this paragraph.

Our Trustee shall be under no obligation to examine the records or accounts of the personal representative of the deceased Founder's probate estate and is authorized to accept distributions from the personal representative of the deceased Founder's probate estate without audit.

2. Exempt Property Excluded

Our Trustee shall not use any property in making any payments pursuant to this Section to the extent that such property is not included in the deceased Founder's gross estate for federal estate tax purposes. However, if our Trustee makes the determination, in its sole and absolute discretion, that other non-exempt property is not available for payments authorized under this Section, it may then use such exempt property where it is not economically prudent to use non-exempt property for the payment of such expenses.

3. Apportionment of Payments

Except as otherwise specifically provided in this trust declaration, all expenses and claims, and all estate, inheritance and death taxes, excluding any generation-skipping transfer tax, resulting from the death of a Founder shall be paid without apportionment and without reimbursement from any person.

Notwithstanding anything to the contrary in our trust, no death taxes payable as a result of the death of the first Founder to die shall be allocated to or paid from the Survivor's Trust or from any assets passing to the surviving Founder and qualifying for the federal estate tax marital deduction unless our Trustee has first used all other assets available to our Trustee.

Notwithstanding anything to the contrary in our trust declaration, estate, inheritance and death taxes assessed with regard to property passing outside

of our trust or outside of our probate estates, but included in the gross estate of a Founder for federal estate tax purposes, shall be chargeable against the persons receiving such property.

Section B. Division and Distribution of Trust Property

Our Trustee shall divide the remaining trust property into two separate trusts upon the death of the first one of us to die. The resulting trusts shall be known as the Survivor's Trust and the Decedent's Trust.

1. Creation of the Survivor's Trust

The Survivor's Trust shall consist of the surviving Founder's interest in the community portion of the trust property, if any, and his or her separate portion of the trust property. In addition, the Survivor's Trust shall be the fractional share of the deceased Founder's trust property as follows:

a. Numerator of the Fractional Share

The numerator of the fractional share shall be the smallest amount which, if allowed as a marital deduction, would result in the least possible federal estate tax being payable as a result of the deceased Founder's death, after allowing for the unified credit against federal estate tax (after taking into account adjusted taxable gifts, if any) as finally determined for federal estate tax purposes, and the credit for state death taxes (but only to the extent that the use of this credit does not require an increase in the state death taxes paid).

The numerator shall be reduced by the value, for federal estate tax purposes, of any interest in property that qualifies for the federal estate tax marital deduction and which passes or has passed from the deceased Founder to the surviving Founder other than under this Article.

b. Denominator of the Fractional Share

The denominator of the fractional share shall consist of the value, as finally determined for federal estate tax purposes, of all of the deceased Founder's trust property under this agreement.

2. Creation of the Decedent's Trust

The Decedent's Trust shall consist of the balance of the trust property.

Section C. Valuation of Property Distributed to the Survivor's Trust

Our Trustee shall use those values as finally determined for federal estate tax purposes in making any computation which is necessary to determine the amount distributed to the Survivor's Trust. On the dates of distribution, the fair market value of all of the deceased Founder's property shall in no event be less than the amount of the Survivor's Trust as finally determined for federal estate tax purposes.

Section D. Conversion of Nonproductive Property

The surviving Founder shall at any time have the absolute right to compel our Trustee to convert nonproductive property held as an asset of the Survivor's Trust to productive property. Such right exists notwithstanding any contrary term in this agreement. The surviving Founder shall exercise this right by directing our Trustee in writing to convert such property.

Section E. Survivor's Right to Refuse Property or Powers Granted

With respect to property passing to the surviving Founder or for the surviving Founder's benefit, any portion of any interest in such property or power may be disclaimed by the surviving Founder within the time and under the conditions permitted by law with regard to disclaimers.

Any interest disclaimed by the surviving Founder with respect to any portion of the Survivor's Trust shall be added to the Decedent's Trust. Any interest disclaimed by the surviving Founder with respect to any portion of the Decedent's Trust shall be disposed of under the appropriate provisions of this agreement as though the surviving Founder had predeceased the first Founder to die.

Any disclaimer exercised must be an irrevocable and unqualified refusal to accept any portion of such interest in the property or power disclaimed. Such disclaimer must be delivered to our Trustee in writing.

Section F. Allocation of Trust Property

Subject to the conditions of Section B.1 of this Article, our Trustee shall have the complete authority to make allocations of the deceased Founder's trust property between the Survivor's and Decedent's Trusts.

Our Trustee may make allocations in cash or its equivalent, in kind, in undivided interests, or in any proportion thereof between the two trusts. Our Trustee may also, in its sole discretion, allocate such assets in kind based on the date of distribution values, rather than an undivided interest in each and every asset.

Our Trustee shall not allocate any property or assets, or proceeds from such property or assets, to the Survivor's Trust which would not qualify for the federal estate tax marital deduction in the deceased Founder's estate.

Our Trustee shall not allocate any policies of life insurance insuring the life of the surviving Founder to the Survivor's Trust that are the sole and separate property of the deceased Founder.

To the extent that there are insufficient assets qualifying for the marital deduction to fully fund this Survivor's Trust, the amount of the funding to the Survivor's Trust shall be reduced accordingly.

Our Trustee shall consider the tax consequences of allocating property subject to foreign death tax, property on which a tax credit is available, or property which is income in respect of a decedent under applicable tax laws prior to allocating the deceased Founder's property to the Survivor's Trust.

Section G. Distributions from Retirement Plan to the Survivor's Trust

If Retirement Plan distributions are included in the Survivor's Trust, or in any Survivor's Trust Share, our Trustee shall comply with the following guidelines.

1. Form of Distribution

Our Trustee may elect to receive distributions from any pension, profit sharing, individual retirement account, or other retirement plan ("Retirement Plan") for which our Trust, or any subtrust provided for herein, is named as beneficiary, in installments or in a lump sum.

2. Income Requirement

Our Trustee shall elect to receive distributions from a Retirement Plan payable to the Survivor's Trust or any Survivor's Trust Share in compliance with the minimum distribution rules of the Internal Revenue Code if applicable and also so that at least all income earned by the Retirement Plan each calendar year is distributed to the Trust and allocated to trust income during the year. If distributions from the Retirement Plan total less than all income earned by the Retirement Plan for a calendar year, our Trustee shall demand additional distributions equal to at least the shortfall so that the surviving Founder will receive all income earned by the Retirement Plan at least annually. The surviving Founder shall have full power, in such surviving Founder's discretion, to compel our Trustee to demand such distributions and to compel the Retirement Plan Trustee to convert any nonproductive property to productive property.

3. Retirement Plan Expenses

In calculating "all income earned by the Retirement Plan," our Trustee shall allocate all Retirement Plan expenses, including income taxes and Trustee's fees, that are attributable to principal distributions so that all income distributions from the Retirement Plan are not reduced.

Article VIII

Administration of the Survivor's Trust

Section A. Creation of Two Survivor's Shares

The property passing to the Survivor's Trust shall be divided into two shares. Both shares shall collectively constitute the Survivor's Trust.

1. Survivor's Share One

Our Trustee shall allocate all of the surviving Founder's separate portion of the trust property and all of the surviving Founder's community portion of the trust property, if any, to Survivor's Share One.

2. Survivor's Share Two

Survivor's Share Two shall consist of the balance, if any, of the property passing to the Survivor's Trust.

If any allocation under this Article results only in the funding of Survivor's Share One, our Trustee shall administer this agreement as if Survivor's Share Two did not exist. The funding of Survivor's Share One, when Survivor's Share Two does not exist, shall be referred to only as the Survivor's Trust and no designation shall be necessary.

Separate accounts shall be maintained for Survivor's Share One and Survivor's Share Two. Our Trustee may, however, hold the separate shares as a common fund for administrative convenience.

Section B. Administration of Survivor's Share One

Our Trustee shall administer Survivor's Share One for the surviving Founder's benefit as follows:

1. The Surviving Founder's Right to Income

Our Trustee shall pay to or apply for the surviving Founder's benefit, at least monthly during the surviving Founder's lifetime, all of the net income from Survivor's Share One.

2. The Surviving Founder's Right to Withdraw Principal

Our Trustee shall pay to or apply for the surviving Founder's benefit such amounts from the principal of Survivor's Share One as the surviving Founder may at any time request in writing.

No limitation shall be placed on the surviving Founder as to either the amount of or reason for such invasion of principal.

3. Principal Distributions in Our Trustee's Discretion

Our Trustee may also distribute to or for the surviving Founder's benefit as much of the principal of Survivor's Share One as our Trustee, in its sole and absolute discretion, shall consider necessary or advisable for the surviving Founder's education, health, maintenance, and support.

Our Trustee shall take into consideration, to the extent that our Trustee deems advisable, any income or resources of the surviving Founder which are outside of the trust and are known to our Trustee.

4. The Surviving Founder's General Power of Appointment

The surviving Founder shall have the unlimited and unrestricted general power to appoint either (i) by a valid last will and testament; (ii) by a valid living trust agreement; or (iii) by a written exercise of power of appointment, the entire principal and any accrued and undistributed net income of Survivor's Share One as it exists at the surviving Founder's death. In exercising this general power of appointment, the surviving Founder shall specifically refer to this power.

The surviving Founder shall have the sole and exclusive right to exercise the general power of appointment.

This general power of appointment specifically grants to the surviving Founder the right to appoint property to the surviving Founder's own estate. It also specifically grants to the surviving Founder the right to appoint the property among persons, corporations, or other entities in equal or unequal proportions, and on such terms and conditions, whether outright or in trust, as the surviving Founder may elect.

Section C. Administration of Survivor's Share Two

Our Trustee shall administer Survivor's Share Two for the surviving Founder's benefit as follows:

1. The Surviving Founder's Right to Income

Our Trustee shall pay to or apply for the surviving Founder's benefit, at least monthly during the surviving Founder's lifetime, all of the net income from Survivor's Share Two.

The surviving Founder shall have the unlimited and unrestricted general power to appoint either (i) by a valid last will and testament; (ii) by a valid living trust agreement; or (iii) by a written exercise of power of appointment, any accrued and undistributed net income of Survivor's Share Two. In exercising this general power of appointment, the surviving Founder shall specifically refer to this power.

The surviving Founder shall have the sole and exclusive right to exercise the general power of appointment.

This general power of appointment specifically grants to the surviving Founder the right to appoint property to the surviving Founder's own estate. It also specifically grants to the surviving Founder the right to appoint the property among persons, corporations, or other entities in equal or unequal proportions, and on such terms and conditions, whether outright or in trust, as the surviving Founder may elect.

2. Principal Distributions in Our Trustee's Discretion

Our Trustee may also distribute to or for the surviving Founder's benefit as much of the principal of Survivor's Share Two as our Trustee, in its sole and absolute discretion, shall consider necessary or advisable for the education, health, maintenance, and support of the surviving Founder.

Our Trustee shall take into consideration, to the extent that our Trustee deems advisable, any income or resources of the surviving Founder which are outside of the trust and are known to our Trustee.

It is our desire, to the extent that it is economically prudent, that principal distributions be made from Survivor's Share One until it is exhausted, and only thereafter from the principal of Survivor's Share Two.

3. The Surviving Founder's Limited Testamentary Power of Appointment

The surviving Founder shall have the limited testamentary power to appoint to or for the benefit of our descendants, either (i) by a valid last will and testament; (ii) by a valid living trust agreement; or (iii) by a written exercise of power of appointment, all or any portion of the principal of Survivor's Share Two as it exists at the surviving Founder's death.

The surviving Founder may make distributions among our descendants in equal or unequal amounts, and on such terms and conditions, either outright or in trust, as the surviving Founder shall determine.

This power shall not be exercised in favor of the surviving Founder's estate, the creditors of the surviving Founder's estate, or in any manner which would result in any economic benefit to the surviving Founder.

Section D. Administration of Both Survivor's Shares at Surviving Founder's Death

Both Survivor's Share One and Survivor's Share Two shall terminate at the surviving Founder's death. Our Trustee shall administer the unappointed balance or remainder of both shares as follows:

1. The Surviving Founder's Final Expenses

Our Trustee may, in its sole and absolute discretion, pay for the following expenses:

Expenses of the last illness, funeral, and burial of the surviving Founder.

Legally enforceable claims against the surviving Founder or the surviving Founder's estate.

Expenses of administering the surviving Founder's estate.

Any inheritance, estate, or other death taxes payable by reason of the surviving Founder's death, together with interest and penalties thereon.

Statutory or court-ordered allowances for qualifying family members.

The payments authorized under this Section are discretionary, and no claims or right to payment by third parties may be enforced against the trust by virtue of such discretionary authority.

Our Trustee shall be indemnified from the trust property for any damages sustained by our Trustee as a result of its exercising, in good faith, the authority granted it under this Section.

It is our desire that, to the extent possible, any payments authorized under this Section be paid from the surviving Founder's probate estate before any payments are made pursuant to this Section.

2. Redemption of Treasury Bonds

If the Survivor's Trust holds United States Treasury Bonds eligible for redemption in payment of the federal estate tax, our Trustee shall redeem the bonds to the extent necessary to pay any federal estate tax due by reason of the surviving Founder's death.

3. Coordination with the Personal Representative

This Paragraph shall be utilized to help facilitate the coordination between the personal representative of the surviving Founder's probate estate and our Trustee with respect to any property owned by the surviving Founder outside of this trust agreement at the surviving Founder's death.

a. Authorized Payments

Our Trustee, in its sole and absolute discretion, may elect to pay the payments authorized under this Section either directly to the appropriate persons or institutions or to the surviving Founder's personal representative.

Our Trustee may rely upon the written statements of the surviving Founder's personal representative as to all material facts relating to these payments; our Trustee shall not have any duty to see to the application of such payments.

b. Purchase of Assets and Loans

Our Trustee is authorized to purchase and retain in the form received, as an addition to the trust, any property which is a part of the surviving Founder's probate estate. In addition, our Trustee may make loans, with or without security, to the surviving Founder's probate estate. Our Trustee shall not be liable for any loss suffered by the trust as a result of the exercise of the powers granted in this paragraph.

c. Distributions from the Personal Representative

Our Trustee is authorized to accept distributions from the surviving Founder's personal representative without audit and our Trustee shall be under no obligation to examine the records or accounts of the personal representative.

4. Trustee's Authority to Make Tax Elections

Our Trustee may exercise any available elections with regard to state or federal income, inheritance, estate, succession, or gift tax law.

a. Alternate Valuation Date

The authority granted our Trustee in this Paragraph includes the right to elect any alternate valuation date for federal estate or state estate or inheritance tax purposes.

b. Deduction of Administration Expenses

The authority granted our Trustee in this Paragraph shall include the right to elect whether all or any parts of the administration expenses of the surviving Founder's estate are to be used as estate tax deductions or income tax deductions.

No compensating adjustments need be made between income and principal as a result of such elections unless our Trustee, in its sole and absolute discretion, shall determine otherwise, or unless required by law.

c. Taxes and Returns

Our Trustee may also sign tax returns; pay any taxes, interest, or penalties with regard to taxes; and apply for and collect tax refunds and interest thereon.

Section E. Subsequent Administration of the Survivor's Trust

The unappointed balance or remainder of Survivor's Share One and Survivor's Share Two shall be administered as provided in Article X.

Article IX

Administration of the Decedent's Trust

Section A. Use of Income and Principal

During the lifetime of the surviving Founder, our Trustee shall pay to or apply for the benefit of the surviving Founder all net income and such portions of principal from the Decedent's Trust according to the following guidelines:

1. **NET INCOME** shall be paid in convenient installments, at least monthly.
2. **PRINCIPAL**
 - a. The surviving Founder shall have the noncumulative right to withdraw in any calendar year amounts not to exceed \$5,000.00.
 - b. In addition, on the last day of any calendar year, the surviving Founder may withdraw an amount by which five percent (5%) of the then market value of the principal of the Decedent's Trust exceeds principal amounts previously withdrawn in that year pursuant to Section A.2.a. of this Article.
 - c. Our Trustee may also distribute any amount of principal deemed necessary, in our Trustee's sole and absolute discretion, for the health, education, maintenance and support of the surviving Founder and our descendants.

Section B. Guidelines for All Distributions

At all times, our Trustee shall give primary consideration to the surviving Founder's health, education, maintenance and support, and thereafter to our descendant's health, education, maintenance and support.

If the surviving Founder has the power to remove a Trustee of the Decedent's Trust, our Trustee shall not distribute any of the principal of the Decedent's Trust that would in any manner discharge the surviving Founder's legal obligation to a beneficiary of the Decedent's Trust. If the surviving Founder is disabled, our Trustee shall ignore this restriction during the period of the surviving Founder's disability, and the surviving Founder shall not have the power to remove a Trustee of the Decedent's Trust.

Section C. Guidelines for Discretionary Distributions

Before making discretionary distributions of principal from the Decedent's Trust to the surviving Founder, our Trustee shall preferably exhaust the Survivor's Trust.

Before making discretionary distributions pursuant to this Article, our Trustee shall consider income or other resources which are available outside of the Decedent's Trust to any beneficiary. Distributions need not be made to all Decedent's Trust beneficiaries and may be to the complete exclusion of some beneficiaries. Distributions may be made in equal or unequal amounts according to the respective needs of the Decedent's Trust beneficiaries and shall not be charged against a beneficiary's ultimate share of trust property.

Section D. Termination of the Decedent's Trust

When the surviving Founder dies, the Decedent's Trust shall terminate and our Trustee shall administer the balance of the Decedent's Trust according to the following guidelines and in the following order:

1. The surviving Founder shall have the limited testamentary power to appoint all of the undistributed principal and income of the Decedent's Trust among our descendants only (but only to the extent such undistributed principal and income have not been transferred or assigned to the Decedent's Trust by virtue of a disclaimer executed by the surviving Founder). Any such appointment may be in any proportion and on such terms and conditions as the surviving Founder may elect. The surviving Founder shall not have the right or power to appoint any portion of the Decedent's Trust in favor of the surviving Founder's estate, creditors of the surviving Founder's estate, or in any manner which would result in any economic benefit to the surviving Founder. The right to exercise this limited testamentary power of appointment is the sole and exclusive right of the surviving Founder. Our Trustee shall distribute the

appointed portions of the Decedent's Trust according to such appointment if exercised and specifically referred to either (i) in a valid last will and testament; (ii) in a living trust agreement; or (iii) by a written exercise of power of appointment executed by the surviving Founder.

2. Any unappointed balance of the Decedent's Trust shall be administered as provided in the Articles that follow.

Article X

Upon the Death of the Survivor of Us

Section A. Our Beneficiaries

Unless one of us shall otherwise direct in a qualified beneficiary designation as to his or her ownership interest in the trust, all trust property not previously distributed under the terms of our trust shall be divided and distributed in accordance with the terms of this trust declaration and as follows:

<u>Beneficiary</u>	<u>Share</u>
CANDACE LOUISE CURTIS	1/5
CAROL ANN BRUNSTING	1/5
CARL HENRY BRUNSTING	1/5
AMY RUTH TSCHIRHART	1/5
ANITA KAY RILEY	1/5

Section B. Distribution to our Beneficiaries

1. (a) Distribution of the share of CANDACE LOUISE CURTIS

The trust share created for CANDACE LOUISE CURTIS shall be held in trust and administered and distributed as follows:

i. Distributions of Net Income

Our Trustee, in its sole and absolute discretion, shall pay to or apply for the benefit of CANDACE LOUISE CURTIS as much of the net income from her trust share as our Trustee deems advisable for the health, education, maintenance and support of CANDACE LOUISE CURTIS, for her lifetime.

ii. Distributions of Principal

Our Trustee, in its sole and absolute discretion, shall pay to or apply for the benefit of CANDACE LOUISE CURTIS as much of the principal from her trust share as our Trustee deems advisable for the health, education, maintenance and support of CANDACE LOUISE CURTIS, for her lifetime.

iii. General Testamentary Power of Appointment

CANDACE LOUISE CURTIS shall have the unlimited and unrestricted testamentary general power to appoint either (i) by a valid last will and testament; (ii) by a valid living trust agreement; or (iii) by a written exercise of power of appointment, CANDACE LOUISE CURTIS' share of the principal and any accrued and undistributed net income from such portion of the Trust assets which is not exempt from federal generation-skipping tax, as they exist at CANDACE LOUISE CURTIS' death.

In exercising this general power of appointment, CANDACE LOUISE CURTIS shall specifically refer to this power.

CANDACE LOUISE CURTIS shall have the sole and exclusive right to exercise the general power of appointment.

This general power of appointment specifically grants to CANDACE LOUISE CURTIS the right to appointment of property to CANDACE LOUISE CURTIS' own estate. It also specifically grants to CANDACE LOUISE CURTIS the right to appoint the property among persons, corporations or other entities in equal or unequal proportions, and on such terms and conditions, whether outright or in trust, as CANDACE LOUISE CURTIS may elect.

However, if under the law in effect at the time of the death of the survivor of us this trust is not subject to generation skipping transfer tax and neither this trust nor distributions from it will be subject to generation skipping transfer tax in the future, this general power of appointment shall terminate and shall be replaced by a limited power of appointment pursuant to the provisions which follow.

iv. Limited Testamentary Power of Appointment

CANDACE LOUISE CURTIS shall have the limited testamentary power to appoint to or for the benefit of CANDACE LOUISE CURTIS' descendants, either (i) by a valid last will and testament; (ii) by a valid trust agreement; or (iii) by a written exercise of power of appointment, all or any portion of CANDACE LOUISE CURTIS' share of the principal of such portion of the Trust assets which is exempt from federal generation-skipping tax as they exist at CANDACE LOUISE CURTIS' death.

CANDACE LOUISE CURTIS may make distributions among CANDACE LOUISE CURTIS' descendants in equal or unequal amounts, and on such terms and conditions, either outright or in trust, as CANDACE LOUISE CURTIS shall determine.

This power shall not be exercised in favor of CANDACE LOUISE CURTIS' estate, the creditors of CANDACE LOUISE CURTIS' estate or in any manner which would result in any economic benefit to CANDACE LOUISE CURTIS.

(b) Distribution on the Death of CANDACE LOUISE CURTIS

If CANDACE LOUISE CURTIS should predecease us or die before the complete distribution of her trust share, and without exercising a power of appointment outlined above, the trust share set aside for CANDACE LOUISE CURTIS shall terminate and our Trustee shall distribute the balance of the trust share to such beneficiary's then living descendants, per stirpes. However, if CANDACE LOUISE CURTIS has no then living descendants, our Trustee shall distribute the balance of the trust share to our then living descendants, per stirpes. In the event we have no then living descendants, our Trustee shall distribute the balance of the trust share as provided in Section G of this Article.

2. (a) Distribution of the share of CAROL ANN BRUNSTING

The trust share created for CAROL ANN BRUNSTING shall be held in trust and administered and distributed as follows:

i. Distributions of Net Income

Our Trustee, in its sole and absolute discretion, shall pay to or apply for the benefit of CAROL ANN BRUNSTING as much of the net income from her trust share as our Trustee deems advisable for the health, education, maintenance and support of CAROL ANN BRUNSTING, for her lifetime.

ii. Distributions of Principal

Our Trustee, in its sole and absolute discretion, shall pay to or apply for the benefit of CAROL ANN BRUNSTING as much of the principal from her trust share as our Trustee deems advisable for the health, education, maintenance and support of CAROL ANN BRUNSTING, for her lifetime.

iii. General Testamentary Power of Appointment

CAROL ANN BRUNSTING shall have the unlimited and unrestricted testamentary general power to appoint either (i) by a valid last will and testament; (ii) by a valid living trust agreement; or (iii) by a written exercise of power of appointment, CAROL ANN BRUNSTING's share of the principal and any accrued and undistributed net income from such portion of the Trust assets which is not exempt from federal generation-skipping tax, as they exist at CAROL ANN BRUNSTING's death.

In exercising this general power of appointment, CAROL ANN BRUNSTING shall specifically refer to this power.

CAROL ANN BRUNSTING shall have the sole and exclusive right to exercise the general power of appointment.

This general power of appointment specifically grants to CAROL ANN BRUNSTING the right to appointment of property to CAROL ANN BRUNSTING's own estate. It also specifically grants to CAROL ANN BRUNSTING the right to appoint the property among persons, corporations or other entities in equal or unequal proportions, and on such terms and conditions, whether outright or in trust, as CAROL ANN BRUNSTING may elect.

However, if under the law in effect at the time of the death of the survivor of us this trust is not subject to generation skipping transfer tax and neither this trust nor distributions from it will be subject to generation skipping transfer tax in the future, this general power of appointment shall terminate and shall be replaced by a limited power of appointment pursuant to the provisions which follow.

iv. Limited Testamentary Power of Appointment

CAROL ANN BRUNSTING shall have the limited testamentary power to appoint to or for the benefit of CAROL ANN BRUNSTING's descendants, either (i) by a valid last will and testament; (ii) by a valid trust agreement; or (iii) by a written exercise of power of appointment, all or any portion of CAROL ANN BRUNSTING's share of the principal of such portion of the Trust assets which is exempt from federal generation-skipping tax as they exist at CAROL ANN BRUNSTING's death.

CAROL ANN BRUNSTING may make distributions among CAROL ANN BRUNSTING's descendants in equal or unequal amounts, and on such terms and conditions, either outright or in trust, as CAROL ANN BRUNSTING shall determine.

This power shall not be exercised in favor of CAROL ANN BRUNSTING's estate, the creditors of CAROL ANN BRUNSTING's estate or in any manner which would result in any economic benefit to CAROL ANN BRUNSTING.

(b) Distribution on the Death of CAROL ANN BRUNSTING

If CAROL ANN BRUNSTING should predecease us or die before the complete distribution of her trust share, and without exercising a power of appointment outlined above, the trust share set aside for CAROL ANN BRUNSTING shall terminate and our Trustee shall distribute the balance of the trust share to such beneficiary's then living descendants, per stirpes. However, if CAROL ANN BRUNSTING has no then living descendants, our Trustee shall distribute the balance of the trust share to our then living descendants, per stirpes. In the event we have no then living descendants, our Trustee shall distribute the balance of the trust share as provided in Section G of this Article.

3. (a) Distribution of the share of CARL HENRY BRUNSTING

The trust share created for CARL HENRY BRUNSTING shall be held in trust and administered and distributed as follows:

i. Distributions of Net Income

Our Trustee, in its sole and absolute discretion, shall pay to or apply for the benefit of CARL HENRY BRUNSTING as much of the net income from his trust share as our Trustee deems advisable for the health, education, maintenance and support of CARL HENRY BRUNSTING, for his lifetime.

ii. Distributions of Principal

Our Trustee, in its sole and absolute discretion, shall pay to or apply for the benefit of CARL HENRY BRUNSTING as much of the principal from his trust share as our Trustee deems advisable for the health, education, maintenance and support of CARL HENRY BRUNSTING, for his lifetime.

iii. General Testamentary Power of Appointment

CARL HENRY BRUNSTING shall have the unlimited and unrestricted testamentary general power to appoint either (i) by a valid last will and testament; (ii) by a valid living trust agreement; or (iii) by a written exercise of power of appointment, CARL HENRY BRUNSTING's share of the principal and any accrued and undistributed net income from such portion of the Trust assets which is not exempt from federal generation-skipping tax, as they exist at CARL HENRY BRUNSTING's death.

In exercising this general power of appointment, CARL HENRY BRUNSTING shall specifically refer to this power.

CARL HENRY BRUNSTING shall have the sole and exclusive right to exercise the general power of appointment.

This general power of appointment specifically grants to CARL HENRY BRUNSTING the right to appointment of property to

CARL HENRY BRUNSTING's own estate. It also specifically grants to CARL HENRY BRUNSTING the right to appoint the property among persons, corporations or other entities in equal or unequal proportions, and on such terms and conditions, whether outright or in trust, as CARL HENRY BRUNSTING may elect.

However, if under the law in effect at the time of the death of the survivor of us this trust is not subject to generation skipping transfer tax and neither this trust nor distributions from it will be subject to generation skipping transfer tax in the future, this general power of appointment shall terminate and shall be replaced by a limited power of appointment pursuant to the provisions which follow.

iv. Limited Testamentary Power of Appointment

CARL HENRY BRUNSTING shall have the limited testamentary power to appoint to or for the benefit of CARL HENRY BRUNSTING's descendants, either (i) by a valid last will and testament; (ii) by a valid trust agreement; or (iii) by a written exercise of power of appointment, all or any portion of CARL HENRY BRUNSTING's share of the principal of such portion of the Trust assets which is exempt from federal generation-skipping tax as they exist at CARL HENRY BRUNSTING's death.

CARL HENRY BRUNSTING may make distributions among CARL HENRY BRUNSTING's descendants in equal or unequal amounts, and on such terms and conditions, either outright or in trust, as CARL HENRY BRUNSTING shall determine.

This power shall not be exercised in favor of CARL HENRY BRUNSTING's estate, the creditors of CARL HENRY BRUNSTING's estate or in any manner which would result in any economic benefit to CARL HENRY BRUNSTING.

(b) Distribution on the Death of CARL HENRY BRUNSTING

If CARL HENRY BRUNSTING should predecease us or die before the complete distribution of his trust share, and without exercising a power of appointment outlined above, the trust share set aside for CARL HENRY

BRUNSTING shall terminate and our Trustee shall distribute the balance of the trust share to such beneficiary's then living descendants, per stirpes. However, if CARL HENRY BRUNSTING has no then living descendants, our Trustee shall distribute the balance of the trust share to our then living descendants, per stirpes. In the event we have no then living descendants, our Trustee shall distribute the balance of the trust share as provided in Section G of this Article.

4. (a) Distribution of the share of AMY RUTH TSCHIRHART

The trust share created for AMY RUTH TSCHIRHART shall be held in trust and administered and distributed as follows:

i. Distributions of Net Income

Our Trustee, in its sole and absolute discretion, shall pay to or apply for the benefit of AMY RUTH TSCHIRHART as much of the net income from her trust share as our Trustee deems advisable for the health, education, maintenance and support of AMY RUTH TSCHIRHART, for her lifetime.

ii. Distributions of Principal

Our Trustee, in its sole and absolute discretion, shall pay to or apply for the benefit of AMY RUTH TSCHIRHART as much of the principal from her trust share as our Trustee deems advisable for the health, education, maintenance and support of AMY RUTH TSCHIRHART, for her lifetime.

iii. General Testamentary Power of Appointment

AMY RUTH TSCHIRHART shall have the unlimited and unrestricted testamentary general power to appoint either (i) by a valid last will and testament; (ii) by a valid living trust agreement; or (iii) by a written exercise of power of appointment, AMY RUTH TSCHIRHART's share of the principal and any accrued and undistributed net income from such portion of the Trust assets which is not exempt from federal generation-skipping tax, as they exist at AMY RUTH TSCHIRHART's death.

In exercising this general power of appointment, AMY RUTH TSCHIRHART shall specifically refer to this power.

AMY RUTH TSCHIRHART shall have the sole and exclusive right to exercise the general power of appointment.

This general power of appointment specifically grants to AMY RUTH TSCHIRHART the right to appointment of property to AMY RUTH TSCHIRHART's own estate. It also specifically grants to AMY RUTH TSCHIRHART the right to appoint the property among persons, corporations or other entities in equal or unequal proportions, and on such terms and conditions, whether outright or in trust, as AMY RUTH TSCHIRHART may elect.

However, if under the law in effect at the time of the death of the survivor of us this trust is not subject to generation skipping transfer tax and neither this trust nor distributions from it will be subject to generation skipping transfer tax in the future, this general power of appointment shall terminate and shall be replaced by a limited power of appointment pursuant to the provisions which follow.

iv. Limited Testamentary Power of Appointment

AMY RUTH TSCHIRHART shall have the limited testamentary power to appoint to or for the benefit of AMY RUTH TSCHIRHART's descendants, either (i) by a valid last will and testament; (ii) by a valid trust agreement; or (iii) by a written exercise of power of appointment, all or any portion of AMY RUTH TSCHIRHART's share of the principal of such portion of the Trust assets which is exempt from federal generation-skipping tax as they exist at AMY RUTH TSCHIRHART's death.

AMY RUTH TSCHIRHART may make distributions among AMY RUTH TSCHIRHART's descendants in equal or unequal amounts, and on such terms and conditions, either outright or in trust, as AMY RUTH TSCHIRHART shall determine.

This power shall not be exercised in favor of AMY RUTH TSCHIRHART's estate, the creditors of AMY RUTH

TSCHIRHART's estate or in any manner which would result in any economic benefit to AMY RUTH TSCHIRHART.

(b) Distribution on the Death of AMY RUTH TSCHIRHART

If AMY RUTH TSCHIRHART should predecease us or die before the complete distribution of her trust share, and without exercising a power of appointment outlined above, the trust share set aside for AMY RUTH TSCHIRHART shall terminate and our Trustee shall distribute the balance of the trust share to such beneficiary's then living descendants, per stirpes. However, if AMY RUTH TSCHIRHART has no then living descendants, our Trustee shall distribute the balance of the trust share to our then living descendants, per stirpes. In the event we have no then living descendants, our Trustee shall distribute the balance of the trust share as provided in Section G of this Article.

5. (a) Distribution of the share of ANITA KAY RILEY

The trust share created for ANITA KAY RILEY shall be held in trust and administered and distributed as follows:

i. Distributions of Net Income

Our Trustee, in its sole and absolute discretion, shall pay to or apply for the benefit of ANITA KAY RILEY as much of the net income from her trust share as our Trustee deems advisable for the health, education, maintenance and support of ANITA KAY RILEY, for her lifetime.

ii. Distributions of Principal

Our Trustee, in its sole and absolute discretion, shall pay to or apply for the benefit of ANITA KAY RILEY as much of the principal from her trust share as our Trustee deems advisable for the health, education, maintenance and support of ANITA KAY RILEY, for her lifetime.

iii. General Testamentary Power of Appointment

ANITA KAY RILEY shall have the unlimited and unrestricted testamentary general power to appoint either (i) by a valid last

will and testament; (ii) by a valid living trust agreement; or (iii) by a written exercise of power of appointment, ANITA KAY RILEY's share of the principal and any accrued and undistributed net income from such portion of the Trust assets which is not exempt from federal generation-skipping tax, as they exist at ANITA KAY RILEY's death.

In exercising this general power of appointment, ANITA KAY RILEY shall specifically refer to this power.

ANITA KAY RILEY shall have the sole and exclusive right to exercise the general power of appointment.

This general power of appointment specifically grants to ANITA KAY RILEY the right to appointment of property to ANITA KAY RILEY's own estate. It also specifically grants to ANITA KAY RILEY the right to appoint the property among persons, corporations or other entities in equal or unequal proportions, and on such terms and conditions, whether outright or in trust, as ANITA KAY RILEY may elect.

However, if under the law in effect at the time of the death of the survivor of us this trust is not subject to generation skipping transfer tax and neither this trust nor distributions from it will be subject to generation skipping transfer tax in the future, this general power of appointment shall terminate and shall be replaced by a limited power of appointment pursuant to the provisions which follow.

iv. Limited Testamentary Power of Appointment

ANITA KAY RILEY shall have the limited testamentary power to appoint to or for the benefit of ANITA KAY RILEY's descendants, either (i) by a valid last will and testament; (ii) by a valid trust agreement; or (iii) by a written exercise of power of appointment, all or any portion of ANITA KAY RILEY's share of the principal of such portion of the Trust assets which is exempt from federal generation-skipping tax as they exist at ANITA KAY RILEY's death.

ANITA KAY RILEY may make distributions among ANITA KAY RILEY's descendants in equal or unequal amounts, and on

such terms and conditions, either outright or in trust, as ANITA KAY RILEY shall determine.

This power shall not be exercised in favor of ANITA KAY RILEY's estate, the creditors of ANITA KAY RILEY's estate or in any manner which would result in any economic benefit to ANITA KAY RILEY.

(b) **Distribution on the Death of ANITA KAY RILEY**

If ANITA KAY RILEY should predecease us or die before the complete distribution of her trust share, and without exercising a power of appointment outlined above, the trust share set aside for ANITA KAY RILEY shall terminate and our Trustee shall distribute the balance of the trust share to such beneficiary's then living descendants, per stirpes. However, if ANITA KAY RILEY has no then living descendants, our Trustee shall distribute the balance of the trust share to our then living descendants, per stirpes. In the event we have no then living descendants, our Trustee shall distribute the balance of the trust share as provided in Section G of this Article.

Section C. Administration of the Share of a Descendant of a Deceased Beneficiary

Notwithstanding the foregoing provisions as to the disposition of a trust share upon the death of a beneficiary, each share set aside for a deceased beneficiary who has then living descendants shall be divided into as many shares as shall be necessary to create shares for each then living descendant of such deceased beneficiary on a per stirpes basis. For example, if a deceased beneficiary has a deceased child who leaves children, then the share that would have passed to such deceased child shall be shared equally among his or her living children on a per stirpes basis. Each such share shall be held in trust to be administered as follows:

1. **Distribution of Trust Income**

Our Trustee, in its sole and absolute discretion, shall pay to or apply for the benefit of any descendant of a deceased beneficiary as much of the net income from his or her trust share as our Trustee deems advisable for the health, education, maintenance and support of such descendant.

2. Distribution of Trust Principal

Our Trustee, in its sole and absolute discretion, shall pay to or apply for the benefit of any descendant of a deceased beneficiary as much of the principal from his or her trust share as our Trustee deems advisable for the health, education, maintenance and support of such descendant.

When such descendant reaches the age of 30 or if, on the creation of his or her trust share, he or she has already attained the age of 30, thereafter, upon the written request of such descendant delivered to our Trustee, our Trustee shall distribute an amount not greater than fifty percent of the accumulated net income and principal, as it is then constituted, free of trust. If more than one written request for distribution is made by such descendant, our Trustee shall not cumulatively distribute to such descendant, in response to all such requests, more than fifty percent of the accumulated income and principal of the trust as it existed on the date of the first request for a distribution made under this paragraph by such descendant or fifty percent of the total trust funds remaining at the date of any subsequent request, whichever is the lesser amount.

When such descendant reaches the age of 40 or if, on the creation of his or her trust share, he or she has already attained the age of 40, thereafter, upon the written request of such descendant delivered to our Trustee, our Trustee shall distribute the balance of the accumulated net income and principal of such trust share, as it is then constituted to such descendant, free of trust. Undistributed funds shall continue to be held in trust.

If a descendant of a deceased beneficiary should die before the complete distribution of such trust share, the trust share shall terminate and our Trustee shall distribute the balance of the trust share to the surviving descendants of such descendant, share and share alike, per stirpes. If such descendant of a deceased beneficiary dies with no surviving descendants, then such share shall terminate and be distributed to the remaining descendants of the deceased beneficiary, share and share alike, per stirpes. If there are no descendants of such deceased beneficiary, our Trustee shall distribute the balance of the trust share to our then living descendants, per stirpes. In the event we have no then living descendants, our Trustee shall distribute the balance of the accumulated income and principal of the trust share as provided in Section G of this Article.

Our Trustee shall administer and distribute each such share according to the provisions of Article XI, Section D.

Section D. Subsequent Children

Notwithstanding the provisions of this Article wherein beneficiaries are named, if, subsequent to the creation of this trust declaration, we have additional children or legally adopt children who are under the age of 18, each such child shall be included among the beneficiaries named in this Article and an equal trust share shall be created for each such beneficiary.

Our Trustee shall administer and distribute each such share according to the provisions of Article XI, Section D.

Section E. Guidelines for Discretionary Distributions

Whenever we have given our Trustee any discretionary authority over the distribution of income or principal to any named beneficiary, our Trustee shall be liberal in exercising such discretion and shall give such beneficiary assistance for any opportunity or expense deemed by our Trustee to be in the best interest of such beneficiary. However, before making discretionary distributions, our Trustee shall take into consideration any additional sources of income and principal available to such beneficiary which exist outside of this agreement and are known to our Trustee, and the future probable needs of such beneficiary.

Section F. Guidelines for All Distributions

Whenever any provision of this Article authorizes or requires a distribution to any beneficiary, then our Trustee shall retain such distribution in trust at such beneficiary's written request. Our Trustee shall pay to or apply for the benefit of the beneficiary such amounts of income and principal as the beneficiary may at any time request in writing. No limitations shall be placed upon the beneficiary regarding withdrawals from his or her respective trust share. In addition, our Trustee, in its sole and absolute discretion, may distribute to or apply for the benefit of the beneficiary as much of the principal and income of the beneficiary's trust share as our Trustee deems advisable, in its sole and absolute discretion, for the health, education, maintenance and support of the beneficiary.

Section G. Ultimate Distribution

If at any time there is no person, corporation or other entity entitled to receive all or any part of the trust property of one of us, it shall be distributed as follows:

Beneficiary

Share%

CENTRAL COLLEGE OF IOWA
Pella, Iowa

100%

If the CENTRAL COLLEGE OF IOWA, Pella, Iowa, is no longer in existence at the date of distribution, but has designated a successor, such successor shall receive such beneficiary's share. However, if no such successor has been designated, the share of such beneficiary shall pass one-half to those persons who would be the wife Founder's heirs as if she had died intestate, unmarried, owning such property and the balance shall pass to those persons who would be the husband Founder's heirs as if he had died intestate, unmarried, owning such property.

The distribution of trust property, for purposes of this Section, shall be determined by the laws of descent and distribution for intestate estates in the State of Texas as such laws are in effect at the time of any distribution under this Article.

Article XI

Protection of Beneficial Interests

Section A. Protection of the Interests of Our Beneficiaries

No beneficiary will have the power to anticipate, encumber or transfer any interest in the trust. No part of the trust will be liable for or charged with any debts, contracts, liabilities or torts of a beneficiary or subject to seizure or other process by any creditor of a beneficiary.

Section B. Unproductive or Underproductive Assets

A beneficiary who is then entitled to the income of the trust, or the income of any other trust established or continued pursuant to this trust declaration, will have the authority to issue a written directive to the Trustee to convert trust property which does not produce an income, or which is underproductive, into property which is income producing or which will provide a greater income to the trust.

Upon actual receipt of an income beneficiary's written directive, the Trustee will reasonably and prudently proceed to convert unproductive or underproductive property into property which will produce a reasonable and safe rate of return. The Trustee may do so by selling the unproductive or underproductive asset upon such terms and conditions as are prudent and reasonable under all circumstances which may then exist (including the acceptance of an income or interest bearing obligation as the whole or a part of the sales price), and investing the proceeds of the sale in income producing instruments or obligations.

Notwithstanding these requirements, a trust beneficiary cannot direct the Trustee to invest or reinvest trust property in a trust investment which is speculative in nature or which, in result, would violate the spendthrift provisions of this trust declaration.

Section C. No Contest of Our Trust

The Founders vest in the Trustee the authority to construe this trust instrument and to resolve all matters pertaining to disputed issues or controverted claims. Founders do not want to burden this trust with the cost of a litigated proceeding to resolve questions of law or fact unless the proceeding is originated by the Trustee or with the Trustee's written permission.

Any person, agency or organization who shall originate (or who shall cause to be instituted) a judicial proceeding to construe or contest this trust instrument, or any will which requires distribution of property to this trust, or to resolve any claim or controversy in the nature of reimbursement, or seeking to impress a constructive or resulting trust, or alleging any other theory which, if assumed as true, would enlarge (or originate) a claimant's interest in this trust or in the Founders' estates, without the Trustee's written permission, shall forfeit any amount to which that person, agency or organization is or may be entitled and the interest of any such litigant or contestant shall pass as if he or she or it had predeceased us, regardless of whether or not such contestant is a named beneficiary.

These directions shall apply even though the person, agency or organization shall be found by a court of law to have originated the judicial proceeding in good faith and with probable cause and even though the proceedings may seek nothing more than to construe the application of this no contest provision.

This requirement is to be limited, even to the exclusion thereof, in the event it operates to deny the benefits of the federal estate tax or federal gift tax marital deduction.

Section D. Our Trustee's Authority to Keep Property in Trust

Unless this trust declaration provides otherwise, if any trust property becomes distributable to a beneficiary when the beneficiary is under 21 years of age, or when the beneficiary is under any form of legal disability, as defined in Article XIII, our Trustee shall retain that beneficiary's share in a separate trust until he or she attains 21 years of age, or until his or her legal disability has ceased, to be administered and distributed as follows:

1. Distributions of Trust Income and Principal

Our Trustee shall pay to or apply for the benefit of the beneficiary as much of the net income and principal of the trust as our Trustee, in its sole and absolute discretion, deems necessary or advisable for the beneficiary's health, education, maintenance and support. No guardian or custodian of a beneficiary shall have any control or interposition over our Trustee.

In making any distributions of income and principal under this Section, our Trustee shall be mindful of, and take into consideration to the extent it deems necessary, any additional sources of income and principal available to the beneficiary which arise outside of this agreement.

Any net income not distributed to a beneficiary shall be accumulated and added to principal.

2. Methods of Distribution

Distributions to an incompetent or disabled beneficiary, or a minor beneficiary, may be made in any of the following ways as in the Trustee's opinion will be most beneficial to the interests of the beneficiary:

- (a) Directly to such beneficiary;
- (b) To his or her parent, guardian or legal representative;
- (c) To a custodian for said beneficiary under any Uniform Gifts to Minors Act and/or Gifts of Securities to Minors Act in the jurisdiction of residence of such beneficiary;
- (d) To any person with whom he or she is residing;
- (e) To some near relative or close friend; or
- (f) By the Trustee using such payment directly for the benefit of such beneficiary, including payments made to or for the benefit of any person or persons whom said beneficiary has a legal obligation to support;
- (g) To persons, corporations or other entities for the use and benefit of the beneficiary;
- (h) To an account in a commercial bank or savings institution in the name of the beneficiary, or in a form reserving the title, management and custody of the account to a suitable person, corporation or other entity for the use and benefit of the beneficiary; or
- (i) In any prudent form of annuity purchased for the use and benefit of the beneficiary.

The Trustee may instead, in the Trustee's sole discretion, hold such income or corpus for the account of such beneficiary as custodian. A receipt from a beneficiary or from his parent, guardian, legal representative, relative or close friend or other person described above shall be a sufficient discharge to the Trustee from any liability for making said payments.

The Trustee is likewise authorized to consult with and act upon the advice of the parent, guardian, custodian or legal representative of any beneficiary who is either an incompetent or a minor with respect to any and all matters which may arise under this trust and as it concerns the rights or interests of said beneficiary.

All statements, accounts, documents, releases, notices or other written instruments, including but not limited to, written instruments concerning the resignation or replacement of any Trustee or Trustees, required to be delivered to or executed by such beneficiary, may be delivered to or executed by the parent, guardian, custodian or legal representative of said incompetent or minor beneficiary, and when so delivered or executed shall be binding upon said incompetent or minor beneficiary, and shall be of the same force and effect as though delivered to or executed by a beneficiary acting under no legal disability.

3. Termination and Ultimate Distribution

Our Trustee shall distribute the trust property to a beneficiary:

When he or she attains 21 years of age, or

When he or she ceases to be disabled.

Section E. Application to Founders

Notwithstanding anything in this agreement to the contrary, this Article shall not apply to, modify or affect the surviving Founder's right to receive the net income from the Survivor's Trust as set forth and provided for in this agreement.

Article XII

Our Trustees' Powers and Authority

Section A. Applicability of Texas Trust Code and Other Statutes

The Trustee shall have the powers, duties, and liabilities set forth in this declaration and as more specifically stated in this Article, as well as such powers, duties and liabilities set forth in the Texas Trust Code, and all other applicable state and federal statutes, as now enacted and as hereafter amended, except to the extent the same may be inconsistent with the provisions of this declaration, in which case the provisions of this declaration shall govern.

Section B. Powers to Be Exercised in the Best Interests of the Beneficiaries

The Trustee shall exercise the following administrative and investment powers without the order of any court, as the Trustee determines in its sole and absolute discretion to be in the best interests of the beneficiaries.

Notwithstanding anything to the contrary in this agreement, the Trustee shall not exercise any power in a manner inconsistent with the beneficiaries' right to the beneficial enjoyment of the trust property in accordance with the general principles of the law of trusts.

The Trustee may perform every act reasonably necessary to administer each and every share or trust created under this agreement.

Section C. General Investment and Management Powers

The Trustee is authorized to invest in such investments as the Trustee deems proper and prudent, even if such investments fail to constitute properly diversified trust investments or for any other reason could be considered to be improper trust investments. The Trustee's investment authority is intended to be quite broad, and shall include, but is not limited to, all authority that follows.

In addition, the Trustee is granted the authority to exercise any managerial powers of an individual with respect to matters affecting a trust, it being our intention to grant broad managerial discretion to the Trustee that is consistent with the management and administration of a trust, including the following managerial authorities.

Originally Contributed Properties

The Trustee may continue to hold and maintain all assets originally contributed to any trust.

Additional Properties

The Trustee is authorized to receive additional trust property, whether by gift, will, or otherwise, either from us, from either of us, or from any other person, corporation, or entity.

Upon receipt of any additional property, the Trustee shall administer and distribute the same as part of the trust property.

The Trustee may retain, without liability for depreciation or loss resulting from such retention, all property constituting the trust estate at the time of its creation or thereafter received from other sources.

The foregoing shall be acceptable even though such property may not be of the character prescribed by law for the investment of trust funds or may result in inadequate diversification of the trust property.

Securities Powers

The Trustee may invest and reinvest in such classes of stocks, bonds, securities, commodities, options, metals, or other property real or personal, as it shall determine.

The Trustee is authorized to buy, sell, and trade in securities of any nature, including short sales on margin. The Trustee may maintain and operate margin accounts with brokers, and may pledge any securities held or purchased by other Trustees with such brokers as securities for loans and advances made to the Trustee.

The Trustee may retain, exercise, or sell rights of conversion or subscription with respect to any securities held as part of the trust property.

The Trustee may vote or refrain from voting at corporate meetings either in person or by proxy, whether general or limited, and with or without substitutions.

Investment of Cash Assets

A corporate entity serving as Trustee may deposit trust funds with itself as either a permanent or temporary investment, and may place trust funds under its administration in common trust funds established and maintained by such corporate trustee or its affiliate. In

determining where to invest cash resources, the Trustee may consider all factors, including facility of access and security of funds invested, as well as the stated rate of return.

Unproductive or Wasting Assets

Except as otherwise provided in this agreement, the Trustee may receive, acquire and maintain assets that may constitute unproductive, underproductive or wasting assets if the Trustee believes it is reasonable to do so. Upon the sale or disposition of any such asset, the Trustee need not make an allocation of any portion of the principal element of such sale proceeds to the income beneficiaries of the trust.

Personal Residence and Furnishings of Personal Residence

To the extent that the personal residence that we occupied at the date of the death of the first of us to die and any furnishings of such residence become part of a trust estate, the Trustee is authorized to continue to retain and use, to distribute in kind, or to sell any such assets should the Trustee believe the retention, use, distribution or sale of such assets would be beneficial to the survivor of us.

Mineral Properties

The Trustee shall have the power to acquire, exchange, maintain or sell mineral interests, and to make oil, gas and mineral leases covering any lands or mineral interests forming a part of a trust estate, including leases for periods extending beyond the duration of the trust.

The Trustee may pool or unitize any or all of the lands, mineral leaseholds or mineral interests of a trust with others for the purpose of developing and producing oil, gas or other minerals, and may make leases or assignments containing the right to pool or unitize.

The Trustee may enter into contracts and agreements relating to the installation or operation of absorption, repressuring and other processing plants, may drill or contract for the drilling of wells for oil, gas or other minerals, may enter into, renew and extend operating agreements and exploration contracts, may engage in secondary and tertiary recovery operations, may make "bottom hole" or "dry hole" contributions, and may deal otherwise with respect to mineral properties as an individual owner might deal with his own properties.

The Trustee may enter into contracts, conveyances and other agreements or transfers deemed necessary or desirable to carry out these powers, including division orders, oil, gas or other hydrocarbon sales contracts, processing agreements, and other contracts relating to the processing, handling, treating, transporting and marketing of oil, gas or other mineral production.

Any lease or other agreement may have a duration that the Trustee deems reasonable, even though extending beyond the duration of any trust created in this agreement.

The Trustee may drill, test, explore, mine, develop, and otherwise exploit any and all oil, gas, coal, and other mineral interests, and may select, employ, utilize, or participate in any business form, including partnerships, joint ventures, co-owners' groups, syndicates, and corporations, for the purpose of acquiring, holding, exploiting, developing, operating, or disposing of oil, gas, coal, and other mineral interests.

The Trustee may employ the services of consultants or outside specialists in connection with the evaluation, management, acquisition, disposition, or development of any mineral interests, and may pay the cost of such services from the principal or income of the trust property.

The Trustee may use the general assets of the trusts created under this agreement for the purposes of acquiring, holding, managing, developing, pooling, unitizing, repressuring, or disposing of any mineral interests.

The term "mineral" shall mean minerals of whatever kind and wherever located, whether surface or subsurface deposits, including (without limitation) coal, lignite and other hydrocarbons, iron ore, and uranium.

Power to Enter Into or Continue Business Activities

The Trustee shall have the authority to enter into, engage in, expand, carry on, terminate and liquidate any and all business activities, whether in proprietary, general or limited partnership, joint venture or corporate form, with such persons and entities as the Trustee deems proper. This power pertains to business activities in progress at the date of our deaths, and to business opportunities arising thereafter. Business activities conducted by the Trustee should be related to the administration and investment of the trust estate, for it is not our intention to convert any trust into an entity that would be taxable as an association for federal tax purposes.

Banking Authority

The Trustee is authorized to establish and maintain bank accounts of all types in one or more banking institutions that the Trustee may choose.

Corporate Activities

The Trustee may form, reorganize or dissolve corporations, and may exercise all rights of a stockholder, including the right to vote for or against mergers, consolidations and

liquidations, and to act with or without substitution. An individual serving as Trustee may elect himself as an officer or director of a corporation owned in part or in whole by a trust created by this declaration, and a corporate entity serving as Trustee may elect one of its officers to such a position, and in each such instance the person so elected may be paid reasonable compensation for services rendered to such corporation in such capacity. The Trustee may retain, exercise or sell rights of conversion or subscription to any securities held as part of the trust property.

Agricultural Powers

The Trustee may retain, sell, acquire, and continue any farm or ranching operation whether as a sole proprietorship, partnership, or corporation.

The Trustee may engage in the production, harvesting, and marketing of both farm and ranch products either by operating directly or with management agencies, hired labor, tenants, or sharecroppers.

The Trustee may engage and participate in any government farm program, whether state or federally sponsored.

The Trustee may purchase or rent machinery, equipment, livestock, poultry, feed, and seed.

The Trustee may improve and repair all farm and ranch properties; construct buildings, fences, and drainage facilities; acquire, retain, improve, and dispose of wells, water rights, ditch rights, and priorities of any nature.

The Trustee may, in general, do all things customary or desirable to operate a farm or ranch operation for the benefit of the beneficiaries of the various trusts created under this agreement.

Real Estate

The Trustee may purchase or sell real property, and may exchange, partition, subdivide, develop, manage, and improve real property. The Trustee may grant or acquire easements, may impose deed restrictions, may adjust boundaries, may raze existing improvements, and may dedicate land or rights in land for public use. The Trustee may construct, repair, alter, remodel, demolish or abandon improvements. The Trustee may take any other action reasonably necessary for the preservation of real estate and fixtures comprising a part of the trust property or the income therefrom.

Authority to Sell or Lease and Other Dispositive Powers

The Trustee may sell, lease or grant options to lease trust property without the consent or ratification of any court, remainderman, or third party, including the authority to lease beyond the anticipated term of a trust, upon such terms and for such consideration as the Trustee deems appropriate. The Trustee may make such contracts, deeds, leases, and other instruments it deems proper under the circumstances, and may deal with the trust property in all other ways in which a natural person could deal with his or her property.

Warranties and Covenants

The Trustee may convey properties with such covenants and warranties of title (general or special) as the Trustee deems appropriate.

Trustee's Compensation

The Trustee shall pay itself reasonable compensation for its services as fiduciary as provided in this agreement.

Employment and Delegation of Authority to Agents

The Trustee may employ and compensate, and may discharge, such advisors and agents as the Trustee deems proper, and may delegate to an agent such authorities (including discretionary authorities) as the Trustee deems appropriate, by duly executed powers of attorney or otherwise.

Power to Release or Abandon Property or Rights, and to Pursue Claims

The Trustee may release, compromise or abandon claims or rights to property for such consideration (including no consideration) as the Trustee determines to be appropriate when the Trustee determines it is prudent to do so. The Trustee is authorized to institute suit on behalf of and to defend suits brought against a trust estate, and to accept deeds in lieu of foreclosure.

Nominal Title and Use of Nominees

With or without disclosing fiduciary capacity, the Trustee may acquire title to property in the name of the Trustee or in the name of one or more nominees, and may allow its nominees to take possession of trust assets with or without direct custodial supervision by the Trustee.

Power to Lend Money and Guarantee Obligations

The Trustee may lend money to any person, to any business entity, to an estate, or to any trust, if the Trustee deems the loan to be in the best interests of the trust beneficiaries, provided that any such loan (except loans to beneficiaries) shall be adequately secured and shall bear a reasonable rate of interest.

The Trustee, in the Trustee's discretion, may endorse, guarantee, become the surety of or otherwise become obligated for or with respect to the debts or other obligations of any person or legal entity, whether with or without consideration, when the Trustee believes such actions advance the purposes of any trust created hereunder.

The Trustee may make loans from a beneficiary's trust share to or for the benefit of such a beneficiary on an unsecured basis, and for such rate of interest as the Trustee deems appropriate, when in the Trustee's judgment, such loan would be consistent with the purposes of such trust.

Power to Borrow

The Trustee may assume the payment of and renew and extend any indebtedness previously created by either or both Founders, and the Trustee may create new indebtedness and raise money by any means, including margin trading in securities, when the Trustee believes such borrowing will be beneficial to the trust estate.

The Trustee is authorized to secure the payment of each such indebtedness, and all renewals, extensions and refinancing of same, by pledge, mortgage, deed of trust or other encumbrance covering and binding all or any part of the trust estate of a trust.

The Trustee may loan its own monies to a trust and may charge and recover the then usual and customary rate of interest thereon when, in the discretion of Trustee, it is prudent to do so.

Payment of Indebtedness and Settlement Costs

The Trustee may in its sole discretion pay the funeral and burial expenses, expenses of the last illness, and valid claims and expenses of an income beneficiary of any trust created under this agreement.

Funeral and burial expenses shall include, but not be limited to, the cost of memorials of all types and memorial services of such kind as the Trustee shall approve. Valid claims and expenses shall include, but not be limited to, all state and federal death taxes.

The payments shall be paid from the assets of the trust or trusts from which the beneficiary was receiving income.

Transactions Between the Trustee and Our Personal Representatives

The Trustee is authorized to accept from our personal representatives, upon the termination or during the administration of our respective probate estates, if any, assets delivered by our personal representatives to the Trustee on the basis of the accounting submitted by the personal representatives, without requiring an audit or other independent accounting of the acts of our personal representatives, and the Trustee shall not have liability for the acts or omissions of our personal representatives. The foregoing shall not limit the right of our Trustee to request an accounting from our personal representatives and our personal representatives shall, upon request from the Trustee, furnish a complete accounting for their actions.

The Trustee shall have the power to purchase property from our estates at its fair market value, as determined by our personal representatives and by our Trustee, and to the extent required to permit such purchase of assets and to permit loans from the Trustee to our estate, we specifically waive application of the provisions of Section 352 of the Texas Probate Code and Sections 113.053 and 113.054 of the Texas Trust Code.

Commingling Trust Estates

For the purpose of convenience with regard to the administration and investment of the trust property, the Trustee may hold the several trusts created under this agreement as a common fund.

The Trustee may make joint investments with respect to the funds comprising the trust property.

The Trustee may enter into any transaction authorized by this Article with fiduciaries of other trusts or estates in which any beneficiary hereunder has an interest, even though such fiduciaries are also Trustees under this agreement.

Addition of Accumulated Income to Principal

The Trustee shall, on a convenient periodic basis, add the accumulated undistributed income of any trust which does not provide for mandatory income distributions to specified beneficiaries, and which does not require that any undistributed income be maintained separately for ultimate distribution to specified beneficiaries, to the principal of such trust.

Distributions Not Treated as Advancements

No distributions to a beneficiary of any trust created hereunder shall be treated as an advancement against the beneficiary's share of such trust unless the distribution is specially so treated on the Trustee's records at the time of the distribution or unless the Trustee gives notice of such fact to the beneficiary at the time of the distribution. If the Trustee has the discretion to make distributions from a trust to more than one beneficiary, the Trustee ordinarily should not treat distributions to any particular beneficiary as an advancement of that beneficiary's share of the trust unless an event has occurred causing the termination of such trust.

Tax Elections

The Trustee may exercise any available elections regarding state or federal income, inheritance, estate, succession or gift tax law including the right to elect any alternate valuation date for federal estate or inheritance tax purposes, the right to elect whether all or any parts of the administration of a deceased Founder's estate are to be used as estate tax deductions or income tax deductions, the right to make compensating adjustments between income and principal as a result of such elections if necessary, and the right to elect to have trust property qualify for the federal estate tax marital deduction as qualified terminable interest property under the appropriate provisions of the Internal Revenue Code and its regulations. The Trustee may also sign tax returns; pay any taxes, interest or penalties with regard to taxes; apply for and collect tax refunds thereon.

The Trustee is authorized to make elections available under applicable tax laws as the Trustee determines, in its discretion, to be advisable even though such elections may affect the interests of trust beneficiaries. The Trustee need not, but may, in its sole discretion, make equitable adjustments of the interests of the trust beneficiaries in light of the effect of such elections.

Transactions in Which the Trustee Has A Direct or Indirect Interest

We expressly waive prohibitions existing under the common law and the Texas Trust Code that might otherwise prohibit a person or entity who is serving as a Trustee from engaging in transactions with himself or itself personally, so long as the consideration exchanged in any such transaction is fair and reasonable to the trust created by this declaration. Specifically, we authorize the Trustee (a) to buy or sell trust property from or to an individual or entity serving as a Trustee, or from or to a relative, employee, business associate or affiliate of such individual serving as Trustee; (b) to sell or exchange and to transact other business activities involving properties of one trust with another trust under

the control of the Trustee; and (c) to sell or purchase from a trust the stock, bonds, obligations or other securities of the Trustee or its affiliate.

Notwithstanding the general powers conferred upon the Trustee, or anything to the contrary contained in this agreement, no individual Trustee shall exercise or participate in the exercise of discretion with respect to the distribution of trust income or principal to or for the benefit of such Trustee.

No individual Trustee shall exercise or participate in the exercise of such discretionary power with respect to distributions to any person or persons such Trustee is legally obligated to support as to that support obligation.

Section D. Apportionment of Receipts and Expenses Between Income and Principal

The Trustee shall have the power, exercisable in such Trustee's reasonable and sole discretion, to determine what is principal or income of a trust or trust share. The Trustee shall pay from income or principal all of the reasonable expenses attributable to the administration of the respective trusts created in this agreement. The Trustee shall have the power to establish a reasonable reserve for depreciation or depletion and to fund the same by appropriate charges against income of the trust estate. For purposes of determining an appropriate reserve for depreciable or depletable assets, the Trustee may (but need not) adopt the depreciation or depletion allowance available for federal income tax purposes.

Section E. Records, Books of Account and Reports

The Trustee shall promptly set up and thereafter maintain, or cause to be set up and maintained, proper books of account which shall accurately reflect the true financial condition of the trust estate. Such books of account shall at all reasonable times be open for inspection or audit only by current, mandatory income beneficiaries, their parent or court appointed guardians, and the duly authorized agents, attorneys, representatives and auditors of each, at the expense of the beneficiary making such inspection or audit.

The Trustee shall make a written financial report, at least semi-annually, to each beneficiary of the trust who is entitled to receive a present, mandatory income distribution, unless such beneficiary, or such beneficiary's parent or legal guardian, has executed a written waiver of the right to receive such a report. The Trustee shall not be obligated to provide financial reports to a beneficiary who is less than eighteen years old if such reports are being provided to a parent of such beneficiary. Such reports shall be submitted to the parent or guardian of a minor beneficiary, or to the guardian or other legal representative of any incapacitated beneficiary.

The first financial report shall identify all property initially received by the Trustee. The first report and each subsequent report shall include a statement of all property on hand at the end of such accounting period, of all property that has come to the knowledge or possession of the Trustee that has not been previously listed as property of the trust, of all known liabilities, of all receipts and disbursements during such period (including a statement as to whether the receipt or disbursement is of income or principal), and of such other facts as the Trustee deems necessary to furnish in order to provide adequate information as to the condition of the trust estate.

Except as otherwise provided in this declaration, should any person interested in a trust estate request an accounting for the Trustee's actions that is more extensive or more frequent than the accounting normally to be rendered, the Trustee may require such person to pay the additional costs incurred in preparing the same before complying with such request.

Section F. Trustee's Liability

No person or entity serving as Trustee without compensation shall be liable for any error of judgment or mistake of fact or law or for ordinary negligence, but shall be liable for acts involving willful misconduct, gross negligence or bad faith.

Unless otherwise provided, no person or entity serving as Trustee who is receiving compensation for his or its services hereunder shall be liable for any loss which may occur as a result of any actions taken or not taken by the Trustee if such person or entity has exercised the reasonable care, skill and prudence generally exercised by a compensated fiduciary with respect to the administration, investment, and management of similar estates.

No person or entity serving as Trustee shall be liable for the acts, omissions or defaults of any other person or entity serving as Trustee, agent or other person to whom duties may be properly delegated hereunder (except that each corporate trustee shall be liable for the acts, omissions and defaults of its officers and regular employees) if such agent or other person was engaged with reasonable care.

Unless a Trustee shall expressly contract and bind himself or itself individually, no Trustee shall incur any personal liability to any person or legal entity dealing with the Trustee in the administration of a trust. The Trustee shall be entitled to reimbursement from the properties of a trust for any liability or expense, whether in contract, tort or otherwise, incurred by the Trustee in the proper administration of a trust.

The Trustee shall be indemnified from the trust property for any damages sustained by the Trustee as a result of its exercising, in good faith, any of the authorities granted it under this trust declaration.

Section G. Duty of Third Parties Dealing with Trustee

No person dealing with the Trustee shall be responsible for the application of any assets delivered to the Trustee, and the receipt of the Trustee shall be a full discharge to the extent of the property delivered. No purchaser from or other person dealing with the Trustee, and no issuer or transfer agent of any securities to which any dealing with the Trustee shall relate, shall be under any duty to ascertain the power of the Trustee to purchase, sell, exchange, transfer, encumber or otherwise in any manner deal with any property held by the Trustee. No person dealing with the Trustee in good faith shall be under any duty to see that the terms of a trust are complied with or to inquire into the validity or propriety of any act of the Trustee.

Section H. Division and Distribution of Trust Estate

When the Trustee is required to divide or make distribution from a trust estate, in whole or in part, such division or distribution may be made by the Trustee in cash or in kind, or partly in cash and partly in kind, and the Trustee may assign or apportion to the distributees undivided interests in any assets then constituting a part of such trust estate. The Trustee may encumber property, may sell property, and may make non-pro-rata distributions when the Trustee believes it is practical or desirable and equitable to do so in order to effectuate a trust distribution regardless of the income tax basis of any asset.

If non-pro-rata distributions are to be made, the Trustee should attempt to allocate the tax basis of the assets distributed in an equitable manner among the beneficiaries of the trust, but the Trustee may at all times rely upon the written agreement of the trust beneficiaries as to the apportionment of assets. To the extent non-pro-rata distributions are made and the tax basis of the assets so distributed is not uniformly apportioned among beneficiaries, the Trustee may, but need not, make any equitable adjustments among such beneficiaries as a result of such nonuniformity in basis.

Section I. Life Insurance

The Trustee shall have the powers with regard to life insurance as set forth in this Section I, except as otherwise provided in this agreement.

The Trustee may purchase, accept, hold, and deal with as owner, policies of insurance on both Founders' individual or joint lives, the life of any trust beneficiary, or on the life of any person in whom any trust beneficiary has an insurable interest.

The Trustee shall have the power to execute or cancel any automatic premium loan agreement with respect to any policy, and shall have the power to elect or cancel any automatic premium loan provision in a life insurance policy.

The Trustee may borrow money with which to pay premiums due on any policy either from the company issuing the policy or from any other source and may assign any such policy as security for the loan.

The Trustee shall have the power to exercise any option contained in a policy with regard to any dividend or share of surplus apportioned to the policy, to reduce the amount of a policy or convert or exchange the policy, or to surrender a policy at any time for its cash value.

The Trustee may elect any paid-up insurance or any extended-term insurance nonforfeiture option contained in a policy.

The Trustee shall have the power to sell policies at their fair market value to the insured or to anyone having an insurable interest in the policies.

The Trustee shall have the right to exercise any other right, option, or benefit contained in a policy or permitted by the insurance company issuing that policy.

Upon termination of any trust created under this agreement, the Trustee shall have the power to transfer and assign the policies held by the trust as a distribution of trust property.

Section J. Insured Trustee's Authority

Any individual Trustee under this agreement, other than either Founder, is prohibited from exercising any power conferred on the owner of any policy which insures the life of such individual Trustee and which is held as part of the trust property.

If the Trustee holds any such policy or policies as a part of the trust property, the powers conferred on the owner of such a policy shall be exercised only by the other then acting Trustee.

If the insured Trustee is the only then acting Trustee, then such powers shall be exercised by a substitute Trustee designated pursuant to the provisions of this agreement dealing with the trusteeship.

If any rule of law or court decision construes the ability of the insured Trustee to name a substitute Trustee as an incident of ownership, the substitution process shall be implemented

by a majority of the then current mandatory and discretionary income beneficiaries, excluding the insured Trustee if the insured Trustee is a beneficiary.

Section K. Estimated Income Tax Payment Allocation

The Trustee, in its sole discretion, may elect or not elect to treat all or any portion of federal estimated taxes paid by any trust to be treated as a payment made by any one or more beneficiaries of such trust who are entitled to receive current distributions of income or principal from such trust. The election need not be made in a pro rata manner among all beneficiaries of the trust.

If there is an individual serving as a co-trustee who is a beneficiary of a trust created by this declaration, that individual may not take part in any decision to treat any trust estimated income tax payment as a payment by such individual.

In exercising or choosing not to exercise the discretion granted in this paragraph, the Trustee shall not be liable to any beneficiary or to any other persons directly or indirectly for any action or inaction so taken except for its willful fraud or gross negligence.

Section L. Merger of Trusts

If at any time the Trustee determines it would be in the best interest of the beneficiary or beneficiaries of any trust created by this declaration to transfer or merge all of the assets held in such trust with any other trust created either by trust instrument or by will for the benefit of the same beneficiary or beneficiaries and under substantially similar trusts, terms and conditions, the Trustee under this declaration, after giving not less than thirty days advance written notice to its beneficiaries, is authorized to transfer to or merge all of the assets held under the trust created by this declaration to such other substantially similar trust, and to terminate the trust created under this declaration regardless of whether the Trustee under this declaration also is acting as the trustee of such other trust.

The Trustee under this declaration shall not be subject to liability for delegation of its duties for any such transfer to a substantially similar trust having a different person or entity serving as trustee, and shall have no further liability with respect to trust assets properly delivered to the trustee of any such other substantially similar trust. Similarly, the Trustee of any trust created by this declaration is authorized to receive from the trustee of any other substantially similar trust the assets held under such other trust.

Section M. Termination and Distribution of Small Trust

If, in the discretionary judgment of the person(s) or entity serving as Trustee, other than a surviving Founder acting as Trustee, any trust shall at any time be a size which, in the Trustee's sole judgment, shall make it inadvisable or unnecessary to continue such trust, then the Trustee may distribute the trust estate of such trust to its beneficiaries in proportion to their respective presumptive interests in such trust at the time of such termination.

If either or both of us are a beneficiary of a trust terminated pursuant to this paragraph and are surviving at the date of such termination, the Trustee (other than a surviving Founder acting as Trustee) shall distribute the assets of such terminated trust to both of us or the survivor of us. The Trustee shall not be liable either for terminating or for refusing to terminate a trust as authorized by this paragraph.

Section N. Elimination of Duty to Create Identical Trusts

If the provisions of this trust direct the Trustee to hold any portion of its trust estate at its termination as the trust estate of a new trust for the benefit of any person or persons who already are beneficiaries of an existing identical trust, that portion of the terminating trust shall be added to the existing identical trust, and no new trust shall be created.

Section O. Powers of Trustee Subsequent to an Event of Termination

The Trustee shall have a reasonable period of time after the occurrence of an event of termination in which to wind up the administration of a trust and to make a distribution of its assets. During this period of time the Trustee shall continue to have and shall exercise all powers granted herein to the Trustee or conferred upon the Trustee by law until all provisions of this declaration are fully executed.

Section P. Requesting Financial Information of Trust Beneficiaries

In exercising its discretion to make any discretionary distributions to the beneficiaries of any trust created hereunder, the Trustee is authorized to request any financial information, including prior federal income tax returns, from the respective beneficiaries that the Trustee deems necessary in order to exercise its discretion in accordance with the provisions for making such distributions under this declaration.

Section Q. Retirement Plan Elections

Except as otherwise provided in this trust declaration, the Trustee may receive or disclaim any and all proceeds from retirement plans, including, but not limited to, qualified pension, profit sharing, Keogh, individual retirement accounts, or any other form or type of plan. The Trustee may make such elections and exercise options as provided in such plan, without liability to any beneficiary for the election made or option elected. Any disclaimed proceeds or benefits shall be paid in accordance with the terms, conditions, and directives set forth in the subject plan.

Section R. Qualification as a Qualified Subchapter S Trust

If any stock of an S corporation becomes distributable to a trust created under this agreement, and such trust is not a qualified Subchapter S trust, the Trustee may implement any of the following alternatives with respect to the S corporation stock:

1. A Sole Beneficiary

Where the original trust is for a sole beneficiary, the Trustee may create for that beneficiary a separate trust that qualifies as a Subchapter S trust, and then distribute such stock to the newly created trust.

2. Multiple Beneficiaries

Where the original trust is for multiple beneficiaries, the Trustee may divide the trust into separate trusts for each of the beneficiaries. Each newly created trust shall hold that beneficiary's pro rata share of the S corporation stock, and shall qualify as a Subchapter S trust.

3. Outright Distribution

If circumstances prevent the Trustee from accomplishing the first two alternatives under this paragraph, the Trustee may, in its sole and absolute discretion, distribute such stock to the beneficiaries as if the trust had terminated, while continuing to hold any other non-S corporation property in trust.

Each newly created S corporation trust shall have mandatory distributions of income and shall not provide for powers of appointment that can be exercised by the beneficiary during the beneficiary's lifetime. In all other respects, the

newly created trusts shall be as consistent as possible with the original trusts and still qualify as Subchapter S trusts.

The Trustee may take any action necessary with regard to S corporations, including making any elections required to qualify stock as S corporation stock, and may sign all required tax returns and forms.

Article XIII

Definitions

For purposes of this trust declaration, the following words and phrases shall be defined as follows:

1. Adopted and Afterborn Persons. Persons who are legally adopted while they are under 18 years of age shall be treated for all purposes under this agreement as though they were the naturally born children of their adopting parents.

A child in gestation who is later born alive shall be considered a child in being throughout the period of gestation.

2. Descendants. The term "descendants" means the lawful lineal blood descendants of the person or persons to whom reference is made. A descendant in gestation who is later born alive shall be considered a descendant in being throughout the period of gestation. An adopted person, and all persons who are the descendants by blood or by legal adoption while under the age of 18 years of such adopted person, shall be considered descendants of the adopting parents as well as the adopting parents' ancestors.

3. Education. As used in this trust, "education" shall include:

Any course of study or instruction at an accredited college or university granting undergraduate or graduate degrees.

Any course of study or instruction at any institution for specialized, vocational or professional training.

Any curriculum offered by any institution that is recognized for purposes of receiving financial assistance from any state or federal agency or program.

Any course of study or instruction which may be useful in preparing a beneficiary for any vocation consistent with the beneficiary's abilities and interests.

Distributions for education may include tuition, fees, books, supplies, living expenses, travel and spending money to the extent that they are reasonable.

4. Founders. The term "Founders" means the "grantors", "trustors", "settlers" or any other name given to the makers of this trust either by law or by popular usage.
5. Heirs at Law. Whenever a Trustee, or a legal advisor to the Trustee, is called upon to determine the heirs at law of the Founders, or any other person beneficially interested in this trust, the determination will be made to identify those individuals, other than creditors, who would receive the personal property of a decedent upon his or her death as determined in accordance with the laws of intestate succession of the State of Texas, United States of America, and further determined as if the Founders of this trust had predeceased the person or persons so named or described.
6. Incompetence or Disability. A Founder, Trustee or beneficiary will be considered "incompetent", "disabled" or "legally incapacitated" if he or she is incapacitated to an extent which makes it impossible or impractical for him or her to give prompt and intelligent consideration to their property or financial matters.

The Trustee may rely on a judicial declaration of incompetency by a court of competent jurisdiction, or the Trustee may rely upon the written opinion of two licensed physicians as to the disability of any Founder, Trustee or beneficiary and may utilize such written opinion as conclusive evidence of such incompetence or disability in any dealings with third parties.

In addition, if a guardian, conservator or other personal representative of a Founder, Trustee or beneficiary has been appointed by a court of competent jurisdiction, then such Founder, Trustee or beneficiary will be considered incompetent or disabled.

7. Minor and Adult Beneficiary. The term "minor beneficiary" identifies a beneficiary who is less than 21 years of age. The term "adult beneficiary" identifies a beneficiary who is 21 years of age or older.
8. Per Stirpes Distributions. Whenever a distribution is to be made to a person's descendants, per stirpes, the distributable assets are to be divided into as many shares as there are then living children of such person and deceased children of such person who left then living descendants. Each then living child shall receive one share and the share of each deceased child shall be divided among such child's then living descendants in the same manner.
9. Personal Representative. For the purposes of this agreement, the term "personal representative" shall include an executor, administrator, guardian, custodian, conservator, Trustee or any other form of personal representative.

10. Power of Appointment or Qualified Beneficiary Designation. Whenever this trust declaration gives a trust beneficiary the power or authority to appoint a beneficiary of the trust, the designation must be in writing and be acknowledged in the form required of acknowledgements by Texas law or exercised by a will executed with the formalities required by law of the trust beneficiary's residence.

The designation must clearly evidence the intent of the trust beneficiary to exercise a power of appointment; and, the written beneficiary designation must have been delivered to the Trustee prior to the trust beneficiary's death or, if exercised by will, must subsequently be admitted to probate no matter the time interval.

The term of this trust may be extended if the qualified beneficiary designation requires that a beneficiary's interest remain in trust, or the trust may be divided and be held as a separate trust which is governed by the terms of this trust declaration.

11. Relative or Relatives. Reference to a "relative" or "relatives" will identify any person or persons related to the Founders by blood or lawful adoption in any degree.
12. Trust. "Trust" means the trust created by this trust declaration as well as any trusts created in it.
13. Trust Fund. The terms "trust fund", "trust property" or "trust assets" mean all property comprising: the initial contribution of corpus to the trust; all property paid or transferred to, or otherwise vested in, the Trustee as additions to the corpus of this trust; accumulated income, if any, whether or not added to the corpus of this trust; and, the investments and reinvestment of the trust property, including the increase and decrease in the values thereof as determined from time to time. The terms "corpus", "principal" and "assets" are used interchangeably.
14. Trustee. All references to "Trustee" shall refer to the original Trustees, if serving in such capacity, as well as our successor Trustees who are then serving in such capacity, under this trust declaration. For convenience, the term "Trustee", used in the singular, will mean and identify multiple Trustees serving and acting pursuant to the directions of this trust declaration. The term "corporate Trustee" will identify a banking or trust corporation with trust powers.

Article XIV

Miscellaneous Matters

Section A. Distribution of Personal Belongings by Memorandum

Each of us may have certain items of tangible personal property which have been transferred to the trust or otherwise subject to the Trustee's control which we wish to give to particular individuals while we are living or at the time of our respective deaths.

The term "personal belongings" or "tangible personal property" will mean and identify personal wearing apparel, jewelry, household furnishings and equipment, books, albums, art work, entertainment and sports equipment and all items of decoration or adornment.

Each spouse may, at any time and from time to time, deliver to the Trustee written, signed and dated instructions as to any living or post-mortem gifts of his or her personal belongings and the Trustee shall be authorized and bound to make disposition of these items as a spouse has reasonably directed in any such instructions which may be in the form of a Memorandum of Distribution or a love letter from either of us to the intended recipients of such items.

If there are conflicting instructions at the time of our deaths, then the instructions bearing the latest date shall be controlling. All such instructions are hereby incorporated by reference into this declaration.

Section B. Special Bequests

Unless otherwise provided in this trust document, or in any amendment, or in a document exercising a power to appoint the beneficiaries of this trust, if property given as a special bequest or gift is subject to a mortgage or other security interest, the designated recipient of the property will take the asset subject to the obligation and the recipient's assumption of the indebtedness upon distribution of the asset to the recipient.

The obligation to be assumed shall be the principal balance of the indebtedness on the date of death, and the trust shall be entitled to reimbursement or offset for principal and interest payments paid by the trust to date of distribution.

Section C. The Rule Against Perpetuities

In no event will the term of this trust continue for a term greater than 21 years after the death of the last survivor of the Founders and all relatives of the Founders living on the effective date of this trust declaration.

Any continuation of the trust by the qualified exercise of a power of appointment will be construed as the creation of a separate trust and an extension of the rule against perpetuities to the extent permitted by law. A court of competent jurisdiction is to liberally construe and apply this provision to validate an interest consistent with the Founders' intent and may reform or construe an interest according to the doctrine of cy pres.

Section D. Jurisdiction

The jurisdiction of this trust will be the State of Texas. Any issue of law or fact pertaining to the creation, continuation, administration and termination of the trust, or any other matter incident to this trust, is to be determined with reference to the specific directions in the trust declaration and then under the laws of the State of Texas.

If an Article or Section of this trust declaration is in conflict with a prohibition of state law or federal law, the Article or Section, or the trust declaration as a whole, is to be construed in a manner which will cause it to be in compliance with state and federal law and in a manner which will result in the least amount of taxes and estate settlement costs.

Section E. Dissolution of Our Marriage

If our marriage is dissolved at any time, each spouse shall be deemed to have predeceased the other for purposes of distributions under this agreement. It is our intent that our respective property held in our trust shall not be used for the benefit of the other spouse upon the dissolution of our marriage.

Section F. Maintaining Property in Trust

If, on the termination of any separate trust created under this agreement, a final distribution is to be made to a beneficiary for whom our Trustee holds a trust created under this agreement, such distribution shall be added to such trust rather than being distributed.

The property that is added to the trust shall be treated for purposes of administration as though it had been an original part of the trust.

Section G. Survival

Except as otherwise provided in this trust declaration, for the purpose of vesting in the event two or more persons who have an interest in the trust die within a short time of one another, one must have survived the other for a period of at least 90 days as a condition to vesting.

Section H. Simultaneous Death

In the event that the Co-Founders shall die simultaneously, or if there is insufficient evidence to establish that Co-Founders died other than simultaneously, it is deemed that the spouse owning the greater share of the separate property in this trust or passing into this trust due to the death of the Co-Founders, as defined for federal estate tax purposes, shall have predeceased the other Co-Founder, notwithstanding any provision of law to the contrary, and the provisions of this trust shall be construed on such assumption.

Section I. Changing the Trust Situs

After the death or disability of one of us, the situs of this agreement may be changed by the unanimous consent of all of the beneficiaries then eligible to receive mandatory or discretionary distributions of net income under this agreement.

If such consent is obtained, the beneficiaries shall notify our Trustee in writing of such change of trust situs, and shall, if necessary, designate a successor corporate fiduciary in the new situs. This notice shall constitute removal of the current Trustee, if appropriate, and any successor corporate Trustee shall assume its duties as provided under this agreement.

A change in situs under this Section shall be final and binding, and shall not be subject to judicial review.

Section J. Construction

Unless the context requires otherwise, words denoting the singular may be construed as denoting the plural, and words of the plural may be construed as denoting the singular. Words of one gender may be construed as denoting another gender as is appropriate within such context.

Section K. Headings of Articles, Sections and Paragraphs

The headings of Articles, Sections and Paragraphs used within this agreement are included solely for the convenience and reference of the reader. They shall have no significance in the interpretation or construction of this agreement.

Section L. Notices

All notices required to be given in this agreement shall be made in writing by either:

Personally delivering notice to the party requiring it, and securing a written receipt, or

Mailing notice by certified United States mail, return receipt requested, to the last known address of the party requiring notice.

The effective date of the notice shall be the date of the written receipt or the date of the return receipt, if received, or if not, the date it would have normally been received via certified mail, provided there is evidence of mailing.

Section M. Delivery

For purposes of this agreement "delivery" shall mean:

Personal delivery to any party, or

Delivery by certified United States mail, return receipt requested, to the party making delivery.

The effective date of delivery shall be the date of personal delivery or the date of the return receipt, if received, or if not, the date it would have normally been received via certified mail, provided there is evidence of mailing.

Section N. Duplicate Originals

This agreement may be executed in several counterparts; each counterpart shall be considered a duplicate original agreement.

Section O. Severability

If any provision of this agreement is declared by a court of competent jurisdiction to be invalid for any reason, such invalidity shall not affect the remaining provisions of this agreement. The remaining provisions shall be fully severable, and this agreement shall be construed and enforced as if the invalid provision had never been included in this agreement.

Section P. Gender, Plural Usage

The use of personal pronouns, such as he, she or it are to be construed in context. The term "person" will include a non-person, such as a corporation, trust, partnership or other entity

as is appropriate in context. The identification of person in the plural will include the singular and vice versa, as is appropriate in context.

Section Q. Special Election for Qualified Terminable Interest Property

For the purpose of identifying the "transferor" in allocating a GST exemption, the estate of a deceased spouse, or the Trustee of this trust, may elect to treat all of the property which passes in trust to a surviving spouse for which a marital deduction is allowed, by reason of Section 2056(b)(7) of the Internal Revenue Code, as if the election to be treated as qualified terminable interest property had not been made.

Reference to the "special election for qualified terminable interest property" will mean and identify the election provided by Section 2652(a)(2) of the Internal Revenue Code.

The term "GST exemption" or "GST exemption amount" is the dollar amount of property which may pass as generation skipping transfer under Subtitle B, Chapter 13, of the Internal Revenue Code 1986 (entitled "Tax On Generation-Skipping Transfers") which is exempt from the generation skipping tax.

Section R. Generation Skipping Transfers

Our Trustee, in the Trustee's sole discretion, may allocate or assist either Founders' personal representatives or trustees in the allocation of any remaining portion of either Founder's GST exemptions to any property as to which such Founder is the transferor, including any property transferred by such Founder during life as to which such Founder did not make an allocation prior to his or her death and/or among any generation skipping transfers (as defined in Section 2611 of the Internal Revenue Code) resulting under this trust declaration and/or that may later occur with respect to any trust established under this trust declaration, and the Trustee shall never be liable to any person by reason of such allocation, if it is made in good faith and without gross negligence. The Trustee may, in the Trustee's sole discretion, set apart, to constitute two separate trusts, any property which would otherwise have been allocated to any trust created hereunder and which would have had an inclusion ratio, as defined in Section 2642(a)(1) of the Internal Revenue Code, of neither one hundred percent nor zero so that one such trust has an inclusion ratio of one hundred percent and the other such trust has an inclusion ratio of zero. If either Founder's personal representative or trustee and/or the Trustee exercises the special election provided by Section 2652(a)(3) of the Internal Revenue Code, as to any share of either Founder's property that is to be held in trust under this trust declaration, then the Trustee is authorized, in the Trustee's sole discretion, to set apart property constituting such share in a separate trust so that its inclusion ratio of such trust is zero.

Section S. Elective Deductions

A Trustee will have the discretionary authority to claim any obligation, expense, cost or loss as a deduction against either estate tax or income tax, or to make any election provided by Texas law, the Internal Revenue Code, or other applicable law, and the Trustee's decision will be conclusive and binding upon all interested parties and shall be effective without obligation to make an equitable adjustment or apportionment between or among the beneficiaries of this trust or the estate of a deceased beneficiary.

We, ELMER H. BRUNSTING and NELVA E. BRUNSTING, attest that we execute this trust declaration and the terms thereof will bind us, our successors and assigns, our heirs and personal representatives, and any Trustee of this trust. This instrument is to be effective upon the date recorded immediately below.

Dated: January 12, 2005


ELMER H. BRUNSTING, Founder


NELVA E. BRUNSTING, Founder


ELMER H. BRUNSTING, Trustee


NELVA E. BRUNSTING, Trustee

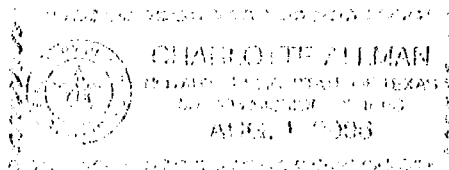
THE STATE OF TEXAS

COUNTY OF HARRIS

On January 12, 2005, before me, a Notary Public of said State, personally appeared ELMER H. BRUNSTING and NELVA E. BRUNSTING, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same as Founders and Trustees.

WITNESS MY HAND and official seal.

Charlotte Allman
Notary Public, State of Texas



**TRANSFER TO GRANTOR TRUST SUBJECT TO WITHDRAWAL
CONTRIBUTION AGREEMENT
(Transfer of Personal Property to Trust)**

TRUST IDENTITY: BRUNSTING FAMILY LIVING TRUST

PRIMARY INCOME BENEFICIARIES: ELMER H. BRUNSTING
NELVA E. BRUNSTING

IDENTITY OF CONTRIBUTORS: ELMER H. BRUNSTING
NELVA E. BRUNSTING

AGREEMENT:

ELMER H. BRUNSTING and NELVA E. BRUNSTING agree to contribute, or have contributed, the property identified below to the trust as well as all personal effects which they may acquire in the future. The Trustees accept the contribution, subject to the right of the Contributors to withdraw all or any part of the contribution and its appreciation in value. The Contributors shall give the Trustees written notice of at least seven (7) days in advance of the date the withdrawal is to be made, and at the conclusion of the notice period, the Trustees will deliver funds or trust property equal in value to the amount which the Contributors are authorized to withdraw. If the property contributed is commingled with other trust property, the trust property will share pro rata in the appreciation or depreciation of all trust property administered by the Trustees except other trust property which has maintained a separate identity and which has not been commingled. The Trustees will have the authority to partition commingled trust property in kind and to deliver a divided interest thereof in satisfaction of the trust's payment obligation or to deliver an undivided interest, of equivalent value, in trust property in satisfaction of the trust's payment obligation.

It is the intent and purpose of the contracting parties that the contribution made or to be made be structured so that the contribution will not constitute a gift of Contributors' property for federal gift tax purposes, and this agreement shall be construed and shall be subject to modification to obtain this result.

Notwithstanding the foregoing agreement, the right of withdrawal retained herein shall be, in all events, subject to the trust provisions prohibiting withdrawal from portions of the trust which become irrevocable pursuant to the terms and conditions of the trust, and this agreement shall be construed and shall be subject to modification to obtain this result.

PROPERTY CONTRIBUTED OR TO BE CONTRIBUTED:

All personal effects, clothes, jewelry, chinaware, silver, photographs, works of art, books, sporting goods, artifacts relating to the hobbies of the Contributors, and all household furniture, fixtures, equipment, goods and miscellaneous household items, as well as all other tangible articles of personal or household use, including, but not limited to, all such personalty set forth and described in Exhibit "A" attached hereto and incorporated herein for all purposes.

Date: January 12, 2005

ELMER H. BRUNSTING,
Contributor and Trustee

NELVA E. BRUNSTING,
Contributor and Trustee



POUR-OVER WILL

Your original signed Pour-Over Will should be kept in a safe place such as a safe deposit box. This section contains an UNSIGNED COPY of your Pour-Over Will.

Upon your death, the Pour-Over Will leaves to your Living Trust any property which you did not place into your trust before your death. It serves merely as a safety net in order to assure that property which was overlooked will ultimately be transferred into your trust and managed by your trustees pursuant to your instructions.

If all of your assets are transferred to the Living Trust, then it will not be necessary to use the Pour-Over Will and probate will be avoided entirely.



**LAST WILL
OF
ELMER H. BRUNSTING**

I, ELMER HENRY BRUNSTING, also known as ELMER H. BRUNSTING, of Harris County, Texas, make this Will and revoke all of my prior wills and codicils.

Article I

My Family

I am married and my spouse's name is NELVA E. BRUNSTING.

All references to "my spouse" in my Will are to NELVA E. BRUNSTING.

The names and birth dates of my children are:

<u>Name</u>	<u>Birth Date</u>
CANDACE LOUISE CURTIS	March 12, 1953
CAROL ANN BRUNSTING	October 16, 1954
CARL HENRY BRUNSTING	July 31, 1957
AMY RUTH TSCHIRHART	October 7, 1961
ANITA KAY RILEY	August 7, 1963

All references to my children in my will are to these children, as well as any children subsequently born to me, or legally adopted by me.

Article II

Testamentary Gifts

I give, devise and bequeath all of my property and estate, real, personal or mixed, wherever situated, to my revocable living trust; the name of my revocable living trust is:

ELMER H. BRUNSTING or NELVA E. BRUNSTING, Trustees, or the successor Trustees, under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

All of such property and estate shall be held, managed, and distributed as directed in such trust. The exact terms of the BRUNSTING FAMILY LIVING TRUST will govern the administration of my estate and the distribution of income and principal during administration. It is my intent and purpose that the tax planning provisions of the BRUNSTING FAMILY LIVING TRUST apply, and that my estate pass for the benefit of my family with the least possible amount of death taxes.

If my revocable living trust is not in effect at my death for any reason whatsoever, then all of my property shall be disposed of under the terms of my revocable living trust as if it were in full force and effect on the date of my death, and such terms are hereby incorporated herein for all purposes.

Article III

Appointment of Personal Representative

I appoint NELVA E. BRUNSTING as my Personal Representative. In the event NELVA E. BRUNSTING ceases to serve for any reason, I appoint the following individuals as my Personal Representative in the following order:

First, CA

Second.

Third,

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to the settlement of my estate other than the probate and recording of my Will and the return of an inventory, appraisalment and list of claims as required by law.

Article IV

Payment of Debts, Taxes, Settlement Costs and Exercise of Elections

The following directions concern the payment of debts, taxes, estate settlement costs, and the exercise of any election permitted by Texas law or by the Internal Revenue Code. The Personal Representative of my estate and the Trustee of the BRUNSTING FAMILY LIVING TRUST may act jointly and may treat the property of my estate subject to probate and the property of the BRUNSTING FAMILY LIVING TRUST as one fund for the purpose of paying debts, taxes, estate settlement costs, and making of elections.

Section A. Payment of Indebtedness and Settlement Costs

The Personal Representative will have the discretionary authority to pay from my estate subject to probate the costs reasonably and lawfully required to settle my estate.

Section B. Special Bequests

If property given as a special bequest or gift is subject to a mortgage or other security interest, the designated recipient of the property will take the asset subject to the obligation and the recipient's assumption of the indebtedness upon distribution of the asset to the recipient. The obligation to be assumed shall be the principal balance of the indebtedness on date of death, and the Personal Representative shall be entitled to reimbursement or offset for principal and interest payments paid by my estate to date of distribution.

Section C. Estate, Generation Skipping, or Other Death Tax

Unless otherwise provided in this will or by the terms of the BRUNSTING FAMILY LIVING TRUST, estate, inheritance, succession, or other similar tax shall be charged to and apportioned among those whose gifts or distributive share generate a death tax liability by reason of my death or by reason of a taxable termination or a taxable distribution under the generation skipping provisions of the Internal Revenue Code. To the extent I may lawfully provide, the Personal Representative may pay and deduct from a beneficiary's distributive share (whether the distribution is to be paid outright or is to be continued in trust) the increment in taxes payable by reason of a required distribution or termination of interest

(i.e., estate, gift, inheritance, or generation skipping taxes) to the extent that the total of such taxes payable by reason of a distribution or termination is greater than the tax which would have been imposed if the property or interest subject to the distribution or termination of interest has not been taken into account in determining the amount of such tax. To the extent a tax liability results from the distribution of property to a beneficiary other than under this will or under the BRUNSTING FAMILY LIVING TRUST, the Personal Representative will have the authority to reduce any distribution to the beneficiary from my estate by the amount of the tax liability apportioned to the beneficiary, or if the distribution is insufficient, the Personal Representative will have the authority to proceed against the beneficiary for his, her, or its share of the tax liability. In making an allocation, my Personal Representative may consider all property included in my gross estate for federal estate tax purposes, including all amounts paid or payable to another as the result of my death, including life insurance proceeds, proceeds from a qualified retirement plan or account, proceeds from a joint and survivorship account with a financial institution or brokerage company, proceeds from a buy-sell or redemption contract, and/or any other plan or policy which provides for a payment of death benefits. This provision further contemplates and includes any tax which results from the inclusion of a prior transfer in my federal gross estate even though possession of the property previously transferred is vested in someone other than my Personal Representative. This provision does not include a reduction in the unified credit by reason of taxable gifts made by me. If the Personal Representative determines that collection of an apportioned tax liability against another is not economically feasible or probable, the tax liability will be paid by my estate and will reduce the amount distributable to the residuary beneficiaries. The Personal Representative's judgment with regard to the feasibility of collection is to be conclusive.

Section D. Election, Qualified Terminable Interest Property

The Personal Representative may, without liability for doing so or the failure to do so, elect to treat all or a part of my estate which passes in trust for NELVA E. BRUNSTING under the BRUNSTING FAMILY LIVING TRUST, in which NELVA E. BRUNSTING has an income right for life, as Qualified Terminable Interest Property pursuant to the requirements of Section 2056(b)(7) of the Internal Revenue Code. To the extent that an election is made, and unless NELVA E. BRUNSTING shall issue a direction to the contrary, the Trustee of the BRUNSTING FAMILY LIVING TRUST will pay from the irrevocable share the entire increment in the taxes payable by reason of the death of NELVA E. BRUNSTING to the extent that the total of such taxes is greater than would have been imposed if the property treated as qualified terminable interest property has not been taken into account in determining such taxes. It is my intent and purpose to provide my Personal Representative with the greatest latitude in making this election so that the least amount of federal estate tax will be payable upon my death and upon the death of NELVA E. BRUNSTING, and this

provision is to be applied and construed to accomplish this objective. The Personal Representative is to make distributions of income and principal to the Trustee of the BRUNSTING FAMILY LIVING TRUST until my total estate subject to probate and administration is distributed to the Trustee of the BRUNSTING FAMILY LIVING TRUST.

Section E. Special Election for Qualified Terminable Interest Property

For the purpose of identifying the "transferor" in allocating a GST exemption, my estate may elect to treat all of the property which passes in trust to a surviving spouse for which a marital deduction is allowed, by reason of Section 2056(b)(7) of the Internal Revenue Code, as if the election to be treated as Qualified Terminable Interest Property had not been made. Reference to the "Special Election For Qualified Terminable Interest Property" will mean and identify the election provided by Section 2652(a)(2) of the Internal Revenue Code. The term "GST Exemption" or "GST Exemption Amount" is the dollar amount of property which may pass as generation skipping transfers under Subtitle B, Chapter 13, of the Internal Revenue Code of 1986 (entitled "Tax on Generation Skipping Transfers") which is exempt from the generation-skipping tax.

Section F. Elective Deductions

The Personal Representative will have the discretionary authority to claim any obligation, expense, cost or loss as a deduction against either estate tax or income tax, or to make any election provided by Texas law, the Internal Revenue Code, or other applicable law, and the Personal Representative's decision will be conclusive and binding upon all interested parties and shall be effective without obligation to make an equitable adjustment or apportionment between or among the beneficiaries of my estate or the estate of a deceased beneficiary.

Article V

Service of the Personal Representative

A Personal Representative may exercise, without court supervision (or the least supervision permitted by law), all powers and authority given to executors and trustees by the laws of the State of Texas and by this will.

Section A. Possession, Assets, Records

My Personal Representative will have the authority to take possession of the property of my estate and the right to obtain and possess as custodian any and all documents and records relating to the ownership of property.

Section B. Retain Property in Form Received, Sale

My Personal Representative will have authority to retain, without liability, any and all property in the form in which it is received by the Personal Representative without regard to its productivity or the proportion that any one asset or class of assets may bear to the whole. My Personal Representative will not have liability nor responsibility for loss of income from or depreciation in the value of property which was retained in the form which the Personal Representative received them. My Personal Representative will have the authority to acquire, hold, and sell undivided interests in property, both real and personal, including undivided interests in business or investment property.

Section C. Investment Authority

My Personal Representative will have discretionary investment authority, and will not be liable for loss of income or depreciation on the value of an investment if, at the time the investment was made and under the facts and circumstances then existing, the investment was reasonable.

Section D. Power of Sale, Other Disposition

My Personal Representative will have the authority at any time and from time to time to sell, exchange, lease and/or otherwise dispose of legal and equitable title to any property upon such terms and conditions, and for such consideration, as my representative will consider reasonable. The execution of any document of conveyance, or lease by the Personal Representative will be sufficient to transfer complete title to the interest conveyed without the joinder, ratification, or consent of any person beneficially interested in the property, the estate, or trust. No purchaser, tenant, transferee or obligor will have any obligation whatsoever to see to the application of payments made to my Personal Representative. My Personal Representative will also have the authority to borrow or lend money, secured or unsecured, upon such terms and conditions and for such reasons as may be perceived as reasonable at the time the loan was made or obtained.

Section E. Partial, Final Distributions

My Personal Representative, in making or preparing to make a partial or final distribution from the estate or a trust, will prepare an accounting and may require, as a condition to payment, a written and acknowledged statement from each distributee that the accounting has been thoroughly examined and accepted as correct; a discharge of the Personal Representative; a release from any loss, liability, claim or question concerning the exercise of due care, skill, and prudence of the Personal Representative in the management, investment, retention, and distribution of property during the representative's term of service, except for any undisclosed error or omission having basis in fraud or bad faith; and an indemnity of the Personal Representative, to include the payment of attorneys' fees, from any asserted claim of any taxing agency, governmental authority, or other claimant. Any beneficiary having a question or potential claim may require an audit of the estate or trust as an expense of administration. Failure to require the audit prior to written acceptance of the Personal Representative's report, or the acceptance of payment, will operate as a final release and discharge of the Personal Representative except as to any error or omission having basis in fraud or bad faith.

Section F. Partition, Undivided Interests

My Personal Representative, in making or preparing to make a partial or final distribution from the estate or a trust, will have the authority (1) to partition any asset or class of assets and deliver divided and segregated interests to beneficiaries; (2) to sell any asset or class of assets (whether or not susceptible to partition in kind), and deliver to the beneficiaries a divided interest in the proceeds of sale and/or a divided or undivided interest in any note and security arrangement taken as part of the purchase price; and/or (3) to deliver undivided interests in an asset or class of assets of the beneficiaries subject to any indebtedness which may be secured by the property.

Section G. Accounting

My Personal Representative will render at least annually a statement of account showing receipts, disbursements, and distributions of both principal and income during the period of accounting and a statement of the invested and uninvested principal and the undistributed income at the time of such statement.

Section H. Protection of Beneficiaries

No beneficiary will have the power to anticipate, encumber or transfer any interest in my estate. No part of my estate or any trust will be liable for or charged with any debts,

contracts, liabilities or torts of a beneficiary or be subject to seizure or other process by any creditor of a beneficiary.

Section I. Consultants, Professional Assistance

My Personal Representative will have the authority to employ such consultants and professional help as needed to assist with the prudent administration of the estate and any trust. Any representative, other than a corporate fiduciary, may delegate, by an agency agreement or otherwise, to any state or national banking corporation with trust powers any one or more of the following administrative functions: custody and safekeeping of assets; record keeping and accounting, including accounting reports to beneficiaries; and/or investment authority. The expense of the agency, or other arrangement, will be paid as an expense of administration.

Section J. Compensation

Any person who serves as Personal Representative may elect to receive a reasonable compensation, reasonable compensation to be measured by the time required in the administration of the estate or a trust and the responsibility assumed in the discharge of the duties of office. The fee schedules of area trust departments prescribing fees for the same or similar services may be used to establish reasonable compensation. A corporate or banking trustee will be entitled to receive as its compensation such fees as are then prescribed by its published schedule of charges for estates or trusts of similar size and nature and additional compensation for extraordinary services performed by the corporate representative. My Personal Representative will be entitled to full reimbursement for expenses, costs, or other obligations incurred as the result of service, including attorney's, accountant's and other professional fees.

Section K. Documenting Succession

A person serving as Personal Representative may fail or cease to serve by reason of death, resignation or legal disability. Succession may be documented by an affidavit of fact prepared by the successor, filed of record in the probate or deed records of the county in which this will is admitted to probate. The public and all persons interested in or dealing with my Personal Representative may rely upon the evidence of succession provided by a certified copy of the recorded affidavit, and I bind my estate and those who are its beneficial owners to indemnify and hold harmless any person, firm, or agency from any loss sustained in relying upon the recorded affidavit.

Article VI

No-Contest Requirements

I vest in my Personal Representative the authority to construe this will and to resolve all matters pertaining to disputed issues or controverted claims. I do not want to burden my estate with the cost of a litigated proceeding to resolve questions of law or fact unless that proceeding is originated by my Personal Representative or with the Personal Representative's written permission. Any other person, agency or organization who originates (or who shall cause to be instituted) a judicial proceeding to construe or contest this will or to resolve any claim or controversy in the nature of reimbursement, constructive or resulting trust or other theory which, if assumed as true, would enlarge (or originate) the claimant's interest in my estate, will forfeit any amount to which that person, agency or organization is or may be entitled, and the interest of any such litigant or contestant will pass as if he or she or it had predeceased me.

These directions will apply even though the person, agency or organization shall be found by a court of law to have originated the judicial proceeding in good faith and with probable cause, and even though the proceeding may seek nothing more than to construe the application of this no-contest provision. However, the no-contest provision is to be limited in application as to any claim filed by NELVA E. BRUNSTING, to the exclusion thereof if necessary, to the extent it may deny my estate the benefit of the federal estate tax marital deduction.

THIS WILL is signed by me in the presence of two (2) witnesses, and signed by the witnesses in my presence on January 12, 2005.

ELMER H. BRUNSTING

The foregoing Will was, on the day and year written above, published and declared by ELMER H. BRUNSTING in our presence to be his Will. We, in his presence and at his request, and in the presence of each other, have attested the same and have signed our names as attesting witnesses.

We declare that at the time of our attestation of this Will, ELMER H. BRUNSTING was, according to our best knowledge and belief, of sound mind and memory and under no undue duress or constraint.

WITNESS

WITNESS

SELF-PROVING AFFIDAVIT

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared ELMER H. BRUNSTING, _____ and _____, known to me to be the Testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said ELMER H. BRUNSTING, Testator, declared to me and to the said witnesses in my presence that said instrument is his Last Will and Testament, and that he had willingly made and executed it as his free act and deed; and the said witnesses, each on his or her oath stated to me, in the presence and hearing of the said Testator that the said Testator had declared to them that the said instrument is his Last Will and Testament, and that he executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator and at his request; that he was at that time eighteen years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

ELMER H. BRUNSTING

WITNESS

WITNESS

Subscribed and sworn to before me by the said ELMER H. BRUNSTING, the Testator, and by the said _____ and _____, witnesses, on January 12, 2005.

Notary Public, State of Texas

**LAST WILL
OF
NELVA E. BRUNSTING**

I, NELVA ERLEEN BRUNSTING, also known as NELVA E. BRUNSTING, of Harris County, Texas, make this Will and revoke all of my prior wills and codicils.

Article I

My Family

I am married and my spouse's name is ELMER H. BRUNSTING.

All references to "my spouse" in my Will are to ELMER H. BRUNSTING.

The names and birth dates of my children are:

<u>Name</u>	<u>Birth Date</u>
CANDACE LOUISE CURTIS	March 12, 1953
CAROL ANN BRUNSTING	October 16, 1954
CARL HENRY BRUNSTING	July 31, 1957
AMY RUTH TSCHIRHART	October 7, 1961
ANITA KAY RILEY	August 7, 1963

All references to my children in my will are to these children, as well as any children subsequently born to me, or legally adopted by me.

Article II

Testamentary Gifts

I give, devise and bequeath all of my property and estate, real, personal or mixed, wherever situated, to my revocable living trust; the name of my revocable living trust is:

ELMER H. BRUNSTING or NELVA E. BRUNSTING, Trustees, or the successor Trustees, under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

All of such property and estate shall be held, managed, and distributed as directed in such trust. The exact terms of the BRUNSTING FAMILY LIVING TRUST will govern the administration of my estate and the distribution of income and principal during administration. It is my intent and purpose that the tax planning provisions of the BRUNSTING FAMILY LIVING TRUST apply, and that my estate pass for the benefit of my family with the least possible amount of death taxes.

If my revocable living trust is not in effect at my death for any reason whatsoever, then all of my property shall be disposed of under the terms of my revocable living trust as if it were in full force and effect on the date of my death, and such terms are hereby incorporated herein for all purposes.

Article III

Appointment of Personal Representative

I appoint ELMER H. BRUNSTING as my Personal Representative. In the event ELMER H. BRUNSTING fails or ceases to serve for any reason, I appoint the following individuals as my Personal Representative to serve in the following order:

First, CARL HENRY BRUNSTING

Second, AMY RUTH TSCHIRHART

Third, CANDACE LOUISE CURTIS

The term "Personal Representative" will mean and refer to the office of Independent Executor and Trustee collectively. Reference to Personal Representative in the singular will include the plural, the masculine will include the feminine, and the term is to be construed in context. A Personal Representative will not be required to furnish a fiduciary bond or other security. I direct that no action be required in the county or probate court in relation

to the settlement of my estate other than the probate and recording of my Will and the return of an inventory, appraisalment and list of claims as required by law.

Article IV

Payment of Debts, Taxes, Settlement Costs and Exercise of Elections

The following directions concern the payment of debts, taxes, estate settlement costs, and the exercise of any election permitted by Texas law or by the Internal Revenue Code. The Personal Representative of my estate and the Trustee of the BRUNSTING FAMILY LIVING TRUST may act jointly and may treat the property of my estate subject to probate and the property of the BRUNSTING FAMILY LIVING TRUST as one fund for the purpose of paying debts, taxes, estate settlement costs, and making of elections.

Section A. Payment of Indebtedness and Settlement Costs

The Personal Representative will have the discretionary authority to pay from my estate subject to probate the costs reasonably and lawfully required to settle my estate.

Section B. Special Bequests

If property given as a special bequest or gift is subject to a mortgage or other security interest, the designated recipient of the property will take the asset subject to the obligation and the recipient's assumption of the indebtedness upon distribution of the asset to the recipient. The obligation to be assumed shall be the principal balance of the indebtedness on date of death, and the Personal Representative shall be entitled to reimbursement or offset for principal and interest payments paid by my estate to date of distribution.

Section C. Estate, Generation Skipping, or Other Death Tax

Unless otherwise provided in this will or by the terms of the BRUNSTING FAMILY LIVING TRUST, estate, inheritance, succession, or other similar tax shall be charged to and apportioned among those whose gifts or distributive share generate a death tax liability by reason of my death or by reason of a taxable termination or a taxable distribution under the generation skipping provisions of the Internal Revenue Code. To the extent I may lawfully provide, the Personal Representative may pay and deduct from a beneficiary's distributive share (whether the distribution is to be paid outright or is to be continued in trust) the increment in taxes payable by reason of a required distribution or termination of interest

(i.e., estate, gift, inheritance, or generation skipping taxes) to the extent that the total of such taxes payable by reason of a distribution or termination is greater than the tax which would have been imposed if the property or interest subject to the distribution or termination of interest has not been taken into account in determining the amount of such tax. To the extent a tax liability results from the distribution of property to a beneficiary other than under this will or under the BRUNSTING FAMILY LIVING TRUST, the Personal Representative will have the authority to reduce any distribution to the beneficiary from my estate by the amount of the tax liability apportioned to the beneficiary, or if the distribution is insufficient, the Personal Representative will have the authority to proceed against the beneficiary for his, her, or its share of the tax liability. In making an allocation, my Personal Representative may consider all property included in my gross estate for federal estate tax purposes, including all amounts paid or payable to another as the result of my death, including life insurance proceeds, proceeds from a qualified retirement plan or account, proceeds from a joint and survivorship account with a financial institution or brokerage company, proceeds from a buy-sell or redemption contract, and/or any other plan or policy which provides for a payment of death benefits. This provision further contemplates and includes any tax which results from the inclusion of a prior transfer in my federal gross estate even though possession of the property previously transferred is vested in someone other than my Personal Representative. This provision does not include a reduction in the unified credit by reason of taxable gifts made by me. If the Personal Representative determines that collection of an apportioned tax liability against another is not economically feasible or probable, the tax liability will be paid by my estate and will reduce the amount distributable to the residuary beneficiaries. The Personal Representative's judgment with regard to the feasibility of collection is to be conclusive.

Section D. Election, Qualified Terminable Interest Property

The Personal Representative may, without liability for doing so or the failure to do so, elect to treat all or a part of my estate which passes in trust for ELMER H. BRUNSTING under the BRUNSTING FAMILY LIVING TRUST, in which ELMER H. BRUNSTING has an income right for life, as Qualified Terminable Interest Property pursuant to the requirements of Section 2056(b)(7) of the Internal Revenue Code. To the extent that an election is made, and unless ELMER H. BRUNSTING shall issue a direction to the contrary, the Trustee of the BRUNSTING FAMILY LIVING TRUST will pay from the irrevocable share the entire increment in the taxes payable by reason of the death of ELMER H. BRUNSTING to the extent that the total of such taxes is greater than would have been imposed if the property treated as qualified terminable interest property has not been taken into account in determining such taxes. It is my intent and purpose to provide my Personal Representative with the greatest latitude in making this election so that the least amount of federal estate tax will be payable upon my death and upon the death of ELMER H. BRUNSTING, and this

provision is to be applied and construed to accomplish this objective. The Personal Representative is to make distributions of income and principal to the Trustee of the BRUNSTING FAMILY LIVING TRUST until my total estate subject to probate and administration is distributed to the Trustee of the BRUNSTING FAMILY LIVING TRUST.

Section E. Special Election for Qualified Terminable Interest Property

For the purpose of identifying the "transferor" in allocating a GST exemption, my estate may elect to treat all of the property which passes in trust to a surviving spouse for which a marital deduction is allowed, by reason of Section 2056(b)(7) of the Internal Revenue Code, as if the election to be treated as Qualified Terminable Interest Property had not been made. Reference to the "Special Election For Qualified Terminable Interest Property" will mean and identify the election provided by Section 2652(a)(2) of the Internal Revenue Code. The term "GST Exemption" or "GST Exemption Amount" is the dollar amount of property which may pass as generation skipping transfers under Subtitle B, Chapter 13, of the Internal Revenue Code of 1986 (entitled "Tax on Generation Skipping Transfers") which is exempt from the generation-skipping tax.

Section F. Elective Deductions

The Personal Representative will have the discretionary authority to claim any obligation, expense, cost or loss as a deduction against either estate tax or income tax, or to make any election provided by Texas law, the Internal Revenue Code, or other applicable law, and the Personal Representative's decision will be conclusive and binding upon all interested parties and shall be effective without obligation to make an equitable adjustment or apportionment between or among the beneficiaries of my estate or the estate of a deceased beneficiary.

Article V

Service of the Personal Representative

A Personal Representative may exercise, without court supervision (or the least supervision permitted by law), all powers and authority given to executors and trustees by the laws of the State of Texas and by this will.

Section A. Possession, Assets, Records

My Personal Representative will have the authority to take possession of the property of my estate and the right to obtain and possess as custodian any and all documents and records relating to the ownership of property.

Section B. Retain Property in Form Received, Sale

My Personal Representative will have authority to retain, without liability, any and all property in the form in which it is received by the Personal Representative without regard to its productivity or the proportion that any one asset or class of assets may bear to the whole. My Personal Representative will not have liability nor responsibility for loss of income from or depreciation in the value of property which was retained in the form which the Personal Representative received them. My Personal Representative will have the authority to acquire, hold, and sell undivided interests in property, both real and personal, including undivided interests in business or investment property.

Section C. Investment Authority

My Personal Representative will have discretionary investment authority, and will not be liable for loss of income or depreciation on the value of an investment if, at the time the investment was made and under the facts and circumstances then existing, the investment was reasonable.

Section D. Power of Sale, Other Disposition

My Personal Representative will have the authority at any time and from time to time to sell, exchange, lease and/or otherwise dispose of legal and equitable title to any property upon such terms and conditions, and for such consideration, as my representative will consider reasonable. The execution of any document of conveyance, or lease by the Personal Representative will be sufficient to transfer complete title to the interest conveyed without the joinder, ratification, or consent of any person beneficially interested in the property, the estate, or trust. No purchaser, tenant, transferee or obligor will have any obligation whatsoever to see to the application of payments made to my Personal Representative. My Personal Representative will also have the authority to borrow or lend money, secured or unsecured, upon such terms and conditions and for such reasons as may be perceived as reasonable at the time the loan was made or obtained.

Section E. Partial, Final Distributions

My Personal Representative, in making or preparing to make a partial or final distribution from the estate or a trust, will prepare an accounting and may require, as a condition to payment, a written and acknowledged statement from each distributee that the accounting has been thoroughly examined and accepted as correct; a discharge of the Personal Representative; a release from any loss, liability, claim or question concerning the exercise of due care, skill, and prudence of the Personal Representative in the management, investment, retention, and distribution of property during the representative's term of service, except for any undisclosed error or omission having basis in fraud or bad faith; and an indemnity of the Personal Representative, to include the payment of attorneys' fees, from any asserted claim of any taxing agency, governmental authority, or other claimant. Any beneficiary having a question or potential claim may require an audit of the estate or trust as an expense of administration. Failure to require the audit prior to written acceptance of the Personal Representative's report, or the acceptance of payment, will operate as a final release and discharge of the Personal Representative except as to any error or omission having basis in fraud or bad faith.

Section F. Partition, Undivided Interests

My Personal Representative, in making or preparing to make a partial or final distribution from the estate or a trust, will have the authority (1) to partition any asset or class of assets and deliver divided and segregated interests to beneficiaries; (2) to sell any asset or class of assets (whether or not susceptible to partition in kind), and deliver to the beneficiaries a divided interest in the proceeds of sale and/or a divided or undivided interest in any note and security arrangement taken as part of the purchase price; and/or (3) to deliver undivided interests in an asset or class of assets of the beneficiaries subject to any indebtedness which may be secured by the property.

Section G. Accounting

My Personal Representative will render at least annually a statement of account showing receipts, disbursements, and distributions of both principal and income during the period of accounting and a statement of the invested and uninvested principal and the undistributed income at the time of such statement.

Section H. Protection of Beneficiaries

No beneficiary will have the power to anticipate, encumber or transfer any interest in my estate. No part of my estate or any trust will be liable for or charged with any debts,

contracts, liabilities or torts of a beneficiary or be subject to seizure or other process by any creditor of a beneficiary.

Section I. Consultants, Professional Assistance

My Personal Representative will have the authority to employ such consultants and professional help as needed to assist with the prudent administration of the estate and any trust. Any representative, other than a corporate fiduciary, may delegate, by an agency agreement or otherwise, to any state or national banking corporation with trust powers any one or more of the following administrative functions: custody and safekeeping of assets; record keeping and accounting, including accounting reports to beneficiaries; and/or investment authority. The expense of the agency, or other arrangement, will be paid as an expense of administration.

Section J. Compensation

Any person who serves as Personal Representative may elect to receive a reasonable compensation, reasonable compensation to be measured by the time required in the administration of the estate or a trust and the responsibility assumed in the discharge of the duties of office. The fee schedules of area trust departments prescribing fees for the same or similar services may be used to establish reasonable compensation. A corporate or banking trustee will be entitled to receive as its compensation such fees as are then prescribed by its published schedule of charges for estates or trusts of similar size and nature and additional compensation for extraordinary services performed by the corporate representative. My Personal Representative will be entitled to full reimbursement for expenses, costs, or other obligations incurred as the result of service, including attorney's, accountant's and other professional fees.

Section K. Documenting Succession

A person serving as Personal Representative may fail or cease to serve by reason of death, resignation or legal disability. Succession may be documented by an affidavit of fact prepared by the successor, filed of record in the probate or deed records of the county in which this will is admitted to probate. The public and all persons interested in or dealing with my Personal Representative may rely upon the evidence of succession provided by a certified copy of the recorded affidavit, and I bind my estate and those who are its beneficial owners to indemnify and hold harmless any person, firm, or agency from any loss sustained in relying upon the recorded affidavit.

Article VI

No-Contest Requirements

I vest in my Personal Representative the authority to construe this will and to resolve all matters pertaining to disputed issues or controverted claims. I do not want to burden my estate with the cost of a litigated proceeding to resolve questions of law or fact unless that proceeding is originated by my Personal Representative or with the Personal Representative's written permission. Any other person, agency or organization who originates (or who shall cause to be instituted) a judicial proceeding to construe or contest this will or to resolve any claim or controversy in the nature of reimbursement, constructive or resulting trust or other theory which, if assumed as true, would enlarge (or originate) the claimant's interest in my estate, will forfeit any amount to which that person, agency or organization is or may be entitled, and the interest of any such litigant or contestant will pass as if he or she or it had predeceased me.

These directions will apply even though the person, agency or organization shall be found by a court of law to have originated the judicial proceeding in good faith and with probable cause, and even though the proceeding may seek nothing more than to construe the application of this no-contest provision. However, the no-contest provision is to be limited in application as to any claim filed by ELMER H. BRUNSTING, to the exclusion thereof if necessary, to the extent it may deny my estate the benefit of the federal estate tax marital deduction.

THIS WILL is signed by me in the presence of two (2) witnesses, and signed by the witnesses in my presence on January 12, 2005.

NELVA E. BRUNSTING

The foregoing Will was, on the day and year written above, published and declared by NELVA E. BRUNSTING in our presence to be her Will. We, in her presence and at her request, and in the presence of each other, have attested the same and have signed our names as attesting witnesses.

We declare that at the time of our attestation of this Will, NELVA E. BRUNSTING was, according to our best knowledge and belief, of sound mind and memory and under no undue duress or constraint.

WITNESS

WITNESS

SELF-PROVING AFFIDAVIT

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared NELVA E. BRUNSTING, _____ and _____, known to me to be the Testatrix and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said NELVA E. BRUNSTING, Testatrix, declared to me and to the said witnesses in my presence that said instrument is her Last Will and Testament, and that she had willingly made and executed it as her free act and deed; and the said witnesses, each on his or her oath stated to me, in the presence and hearing of the said Testatrix that the said Testatrix had declared to them that the said instrument is her Last Will and Testament, and that she executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testatrix and at her request; that she was at that time eighteen years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

NELVA E. BRUNSTING

WITNESS

WITNESS

Subscribed and sworn to before me by the said NELVA E. BRUNSTING, the Testatrix, and by the said _____ and _____, witnesses, on January 12, 2005.

Notary Public, State of Texas



LIVING WILL

This section contains a signed copy of your Living Will, which is also known as the "Physician's Directive." If you are suffering from a terminal condition or an irreversible condition, this document allows you to express your wishes as to whether or not you direct your physician to terminate life sustaining procedures which serve only to prolong the moment of your death. In essence, it clarifies and makes known your intent regarding life sustaining procedures.

DIRECTIVE TO PHYSICIANS AND FAMILY OR SURROGATES

Instructions for completing this document:

This is an important legal document known as an Advance Directive. It is designed to help you communicate your wishes about medical treatment at some time in the future when you are unable to make your wishes known because of illness or injury. These wishes are usually based on personal values. In particular, you may want to consider what burdens or hardships of treatment you would be willing to accept for a particular amount of benefit obtained if you were seriously ill.

You are encouraged to discuss your values and wishes with your family or chosen spokesperson, as well as your physician. Your physician, other health care provider, or medical institution may provide you with various resources to assist you in completing your advance directive. Brief definitions are listed below and may aid you in your discussions and advance planning. Initial the treatment choices that best reflect your personal preferences. Provide a copy of your directive to your physician, usual hospital, and family or spokesperson. Consider a periodic review of this document. By periodic review, you can best assure that the directive reflects your preferences.

In addition to this advance directive, Texas law provides for two other types of directives that can be important during a serious illness. These are the Medical Power of Attorney and the Out-of-Hospital Do-Not-Resuscitate Order. You may wish to discuss these with your physician, family, hospital representative, or other advisers. You may also wish to complete a directive related to the donation of organs and tissues.

DIRECTIVE

I, **NELVA ERLEEN BRUNSTING**, also known as **NELVA E. BRUNSTING**, recognize that the best health care is based upon a partnership of trust and communication with my physician. My physician and I will make health care decisions together as long as I am of sound mind and able to make my wishes known. If there comes a time that I am unable to make medical decisions about myself because of illness or injury, I direct that the following treatment preferences be honored:

If, in the judgment of my physician, I am suffering with a terminal condition from which I am expected to die within six months, even with available life-sustaining treatment provided in accordance with prevailing standards of medical care:

NEB I request that all treatments other than those needed to keep me comfortable be discontinued or withheld and my physician allow me to die as gently as possible; OR

_____ I request that I be kept alive in this terminal condition using available life-sustaining treatment. (THIS SELECTION DOES NOT APPLY TO HOSPICE CARE.)

If, in the judgment of my physician, I am suffering with an irreversible condition so that I cannot care for myself or make decisions for myself and am expected to die without life-sustaining treatment provided in accordance with prevailing standards of care:

NEB I request that all treatments other than those needed to keep me comfortable be discontinued or withheld and my physician allow me to die as gently as possible; OR

_____ I request that I be kept alive in this irreversible condition using available life-sustaining treatment. (THIS SELECTION DOES NOT APPLY TO HOSPICE CARE.)

Additional requests: (After discussion with your physician, you may wish to consider listing particular treatments in this space that you do or do not want in specific circumstances, such as artificial nutrition and fluids, intravenous antibiotics, etc. Be sure to state whether you do or do not want the particular treatment.)

After signing this directive, if my representative or I elect hospice care, I understand and agree that only those treatments needed to keep me comfortable would be provided and I would not be given available life-sustaining treatments.

If the persons named in my Medical Power of Attorney are not available, or if I have not designated a spokesperson, I understand that a spokesperson will be chosen for me following standards specified in the laws of Texas. If, in the judgment of my physician, my death is imminent within minutes to hours, even with the use of all available medical treatment provided within the prevailing standard of care, I acknowledge that all treatments may be withheld or removed except those needed to maintain my comfort. I understand that

under Texas law this directive has no effect if I have been diagnosed as pregnant. This directive will remain in effect until I revoke it. No other person may do so.

WITNESS MY HAND on January 12, 2005.

Nelva E. Brunsting

NELVA E. BRUNSTING

Houston, Texas 77079

Harris County, Texas

Two competent adult witnesses must sign below, acknowledging the signature of the declarant. The witness designated as Witness 1 may not be a person designated to make a treatment decision for the patient and may not be related to the patient by blood or marriage. This witness may not be entitled to any part of the estate and may not have a claim against the estate of the patient. This witness may not be the attending physician or an employee of the attending physician. If this witness is an employee of a health care facility in which the patient is being cared for, this witness may not be involved in providing direct patient care to the patient. This witness may not be an officer, director, partner, or business office employee of a health care facility in which the patient is being cared for or of any parent organization of the health care facility.

[Handwritten Signature]

Signature of First Witness

Krysti Brull
11511 Katy Freeway, Suite 520
Houston, Texas 77079

Address

[Handwritten Signature]

Signature of Second Witness

April Driskell
11511 Katy Freeway, Suite 520
Houston, Texas 77079

Address

DEFINITIONS:

"Artificial nutrition and hydration" means the provision of nutrients or fluids by a tube inserted in a vein, under the skin in the subcutaneous tissues, or in the stomach (gastrointestinal tract).

"Irreversible condition" means a condition, injury, or illness:

- (1) that may be treated, but is never cured or eliminated;
- (2) that leaves a person unable to care for or make decisions for the person's own self; and
- (3) that, without life-sustaining treatment provided in accordance with the prevailing standard of medical care, is fatal.

Explanation: Many serious illnesses such as cancer, failure of major organs (kidney, heart, liver, or lung), and serious brain disease such as Alzheimer's dementia may be considered irreversible early on. There is no cure, but the patient may be kept alive for prolonged periods of time if the patient receives life-sustaining treatments. Late in the course of the same illness, the disease may be considered terminal when, even with treatment, the patient is expected to die. You may wish to consider which burdens of treatment you would be willing to accept in an effort to achieve a particular outcome. This is a very personal decision that you may wish to discuss with your physician, family, or other important persons in your life.

"Life-sustaining treatment" means treatment that, based on reasonable medical judgment, sustains the life of a patient and without which the patient will die. The term includes both life-sustaining medications and artificial life support such as mechanical breathing machines, kidney dialysis treatment, and artificial hydration and nutrition. The term does not include the administration of pain management medication, the performance of a medical procedure necessary to provide comfort care, or any other medical care provided to alleviate a patient's pain.

"Terminal condition" means an incurable condition caused by injury, disease, or illness that according to reasonable medical judgment will produce death within six months, even with available life-sustaining treatment provided in accordance with the prevailing standard of medical care.

Explanation: Many serious illnesses may be considered irreversible early in the course of the illness, but they may not be considered terminal until the disease is fairly advanced. In thinking about terminal illness and its treatment, you again may wish to consider the relative benefits and burdens of treatment and discuss your wishes with your physician, family, or other important persons in your life.

**LAST WILL
OF
NELVA E. BRUNSTING**

I, NELVA ERLEEN BRUNSTING, also known as NELVA E. BRUNSTING, of Harris County, Texas, make this Will and revoke all of my prior wills and codicils.

Article I

My Family

I am married and my spouse's name is ELMER H. BRUNSTING.

All references to "my spouse" in my Will are to ELMER H. BRUNSTING.

The names and birth dates of my children are:

<u>Name</u>	<u>Birth Date</u>
CANDACE LOUISE CURTIS	March 12, 1953
CAROL ANN BRUNSTING	October 16, 1954
CARL HENRY BRUNSTING	July 31, 1957
AMY RUTH TSCHIRHART	October 7, 1961
ANITA KAY RILEY	August 7, 1963

All references to my children in my will are to these children, as well as any children subsequently born to me, or legally adopted by me.

Article II

Testamentary Gifts

I give, devise and bequeath all of my property and estate, real, personal or mixed, wherever situated, to my revocable living trust; the name of my revocable living trust is:

ELMER H. BRUNSTING or NELVA E. BRUNSTING,
Trustees, or the successor Trustees, under the BRUNSTING
FAMILY LIVING TRUST dated October 10, 1996, as
amended.

All of such property and estate shall be held, managed, and distributed as directed in such trust. The exact terms of the BRUNSTING FAMILY LIVING TRUST will govern the administration of my estate and the distribution of income and principal during administration. It is my intent and purpose that the tax planning provisions of the BRUNSTING FAMILY LIVING TRUST apply, and that my estate pass for the benefit of my family with the least possible amount of death taxes.

If my revocable living trust is not in effect at my death for any reason whatsoever, then all of my property shall be disposed of under the terms of my revocable living trust as if it were in full force and effect on the date of my death, and such terms are hereby incorporated herein for all purposes.

Article III

Appointment of Personal Representative

I appoint ELMER H. BRUNSTING as my Personal Representative. In the event ELMER H. BRUNSTING fails or ceases to serve for any reason, I appoint the following individuals as my Personal Representative to serve in the following order:

First, CARL HENRY BRUNSTING

Second, AMY RUTH TSCHIRHART

Third, CANDACE LOUISE CURTIS

The term "Personal Representative" will mean and refer to the office of Independent Executor and Trustee collectively. Reference to Personal Representative in the singular will include the plural, the masculine will include the feminine, and the term is to be construed in context. A Personal Representative will not be required to furnish a fiduciary bond or other security. I direct that no action be required in the county or probate court in relation

to the settlement of my estate other than the probate and recording of my Will and the return of an inventory, appraisal and list of claims as required by law.

Article IV

Payment of Debts, Taxes, Settlement Costs and Exercise of Elections

The following directions concern the payment of debts, taxes, estate settlement costs, and the exercise of any election permitted by Texas law or by the Internal Revenue Code. The Personal Representative of my estate and the Trustee of the BRUNSTING FAMILY LIVING TRUST may act jointly and may treat the property of my estate subject to probate and the property of the BRUNSTING FAMILY LIVING TRUST as one fund for the purpose of paying debts, taxes, estate settlement costs, and making of elections.

Section A. Payment of Indebtedness and Settlement Costs

The Personal Representative will have the discretionary authority to pay from my estate subject to probate the costs reasonably and lawfully required to settle my estate.

Section B. Special Bequests

If property given as a special bequest or gift is subject to a mortgage or other security interest, the designated recipient of the property will take the asset subject to the obligation and the recipient's assumption of the indebtedness upon distribution of the asset to the recipient. The obligation to be assumed shall be the principal balance of the indebtedness on date of death, and the Personal Representative shall be entitled to reimbursement or offset for principal and interest payments paid by my estate to date of distribution.

Section C. Estate, Generation Skipping, or Other Death Tax

Unless otherwise provided in this will or by the terms of the BRUNSTING FAMILY LIVING TRUST, estate, inheritance, succession, or other similar tax shall be charged to and apportioned among those whose gifts or distributive share generate a death tax liability by reason of my death or by reason of a taxable termination or a taxable distribution under the generation skipping provisions of the Internal Revenue Code. To the extent I may lawfully provide, the Personal Representative may pay and deduct from a beneficiary's distributive share (whether the distribution is to be paid outright or is to be continued in trust) the increment in taxes payable by reason of a required distribution or termination of interest

(i.e., estate, gift, inheritance, or generation skipping taxes) to the extent that the total of such taxes payable by reason of a distribution or termination is greater than the tax which would have been imposed if the property or interest subject to the distribution or termination of interest has not been taken into account in determining the amount of such tax. To the extent a tax liability results from the distribution of property to a beneficiary other than under this will or under the BRUNSTING FAMILY LIVING TRUST, the Personal Representative will have the authority to reduce any distribution to the beneficiary from my estate by the amount of the tax liability apportioned to the beneficiary, or if the distribution is insufficient, the Personal Representative will have the authority to proceed against the beneficiary for his, her, or its share of the tax liability. In making an allocation, my Personal Representative may consider all property included in my gross estate for federal estate tax purposes, including all amounts paid or payable to another as the result of my death, including life insurance proceeds, proceeds from a qualified retirement plan or account, proceeds from a joint and survivorship account with a financial institution or brokerage company, proceeds from a buy-sell or redemption contract, and/or any other plan or policy which provides for a payment of death benefits. This provision further contemplates and includes any tax which results from the inclusion of a prior transfer in my federal gross estate even though possession of the property previously transferred is vested in someone other than my Personal Representative. This provision does not include a reduction in the unified credit by reason of taxable gifts made by me. If the Personal Representative determines that collection of an apportioned tax liability against another is not economically feasible or probable, the tax liability will be paid by my estate and will reduce the amount distributable to the residuary beneficiaries. The Personal Representative's judgment with regard to the feasibility of collection is to be conclusive.

Section D. Election, Qualified Terminable Interest Property

The Personal Representative may, without liability for doing so or the failure to do so, elect to treat all or a part of my estate which passes in trust for ELMER H. BRUNSTING under the BRUNSTING FAMILY LIVING TRUST, in which ELMER H. BRUNSTING has an income right for life, as Qualified Terminable Interest Property pursuant to the requirements of Section 2056(b)(7) of the Internal Revenue Code. To the extent that an election is made, and unless ELMER H. BRUNSTING shall issue a direction to the contrary, the Trustee of the BRUNSTING FAMILY LIVING TRUST will pay from the irrevocable share the entire increment in the taxes payable by reason of the death of ELMER H. BRUNSTING to the extent that the total of such taxes is greater than would have been imposed if the property treated as qualified terminable interest property has not been taken into account in determining such taxes. It is my intent and purpose to provide my Personal Representative with the greatest latitude in making this election so that the least amount of federal estate tax will be payable upon my death and upon the death of ELMER H. BRUNSTING, and this

provision is to be applied and construed to accomplish this objective. The Personal Representative is to make distributions of income and principal to the Trustee of the BRUNSTING FAMILY LIVING TRUST until my total estate subject to probate and administration is distributed to the Trustee of the BRUNSTING FAMILY LIVING TRUST.

Section E. Special Election for Qualified Terminable Interest Property

For the purpose of identifying the "transferor" in allocating a GST exemption, my estate may elect to treat all of the property which passes in trust to a surviving spouse for which a marital deduction is allowed, by reason of Section 2056(b)(7) of the Internal Revenue Code, as if the election to be treated as Qualified Terminable Interest Property had not been made. Reference to the "Special Election For Qualified Terminable Interest Property" will mean and identify the election provided by Section 2652(a)(2) of the Internal Revenue Code. The term "GST Exemption" or "GST Exemption Amount" is the dollar amount of property which may pass as generation skipping transfers under Subtitle B, Chapter 13, of the Internal Revenue Code of 1986 (entitled "Tax on Generation Skipping Transfers") which is exempt from the generation-skipping tax.

Section F. Elective Deductions

The Personal Representative will have the discretionary authority to claim any obligation, expense, cost or loss as a deduction against either estate tax or income tax, or to make any election provided by Texas law, the Internal Revenue Code, or other applicable law, and the Personal Representative's decision will be conclusive and binding upon all interested parties and shall be effective without obligation to make an equitable adjustment or apportionment between or among the beneficiaries of my estate or the estate of a deceased beneficiary.

Article V

Service of the Personal Representative

A Personal Representative may exercise, without court supervision (or the least supervision permitted by law), all powers and authority given to executors and trustees by the laws of the State of Texas and by this will.

Section A. Possession, Assets, Records

My Personal Representative will have the authority to take possession of the property of my estate and the right to obtain and possess as custodian any and all documents and records relating to the ownership of property.

Section B. Retain Property in Form Received, Sale

My Personal Representative will have authority to retain, without liability, any and all property in the form in which it is received by the Personal Representative without regard to its productivity or the proportion that any one asset or class of assets may bear to the whole. My Personal Representative will not have liability nor responsibility for loss of income from or depreciation in the value of property which was retained in the form which the Personal Representative received them. My Personal Representative will have the authority to acquire, hold, and sell undivided interests in property, both real and personal, including undivided interests in business or investment property.

Section C. Investment Authority

My Personal Representative will have discretionary investment authority, and will not be liable for loss of income or depreciation on the value of an investment if, at the time the investment was made and under the facts and circumstances then existing, the investment was reasonable.

Section D. Power of Sale, Other Disposition

My Personal Representative will have the authority at any time and from time to time to sell, exchange, lease and/or otherwise dispose of legal and equitable title to any property upon such terms and conditions, and for such consideration, as my representative will consider reasonable. The execution of any document of conveyance, or lease by the Personal Representative will be sufficient to transfer complete title to the interest conveyed without the joinder, ratification, or consent of any person beneficially interested in the property, the estate, or trust. No purchaser, tenant, transferee or obligor will have any obligation whatsoever to see to the application of payments made to my Personal Representative. My Personal Representative will also have the authority to borrow or lend money, secured or unsecured, upon such terms and conditions and for such reasons as may be perceived as reasonable at the time the loan was made or obtained.

Section E. Partial, Final Distributions

My Personal Representative, in making or preparing to make a partial or final distribution from the estate or a trust, will prepare an accounting and may require, as a condition to payment, a written and acknowledged statement from each distributee that the accounting has been thoroughly examined and accepted as correct; a discharge of the Personal Representative; a release from any loss, liability, claim or question concerning the exercise of due care, skill, and prudence of the Personal Representative in the management, investment, retention, and distribution of property during the representative's term of service, except for any undisclosed error or omission having basis in fraud or bad faith; and an indemnity of the Personal Representative, to include the payment of attorneys' fees, from any asserted claim of any taxing agency, governmental authority, or other claimant. Any beneficiary having a question or potential claim may require an audit of the estate or trust as an expense of administration. Failure to require the audit prior to written acceptance of the Personal Representative's report, or the acceptance of payment, will operate as a final release and discharge of the Personal Representative except as to any error or omission having basis in fraud or bad faith.

Section F. Partition, Undivided Interests

My Personal Representative, in making or preparing to make a partial or final distribution from the estate or a trust, will have the authority (1) to partition any asset or class of assets and deliver divided and segregated interests to beneficiaries; (2) to sell any asset or class of assets (whether or not susceptible to partition in kind), and deliver to the beneficiaries a divided interest in the proceeds of sale and/or a divided or undivided interest in any note and security arrangement taken as part of the purchase price; and/or (3) to deliver undivided interests in an asset or class of assets of the beneficiaries subject to any indebtedness which may be secured by the property.

Section G. Accounting

My Personal Representative will render at least annually a statement of account showing receipts, disbursements, and distributions of both principal and income during the period of accounting and a statement of the invested and uninvested principal and the undistributed income at the time of such statement.

Section H. Protection of Beneficiaries

No beneficiary will have the power to anticipate, encumber or transfer any interest in my estate. No part of my estate or any trust will be liable for or charged with any debts,

contracts, liabilities or torts of a beneficiary or be subject to seizure or other process by any creditor of a beneficiary.

Section I. Consultants, Professional Assistance

My Personal Representative will have the authority to employ such consultants and professional help as needed to assist with the prudent administration of the estate and any trust. Any representative, other than a corporate fiduciary, may delegate, by an agency agreement or otherwise, to any state or national banking corporation with trust powers any one or more of the following administrative functions: custody and safekeeping of assets; record keeping and accounting, including accounting reports to beneficiaries; and/or investment authority. The expense of the agency, or other arrangement, will be paid as an expense of administration.

Section J. Compensation

Any person who serves as Personal Representative may elect to receive a reasonable compensation, reasonable compensation to be measured by the time required in the administration of the estate or a trust and the responsibility assumed in the discharge of the duties of office. The fee schedules of area trust departments prescribing fees for the same or similar services may be used to establish reasonable compensation. A corporate or banking trustee will be entitled to receive as its compensation such fees as are then prescribed by its published schedule of charges for estates or trusts of similar size and nature and additional compensation for extraordinary services performed by the corporate representative. My Personal Representative will be entitled to full reimbursement for expenses, costs, or other obligations incurred as the result of service, including attorney's, accountant's and other professional fees.

Section K. Documenting Succession

A person serving as Personal Representative may fail or cease to serve by reason of death, resignation or legal disability. Succession may be documented by an affidavit of fact prepared by the successor, filed of record in the probate or deed records of the county in which this will is admitted to probate. The public and all persons interested in or dealing with my Personal Representative may rely upon the evidence of succession provided by a certified copy of the recorded affidavit, and I bind my estate and those who are its beneficial owners to indemnify and hold harmless any person, firm, or agency from any loss sustained in relying upon the recorded affidavit.

Article VI

No-Contest Requirements

I vest in my Personal Representative the authority to construe this will and to resolve all matters pertaining to disputed issues or controverted claims. I do not want to burden my estate with the cost of a litigated proceeding to resolve questions of law or fact unless that proceeding is originated by my Personal Representative or with the Personal Representative's written permission. Any other person, agency or organization who originates (or who shall cause to be instituted) a judicial proceeding to construe or contest this will or to resolve any claim or controversy in the nature of reimbursement, constructive or resulting trust or other theory which, if assumed as true, would enlarge (or originate) the claimant's interest in my estate, will forfeit any amount to which that person, agency or organization is or may be entitled, and the interest of any such litigant or contestant will pass as if he or she or it had predeceased me.

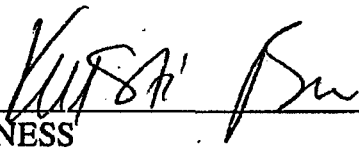
These directions will apply even though the person, agency or organization shall be found by a court of law to have originated the judicial proceeding in good faith and with probable cause, and even though the proceeding may seek nothing more than to construe the application of this no-contest provision. However, the no-contest provision is to be limited in application as to any claim filed by ELMER H. BRUNSTING, to the exclusion thereof if necessary, to the extent it may deny my estate the benefit of the federal estate tax marital deduction.

THIS WILL is signed by me in the presence of two (2) witnesses, and signed by the witnesses in my presence on January 12, 2005.


NELVA E. BRUNSTING

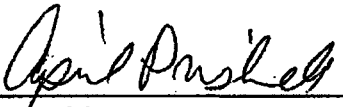
The foregoing Will was, on the day and year written above, published and declared by NELVA E. BRUNSTING in our presence to be her Will. We, in her presence and at her request, and in the presence of each other, have attested the same and have signed our names as attesting witnesses.

We declare that at the time of our attestation of this Will, NELVA E. BRUNSTING was, according to our best knowledge and belief, of sound mind and memory and under no undue duress or constraint.



WITNESS

Krysti Brull
11511 Katy Freeway, Suite 520
Houston, Texas 77079



WITNESS

April Driskell
11511 Katy Freeway, Suite 520
Houston, Texas 77079

SELF-PROVING AFFIDAVIT

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared NELVA E. BRUNSTING, Kristi Brun and April Priskren, known to me to be the Testatrix and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said NELVA E. BRUNSTING, Testatrix, declared to me and to the said witnesses in my presence that said instrument is her Last Will and Testament, and that she had willingly made and executed it as her free act and deed; and the said witnesses, each on his or her oath stated to me, in the presence and hearing of the said Testatrix that the said Testatrix had declared to them that the said instrument is her Last Will and Testament, and that she executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testatrix and at her request; that she was at that time eighteen years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

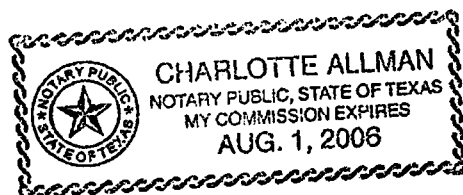
Nelva E. Brunsting
NELVA E. BRUNSTING

Kristi Brun
WITNESS

April Priskren
WITNESS

Subscribed and sworn to before me by the said NELVA E. BRUNSTING, the Testatrix, and by the said Kristi Brun and April Priskren, witnesses, on January 12, 2005.

Charlotte Allman
Notary Public, State of Texas



FIRST AMENDMENT TO THE RESTATEMENT TO
THE BRUNSTING FAMILY LIVING TRUST

ELMER H. BRUNSTING and NELVA E. BRUNSTING, the Founders of the Brunsting Family Living Trust dated October 10, 1996 as restated on January 12, 2005, hereby amend the said Trust, as follows, to-wit:

1. The said trust entitled "The Brunsting Family Living Trust dated October 10, 1996" is hereby amended so that any and all references to "ANITA RILEY" shall be to "ANITA BRUNSTING". Said correction is incorporated herein as a part of the Brungsting Family Living Trust dated October 10, 1996 for all purposes.

2. Article IV, Section B of the said Trust entitled "Our Successor Trustees" is hereby amended so that from henceforth Article IV, Section B is replaced in its entirety with the Article IV, Section B set forth in Exhibit "A" attached hereto and incorporated herein as a part of the Brunsting Family Living Trust dated October 10, 1996, as restated on January 12, 2005, for all purposes.

3. All amendments set forth in this instrument are effective immediately upon execution of this document by the Founders.

4. All other provisions contained in the Brunsting Family Living Trust dated October 10, 1996 as restated on January 12, 2005, are hereby ratified and confirmed and shall remain in full force and effect except to the extent that any such provisions are amended hereby.

WITNESS OUR HANDS this the 6th day of September, 2007.



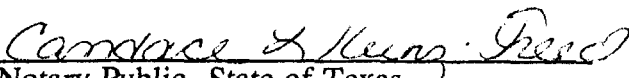
ELMER H. BRUNSTING,
Founder and Trustee



NELVA E. BRUNSTING,
Founder and Trustee

THE STATE OF TEXAS
COUNTY OF HARRIS

This instrument was acknowledged before me on the 6th day of September, 2007, by ELMER H. BRUNSTING and NELVA E. BRUNSTING, as Founders and Trustees.



Notary Public, State of Texas

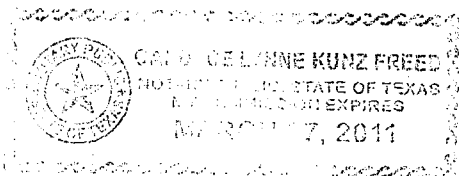


EXHIBIT "A"

Article IV

Our Trustees

Section B. Our Successor Trustees

Each of the original Trustees will have the right to appoint their own successor or successors to serve as Trustees in the event that such original Trustee ceases to serve by reason of death, disability or for any reason, and may specify any conditions upon succession and service as may be permitted by law. Such appointment, together with any specified conditions, must be in writing.

If an original Trustee does not appoint a successor, the remaining original Trustee or Trustees then serving will continue to serve alone.

If both of the original Trustees fail or cease to serve by reason of death, disability or for any reason without having appointed a successor or successors, then the following individuals or entities will serve as Co-Trustees:

CARL HENRY BRUNSTING and CANDACE LOUISE CURTIS

CARL HENRY BRUNSTING and CANDACE LOUISE CURTIS shall each have the authority to appoint his or her own successor Trustee by appointment in writing.

If a successor Co-Trustee should fail or cease to serve by reason of death, disability or for any other reason, then the remaining successor Co-Trustee shall serve alone. However, if neither successor Co-Trustee is able or willing to serve, then **THE FROST NATIONAL BANK** shall serve as sole successor Trustee.

Successor Trustees will have the authority vested in the original Trustees under this trust document, subject to any lawful limitations or qualifications upon the service of a successor imposed by any Trustee in a written document appointing a successor.

A successor Trustee will not be obliged to examine the records, accounts and acts of the previous Trustee or Trustees, nor will a successor Trustee in any way or manner be responsible for any act or omission to act on the part of any previous Trustee.

COPY

General Durable Power of Attorney of NELVA E. BRUNSTING

THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, CHAPTER XII, TEXAS PROBATE CODE. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I, NELVA ERLEEN BRUNSTING, also known as NELVA E. BRUNSTING, of Houston, Harris County, Texas, am creating a durable power of attorney under the laws of the State of Texas. I hereby revoke all Powers of Attorney previously granted by me as Principal and terminate all Agency relationships created by me except:

Powers granted by me under any Medical Power of Attorney;

Powers granted by me on forms provided by financial institutions granting the right to write checks on, deposit funds to and withdraw funds from accounts to which I am a signatory; and

Powers granting access to a safe deposit box.

This is a durable general power of attorney given in order to coordinate the management, protection and conservation of my property, with property previously transferred to my revocable living trust, especially in the event I am unable for any reason to manage, protect and conserve my own property or transfer such property to my revocable living trust, and to avoid a guardianship as to the management, protection and conservation of property. The authority and legal capacity of my Agent will be that of a personal representative, trustee and attorney-in-fact.

Article One Appointment of Agent

Section 1.01 Initial Agent

I appoint ANITA KAY BRUNSTING to serve as my Agent.

Section 1.02 Successor Agent

If ANITA KAY BRUNSTING fails to serve, I appoint the following persons to serve as successor Agent, in the order named:

First, CAROL ANN BRUNSTING
Second, AMY RUTH TSCHIRHART

If a successor Agent fails to serve as my Agent, I appoint the next successor Agent named above to serve as my Agent.

My Agents, in the order listed above, are also my preference as guardian should a court appointed guardian of my person or estate be required.

Section 1.03

No Person Under 21 Years of Age May Serve as Agent

No person named as my Agent or successor Agent may serve until that person has attained the age of 21 years.

Section 1.04

Prior or Joint Agent Unable to Act

A successor Agent or an Agent serving jointly with another Agent may establish that the acting Agent or joint Agent is no longer able to serve as Agent, by signing an affidavit that states that the Agent is not available or is incapable of acting. The affidavit may (but need not) be supported by a death certificate of the Agent, a certificate showing that a guardian or conservator has been appointed for the Agent, a letter from a physician stating that the Agent is incapable of managing his or her own affairs, or a letter from the Agent stating his or her unwillingness to act or delegating his or her power to the successor Agent.

Article Two
Effectiveness of Appointment - Durability Provision

Section 2.01

Effectiveness

The authority granted to my Agent under this power of attorney shall be effective immediately upon signing.

Section 2.02

Durability

The authority granted to my Agent under this power of attorney shall not be affected by my subsequent disability, incompetency, incapacity or lapse of time.

Section 2.03

Term of Durable Power of Attorney

This Durable Power of Attorney shall expire at the earlier of:

My death (except for post-death matters allowed under the laws of Texas), or

Upon my divorce or the annulment of my marriage if I am married and my spouse is named herein as my Agent, or

Upon my revocation of this Power of Attorney.

Article Three
Powers Granted to My Agent

I grant my Agent the powers set forth in the Durable Power of Attorney Act (Chapter XII of the Texas Probate Code, as amended) which is incorporated herein and made a part hereof for all purposes, except to the extent that such Act conflicts with the powers set forth herein so that my Agent may act on my behalf. In addition, I further grant my Agent the authority to do everything necessary to exercise the powers listed below.

Section 3.01 Power to Fund

My Agent may transfer any of my assets or any interest I have in any property, tangible or intangible, real or personal, to the trustee of any revocable trust agreement ("trust") created by me or by my Agent acting within the authority granted in Section 3.18 before or after the execution of this power of attorney, and including any trust that may extend beyond my incapacity or beyond my lifetime.

In order that my Agent may transfer property under this Section, I grant my Agent the following general powers for the specific purpose of transferring property to my trusts:

My Agent may transfer any interest I have in real or personal property, tangible or intangible to my trusts.

My Agent may assign any rights I have to receive income from any source to my trusts.

My Agent may execute all legal instruments and other documents necessary or convenient to transfer property to my trusts.

My Agent may terminate savings, checking, safekeeping, brokerage, investment advisory and custodial accounts in my name (alone or jointly with others) at any bank, broker or financial institution and transfer all or any part of my interest in the cash, stocks, bonds and securities of the accounts to my trusts.

My Agent may enter and remove my property from any safe-deposit box registered in my name (alone or jointly with others) and transfer the removed property to my trusts, and any institution in which a safe-deposit box is located shall be relieved of any liability to me, my heirs, or assigns as a result of my Agent's exercise of this power.

My Agent may designate the trust as beneficiary to receive any property, benefit or contract right on my death, or to change any existing designation to the trust as beneficiary.

I also grant my Agent general powers for the specific purpose of transferring any interest I may have in property owned by me to any general partnership, limited partnership, or limited liability company in which I have an interest. This power is subject to the same limitations as set forth in the preceding paragraphs of this Section.

Section 3.02 Power to Amend Revocable Living Trust Agreement

My Agent may amend, for the following express purposes, any revocable trust agreement ("trust") created by me before or after the execution of this power of attorney, and including any trust that may extend beyond my incapacity or beyond my lifetime:

To alter the administrative and investment powers of my Trustee;

To reflect tax or other legal changes that affect trust administration; or

To correct ambiguities, including scrivener errors, that might otherwise require court construction or reformation.

Section 3.03 Power to Sell

Unless specifically limited by the other provisions of this power of attorney, my Agent may sell any interest I own in any kind of property, real or personal, tangible or intangible, including any contingent or expectant interest, marital right and any right of survivorship incident to joint tenancy or tenancy by the entirety. My Agent may determine the terms of sale and may grant options with regard to sales.

State law, and title companies that issue owners' and mortgagees' policies of title insurance, may impose a limitation upon the authority of an Agent to convey title to real estate without the actual joinder of the person represented. Any such impediment will serve to frustrate the very purpose for which this power of attorney is given. Therefore, I give to my Agent the unlimited authority to transfer, assign, convey and deliver legal and equitable title to any real estate, or interest in real estate which I may own to my Living Trust.

This authority will include any property in which I may have a homestead interest. I waive any requirements which may be imposed by law or by a title agency that I personally join in the conveyance. To protect the title agency and any other person, agency or entity who may rely upon the authority vested in this document, I bind myself, my estate, my successors and assigns and my Agent to indemnify and hold harmless any person, agency, or entity from any claim or loss, whatsoever in relying upon the authority provided by this document and the authority of my Agent.

My Agent may dispose of sales proceeds on my behalf as my Agent determines is appropriate.

Section 3.04 Power to Buy

Unless specifically limited by the other provisions of this power of attorney, my Agent may buy any kind of property. My Agent may determine the terms for buying property and may obtain options to buy property. In addition, my Agent may arrange to insure the purchased property, and otherwise arrange for its safekeeping.

My Agent is authorized to borrow money for the purposes described in this Section and to secure the loan in any manner my Agent determines is appropriate.

My Agent is authorized to repay from my funds any money borrowed by me or on my behalf and to pay for any purchases made or cash advanced using my credit cards.

Section 3.05 Power to Invest

My Agent may invest and reinvest all or any part of my property in any other property of whatever type, real or personal, tangible or intangible, and whether located inside or outside the geographic borders of the United States and its possessions or territories. Unless specifically limited by the other provisions of this power of attorney, my Agent may:

Invest in securities of all kinds, limited partnership interests, real estate or any interest in real estate whether or not productive at the time of investment, commodities contracts of all kinds, interests in trusts including investment trusts;

Participate in common, collective or pooled trust funds or annuity contracts;

Sell or otherwise terminate any investment made by me or on my behalf, and establish and terminate savings and money market accounts at banks and other financial institutions;

Establish and terminate accounts with securities brokers and use brokerage accounts to make short sales and to buy on margin, and pledge any securities held or purchased in brokerage accounts as security for loans and advances made to the account;

Invest and reinvest in such classes of stocks, bonds, securities, commodities, options, metals, or other property real or personal;

Establish and terminate agency accounts with corporate fiduciaries; and
Employ and fire financial and investment advisors.

Section 3.06 Power to Manage Real Property

My Agent may manage any real property I now own or may acquire in the future including my personal residence. Unless specifically limited by the other provisions of this power of attorney, my Agent may:

Lease and sublease property for any period, and grant options to lease or subdivide property, even if the term of the lease, sublease or option extends beyond the term of this power of attorney;
Eject and remove tenants or other persons from property, and recover the property by all lawful means;

Collect and sue for rents;

Pay, compromise or contest tax assessments and apply for tax assessment refunds;

Subdivide, partition, develop, dedicate property to public use without consideration, or grant or release easements over my real property;

Maintain, protect, repair, preserve, insure, build upon, improve, demolish, abandon and alter all or any part of my real property;

Employ laborers;

Obtain or vacate plats and adjust boundaries;

Adjust differences in the property's value on exchange or partition by giving or receiving consideration;

Release or partially release real property from a lien;

Enter into any contracts, covenants and warranty agreements regarding my real property that my Agent considers appropriate; and

Encumber property by mortgage or deed of trust.

My Agent may accept real property as a gift or as security for a loan.

Section 3.07 Power to Manage Tangible Personal Property

My Agent may manage any tangible personal property (including, but not limited to, any motor vehicle, trailer, water craft, or any similar property) I now own or may acquire in the future. Unless specifically limited by the other provisions of this power of attorney, my Agent may:

Lease and sublease property for any period, and grant options to lease or subdivide property, even if the term of the lease, sublease or option extends beyond the term of this power of attorney;

Recover my property by all lawful means;

Collect and sue for rents;

Pay, compromise or contest tax assessments and apply for tax assessment refunds; Maintain, protect, repair, preserve, insure, improve, destroy, and abandon all or any part of my property; and

Grant security interests in my property.

My Agent may accept tangible personal property as a gift or as security for a loan.

Section 3.08 Power to Operate Businesses

My Agent may continue operating and managing any business in which I now or later own an interest for the period of time and in any manner my Agent considers appropriate. Unless specifically limited by the other provisions of this power of attorney, my Agent may:

Act as a director, general or limited partner, or associate or officer of the business;

Select and vote for directors, partners, associates and officers of the business and enter into owners' agreements with other owners of any business in which I have an interest;

Execute agreements and amendments to agreements necessary to the operation of the business including, but not limited to, stockholder agreements, partnership agreements, buy-sell agreements and operating agreements for limited liability companies;

Hire and fire employees;

Pay employees' salaries and provide for employee benefits;

Employ legal, accounting, financial and other consultants;

Continue, modify, terminate, renegotiate and extend any contracts with any person, firm, association or corporation;

Execute business tax returns and other government forms required for my business;

Pay all business related expenses;

- Transact business for me in my name and on my behalf;
- Contribute additional capital to the business;
- Change the name or the form of the business;
- Incorporate the business;
- Enter into a partnership agreement with other persons;
- Join in a plan to reorganize or consolidate my business, or merge my business with any other business;
- Establish the value of the business under "buy-out" or "buy-sell" agreements to which I am a party;
- Create, continue or terminate retirement plans for my business' employees and make contributions required by those plans;
- Advance money or other property to the business and make loans of cash or securities to the business as my Agent considers appropriate; and
- Borrow for the business and secure any loans with business assets or my personal assets.

My Agent may sell, liquidate or close a business upon terms my Agent considers appropriate, including a sale in exchange for cash, a private annuity and an installment note or any combination of those arrangements.

Section 3.09 Power to Manage Partnership Interests

My Agent may manage any general, limited or special partnership interest I own now or in the future. Unless specifically limited by the other provisions of this power of attorney, my Agent may:

- Exercise any right, power, privilege or option I may have or may claim under any contract with the partnership;
- Modify or terminate my interest on terms and conditions my Agent considers appropriate;
- Enforce the terms of the partnership agreement for my protection by instituting or maintaining any action, proceeding or otherwise as my Agent considers appropriate; and
- Defend, arbitrate, settle or compromise any action or other legal proceeding to which I am a party because of my membership in the partnership.

Section 3.10 Power Regarding Securities

My Agent may exercise all rights regarding securities that I own now or in the future. Specifically my Agent may:

Buy, sell, and exchange all types of securities and financial instruments including, but not limited to, stocks, bonds, mutual funds and commodity futures contracts and call and put options on stocks and stock indexes;

Receive certificates and other evidences of ownership with regard to securities;

Hold securities in bearer or uncertified form and use a central depository, clearing agency or book-entry system such as The Depository Trust Company, Euroclear or the Federal Reserve Bank of New York;

Place all or any part of my securities in the custody of a bank or trust company or in the name of its nominee;

Employ a broker-dealer as custodian for my securities and register the securities in the name of the broker-deal or its nominee;

Exercise voting rights with respect to securities in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote;

Participate in any reorganization, recapitalization, merger or similar transaction; and

Exercise any subscription rights, option rights (whether or not qualified under the Internal Revenue Code) or other rights to which I am entitled now or in the future, or to sell and dispose of these rights, and, if required, to sign my name to rights, warrants or other similar instruments.

Section 3.11 Power to Collect and Settle My Obligations

My Agent may collect all rights and benefits to which I am entitled now or in the future, including, but not limited to, rights to, cash payments, property, debts, accounts, legacies, bequests, devises, dividends and annuities. In collecting my obligations, my Agent may demand, sue for, arbitrate, settle, compromise, receive, deposit, expend for my benefit, reinvest or otherwise dispose of these matters as my Agent determines appropriate.

My Agent may use all lawful means and methods to recover these assets and rights, to qualify me for benefits and claim benefits on my behalf, and to compromise claims and grant discharges regarding the matters described in this Section. My Agent may convert my assets into assets that do not disqualify me from receiving benefits, or my Agent may divest my assets altogether. In any divestment action or asset conversion, I direct my Agent to avoid disrupting the dispositive provisions of my estate plan as established by me prior to my incapacity.

Section 3.12 Power Regarding Governmental Benefits

All Powers described in this section are exercisable with respect to all federal and state (or any subdivision thereof) programs existing when this power of attorney was executed or for which I become eligible after this power of attorney is executed. The power of attorney shall extend to any state in which I live when my Agent's powers become effective.

My Agent is appointed as my "Representative Payee" for the purposes of receiving Social Security benefits. My Agent may collect all benefits payable to or for my benefit by any governmental agency or body, such as Supplemental Social Security Income (SSI), Medicaid, Medicare, and Social Security Disability Insurance (SSDI). My Agent shall have the full power to represent me and deal

in all ways necessary concerning rights or benefits payable to me by any governmental agency including, without limitation, Supplemental Social Security Income (SSI), Medicaid and Social Security Disability Income (SSDI).

My Agent may:

Execute vouchers in my name for allowances and reimbursements payable to me by the United States, a foreign government, a state, or a subdivision of a state to me, including allowances and reimbursements for my transportation, my wife's, children's and other individual's customarily or legally entitled to be supported by me, and for shipment of their household effects.

Take possession, remove and ship any of my property from a post, warehouse, depot, dock, or other place of storage, whether governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose.

Prepare, file, and prosecute my claims for benefits or assistances, financial or otherwise, for any claim to which I am entitled under a statute or government regulation.

Prosecute, defend, arbitrate, settle, and propose or accept a compromise with respect to any benefits I may be entitled to receive.

Receive the financial proceeds of any type of claim described in this Section and invest, disburse, or use the proceeds on my behalf for any lawful purpose.

Sign on my behalf any document necessary to permit my return to my residence following my incapacity or other condition that prevents me from currently living there.

Execute any trust agreement described in 42 U.S.C. § 1396p (d)(4) with any trustee or trustees that my Agent selects. In addition, my Agent may deliver and convey any or all of my assets to the trustee or trustees of the trust as well as designate the trust as payee of any income to which I maybe entitled.

File applications for certification of eligibility, or renewals of such certification, any necessary forms or submissions of any nature, and to execute vouchers on my behalf for any and all allowances, compensation, and reimbursements properly payable to me by the Government of the United States, or any agency or department thereof, including, but not restricted to, medical, dental, hospital, or other health care claims or other payments under Veteran's Administration, Medicare, Medicaid, or any other social security programs. Further, such powers shall include, but not be limited to, the powers set forth in Section 501 of the Texas Probate Code, which are incorporated herein for all purposes.

Take any action necessary in order to seek qualification on my behalf for any and all government benefits that I may be entitled to, including, but not limited to, Social Security Disability, Medicaid, and Medicare. This power includes any acts necessary to achieve eligibility for these programs including gifting of my assets to the agent themselves or other persons and selling or swapping any of my property or exchanging any property for assets that would be exempt under the rules of these

programs. Any authority granted to my attorneys herein shall be limited so as to prevent this general power of attorney from causing my attorneys to be taxed on my income or from causing my assets to be subject to a general power of appointment by my attorneys, as that term is defined in Section 2041 of the Internal Revenue Code (or any successor provision).

Power to arrange for my maintenance and support and to incur expenses in my name therefore and to pay from my funds or from funds in my name expenses in connection with my maintenance and support, including, without limitation, my living expenses and all other expenses for my reasonable comfort, maintenance and support, and further including medical or surgical services, nursing services or hospital room or services for me or for my benefit, or any other thing or service incidental thereto deemed by my agent to be necessary or appropriate.

Section 3.13 Power Regarding My Retirement Plans and Other Employee Benefits

My Agent may exercise all rights and collect all qualified retirement benefits to which I am entitled now or in the future. Specifically, my Agent may:

Establish, using any of my assets, one or more qualified retirement plans in my name;

Make contributions, including "rollover" contributions, or cause contributions to be made, to any qualified retirement plan my Agent considers appropriate using my assets;

Receive and endorse checks and other distributions to me from any qualified retirement plans, or arrange for the direct deposit of those checks or distributions in any of my accounts;

Elect any form of payment from my qualified retirement plans and to withdraw benefits on my behalf from the IRAs and retirement plans;

Make, exercise, waive or consent to any and all election and option that I may have regarding contributions to qualified retirement plans, investments and administration of the retirement plans, and distribution or other forms of qualified retirement benefits available to me; and

Borrow money, purchase assets from any of my qualified retirement plans and sell assets to any of my qualified retirement plans if the plan authorizes these actions.

My Agent may make primary and contingent beneficiary designations, whether revocable or irrevocable, change primary and contingent revocable beneficiary designations, and consent or waive consent in connection with the designation of primary and contingent beneficiaries and the selection of joint and survivor annuities under any employee benefit plan. But my Agent may not directly or indirectly designate a greater share or portion of any benefit than my Agent would have otherwise received unless all other beneficiaries under the IRA or plan consent to the change in beneficiary designation.

For all purposes of this Section, "qualified retirement plan" means a plan qualified under Section 401 of the Internal Revenue Code, an individual retirement arrangement under Section 408 or Section 408A or a tax-sheltered annuity under Section 403. The term "qualified retirement benefits" means

the amounts held in or distributed pursuant to a plan qualified under Section 401, an individual retirement arrangement under Section 408 or Section 408A, a tax-sheltered annuity under Section 403 or any other benefit subject to the distribution rules of Section 401(a)(9).

Section 3.14 Power Regarding Bank Accounts

My Agent may establish bank accounts of any type in one or more bank institutions that my Agent may choose. My Agent may modify, terminate, make deposits to, write checks on, make withdrawals from and grant security interests in any account in my name or to which I am an authorized signatory, except accounts held by me in a fiduciary capacity. In exercising this authority, it does not matter whether or not the account was established by me or for me by my Agent. My Agent is authorized to negotiate, endorse or transfer any check or other instrument with respect to any account, to contract for any services rendered by any bank or financial institution, and to execute, on my behalf as principal, any agency or power of attorney forms furnished by a bank with respect to accounts with the bank that appoints the bank or any person as my agent.

Section 3.15 Power Regarding Safe-Deposit Boxes

My Agent may contract with any institution to rent a safe-deposit box in my name. My Agent may have access to any safe-deposit box in my name or with respect to which I am an authorized signer. This Section will apply whether or not the contract for the safe-deposit box was executed by me alone or jointly with others or by my Agent in my name. My Agent may also add to or remove the contents of a safe-deposit box, or terminate any rental contract for a safe-deposit box.

Section 3.16 Power to Prosecute and Defend Legal Actions

My Agent may institute, supervise, prosecute, defend, intervene in, abandon, compromise, adjust, arbitrate, settle, dismiss, and appeal from any and all legal, equitable, judicial or administrative hearings, actions, suits or proceedings involving me in any way. This authority includes, but is not limited to, claims by or against me arising out of property damage or personal injury suffered by or caused by me or under circumstances such that the resulting loss may be imposed on me. My Agent may otherwise engage in litigation involving me, my property or my legal interests, including any property, interest or person for which or whom I have or may have any responsibility.

Section 3.17 Power to Loan and Borrow

My Agent may make secured or unsecured loans to any person, entity, trust or estate on my behalf, for any term or payable on demand, with or without interest. My Agent may enter into or modify the terms of any mortgage, deed of trust or security agreement made in connection with any loan and may release or foreclose on the mortgage, deed of trust, or security.

My Agent may borrow money on my behalf at interest rates and on other terms that my Agent considers advisable from any person, institution or other source including, if my then-acting Agent is a corporate fiduciary, its own banking or commercial lending department.

My Agent may encumber my property by mortgages, pledges, and other hypothecation and shall have the power to enter into any mortgage or deed of trust even though the term of the mortgage or deed of trust may extend beyond the term for which this power of attorney is effective.

My Agent may borrow money for any purpose on any life insurance policy owned by me on my life even though the term of the loan may extend beyond the term for which this power of attorney is effective. My Agent may grant a security interest in the policy to secure the loan. In this regard, my

Agent may assign and deliver the policy as security. No insurance company will be under any obligation to determine the necessity of the loan or how my Agent applies the loan proceeds.

Section 3.18 Power to Create Revocable Trusts for my Benefit

My Agent may execute a revocable trust agreement with any trustee or trustees that my Agent selects. All income and principal must be paid under the trust agreement, to me or another person for my benefit or applied for my benefit. The income and principal of the trust must be paid under the agreement in the amounts that I or my Agent requests or that the trustee or trustees determine. The remaining income and principal must be paid on my death to my personal representative under the agreement. The trust agreement must provide that it may be revoked or amended by me or my Agent at any time. The trust agreement, however, must provide that any amendment by my Agent must be of a type that by law or under the provisions of this power of attorney could have been included in the original trust agreement. In addition, my Agent may deliver and convey any or all of my assets to the trustee or trustees of the revocable living trust, or convey any or all of my assets to a revocable living trust that exists now or is created by me after the creation on this power of attorney.

Further, I hereby vest in my Agent all of the power and authority given to trustees by the trust laws of the State of Texas upon establishing such revocable trust. If my Agent determines that it is in my best interest under the facts and circumstances then existing, I authorize my Agent to take possession of any and all of my property and estate, as Trustee, and to hold, conserve and administer such property for me and my general welfare. My Agent will be responsible only for the property of my estate over which the Agent shall assert direct control, and will not have liability for the loss of income from, or the depreciation of the value of, assets which the Agent does not possess or which are retained in the form my Agent received them.

My Agent is authorized, upon my death, to make, direct payment for any expense related to my hospitalization, illness, treatment and care prior to my death, and any expenses related to my death and the settlement of my estate. The trust created by this document will continue for a reasonable period of time in which to conclude any administration, pay expenses of termination (including the discretionary payment of expenses and estate settlement costs) and to make distributions of the trust property to my Living Trust.

My Agent may be sole trustee of my revocable living trust or one of several trustees.

If the trustee is not an individual, it must be a bank or trust company authorized to do trust business in the state in which I or my Agent reside now or in the future.

Section 3.19 Power to Revoke Trusts

I grant my Agent full power and authority to revoke any and all revocable trust agreements of which I am a founder, settlor, grantor, trustmaker and/or contributor. Immediately after the revocation of the aforesaid revocable trust agreement, or as soon as is practicable after such revocation, my Agent shall convey the said trust assets to the beneficiaries named therein, if in the judgment of my Agent it is advisable to do so.

My Agent may be sole trustee of my revocable living trust or one of several trustees.

Section 3.20 Power to Withdraw Funds from Trusts

My Agent may withdraw and receive the income or principal of any trust over which I have a right of receipt or withdrawal. My Agent may request and receive the income or principal of any trust with respect to which the trustee has the discretionary power to make distributions to me or on my behalf. In connection with this, my Agent may execute and deliver to the trustee a receipt and release or similar document for the income or principal received. My Agent may exercise in whole or in part, release or let lapse any power of appointment held by me, whether general or special, or any amendment or revocation power under any trust even if the power may be exercised only with the consent of another person and even if my Agent is the other person, subject to any restrictions on exercise imposed on my Agent under this power of attorney.

Section 3.21 Power to Renounce or Resign from Fiduciary Positions

My Agent may resign or renounce for me any fiduciary position I hold now or in the future including personal representative, trustee, guardian, attorney-in-fact, and officer or director of a corporation and any governmental or political office or position. In so doing, my Agent may file an accounting with the appropriate court of competent jurisdiction or settle on the basis of a receipt, release or other appropriate method.

Section 3.22 Power to Disclaim or Release Property Interests

My Agent may renounce and disclaim any property or property interest or power to which I may become entitled by gift, testate or intestate succession. My Agent may release or abandon any property interest or power that I may own or hold now or in the future, including any interest in, or right over, a trust, including the right to alter, amend, revoke or terminate the trust. My Agent may claim an elective share in any estate or under any will. But my Agent may not make any disclaimer that is expressly prohibited by the law or other provisions of this power of attorney.

Section 3.23 Power Regarding Insurance

My Agent may purchase, maintain, surrender, collect, or cancel:

All kinds of life insurance or annuities on my life or the life of any one in whom I have an insurable interest;

Liability insurance protecting me and my estate against third party claims;

Hospital insurance, medical insurance, Medicare supplement insurance, custodial care insurance, and disability income insurance for me or my dependents; and

Casualty insurance insuring my assets against loss or damage due to fire, theft, or other commonly insured risk.

My Agent may pay all insurance premiums, select any options under the policies, increase coverage under any policy, borrow against any policy, pursue all insurance claims on my behalf, and adjust insurance losses. This authority shall apply to both private and public plans, including Medicare, Medicaid, SSI and Workers' Compensation.

My Agent may decrease or terminate coverage under any insurance policy insuring my life. My Agent may receive and dispose of the cash value received if the policy is decreased or terminated and dispose of the cash value as my Agent considers appropriate.

Section 3.24 Power Regarding Taxes

My Agent may represent me in all tax matters and proceedings before any agent or officer of the Internal Revenue Service, state and local authorities and in any court, for all periods.

My Agent may:

Prepare, sign, and file all federal, state, and local tax returns including income, gift, FICA and payroll tax returns on my behalf;

Prepare, sign, and file claims for refunds, requests for extensions of time to file returns or pay taxes, extensions and waivers of applicable periods of limitation, protests and petitions to administrative agencies or courts (including, but not limited to, the United States Tax Court);

Sign consents and agreements under Section 2032A of the Internal Revenue Code or any successor section and consents to split gifts, closing agreements, and any power of attorney form required by the Internal Revenue Service or any state or local taxing authority with respect to any tax year;

Pay taxes due, collect and dispose of refunds as my Agent determines appropriate, post bonds, receive confidential information and contest deficiencies determined by the Internal Revenue Service or any state or local taxing authority;

Exercise any election I have under federal, state or local tax law and allocate any generation-skipping tax exemption to which I am entitled;

Engage representation for me in any and all tax proceedings by attorneys-at-law, Certified Public Accountants, enrolled agents, and other licensed tax professionals; and,

Settle with the Internal Revenue Service, its agents and representatives, any questions concerning my liability for and the collection, refund or payment of said taxes, and to possess all of the authorities and all of the powers set forth in Form 2848 of the Department of the Treasury, Internal Revenue Service, as amended or revised hereafter, including the power to receive refund checks due to me, from the date of this instrument until this instrument is revoked.

Section 3.25 Power to Deal with My Spouse

My Agent may deal with my spouse on my behalf. In dealing with my spouse, my Agent may partition, transfer and exchange any of my marital property estate, whether separate or community property between my spouse and me. My Agent may enter into and execute on my behalf marital property agreements, partition and exchange agreements or community property agreements or may enforce, amend or revoke any marital property agreement between my spouse and me but only with respect to rights in and obligations with respect to property owned by my spouse, by me or by both of us and with respect to reclassification of management and control over our property.

Section 3.26 Power to Make Gifts

My Agent may make gifts on my behalf. In order to make gifts, my Agent may withdraw assets from any trust created by me or by my Attorney-in-Fact acting within the authority granted in Section 3.18 and from which I may withdraw assets.

For purposes of this power of attorney, my Agent may forgive any debts owed to me, and any debt forgiven will be considered a gift to the debtor.

For purposes of this Section, "my beneficiaries" shall mean my wife, my descendants and beneficiaries, including contingent beneficiaries, named in my Will or my revocable living trust.

As mentioned in Section 3.12, my Agent may gift or otherwise spend down my estate for Medicaid eligibility and planning.

My Agent may make gifts on the following terms and conditions:

(a) Continuation of My Gifting

My Agent may honor pledges and continue to make gifts to charitable organizations that I have regularly supported in the amounts I have customarily given. My Agent may make gifts in order to assure the continuation of any gifting program initiated by me prior to the time I became incapacitated.

My Agent may make special occasion gifts to my estate plan beneficiaries, family members, or friends, in equal or unequal amounts, that reflect my past giving and my relationship with such individuals.

(b) Gifts to My Agent

I specifically authorize gifts to my Agent, but only a Special Agent appointed under the provisions of Section 7.03 may make gifts to my Agent. My Agent may not make gifts to himself or herself, his or her estate, his or her creditors, or the creditors of his or her estate.

(c) Gifts in Excess of the Annual Federal Gift Tax Exclusion

Only a Special Agent appointed under the provisions of Section 7.03 may make gifts in excess of the annual federal gift tax exclusion to my beneficiaries.

If my Agent determines that gifts in amounts in excess of the annual federal gift tax exclusion are in my best interest and the best interests of my beneficiaries, my Agent, by unanimous vote if more than one Agent is serving, shall appoint a Special Agent unrelated by blood or marriage to any Agent to review the facts and circumstances and to decide whether such gifts should be made. I recommend, but do not require, that my Agent select an independent certified public accountant, attorney-at-law, or corporate fiduciary to serve as the Special Agent under such circumstances.

Neither my Agent, nor the Special Agent appointed by my Agent, shall be liable to any beneficiary for exercising or failing to exercise its discretion to make gifts.

(d) Gifts for Tuition

My Agent may prepay the cost of tuition for any of my beneficiaries. My Agent shall make the payments directly to the educational institution or by establishing and contributing to a Qualified State Tuition Program established under Section 529 of the Internal Revenue Code.

(e) Gifts for Medical Expenses

My Agent may pay medical expenses for any of my beneficiaries as permitted under Section 2503(e) of the Internal Revenue Code. My Agent shall make the payments directly to the medical provider.

(f) Gift Splitting Authorized

My Agent is authorized to consent to the splitting of gifts under Section 2513 of the Internal Revenue Code or under similar provisions of any state or local gift tax laws.

(g) Methods of Making Gifts

My Agent may make gifts of my property under this Section outright, in trust or in any other manner that my Agent considers appropriate.

By way of example and without limiting my Agent's powers under this Section, my Agent is specifically authorized to make gifts by creating tenancy in common and joint tenancy interests or establishing irrevocable trusts including charitable or non-charitable split interest trusts. My Agent may make gifts by establishing and contributing my property to corporations, family limited partnerships, limited liability partnerships, limited liability companies or other similar entities and by making gifts of interests in any of those entities.

To accomplish the objectives described in this subsection, my Agent may establish and maintain financial accounts of all types and may execute, acknowledge, seal and deliver deeds, assignments, agreements, authorizations, checks and other instruments. My Agent may prosecute, defend, submit to arbitration, settle or propose or accept a compromise with respect to a claim existing in favor of or against me based on or involving a gift transaction on my behalf. My Agent may intervene in any related action or proceeding.

My Agent may perform any other act my Agent considers necessary or desirable to complete a gift on my behalf in accordance with the provisions of this Section.

(h) Standard for Making Gifts

It is my desire that in making gifts on my behalf, my Agent consider the history of my gift making and my estate plan. To the extent reasonably possible, I direct my Agent to avoid disrupting the dispositive provisions of my estate plan as established by me prior to my incapacity.

(i) Ratification of Gifts

I specifically ratify any gifts made by my Agent under the terms of this power of attorney.

**Article Four
Care and Control of Principal**

My Agent may, in my Agent's sole and absolute discretion, exercise the following powers with respect to the control and management of my person.

Section 4.01 Power to Provide for My Support

My Agent may do anything reasonably necessary to maintain my customary standard of living, including:

Maintain my residence by paying all operating costs, including, but not limited to, interest on mortgages or deeds of trust, amortization payments, repairs and taxes, or by purchasing, leasing or making other arrangement for a different residence;

Provide normal domestic help;

Provide clothing, transportation, medicine, food and incidentals; and

Make all necessary arrangements, contractual or otherwise, for my care at any hospital, hospice, nursing home, convalescent home or similar establishment, or in my own residence should I desire it, and assure that all of my essential needs are met wherever I may be.

Section 4.02 Power to Provide for Support of Dependents

My Agent may make payments as my Agent deems necessary for the health, education, maintenance or support of my wife and those my Agent determines to be dependent on me for support.

Section 4.03 Power to Protect or Dispose of Property

If my Agent determines that I will never be able to return to my residence from a hospital, hospice, nursing home, convalescent home or similar facility, my Agent may dispose of my residence. In so doing, my Agent may sell, lease, sublease or assign my interest on terms and conditions that my Agent considers appropriate.

My Agent may store and safeguard any items of tangible personal property remaining in my residence and pay all storage costs. Alternatively, my Agent may sell any items that my Agent believes I will never need again on terms and conditions that my Agent considers appropriate.

As an alternative to storing my tangible personal property, my Agent may transfer custody and possession, but not title, of any property item to the person named in my Will or my revocable living trust as the person entitled to receive that property item on my death.

Section 4.04 Power to Provide for My Recreation and Travel

My Agent may, at my expense, allow me to engage in recreational and sports activities as my health permits, including travel.

Section 4.05 Power to Provide for Religious and Spiritual Needs

My Agent may provide for my religious and spiritual needs, including involvement of religious clergy and spiritual leaders in my care and my membership in religious and spiritual organizations consistent with my religious beliefs. My Agent may purchase religious books, tapes and other materials for my use and benefit.

Section 4.06 Power to Provide for Companionship

My Agent may arrange any form of companionship for me necessary to meet my needs if I am unable to arrange for such companionship myself.

Section 4.07 Power to Make Advance Funeral Arrangements

My Agent may make advance arrangements for my funeral and burial, including a burial plot, marker and any other related arrangements that my Agent considers appropriate.

**Article Five
Incidental Powers**

My Agent may perform those acts and execute and deliver those legal documents necessary or appropriate to the exercise of the powers set forth in this power of attorney, including, but not limited, to the following incidental powers.

Section 5.01 Power to Commence Court Proceedings

My Agent may commence any court proceedings necessary to protect my legal rights and interests under this power of attorney including, but not limited to:

Actions for declaratory judgments from any court of competent jurisdiction interpreting the validity of this power of attorney and any of the acts sanctioned by this power of attorney; provided, however, that my Agent need not seek a declaratory judgment to perform any act sanctioned by this power of attorney;

Actions for mandatory injunctions requiring any person or entity to comply with my Agent's directions as authorized by this power of attorney; and

Actions for actual and punitive damages and the recoverable costs and expenses of such litigation against any person or entity who negligently or willfully fails or refuses to follow my Agent's directions as authorized by this power of attorney.

Section 5.02 Power to Employ and Discharge Personnel

My Agent may employ and remove investment advisors, accountants, auditors, depositories, custodians, brokers, consultants, attorneys, expert advisors, agents and employees to advise or assist my Agent as my Agent considers appropriate.

Section 5.03 Power to Sign Documents

My Agent may sign, execute, endorse, seal, acknowledge, deliver and file or record all appropriate legal documents necessary to exercise the powers granted under this power of attorney.

Section 5.04 Power to Submit Costs for Payment

If my Agent incurs costs in performing any powers granted under this power of attorney, or in enforcing compliance with the powers given to my Agent under this power of attorney, my Agent may submit those costs to any person who has the authority to pay those costs such as the trustee of my revocable living trust or to my guardian or conservator. My trustee, conservator or guardian shall promptly pay those costs.

Section 5.05 Power Regarding My Mail

My Agent may open, read, respond to and redirect my mail. My Agent may represent me before the U.S. Postal Service and all other mail or package carriers in any matter relating to mail or delivery services including the receipt of certified mail.

Section 5.06 Power Regarding Memberships

My Agent may establish, cancel, continue or initiate my membership in organizations and associations of all kinds.

Section 5.07 Power Regarding Custody of Documents

My Agent may take, give or deny custody of my important documents, including my Will and any codicils, trust agreements, deeds, leases, life insurance policies, contracts or securities. My Agent may disclose or not disclose the whereabouts or contents of those documents as my Agent believes appropriate.

Section 5.08 Power to Care for My Pets

My Agent may provide for the housing, support, and maintenance of my pet animals. My Agent may contract for and pay the expenses of their proper veterinary care and treatment. But if my Agent decides that the care and maintenance of my pet animals is unreasonably expensive or burdensome, my Agent may give the pet animals to persons willing to care for and maintain them.

**Article Six
Limitation on Powers**

All powers granted to my Agent under this power of attorney are subject to the limitations set forth in this Article.

Section 6.01 Tax Sensitive Powers

No individual serving as my Agent may exercise any fiduciary power or discretion if the exercise of that power or discretion would:

Cause any income generated by my property to be attributed to my Agent for federal income tax purposes;

Cause the value of any property subject to this power of attorney to be included in my Agent's gross estate for federal estate tax purposes;

Cause any distribution made or allowed to be made by my Agent to be treated as a gift from my Agent; or

Discharge a legal obligation of my Agent.

If the exercise of a power by my Agent under this power of attorney would cause any of the foregoing results, a Special Agent appointed under the provisions of Section 7.03 may exercise the power or discretion.

Section 6.02 Life Insurance on the Life of My Agent

No individual Agent may exercise any powers or rights in a policy owned by me that insures the life of that Agent. Any powers and rights regarding the policy will be exercised solely by another Agent serving under this power of attorney, or by a Special Agent appointed under the provisions of Section 7.03 of this power of attorney.

Section 6.03 Prohibition on Power over Prior Transfers

No Agent may exercise any power or authority over any irrevocable trust created by my Agent to which I am a trustee or a beneficiary or any asset given to me by my Agent.

Section 6.04 My Agent to Avoid Disrupting My Estate Plan

If it becomes necessary for my Agent to liquidate or reinvest any of my assets to provide support for me, I direct that my Agent, to the extent that it is reasonably possible, avoid disrupting the dispositive provisions of my estate plan as established by me prior to my incapacity.

If it is necessary to disrupt the dispositive provisions of my estate plan, my Agent will use his or her best efforts to restore my plan as soon as possible. My Agent will make reasonable efforts to obtain and review my estate plan. I authorize any person with knowledge of my estate plan or possession of my estate planning documents to disclose information to my Agent and to provide copies of documents to my Agent.

Article Seven Administrative Powers and Provisions

This Article contains certain administrative powers and provisions that facilitate the use of the power of attorney and that protect my Agent and those who rely upon my Agent.

Section 7.01 Release of Information

My Agent may release and obtain, as the case may be, any and all information regarding my financial investments and taxes, including any information regarding stocks, bonds, certificates of deposit, bank accounts, tax returns, retirement accounts, pension plans, and any other documents or information regarding my financial affairs and taxes from my attorneys-at-law, financial advisors,

insurance professionals, accountants, stockbrokers, stock transfer agents, and any other persons having such information.

I release these persons or entities from any liability for releasing the above-referenced information to my Agent in reliance on this Section.

If my Agent is an attorney-at-law or other accounting or financial professional, the professional regulations of my Agent's profession and federal law may prohibit my Agent from releasing information about my financial affairs to others if I am a client of my Agent. This instrument, therefore, is a limited waiver of any privilege (such as the attorney-client privilege) that I have established with any Agent as a client. The privilege is waived for the limited purpose of permitting my Agent to perform his or her duties under this power of attorney.

Section 7.02 Nomination of Guardian of my Person and my Estate

If at any time proceedings are initiated for the appointment of Guardian of my person and my estate, I nominate the person serving, or named to serve, as my Agent under this power of attorney at the time the proceedings are initiated.

If any person I have nominated is appointed Guardian of my person and my estate, I request that the court grant to such Guardian of my person and my estate all or as many of the independent powers listed below as the court shall find appropriate.

The power to contract for the estate, to carry out existing contracts, and so bind my estate.

The power to operate, at the risk of loss to the estate, any business, farm, or enterprise of the estate.

The power to grant and take options.

The power to sell any real or personal property of the estate at public or private sale.

The power to create by grant or otherwise easements and servitudes on any property of the estate.

The power to borrow money on the estate's behalf and give security for the loan.

The power to purchase real or personal property on the estate's behalf.

The power to alter, improve, and repair or raze, replace, and rebuild the estate's property.

The power to lease the estate's property for any purpose (including exploration for and removal of gas, oil and other minerals and natural resources) and for any period, including a term commencing at a future time.

The power to lend the estate's money on adequate security.

The power to exchange property of the estate.

The power to sell estate property on credit if any unpaid portion of the selling price is adequately secured.

The power to commence and maintain an action for partition on behalf of the estate.

The power to exercise stock rights and stock options on behalf of the estate.

The power to participate in and become subject to and to consent to the provisions of a voting trust and of a reorganization, consolidation, merger, dissolution, liquidation, or other modification or adjustment affecting estate property.

The power to pay, collect, compromise, arbitrate or otherwise adjust claims, debts or demands upon the estate.

The power to employ attorneys, accountants, investment counsel, agents, depositories and employees and to pay the expense from the estate's assets.

Section 7.03 Appointment of a Special or Ancillary Agent

If for any reason any Agent is unwilling or unable to act with respect to any property or any provision of this power of attorney, my Agent shall appoint, in writing, a corporate fiduciary or an individual to serve as Special Agent as to the property or with respect to the provision. The Special Agent appointed must be an individual that is not related or subordinate to my Agent within the meaning of Section 672(c) of the Internal Revenue Code. My Agent may revoke any such appointment at will.

If my Agent determines that it is necessary or desirable to appoint an Ancillary Agent to act under this power of attorney in a jurisdiction other than this one, my Agent may do so. In making an appointment, my Agent may sign, execute, deliver, acknowledge and make declarations in any documents that may be necessary, desirable, convenient or proper in order to carry out the appointment.

A Special or Ancillary Agent may exercise all powers granted by this power of attorney unless expressly limited elsewhere in this power of attorney or by the instrument appointing the Special or Ancillary Agent. A Special or Ancillary Agent may resign at any time by delivering written notice of resignation to my Agent. Notice of resignation shall be effective in accordance with the terms of the notice.

Section 7.04 Agent Authorized to Employ My Attorney

My Agent may employ the attorney who prepared this power of attorney or any other attorney employed by me in connection with my estate plan or business matters and I specifically:

Waive any and all conflicts of interest that might arise through such employment;

Authorize the attorney to make full disclosure of my estate plan and business to the Agent; and

Authorize the attorney to accept the engagement.

Section 7.05 Fiduciary Eligibility of Agent

My Agent shall be eligible to serve in any other fiduciary capacity for me or for my benefit, including trustee, guardian, conservator, committee, executor, administrator, or personal representative.

Section 7.06 Reimbursement for Expenses and Compensation

My Agent may pay himself or herself, from my assets, fair and reasonable compensation authorized by law for services performed under this power of attorney and, in addition, my Agent may reimburse himself or herself for all reasonable expenses incurred for carrying out any provision of this power of attorney. "Fair and reasonable" compensation shall be equivalent to such compensation charged by banks or trust companies which provide similar services and are located in the county in which I reside.

Section 7.07 Liability of Agent

I release and discharge any Agent acting in good faith from any and all civil liability and from all claims or demands of all kinds whatsoever by me, my estate, and my heirs, successors and assigns arising out of the acts or omissions of my Agent, except for willful misconduct or gross negligence. This protection extends to the estate, heirs, successors and assigns of my Agent.

Section 7.08 Ratification and Indemnity

I agree that any third party who receives a copy of this document may act under it. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney. Further, I ratify and confirm all that my Agent will do or cause to be done by reason of the authority vested by this power of attorney and by law. No person, firm, agency or entity will be obligated to see to the application of any payment delivered to my Agent for or on my behalf.

Section 7.09 Amendment and Revocation

I may amend or revoke this power of attorney at any time. Amendments to this document must be made in writing by me personally (not by my Agent) and must be attached to the original of this document and recorded in the same county or counties as the original if the original is recorded.

Section 7.10 Resignation

My Agent may resign by the execution of a written resignation delivered to me or, if I am mentally disabled, by delivery to any person with whom I am residing or who has my care and custody.

Section 7.11 Signature of Agent

My Agent shall use the following form when signing documents on my behalf pursuant to this power:

NELVA E. BRUNSTING by [enter Agent's name], her Agent.

Section 7.12 Interpretation

This power of attorney is a general power of attorney and should be interpreted as granting my Agent all general powers permitted under the laws of the State of Texas, including, but not limited to, the

powers set forth in Article XII ("Durable Power of Attorney Act") of the Texas Probate Code, as amended. The description of specific powers is not intended to, nor does it, limit or restrict any of the general powers granted to my Agent.

Section 7.13 Use of "Agent" Nomenclature

The word "Agent" and any modifying or equivalent word or substituted pronoun includes the singular and the plural and the masculine, feminine and neuter genders.

Section 7.14 Third Party Reliance

No person who relies in good faith on the authority of my Agent under this power of attorney will incur any liability to me, my estate, or my heirs, successors and assigns.

Any party dealing with my Agent may conclusively rely upon an affidavit or certificate of my Agent that:

The authority granted to my Agent under this power of attorney is in effect;

My Agent's actions are within the scope of my Agent's authority under this power of attorney;

I was competent when I executed this power of attorney;

I have not revoked this power of attorney; and

My Agent is currently serving as my Agent.

Any person, entity or institution dealing with my Agent will be entitled to rely upon my Agent's sworn statement that this general power of attorney has not been revoked and that Agent is authorized and empowered to serve. I indemnify and hold harmless any person, firm, institution or agency from any loss or claim whatsoever when reliant upon such statement, and to this end, I bind myself, my estate, my heirs, successors and assigns. I vest in my Agent the authority to record this power of attorney at any reasonable time, and to the extent I may lawfully provide, my Agent may do so at any time before the Agent is to act with respect to any third party who may be asked to rely upon this document.

I grant my Agent full power and authority to indemnify and hold harmless any third party who accepts and acts under this Durable General Power of Attorney. No person who acts in reliance on the representations of my Agent or the authority granted under this Durable General Power of Attorney shall incur any liability to me, my heirs, executors, administrators, or assigns as a result of permitting my Agent to exercise any power granted under this Durable General Power of Attorney.

Section 7.15 Effect of Duplicate Originals or Copies

If this power of attorney has been executed in multiple counterparts, each counterpart original will have equal force and effect. My Agent may make photocopies (photocopies shall include: facsimiles and digital or other reproductions, hereafter referred to collectively as "photocopy") of this power of attorney and each photocopy will have the same force and effect as the original.

Section 7.16 Governing Law

This power of attorney's validity and interpretation will be governed by the laws of the State of Texas. To the extent permitted by law, this power of attorney is applicable to all my property, whether real, personal, intangible or mixed, wherever located, and whether or not the property is owned by me now or in the future.

Section 7.17 Severability

If any provision of this power of attorney is declared invalid for any reason, the remaining provisions will remain in full force and effect.

**Article Eight
Declarations of the Principal**

I understand that this power of attorney is an important legal document. Before executing this power of attorney, my attorney explained to me the following:

The power of attorney provides my Agent with broad powers to dispose of, sell, convey and encumber my real and personal property.

The powers will exist for an indefinite period of time unless I revoke the power of attorney or I have limited their duration by specific provisions in the power of attorney.

This Durable Power of Attorney will continue to exist notwithstanding my subsequent disability or incapacity.

I have the power to revoke or terminate this Durable Power of Attorney at any time.

Dated: _____, 2010

NELVA E. BRUNSTING, Principal

ACKNOWLEDGMENT FOR PRINCIPAL

STATE OF TEXAS
COUNTY OF HARRIS

Before me, a Notary Public, on this day personally appeared NELVA E. BRUNSTING, as Principal, known to me (or proved to me through satisfactory evidence) to be the person whose name is subscribed to the foregoing instrument and who acknowledged to me that she executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this day, _____, 2010.

Notary Public, State of Texas

THE ATTORNEY-IN-FACT OR AGENT, BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT AND IS RESPONSIBLE FOR MAINTAINING APPROPRIATE RECORDS OF EACH TRANSACTION, INCLUDING AN ACCOUNTING OF RECEIPTS AND DISBURSEMENTS. AS A FIDUCIARY, AN ATTORNEY-IN-FACT OR AGENT IS HELD TO THE HIGHEST STANDARDS OF GOOD FAITH, FAIR DEALING, AND LOYALTY WITH RESPECT TO THE PRINCIPAL. FAILURE TO ADHERE TO THESE STANDARDS MAY SUBJECT AN ATTORNEY-IN-FACT OR AGENT TO LEGAL ACTION. DEPENDING ON THE DEGREE OF MISCONDUCT, AN ATTORNEY-IN-FACT OR AGENT MAY BE LIABLE FOR DAMAGES OR MAY BE CHARGED WITH A CRIMINAL OFFENSE.

DUTY TO INFORM AND ACCOUNT
Texas Probate Code Section 489B

The attorney-in-fact or agent is a fiduciary and has a duty to inform and to account for actions taken pursuant to the power of attorney.

The attorney-in-fact or agent shall timely inform the principal of all actions taken pursuant to the power of attorney. Failure of the attorney-in-fact or agent to inform timely, as to third parties, shall not invalidate any action of the attorney-in-fact or agent.

The attorney-in-fact or agent shall maintain records of each action taken or decision made by the attorney-in-fact or agent.

The principal may demand an accounting by the attorney-in-fact or agent. Unless otherwise directed by the principal, the accounting shall include:

1. the property belonging to the principal that has come to the attorney-in-fact's or agent's knowledge or into the attorney-in-fact's or agent's possession;
2. all actions taken or decisions made by the attorney-in-fact or agent;
3. a complete account of receipts, disbursements, and other actions of the attorney-in-fact or agent, including their source and nature, with receipts of principal and income shown separately;
4. a listing of all property over which the attorney-in-fact or agent has exercised control, with an adequate description of each asset and its current value if known to the attorney-in-fact or agent;
5. the cash balance on hand and the name and location of the depository where the balance is kept;
6. all known liabilities; and,
7. such other information and facts known to the attorney-in-fact or agent as may be necessary to a full and definite understanding of the exact condition of the property belonging to the principal.

Unless directed otherwise by the principal, the attorney-in-fact or agent shall also provide to the principal all documentation regarding the principal's property.

The attorney-in-fact or agent shall maintain all records until delivered to the principal, released by the principal, or discharged by a court.

If the attorney-in-fact or agent fails or refuses to inform the principal, provide documentation, or deliver the accounting within 60 days (or such longer or shorter time that the principal demands or a court may order), the principal may file suite to compel the attorney-in-fact or agent to deliver the accounting, to deliver the assets, or to terminate the power of attorney.

This section shall not limit the right of the principal to terminate the power of attorney or make additional requirements of, or to give additional instructions to the attorney-in-fact or agent.

Wherever in this chapter a principal is given an authority to act, that shall include not only the principal but also any person designated by the principal, a guardian of the estate of the principal, or other personal representative of the principal.

The rights set out in this section and chapter are cumulative of any other rights or remedies the principal may have at common law or other applicable statutes and not in derogation of those rights.

**QUALIFIED BENEFICIARY DESIGNATION
AND EXERCISE OF TESTAMENTARY POWERS OF APPOINTMENT
UNDER LIVING TRUST AGREEMENT**

I. I, NELVA E. BRUNSTING, the surviving Founder of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended, am the holder of a general power of appointment over the principal and accrued and undistributed net income of a trust named the NELVA E. BRUNSTING SURVIVOR'S TRUST (pursuant to Article VIII, Section B of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996), (hereinafter called "The Survivor's Trust") the full legal name of which is as follows:

NELVA E. BRUNSTING, Trustee, or the successor Trustees, of the NELVA E. BRUNSTING SURVIVOR'S TRUST dated April 1, 2009, as established under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

The NELVA E. BRUNSTING SURVIVOR'S TRUST was created pursuant to Article VII of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended. Article VIII of the BRUNSTING FAMILY LIVING TRUST contains the administrative provisions of the NELVA E. BRUNSTING SURVIVOR'S TRUST. All property in the NELVA E. BRUNSTING SURVIVOR'S TRUST is allocated to "Share One" under Article VIII of the said BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended. Article III further allows a qualified beneficiary designation as to the ownership interest of NELVA E. BRUNSTING in the trust property.

In the exercise of the general power of appointment, which is to take effect at my death, and as a qualified beneficiary designation as to the ownership interest of NELVA E. BRUNSTING in the subject trust property, I direct my Trustee, at the time of my death, to distribute the balance of the principal and undistributed income from the NELVA E. BRUNSTING SURVIVOR'S TRUST not previously distributed, as follows:

Section A. Advance on Trust Share for a Beneficiary

Upon the death of NELVA E. BRUNSTING, any funds advanced during her lifetime after June 1, 2010, and further evidenced in a writing signed by her stating that such funds are an advance on the said beneficiary's inheritance, shall be treated by her successor Trustee as an advance on the trust share of the beneficiary receiving such advance or their descendants, as the case may be, and shall be deducted from said beneficiary's trust share. Such sums withheld shall be distributed equally among all remaining beneficiaries, as set forth in Article X, Section A of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

II. I, NELVA E. BRUNSTING, the surviving Founder of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended, am the holder of a limited power of appointment over the principal and accrued and undistributed net income of a trust named the ELMER H. BRUNSTING DECEDENT'S TRUST (pursuant to Article IX, Section D of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996), (hereinafter called "The Decedent's Trust") the full legal name of which is as follows:

NELVA E. BRUNSTING, Trustee, or the successor Trustees, of the ELMER H. BRUNSTING DECEDENT'S TRUST dated April 1, 2009, as established under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.


The ELMER H. BRUNSTING DECEDENT'S TRUST was created pursuant to Article VII of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended. Article IX of the BRUNSTING FAMILY LIVING TRUST contains the administrative provisions of the ELMER H. BRUNSTING DECEDENT'S TRUST.

In the exercise of this limited power of appointment, which is to take effect at my death, my Trustee shall distribute the balance of the principal and net, undistributed income from the ELMER H. BRUNSTING DECEDENT'S TRUST not previously distributed, as set forth in Roman Numeral I, Section A of this document.

This instrument shall serve as an exercise of the Testamentary Powers of Appointment provided for in Article VIII and Article IX of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended; and, this instrument will serve as and will constitute the "valid living trust agreement" referred to in Article VIII. This instrument shall also serve as a qualified beneficiary designation pursuant to Article III of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended, as it pertains to the interests of NELVA E. BRUNSTING.

All other provisions contained in the Brunsting Family Living Trust dated October 10, 1996, as amended, are hereby ratified and confirmed and shall remain in full force and effect except to the extent that any such provisions are amended hereby.

EXECUTED and effective on June 15, 2010.



NELVA E. BRUNSTING,
Founder and Beneficiary

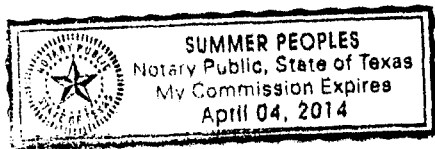
ACCEPTED and effective on June 15, 2010.




NELVA E. BRUNSTING,
Trustee

STATE OF TEXAS
COUNTY OF HARRIS

This instrument was acknowledged before me on June 15, 2010, by NELVA E. BRUNSTING, in the capacities stated therein.





Notary Public, State of Texas

COPY

**INFORMATION CONCERNING
THE MEDICAL POWER OF ATTORNEY**

THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

Except to the extent you state otherwise, this document gives the person you name as your agent the authority to make any and all health care decisions for you in accordance with your wishes, including your religious and moral beliefs, when you are no longer capable of making them yourself. Because "health care" means any treatment, service, or procedure to maintain, diagnose, or treat your physical or mental condition, your agent has the power to make a broad range of health care decisions for you. Your agent may consent, refuse to consent, or withdraw consent to medical treatment and may make decisions about withdrawing or withholding life-sustaining treatment. Your agent may not consent to voluntary inpatient mental health services, convulsive treatment, psychosurgery, or abortion. A physician must comply with your agent's instructions or allow you to be transferred to another physician.

Your agent's authority begins when your doctor certifies that you lack the competence to make health care decisions.

Your agent is obligated to follow your instructions when making decisions on your behalf. Unless you state otherwise, your agent has the same authority to make decisions about your health care as you would have had.

It is important that you discuss this document with your physician or other health care provider before you sign it to make sure that you understand the nature and range of decisions that may be made on your behalf. If you do not have a physician, you should talk with someone else who is knowledgeable about these issues and can answer your questions. You do not need a lawyer's assistance to complete this document, but if there is anything in this document that you do not understand, you should ask a lawyer to explain it to you.

The person you appoint as agent should be someone you know and trust. The person must be 18 years of age or older or a person under 18 years of age who has had the disabilities of minority removed. If you appoint your health or residential care provider (e.g., your physician or an employee of a home health agency, hospital, nursing home, or residential care home, other than a relative), that person has to choose between acting as your agent or as your health or residential care provider; the law does not permit a person to do both at the same time.

You should inform the person you appoint that you want the person to be your health care agent. ~~You should discuss this document with your agent and your physician and give each a signed copy.~~ You should indicate on the document itself the people and institutions who have signed copies. Your agent is not liable for health care decisions made in good faith on your behalf.

Even after you have signed this document, you have the right to make health care decisions for yourself as long as you are able to do so and treatment cannot be given to you

or stopped over your objection. You have the right to revoke the authority granted to your agent by informing your agent or your health or residential care provider orally or in writing or by your execution of a subsequent medical power of attorney. Unless you state otherwise, your appointment of a spouse dissolves on divorce.

This document may not be changed or modified. If you want to make changes in the document, you must make an entirely new one.

You may wish to designate an alternate agent in the event that your agent is unwilling, unable, or ineligible to act as your agent. Any alternate agent you designate has the same authority to make health care decisions for you.

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS SIGNED IN THE PRESENCE OF TWO COMPETENT ADULT WITNESSES. THE FOLLOWING PERSONS MAY NOT ACT AS ONE OF THE WITNESSES:

- (1) the person you have designated as your agent;
- (2) a person related to you by blood or marriage;
- (3) a person entitled to any part of your estate after your death under a will or codicil executed by you or by operation of law;
- (4) your attending physician;
- (5) an employee of your attending physician;
- (6) an employee of a health care facility in which you are a patient if the employee is providing direct patient care to you or is an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility; or
- (7) a person who, at the time this power of attorney is executed, has a claim against any part of your estate after your death.

Signed on 8-25, 2010, to confirm that I received this disclosure statement prior to execution of my Medical Power of Attorney and that I have read and understand it.


NELVA E. BRUNSTING

MEDICAL POWER OF ATTORNEY

DESIGNATION OF HEALTH CARE AGENT

I, **NELVA ERLEEN BRUNSTING**, also known as **NELVA E. BRUNSTING**, appoint **CAROL A. BRUNSTING**, who resides at 5822 Jason, Houston, Texas 77074, and whose phone number is (713) 560-6381 (cell), as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this document. This medical power of attorney takes effect if I become unable to make my own health care decisions and this fact is certified in writing by my physician.

DESIGNATION OF ALTERNATE AGENT

(You are not required to designate an alternate agent but you may do so. An alternate agent may make the same health care decisions as the designated agent if the designated agent is unable or unwilling to act as your agent. If the agent designated is your spouse, the designation is automatically revoked by law if your marriage is dissolved.)

If the person designated as my agent is unable or unwilling to make health care decisions for me, I designate the following persons to serve as my agent, in the following order, to make health care decisions for me as authorized by this document:

A. First Alternate Agent

ANITA KAY BRUNSTING
203 Bloomingdale Circle
Victoria, Texas 77904
(361) 576-5732 (home) or (361) 550-7132 (cell)

B. Second Alternate Agent

AMY RUTH TSCHIRHART
2582 Country Ledge
New Braunsfels, Texas 78132
(830) 625-8352 (home) or (830) 823-2388 (cell)

The original of this document is kept with my other estate planning documents. A signed copy of this document is on file with my lawyer, **ALBERT E. VACEK, JR.**, 14800 St. Mary's Lane, Suite 230, Houston, Texas 77079, telephone (281) 531-5800 or 1-800-229-3002.

DURATION

I understand that this power of attorney exists indefinitely from the date I execute this document unless I establish a shorter time or revoke the power of attorney. If I am unable to make health care decisions for myself when this power of attorney expires, the authority

I have granted my agent continues to exist until the time I become able to make health care decisions for myself.

PRIOR DESIGNATIONS REVOKED

I revoke any prior medical power of attorney.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

In addition to the other powers granted by this document, I grant to my agent the power and authority to serve as my personal representative for all purposes of the Health Insurance Portability and Accountability Act of 1996 and its regulations ("HIPAA") immediately upon my signing this document.

Pursuant to HIPAA, I specifically authorize my agent as my HIPAA personal representative to request, receive and review any information regarding my physical or mental health, including, without limitation all HIPAA protected health information, medical and hospital records; to execute on my behalf any authorizations, releases or other documents that may be required in order to obtain this information; and to consent to the disclosure of this information. I further authorize my agent to execute on my behalf any documents necessary or desirable to implement the health care decisions that my agent is authorized to make under this document.

By signing this Medical Power of Attorney, I specifically empower and authorize my physician, hospital or health care provider to release any and all medical records to my agent or my agent's designee. Further, I waive any liability to any physician, hospital or any health care provider who releases any and all of my medical records to my agent and acknowledge that the health information that would otherwise be protected under HIPAA will no longer be protected or private.

ACKNOWLEDGMENT OF DISCLOSURE STATEMENT

I have been provided with a disclosure statement explaining the effect of this document. I have read and understand that information contained in the disclosure statement.

I sign my name to this Medical Power of Attorney at Houston, Texas on
8-25, 2010.



NELVA E. BRUNSTING

STATEMENT OF FIRST WITNESS

I am not the person appointed as agent by this document. I am not related to the principal by blood or marriage. I would not be entitled to any portion of the principal's estate on the principal's death. I am not the attending physician of the principal or an employee of the attending physician. I have no claim against any portion of the principal's estate on the principal's death. Furthermore, if I am an employee of a health care facility in which the principal is a patient, I am not involved in providing direct patient care to the principal and am not an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility.

Merlin Case
Signature of First Witness

Date: 8/25th, 2010

Merlin Case
14800 St. Mary's Ln., Suite 230
Houston, TX 77079

Address of First Witness

Candace Kunz-Freed Date: 08-25, 2010
Signature of Second Witness

Candace Kunz-Freed
14800 St. Mary's Ln., Suite 230
Houston, TX 77079

Address of Second Witness

COPY

**INFORMATION CONCERNING
THE MEDICAL POWER OF ATTORNEY**

THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

Except to the extent you state otherwise, this document gives the person you name as your agent the authority to make any and all health care decisions for you in accordance with your wishes, including your religious and moral beliefs, when you are no longer capable of making them yourself. Because "health care" means any treatment, service, or procedure to maintain, diagnose, or treat your physical or mental condition, your agent has the power to make a broad range of health care decisions for you. Your agent may consent, refuse to consent, or withdraw consent to medical treatment and may make decisions about withdrawing or withholding life-sustaining treatment. Your agent may not consent to voluntary inpatient mental health services, convulsive treatment, psychosurgery, or abortion. A physician must comply with your agent's instructions or allow you to be transferred to another physician.

Your agent's authority begins when your doctor certifies that you lack the competence to make health care decisions.

Your agent is obligated to follow your instructions when making decisions on your behalf. Unless you state otherwise, your agent has the same authority to make decisions about your health care as you would have had.

It is important that you discuss this document with your physician or other health care provider before you sign it to make sure that you understand the nature and range of decisions that may be made on your behalf. If you do not have a physician, you should talk with someone else who is knowledgeable about these issues and can answer your questions. You do not need a lawyer's assistance to complete this document, but if there is anything in this document that you do not understand, you should ask a lawyer to explain it to you.

The person you appoint as agent should be someone you know and trust. The person must be 18 years of age or older or a person under 18 years of age who has had the disabilities of minority removed. If you appoint your health or residential care provider (e.g., your physician or an employee of a home health agency, hospital, nursing home, or residential care home, other than a relative), that person has to choose between acting as your agent or as your health or residential care provider; the law does not permit a person to do both at the same time.

You should inform the person you appoint that you want the person to be your health care agent. You should discuss this document with your agent and your physician and give each a signed copy. You should indicate on the document itself the people and institutions who have signed copies. Your agent is not liable for health care decisions made in good faith on your behalf.

Even after you have signed this document, you have the right to make health care decisions for yourself as long as you are able to do so and treatment cannot be given to you

or stopped over your objection. You have the right to revoke the authority granted to your agent by informing your agent or your health or residential care provider orally or in writing or by your execution of a subsequent medical power of attorney. Unless you state otherwise, your appointment of a spouse dissolves on divorce.

This document may not be changed or modified. If you want to make changes in the document, you must make an entirely new one.

You may wish to designate an alternate agent in the event that your agent is unwilling, unable, or ineligible to act as your agent. Any alternate agent you designate has the same authority to make health care decisions for you.

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS SIGNED IN THE PRESENCE OF TWO COMPETENT ADULT WITNESSES. THE FOLLOWING PERSONS MAY NOT ACT AS ONE OF THE WITNESSES:

- (1) the person you have designated as your agent;
- (2) a person related to you by blood or marriage;
- (3) a person entitled to any part of your estate after your death under a will or codicil executed by you or by operation of law;
- (4) your attending physician;
- (5) an employee of your attending physician;
- (6) an employee of a health care facility in which you are a patient if the employee is providing direct patient care to you or is an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility; or
- (7) a person who, at the time this power of attorney is executed, has a claim against any part of your estate after your death.

Signed on 8-25, 2010, to confirm that I received this disclosure statement prior to execution of my Medical Power of Attorney and that I have read and understand it.


NELVA E. BRUNSTING

MEDICAL POWER OF ATTORNEY

DESIGNATION OF HEALTH CARE AGENT

I, **NELVA ERLEEN BRUNSTING**, also known as **NELVA E. BRUNSTING**, appoint **CAROL A. BRUNSTING**, who resides at 5822 Jason, Houston, Texas 77074, and whose phone number is (713) 560-6381 (cell), as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this document. This medical power of attorney takes effect if I become unable to make my own health care decisions and this fact is certified in writing by my physician.

DESIGNATION OF ALTERNATE AGENT

(You are not required to designate an alternate agent but you may do so. An alternate agent may make the same health care decisions as the designated agent if the designated agent is unable or unwilling to act as your agent. If the agent designated is your spouse, the designation is automatically revoked by law if your marriage is dissolved.)

If the person designated as my agent is unable or unwilling to make health care decisions for me, I designate the following persons to serve as my agent, in the following order, to make health care decisions for me as authorized by this document:

A. First Alternate Agent

ANITA KAY BRUNSTING
203 Bloomingdale Circle
Victoria, Texas 77904
(361) 576-5732 (home) or (361) 550-7132 (cell)

B. Second Alternate Agent

AMY RUTH TSCHIRHART
2582 Country Ledge
New Braunsfels, Texas 78132
(830) 625-8352 (home) or (830) 823-2388 (cell)

The original of this document is kept with my other estate planning documents. A signed copy of this document is on file with my lawyer, **ALBERT E. VACEK, JR.**, 14800 St. Mary's Lane, Suite 230, Houston, Texas 77079, telephone (281) 531-5800 or 1-800-229-3002.

DURATION

I understand that this power of attorney exists indefinitely from the date I execute this document unless I establish a shorter time or revoke the power of attorney. If I am unable to make health care decisions for myself when this power of attorney expires, the authority

I have granted my agent continues to exist until the time I become able to make health care decisions for myself.

PRIOR DESIGNATIONS REVOKED

I revoke any prior medical power of attorney.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

In addition to the other powers granted by this document, I grant to my agent the power and authority to serve as my personal representative for all purposes of the Health Insurance Portability and Accountability Act of 1996 and its regulations ("HIPAA") immediately upon my signing this document.

Pursuant to HIPAA, I specifically authorize my agent as my HIPAA personal representative to request, receive and review any information regarding my physical or mental health, including, without limitation all HIPAA protected health information, medical and hospital records; to execute on my behalf any authorizations, releases or other documents that may be required in order to obtain this information; and to consent to the disclosure of this information. I further authorize my agent to execute on my behalf any documents necessary or desirable to implement the health care decisions that my agent is authorized to make under this document.

By signing this Medical Power of Attorney, I specifically empower and authorize my physician, hospital or health care provider to release any and all medical records to my agent or my agent's designee. Further, I waive any liability to any physician, hospital or any health care provider who releases any and all of my medical records to my agent and acknowledge that the health information that would otherwise be protected under HIPAA will no longer be protected or private.

ACKNOWLEDGMENT OF DISCLOSURE STATEMENT

I have been provided with a disclosure statement explaining the effect of this document. I have read and understand that information contained in the disclosure statement.

I sign my name to this Medical Power of Attorney at Houston, Texas on 8-25, 2010.


NELVA E. BRUNSTING

STATEMENT OF FIRST WITNESS

I am not the person appointed as agent by this document. I am not related to the principal by blood or marriage. I would not be entitled to any portion of the principal's estate on the principal's death. I am not the attending physician of the principal or an employee of the attending physician. I have no claim against any portion of the principal's estate on the principal's death. Furthermore, if I am an employee of a health care facility in which the principal is a patient, I am not involved in providing direct patient care to the principal and am not an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility.

Merlin Case
Signature of First Witness

Date: 8/25th, 2010

Merlin Case
14800 St. Mary's Ln., Suite 230
Houston, TX 77079

Address of First Witness

Candace Kunz-Freed Date: 08-25, 2010
Signature of Second Witness

Candace Kunz-Freed
14800 St. Mary's Ln., Suite 230
Houston, TX 77079

Address of Second Witness

**QUALIFIED BENEFICIARY DESIGNATION
AND EXERCISE OF TESTAMENTARY POWERS OF APPOINTMENT
UNDER LIVING TRUST AGREEMENT**

Section 1. Exercise of General Power of Appointment and Qualified Beneficiary Designation

I, NELVA E. BRUNSTING, the surviving Founder (herein also referred to as "Trustor" and "Founder") of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended, am the holder of a general power of appointment over the principal and accrued and undistributed net income of a trust named the NELVA E. BRUNSTING SURVIVOR'S TRUST (pursuant to Article VIII, Section B.4 of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996), (hereinafter called "The Survivor's Trust") the full legal name of which is as follows:

NELVA E. BRUNSTING, Trustee, or the successor Trustees, of the NELVA E. BRUNSTING SURVIVOR'S TRUST dated April 1, 2009, as established under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

The NELVA E. BRUNSTING SURVIVOR'S TRUST was created pursuant to Article VII of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended. Article VIII of the BRUNSTING FAMILY LIVING TRUST contains the administrative provisions of the NELVA E. BRUNSTING SURVIVOR'S TRUST. All property in the NELVA E. BRUNSTING SURVIVOR'S TRUST is allocated to "Share One" under Article VIII of the said BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended. Article III further allows a qualified beneficiary designation as to the ownership interest of NELVA E. BRUNSTING in the trust property.

In the exercise of the general power of appointment, which is to take effect at my death, and as a qualified beneficiary designation as to the ownership interest of NELVA E. BRUNSTING in the subject trust property, I direct my Trustee, at the time of my death, to administer and distribute the balance of the principal and undistributed income from the NELVA E. BRUNSTING SURVIVOR'S TRUST as set forth in Section 3 of this document.

The BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, is incorporated herein by reference for all purposes (herein sometimes referred to as "the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996," and the "Trust Agreement").

Section 2. Exercise of Limited Power of Appointment and Qualified Beneficiary Designation

I, NELVA E. BRUNSTING, the surviving Founder of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended, am the holder of a limited power of appointment over the principal and accrued and undistributed net income of a trust named

the ELMER H. BRUNSTING DECEDENT'S TRUST (pursuant to Article IX, Section D of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996), the full legal name of which is as follows:

NELVA E. BRUNSTING, Trustee, or the successor Trustees, of the ELMER H. BRUNSTING DECEDENT'S TRUST dated April 1, 2009, as established under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

The ELMER H. BRUNSTING DECEDENT'S TRUST was created pursuant to Article VII of the BRUNSTING FAMILY LIVING TRUST, dated October 10, 1996, as amended. Article IX of the BRUNSTING FAMILY LIVING TRUST contains the administrative provisions of the ELMER H. BRUNSTING DECEDENT'S TRUST.

In the exercise of this limited power of appointment, which is to take effect at my death, I direct my Trustee to administer and distribute the balance of the principal and undistributed income from the ELMER H. BRUNSTING DECEDENT'S TRUST, except for any portion which has been disclaimed by me, as set forth in Section 3 of this document.

Section 3. Provisions for Distribution and Administration of the Survivor's Trust and the Decedent's Trust

DISTRIBUTION OF TRUST ASSETS

A. Beneficiaries

The Trustee shall divide the remainder of the Trust Estate into separate shares hereinafter individually referred to as Personal Asset Trusts, as follows:

<u>Beneficiaries</u>	<u>Share</u>
CANDACE LOUISE CURTIS	1/5
CAROL ANN BRUNSTING	1/5
AMY RUTH TSCHIRHART	1/5
CARL HENRY BRUNSTING	1/5
ANITA KAY BRUNSTING	1/5

B. Division into Separate Shares

My Trustee shall distribute the share for each of my beneficiaries in a separate Personal Asset Trust for the benefit of each beneficiary as provided in this Section 3. If a named beneficiary fails to survive me, then that share shall be distributed as set forth below as if it had been an original part thereof. The decisions of the Trustee as to the assets to constitute each such share shall be conclusive, subject to the requirement that said shares shall be of the respective values specified.

1. Share for CANDACE LOUISE CURTIS

My Trustee shall distribute one-fifth (1/5) of the remainder of the trust property to a Personal Asset Trust for the benefit of CANDACE LOUISE CURTIS, if surviving, to be held, administered and distributed as set forth in this Section 3 entitled "Personal Asset Trust Provisions." If CANDACE LOUISE CURTIS fails to survive, then this share shall be held, administered and distributed to said individual's descendants, per stirpes, as set forth in Section H of the Personal Asset Trust provisions entitled "Final Disposition of Trust." If there are no then living descendants of CANDACE LOUISE CURTIS, such share shall be distributed to my then living descendants, per stirpes. In the event I have no then living descendants, such share shall be distributed according to Section G of Article X of the Brunsting Family Living Trust dated October 10, 1996, as amended.

2. Share for CAROL ANN BRUNSTING

My Trustee shall distribute one-fifth (1/5) of the remainder of the trust property to a Personal Asset Trust for the benefit of CAROL ANN BRUNSTING, if surviving, to be held, administered and distributed as set forth in this Section 3 entitled "Personal Asset Trust Provisions." If CAROL ANN BRUNSTING fails to survive, then this share shall be held, administered and distributed to said individual's descendants, per stirpes, as set forth in Section H of the Personal Asset Trust provisions entitled "Final Disposition of Trust." If there are no then living descendants of CAROL ANN BRUNSTING, such share shall be distributed to my then living descendants, per stirpes. In the event I have no then living descendants, such share shall be distributed according to Section G of Article X of the Brunsting Family Living Trust dated October 10, 1996, as amended.

3. Share for AMY RUTH TSCHIRHART

My Trustee shall distribute one-fifth (1/5) of the remainder of the trust property to a Personal Asset Trust for the benefit of AMY RUTH TSCHIRHART, if surviving, to be held, administered and distributed as set forth in this Section 3 entitled "Personal Asset Trust Provisions." If AMY

RUTH TSCHIRHART fails to survive, then this share shall be held, administered and distributed to said individual's descendants, per stirpes, as set forth in Section H of the Personal Asset Trust provisions entitled "Final Disposition of Trust." If there are no then living descendants of AMY RUTH TSCHIRHART, such share shall be distributed to my then living descendants, per stirpes. In the event I have no then living descendants, such share shall be distributed according to Section G of Article X of the Brunsting Family Living Trust dated October 10, 1996, as amended.

4. Share for CARL HENRY BRUNSTING

My Trustee shall distribute one-fifth (1/5) of the remainder of the trust property to a Personal Asset Trust for the benefit of CARL HENRY BRUNSTING, if surviving, to be held, administered and distributed as set forth in this Section 3 entitled "Personal Asset Trust Provisions." If CARL HENRY BRUNSTING fails to survive, then this share shall be held, administered and distributed to said individual's descendants, per stirpes, as set forth in Section H of the Personal Asset Trust provisions entitled "Final Disposition of Trust." If there are no then living descendants of CARL HENRY BRUNSTING, such share shall be distributed to my then living descendants, per stirpes. In the event I have no then living descendants, such share shall be distributed according to Section G of Article X of the Brunsting Family Living Trust dated October 10, 1996, as amended.

5. Share for ANITA KAY BRUNSTING

My Trustee shall distribute one-fifth (1/5) of the remainder of the trust property to a Personal Asset Trust for the benefit of ANITA KAY BRUNSTING, if surviving, to be held, administered and distributed as set forth in this Section 3 entitled "Personal Asset Trust Provisions." If ANITA KAY BRUNSTING fails to survive, then this share shall be held, administered and distributed to said individual's descendants, per stirpes, as set forth in Section H of the Personal Asset Trust provisions entitled "Final Disposition of Trust." If there are no then living descendants of ANITA KAY BRUNSTING, such share shall be distributed to my then living descendants, per stirpes. In the event I have no then living descendants, such share shall be distributed according to Section G of Article X of the Brunsting Family Living Trust dated October 10, 1996, as amended.

PERSONAL ASSET TRUST PROVISIONS

A. Establishment of the Personal Asset Trust:

A Personal Asset Trust shall be created for a beneficiary of the Trust when, under any other provision of this Trust Agreement, a distribution of the Trust Estate specified

to be made to said beneficiary's Personal Asset Trust first occurs. The Personal Asset Trust shall be held, administered and distributed as set forth under this Agreement. After a beneficiary's Personal Asset Trust is established, any further distribution specified to be made to said beneficiary's Personal Asset Trust under any other provisions of this Agreement shall be added to and become a part of said existing Personal Asset Trust, to be held, administered and distributed as if it had been an original part thereof. The Personal Asset Trust may be referred to by either using the name of the beneficiary for whom such trust is created or such other name as is designated by the Trustee. Notwithstanding the foregoing, if the Trustee exercises his or her right to create a separate and distinct Personal Asset Trust for said beneficiary (pursuant to the paragraph of this Agreement entitled "Trustee's Discretion to Hold, Manage and Distribute Separate Trusts in Different Manners"), any further distributions specified to be made to said beneficiary's Personal Asset Trust may, in the Trustee's sole and absolute discretion, instead be partly or entirely made to such newly created Personal Asset Trust.

B. Trustor's Intent in Establishing Personal Asset Trusts: The Trustor's intended purposes in creating a Personal Asset Trust for a beneficiary are as follows:

1. To protect and conserve trust principal;
2. To eliminate and reduce income taxes, generation skipping transfer taxes and estate and death taxes on trust assets and on assets in the estate of the beneficiary;
3. To benefit and provide for the financial needs of the beneficiary and his or her descendants;
4. To protect trust assets and income from claims of and interference from third parties;
5. To invest in non-consumables, such as a principal residence, in order to provide the beneficiary with the liberal use and enjoyment of such property, without charge, rather than make a distribution of trust assets to the beneficiary or purchase them in the name of the beneficiary. It is the Trustor's desire in this regard that the beneficiary, to the extent possible, use his or her own resources to pay for living expenses and consumables in order to reduce the size of such beneficiary's estate subject to estate taxes and claims of third parties;
6. To invest in reasonable business ventures, including business start-ups, where the beneficiary is a principal or otherwise involved in such ventures or start-ups;

7. To give the beneficiary the ability to direct the distribution of wealth (during life or at death) to other individuals or charitable organizations (subject to any limitation provided elsewhere herein);
 8. To allow for the prudent management of property if the beneficiary is incapacitated or otherwise unable to handle his or her own financial affairs because of alcohol or drug abuse or other reasons;
 9. To protect the beneficiary from the unreasonable or negative influence of others, divorce claims, paternity or maternity suits or claims, and other lawsuits; and
 10. To protect the beneficiary against claims of third parties.
- C. Duty to Inform Beneficiary of Trust Benefits and Protections: Immediately prior to a Personal Asset Trust being established for a beneficiary hereunder, the then acting Trustee of the Trust shall, if at all practicable, have a private meeting or telephone call with such beneficiary to explain the above stated long-term purposes and benefits of the Personal Asset Trust and to advise such beneficiary how he or she may maintain the benefits and protections that such trust provides. The Trustee is directed to have an attorney assist the Trustee in conducting this meeting or call and the Trustor hereby authorizes the Trustee to employ the services of VACEK & FREED, PLLC, formerly the Vacek Law Firm, PLLC, for such purpose and waive any potential conflict that may otherwise deter them from acting; however, the Trustee is free to hire any other attorney, provided such attorney is an experienced estate planning specialist.
- D. Designation of Trustee: Except for the Personal Asset Trusts created for CARL HENRY BRUNSTING and CANDACE LOUISE CURTIS, each beneficiary for whom a Personal Asset Trust is created shall act as sole Trustee of said trust. ANITA KAY BRUNSTING and AMY RUTH TSCHIRHART shall act as Co-Trustees for the Personal Asset Trusts for CARL HENRY BRUNSTING and CANDACE LOUISE CURTIS. If either ANITA KAY BRUNSTING or AMY RUTH TSCHIRHART cannot serve for any reason, the remaining Co-Trustee shall serve alone. Both ANITA KAY BRUNSTING and AMY RUTH TSCHIRHART shall have the right to appoint their own successor Trustee in writing. Notwithstanding the foregoing, each beneficiary who is acting as his or her own Trustee of his or her said trust shall have the right, at such time as said beneficiary is acting as sole Trustee and in said beneficiary's sole and absolute discretion, to appoint an independent bank or trust company to act jointly with said beneficiary as Co-Trustee of said trust. Said beneficiary shall also have the right, at any time and in said beneficiary's sole and absolute discretion, to remove said independent bank or trust company acting as Co-Trustee provided said beneficiary appoints another independent bank or trust company in its place. The appointment or removal of an independent bank or trust company as Co-Trustee shall be by written instrument delivered to the Co-Trustee. Furthermore, said beneficiary shall have the right to designate by will or other written instrument, either individual(s) or an independent bank or trust company, to act as a

successor Trustee or Co-Trustee(s) in said beneficiary's place, as the case may be, in the event of said beneficiary's death, incompetency, inability or unwillingness to act; but, if said beneficiary is still living, the majority of acting Trustees must be independent within the meaning of Internal Revenue Code Section 674(c) and said beneficiary shall not have the right to remove the successor Trustee or Co-Trustee so designated and appoint another in its place. Should said beneficiary fail to so designate a successor Trustee or Co-Trustees of such trust, then the FROST NATIONAL BANK shall act as successor Trustee, notwithstanding any other provisions contained in the trust agreement. Notwithstanding the foregoing provisions of this paragraph, the ability of said beneficiary to appoint a successor Trustee may be limited as set forth in the Sections of the Trust entitled "Special Co-Trustee Provisions" and "Trust Protector Provisions."

E. Designation of Trustee for Primary Beneficiary's Issue: Notwithstanding the foregoing, upon attaining age thirty five (35) each of the descendants of a Primary Beneficiary (hereinafter sometimes referred to as "issue") shall act as sole Trustee of the Personal Asset Trust created for such issue. Said issue shall have the right, at such time as said issue is acting as sole Trustee and in said issue's sole and absolute discretion, to appoint an independent bank or trust company to act jointly with said issue as Co-Trustee of said trust. Said issue shall also have the right, at any time and in said issue's sole and absolute discretion, to remove said independent bank or trust company acting as Co-Trustee provided said issue appoints another independent bank or trust company in its place. The appointment or removal of an independent bank or trust company as Co-Trustee shall be by written instrument delivered to the Co-Trustee. Furthermore, said issue shall have the right to designate by will or other written instrument, either individual(s) or an independent bank or trust company, to act as a successor Trustee or Co-Trustee(s) in said issue's place, as the case may be, in the event of said issue's death, incompetency, inability or unwillingness to act; but, if said issue is still living, the majority of acting Trustees must be independent within the meaning of Internal Revenue Code Section 674(c)) and said issue shall not have the right to remove the successor Trustee or Co-Trustee so designated and appoint another in its place. Should said issue fail to so designate a successor Trustee or Co-Trustees of such trust, then the FROST NATIONAL BANK shall act as successor Trustee, notwithstanding any other provisions contained in the trust agreement. Notwithstanding the foregoing provisions of this paragraph, the ability of said issue to appoint a successor Trustee may be limited as set forth in the Sections of the Trust entitled "Special Co-Trustee Provisions" and "Trust Protector Provisions."

F. Administration of Personal Asset Trust: The Personal Asset Trust shall be held, administered and distributed by the Trustee appointed under this Section of the Trust Agreement as follows:

1. Discretionary Distributions of Income and/or Principal: The Trustee, shall have the power, in such Trustee's sole and absolute discretion, binding on all persons interested now or in the future in this trust, to distribute or apply for

the benefit of the beneficiary for whom the trust was created (hereinafter the "primary beneficiary") and the primary beneficiary's issue or to a trust for their benefit, so much of the income and/or principal of the Trust Estate, and at such time or times as such Trustee shall deem appropriate for such distributees' health, support, maintenance and education. Any income not distributed shall be accumulated and added to principal. In exercising the discretions conferred in this paragraph, the Trustee may pay more to or apply more for some beneficiaries to the exclusion of others, if such Trustee deems this necessary or appropriate in light of the circumstances, the size of the Trust Estate and the probable future needs of the beneficiaries. The Trustee shall, before making any such distributions, consider the Trustor's intent in creating the trust, as set forth above in paragraph B.

2. Additional Guidelines for Distributions: In addition to the provisions set forth above for making discretionary distributions of income and/or principal, the Trustee shall be further guided as follows in making such distributions. Any such distributions shall be made in the sole and absolute discretion of the Trustee and shall be binding on all persons howsoever interested now or in the future in this trust.
 - a. Primary Beneficiary's Needs Considered First; Broad Interpretation of "Health, Education, Maintenance and Support": In exercising the discretionary powers to provide benefits under this trust, the Trustee shall take into consideration that the primary purpose in establishing this trust is to provide for the present and future welfare of the primary beneficiary, and secondly, the present and future welfare of the primary beneficiary's issue. Furthermore, the Trustee may take into account any beneficiary's character and habits and his or her willingness and action to support himself or herself in light of his or her particular abilities and disabilities, and the needs of other beneficiaries, if any, of the same trust. Finally, the Trustor requests that the Trustee be liberal in determining the needs of a beneficiary for health, support, maintenance and education and in conferring benefits hereunder. The term "health" need not take into account any private or governmental medical insurance or other medical payments to which a beneficiary may be entitled, and the Trustee may pay for the expense of providing health and medical insurance coverage for the beneficiary. The term "education" may include but is not limited to, all expenses incurred in connection with or by reason of a beneficiary's attendance at public or private elementary or high school, college, university or vocational, technical or other educational institution or specialized training programs (whether or not any such institution or program provider shall be a fully accredited educational institution), graduate or post-graduate education expenses, and all expenses incurred in providing such beneficiary with an education in a non-institutional setting; including,

but not limited to, the expense of travel and charges for tutoring, tuition, room and board (whether or not charged by an educational institution at which such beneficiary shall be a student), laboratory fees, classroom fees, clothing, books, supplies, laboratory or other equipment or tools (including computer hardware and software) or other material or activities that the Trustee shall determine to be of educational benefit or value to such beneficiary. In determining the need for funds for education, the Trustee shall consider all direct and indirect expenses, including living expenses of the beneficiary and those persons who may be dependent upon said beneficiary. The terms "support" and "maintenance" may include but are not limited to investment in a family business, purchase of a primary residence, entry into a business, vocation or profession commensurate with a beneficiary's abilities and interests; recreational or educational travel; expenses incident to marriage or childbirth; and for the reasonably comfortable (but not luxurious) support of the beneficiaries. When exercising the powers to make discretionary distributions from the trust, the Trustee shall maintain records detailing the amount of each distribution made to any beneficiary from trust income and/or principal and the reasons for such distribution. The distributions made to a beneficiary shall not be allocated to or charged against the ultimate distributable share of that beneficiary (unless so provided in the primary beneficiary's exercise of his or her limited power of appointment).

- b. Consider the Situation of the Beneficiary: In determining whether or not it is in the best interest of a beneficiary for any payment to be made to that beneficiary, the Trustee shall consider the financial responsibility, judgment and maturity of such beneficiary, including whether or not, at the time of such determination, such beneficiary: (i) is suffering from any physical, mental, emotional or other condition that might adversely affect the beneficiary's ability to properly manage, invest and conserve property of the value that would be distributed to said beneficiary; (ii) is at such time, or previously has been, a substantial user of or addicted to a substance the use of which might adversely affect the beneficiary's ability to manage, invest and conserve property of such a value; (iii) has demonstrated financial instability and/or inability to manage, invest and conserve the beneficiary's property; or (iv) is going through a period of emotional, marital or other stress that might affect the beneficiary's ability to manage, invest and conserve such property.
- c. Consider Any Written Letter of Instructions from the Trustor: The Trustor may from time to time by written letter or other instrument, not constituting a holographic will or codicil or amendment to any trust, set forth instructions to the Trustee as to how the Trustor wishes the

Trustee's discretion to be exercised. The Trustor recognizes and intends that such instructions shall only be directive in nature and not binding on the Trustee or any beneficiary hereunder; however, the Trustor requests, to the extent possible, that the Trustee be mindful of these instructions when administering the trust.

- d. Loans, Use of Trust Property and Joint Purchases Preferred Over Distributions: The Trustee is directed, prior to making any distributions directly to or for the benefit of a beneficiary, to consider the alternatives of making a loan to the beneficiary, allowing the beneficiary the use of property of the Trust Estate (or such property to be acquired) and/or making a joint purchase of property with the beneficiary, pursuant to the paragraph below entitled "Special Trustee Powers."
- e. Restrictions on Distributions That Discharge Legal Obligations of a Beneficiary: The primary beneficiary is expressly prohibited from making any distributions from the trust, either as Trustee or under any limited power of appointment, either directly or indirectly, in favor of anyone to whom the primary beneficiary owes a legal obligation, to satisfy, in whole or in part, such legal obligation. Any such distributions may only be made by the Trust Protector.

G. Primary Beneficiary's Limited Power of Appointment: The primary beneficiary shall have the following Limited Powers of Appointment. During the lifetime of the primary beneficiary, said beneficiary may appoint and distribute the accumulated income and/or principal to any one or more of said beneficiary's issue, either outright or in trust upon such terms and conditions, and in such amounts or proportions as said beneficiary wishes. Upon the death of the primary beneficiary, the Trustee shall distribute any remaining balance, including accumulated income and principal, to any one or more of said beneficiary's issue, either outright or in trust upon such terms and conditions and in such amounts or proportions as said beneficiary shall appoint by said beneficiary's last unrevoked Will, codicil or other written instrument executed prior to said beneficiary's death and specifically referring to this power of appointment. In the event there should be a failure of disposition of all or any portion of said income or principal, either in connection with the exercise or as a result of the nonexercise of the above testamentary limited power of appointment, all of said income and principal not disposed of shall be administered and distributed as set forth below in the paragraph entitled "Final Disposition of Trust." The terms of this paragraph may be limited by the Section of this Trust Agreement entitled "Trust Protector Provisions."

H. Final Disposition of Trust: If the primary beneficiary for whom the Personal Asset Trust has been created should die before complete distribution of said trust, and the beneficiary's above powers of appointment have not been fully exercised, said trust shall terminate and the remaining principal (including accumulated income added

thereto) in said trust shall be held, administered and distributed for the benefit of the succeeding or contingent beneficiaries named, if any, pursuant to the respective paragraph set forth in Section 3.B. of this Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment establishing said beneficiary's share as if such beneficiary had been an original part thereof. Any share or portion thereof of any trust administered hereunder which is not disposed of under any of the foregoing provisions (or the provisions of the Article entitled "Trust Protector Provisions") shall be distributed pursuant to the paragraph of the Trust Agreement entitled "Ultimate Distribution."

I. Special Trustee Powers: With respect to each Personal Asset Trust created under this Section, and in addition to or in lieu of the powers and authority granted to the Trustee under any other provisions of the Trust Agreement, during the existence of the Personal Asset Trust and until such time of its termination the Trustee, in his or her sole and absolute discretion, shall have the powers and authority to do the following.

1. Permit Beneficiaries to Use Trust Assets: The Trustor desires that the beneficiaries of the trust be given the liberal use and enjoyment of trust property. To the extent deemed practical or advisable in the sole and absolute discretion of the Trustee, the primary beneficiary (or other beneficiaries) of each trust hereunder may have the right to the use, possession and enjoyment of (a) all of the tangible personal property at any time held by such trust, including but not limited to artwork, jewelry, coin or stamp collections and other collectible assets, and (b) all real property that may at any time constitute an asset of such trust. Such use, possession and enjoyment may be without rent or other financial obligation. To the extent of the trust assets and unless the Trustee is relieved of such obligation by such beneficiary (or beneficiaries), which the Trustee may agree to do, the Trustee shall see to the timely payment of all taxes, insurance, maintenance and repairs, safeguarding and other charges related to the preservation and maintenance of each and every such property. The Trustor requests, but do not require, that any such use, possession or enjoyment by a beneficiary other than the primary beneficiary be subject to veto at any time by the primary beneficiary.

a. Hold and Maintain a Residence for the Use of Beneficiaries: The Trustee is specifically authorized to hold and maintain any residence (whether held as real property, condominium or cooperative apartment) for the use and benefit of any beneficiary of any trust. If the Trustee, in the Trustee's sole and absolute discretion, determines that it would be in the best interests of any beneficiary of any trust to maintain a residence for their use, but that the residence owned by the Trustee should not be used for such purpose, the Trustee is authorized to sell said residence and to apply the net proceeds of the sale to the purchase of such other residence or to make such other arrangements as the Trustee, in such Trustee's sole and absolute discretion, deems suitable

for the purpose. Any proceeds of sale not needed for reinvestment in a residence as provided above shall be added to the principal of the trust and thereafter held, administered and disposed of as a part thereof. The Trustee is authorized to pay all carrying charges of such residence, including, but not limited to, any taxes, assessments and maintenance thereon, and all expenses of the repair and operation thereof, including the employment of domestic servants and other expenses incident to the running of a household for the benefit of any beneficiary of the trust; the Trustee may alternatively provide, by agreement with the beneficiary, that such charges and expenses, or a portion of them, are to be paid by the beneficiary. Having in mind the extent to which funds will be available for future expenditure for the benefit of the beneficiaries, the Trustee is authorized under this paragraph to expend such amounts as such Trustee shall, in his or her sole and absolute discretion, determine to maintain the current lifestyle of the beneficiaries and their personal care and comfort; the Trustor does not, however, desire that the Trustee assist the beneficiaries in maintaining a luxurious lifestyle.

2. Special Investment Authority: Notwithstanding any investment limitations placed on the Trustee under the Trust Agreement or the provisions of any state law governing this trust which may contain limitations such as the prudent investor rule, the Trustee is authorized to make the following types of investments of trust assets:

a. Closely Held Businesses: To continue to hold and operate, to acquire, to make investments in, to form, to sell, or to liquidate, at the risk of the Trust Estate, any closely held partnership, corporation or other business that a beneficiary is involved in as an owner, partner, employee, officer or director, as long as the Trustee deems it advisable. The Trustee shall not be liable in any manner for any loss, should such loss occur, resulting from the retention or investment in such business. In the absence of actual notice to the contrary, the Trustee may accept as correct and rely on financial or other statements rendered by any accountant for any such business. Any such business shall be regarded as an entity separate from the trust and no accounting by the Trustee as to the operation of such business shall be required to be made. The Trustee shall have these powers with respect to the retention and purchase of such business, notwithstanding any rule or law requiring diversification of assets. Additionally, the foregoing shall not be limited by the fact that the Trustee or related parties, or any of them, shall be owners, partners, employees, officers or directors of the business. This paragraph, however, shall not be deemed to be a limitation upon the right of the Trustee to sell the investment in any

business if in the Trustee's sole and absolute discretion such sale is deemed advisable.

- b. Tangible Personal Property: To acquire and/or continue to hold as an asset of the trust such items of tangible personal property as an investment or for the use of a beneficiary, including but not limited to artwork, jewelry, coin or stamp collections and other collectible assets, home furniture and furnishings.
3. Permit Self-Dealing: Financial transactions, both direct and indirect, between any trust and any beneficiary and/or Trustee who is also a beneficiary of that trust (including, for example, the sole or joint purchase, sale or leasing of property, investments in mortgages, acquisitions of life insurance policies, employment in any capacity, lending, etc.), whether or not specifically described in the Trust Agreement as permitted between such parties, except to the extent expressly prohibited hereunder, are expressly authorized, notwithstanding any rule of law relating to self-dealing, provided only that the Trustee, in thus acting either on behalf of or with or for such trust, shall act in good faith to assure such trust receives in such transaction adequate and full consideration in money or money's worth. Furthermore, the Trustee shall have the power to employ professionals or other individuals to assist such Trustee in the administration of any trust as may be deemed advisable (and as more particularly described in the paragraph of the Trust Agreement entitled "Trustee Powers"), notwithstanding such person or entity may be, or is affiliated in business with, any Trustee or beneficiary hereunder. The compensation to which a Trustee who is also a beneficiary is entitled under the Trust Agreement shall not be reduced or offset by any employment compensation paid to such Trustee for services rendered outside the scope of such Trustee's ordinary fiduciary duties and responsibilities, or for reason of receiving sales or other fees or commissions on property sold to the trust by such Trustee (directly or indirectly), which sales are hereby authorized.
4. Make Loans: Loan money to any beneficiary, or to any estate, trust or company in which such person or any trust hereunder has an interest, or had an interest while living, for any purpose whatsoever (including but not limited to purchasing, improving, repairing and remodeling a principal residence or entering into, purchasing or engaging in a trade or business or professional career), with or without security and at such rate of interest as the Trustee shall determine in the exercise of reasonable fiduciary discretion, and, with respect to such loans and/or security interests, to renew, extend, modify and grant waivers. Notwithstanding the foregoing, and without limiting the ability of the Trustee to act in such Trustee's discretion under this paragraph, the Trustor hereby expresses his preference that, whenever economically feasible, any and all loans made pursuant to the provisions of this paragraph be adequately secured and bear interest at least at the higher of the "applicable federal rate"

as set forth by the Internal Revenue Service for loans with similar payment terms and length or a fair market rate for such loans.

5. Take Actions With Respect to Properties and Companies Owned in Common With a Beneficiary or Others: The Trustee is specifically authorized, with or without the joinder of other owners of the property or securities that may be held in trust (and notwithstanding that one or more such other owners may be, directly or indirectly, a beneficiary or a fiduciary hereunder), to enter upon and carry out any plan (a) for the foreclosure, lease or sale of any trust property, (b) for the consolidation or merger, dissolution or liquidation, incorporation or reincorporation, recapitalization, reorganization, or readjustment of the capital or financial structure of any corporation, company or association, the securities of which, whether closely held or publicly traded, may form a part of such trust, or (c) for the creation of one or more holding companies to hold any such securities and/or properties (even if it leaves, following the termination of such trust, a trust beneficiary as a minority shareholder in such holding company), all as such Trustee may deem expedient or advisable for the furtherance of the interests of such trust and the carrying out of the Trustor's original intent as to such trust, its beneficiaries and as to those properties and/or securities. In carrying out such plan, such Trustee may deposit any such securities or properties, pay any assessments, expenses and sums of money, give investment letters and other assurances, receive and retain as investments of such trust any new properties or securities transferred or issued as a result thereof, and generally do any act with reference to such holdings as might be done by any person owning similar securities or properties in his own right, including the exercise of conversion, subscription, purchase or other rights or options, the entrance into voting trusts, etc., all without obtaining authority therefor from any court.
6. Right to Distribute to Entities: Any distribution from the trust, including a distribution upon trust termination (whether made by the Trustee or Trust Protector) may be made directly to an entity, such as a trust, "S" corporation, limited liability company or limited partnership, whether existing or newly created, rather than directly to the beneficiary (and if it is a newly created entity or one in which the Trust Estate holds an interest, the interest in the entity may be distributed to such beneficiary).
7. Trustee's Discretion to Hold, Manage and Distribute Separate Trusts in Different Manners: Without in any manner limiting any other power or right conferred upon the Trustee hereunder, the Trustee may divide a trust into separate trusts, and if a trust is held as, or divided into, separate trusts, the Trustee may, at any time prior to combining such trusts, treat the trusts in substantially different manners, including, without limitation, the right to: (a) make different tax elections (including the disproportionate allocation of the generation skipping tax exemption) with respect to each separate trust; (b)

make disproportionate principal distributions; (c) exercise differently any other discretionary powers with respect to such separate trusts; (d) invest the property of such separate trusts in different investments, having different returns, growth potentials, or bases for income tax purposes; and (e) take any and all other actions consistent with such trusts being separate entities. Furthermore, the holder of any power of appointment with respect to any trust so divided may exercise such power differently with respect to the separate trusts created by the division of a trust.

TRUST PROTECTOR PROVISIONS

- A. **Purpose of Trust Protector:** The Trustor has established the position of Trust Protector for the reasons and purposes set forth below, which are intended as general guidelines only and in no way shall limit any other provisions relating to the Trust Protector.
1. **Insulate the Trustee from Negative Influences:** To protect the Trustee from the negative, or potentially negative, influences of third parties and to protect the Trust Estate and its beneficiaries from damaging, or potentially damaging, conduct by the Trustee.
 2. **Carry Out the Purposes of the Trust:** To help ensure that the Trustor's purpose in establishing the Trust Agreement, as defined elsewhere herein, will be properly carried out.
 3. **Adapt to Changing Laws and Conditions:** To adapt the provisions of the Trust Agreement to law changes, changes in interpretation of the law or other changing conditions that threaten to harm the Trust or its beneficiaries, keeping in mind the dispositive wishes of the Trustor and the Trustor's desires as expressed in the Trust Agreement.
- B. **Designation of Trust Protector:** In addition to the Trustee and Special Co-Trustee provided in the Trust Agreement, there shall, from time to time, be a Trust Protector whose limited powers and duties are defined below. The order of succession of Trust Protector shall be as follows:
1. **Initial Trust Protector:** The Special Co-Trustee, at any time and in his sole and absolute discretion, may appoint a Trust Protector of the entire Trust or of any separate trust established hereunder (hereinafter the trust for whom a Trust Protector is appointed shall be referred to as "the affected trust") by a writing delivered to the Trustee of the affected trust. The Trustor requests that the Special Co-Trustee, prior to making the appointment, meet (in person or by telephone) with VACEK & FREED, PLLC, formerly the Vacek Law Firm,

PLLC of Houston, Texas, to help ensure the appropriate selection of the initial Trust Protector.

2. Successor Trust Protector: Upon the removal, death, incompetency, inability or unwillingness to act of the initial Trust Protector (including a written resignation delivered to the Trustee of the affected trust), the next succeeding Trust Protector shall be appointed either by the Special Co-Trustee or by the initial Trust Protector (except as limited by paragraph 4 below) in writing delivered to the Trustee of the affected trust (the first such writing delivered to the Trustee shall control). All further successor Trust Protectors shall be appointed in the same manner, except that where the word "initial" is used in the foregoing sentence there shall be substituted the words "last appointed."
3. Qualifications to Act as Trust Protector: A Trust Protector may act once he has accepted, in writing, his appointment and, other than the case of the initial Trust Protector, has delivered a copy of his appointment and acceptance to the last appointed Trust Protector. Notwithstanding the foregoing, at no time may a Trust Protector be appointed or otherwise act if such person or entity is a currently acting Trustee or Special Co-Trustee or is a current beneficiary of the affected trust or is related to any such beneficiary in any of the following ways: as spouse, ancestor or issue, brother, sister, employee of such beneficiary or of any corporation, firm or partnership in which such beneficiary is an executive or has stock or other holdings which are significant from the viewpoint of control, or is otherwise "related or subordinate to" such beneficiary under IRC Sections 674(a) and (c) and the Regulations thereunder or any similar succeeding Sections or Regulations.
4. Removal of Trust Protector: The primary beneficiaries of the affected trust may by majority vote, and at any time and for any reason, remove the current Trust Protector by delivering to said Trust Protector and to the Special Co-Trustee a signed instrument setting forth the intended effective time and date of such removal. The Special Co-Trustee shall then appoint a successor Trust Protector in accordance with paragraph 2 above (the Trust Protector removed shall no longer have the power under paragraph 2 to appoint his successor). The powers of removal under this paragraph may be limited by the paragraph of the Trust Agreement entitled "Compelled Exercise of Powers Not Effective."
5. Temporarily Filling a Trust Protector Vacancy: If at any time a vacancy in the office of Trust Protector has not yet been filled as otherwise provided above (including the time before the initial Trust Protector is appointed), such office may be filled promptly, on a temporary basis, by a bank or trust company experienced in trust administration or an attorney (or law firm) who is an experienced tax and/or estate planning specialist provided they meet the qualifications set forth in paragraph 3 above. The Trustor requests, but do not

require, that VACEK & FREED, PLLC, formerly the Vacek Law Firm, PLLC, or its successors or assigns, act as such temporary Trust Protector and the Trustor hereby waives any conflict of interest that may arise if VACEK & FREED, PLLC, or its successors or assigns, is also representing the Trustee of the affected trust and/or the Trustor. Any Trust Protector acting under this paragraph shall first notify the Trustee of the affected trust and only serve as Trust Protector until such time as a successor Trust Protector is appointed by the Special Co-Trustee in accordance with paragraph 2 above and there is delivered to the Trust Protector acting under this paragraph a written acceptance of such appointment signed by the successor Trust Protector.

C. Limited Powers of the Trust Protector: The Trust Protector shall not have all the broad powers of a Trustee; rather, the powers of the Trust Protector shall be limited to the powers set forth below. The Trustor directs the Trust Protector, prior to exercising any power, to consult with VACEK & FREED, PLLC, formerly the Vacek Law Firm, PLLC, or another law firm or attorney specializing in estate planning and/or asset protection planning in order to be fully informed of the consequences of exercising such power.

1. Give Advance Notice to Affected Beneficiaries: Within a reasonable time prior to the exercise of any power under this paragraph C, the Trust Protector shall provide to the Trustee and the primary beneficiary or beneficiaries of the affected trust a written notice, setting forth the power intended to be exercised, the intended date of exercise and the reasons for exercise. The Trust Protector shall, in his sole and absolute discretion, determine what is "a reasonable time," as the Trustor recognizes that emergency situations may arise which may permit little or no time for advance notice or, as a practical matter, it may be too difficult to notify the beneficiary; the Trustor specifically waives this advance notice requirement when the particular beneficiary is "incapacitated" as defined below. Once notice is given, the Trust Protector shall not exercise the power prior to the date specified in the notice, unless the Trust Protector in his sole and absolute discretion determines that an emergency so warrants.

A person shall be deemed "incapacitated" if in the Trustee's sole and absolute discretion, it is impracticable for said person to give prompt, rational and prudent consideration to financial matters, whether by reason of accident, illness, advanced age, mental deterioration, alcohol, drug or other substance abuse, or similar cause.

A person shall be conclusively deemed "incapacitated" if a guardian of the person or his or her estate, or both, has been appointed by a court having jurisdiction over such matters or two (2) licensed physicians who are not related by blood or marriage to such person have examined said person and stated in writing that such incapacity exists; the Trust Protector may, but shall not be under any duty to, institute any inquiry into a person's possible

incapacity (such as, but not limited to, by drug testing) or to obtain physician statements; and if he does, then the expense may be paid from the Trust Estate of said person's trust.

2. Postpone Distributions: Notwithstanding any other provisions of the Trust Agreement, except the paragraph herein entitled "Rule Against Perpetuities," the Trust Protector shall have the power to postpone any distribution of income and/or principal otherwise required to be made from the affected trust to any one or more of its beneficiaries (including as the result of exercise of a power of appointment or withdrawal right) and to postpone the termination of such trust which might otherwise be required if the Trust Protector, in his or her sole and absolute discretion, determines, after taking into consideration the Trustor's overall intent as expressed in the Trust Agreement, that there is a compelling reason to do so.

A "compelling reason" may include but is not limited to: the beneficiary requesting in writing that distributions be retained by the trust; the beneficiary being "incapacitated" as defined in paragraph 1 immediately above; the beneficiary contemplating, or in the process of filing for or has a pending bankruptcy; a pending or threatened divorce, paternity or maternity claim or other lawsuit; a creditor claim (including for unpaid taxes or reimbursement of government benefits); an existing judgment or lien; the fact the beneficiary is receiving (or may in the near future receive) government or other benefits that may be jeopardized; the beneficiary having demonstrated financial instability and/or inability to manage, invest or conserve the beneficiary's own property; the beneficiary being under the negative influence of third parties, such that the beneficiary's good judgement may be impaired; a serious tax disadvantage in making such distribution; or any other substantially similar reasons.

Any such postponement of distribution or termination may be continued by the Trust Protector, in whole or in part and from time to time, up to and including the entire lifetime of the beneficiary. While such postponement continues, all of the other provisions previously applicable to such trust shall continue in effect, except (a) any power of appointment or withdrawal shall be exercisable only with the approval of the Trust Protector and (b) distributions of income and/or principal shall only be made to or for the benefit of the beneficiary from time to time and in such amounts as the Trust Protector, in his or her sole and absolute discretion, deems appropriate for the best interests of the beneficiary; provided, however, the Trust Protector may, in his or her sole and absolute discretion, determine that the beneficiary's situation is extreme enough to warrant the establishment of a special needs trust pursuant to other provisions of this Section of the Trust Agreement.

The Trust Protector may also, from time to time, make certain distributions which cannot be made by the primary beneficiary because of limits imposed in this Section entitled "Restrictions on Distributions That Discharge Legal Obligations of the Beneficiary."

3. Terminate a Trust Due to Unforeseen Conditions: The Trustor recognizes that some or all of the following conditions may arise in the future, although they cannot be foreseen at the time of creation of this Trust: (a) a radical, substantial and negative change in the political, economic or social order in the United States of America; (b) legislation or IRS or court decisions highly detrimental to a trust or beneficiary hereunder (including, for example, if the federal estate tax or IRA required minimum distribution rules are modified, repealed or no longer applicable and the non-tax reasons for the trust no longer justify the trust's existence); (c) a beneficiary's capability to prudently manage his own financial affairs or a radical, positive change in his situation regarding possible third party claims; (d) a beneficiary no longer has a need for (or the availability of) government benefits; and (e) other events that may greatly impair the carrying out of the intent and purposes of the Trust Agreement.

If any of the foregoing conditions occur, the Trust Protector may, in addition to the other powers granted him or her, in his sole and absolute discretion, and keeping in mind the Trustor's wishes and dispositive provisions of the Trust Agreement, terminate the affected trust, or a portion thereof, and distribute same to or for the benefit of the primary beneficiary thereof (notwithstanding any other provisions of the Trust Agreement), or to a newly created or existing Personal Asset Trust for that beneficiary.

4. Revise or Terminate a Trust So It Can Qualify as a "Designated Beneficiary" of an IRA or Retirement Plan: In the event that the affected trust does not qualify as a "designated beneficiary" of an IRA or other retirement plan as that term is used in IRC Section 401(a)(9), the Regulations thereunder and any successor Section and Regulations, the Trust Protector may, keeping in mind the Trustor's wishes and the dispositive provisions of the Trust Agreement: (a) revise or reform the terms of the Trust Agreement in any manner so that the affected trust will qualify as a "designated beneficiary" (any such revision or reformation may by its terms apply retroactively to the inception of the Trust Agreement or creation of any separate trust established hereunder); or (b) deem it to have been dissolved in part or in whole as of September 30 of the year following the year of the Trustor's death, with fee simple interest vesting outright in the primary beneficiary and the rights of all other persons who might otherwise have an interest as succeeding life income beneficiaries or as remaindermen shall cease.

If the beneficiary is still a minor, the Trustee may designate a custodian and transfer the principal and accrued income of the beneficiary's trust to the

custodian for the benefit of the minor under the Texas Uniform Transfers to Minors Act until such beneficiary attains age 21. A receipt from the custodian shall be a complete discharge of the Trustee as to the amount so paid.

Notwithstanding any provisions of the Trust Agreement to the contrary, after the Trustor's death this Trust or any separate trust established hereunder shall not terminate and be distributed in full prior to September 30 of the year following the year of the Trustor's death pursuant to this paragraph if this will result in this Trust or any separate trust established hereunder not qualifying as a "designated beneficiary."

5. Modify Certain Other Trust Provisions: The Trust Protector shall have the power, in his or her sole and absolute discretion, at any time and from time to time, to delete, alter, modify, amend, change, add to or subtract from all or any part of the various paragraphs and provisions of the Trust Agreement and any trust created thereunder, effective (even retroactively) as of the date determined by the Trust Protector, for the following purposes.
 - a. Change Income Tax Treatment of the Trust: The Trust Protector may, at any time, and from time to time, create, terminate and/or reinstate a power granted to a beneficiary, either prospectively or retroactively, enabling trust income to be income taxable to a beneficiary, even as income accumulates in the trust, if the Trust Protector deems this to be in the best interests of the affected trust and its beneficiaries.
 - b. Protect a Disabled Beneficiary's Government Benefit by Establishing a Special Needs Trust: The Trust Protector may take any such actions he or she deems appropriate or necessary in connection with a beneficiary's qualification for, receipt of and/or possible future liability to reimburse government benefits (whether income, medical, disability or otherwise) from any agency (state, federal or otherwise), such as but not limited to Social Security, Medicaid, Medicare, SSI and state supplemental programs. In particular, but not by way of limitation, the Trust Protector may add new trust provisions to govern administration and distribution of assets for the benefit of the beneficiary (such as would create a "special needs trust").
 - c. Protect a Beneficiary from Himself or from Creditors by Establishing a Spendthrift Trust or Eliminating Any General Power of Appointment: In the event there is a compelling reason to postpone distributions to a beneficiary pursuant to the paragraph of this Section entitled "Postpone Distributions," the Trust Protector may alternatively, in his or her sole discretion, add new trust provisions to govern administration and distribution of assets for the benefit of said beneficiary (such as would create a "spendthrift trust" in the form recognized by the laws of the

state(s) in which trust assets are located). Furthermore, the Trust Protector may, in his or her sole discretion, in order to protect the beneficiaries of a Trust beneficiary, terminate and/or reinstate said Trust beneficiary's testamentary general power of appointment, if any, under the Section of this Trust Agreement entitled "Generation Skipping Tax Provisions."

6. Change Legal Jurisdiction of the Trust: The Trust Protector may change the situs of the affected trust to another jurisdiction by any such means deemed appropriate by the Trust Protector. This paragraph shall in no way limit the Trustee's power and authority to change the situs of this Trust or any separate trust established hereunder.
7. Remove and Reinstate a Trustee: The Trust Protector shall have the power at any time to remove the acting Trustee of the affected trust (but not the Special Co-Trustee) for any reason which he believes to be in the best interests of the beneficiaries. Such removal shall be stated in writing and delivered to the Trustee. The successor Trustee shall then be determined and appointed in accordance with the Section of the Trust Agreement entitled "Successor Trustees." At any time after the Trust Protector removes a Trustee, the Trust Protector may reinstate the previously removed Trustee and the order of successor Trustees shall be thereafter determined as if such reinstated Trustee was never removed.
8. Eliminate Own Powers: The Trust Protector shall have the power, on his own behalf and/or on behalf of all successor Trust Protectors, to release, renounce, suspend, reduce, limit and/or eliminate any or all of his enumerated powers and to make the effective date any date he wishes, including ab initio to the date of establishment of a trust hereunder or retroactively to the date of death of the Trustor, by a writing delivered to the Trustee of the affected trust.
9. Limitations on Above Powers: The Trust Protector may not exercise any power if he is compelled by a court or other governmental authority or agency to do so or is otherwise acting under the duress or undue influence of an outside force; if the Trust Protector is so compelled, or under such duress or influence, his powers shall become void prior to exercise; these limitations are in addition to those contained in the paragraph of the Trust Agreement entitled "Compelled Exercise of Powers Not Effective." The Trust Protector is directed not to exercise any of the foregoing powers if such exercise will result in any substantial, direct or indirect financial benefit to anyone who at the time of exercise is not an ancestor, spouse or issue of a primary beneficiary or is not already a present or contingent beneficiary of this Trust. The Trust Protector shall not exercise any power that may be construed as a general power of appointment to himself, his creditors, his estate or the creditors of his estate under IRC Sections 2041 and 2514, or that would otherwise cause the

inclusion of any of the Trust Estate in the Trust Protector's taxable estate for estate, inheritance, succession or other death tax purposes.

- D. Limited Liability of the Trust Protector: The Trust Protector shall not be held to the fiduciary duties of a Trustee. The Trust Protector shall not be liable to anyone, howsoever interested in this Trust either now or in the future, merely by reason of his appointment as Trust Protector and shall not have any affirmative duty to monitor, investigate and learn of any circumstances or acts or omissions of others, relating to this Trust, its beneficiaries or otherwise that may warrant the Trust Protector to act. Furthermore, the Trust Protector shall not be liable to anyone, howsoever interested in this Trust either now or in the future, by reason of any act or omission and shall be held harmless by the Trust and its beneficiaries and indemnified by the Trust Estate from any liability unless (a) the Trustee and/or a beneficiary has brought directly to the attention of the Trust Protector a circumstance that may warrant his action and (b) such act or omission is the result of willful misconduct or bad faith. Any action taken or not taken in reliance upon the opinion of legal counsel shall not be considered the result of willful misconduct or bad faith, provided such counsel was selected with reasonable care. In the event a lawsuit against the Trust Protector fails to result in a judgment against him, the Trust Protector shall be entitled to reimbursement from the Trust for any and all costs and expenses related to his defense against such lawsuit.
- E. Compensation: The Trust Protector shall not be entitled to compensation merely as the result of his appointment. The Trust Protector shall only be entitled to reasonable compensation for his actual time spent and services rendered in carrying out his duties and powers hereunder, at the hourly rate commensurate with that charged by professional Trustees for similar services. The Trust Protector shall, in addition, be entitled to prompt reimbursement of expenses properly incurred in the course of fulfilling his duties and powers, including but not limited to the employment of legal counsel or other professionals to advise him regarding his decisions.
- F. Waiver of Bond: No bond shall be required of any individual or entity acting as Trust Protector.

MISCELLANEOUS PROVISIONS

- A. Prohibition Against Contest: If any devisee, legatee or beneficiary under the Trust Agreement or any amendment to it, no matter how remote or contingent such beneficiary's interest appears, or any legal heir of the Trustor, or either of them, or any legal heir of any prior or future spouse of the Trustor (whether or not married to the Trustor at the time of the Trustor's death), or any person claiming under any of them, directly or indirectly does any of the following, then in that event the Trustor specifically disinherits each such person, and all such legacies, bequests, devises and interests given to that person under the Trust Agreement or any amendment to it shall be forfeited and shall be distributed as provided elsewhere herein as though he or she had predeceased the Trustor without issue:

1. unsuccessfully challenges the appointment of any person named as a Trustee, Special Co-Trustee or Trust Protector pursuant to the Trust Agreement or any amendment to it, or unsuccessfully seeks the removal of any person acting as a Trustee, Special Co-Trustee or Trust Protector;
2. objects in any manner to any action taken or proposed to be taken in good faith by the Trustee, Special Co-Trustee or Trust Protector pursuant to the Trust Agreement or any amendment to it, whether the Trustee, Special Co-Trustee or Trust Protector is acting under court order, notice of proposed action or otherwise, and said action or proposed action is later adjudicated by a court of competent jurisdiction to have been taken in good faith;
3. objects to any construction or interpretation of the Trust Agreement or any amendment to it, or the provisions of either, that is adopted or proposed in good faith by the Trustee, Special Co-Trustee or Trust Protector, and said objection is later adjudicated by a court of competent jurisdiction to be an invalid objection;
4. claims entitlement to (or an interest in) any asset alleged by the Trustee to belong to the Trustor's estates (whether passing through the Trustor's probate estate, or by way of operation of law or through the Trustor's Living Trust, IRA Inheritance Trust, if any, or otherwise), whether such claim is based upon a community or separate property right, right to support or allowance, a contract or promise to leave something by will or trust (whether written or oral and even if in exchange for personal or other services to the Trustor), "quantum meruit," constructive trust, or any other property right or device, and said claim is later adjudicated by a court of competent jurisdiction to be invalid;
5. files a creditor's claim against the assets of the Trustor's estate (whether passing through the Trustor's probate estate, or by way of operation of law or through the Trustor's Living Trust, IRA Inheritance Trust, if any, or otherwise) and such claim is later adjudicated by a court of competent jurisdiction to be invalid;
6. anyone other than the Trustor attacks or seeks to impair or invalidate (whether or not any such attack or attempt is successful) any designation of beneficiaries for any insurance policy on the Trustor's life or any designation of beneficiaries for any bank or brokerage account, pension plan, Keogh, SEP or IRA account, employee benefit plan, deferred compensation plan, retirement plan, annuity or other Will substitute of the Trustor;
7. in any other manner contests this Trust or any amendment to it executed by the Trustor (including its legality or the legality of any provision thereof, on the basis of incapacity, undue influence, or otherwise), or in any other manner,

attacks or seeks to impair or invalidate this Trust, any such amendment or any of their provisions;

8. conspires with or voluntarily assists anyone attempting to do any of the above acts;
9. refuses a request of the Trustee to assist in the legal defense against any of the above actions.

Expenses to legally defend against or otherwise resist any above contest or attack of any nature shall be paid from the Trust Estate as expenses of administration. If, however, a person taking any of the above actions is or becomes entitled to receive any property or property interests included in the Trustor's estate (whether passing through the Trustor's probate estate, or by way of operation of law or through the Trustor's Living Trust, IRA Inheritance Trust, if any, or otherwise), then all such expenses shall be charged dollar-for-dollar against and paid from the property or property interests that said person would be entitled to receive under the Trust Agreement or the Trustor's Will, whether or not the Trustee (or Executor under the Trustor's Will) was successful in the defense against such person's actions.

The Trustor cautions the Trustee against settling any contest or attack or any attempt to obtain an adjudication that would interfere with the Trustor's estate plan and direct that, prior to the settlement of any such action short of a trial court judgment or jury verdict, the Trustee seek approval of any such settlement from the appropriate court having jurisdiction over this Trust by way of declaratory judgment or any other appropriate proceeding under applicable Texas law. In ruling on any such petition for settlement, the Trustor requests the Court to take into account the Trustor's firm belief that no person contesting or attacking the Trustor's estate plan should take or receive any benefit from the Trust Estate or from the Trustor's estate (whether passing through the Trustor's probate estate, or by way of operation of law or through the Trustor's Living Trust, IRA Inheritance Trust, if any, or otherwise) under any theory and, therefore, no settlement should be approved by the Court unless it is proved by clear and convincing evidence that such settlement is in the best interest of the Trust Estate and the Trustor's estate plan.

In the event that any provision of this Section is held to be invalid, void or illegal, the same shall be deemed severable from the remainder of the provisions in this paragraph and shall in no way affect, impair or invalidate any other provision in this paragraph. If such provision shall be deemed invalid due to its scope and breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

The provisions of this paragraph shall not apply to any disclaimer (or renunciation) by any person of any benefit (or right or power) under the Trust Agreement or any amendment to it.

- B. Compelled Exercise of Powers Not Effective: It is the Trustor's intent that the terms of the Trust Agreement be carried out free from outside interference. Therefore, notwithstanding any other provisions of the Trust Agreement, the purported exercise of any power granted under the Trust Agreement, whether by a Trustee, Special Co-Trustee, Trust Protector or a beneficiary, including a power of appointment, withdrawal, substitution or distribution, shall be of no force and effect if such purported exercise was the result of compulsion. The purported exercise of a power shall be deemed to be the result of compulsion if such exercise is (i) in response to or by reason of any order or other direction of any court, tribunal or like authority having jurisdiction over the individual holding the power, the property subject to the power or the trust containing such property or (ii) the result of an individual not acting of his or her own free will. An individual's agent may not exercise a power given to such individual under the Trust Agreement if such purported exercise is in response to or by reason of any such order or direction unless the order or direction was obtained by the agent in a proceeding in which the agent was the moving party or voluntarily acquiesced. Notwithstanding the above, if a Trustee's failure to exercise a power or to acquiesce in a beneficiary's exercise of a power may result in exposing a Trustee to serious personal liability (such as contempt of court or other sanctions), a Trustee may: (a) withdraw and permit the Special Co-Trustee to act instead in relation to such purported exercise of a power; (b) if the Special Co-Trustee would also be exposed to such liability, then the Trustee may notify the Trust Protector who may, in his discretion, act if permitted under the Trust Agreement; or (c) if neither the Special Co-Trustee nor the Trust Protector acts, then the Trustee may exercise or acquiesce in a beneficiary's exercise of a power.
- C. Creditor's Rights – Spendthrift Provisions: Subject to the express grant herein of certain rights to withdraw or substitute assets and/or powers of appointment, if any, no beneficiary under the trusts created herein shall assign, transfer, alienate or convey, anticipate, pledge, hypothecate or otherwise encumber his or her interest in principal or income hereunder prior to actual receipt. To the fullest extent permitted by law:

(1) neither the principal of these trusts nor any income of these trusts shall be liable for any debt of any beneficiary, any beneficiary's spouse, ex-spouse or others, or be subject to any bankruptcy proceedings or claims of creditors of said persons (including said persons' spouses or ex-spouses), or be subject to any attachment, garnishment, execution, lien, judgment or other process of law; (2) no interest of any beneficiary shall be subject to claims of alimony, maternity, paternity, maintenance or support; and (3) no power of appointment or withdrawal or substitution shall be subject to involuntary exercise. Should the Trustee so desire, the Trustee may as a condition precedent, withhold payments of principal or interest under this Trust until personal order for payment is given or personal receipt furnished by each such beneficiary as to his or her share. The Trustee may, alternatively in the Trustee's sole and absolute discretion, deposit in any bank designated in writing by a beneficiary to his or her credit, income or principal payable to such beneficiary. The

Trustee may, alternatively in the Trustee's sole and absolute discretion, hold and accumulate any income and/or principal so long as it may be subject to the claims, control or interference of third parties, up to and until the beneficiary's death, at which time it shall be distributed in accordance with the beneficiary's exercise of his or her power of appointment, if any, and/or pay to or for the benefit of the beneficiary only such sums as the Trustee deems necessary for said beneficiary's reasonable health, support, maintenance and education.

- D. Trustee Power to Determine Principal and Income: The Trustee shall determine what is principal or income of the Trust Estate, and apportion and allocate any and all receipts and expenses between these accounts, in any manner the Trustee determines, regardless of any applicable state law to the contrary including any Principal and Income Act of Texas, or similar laws then in effect. In particular (but not by way of limitation), the Trustee shall have sole and absolute discretion to apportion and allocate all receipts and expenses between principal and income in whole or in part, including the right to: allocate capital gains; elect whether or not to set aside a reserve for depreciation, amortization or depletion, or for repairs, improvement or upkeep of any real or personal property, or for repayments of debts of the Trust Estate; and charge Trustee's fees, attorney's fees, accounting fees, custodian fees and other expenses incurred in the collection, care, management, administration, and protection of the Trust Estate against income or principal, or both. The exercise of such discretion shall be conclusive on all persons interested in the Trust Estate. The powers herein conferred upon the Trustee shall not in any event be so construed as allowing an individual to exercise the Trustee's sole and absolute discretion except in a fiduciary capacity.
- E. Broad Trustee Power to Invest: It is the Trustor's express desire and intention that the Trustee shall have full power to invest and reinvest the Trust Estate without being restricted to forms and investments that the Trustee may otherwise be permitted to make by law. The Trustee is empowered to invest and reinvest all or any part of the Trust Estate in such property as the Trustee in his discretion may select including but not limited to bank accounts, money market funds, certificates of deposit, government bonds, annuity contracts, common or preferred stocks, closely held businesses, shares of investment trusts and investment companies, corporate bonds, debentures, mortgages, deeds of trust, mortgage participations, notes, real estate, put and call options, commodities, commodities futures contracts and currency trading. When selecting investments, the Trustee may take into consideration the circumstances then prevailing, including but not limited to the general economic conditions and the anticipated needs of the Trust Estate and its beneficiaries, the amount and nature of all assets available to beneficiaries from sources outside the Trust and the beneficiaries' economic circumstances as a whole, and shall exercise the judgment that a reasonable person would if serving in a like capacity under the same circumstances and having the same objectives. In addition to the investment powers conferred above, the Trustee is authorized (but not directed) to acquire and retain investments not regarded as traditional for trusts, including investments that would

be forbidden by the “prudent person” (or “prudent investor”) rule. In making investments, the Trustee may disregard any or all of the following factors: (i) whether a particular investment, or the trust investments collectively, will produce a reasonable rate of return or result in the preservation of principal; (ii) whether the acquisition or retention of a particular investment, or the trust investments collectively, is consistent with any duty of impartiality as to the different beneficiaries (the Trustor intends no such duty shall exist); (iii) whether the trust is diversified (the Trustor intends that no duty to diversify shall exist); and (iv) whether any or all of the trust investments would traditionally be classified as too risky or speculative for trusts (the Trustor intends the Trustee to have sole and absolute discretion in determining what constitutes acceptable risk and what constitutes proper investment strategy). The Trustor’s purpose in granting the foregoing broad authority is to modify the prudent person rule insofar as the rule would prohibit an investment or investments because of one or more factors listed above, or any other factor relating to the nature of the investment itself. Accordingly, the Trustee shall not be liable for any loss in value of an investment merely because of the nature, class or type of the investment or the degree of risk presented by the investment, but shall be liable if the Trustee fails to meet the “reasonable person” standard set forth above or if the Trustee’s procedures in selecting and monitoring the particular investment are proven by affirmative evidence to have been negligent, and such negligence was the proximate cause of the loss.

F. Special Co-Trustee Provisions: Notwithstanding anything in the Trust Agreement to the contrary, the powers, duties or discretionary authority granted hereunder to any Trustee shall be limited as follows:

1. Prohibited and Void Trustee Powers: Except where a beneficiary shall act as sole Trustee of his or her share, or unless limited by an ascertainable standard as defined in Code Section 2041, no Trustee shall participate in the exercise of any discretionary authority to allocate receipts and expenses to principal or income, any discretionary authority to distribute principal or income, or any discretionary authority to terminate any trust created hereunder, if distributions could then be made to the Trustee or the Trustee has any legal obligation for the support of any person to whom distributions could then be made. Any other power, duty or discretionary authority granted to a Trustee shall be absolutely void to the extent that either the right to exercise such power, duty or discretionary authority or the exercise thereof shall in any way result in a benefit to or for such Trustee which would cause such Trustee to be treated as the owner of all or any portion of any of the trusts created herein for purposes of federal or state income tax, gift, estate or inheritance tax laws, or cause any disclaimer of an interest or benefit hereunder to be disqualified under Code Section 2518. Notwithstanding the foregoing, a beneficiary serving as Trustee may have and exercise a power, duty or discretionary authority that causes any Personal Asset Trust created hereunder to be a grantor trust with said beneficiary being treated as the owner for income tax purposes.

Notwithstanding the foregoing, this paragraph shall not apply during the lifetime of the Trustor, nor shall it apply when the exercise of any power, duty, or discretionary authority relates to any provisions herein directed towards preserving the trust estate for beneficiaries named in the Trust Agreement in the event the Trustor should require long-term health care and/or nursing home care. Should a Trustee be prohibited from participating in the exercise of any power, duty, or discretionary authority, or should a power, duty or discretionary authority granted to a Trustee be absolutely void, as a result of the foregoing, then such power, duty or discretionary authority may be exercised in accordance with the following paragraphs.

2. Exercise of Power by an Existing Independent Co-Trustee: In the event that the right to exercise or the exercise of any power, duty or discretionary authority is prohibited or void as provided above, or is prohibited elsewhere in this Trust Agreement with respect to “incidents of ownership” of life insurance, or the Special Co-Trustee is given any other powers or authority under this paragraph “Special Co-Trustee Provisions,” the remaining Co-Trustee, if any, shall have the right to exercise and may exercise said power, duty or discretionary authority, provided the Co-Trustee is independent within the meaning set forth in Section 674(c) of the Code, or any successor statute or regulations thereunder.
3. Exercise of Power if No Existing Independent Co-Trustee: In the event there is no independent Co-Trustee capable of exercising any power, duty or discretionary authority which is prohibited or void as provided above, or which is given to the Special Co-Trustee elsewhere herein, then the following procedure shall apply:
 - a. Appointment of Special Co-Trustee: The next succeeding, Trustee or Co-Trustees, as the case may be, of the Trust (or, if only a particular, separate trust created under this Trust Agreement is affected by the exercise of such power, duty or authority, then the next succeeding Trustee or Co-Trustees of said separate trust) who is not disqualified under paragraph “2” above, shall serve as Special Co-Trustee of the Trust herein created.
4. Protect the Trust Estate by Appointment and Removal of an Independent Co-Trustee: In addition to any other powers granted to the Special Co-Trustee under the Trust Agreement, in the event that the Special Co-Trustee named above, in his sole and absolute discretion, determines that it is necessary in order to protect the Trust Estate and/or the Trustee and/or the beneficiaries of any trust established under the Trust Agreement from the negative influence of outside third parties, including but not limited to a spouse or creditors, then the Special Co-Trustee may appoint a Co-Trustee (to immediately act with the then existing Trustee) who is independent from the party to be protected within

the meaning set forth in IRC Section 674(c). The Special Co-Trustee may appoint himself to act as such Co-Trustee if he is independent within the meaning of IRC Section 674(c). In addition, if the Special Co-Trustee, in his sole and absolute discretion, determines that it is no longer necessary for an independent Co-Trustee to act in order to protect the Trust Estate and/or the Trustee and/or the beneficiaries from the negative influence of outside third parties, including but not limited to a spouse or creditors, then the Special Co-Trustee may remove any independent Co-Trustee whom was either appointed by another acting Trustee of the Trust pursuant to other provisions of the Trust Agreement (if any) or appointed by the Special Co-Trustee, and shall not be required to replace such removed independent Co-Trustee with another.

5. Limited Responsibilities of Special Co-Trustee: The responsibilities of the Special Co-Trustee shall be limited to the exercise of the Trustee power, duty or discretionary authority prohibited or void as provided in the Trust Agreement, and the Special Co-Trustee powers regarding the appointment and removal of an independent Co-Trustee as permitted above, and appointment of a Trust Protector as permitted in the Section of the Trust Agreement entitled "Trust Protector Provisions," and said Special Co-Trustee shall not be concerned with, nor shall have, any power, duty or authority with respect to any other aspects of administration of the Trust Estate.

6. Limited Liability of the Special Co-Trustee: The Special Co-Trustee shall not be held to the fiduciary duties of a Trustee. The Special Co-Trustee shall not be liable to anyone, howsoever interested in this Trust, merely by reason of his appointment as Special Co-Trustee and shall not have any affirmative duty to monitor, investigate and learn of any circumstances or acts or omissions of others, relating to this Trust, its beneficiaries or otherwise that may warrant the Special Co-Trustee to act. The Special Co-Trustee shall not be liable to anyone, howsoever interested in this Trust either now or in the future, for failing to properly or timely appoint a Trust Protector or to properly or timely advise a Trust Protector of any circumstances or facts that might impact a Trust Protector's decisions. Furthermore, the Special Co-Trustee shall not be liable to anyone, howsoever interested in this Trust, by reason of any act or omission and shall be held harmless by the Trust and its beneficiaries and indemnified by the Trust Estate from any liability unless (a) the Trustee and/or a beneficiary has brought directly to the attention of the Special Co-Trustee a circumstance that may warrant his action and (b) such act or omission is the result of willful misconduct or bad faith. Any action taken or not taken in reliance upon the opinion of legal counsel shall not be considered the result of willful misconduct or bad faith, provided such counsel was selected with reasonable care and in good faith. In the event a lawsuit against the Special Co-Trustee fails to result in a judgment against him, the Special Co-Trustee shall be entitled to reimbursement from the Trust for any and all costs and expenses related to his defense against such lawsuit.

7. Compensation: The Special Co-Trustee shall not be entitled to compensation merely as the result of his appointment. The Special Co-Trustee shall only be entitled to reasonable compensation for his actual time spent and services rendered in carrying out his duties and powers hereunder, at the hourly rate commensurate with that charged by professional Trustees for similar services. The Special Co-Trustee shall, in addition, be entitled to prompt reimbursement of expenses properly incurred in the course of fulfilling his duties and powers, including but not limited to the employment of legal counsel or other professionals to advise him regarding his decisions.
8. Waiver of Bond: No bond shall be required of any individual or entity acting as Special Co-Trustee.

GENERATION SKIPPING TAX PROVISIONS

Article XIV, Section R of the said Trust entitled "Generation Skipping Transfers" is hereby amended so that from henceforth Article XIV, Section R is replaced in its entirety with the provisions which follow.

- A. Explanation of this Section: The purpose of this Section of the Trust Agreement and the desire of the Trustor is to eliminate or reduce the burden on the Trustor's family and issue resulting from the application of the federal generation skipping transfer tax under Chapter 13 of the Code, including any future amendments thereto (hereinafter referred to as the "GST Tax"). The Trustor directs the Trustee and any court of competent jurisdiction to interpret the provisions of this Section in accordance with the Trustor's desires stated above, since the Trustor, when creating this Trust, is aware that the provisions of said GST Tax are very complex and as yet there are few court rulings to aid in their interpretation. The Trustor requests that, before the Trustee or any beneficiary acts in accordance with the provisions of this Section, they seek professional advice from an attorney who specializes in estate planning, in order that they may avoid any unintentional triggering of negative GST Tax consequences.
- B. Allocation of Trustor's GST Tax Exemptions: The Trustee (or such other person or persons whom Code provisions, Treasury Regulations or court rulings authorize to make elections or allocations with regard to the Trustor's GST Tax exemptions) is instructed to allocate such exemptions in good faith, without a requirement that such allocation be proportionate, equal or in any particular manner equitably impact any or all of the various transferees or beneficiaries of property subject to or affected by such allocations. When allocating such exemptions, the Trustee may include or exclude any property of which the Trustor is the transferor for GST Tax purposes, including property transferred before the Trustor's death, and may take into account prior transfers, gift tax returns and other relevant information known to the Trustee. It is recommended that, to the extent possible, any such trust allocated an inclusion ratio of zero shall contain any and all Roth IRAs. The Trustee is also directed, when allocating Trustor's GST Tax exemptions, to coordinate with the Executor of Trustor's estate and/or the Trustee of Trustor's revocable Living Trusts regarding the

most appropriate use of said exemption; however, the Trustee's final determination shall be made in his or her sole and absolute discretion and shall be binding upon all parties howsoever interested in this Trust.

1. Trustee's Power to Combine and Divide Trusts: If a trust hereunder would be partially exempt from GST Tax by reason of an allocation of GST Tax exemption to it, before the allocation the Trustee in his discretion may divide the trust into two separate trusts of equal or unequal value, to permit allocation of the exemption solely to one trust which will be entirely exempt from GST Tax. The Trustee of any trust shall have authority, in the Trustee's sole discretion, to combine that trust with any other trust or trusts having the same exempt or nonexempt character, including trusts established (during life or at death) by the Trustor or any of his issue; and the Trustee may establish separate shares in a combined trust if and as needed to preserve the rights and protect the interests of the various beneficiaries if the trusts being combined do not have identical terms or if separate shares are otherwise deemed desirable by the Trustee. These powers to combine and divide trusts may be exercised from time to time, and may be used to modify or reverse their prior exercise. In deciding whether and how to exercise this authority the Trustee may take account of efficiencies of administration, generation-skipping and other transfer tax considerations, income tax factors affecting the various trusts and beneficiaries (including determination of life expectancy to be used for Retirement Assets required minimum distribution purposes), the need or desirability of having the same or different trustees for various trusts or shares, and any other considerations the Trustee may deem appropriate to these decisions. Prior to exercising any power to combine trusts under this paragraph, the Trustee shall take into consideration that, where possible and appropriate (keeping in mind the dispositive provisions of the Trust Agreement and the situation of the beneficiary), separate trusts should be maintained so that the trust beneficiaries may enjoy the benefit of distributions from any Retirement Assets being stretched out over their separate life expectancies; in particular, the Trustee shall not merge trusts when one provides for the payout to or for the beneficiary of all withdrawals from IRAs and other Retirement Assets, net of trust expenses, and another provides for the accumulation of income (including IRA and Retirement Asset withdrawals).
2. Same Terms and Provisions for Divided Trusts: Except as expressly provided in the Trust Agreement, when a trust otherwise to be established is divided under the foregoing provisions into exempt and non-exempt trusts or otherwise into separate trusts, each trust shall have the same provisions as the original trust from which it is established, and references in the Trust Agreement to the original trust shall collectively refer to the separate trusts derived from it.
3. Exempt (and Non-Exempt) Character of Property to be Preserved: On termination, partial termination, subdivision or distribution of any of the

separate trusts created by the Trust Agreement, or when it is provided that separate trusts are to be combined, the exempt (zero inclusion ratio) or the non-exempt (inclusion ratio of one) generation-skipping character of the property of the trusts shall be preserved. Accordingly, when property is to be added to or combined with the property of another trust or trusts, or when additional trusts are to be established from one or more sources, non-exempt property or trusts shall not be added to or combined with exempt property or trusts, even if this requires the establishment of additional separate trusts with the same terms and provisions, unless the Trustee believes that economic efficiency or other compelling considerations justify sacrificing their separate generation-skipping characteristics.

4. Trustee's Investment Power; Distributions: Without limiting the foregoing, the Trustor specifically authorizes (but do not require) the Trustee, in administering different trusts wholly or in part for the benefit of a particular beneficiary or group of beneficiaries, to adopt different investment patterns and objectives for different trusts based on whether they are funded by Roth IRAs or other assets and on their generation-skipping ratios, and to prefer making distributions from Retirement Assets other than Roth IRAs and from non-exempt trusts to beneficiaries who are non-skip persons for generation-skipping purposes and from exempt trusts to those who are skip persons. Upon division or distribution of an exempt trust and a nonexempt trust hereunder, the Trustee may allocate property from the exempt trust first to a share from which a generation-skipping transfer is more likely to occur. It is further recommended that to the extent that distributions would be made for the benefit of skip persons and such distributions would be exempt from GST Tax because such distributions are for the payment of medical expenses exempt under IRC Section 2503(e)(2)(B) or for the payment of tuition or educational expenses exempt under IRC Section 2503 (e)(2)(A), such payments to the extent possible be first made from a trust which has an inclusion ratio of one.
 5. Trustee's Exoneration: The Trustor expressly exonerates the Trustee from any liability arising from any exercise or failure to exercise these powers, provided the actions (or inactions) of the Trustee are taken in good faith.
- C. Beneficiary's General Power of Appointment: Should a beneficiary die prior to the creation of his or her separate share of the Trust Estate or die subsequent to the creation of such share but before complete distribution of such share, and as a result of said death a portion of the Trust Estate would be subject to GST Tax but for the provisions of this paragraph, the beneficiary may, pursuant to a general power of appointment exercised in his or her last Will (but not in a codicil) or other writing delivered to the Trustee prior to his or her death and specifically referring to the Trust Agreement, provide for such share to pass to the creditors of that beneficiary's estate, in accordance with the terms set forth below. The asset value subject to such general power of appointment shall be the maximum amount, if any, which, when added to

the beneficiary's net taxable estate (computed prior to said power), will cause the federal estate tax marginal rate to increase until it equals the GST Tax marginal rate; but in no case shall such general power of appointment exceed the asset value of such beneficiary's share. This general power of appointment may be subject to termination and reinstatement by the Trust Protector. To the extent the beneficiary does not effectively exercise the general power of appointment, the unappointed asset value shall be held, administered and distributed in accordance with the other provisions of the Trust Agreement.

TRUSTEES ENVIRONMENTAL POWERS

A. Trustee Authorized to Inspect Property Prior to Acceptance:

1. **Actions at Expense of Trust Estate:** Prior to acceptance of this Trust by any proposed or designated Trustee (and prior to acceptance of any asset by any proposed, designated or acting Trustee), such Trustee or proposed or designated Trustee shall have the right to take the following actions at the expense of the Trust Estate:
 - a. **Enter Property:** To enter and inspect any existing or proposed asset of the Trust (or of any partnership, limited liability company or corporation in which the Trust holds an interest) for the purpose of determining the existence, location, nature, and magnitude of any past or present release or threatened release of any hazardous substance; and
 - b. **Review Records:** To review records of the currently acting Trustee or of the Trustor (or of any partnership, limited liability company or corporation in which the Trust holds an interest) for the purpose of determining compliance with environmental laws and regulations, including those records relating to permits, licenses, notices, reporting requirements, and governmental monitoring of hazardous waste.
2. **Rights Equivalent to Partner, Member or Shareholder:** The right of the proposed or designated Trustee to enter and inspect assets and records of a partnership, limited liability company or corporation under this provision is equivalent to the right under state law of a partner, member or shareholder to inspect assets and records under similar circumstances.
3. **Right to Still Refuse Acceptance of Trusteeship:** Acts performed by the proposed or designated Trustee under this provision shall not constitute acceptance of the Trust.
4. **Right to Accept Trusteeship Over Other Assets Only:** If an asset of the Trust is discovered upon environmental audit by the acting Trustee or any proposed or designated Trustee to be contaminated with hazardous waste or otherwise

not in compliance with environmental law or regulation, the Trustee may decline to act as Trustee solely as to such asset, and accept the Trusteeship as to all other assets of the Trust. The Trustee, in his discretion, may petition a court to appoint a receiver or special Trustee to hold and manage the rejected asset, pending its final disposition.

5. Right to Reject Asset: Any currently acting Trustee shall have the right to reject any asset proposed to be transferred to the Trustee.

B. Termination, Bifurcation or Modification of The Trust Due to Environmental Liability:

1. Trustee's Powers over Hazardous Waste Property: If the Trust Estate holds one or more assets, the nature, condition, or operation of which is likely to give rise to liability under, or is an actual or threatened violation of any federal, state or local environmental law or regulation, the Trustee may take one or more of the following actions, if the Trustee, in the Trustee's sole and binding discretion, determines that such action is in the best interests of the Trust and its beneficiaries:
 - a. Modify Trust: Modification of trust provisions, upon court approval, granting the Trustee such additional powers as are required to protect the Trust and its beneficiaries from liability or damage relating to actual or threatened violation of any federal, state or local environmental law or regulations, with it being the Trustors' desire that the Trustee keep in mind the Trustors' dispositive wishes expressed elsewhere in this Trust Agreement and that the Trustee consider and weigh any potentially negative federal and state income, gift, estate or inheritance tax consequences to the Trustee, Trust and its beneficiaries;
 - b. Bifurcate Trust: Bifurcation of the Trust to separate said asset from other assets of the Trust Estate;
 - c. Appoint a Special Trustee: Appointment of a special Trustee to administer said asset; and/or
 - d. Abandon Property: Abandonment of such asset.
2. Terminate Trust or Distribute Other Assets: With court approval, the Trustee may terminate the Trust or partially or totally distribute the Trust Estate to beneficiaries.
3. Broad Discretion: It is the intent of the Trustors that the Trustee shall have the widest discretion in identification of and response to administration problems connected to potential environmental law liability to the Trust Estate and the

Trustee, in order to protect the interests of the Trust, the Trustee and the beneficiaries of the Trust.

- C. Trustee's Powers Relating to Environmental Laws: The Trustee shall have the power to take, on behalf of the Trust, any action necessary to prevent, abate, avoid, or otherwise remedy any actual or threatened violation of any federal, state, or local environmental law or regulation, or any condition which may reasonably give rise to liability under any federal, state, or local environmental law or regulation, including, but not limited to, investigations, audits, and actions falling within the definition of "response" as defined in 42 U.S.C. §9601 (25), or any successor statute, relating to any asset, which is or has been held by the Trustee as part of the Trust Estate.
- D. Indemnification of Trustee from Trust Assets for Environmental Expenses:
1. Indemnification and Reimbursement for Good Faith Actions: The Trustee shall be indemnified and reimbursed from the Trust Estate for any liabilities, loss, damages, penalties, costs or expenses arising out of or relating to federal, state or local environmental laws or regulations (hereinafter "environmental expenses"), except those resulting from the Trustee's intentional wrongdoing, bad faith or reckless disregard of his fiduciary obligation.
 - a. Environmental Expenses Defined: Environmental expenses shall include, but not be limited to:
 - (i) Costs of investigation, removal, remediation, response, or other cleanup costs of contamination by hazardous substances, as defined under any environmental law or regulation;
 - (ii) Legal fees and costs arising from any judicial, investigative or administrative proceeding relating to any environmental law or regulation;
 - (iii) Civil or criminal fees, fines or penalties incurred under any environmental law or regulation; and
 - (iv) Fees and costs payable to environmental consultants, engineers, or other experts, including legal counsel, relating to any environmental law or regulation.
 - b. Properties and Businesses Covered: This right to indemnification or reimbursement shall extend to environmental expenses relating to:
 - (i) Any real property or business enterprise, which is or has been at any time owned or operated by the Trustee as part of the Trust Estate; and

- (ii) Any real property or business enterprise, which is or has been at any time owned or operated by a corporation, limited liability company or partnership, in which the Trustee holds or has held at any time an ownership or management interest as part of the Trust Estate.
 - 2. Right to Pay Expenses Directly from Trust: The Trustee shall have the right to reimbursement for incurred environmental expenses without the prior requirement of expenditure of the Trustee's own funds in payment of such environmental expenses, and the right to pay environmental expenses directly from Trust assets.
 - 3. Right to Lien Trust Assets: The Trustee shall have a primary lien against assets of the Trust for reimbursement of environmental expenses, which are not paid directly from Trust assets.
- E. Exoneration of Trustee for Good Faith Acts Relating to Environmental Law: The Trustee shall not be liable to any beneficiary of the Trust or to any other party for any good faith action or inaction, relating to any environmental law or regulation, or for the payment of any environmental expense (as defined above); provided, however that the Trustee shall be liable for any such action, inaction or payment which is a breach of Trust and is committed in bad faith, or with reckless or intentional disregard of his fiduciary obligations.
- F. Allocation of Environmental Expenses and Receipts Between Principal and Income: The Trustee may, in the Trustee's discretion, allocate between income and principal of the Trust Estate environmental expenses (as defined above) and reimbursements or other funds received from third parties relating to environmental expenses. In making such allocation, the Trustee shall consider the effect of such allocation upon income available for distribution, the value of Trust principal, and the income tax treatment of such expenses and receipts. The Trustee may, in the Trustee's discretion, create a reserve for payment of anticipated environmental expenses.

This instrument shall serve as an exercise of the Testamentary Powers of Appointment provided for in Article VIII and Article IX of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended; and, this instrument will serve as and will constitute the "valid living trust agreement" referred to in Article VIII and Article IX. This instrument shall also serve as a qualified beneficiary designation pursuant to Article III of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended, as it pertains to the interests of NELVA E. BRUNSTING.

All other provisions contained in the Brunsting Family Living Trust dated October 10, 1996, as amended, and that certain Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement dated June 15, 2010 are hereby


ratified and confirmed and shall remain in full force and effect except to the extent that any such provisions are amended hereby.

EXECUTED and effective on August 25, 2010.



NELVA E. BRUNSTING,
Founder and Beneficiary

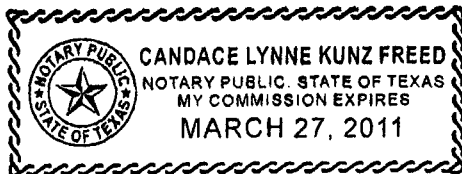
ACCEPTED and effective on August 25, 2010.

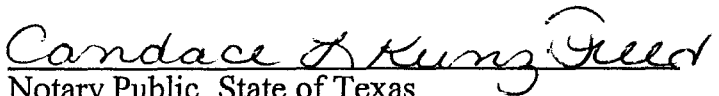


NELVA E. BRUNSTING,
Trustee

STATE OF TEXAS
COUNTY OF HARRIS

This instrument was acknowledged before me on August 25, 2010, by NELVA E. BRUNSTING, in the capacities stated therein.





Notary Public, State of Texas

APPOINTMENT OF SUCCESSOR TRUSTEES

WHEREAS, NELVA E. BRUNSTING, is a Founder of the Brunsting Family Living Trust dated October 10, 1996, as amended (the "Trust Agreement"); and,

WHEREAS, Pursuant to Article IV, Section B, of the Brunsting Family Living Trust entitled "Our Successor Trustees," an original Trustee will have the right to appoint his or her own successor or successors to serve as Trustees in the event that such original Trustee ceases to serve by reason of death, disability or for any other reason, as well as specify conditions relevant to such appointment; and

WHEREAS, ELMER H. BRUNSTING, died on April 1, 2009. The Brunsting Family Living Trust authorized the creation of subsequent subtrusts known as the NELVA E. BRUNSTING SURVIVOR'S TRUST and the ELMER H. BRUNSTING DECEDENT'S TRUST. The full legal names of the said subtrusts are:

NELVA E. BRUNSTING, Trustee, or the successor Trustees, of the NELVA E. BRUNSTING SURVIVOR'S TRUST dated April 1, 2009, as established under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

NELVA E. BRUNSTING, Trustee, or the successor Trustees, of the ELMER H. BRUNSTING DECEDENT'S TRUST dated April 1, 2009, as established under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

WHEREAS, the said NELVA E. BRUNSTING is desirous of exercising her right as original Trustee to designate, name and appoint her own successors to serve as Trustees in the event that she ceases to serve by reason of death, disability or for any other reason, as well as specify conditions of such appointment;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

NELVA E. BRUNSTING makes the following appointment:

If I, NELVA E. BRUNSTING, fail or cease to serve by reason of death, disability or for any other reason, then the following individuals will serve as successor Co-Trustees:

ANITA KAY BRUNSTING and AMY RUTH TSCHIRHART

If a successor Co-Trustee is unable or unwilling to serve for any reason, the remaining Co-Trustee shall serve alone. However, if neither Co-Trustee is able or willing to serve, then THE FROST NATIONAL BANK shall serve as successor Trustee.

In order to maintain the integrity of the Trust Agreement and to meet my estate planning desires and goals, my Trustees shall comply with the directive set forth below to assure compliance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

1. Successor Trustee Required to Provide an Authorization For Release of Protected Health Information

Each successor Trustee (or Co-Trustee) shall be required to execute and deliver to the Co-Trustee (if any) or next successor Trustee an "Authorization for Release of Protected Health Information" pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and any other similarly applicable federal and state laws, authorizing the release of said successor's protected health and medical information to said successor's Co-Trustees (if any) and to all alternate successor Trustees (or Co-Trustees) named under this document or any subsequent documents signed by the Founders, to be used only for the purpose of determining in the future whether said successor has become incapacitated (as defined in the Trust Agreement).

If said successor is already acting in the capacity of Trustee (or Co-Trustee) and fails to so execute and deliver such Authorization within thirty (30) days of actual notice of said requirement, or if an event has occurred which triggers said successor's power to act but said successor has not yet begun to act in said capacity and fails to so execute and deliver such Authorization within thirty (30) days of actual notice of said requirement, then for purposes of the Trust Agreement, said successor shall be deemed incapacitated.

"Actual notice" shall occur when a written notice, signed by the Co-Trustees (if any) or next successor Trustee, informing said successor of the need to timely execute and deliver an authorization as set forth above (and, in the case where said successor has not yet begun to act, informing him or her of the event that has triggered said successor's power to act), is (i) deposited in the United States mail, postage prepaid, addressed to the last address of said successor known to the Co-Trustees or next successor Trustee or (ii) hand delivered to said successor, provided such delivery is witnessed by a third party independent from the Co-Trustees or next successor Trustee within the meaning of Internal Revenue Code Sections 672(c) and 674(c) and said witness signs a statement that he or she has witnessed such delivery.

2. Obtain the Release of Protected Health Information

The Trustee is empowered to request, receive and review any information, verbal or written, regarding Founder's physical or mental health, including, but not limited to, protected health and medical information, and to consent to their release or disclosure. The Founder has signed on this same date or an earlier date an "Authorization For Release of Protected Health Information," in compliance with HIPAA, immediately authorizing the release of any and all health and medical

information to the Trustee (or next successor Trustee, even if not yet acting) for the purposes of determining the Founder's incapacity (or for other stated purposes therein).

In the event said authorization cannot be located, is by its own terms no longer in force or is otherwise deemed invalid in whole or in part, the Founder hereby grants the Trustee (or next successor Trustee, even if not yet acting) the power and authority, as Founder's legal representative, to execute a new authorization on Founder's behalf, immediately authorizing the release of any and all health and medical information for the purpose of determining the Founder's incapacity (and for the purpose of carrying out any of the Trustee's powers, rights, duties and obligations under this agreement), naming the Trustee (or next successor Trustee even if not yet acting) as the Founder's "Personal Representative," "Authorized Representative" and "Authorized Recipient."

3. Determination of "Incompetence" or "Incapacity"

For purposes of the Trust Agreement, and notwithstanding any other conflicting provisions contained in the Trust Agreement or any previous amendments thereto, the term "incompetency" and/or "incapacity" shall mean any physical or mental incapacity, whether by reason of accident, illness, advanced age, mental deterioration, alcohol, drug or other substance abuse, or similar cause, which in the sole and absolute discretion of the Trustee makes it impracticable for a person to give prompt, rational and prudent consideration to financial matters and, if said disabled person is a Trustee (including an appointed Trustee who has yet to act), (i) a guardian of said person or estate, or both, of said person has been appointed by a court having jurisdiction over such matters or (ii) two (2) attending physicians of said person, who are licensed to practice and who are not related by blood or marriage to such person, have stated in writing that such incompetency or incapacity exists.

If said disabled person is a Trustee (including an appointed Trustee who has yet to act), upon the court determination of the person's competency or capacity or upon the revocation of the writings of the two (2) attending physicians above or upon written determination of competency or capacity to give prompt, rational and prudent consideration to financial matters by two (2) other attending physicians, who are licensed to practice and who are not related by blood or marriage to such person, subject to written notice being given to the then acting successor Trustee, the original Trustee (including an appointed Trustee who has yet to act) removed for "incompetency" or "incapacity" shall be reinstated as Trustee.

Any third party may accept physicians' writings as proof of competency or capacity or incompetency or incapacity as set forth above without the responsibility of further investigation and shall be held harmless from any loss suffered or liability incurred as the result of good faith reliance upon such writings.

In addition to any "Authorization for Release of Protected Health Information" executed by the Founder, the Founder hereby voluntarily waives any physician-patient privilege or psychiatrist-patient privilege and authorizes physicians and psychiatrists to examine them and disclose their physical or mental condition, or other personal health or medical information, in order to determine their competency or incompetency, or capacity or incapacity, for purposes of this document. Each person who signs this instrument or an acceptance of Trusteeship hereunder does, by so signing, waive all provisions of law relating to disclosure of confidential or protected health and medical information insofar as that disclosure would be pertinent to any inquiry under this paragraph. No Trustee shall be under any duty to institute any inquiry into a person's possible incompetency or incapacity (such as, but not limited to, by drug testing), but if the Trustee does so, the expense of any such inquiry may be paid from the Trust Estate of said person's trust or, if no such trust exists, the Trust Estate of the Trust.

It is the Founder's desire that, to the extent possible, a named successor Trustee be able to act expeditiously, without the necessity of obtaining a court determination of a Founder's incapacity or the incapacity of a preceding appointed successor Trustee (including if that preceding appointed successor Trustee has not yet acted). Therefore, if an Authorization for Release of Protected Health Information executed by a Founder, or an appointed successor Trustee (even if not yet acting), or by a "personal representative" or "authorized representative" on behalf of a Founder or such an appointed successor Trustee, is not honored in whole or in part by a third party such that physicians' writings cannot be obtained as necessitated by this subparagraph, then the Trust Protector named under the Trust Agreement (if any), or if there is no such Trust Protector provided under the Trust Agreement then the next succeeding Trustee (even if not yet acting) who is independent, that is not related to or subordinate to, said Founder or such appointed successor Trustee within the meaning of Internal Revenue Code Section 672(c), may declare in writing said Founder or such appointed successor Trustee to be incapacitated; provided, however, the Trust Protector or next succeeding Trustee making such declaration shall have first made good faith efforts to obtain the physicians' writings described above, and the provisions above relating to reinstatement upon two (2) physicians' written determination of competency or capacity shall continue to apply.

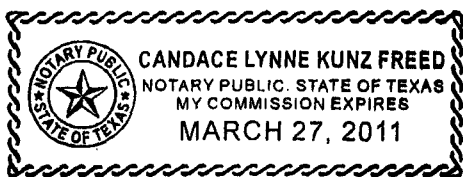
In the event the Trust Agreement does not provide for an Independent Trustee as set forth in the above paragraph, such an Independent Trustee shall be elected by a majority vote of the then current adult income beneficiaries of the trust (or by the legal guardians of all minor or disabled current income beneficiaries) and such Independent Trustee shall not be related to nor subordinate to any of the beneficiaries participating in the said vote within the meaning of Internal Revenue Code 672(c). In the event that there are only two (2) beneficiaries, one of which is acting as Trustee, the remaining beneficiary may appoint such an Independent Trustee who is neither related to nor subordinate to such beneficiary as those terms are defined in and within the meaning of Internal Revenue Code 672(c).

The Founder has signed on this same date or on an earlier date an "Authorization for Release of Protected Health Information," in compliance with HIPAA, immediately authorizing the release of health and medical information to the Trustee (or next successor Trustee, even if not yet acting), so the Trustee may legally defend against or otherwise resist any contest or attack of any nature upon any provision of the Trust Agreement or amendment to it (or defend against or prosecute any other legal matter within his or her powers set forth in the Trust Agreement). In the event said authorization cannot be located, is by its own terms no longer in force or is otherwise deemed invalid or not accepted in whole or in part, the Founder hereby grants the Trustee (or next successor Trustee, even if not yet acting) the power and authority, as the Founder's legal representative to execute a new authorization on the Founder's behalf, even after Founder's death, immediately authorizing the release of any and all health and medical information for the purpose of determining the Founder's incapacity (and for the purpose of carrying out any of the Trustee's powers, rights, duties and obligations under the Trust Agreement naming the Trustee (or next successor Trustee, even if not yet acting) as the Founder's "Personal Representative," "Authorized Representative" and "Authorized Recipient."

This Appointment of Successor Trustees is effective immediately upon execution of this document by the Founder, with the said successor Trustees to act at such times and in such instances as provided in the said Brunsting Family Living Trust dated October 10, 1996, as amended.

All other provisions contained in the Brunsting Family Living Trust dated October 10, 1996, as amended, are hereby ratified and confirmed and shall remain in full force and effect except to the extent that any such provisions are amended hereby or by previous amendments or appointments still in effect.

WITNESS MY HAND on August 25, 2010.



Nelva E. Brunsting
NELVA E. BRUNSTING,
Founder and Original Trustee

THE STATE OF TEXAS
COUNTY OF HARRIS

This instrument was acknowledged before me on August 25, 2010, by NELVA E. BRUNSTING, as Founder and Original Trustee.

Candace K. Kunz Freed
Notary Public, State of Texas

Law Firm Copy

APPOINTMENT OF SUCCESSOR TRUSTEES

WHEREAS, NELVA E. BRUNSTING, is a Founder of the Brunsting Family Living Trust dated October 10, 1996, as amended (the "Trust Agreement"); and,

WHEREAS, Pursuant to Article IV, Section B, of the Brunsting Family Living Trust entitled "Our Successor Trustees," an original Trustee will have the right to appoint his or her own successor or successors to serve as Trustees in the event that such original Trustee ceases to serve by reason of death, disability or for any other reason, as well as specify conditions relevant to such appointment; and

WHEREAS, ELMER H. BRUNSTING, died on April 1, 2009. The Brunsting Family Living Trust authorized the creation of subsequent subtrusts known as the NELVA E. BRUNSTING SURVIVOR'S TRUST and the ELMER H. BRUNSTING DECEDENT'S TRUST. The full legal names of the said subtrusts are:

NELVA E. BRUNSTING, Trustee, or the successor Trustees, of the NELVA E. BRUNSTING SURVIVOR'S TRUST dated April 1, 2009, as established under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

NELVA E. BRUNSTING, Trustee, or the successor Trustees, of the ELMER H. BRUNSTING DECEDENT'S TRUST dated April 1, 2009, as established under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

WHEREAS, the said NELVA E. BRUNSTING is desirous of exercising her right as original Trustee to designate, name and appoint her own successors to serve as Trustees in the event that she ceases to serve by reason of death, disability or for any other reason, as well as specify conditions of such appointment;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

NELVA E. BRUNSTING makes the following appointment:

If I, NELVA E. BRUNSTING, resign as Trustee, then the following individuals will serve as successor Trustee in the following order:

First, ANITA KAY BRUNSTING
Second, AMY RUTH TSCHIRHART
Third, THE FROST NATIONAL BANK

If I, NELVA E. BRUNSTING, fail or cease to serve by reason of death or disability, then the following individuals will serve as successor Co-Trustees:

ANITA KAY BRUNSTING and AMY RUTH TSCHIRHART

If a successor Co-Trustee is unable or unwilling to serve for any reason, the remaining Co-Trustee shall serve alone. However, if neither Co-Trustee is able or willing to serve, then THE FROST NATIONAL BANK shall serve as successor Trustee.

In order to maintain the integrity of the Trust Agreement and to meet my estate planning desires and goals, my Trustees shall comply with the directive set forth below to assure compliance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

1. Successor Trustee Required to Provide an Authorization For Release of Protected Health Information

Each successor Trustee (or Co-Trustee) shall be required to execute and deliver to the Co-Trustee (if any) or next successor Trustee an "Authorization for Release of Protected Health Information" pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and any other similarly applicable federal and state laws, authorizing the release of said successor's protected health and medical information to said successor's Co-Trustees (if any) and to all alternate successor Trustees (or Co-Trustees) named under this document or any subsequent documents signed by the Founders, to be used only for the purpose of determining in the future whether said successor has become incapacitated (as defined in the Trust Agreement).

If said successor is already acting in the capacity of Trustee (or Co-Trustee) and fails to so execute and deliver such Authorization within thirty (30) days of actual notice of said requirement, or if an event has occurred which triggers said successor's power to act but said successor has not yet begun to act in said capacity and fails to so execute and deliver such Authorization within thirty (30) days of actual notice of said requirement, then for purposes of the Trust Agreement, said successor shall be deemed incapacitated.

"Actual notice" shall occur when a written notice, signed by the Co-Trustees (if any) or next successor Trustee, informing said successor of the need to timely execute and deliver an authorization as set forth above (and, in the case where said successor has not yet begun to act, informing him or her of the event that has triggered said successor's power to act), is (i) deposited in the United States mail, postage prepaid, addressed to the last address of said successor known to the Co-Trustees or next successor Trustee or (ii) hand delivered to said successor, provided such delivery is witnessed by a third party independent from the Co-Trustees or next successor Trustee within the meaning of Internal Revenue Code Sections 672(c) and 674(c) and said witness signs a statement that he or she has witnessed such delivery.

2. Obtain the Release of Protected Health Information

The Trustee is empowered to request, receive and review any information, verbal or written, regarding Founder's physical or mental health, including, but not limited to,

protected health and medical information, and to consent to their release or disclosure. The Founder has signed on this same date or an earlier date an "Authorization For Release of Protected Health Information," in compliance with HIPAA, immediately authorizing the release of any and all health and medical information to the Trustee (or next successor Trustee, even if not yet acting) for the purposes of determining the Founder's incapacity (or for other stated purposes therein).

In the event said authorization cannot be located, is by its own terms no longer in force or is otherwise deemed invalid in whole or in part, the Founder hereby grants the Trustee (or next successor Trustee, even if not yet acting) the power and authority, as Founder's legal representative, to execute a new authorization on Founder's behalf, immediately authorizing the release of any and all health and medical information for the purpose of determining the Founder's incapacity (and for the purpose of carrying out any of the Trustee's powers, rights, duties and obligations under this agreement), naming the Trustee (or next successor Trustee even if not yet acting) as the Founder's "Personal Representative," "Authorized Representative" and "Authorized Recipient."

3. Determination of "Incompetence" or "Incapacity"

For purposes of the Trust Agreement, and notwithstanding any other conflicting provisions contained in the Trust Agreement or any previous amendments thereto, the term "incompetency" and/or "incapacity" shall mean any physical or mental incapacity, whether by reason of accident, illness, advanced age, mental deterioration, alcohol, drug or other substance abuse, or similar cause, which in the sole and absolute discretion of the Trustee makes it impracticable for a person to give prompt, rational and prudent consideration to financial matters and, if said disabled person is a Trustee (including an appointed Trustee who has yet to act), (i) a guardian of said person or estate, or both, of said person has been appointed by a court having jurisdiction over such matters or (ii) two (2) attending physicians of said person, who are licensed to practice and who are not related by blood or marriage to such person, have stated in writing that such incompetency or incapacity exists.

If said disabled person is a Trustee (including an appointed Trustee who has yet to act), upon the court determination of the person's competency or capacity or upon the revocation of the writings of the two (2) attending physicians above or upon written determination of competency or capacity to give prompt, rational and prudent consideration to financial matters by two (2) other attending physicians, who are licensed to practice and who are not related by blood or marriage to such person, subject to written notice being given to the then acting successor Trustee, the original Trustee (including an appointed Trustee who has yet to act) removed for "incompetency" or "incapacity" shall be reinstated as Trustee.

Any third party may accept physicians' writings as proof of competency or capacity or incompetency or incapacity as set forth above without the responsibility of further investigation and shall be held harmless from any loss suffered or liability incurred as the result of good faith reliance upon such writings.

In addition to any "Authorization for Release of Protected Health Information" executed by the Founder, the Founder hereby voluntarily waives any physician-patient privilege or psychiatrist-patient privilege and authorizes physicians and psychiatrists to examine them and disclose their physical or mental condition, or other personal health or medical information, in order to determine their competency or incompetency, or capacity or incapacity, for purposes of this document. Each person who signs this instrument or an acceptance of Trusteeship hereunder does, by so signing, waive all provisions of law relating to disclosure of confidential or protected health and medical information insofar as that disclosure would be pertinent to any inquiry under this paragraph. No Trustee shall be under any duty to institute any inquiry into a person's possible incompetency or incapacity (such as, but not limited to, by drug testing), but if the Trustee does so, the expense of any such inquiry may be paid from the Trust Estate of said person's trust or, if no such trust exists, the Trust Estate of the Trust.

It is the Founder's desire that, to the extent possible, a named successor Trustee be able to act expeditiously, without the necessity of obtaining a court determination of a Founder's incapacity or the incapacity of a preceding appointed successor Trustee (including if that preceding appointed successor Trustee has not yet acted). Therefore, if an Authorization for Release of Protected Health Information executed by a Founder, or an appointed successor Trustee (even if not yet acting), or by a "personal representative" or "authorized representative" on behalf of a Founder or such an appointed successor Trustee, is not honored in whole or in part by a third party such that physicians' writings cannot be obtained as necessitated by this subparagraph, then the Trust Protector named under the Trust Agreement (if any), or if there is no such Trust Protector provided under the Trust Agreement then the next succeeding Trustee (even if not yet acting) who is independent, that is not related to or subordinate to, said Founder or such appointed successor Trustee within the meaning of Internal Revenue Code Section 672(c), may declare in writing said Founder or such appointed successor Trustee to be incapacitated; provided, however, the Trust Protector or next succeeding Trustee making such declaration shall have first made good faith efforts to obtain the physicians' writings described above, and the provisions above relating to reinstatement upon two (2) physicians' written determination of competency or capacity shall continue to apply.

In the event the Trust Agreement does not provide for an Independent Trustee as set forth in the above paragraph, such an Independent Trustee shall be elected by a majority vote of the then current adult income beneficiaries of the trust (or by the legal guardians of all minor or disabled current income beneficiaries) and such Independent Trustee shall not be related to nor subordinate to any of the beneficiaries

participating in the said vote within the meaning of Internal Revenue Code 672(c). In the event that there are only two (2) beneficiaries, one of which is acting as Trustee, the remaining beneficiary may appoint such an Independent Trustee who is neither related to nor subordinate to such beneficiary as those terms are defined in and within the meaning of Internal Revenue Code 672(c).

The Founder has signed on this same date or on an earlier date an "Authorization for Release of Protected Health Information," in compliance with HIPAA, immediately authorizing the release of health and medical information to the Trustee (or next successor Trustee, even if not yet acting), so the Trustee may legally defend against or otherwise resist any contest or attack of any nature upon any provision of the Trust Agreement or amendment to it (or defend against or prosecute any other legal matter within his or her powers set forth in the Trust Agreement). In the event said authorization cannot be located, is by its own terms no longer in force or is otherwise deemed invalid or not accepted in whole or in part, the Founder hereby grants the Trustee (or next successor Trustee, even if not yet acting) the power and authority, as the Founder's legal representative to execute a new authorization on the Founder's behalf, even after Founder's death, immediately authorizing the release of any and all health and medical information for the purpose of determining the Founder's incapacity (and for the purpose of carrying out any of the Trustee's powers, rights, duties and obligations under the Trust Agreement naming the Trustee (or next successor Trustee, even if not yet acting) as the Founder's "Personal Representative," "Authorized Representative" and "Authorized Recipient."

This Appointment of Successor Trustees is effective immediately upon execution of this document by the Founder, with the said successor Trustees to act at such times and in such instances as provided in the said Brunsting Family Living Trust dated October 10, 1996, as amended.

All other provisions contained in the Brunsting Family Living Trust dated October 10, 1996, as amended, are hereby ratified and confirmed and shall remain in full force and effect except to the extent that any such provisions are amended hereby or by previous amendments or appointments still in effect.

WITNESS MY HAND on December 21, 2010.

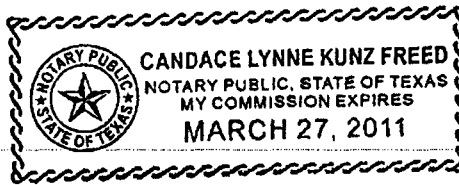


NELVA E. BRUNSTING,
Founder and Original Trustee

THE STATE OF TEXAS
COUNTY OF HARRIS

This instrument was acknowledged before me on December 21, 2010 at 1:34 pm
p.m., by NELVA E. BRUNSTING, as Founder and Original Trustee.

Candace Lynne Kunz Freed
Notary Public, State of Texas



RESIGNATION OF ORIGINAL TRUSTEE

Pursuant to Article IV of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended (the "Trust"), I, NELVA E. BRUNSTING, an original Trustee of the Trust may resign as Trustee.

On April 1, 2009, two subtrusts were created under the BRUNSTING FAMILY LIVING TRUST and are known as the NELVA E. BRUNSTING SURVIVOR'S TRUST and the ELMER H. BRUNSTING DECEDENT'S TRUST.

I hereby resign as Trustee of these said Trusts in accordance with the provisions contained in Article IV of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

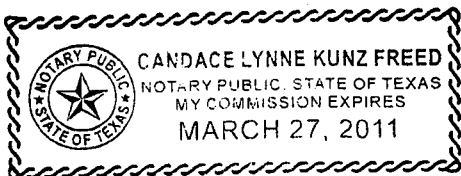
My resignation is effective immediately and I hereby appoint ANITA KAY BRUNSTING as the Trustee of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended, as well as the subtrusts known as the NELVA E. BRUNSTING SURVIVOR'S TRUST and the ELMER H. BRUNSTING DECEDENT'S TRUST.

Nelva E. Brunsting
NELVA E. BRUNSTING

STATE OF TEXAS
COUNTY OF HARRIS

This instrument was acknowledged before me on December 21, 2010 at 1:35 pm p.m., by NELVA E. BRUNSTING.

Candace Lynne Kunz Freed
Notary Public, State of Texas



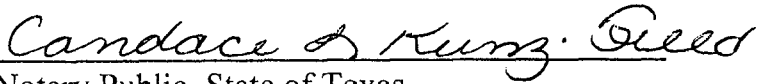
ACCEPTANCE BY SUCCESSOR TRUSTEE

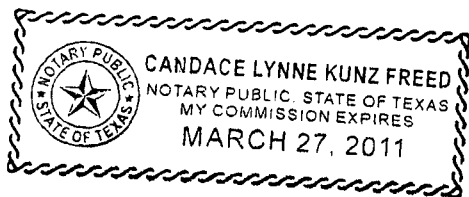
I, ANITA KAY BRUNSTING, hereby acknowledge my acceptance this day of the office and duties of Successor Trustee of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended, the NELVA E. BRUNSTING SURVIVOR'S TRUST and the ELMER H. BRUNSTING DECEDENT'S TRUST, after the resignation of the original Trustee, NELVA E. BRUNSTING.


ANITA KAY BRUNSTING

STATE OF TEXAS
COUNTY OF HARRIS

This instrument was acknowledged before me on December 21, 2010 at 1:36pm p.m., by ANITA KAY BRUNSTING.


Notary Public, State of Texas



Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other devise, shall be restrained from engaging in the following acts or practices, to wit:

3. Transferring, spending, hypothecating, concealing, encumbering, withdrawing, removing, dissipating, distributing, or allowing the transfer, removal, withdrawal or encumbering from any financial institution or from any other entity or location or from the jurisdiction of this Court, any money, cash, stocks, bonds, assets, notes, equipment, funds, receipts, reports, accounts receivable, policies of insurance, trust agreements, trust documents or other property, real, personal or mixed, wherever situated, belonging to the Brunsting Family Living Trust or any trust created under it, until further order of this court.

PRODUCTION OF DOCUMENTS AND ACCOUNTING RECORDS

4. ___ Defendants Anita Kay Brunsting and Amy Ruth Brunsting are hereby ordered to produce true, accurate and complete copies of all documents and records relating to the Brunsting Family Living Trust and to provide copies of all said documents and records to Plaintiff.

5. ___ Defendants Anita Kay Brunsting and Amy Ruth Brunsting are hereby ordered to produce a true, accurate and complete listing of all assets of the Brunsting Family Living Trust and any trust created under or held by the Trust, with all supporting documentation, and to provide a true, accurate and complete statement of all transactions involving the Brunsting Family Living Trust as of and since the death of Elmer Brunsting, April 1, 2009, with all supporting documentation, and to provide copies of all said documents and records to Plaintiff.

This order and the command for production shall be satisfied within 30 days of service of this order.

5. IT IS FURTHER ORDERED THAT ___ Defendants Anita Kay Brunsting and Amy Ruth Brunsting shall surrender all of the property belonging to the Brunsting Family Living Trust and any trust created under or held under the Trust to the following receiver as hereby appointed by this court.

6. The Court hereby appoints the following receiver.

Judge of the United States District Court for the Southern District of Texas

United States Courts
Southern District of Texas
FILED

FEB 27 2012

David J. Bradley, Clerk of Court

United States District Court
For the
Southern District of Texas

Curtis vs. Brunsting Case No _____

Plaintiff's Mandatory Disclosure
[F.R.C.P. 26(a)(1)]

In accordance with Rule 26(a)(1) of the Federal Rules of Civil Procedure, Plaintiff makes its mandatory disclosure as follows:

A. Witnesses

1. Anita Brunsting Co-Trustee at 203 Bloomingdale Circle Victoria TX 77904 is likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings including physical evidence of the existence of the Brunsting Family Living Trust and its administration including; cash, stocks, notes, bonds, documents, books, records, receipts, ledgers, account numbers, broker identities and all other information relating to the Brunsting Family Living Trust.
2. Amy Ruth Brunsting Co-Trustee at 2582 Country Ledge New Braunfels TX 78132 is likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings including physical evidence of the existence of the Brunsting Family Living Trust and its administration including; cash, stocks, notes, bonds, documents, books, records, receipts, ledgers, account numbers, broker identities and all other information relating to the Brunsting Family Living Trust.

3. Carl Brunsting at 5629 Flack Drive Houston, TX 77081 is likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings including personal knowledge of the Trust and of the actions and inactions of the trustees.
4. Drina Brunsting at 5629 Flack Drive Houston, TX 77081 is likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings including personal knowledge of the Trust and of the actions and inactions of the trustees.
5. Carol Brunsting at 5822 Jason, Houston, TX 77074 is likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings including personal knowledge of the Trust and of the actions and inactions of the trustees.
6. Candace Freed at Vacek & Freed PLLC 11777 Katy Freeway Suite 300 South, Houston, TX 77079 was Nelva and Elmer Brunsting's trust attorney and is likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings including personal knowledge of the Trust and of the actions of the trustees.
7. Robert Cantu at [Address unknown at this time] who was a care giver for Nelva Brunsting is likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings including personal knowledge of the state of mind of Nelva Brunsting and of the actions, conduct and demeanor of each of the beneficiaries.
8. Tino Vaquera at [Address unknown at this time] who was a care giver for Nelva Brunsting is likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings including personal knowledge of the state of mind of Nelva Brunsting and of the actions, conduct and demeanor of each of the beneficiaries.
9. Does 1-100 are likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings including physical evidence of the existence of the Brunsting Family Living Trust and its administration including: documents, books, records, receipts, ledgers, account numbers, broker identities or other information relating to the Brunsting Family Living Trust and its assets. The individuals identified as Does 1-100 are unknown at this time due to the withholding of

information by the trustees and will be added as further evidence and identities are uncovered.

B. Documents

Plaintiff hereby discloses the documents identified by affidavit and listed as exhibits.

1. Further: Plaintiff intends to use such other documents and records as are discovered prior to trial, including but not limited to transaction records for the Exxon Mobile stocks shown on the schedule of assets from 2005 and again on the schedule of assets from 2012, and
2. Any other documentary evidence as will be discovered, including those obtained by subpoena before and during trial. Since this action is brought based upon discovery of the facts and information the trustees had a duty to disclose but chose not to reveal.

The above list of documents is by no means complete or exhaustive.

C. Computation of Damages

1. Explanation

The damages in this case are based upon breach of the fiduciary duty to disclose and, due to the nature of the breach, Plaintiff gives a generously lenient estimate of the damages both general and special and reserves the right to amend to add causes of action and to adjust the damage amounts as causes, calculations and explanations are discovered as the veil of concealment is pierced. The generalized calculation is based upon a generously fair estimate of the injuries both tangible and incorporeal as compounded by the degree of constructive, extrinsic and other possible fraud and the malicious and hurtful manner in which the defendants accomplished their plot to injure and to unjustly enrich themselves at Plaintiff's expense.

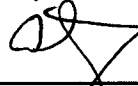
2. Documents Upon Which Computation Based

- a. Computation of damages is based upon the number of documents the fiduciaries have withheld, as those documents and the information they contain was mostly gleaned from sources other than from the

Defendants in breach and at great anxiety, inconvenience and effort to the Plaintiff.

- b. Further, the damages are calculated upon the belief that Defendant's conduct was intentional and reckless and was done with a specific intent to injure plaintiff and probably to unjustly enrich Defendants.
- c. Finally the damages are calculated upon the emotional suffering of Plaintiff as a direct result of the character and nature of the wrongful acts complained of.

Tuesday, February 21, 2012



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

United States Courts
Southern District of Texas
FILED

FEB 27 2012

David J. Bradley, Clerk of Court

United States District Court
For the
Southern District of Texas

Curtis vs. Brunsting Case No _____

DEMAND FOR PRODUCTION OF DOCUMENTS
[F.R.C.P. 34(b)]

Plaintiff Candace Louise Curtis requests Defendant(s) Anita Kay Brunsting and Amy Ruth Brunsting to respond within 30 days to the following requests that Defendants produce and provide Plaintiff with copies of the following documents:

For purposes of these requests the following terms are defined as stated:
Beneficiary includes successor beneficiaries and remainders.
Trustee includes only the Defendants and does not include an original trustee, an independent special co-trustee, or a trustee named in the Trust other than Defendants unless specifically so stated.

Document means every form of expression, however recorded, whether analog or digital, whether audio, video or text, in Defendant(s) possession or known by Defendant(s) to exist, but does not include any unrecorded verbal statement.

- (1) Defendants are to produce all documents purporting to be part of the Brunsting Family Living Trust “the Trust” including but not limited to all sub-trusts, amendments, revisions, wills, diagrams, photographs, and descriptions. If none, say none and give the legal reason why any demanded document(s) or record(s) does not exist or why it is otherwise unavailable to scrutiny.
- (2) Defendants are to produce a full, true and complete statement of inventory listing all assets belonging to the Brunsting Family Living Trust “the Trust” including but not limited to Schedules of assets and statements of inventory for the Trust and all trusts created under and/or held by the Trust. The inventories should be true and complete copies of all transactions involving trust property and should include all associated documents, transaction records and receipts. If none, say none and give the legal reason why any demanded document(s) or record(s) does not exist or why it is otherwise unavailable to scrutiny.
- (3) There was a phone conference held on or about October 25, 2010. Defendants are to produce all documents relating to that phone conference including but not limited to communications in whatever form, whether electronic or otherwise, and which indicate from and to whom the communications were sent and/or the purpose for that conference. If none, say none and give the legal reason why any demanded document(s) or record(s) does not exist or why it is otherwise unavailable to scrutiny.
- (4) Defendants are to produce all documents containing proposed amendments or revisions to the trust that did not become part of the trust including but not limited to the document intending to disinherit Carl’s Daughter Marta that Nelva refused to sign, which plaintiff is informed and believes occurred in or about March of 2010. If none, say none with an affirmative statement that no such event ever occurred and that no such document ever existed.
- (5) Defendants are to produce copies of all documents, receipts, and transaction records relating to handling of Exxon stock which may tend to show how it was managed, when and by whom, using what instruments of authority and/or evidencing any other action which may tend to explain how the stocks were accessed, converted or, distributed to beneficiaries with statements of individual amounts,

when and how deposited to what accounts and all other Exxon stock associated records and receipts as of the death of Elmer Brunsting 4/1/2009. If none, say none and give the legal reasons if any.

- (6) Defendants are to produce copies of all documents, receipts, and transaction records explaining and documenting all trust transactions involving acquisitions or sales of trust assets from April 1, 2009 to the present. If none, say none and give the legal reasons if any.
- (7) Defendants are to produce a full, true and complete accounting of the Trust assets with adequate explanations of each act of the trustees when moving, transferring, liquidating, distributing or in any way changing the status or condition of trust property from April 1, 2009 up until and including the date of receipt of this demand.
- (8) Defendants are to produce copies of all documents notifying beneficiaries of proposed changes to the trust after April 1, 2009. The documents should describe the proposed changes and contain enough information for the beneficiaries to protect their beneficial interest including when those changes would be implemented. If none, say none and explain in detail the legal reason(s) why the trustee's were not required to notice the beneficiaries.
- (9) Defendants are to produce copies of all documents notifying beneficiaries of a right to receive distributions from any trust, account or policy of insurance, after April 1, 2009.
- (10) Defendants are to produce copies of all documents authored or signed by Nelva Brunsting indicating a desire to change her estate plan after April 1, 2009.
- (11) Defendants are to produce copies of all documents in their possession or known by them to exist relating to the competency of Nelva Brunsting, including but not limited to the identity and report of any and every doctor who may have examined her.
- (12) Defendants are to produce copies of all documents appointing a trust protector, including but not limited to any and every document identifying the name, address and phone number of said trust protector. If none, say none and explain why not.

- (13) Defendants are to produce copies of all documents appointing an independent special co-trustee, including but not limited to documents identifying the name, address and phone number of said independent special co-trustee if any. If none, say none and explain why not.

Tuesday, February 21, 2012



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

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Candace Louise Curtis

Plaintiff

v.

Civil Action No. 4:12-cv-00592

Anita Kay Brunsting, et al.

Defendant

ORDER FOR CONFERENCE AND DISCLOSURE OF INTERESTED PARTIES

1. Counsel shall appear for an initial pretrial and scheduling conference before

JUDGE KENNETH HOYT
on May 29, 2012 at 09:30 AM
by telephone

2. Counsel shall file with the clerk within fifteen days from receipt of this order a certificate listing all persons, associations of persons, firms, partnerships, corporations, affiliates, parent corporations, or other entities that are financially interested in the outcome of this litigation. If a group can be specified by a general description, individual listing is not necessary. Underline the name of each corporation whose securities are publicly traded. If new parties are added or if additional persons or entities that are financially interested in the outcome of the litigation are identified at any time during the pendency of this litigation, then each counsel shall promptly file an amended certificate with the clerk.
3. Fed. R. Civ. P. 4(m) requires defendant(s) to be served within 120 days after the filing of the complaint. The failure of plaintiff(s) to file proof of service within 120 days after the filing of the complaint may result in dismissal of this action by the court on its own initiative.
4. After the parties confer as required by Fed. R. Civ. P. 26(f), counsel shall prepare and file not less than 10 days before the conference a joint discovery/case management plan containing the information required on the attached form.
5. The court will enter a scheduling order and may rule on any pending motions at the conference.
6. Counsel who file or remove an action must serve a copy of this order with the summons and complaint or with the notice of removal.

7. Attendance by an attorney who has authority to bind the party is required at the conference.
8. Counsel shall discuss with their clients and each other whether alternative dispute resolution is appropriate and at the conference advise the court of the results of their discussions.
9. A person litigating pro se is bound by the requirements imposed upon counsel in this Order.
10. Failure to comply with this order may result in sanctions, including dismissal of the action and assessment of fees and costs.
11. **Counsel who file or remove any action is responsible for placing the conference call and insuring that all parties are on the line. The call may be placed to (713)250-5613.**

Court Procedures: Information on the court's practices and procedures and how to reach court personnel may be obtained at the Clerk's website at <http://www.txs.uscourts.gov> or from the intake desk of the Clerk's office.



Kenneth M. Hoyt
United States District Judge

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Candace Louise Curtis

Plaintiff

v.

Civil Action No. 4:12-cv-00592

Anita Kay Brunsting, et al.

Defendant

**JOINT DISCOVERY/CASE MANAGEMENT PLAN
UNDER RULE 26(f)
FEDERAL RULES OF CIVIL PROCEDURE**

Please restate the instruction before furnishing the information.

1. State where and when the meeting of the parties required by Rule 26(f) was held, and identify the counsel who attended for each party.
2. List the cases related to this one that are pending in any state or federal court with the case number and court.
3. Briefly describe what this case is about.
4. Specify the allegation of federal jurisdiction.
5. Name the parties who disagree and the reasons.
6. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.
7. List anticipated interventions.
8. Describe class-action issues.
9. State whether each party represents that it has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.
10. Describe the proposed agreed discovery plan, including:
 - A. Responses to all the matters raised in Rule 26(f).
 - B. When and to whom the plaintiff anticipates it may send interrogatories.

- C. When and to whom the defendant anticipates it may send interrogatories.
 - D. Of Whom and by when the plaintiff anticipates taking oral depositions.
 - E. Of Whom and by when the defendant anticipates taking oral depositions.
 - F. When the plaintiff (or the party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B), and when the opposing party will be able to designate responsive experts and provide their reports.
 - G. List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).
 - H. List expert depositions the opposing party anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).
11. If the parties are not agreed on a part of the discovery plan, describe the separate view and proposals of each party.
 12. Specify the discovery beyond initial disclosures that has been undertaken to date.
 13. State the date the planned discovery can reasonably be completed.
 14. Describe the possibilities for a prompt settlement or resolution of the case that were discussed in your Rule 26(f) meeting.
 15. Describe what each party has done or agreed to do to bring about a prompt resolution.
 16. From the attorneys' discussion with the client, state the alternative dispute resolution techniques that reasonably suitable.
 17. Magistrate judges may now hear jury and non-jury trials. Indicate the parties' joint position on a trial before a magistrate judge.
 18. State whether a jury demand has been made and if it was made on time.
 19. Specify the number of hours it will take to present the evidence in this case.
 20. List pending motions that could be ruled on at the initial pretrial and scheduling conference.
 21. List other motions pending.
 22. Indicate other matters peculiar to this case, including discovery, that deserve the special attention of the court at the conference.

23. Certify that all parties have filed Disclosure of Interested Parties as directed in the Order for Conference and Disclosure of Interested Parties, listing the date of filing for original and any amendments.
24. List the names, bar numbers, addresses, and telephone numbers of all counsel.

Counsel for Plaintiff(s)

Date

Counsel for Defendant(s)

Date

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

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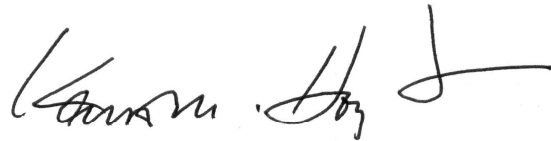
CIVIL ACTION NO. H-12-592

ORDER

Before the Court is the ex parte application of the plaintiff, Candace Louise Curtis, for a temporary restraining order and injunction. The record shows that the defendants have not been served with process. Moreso, it appears that the Court lacks subject matter jurisdiction over the claim(s) asserted. Therefore, the application for a temporary restraining order and for injunction are denied.

It is so Ordered.

SIGNED at Houston, Texas this 1st day of March, 2012.



Kenneth M. Hoyt
United States District Judge

United States District Court

Southern District of Texas

Houston Division

UNITED STATES COURT
SOUTHERN DISTRICT OF TEXAS
FILED

MAR 05 2012

CANDACE LOUISE CURTIS,

Plaintiff

v

ANITA BRUNSTING et al.

Defendants

David J. Bradley, Clerk of Court

Civil Action No. 4:12-cv-00592

I, Rik Munson, below signed, under penalty of perjury pursuant to the laws of the United States do declare to be true as follows:

I am a competent fact witness over the age of 18 and not a party to the above titled action. My business address is 218 Landana St. American Canyon CA 94503

On Friday, March 02, 2012 I served a true copy of the **ORDER FOR CONFERENCE AND DISCLOSURE OF INTERESTED PARTIES** issued by Judge Hoyt on February 28, 2012 and Judge Hoyt's Policies Cover Page along with notice of plaintiff's intent to file for ex-parte temporary restraining order upon the following persons by placing true copies in an envelope and depositing in the US Mail on Thursday, March 1, 2012 at American Canyon California addressed as follows:

Certified #7010 0290 0002 8531 8880
Anita Brunsting 203 Bloomingdale Circle Victoria TX 77904

Certified #7010 0290 0002 8531 8835
Amy Brunsting 2582 Country Ledge New Braunfels TX 78132

Respectfully submitted


Rik Munson

United States Courts
Southern District of Texas
FILED

MAR 05 2012

Dear Mr Bradley

David J. Bradley, Clerk of Court

I am a pro se litigant and currently have an application into the CM/ESF system. As I understand it pro se litigants are not allowed to use the electronic filing system. I have an ex-parte request for an order for approval submitted to Judge Hoyt's Case Manager.

In the interim could you please cause the enclosed proof of service to be filed.

Respectfully

Rik Munson for Candace Louise Curtis

A handwritten signature in black ink, appearing to read "Rik Munson", with a long horizontal flourish extending to the right.

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

CANDACE LOUISE CURTIS

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CIVIL ACTION NO. H-12-CV-592

vs.

ANITA KAY BRUNSTING, and
AMY RUTH BRUNSTING

EMERGENCY MOTION FOR REMOVAL OF LIS PENDENS

TO THE HONORABLE COURT:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting (Trustees) file this Emergency

Motion for Removal of Lis Pendens and respectfully allege:

[Note: This Motion is brought subject to the Trustees contention that this Court lacks subject matter jurisdiction due to the fact that Texas Probate Code §115.001 (7) confers exclusive jurisdiction over matters related to questions “arising in the administration or distribution of a trust” to the State District Court, and by analogy this case should not be considered under the Probate Exception to Federal Court Jurisdiction, *Marshall v. Marshall*, 126 S.Ct. 1735, 1748 (2006). These issues will be raised by a separate Motion to Dismiss under FRCP 12(b)]

1. Trustees are the Co-Successor Trustees of the Brunsting Family Living Trust (the Trust), referenced and attached to Plaintiff’s Complaint.
2. Part of the trust estate which Trustees are attempting to liquidate for distribution to the heirs is a residence located at 13639 Pinerock Lane, Houston, Texas 77079 (the Property). This was the home of their parents. A sale for the appraised fair market value has been put under contract and is set to close on March 9, 2012.
3. Trustees were served with the above lawsuit on or about March 1, 2012. Among the

documents served was a “Lis Pendens” dated February 11, 2012, which Trustees had not previously seen or about which they had been advised prior to the service of suit papers.

4. The Property is titled in the name of the Trust. Plaintiff has no ownership interest, and has, at best, an expectancy of the property or proceeds as one of the heirs. Plaintiff’s lawsuit cites no ownership in the Property, but is exclusively a disjointed complaint regarding her displeasure at the adequacy of the accounting of Trust assets by the Trustees to her, as a beneficiary.

5. Trustees have a right and obligation to sell the Property at the best price pursuant to Article IX of the Trust, and have taken all necessary steps to maximize the benefit to the Trust estate.

6. Plaintiff has no purpose for utilizing a *lis pendens* other than to jeopardize a legitimate sale in an effort to leverage her position.

7. Trustees incorporate the affidavit of Amy Brunsting, and supporting exhibits filed herewith.

WHEREFORE, Trustees request an order of this court vacating and removing any incident of the lis pendens recorded by Plaintiff as it relates residence located at 13639 Pinerock Lane, Houston, Texas 77079, and for such other relief as may be appropriate.

GREEN & MATHEWS, L.L.P.

/s/

BERNARD LILSE MATHEWS, III
State Bar # 13187450
14550 Torrey Chase Boulevard, Suite 245
Houston, Texas 77014
Telephone: (281) 580-8100
Facsimile: (281) 580-8104

Attorneys for Anita Kay and Amy Ruth Brunsting

Certificate of Service

I certify that on March 6, 2012 I served the foregoing Candace Louise Curtis by electronic filing and service at her e-mail address: occurtis@sbcglobal.net.

/s/

Bernard Lilse Mathews, III

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

CANDACE LOUISE CURTIS

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CIVIL ACTION NO. H-12-CV-592

vs.

ANITA KAY BRUNSTING, and
AMY RUTH BRUNSTING

AFFIDAVIT IN SUPPORT OF REMOVAL OF LIS PENDENS

STATE OF TEXAS §
COUNTY OF COMAL §

Before me, the undersigned authority, appeared Amy Ruth Brunsting who after being duly sworn by me did state:

1. My name is Amy Ruth Brunsting. I am over 18 years of age, competent to make this affidavit, and have personal knowledge of the facts stated herein.

2. This case involves the allegations of my sister, Candace Louise Curtis, who is disgruntled with the amount of information and accounting I and my sister have provided to her while acting in our capacity as Co-Successor Trustees of the Brunsting Family Living Trust.

3. The contentions of Candace are totally meritless, and I believe have more to do with the disappointment she feels in the fact that our parents did not feel she was competent to handle her own inheritance. She began issuing threats and demands within weeks after our mother died, and before we have had a chance to evaluate the proper handling of assets in the estate, including the largest asset, a farm in Iowa.

4. Her various complaints will be addressed in some greater detail if this court believes it has jurisdiction over the administration of a living trust. However, of immediate concern is the potential chilling effect that Candace filing of a *lis pendens* may have on the sale of our parent's residential homestead, which is scheduled to close on March 9, 2012.

5. As Co-Trustees, my sister and I have determined that it is impractical to give each of the five heirs, or the trusts set up for their benefit (as is the case for Candace), an undivided share of a house in Houston. We therefore have prepared and offered the house for sale. None of the heirs

have objected to this plan, including Candace. Our authority to sell is contained in Article IX, Section C of the Brunsting Family Living Trust. The specific provision regarding real estate appears on page 9-5 of the document under the heading of "Real Estate" and this section can be viewed in the copy of the trust supplied by Candace as an exhibit to her Complaint.

6. We first obtained an appraisal of the property. This is attached hereto as Exhibit "A". This appraisal, dated in January of this year, placed the fair market value of the property at \$410,000. We listed the property for \$469,000 and were fortunate enough to attract a buyer, Brett C. McCarroll, who offered \$469,000. The contract for this sale is attached as Exhibit "B". Although originally scheduled to close in February, the closing has been moved to this Friday, March 9.

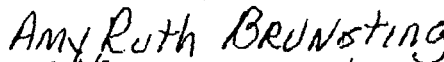
7. As further evidence of the fair value of the proposed sale, I attach the Harris County Appraisal District tax appraisal, showing the taxable value of the property to be approximately \$270,000.


8. We have attempted to provide Candace with enough information to evaluate her position in the trust administration, and have sent her preliminary spreadsheets with a listing of assets and liabilities, as best we have been able to determine in the short time since our mother's death on November 11, 2011. She is not satisfied with the information we have provided and has stated her objective of tying up the administration of the estate until she gets a response that satisfies her. She is the only one of the five heirs who has taken this position, and as can be gleaned from her lengthy, and mostly inaccurate unsworn statement, filed with the complaint, relates to her animosity towards the two of us in the manner we attempted to aid our mother in the final months of her life.

9. If this sale is not consummated on the scheduled closing date, we have no assurance that the buyer will await the resolution of Candace's complaints and the sale will, in all likelihood, be lost. This will result in further expense to the trust estate for maintenance and upkeep to the property without any appreciation in the value. The house was originally shown for sale fully furnished. It is now empty. It's "buyer appeal" has been diminished and this could also jeopardize future sale prospects if this sale is lost.

10. The sale of the house is important for the trust estate, and should not be endangered simply because Candace is mad. We are asking the court to lift the lis pendens so the sale can be consummated, for the benefit of all of the heirs.


AMY RUTH BRUNSTING



Sworn to and signed before me by , on this 6th day of March, 2012.

Teresa Simmons
Notary Public in and for the State of Texas



Church of Christ
1665 Business Loop 35 S.
New Braunfels, TX 78130

INVOICE

FROM:
 Chris Catechis
 Catechis, Campbell & Associates
 13505-2 Westheimer
 Houston, TX 77077
 Telephone Number: 281-556-9182 Fax Number: 281-556-1805

INVOICE NUMBER	
097430HJ	
DATE	
01/10/2012	
REFERENCE	
Internal Order #:	097430HJ
Lender Case #:	
Client File #:	
Main File # on form:	097430HJ
Other File # on form:	
Federal Tax ID:	
Employer ID:	

TO:
 Individual
 ,
 Telephone Number: Fax Number:
 Alternate Number: E-Mail:

DESCRIPTION

Lender: Brunsting Family Living Trust **Client:** Individual
Purchaser/Borrower: Brunsting Family Living Trust
Property Address: 13630 Pinerock Ln
 City: Houston
 County: Harris **State:** TX **Zip:** 77079
Legal Description: Lot 31, Block 4, Wilchester West Section 1

FEES	AMOUNT
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Summary Appraisal Fee	450.00
SUBTOTAL	450.00

PAYMENTS	AMOUNT
----------	--------

Check #: Date: 01/10/2012 Description: Paid in Full	450.00
Check #: Date: Description:	
Check #: Date: Description:	
SUBTOTAL	450.00

TOTAL DUE	\$ 0
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Please Return This Portion With Your Payment

FROM:
 Individual
 ,
 Telephone Number: Fax Number:
 Alternate Number: E-Mail:

AMOUNT DUE: \$ _____
AMOUNT ENCLOSED: \$ _____

INVOICE NUMBER	
097430HJ	
DATE	
01/10/2012	
REFERENCE	
Internal Order #:	097430HJ
Lender Case #:	
Client File #:	
Main File # on form:	097430HJ
Other File # on form:	
Federal Tax ID:	
Employer ID:	

TO:
 Chris Catechis
 Catechis, Campbell & Associates
 13505-2 Westheimer
 Houston, TX 77077

Summary Appraisal Report

Uniform Residential Appraisal Report

File # 097430HJ

The purpose of this summary appraisal report is to provide the lender/client with an accurate, and adequately supported, opinion of the market value of the subject property.

SUBJECT

Property Address 13630 Pinerock Ln City Houston State TX Zip Code 77079
 Borrower Brunsting Family Living Trust Owner of Public Record Brunsting Family Living Trust County Harris
 Legal Description Lot 31, Block 4, Wilchester West Section 1
 Assessor's Parcel # 098-560-000-0031 Tax Year 2011 R.E. Taxes \$ 7,212.44
 Neighborhood Name Wilchester West/Nottingham Area Map Reference 489-F Census Tract 4502.00
 Occupant Owner Tenant Vacant Special Assessments \$ 0.00 PUD HOA \$ 680.00 per year per month
 Property Rights Appraised Fee Simple Leasehold Other (describe)
 Assignment Type Purchase Transaction Refinance Transaction Other (describe) Fair Market Value in Anticipation of Marketing for Sale
 Lender/Client Brunsting Family Living Trust Address 13630 Pinerock Ln Houston, Texas 77079
 Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of this appraisal? Yes No
 Report data source(s) used, offering price(s), and date(s). The subject has not been listed for sale in MLS for the past twelve months.

CONTRACT

I did did not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed. The subject property was not under contract at the time of this appraisal.
 Contract Price \$ N/A Date of Contract N/A Is the property seller the owner of public record? Yes No Data Source(s) REIData, Inc.
 Is there any financial assistance (loan charges, sale concessions, gift or downpayment assistance, etc.) to be paid by any party on behalf of the borrower? Yes No
 If Yes, report the total dollar amount and describe the items to be paid. N/A The subject property was not under contract for sale at the time of this appraisal.

NEIGHBORHOOD

Note: Race and the racial composition of the neighborhood are not appraisal factors.

Neighborhood Characteristics		One-Unit Housing Trends		One-Unit Housing		Present Land Use %	
Location <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban <input type="checkbox"/> Rural	Property Values <input type="checkbox"/> Increasing <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Declining	PRICE	AGE	One-Unit	80 %		
Built-Up <input checked="" type="checkbox"/> Over 75% <input type="checkbox"/> 25-75% <input type="checkbox"/> Under 25%	Demand/Supply <input type="checkbox"/> Shortage <input checked="" type="checkbox"/> In Balance <input type="checkbox"/> Over Supply	\$ (000)	(yrs)	2-4 Unit	1 %		
Growth <input type="checkbox"/> Rapid <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Slow	Marketing Time <input type="checkbox"/> Under 3 mths <input checked="" type="checkbox"/> 3-6 mths <input type="checkbox"/> Over 6 mths	200	Low New	Multi-Family	5 %		
Neighborhood Boundaries The subjects marketing area is bounded by I-10 to the north, Buffalo Bayou to the south, Gessner Road to the east, and Eldridge Road to the west.		1.5M+	High 55	Commercial	14 %		
		475	Pred. 40	Other	%		

Neighborhood Description The subject is located Wilchester West a subdivision which is approximately 13-14 miles west of downtown Houston. Schools, shopping, places of worship, employment and other consumer needs are in close proximity to the area. The subject is located in the Spring Branch ISD. Access to downtown Houston is I-10 or Memorial Drive.
 Market Conditions (including support for the above conclusions) Marketing time is predominantly under 180 days. Mortgage financing is currently available at competitive rates and terms for homes in the subject neighborhood. Significant seller concessions that would result in increased sale prices have not been noted in this area. A reasonable exposure time for the subject property is 90 days.

SITE

Dimensions 75.02' x 115.03' x 75.03' x 115.72' Area 8,625 sf per HCAD Shape Rectangular View Average
 Specific Zoning Classification Deed Restricted - SFR Zoning Description Deed Restricted - SFR
 Zoning Compliance Legal Legal Nonconforming (Grandfathered Use) No Zoning Illegal (describe) No Zoning - Deed Restrictions
 Is the highest and best use of subject property as improved (or as proposed per plans and specifications) the present use? Yes No If No, describe The subject property is deed restricted single family residential and all of the surrounding properties are single family residential therefore, H&B is SFR.
 Utilities Public Other (describe) Public Other (describe) Off-site Improvements - Type Public Private
 Electricity Water Street Concrete
 Gas Sanitary Sewer Alley None
 FEMA Special Flood Hazard Area Yes No FEMA Flood Zone X FEMA Map # 48201C0640L FEMA Map Date 06/18/2007
 Are the utilities and off-site improvements typical for the market area? Yes No If No, describe
 Are there any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.)? Yes No If Yes, describe
 The subject site is a typical interior lot. No adverse easement, encroachments were noted. However, no survey was provided at the time of the appraisal. The subject's site dimensions were taken from platt maps provided by the Harris County Appraisal District. See Site Comments in attached addendum

IMPROVEMENTS

General Description	Foundation	Exterior Description	materials/condition	Interior	materials/condition
Units <input checked="" type="checkbox"/> One <input type="checkbox"/> One with Accessory Unit	<input checked="" type="checkbox"/> Concrete Slab <input type="checkbox"/> Crawl Space	Foundation Walls	Concrete Slab/Aver.	Floors	Cpt,SV,HW/Avg
# of Stories 1.5	<input type="checkbox"/> Full Basement <input type="checkbox"/> Partial Basement	Exterior Walls	Bv,Wood/Average	Walls	Dw,Wp,Wdpl/Avg
Type <input checked="" type="checkbox"/> Det. <input type="checkbox"/> Att. <input type="checkbox"/> S-Det./End Unit	Basement Area N/A sq.ft.	Roof Surface	Composition/Avg	Trim/Finish	Wood/Avg
<input checked="" type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Under Const.	Basement Finish N/A %	Gutters & Downspouts	Aluminium/Avg	Bath Floor	Tile/Avg
Design (Style) Trad/1.5st	<input type="checkbox"/> Outside Entry/Exit <input type="checkbox"/> Sump Pump	Window Type	S/H Alum/Avg	Bath Wainscot	Tile/Avg
Year Built 1966	Evidence of <input type="checkbox"/> Infestation None/Noted	Storm Sash/Insulated	None	Car Storage	<input type="checkbox"/> None
Effective Age (Yrs) 30 yrs	<input type="checkbox"/> Dampness <input checked="" type="checkbox"/> Settlement	Screens	Yes/Average	<input checked="" type="checkbox"/> Driveway	# of Cars 2
Attic <input type="checkbox"/> None	Heating <input checked="" type="checkbox"/> FWA <input type="checkbox"/> HWBB <input type="checkbox"/> Radiant	Amenities	<input type="checkbox"/> Woodstove(s) # 0	Driveway Surface	Concrete
<input type="checkbox"/> Drop Stair <input type="checkbox"/> Stairs	<input type="checkbox"/> Other Fuel Gas	<input checked="" type="checkbox"/> Fireplace(s) # 1	<input checked="" type="checkbox"/> Fence Wood	<input checked="" type="checkbox"/> Garage	# of Cars 2
<input type="checkbox"/> Floor <input checked="" type="checkbox"/> Scuttle	Cooling <input checked="" type="checkbox"/> Central Air Conditioning	<input checked="" type="checkbox"/> Patio/Deck C/C	<input checked="" type="checkbox"/> Porch Covered	<input type="checkbox"/> Carport	# of Cars
<input type="checkbox"/> Finished <input type="checkbox"/> Heated	<input type="checkbox"/> Individual <input type="checkbox"/> Other	<input type="checkbox"/> Pool None	<input type="checkbox"/> Other	<input type="checkbox"/> Att.	<input checked="" type="checkbox"/> Det. <input type="checkbox"/> Built-in

Appliances Refrigerator Range/Oven Dishwasher Disposal Microwave Washer/Dryer Other (describe)
 Finished area above grade contains: 10 Rooms 5 Bedrooms 3 Bath(s) 3,049 Square Feet of Gross Living Area Above Grade
 Additional features (special energy efficient items, etc.). Covered front porch, open rear patio, two car detached garage, wood fence; See Description of Improvements in attached addendum
 Describe the condition of the property (including needed repairs, deterioration, renovations, remodeling, etc.). Physical depreciation was estimated based on the modified age/life method. No functional or external obsolescence was noted. See Description of Improvements and Cost Approach Comments in attached addendum
 Are there any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property? Yes No If Yes, describe
 No warranty or guarantee is made as to the condition of the slab, the roof, the electrical systems, the air conditioning and heating systems, the appliances, the presence of pest infestation, the presence of dampness or the presence of settlement. If the client has any questions regarding these items, it is the client's responsibility to order the appropriate inspections. The appraiser does ** SEE ADDITIONAL COMMENTS SECTION.
 Does the property generally conform to the neighborhood (functional utility, style, condition, use, construction, etc.)? Yes No If No, describe
 The improvements appear to conform to the neighborhood, in terms of age, type, design, and materials used for their construction.

Uniform Residential Appraisal Report

File # 097430HJ

There are comparable properties currently offered for sale in the subject neighborhood ranging in price from \$						to \$				
There are comparable sales in the subject neighborhood within the past twelve months ranging in sale price from \$						to \$				
FEATURE	SUBJECT	COMPARABLE SALE # 1			COMPARABLE SALE # 2			COMPARABLE SALE # 3		
Address	13630 Pinerock Ln Houston, TX 77079	13403 Barryknoll Ln Houston, TX 77079			13750 Kingside Ln Houston, TX 77079			13611 Queensbury In Houston, TX 77079		
Proximity to Subject		0.30 miles E			0.23 miles NW			0.07 miles E		
Sale Price	\$ N/A	\$ 478,000			\$ 371,050			\$ 455,000		
Sale Price/Gross Liv. Area	\$ sq.ft.	\$ 163.47 sq.ft.			\$ 139.97 sq.ft.			\$ 182.95 sq.ft.		
Data Source(s)		MLS/Deed/TaxRolls			MLS/Deed/TaxRolls			MLS/Deed/TaxRolls		
Verification Source(s)		MLS#64926675/713-461-6800			MLS#43214775/713-528-1800			MLS#10347397/713-482-2222		
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) \$ Adjustment	DESCRIPTION	+(-) \$ Adjustment	DESCRIPTION	+(-) \$ Adjustment			
Sales or Financing Concessions		SC-\$7200 Conv 80%	-7,200	SC-0 Conv 75%		SC-\$4000 conv 78%	-4,000			
Date of Sale/Time		4/11-5/11		4/11-5/11		7/11-10/11				
Location	Average	Average		Average		Average				
Leasehold/Fee Simple	Fee Simple	Fee Simple		Fee Simple		Fee Simple				
Site	8625 sf	8927 sf		9463 sf		8775 sf				
View	Average	Average		Average		Average				
Design (Style)	Trad/1.5st	Trad/2st		Trad/2st		Trad/1st				
Quality of Construction	Average	Average		Average		Average				
Actual Age	45 yrs	45 yrs		46 yrs		45 yrs				
Condition	Average	Good	-60,000	Average		Good	-60,000			
Above Grade	Total Bdrms. Baths	Total Bdrms. Baths		Total Bdrms. Baths		Total Bdrms. Baths	+1,000			
Room Count	10 5 3	10 5 3.1	-2,000	10 5 3		8 4 2	+4,000			
Gross Living Area	3,049 sq.ft.	2,924 sq.ft.	+6,300	2,651 sq.ft.	+19,900	2,487 sq.ft.	+28,100			
Basement & Finished Rooms Below Grade	None	None		None		None				
Functional Utility	Average	Average		Average		Average				
Heating/Cooling	Ca/Ch	Ca/Ch		Ca/Ch		Ca/Ch				
Energy Efficient Items	Typical	Typical		Typical		Typical				
Garage/Carport	2 Car Garage	2 Car Garage		2 Car Garage		2 Car Garage				
Porch/Patio/Deck	Porch,Patio	Porch,Patio		Porch,Patio		Porch,Patio				
Fireplaces	Fireplace	Fireplace		Fireplace		Fireplace				
Swimming Pool	No Pool	Pool	-20,000	No Pool		No Pool				
Proximity to Fault Line	Yes	Yes		None	-10,000	Yes				
Net Adjustment (Total)		<input type="checkbox"/> + <input checked="" type="checkbox"/> -	\$ -82,900	<input checked="" type="checkbox"/> + <input type="checkbox"/> -	\$ 9,900	<input type="checkbox"/> + <input checked="" type="checkbox"/> -	\$ -30,900			
Adjusted Sale Price of Comparables		Net Adj. 17.3 % Gross Adj. 20.0 %	\$ 395,100	Net Adj. 2.7 % Gross Adj. 8.1 %	\$ 380,950	Net Adj. 6.8 % Gross Adj. 21.3 %	\$ 424,100			

SALES COMPARISON APPROACH

I did did not research the sale or transfer history of the subject property and comparable sales. If not, explain

My research did did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.

Data Source(s) **Houston MLS and Harris County Appraisal District.**

My research did did not reveal any prior sales or transfers of the comparable sales for the year prior to the date of sale of the comparable sale.

Data Source(s) **Houston MLS and Harris County Appraisal District.**

Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3).

ITEM	SUBJECT	COMPARABLE SALE #1	COMPARABLE SALE #2	COMPARABLE SALE #3
Date of Prior Sale/Transfer	No sales history in	No sales history in	No sales history in	No sales history in
Price of Prior Sale/Transfer	in past 36 months	in past 36 months	in past 12 months	in past 36 months
Data Source(s)	Deed Records/MLS	Deed Records/MLS	Deed Records/MLS	Deed Records/MLS
Effective Date of Data Source(s)	1/6/2012	1/6/2012	1/6/2012	1/6/2012

Analysis of prior sale or transfer history of the subject property and comparable sales **No sales or transfer history were found for the subject property in the past three years. No sales or transfer history were found for the above comparable sales utilized in the twelve months prior to their dates of sale.**

Summary of Sales Comparison Approach **See Sales Comparison Analysis in attached addendum**

Indicated Value by Sales Comparison Approach \$ **410,000**

Indicated Value by: **Sales Comparison Approach \$ 410,000 Cost Approach (if developed) \$ 439,242 Income Approach (if developed) \$ N/A**

Most emphasis was placed on the Market Data Approach. Support is provided by the Cost Approach. The Income Approach is not considered relevant as residential properties in this area are not typically purchased for investment purposes.

RECONCILIATION

This appraisal is made "as is", subject to completion per plans and specifications on the basis of a hypothetical condition that the improvements have been completed, subject to the following repairs or alterations on the basis of a hypothetical condition that the repairs or alterations have been completed, or subject to the following required inspection based on the extraordinary assumption that the condition or deficiency does not require alteration or repair:

Based on a complete visual inspection of the interior and exterior areas of the subject property, defined scope of work, statement of assumptions and limiting conditions, and appraiser's certification, my (our) opinion of the market value, as defined, of the real property that is the subject of this report is \$ 410,000 , as of December 27, 2011 , which is the date of inspection and the effective date of this appraisal.

Uniform Residential Appraisal Report

File # 097430HJ

ADDITIONAL COMMENTS

COMMENTS ON DEED RESTRICTIONS/ZONING CONT':
 The subject property is protected by either deed restrictions or zoning as stated in the site section of this appraisal report. The subject represents its highest and best use. We did not inspect nor do we have ready accessibility to the deed restrictions/covenants of the subject. Deed restrictions do not adversely affect the subject property. If the processor of this report has any questions regarding the aforementioned, contact this office for clarification.

PHYSICAL DEFICIENCIES COMMENTS CONT':
 ... the appropriate inspections. The appraiser does not have the skill or the expertise needed to make such inspections. The appraiser assumes no responsibility for these items.

DEFINITION OF INSPECTION:
 The term "inspection", as used in this report, is not the sale level of inspection that is required for a "Professional Home Inspection". The appraiser does not fully inspect the electrical system, plumbing system, mechanical systems, foundation system, floor structure or subfloor. The appraiser is not an expert in construction materials and the purpose of the appraisal is to make an economic evaluation of the subject property. If the client needs a more detailed inspection of the property, a home inspection, by a Professional Home Inspector, is recommended.

APPRAISER CERTIFICATION:
 I certify that the use of this report is subject to the requirements of The Appraisal Institute relating to review by its duly authorized representatives. As of the date of this report, the designated appraiser has completed the requirements of the continuing education program of The Appraisal Institute.

INTENDED USER / INTENDED USE:
 The intended user of this appraisal report is the Lender/Client. The Intended Use is to evaluate the property that is the subject of this appraisal for the purpose of marketing it for sale, subject to the stated Scope of Work, purpose of the appraisal, reporting requirements of this appraisal report form, and Definition of Market Value. No additional Intended Users or Intended uses are identified by the appraiser.

SEE ATTACHED ADDENDUM

COST APPROACH TO VALUE (not required by Fannie Mae)

Provide adequate information for the lender/client to replicate the below cost figures and calculations.
 Support for the opinion of site value (summary of comparable land sales or other methods for estimating site value) The estimated site value is based on recent sales activity of comparably price properties or in cases where there is insufficient data, the site value can be based upon the allocation, extraction, or land residual techniques.

COST APPROACH

ESTIMATED <input type="checkbox"/> REPRODUCTION OR <input checked="" type="checkbox"/> REPLACEMENT COST NEW	OPINION OF SITE VALUE	=\$	300,000
Source of cost data Builders, reliable sources	DWELLING 3,049 Sq.Ft. @ \$ 85.00	=\$	259,165
Quality rating from cost service N/A Effective date of cost data N/A	N/A Sq.Ft. @ \$	=\$	
Comments on Cost Approach (gross living area calculations, depreciation, etc.)		=\$	
The replacement cost new was based on information obtained from the Marshall and Swift Residential Cost Estimator and supplemented by the appraisers' knowledge of the local market. See Cost Approach	Garage/Carport 466 Sq.Ft. @ \$ 20.00	=\$	9,320
Comments in attached addendum	Total Estimate of Cost-New	=\$	268,485
	Less Physical Functional External		
	Depreciation 134,243	= \$(134,243)
	Depreciated Cost of Improvements	=\$	134,242
	"As-is" Value of Site Improvements	=\$	5,000
Estimated Remaining Economic Life (HUD and VA only) 30 Years	INDICATED VALUE BY COST APPROACH	=\$	439,242

INCOME

INCOME APPROACH TO VALUE (not required by Fannie Mae)

Estimated Monthly Market Rent \$ N/A X Gross Rent Multiplier N/A = \$ N/A Indicated Value by Income Approach
 Summary of Income Approach (including support for market rent and GRM) The Income Approach is not considered to be relevant, as properties of this type are not typically income producing.

PUD INFORMATION

PROJECT INFORMATION FOR PUDs (if applicable)

Is the developer/builder in control of the Homeowners' Association (HOA)? Yes No Unit type(s) Detached Attached
 Provide the following information for PUDs ONLY if the developer/builder is in control of the HOA and the subject property is an attached dwelling unit.
 Legal Name of Project
 Total number of phases Total number of units Total number of units sold
 Total number of units rented Total number of units for sale Data source(s)
 Was the project created by the conversion of existing building(s) into a PUD? Yes No If Yes, date of conversion.
 Does the project contain any multi-dwelling units? Yes No Data Source
 Are the units, common elements, and recreation facilities complete? Yes No If No, describe the status of completion.
 Are the common elements leased to or by the Homeowners' Association? Yes No If Yes, describe the rental terms and options.
 Describe common elements and recreational facilities. N/A - Not a PUD

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This report form is designed to report an appraisal of a one-unit property or a one-unit property with an accessory unit; including a unit in a planned unit development (PUD). This report form is not designed to report an appraisal of a manufactured home or a unit in a condominium or cooperative project.

This appraisal report is subject to the following scope of work, intended use, intended user, definition of market value, statement of assumptions and limiting conditions, and certifications. Modifications, additions, or deletions to the intended use, intended user, definition of market value, or assumptions and limiting conditions are not permitted. The appraiser may expand the scope of work to include any additional research or analysis necessary based on the complexity of this appraisal assignment. Modifications or deletions to the certifications are also not permitted. However, additional certifications that do not constitute material alterations to this appraisal report, such as those required by law or those related to the appraiser's continuing education or membership in an appraisal organization, are permitted.

SCOPE OF WORK: The scope of work for this appraisal is defined by the complexity of this appraisal assignment and the reporting requirements of this appraisal report form, including the following definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser must, at a minimum: (1) perform a complete visual inspection of the interior and exterior areas of the subject property, (2) inspect the neighborhood, (3) inspect each of the comparable sales from at least the street, (4) research, verify, and analyze data from reliable public and/or private sources, and (5) report his or her analysis, opinions, and conclusions in this appraisal report.

INTENDED USE: The intended use of this appraisal report is for the lender/client to evaluate the property that is the subject of this appraisal for a mortgage finance transaction.

INTENDED USER: The intended user of this appraisal report is the lender/client.

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he or she considers his or her own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS: The appraiser's certification in this report is subject to the following assumptions and limiting conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it, except for information that he or she became aware of during the research involved in performing this appraisal. The appraiser assumes that the title is good and marketable and will not render any opinions about the title.
2. The appraiser has provided a sketch in this appraisal report to show the approximate dimensions of the improvements. The sketch is included only to assist the reader in visualizing the property and understanding the appraiser's determination of its size.
3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in this appraisal report whether any portion of the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand, or as otherwise required by law.
5. The appraiser has noted in this appraisal report any adverse conditions (such as needed repairs, deterioration, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the research involved in performing the appraisal. Unless otherwise stated in this appraisal report, the appraiser has no knowledge of any hidden or unapparent physical deficiencies or adverse conditions of the property (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) that would make the property less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, this appraisal report must not be considered as an environmental assessment of the property.
6. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that the completion, repairs, or alterations of the subject property will be performed in a professional manner.

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APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

1. I have, at a minimum, developed and reported this appraisal in accordance with the scope of work requirements stated in this appraisal report.
2. I performed a complete visual inspection of the interior and exterior areas of the subject property. I reported the condition of the improvements in factual, specific terms. I identified and reported the physical deficiencies that could affect the livability, soundness, or structural integrity of the property.
3. I performed this appraisal in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
4. I developed my opinion of the market value of the real property that is the subject of this report based on the sales comparison approach to value. I have adequate comparable market data to develop a reliable sales comparison approach for this appraisal assignment. I further certify that I considered the cost and income approaches to value but did not develop them, unless otherwise indicated in this report.
5. I researched, verified, analyzed, and reported on any current agreement for sale for the subject property, any offering for sale of the subject property in the twelve months prior to the effective date of this appraisal, and the prior sales of the subject property for a minimum of three years prior to the effective date of this appraisal, unless otherwise indicated in this report.
6. I researched, verified, analyzed, and reported on the prior sales of the comparable sales for a minimum of one year prior to the date of sale of the comparable sale, unless otherwise indicated in this report.
7. I selected and used comparable sales that are locationally, physically, and functionally the most similar to the subject property.
8. I have not used comparable sales that were the result of combining a land sale with the contract purchase price of a home that has been built or will be built on the land.
9. I have reported adjustments to the comparable sales that reflect the market's reaction to the differences between the subject property and the comparable sales.
10. I verified, from a disinterested source, all information in this report that was provided by parties who have a financial interest in the sale or financing of the subject property.
11. I have knowledge and experience in appraising this type of property in this market area.
12. I am aware of, and have access to, the necessary and appropriate public and private data sources, such as multiple listing services, tax assessment records, public land records and other such data sources for the area in which the property is located.
13. I obtained the information, estimates, and opinions furnished by other parties and expressed in this appraisal report from reliable sources that I believe to be true and correct.
14. I have taken into consideration the factors that have an impact on value with respect to the subject neighborhood, subject property, and the proximity of the subject property to adverse influences in the development of my opinion of market value. I have noted in this appraisal report any adverse conditions (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) observed during the inspection of the subject property or that I became aware of during the research involved in performing this appraisal. I have considered these adverse conditions in my analysis of the property value, and have reported on the effect of the conditions on the value and marketability of the subject property.
15. I have not knowingly withheld any significant information from this appraisal report and, to the best of my knowledge, all statements and information in this appraisal report are true and correct.
16. I stated in this appraisal report my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the assumptions and limiting conditions in this appraisal report.
17. I have no present or prospective interest in the property that is the subject of this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or opinion of market value in this appraisal report on the race, color, religion, sex, age, marital status, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property or on any other basis prohibited by law.
18. My employment and/or compensation for performing this appraisal or any future or anticipated appraisals was not conditioned on any agreement or understanding, written or otherwise, that I would report (or present analysis supporting) a predetermined specific value, a predetermined minimum value, a range or direction in value, a value that favors the cause of any party, or the attainment of a specific result or occurrence of a specific subsequent event (such as approval of a pending mortgage loan application).
19. I personally prepared all conclusions and opinions about the real estate that were set forth in this appraisal report. If I relied on significant real property appraisal assistance from any individual or individuals in the performance of this appraisal or the preparation of this appraisal report, I have named such individual(s) and disclosed the specific tasks performed in this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in this appraisal report; therefore, any change made to this appraisal is unauthorized and I will take no responsibility for it.
20. I identified the lender/client in this appraisal report who is the individual, organization, or agent for the organization that ordered and will receive this appraisal report.

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21. The lender/client may disclose or distribute this appraisal report to: the borrower; another lender at the request of the borrower; the mortgagee or its successors and assigns; mortgage insurers; government sponsored enterprises; other secondary market participants; data collection or reporting services; professional appraisal organizations; any department, agency, or instrumentality of the United States; and any state, the District of Columbia, or other jurisdictions; without having to obtain the appraiser's or supervisory appraiser's (if applicable) consent. Such consent must be obtained before this appraisal report may be disclosed or distributed to any other party (including, but not limited to, the public through advertising, public relations, news, sales, or other media).

22. I am aware that any disclosure or distribution of this appraisal report by me or the lender/client may be subject to certain laws and regulations. Further, I am also subject to the provisions of the Uniform Standards of Professional Appraisal Practice that pertain to disclosure or distribution by me.

23. The borrower, another lender at the request of the borrower, the mortgagee or its successors and assigns, mortgage insurers, government sponsored enterprises, and other secondary market participants may rely on this appraisal report as part of any mortgage finance transaction that involves any one or more of these parties.

24. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

25. Any intentional or negligent misrepresentation(s) contained in this appraisal report may result in civil liability and/or criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Section 1001, et seq., or similar state laws.

SUPERVISORY APPRAISER'S CERTIFICATION: The Supervisory Appraiser certifies and agrees that:

1. I directly supervised the appraiser for this appraisal assignment, have read the appraisal report, and agree with the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
2. I accept full responsibility for the contents of this appraisal report including, but not limited to, the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
3. The appraiser identified in this appraisal report is either a sub-contractor or an employee of the supervisory appraiser (or the appraisal firm), is qualified to perform this appraisal, and is acceptable to perform this appraisal under the applicable state law.
4. This appraisal report complies with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
5. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

APPRAISER

Signature 
 Name Herbert Wayne Jamison
 Company Name Catechis, Campbell & Associates
 Company Address 13505-2 Westheimer, Houston, TX 77077
 Telephone Number (281) 556-9182
 Email Address appraise@cca-appraise.com
 Date of Signature and Report January 10, 2012
 Effective Date of Appraisal December 27, 2011
 State Certification # 1323509-G
 or State License # _____
 or Other (describe) _____ State # _____
 State TX
 Expiration Date of Certification or License 08/31/2012

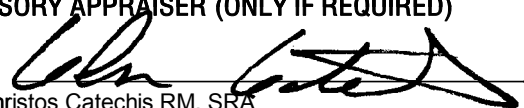
ADDRESS OF PROPERTY APPRAISED
13630 Pinerock Ln
Houston, TX 77079

APPRAISED VALUE OF SUBJECT PROPERTY \$ 410,000

LENDER/CLIENT

Name _____
 Company Name Brunsting Family Living Trust
 Company Address 13630 Pinerock Ln Houston, Texas 77079
 Email Address _____

SUPERVISORY APPRAISER (ONLY IF REQUIRED)

Signature 
 Name Christos Catechis RM, SRA
 Company Name Catechis, Campbell & Associates
 Company Address 13505-2 Westheimer, Houston, TX 77077
 Telephone Number (281) 556-9182
 Email Address appraise@cca-appraise.com
 Date of Signature January 10, 2012
 State Certification # 1320570-R
 or State License # _____
 State TX
 Expiration Date of Certification or License 04/30/2013

SUBJECT PROPERTY

- Did not inspect subject property
- Did inspect exterior of subject property from street
Date of Inspection _____
- Did inspect interior and exterior of subject property
Date of Inspection _____

COMPARABLE SALES

- Did not inspect exterior of comparable sales from street
- Did inspect exterior of comparable sales from street
Date of Inspection _____

Uniform Residential Appraisal Report

File # 097430HJ

FEATURE	SUBJECT	COMPARABLE SALE # 4			COMPARABLE SALE # 5			COMPARABLE SALE # 6		
Address	13630 Pinerock Ln Houston, TX 77079	13611 Taylorcrest Rd Houston, TX 77079			707 Patchester Dr Houston, TX 77079			13518 Queensbury Ln Houston, TX 77079		
Proximity to Subject		0.21 miles SE			0.20 miles W			0.17 miles NE		
Sale Price	\$ N/A	\$ 451,500			\$ 495,000			\$ 468,025		
Sale Price/Gross Liv. Area	\$ sq.ft.	\$ 171.02 sq.ft.			\$ 184.70 sq.ft.			\$ 197.90 sq.ft.		
Data Source(s)		MLS/Deed/TaxRolls			MLS/Deed/TaxRolls			MLS/Deed/TaxRolls		
Verification Source(s)		MLS#64639045/713-784-0888			MLS#51898424/281-582-3910			MLS#16789648/713-520-1981		
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) \$ Adjustment	DESCRIPTION	+(-) \$ Adjustment	DESCRIPTION	+(-) \$ Adjustment	DESCRIPTION	+(-) \$ Adjustment	
Sales or Financing Concessions		SC-\$5000 Conv 85%	-5,000	SC-\$4000 Conv 62%	-4,000	SC-\$4025 Conv 95%	-4,025			
Date of Sale/Time		8/11-10/11		2/11-3/11		10/10-12/1/10				
Location	Average	Average		Average		Average				
Leasehold/Fee Simple	Fee Simple	Fee Simple		Fee Simple		Fee Simple				
Site	8625 sf	9450 sf		8400 sf		9266 sf				
View	Average	Ext Obso	+10,000	Average		Average				
Design (Style)	Trad/1.5st	Trad/1.5st		Trad/2st		Trad/1st				
Quality of Construction	Average	Average		Average		Average				
Actual Age	45 yrs	44 yrs		45 yrs		46 yrs				
Condition	Average	Good	-60,000	Good	-60,000	Good	-60,000			
Above Grade	Total Bdrms. Baths	Total Bdrms. Baths		Total Bdrms. Baths	+1,000	Total Bdrms. Baths	+1,000			
Room Count	10 5 3	10 5 2.1	+2,000	9 4 2.1	+2,000	8 4 2.1	+2,000			
Gross Living Area	3,049 sq.ft.	2,640 sq.ft.	+20,500	2,680 sq.ft.	+18,500	2,365 sq.ft.	+34,200			
Basement & Finished Rooms Below Grade	None	None		None		None				
Functional Utility	Average	Average		Average		Average				
Heating/Cooling	Ca/Ch	Ca/Ch		Ca/Ch		Ca/Ch				
Energy Efficient Items	Typical	Typical		Typical		Typical				
Garage/Carport	2 Car Garage	2 Car Garage		2 Car Garage		2 Car Garage				
Porch/Patio/Deck	Porch,Patio	Porch,Patio		Porch,Patio		Porch,Patio				
Fireplaces	Fireplace	Fireplace		Fireplace		Fireplace				
Swimming Pool	No Pool	No Pool		No Pool		No Pool				
Proximity to Fault Line	Yes	None	-10,000	None	-10,000	Yes				
Net Adjustment (Total)		<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$	-42,500	<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$	-52,500	<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$	-26,825			
Adjusted Sale Price of Comparables		Net Adj. 9.4 % Gross Adj. 23.8 %	\$ 409,000	Net Adj. 10.6 % Gross Adj. 19.3 %	\$ 442,500	Net Adj. 5.7 % Gross Adj. 21.6 %	\$ 441,200			
Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3).										
ITEM	SUBJECT		COMPARABLE SALE # 4		COMPARABLE SALE # 5		COMPARABLE SALE # 6			
Date of Prior Sale/Transfer	No sales history in		No sales history in		No sales history in		No sales history in		No sales history in	
Price of Prior Sale/Transfer	in past 36 months		in past 12 months		in past 12 months		in past 36 months			
Data Source(s)	Deed Records/MLS		Deed Records/MLS		Deed Records/MLS		Deed Records/MLS			
Effective Date of Data Source(s)	1/6/2012		1/6/2012		1/6/2012		1/6/2012			
Analysis of prior sale or transfer history of the subject property and comparable sales See page two for subject information. No sales or transfer history were found for comparable 4 in the twelve months prior to its date of sale. No sales or transfer history were found for comparable 5 in the past twelve months.										
Analysis/Comments See page two for comparable sale 4 comments. Comparable 5 is a current listing in the adjacent competing development of Wilchester and was utilized due to the lack of more current comparable listings available at this time in Wilchester West. A downward adjustment was made for the median sale price as a percent of the list price based on the most current time frame on the MC Form. A downward adjustment was warranted for quality of construction due to it having a master bath with a separate tub and shower. Downward adjustments were warranted since it is larger in gross living area and has a spa. Active listings are often excellent indicators of the most current market trends.										

Supplemental Addendum

File No. 097430HJ

Borrower	Brunsting Family Living Trust			
Property Address	13630 Pinerock Ln			
City	Houston	County	Harris	State TX Zip Code 77079
Lender	Brunsting Family Living Trust			

ADDENDUM TO APPRAISAL
FILE # 097430HJ

SCOPE OF APPRAISAL:

This appraisal report has been prepared in accordance with the Uniform Standards of Professional Appraisal Practices. The purpose of this appraisal is to estimate the current market value, as defined herein, of the subject property as of the date of inspection. The function of the appraisal is to assist the client in evaluating the subject property for the purpose of marketing it for sale. This is not a Federally related transaction. No other intended users or intended uses have been identified by the appraiser.

The appraisal process consists of various steps which will lead to a final value conclusion. These steps include a physical inspection of the subject, exterior inspection of the comparables, inspection of the subject neighborhood. The process continues with a thorough research and analysis of sales data in the subject's market area with emphasis placed on various units of comparability to the subject property. The Cost Data is taken from various sources such as the Marshall and Swift Cost Estimator, local builders and other reliable sources. The estimated site value is based on recent sales activity of comparably priced properties or in cases where there is insufficient data, the site value can be based upon the allocation, extraction, or land residual techniques. The collection of general and specific data is also researched and analyzed in this appraisal. The sales utilized in this report are felt to be the best available within a reasonable time period.

COMMENTS ON DEED RESTRICTIONS/ZONING:

The subject property is protected by either deed restrictions or zoning as stated in the site section of this appraisal report. The subject represents its highest and best use.

We did not inspect nor do we have ready accessibility to the deed restrictions/covenants of the subject. If the processor of this report has any questions regarding the aforementioned, contact this office for clarification.

SITE COMMENTS:

The subject site is a typical interior lot. However, the "Long Point" fault line runs across the property. A visual inspection of the property reveals that the "fault zone" appears to run directly under the adjacent home located at 13634 Pinerock and cross the rear of the subject property in a southwest to northeast direction. It appears that all of the subject's single family residence lies on the low side of the fault zone. However, the master bathroom appears to be located in the fault zone on the "low" side.

DESCRIPTION OF IMPROVEMENTS:

The subject property is a typical one and one half story home in the area. It has five bedrooms, three full bathrooms and a two car detached garage. The property has been well maintained but is in basically original condition. Neither the kitchen or bathrooms have been updated or remodeled. The property has carpet in the living areas and bedrooms and sheet vinyl in the kitchen breakfast and utility room. The bathrooms have ceramic tile floors and wainscoting in the wet areas and the master bathroom has carpet in the vanity/sink area.

As previously discussed, part of the single family residence is located in the fault zone of the Long Point Fault. The fault zone also appears to run behind the detached garage. Pictures has been included in this report depicting the position of the improvements relative to the fault zone. Members of the family have indicated that the foundation has been repaired and/or supported with piers stabilizing the foundation and have a lifetime transferable warranty. It appears that the previous foundation repairs are performing their intended function of stabilizing the foundation.

COST APPROACH COMMENTS:

The subject property has a high land to value ratio. This condition exists because of the neighborhood's desirability and it's location in the prestigious "Memorial" area. High land to value ratios are normal for the subject neighborhood and are well accepted in the marketplace by the typical buyer.

The land value has been estimated based on sales of other lots in the area. However, the estimated land value "as if" vacant reflects the loss in value from being located on the "Long Point" fault.

Supplemental Addendum

File No. 097430HJ

Borrower	Brunsting Family Living Trust			
Property Address	13630 Pinerock Ln			
City	Houston	County	Harris	State TX Zip Code 77079
Lender	Brunsting Family Living Trust			

SALES COMPARISON ANALYSIS:

All comparables are located in the immediate market area and are considered to be similar to the subject. Comps 1, 3, 4, 5 and 6 were all adjusted for seller paid contributions toward the buyers closing costs. The rear of Comp 4 abuts a strip shopping center which faces Memorial Drive. Therefore, Comp 4 was adjusted for its inferior location with external obsolescence.

Comps 1, 3, 4, 5 and 6 had all been remodeled and updated and were therefore adjusted for their superior conditions. Typical market adjustments for room count and gross living area were made, where applicable. Other market adjustments for the differences in features such as swimming pools were made, where applicable.

Comps 1, 3 and 6 are located adjacent to or on the Long Point fault. Comps 2, 4 and 5 are not located on the Long Point Fault and were adjusted accordingly. Comp 6 is a somewhat older sale than would normally be used and was included in this report because it is located on the Long Pont fault like the subject and was used as support for the final estimate of value.

FINANCING DATA:

An appropriate adjustment will be made in the sales comparison grid if any inducements of sales prices are found, otherwise, no adverse influences were found. Sales or Financing Concessions indicated in the Sales Comparison Analysis were verified through the Data Sources indicated in the Sales Comparison Analysis.

IMPROVEMENTS-WARRANTIES:

This appraisal report should be in its entirety. If the processor of this report has any questions pertaining to its contents or completeness, contact this office immediately for clarifications.

Possession of this report, or a copy thereof, does carry with it the right of publication. It may not be used for any other purpose by any person other than the person to whom it is addressed without the written consent of the appraiser, and in any event only with the proper written qualification and only in its entirety.

No warranty or guarantee is made as to the condition of the slab, the roof, the electrical systems, the air conditioning, and heating systems, the appliances, the presence of pest infestation, the presence of dampness or the presence of settlement.

If the client has any questions regarding these items, it is the client's responsibility to order the appropriate inspections. The appraiser does not have the skill or the expertise needed to make such inspections. The appraiser assumes no responsibility for these items.

Unless otherwise stated in this report, the existence of hazardous substances, including without limit, asbestos, polychlorinated biphenyls, petroleum leakage, or other agricultural chemicals, which may or may not be present on the property, or other environmental conditions, were not called to the attention of nor did the appraiser become aware of such during the appraiser's inspection. The appraiser has no knowledge of the existence of such materials on or in the property unless otherwise stated. The appraiser, however, is not qualified to test such substances of condition. If the presence of such substances, such as asbestos, urea formaldehyde foam insulation, or other hazardous substances or environmental conditions, may affect value of the property, the value estimate is predicted on the assumption there is no such on or in the property or in such proximity thereto that it would cause a loss in value. No responsibility is assumed for any such conditions, nor for any expertise or engineering knowledge required to discover them.

If this appraisal was performed for the purpose of FHA financing then a visual inspection was done in accordance with FHA guidelines.

This appraisal is not a home inspection and the appraiser is not acting as a home inspector when preparing the report. The borrower has the right to have the home inspected by a professional home inspector. When performing the inspection of this property, the appraiser visually observed areas that were readily accessible. The appraiser is not required to disturb or move anything that obstructs access or visibility.

The inspection is not technically exhaustive. The inspection does not offer warranties or guarantees of any kind.

Supplemental Addendum

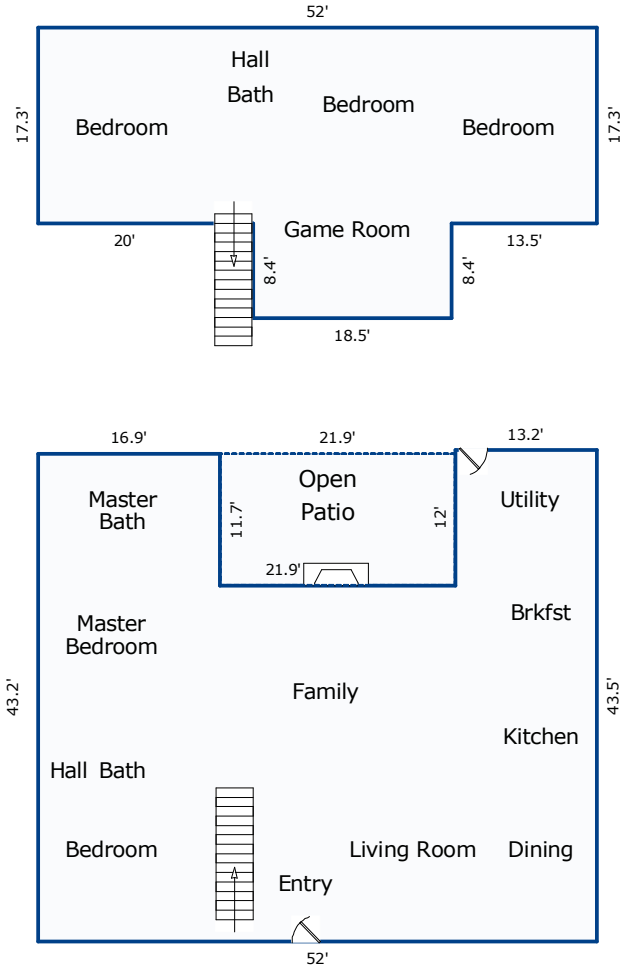
File No. 097430HJ

Borrower	Brunsting Family Living Trust			
Property Address	13630 Pinerock Ln			
City	Houston	County	Harris	State TX Zip Code 77079
Lender	Brunsting Family Living Trust			

The appraiser is not a home or environmental inspector. The appraiser provides an opinion of value. The appraisal does not guarantee that the property is free of defects or environmental problems. The appraiser performs an inspection of visible and accessible areas only. Mold or termites may be present in areas the appraiser can not see. A professional home inspection or environmental inspection or termite inspection is recommended.

Building Sketch

Borrower	Brunsting Family Living Trust						
Property Address	13630 Pinerock Ln						
City	Houston	County	Harris	State	TX	Zip Code	77079
Lender	Brunsting Family Living Trust						



Sketch by Apex Medina™

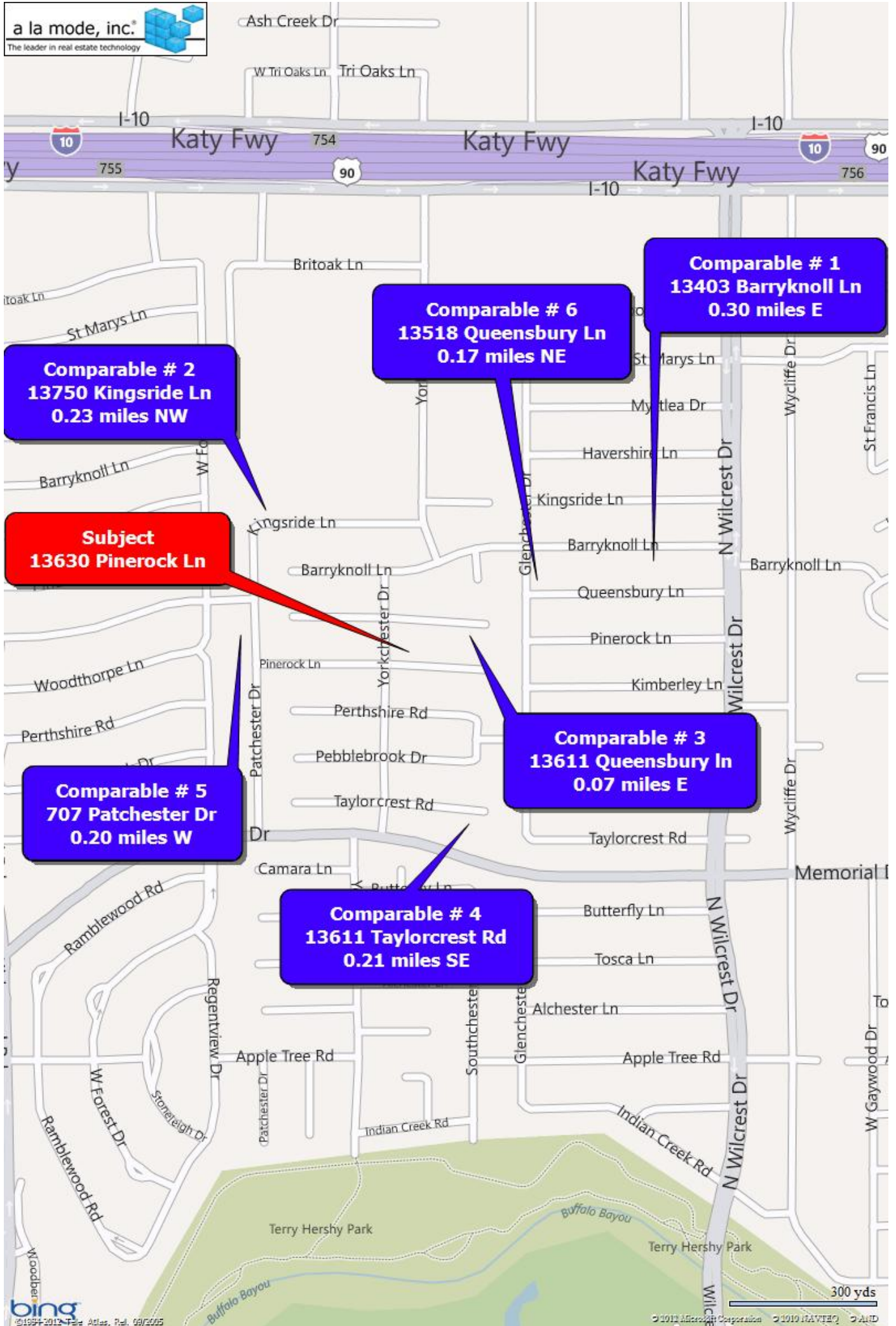
Comments:

AREA CALCULATIONS SUMMARY			
Code	Description	Net Size	Net Totals
GLA1	First Floor	1994.1	1994.1
GLA2	Second Floor	1055.0	1055.0
P/P	Patio	256.2	256.2
Net LIVABLE Area		(rounded)	3049

LIVING AREA BREAKDOWN			
Breakdown			Subtotals
First Floor			
52.0	x	31.5	1638.0
12.0	x	13.2	158.4
11.7	x	16.9	197.7
Second Floor			
52.0	x	17.3	899.6
8.4	x	18.5	155.4
5 Items			(rounded) 3049

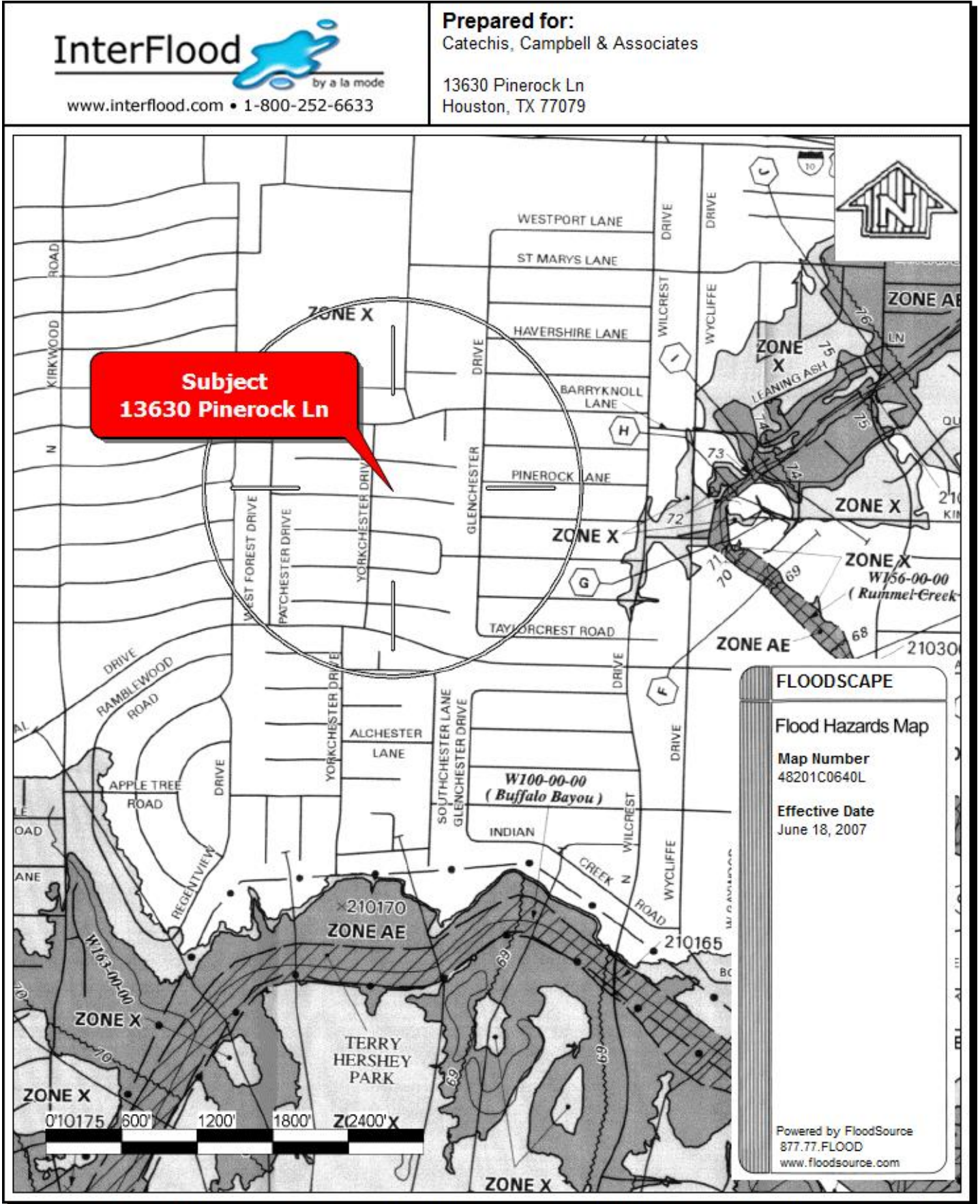
Location Map

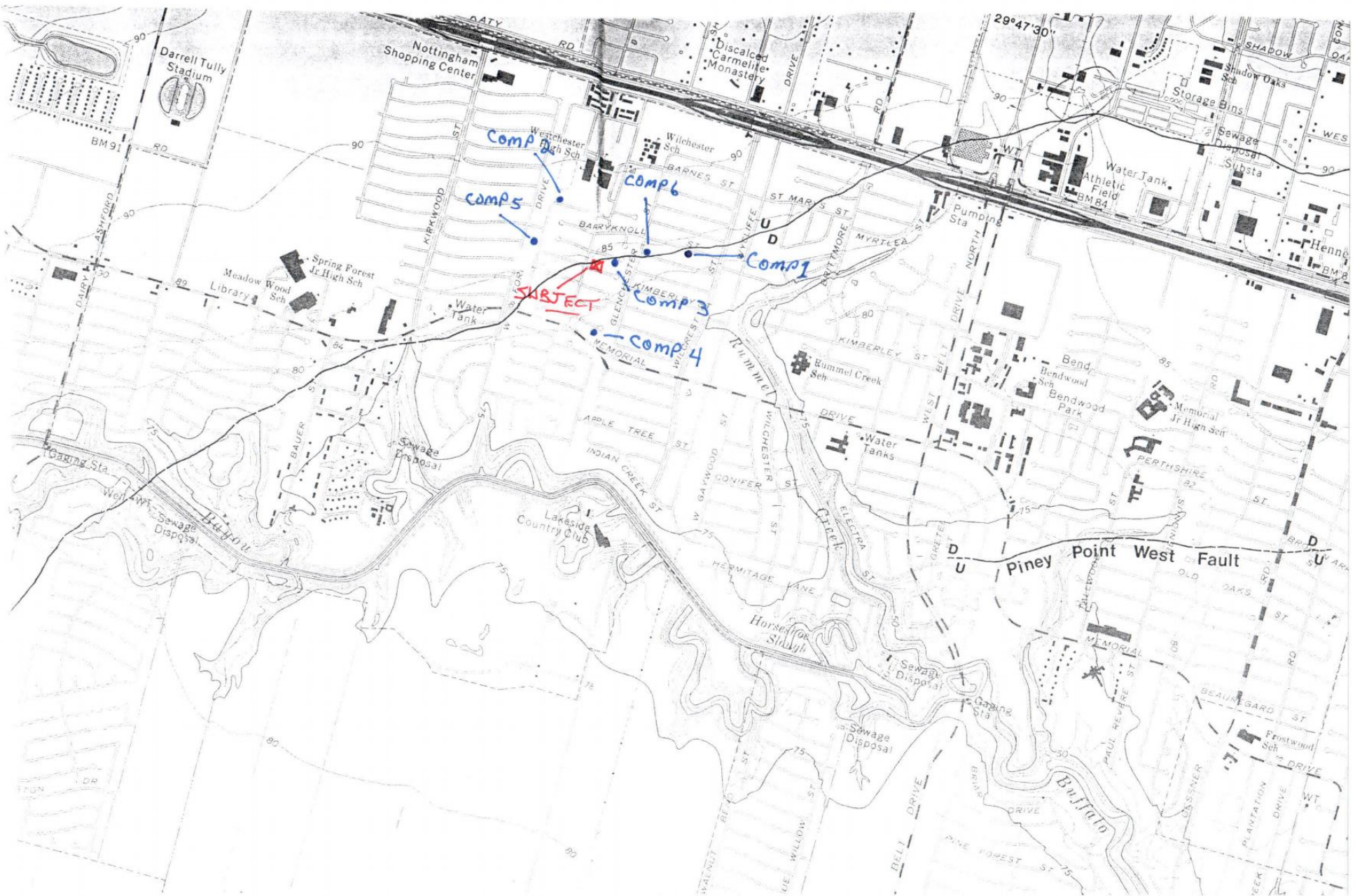
Borrower	Brunsting Family Living Trust			
Property Address	13630 Pinerock Ln			
City	Houston	County	Harris	State TX Zip Code 77079
Lender	Brunsting Family Living Trust			



Flood Map

Borrower	Brunsting Family Living Trust			
Property Address	13630 Pinerock Ln			
City	Houston	County	Harris	State TX Zip Code 77079
Lender	Brunsting Family Living Trust			





Subject Photo Page

Borrower	Brunsting Family Living Trust			
Property Address	13630 Pinerock Ln			
City	Houston	County	Harris	State TX Zip Code 77079
Lender	Brunsting Family Living Trust			



Subject Front

13630 Pinerock Ln
 Sales Price N/A
 Gross Living Area 3,049
 Total Rooms 10
 Total Bedrooms 5
 Total Bathrooms 3
 Location Average
 View Average
 Site 8625 sf
 Quality Average
 Age 45 yrs



Subject Rear



Subject Street

Photograph Addendum

Borrower	Brunsting Family Living Trust			
Property Address	13630 Pinerock Ln			
City	Houston	County	Harris	State TX Zip Code 77079
Lender	Brunsting Family Living Trust			



LEFT SIDE OF HOME: NOTE THE HOME ON THE LEFT (13634 PINEROCK) IS MUCH HIGHER THAN THE SUBJECT.



RIGHT SIDE VIEW



LEFT SIDE VIEW FROM THE REAR



REAR VIEW OF THE MASTER BATHROOM: NOTE THE HIGHER GROUND RIGHT BEHIND THE HOUSE IS THE FAULT ZONE



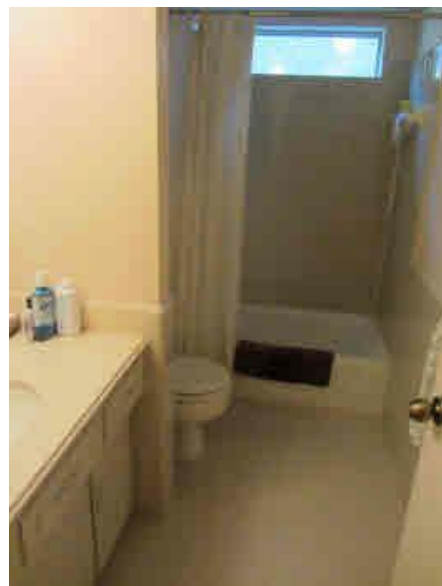
VIEW ALONG THE BACK OF THE MASTER BATHROOM WING FACING 13634 PINEROCK



VIEW OF THE AREA BEHIND THE TWO CAR DETACHED GARAGE

Interior Photos

Borrower	Brunsting Family Living Trust			
Property Address	13630 Pinerock Ln			
City	Houston	County	Harris	State TX Zip Code 77079
Lender	Brunsting Family Living Trust			



Interior Photos

Borrower	Brunsting Family Living Trust			
Property Address	13630 Pinerock Ln			
City	Houston	County	Harris	State TX Zip Code 77079
Lender	Brunsting Family Living Trust			



Comparable Photo Page

Borrower	Brunsting Family Living Trust			
Property Address	13630 Pinerock Ln			
City	Houston	County	Harris	State TX Zip Code 77079
Lender	Brunsting Family Living Trust			

**Comparable 1**

13403 Barryknoll Ln	
Prox. to Subject	0.30 miles E
Sales Price	478,000
Gross Living Area	2,924
Total Rooms	10
Total Bedrooms	5
Total Bathrooms	3.1
Location	Average
View	Average
Site	8927 sf
Quality	Average
Age	45 yrs

**Comparable 2**

13750 Kingsride Ln	
Prox. to Subject	0.23 miles NW
Sales Price	371,050
Gross Living Area	2,651
Total Rooms	10
Total Bedrooms	5
Total Bathrooms	3
Location	Average
View	Average
Site	9463 sf
Quality	Average
Age	46 yrs

**Comparable 3**

13611 Queensbury Ln	
Prox. to Subject	0.07 miles E
Sales Price	455,000
Gross Living Area	2,487
Total Rooms	8
Total Bedrooms	4
Total Bathrooms	2
Location	Average
View	Average
Site	8775 sf
Quality	Average
Age	45 yrs

Comparable Photo Page

Borrower	Brunsting Family Living Trust			
Property Address	13630 Pinerock Ln			
City	Houston	County	Harris	State TX Zip Code 77079
Lender	Brunsting Family Living Trust			



Comparable 4

13611 Taylorcrest Rd
 Prox. to Subject 0.21 miles SE
 Sales Price 451,500
 Gross Living Area 2,640
 Total Rooms 10
 Total Bedrooms 5
 Total Bathrooms 2.1
 Location Average
 View Ext Obso
 Site 9450 sf
 Quality Average
 Age 44 yrs



Comparable 5

707 Patchester Dr
 Prox. to Subject 0.20 miles W
 Sales Price 495,000
 Gross Living Area 2,680
 Total Rooms 9
 Total Bedrooms 4
 Total Bathrooms 2.1
 Location Average
 View Average
 Site 8400 sf
 Quality Average
 Age 45 yrs



Comparable 6

13518 Queensbury Ln
 Prox. to Subject 0.17 miles NE
 Sales Price 468,025
 Gross Living Area 2,365
 Total Rooms 8
 Total Bedrooms 4
 Total Bathrooms 2.1
 Location Average
 View Average
 Site 9266 sf
 Quality Average
 Age 46 yrs



TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

BE IT KNOWN THAT

HERBERT WAYNE JAMISON

HAVING PROVIDED SATISFACTORY EVIDENCE OF THE QUALIFICATIONS REQUIRED
BY THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT,
TEXAS OCCUPATIONS CODE, CHAPTER 1103,
IS AUTHORIZED TO USE THE TITLE

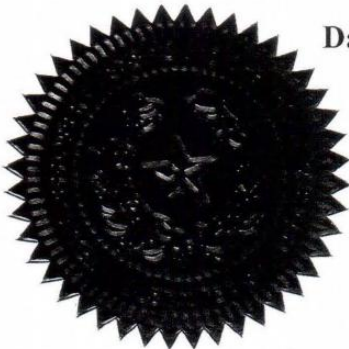
**STATE CERTIFIED
GENERAL REAL ESTATE APPRAISER**


Number: TX-1323509-G

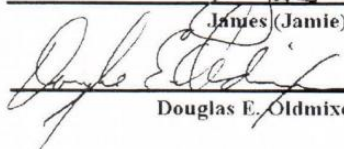
Date of Issue: August 12, 2010

Date of Expiration: August 31, 2012

In Witness Whereof





James (Jamie) B. Ratliff, Chair


Douglas E. Oldmixon, Commissioner

James (Jamie) B. Ratliff, Chair
Walker R. Beard
Clinton P. Sayers

Mark A. McNally, Vice Chair
MALACHI O. Boyuls
SHERYL R. Swift

Luis F. De La Garza, Jr., Secretary
Robert D. Davis, Jr.
Donna L. Walz

Texas Appraiser Licensing and Certification Board

P.O. Box 12188 Austin, Texas 78711-2188

Certified Residential Real Estate Appraiser

Number: **TX 1320570 R**

Issued: **02/22/2011**

Expires: **04/30/2013**

Appraiser: **CHRISTOS CATECHIS**

Having provided satisfactory evidence of the qualifications required by the Texas Appraiser Licensing and Certification Act, Texas Occupations Code, Chapter 1103, is authorized to use this title, Certified Residential Real Estate Appraiser.


Douglas E. Oldmixon
Commissioner



08-01-2011

PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)
ONE TO FOUR FAMILY RESIDENTIAL CONTRACT (RESALE)

NOTICE: Not For Use For Condominium Transactions

1. **PARTIES:** The parties to this contract are Amy Brunsting (Seller) and Brett C. McCarroll (Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. **PROPERTY:**

- A. **LAND:** Lot 31 Block 4, Wilchester West Addition, City of Houston, County of Harris, Texas, known as 13630 Pinerock Ln Houston Tx 77079, address/zip code, or as described on attached exhibit.
- B. **IMPROVEMENTS:** The house, garage and all other fixtures and improvements attached to the above-described real property, including without limitation, the following **permanently installed and built-in items**, if any: all equipment and appliances, valances, screens, shutters, awnings, wall-to-wall carpeting, mirrors, ceiling fans, attic fans, mail boxes, television antennas and satellite dish system and equipment, mounts and brackets for televisions and speakers, heating and air-conditioning units, security and fire detection equipment, wiring, plumbing and lighting fixtures, chandeliers, water softener system, kitchen equipment, garage door openers, cleaning equipment, shrubbery, landscaping, outdoor cooking equipment, and all other property owned by Seller and attached to the above described real property.
- C. **ACCESSORIES:** The following described related accessories, if any: window air conditioning units, stove, fireplace screens, curtains and rods, blinds, window shades, draperies and rods, door keys, mailbox keys, above ground pool, swimming pool equipment and maintenance accessories, artificial fireplace logs, and controls for: (i) satellite dish systems, (ii) garage doors, (iii) entry gates, and (iv) other improvements and accessories.
- D. **EXCLUSIONS:** The following improvements and accessories will be retained by Seller and must be removed prior to delivery of possession: n/a

The land, improvements and accessories are collectively referred to as the "Property".

3. **SALES PRICE:**

A. Cash portion of Sales Price payable by Buyer at closing	\$ <u>52,000.00</u>
B. Sum of all financing described below (excluding any loan funding fee or mortgage insurance premium)	\$ <u>417,000.00</u>
C. Sales Price (Sum of A and B)	\$ <u>469,000.00</u>

4. **FINANCING:** The portion of Sales Price not payable in cash will be paid as follows: (Check applicable boxes below)

- A. **THIRD PARTY FINANCING:** One or more third party mortgage loans in the total amount of \$ 3B above (excluding any loan funding fee or mortgage insurance premium).
 - (1) **Property Approval:** If the Property does not satisfy the lenders' underwriting requirements for the loan(s), (including, but not limited to appraisal, insurability and lender required repairs), Buyer may terminate this contract by giving notice to Seller prior to closing and the earnest money will be refunded to Buyer.
 - (2) **Credit Approval:** (Check one box only)
 - (a) This contract is subject to Buyer being approved for the financing described in the attached Third Party Financing Addendum for Credit Approval.
 - (b) This contract is not subject to Buyer being approved for financing and does not involve FHA or VA financing.
- B. **ASSUMPTION:** The assumption of the unpaid principal balance of one or more promissory notes described in the attached TREC Loan Assumption Addendum.
- C. **SELLER FINANCING:** A promissory note from Buyer to Seller of \$ _____, secured by vendor's and deed of trust liens, and containing the terms and conditions described in the attached TREC Seller Financing Addendum. If an owner policy of title insurance is furnished, Buyer shall furnish Seller with a mortgagee policy of title insurance.

Initialed for identification by Buyer Boul and Seller _____ TREC NO. 20-10

Contract Concerning 13630 Pinerock Ln Houston Tx 77079 Page 2 of 9 08-01-2011
Houston, 5914
 (Address of Property)

5. **EARNEST MONEY:** Upon execution of this contract by all parties, Buyer shall deposit \$ 4,690.00 as earnest money with Darlene Glos as escrow agent, at First American Title Co 13110 Memorial Dr (address). Buyer shall deposit additional earnest money of \$ _____ with escrow agent within _____ days after the effective date of this contract. If Buyer fails to deposit the earnest money as required by this contract, Buyer will be in default.

6. **TITLE POLICY AND SURVEY:**

A. **TITLE POLICY:** Seller shall furnish to Buyer at Seller's Buyer's expense an owner policy of title insurance (Title Policy) issued by First American title Co

(Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:

- (1) Restrictive covenants common to the platted subdivision in which the Property is located.
- (2) The standard printed exception for standby fees, taxes and assessments.
- (3) Liens created as part of the financing described in Paragraph 4.
- (4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.
- (5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
- (6) The standard printed exception as to marital rights.
- (7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
- (8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements. Buyer, at Buyer's expense, may have the exception amended to read, "shortages in area".

B. **COMMITMENT:** Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or the Closing Date, whichever is earlier.

C. **SURVEY:** The survey must be made by a registered professional land surveyor acceptable to the Title Company and Buyer's lender(s). (Check one box only)

(1) Within 7 days after the effective date of this contract, Seller shall furnish to Buyer and Title Company Seller's existing survey of the Property and a Residential Real Property Affidavit promulgated by the Texas Department of Insurance (T-47 Affidavit). **If Seller fails to furnish the existing survey or affidavit within the time prescribed, Buyer shall obtain a new survey at Seller's expense no later than 3 days prior to Closing Date.** If the existing survey or affidavit is not acceptable to Title Company or Buyer's lender(s), Buyer shall obtain a new survey at Seller's Buyer's expense no later than 3 days prior to Closing Date.

(2) Within _____ days after the effective date of this contract, Buyer shall obtain a new survey at Buyer's expense. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.

(3) Within _____ days after the effective date of this contract, Seller, at Seller's expense shall furnish a new survey to Buyer.

D. **OBJECTIONS:** Buyer may object in writing to defects, exceptions, or encumbrances to title: disclosed on the survey other than items 6A(1) through (7) above; disclosed in the Commitment other than items 6A(1) through (8) above; or which prohibit the following use or activity: residential use

Buyer must object the earlier of (i) the Closing Date or (ii) 3 days after Buyer receives the Commitment, Exception Documents, and the survey. Buyer's failure to object within the time

Initialed for identification by Buyer POU and Seller _____

TREC NO. 20-10

Contract Concerning 13630 Pinerock Ln Houston Tx 77079 Page 3 of 9 08-01-2011
Houston, 5914
 (Address of Property)

allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived. Provided Seller is not obligated to incur any expense, Seller shall cure the timely objections of Buyer or any third party lender within 15 days after Seller receives the objections and the Closing Date will be extended as necessary. If objections are not cured within such 15 day period, this contract will terminate and the earnest money will be refunded to Buyer unless Buyer waives the objections.

E. TITLE NOTICES:

- (1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.
- (2) PROPERTY OWNERS ASSOCIATION(S) MANDATORY MEMBERSHIP: The Property is is not subject to mandatory membership in a property owners association(s). If the Property is subject to mandatory membership in a property owners association(s), Seller notifies Buyer under §5.012, Texas Property Code, that, as a purchaser of property in the residential community identified in Paragraph 2A in which the Property is located, you are obligated to be a member of the property owners association(s). Restrictive covenants governing the use and occupancy of the Property and a dedicatory instrument governing the establishment, maintenance, and operation of this residential community have been or will be recorded in the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory instrument may be obtained from the county clerk. You are obligated to pay assessments to the property owners association(s). The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of the Property. **If Buyer is concerned about these matters, the TREC promulgated Addendum for Property Subject to Mandatory Membership in a Property Owners Association should be used for each association.**
- (3) STATUTORY TAX DISTRICTS: If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.
- (4) TIDE WATERS: If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum containing the notice promulgated by TREC or required by the parties must be used.
- (5) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.
- (6) PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer

Initialed for identification by Buyer BML and Seller _____ TREC NO. 20-10

Contract Concerning 13630 Pinerock Ln Houston Tx 77079 Page 4 of 9 08-01-2011
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hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.

- (7) PUBLIC IMPROVEMENT DISTRICTS: If the Property is in a public improvement district, §5.014, Property Code, requires Seller to notify Buyer as follows: As a purchaser of this parcel of real property you are obligated to pay an assessment to a municipality or county for an improvement project undertaken by a public improvement district under Chapter 372, Local Government Code. The assessment may be due annually or in periodic installments. More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the municipality or county levying the assessment. The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of your property.

7. PROPERTY CONDITION:

- A. ACCESS, INSPECTIONS AND UTILITIES: Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. Seller at Seller's expense shall turn on existing utilities for inspections.
- B. SELLER'S DISCLOSURE NOTICE PURSUANT TO §5.008, TEXAS PROPERTY CODE (Notice):
 (Check one box only)
- (1) Buyer has received the Notice.
- (2) Buyer has not received the Notice. Within _____ days after the effective date of this contract, Seller shall deliver the Notice to Buyer. If Buyer does not receive the Notice, Buyer may terminate this contract at any time prior to the closing and the earnest money will be refunded to Buyer. If Seller delivers the Notice, Buyer may terminate this contract for any reason within 7 days after Buyer receives the Notice or prior to the closing, whichever first occurs, and the earnest money will be refunded to Buyer.
- (3) The Seller is not required to furnish the notice under the Texas Property Code.
- C. SELLER'S DISCLOSURE OF LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS is required by Federal law for a residential dwelling constructed prior to 1978.
- D. ACCEPTANCE OF PROPERTY CONDITION: (Check one box only)
- (1) Buyer accepts the Property in its present condition.
- (2) Buyer accepts the Property in its present condition provided Seller, at Seller's expense shall complete the following specific repairs and treatments: _____.

(Do not insert general phrases, such as "subject to inspections" that do not identify specific repairs.)

NOTICE TO BUYER AND SELLER: Buyer's agreement to accept the Property in its present condition under Paragraph 7D(1) or (2) does not preclude Buyer from inspecting the Property under Paragraph 7A, from negotiating repairs or treatments in a subsequent amendment, or from terminating this contract during the Option Period, if any.

- E. LENDER REQUIRED REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, neither party is obligated to pay for lender required repairs, which includes treatment for wood destroying insects. If the parties do not agree to pay for the lender required repairs or treatments, this contract will terminate and the earnest money will be refunded to Buyer. If the cost of lender required repairs and treatments exceeds 5% of the Sales Price, Buyer may terminate this contract and the earnest money will be refunded to Buyer.
- F. COMPLETION OF REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, Seller shall complete all agreed repairs and treatments prior to the Closing Date. All required permits must be obtained, and repairs and treatments must be performed by persons who are licensed or otherwise authorized by law to provide such repairs or treatments. At Buyer's election, any transferable warranties received by Seller with respect to the repairs and treatments will be transferred to Buyer at Buyer's expense. If Seller fails to complete any agreed repairs and treatments prior to the Closing Date, Buyer may do so and receive reimbursement from Seller at closing. The Closing Date will be extended up to 15 days, if necessary, to complete repairs and treatments.
- G. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.

Initialed for identification by Buyer Bm and Seller _____ TREC NO. 20-10

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 (Address of Property)

H. RESIDENTIAL SERVICE CONTRACTS: Buyer may purchase a residential service contract from a residential service company licensed by TREC. If Buyer purchases a residential service contract, Seller shall reimburse Buyer at closing for the cost of the residential service contract in an amount not exceeding \$ n/a. Buyer should review any residential service contract for the scope of coverage, exclusions and limitations. **The purchase of a residential service contract is optional. Similar coverage may be purchased from various companies authorized to do business in Texas.**

8. **BROKERS' FEES:** All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

9. **CLOSING:**

A. The closing of the sale will be on or before February 17, 2012, or within 7 days after objections made under Paragraph 6D have been cured or waived, whichever date is later (Closing Date). If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.

B. At closing:

- (1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.
- (2) Buyer shall pay the Sales Price in good funds acceptable to the escrow agent.
- (3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.
- (4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans assumed by Buyer and assumed loans will not be in default.
- (5) If the Property is subject to a lease, Seller shall (i) deliver to Buyer the lease(s) and the move-in condition form signed by the tenant, if any, and (ii) transfer security deposits (as defined under §92.102, Property Code), if any, to Buyer. In such an event, Buyer shall deliver to the tenant a signed statement acknowledging that the Buyer has received the security deposit and is responsible for the return of the security deposit, and specifying the exact dollar amount of the security deposit.

10. **POSSESSION:** Seller shall deliver to Buyer possession of the Property in its present or required condition, ordinary wear and tear excepted: upon closing and funding according to a temporary residential lease form promulgated by TREC or other written lease required by the parties. Any possession by Buyer prior to closing or by Seller after closing which is not authorized by a written lease will establish a tenancy at sufferance relationship between the parties. **Consult your insurance agent prior to change of ownership and possession because insurance coverage may be limited or terminated. The absence of a written lease or appropriate insurance coverage may expose the parties to economic loss.**

11. **SPECIAL PROVISIONS:** (Insert only factual statements and business details applicable to the sale. TREC rules prohibit licensees from adding factual statements or business details for which a contract addendum, lease or other form has been promulgated by TREC for mandatory use.) **Response requested by noon Wed Jan 18, 2012**

Initialed for identification by Buyer BW and Seller _____ TREC NO. 20-10

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Contract Concerning

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(Address of Property)

12. SETTLEMENT AND OTHER EXPENSES:

A. The following expenses must be paid at or prior to closing:

(1) Expenses payable by Seller (Seller's Expenses):

(a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.

(b) Seller shall also pay an amount not to exceed \$ n/a to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.

(2) Expenses payable by Buyer (Buyer's Expenses): Appraisal fees; loan application fees; adjusted origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; Private Mortgage Insurance Premium (PMI), VA Loan Finding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender; and other expenses payable by Buyer under this contract.

B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.

13. PRORATIONS: Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year.**14. CASUALTY LOSS:** If any part of the Property is damaged or destroyed by fire or other casualty after the effective date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.**15. DEFAULT:** If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If, due to factors beyond Seller's control, Seller fails within the time allowed to make any non-casualty repairs or deliver the Commitment, or survey, if required of Seller, Buyer may (a) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (b) terminate this contract as the sole remedy and receive the earnest money. If Seller fails to comply with this contract for any other reason, Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.**16. MEDIATION:** It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will will not be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.**17. ATTORNEY'S FEES:** A Buyer, Seller, Listing Broker, Other Broker, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.Initialed for identification by Buyer BM and Seller _____ TREC NO. 20-10

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Houston, 5914
(Address of Property)

18. ESCROW:

- A. **ESCROW:** The escrow agent is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent.
- B. **EXPENSES:** At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, escrow agent may: (i) require a written release of liability of the escrow agent from all parties, (ii) require payment of unpaid expenses incurred on behalf of a party, and (iii) only deduct from the earnest money the amount of unpaid expenses incurred on behalf of the party receiving the earnest money.
- C. **DEMAND:** Upon termination of this contract, either party or the escrow agent may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the escrow agent. If either party fails to execute the release, either party may make a written demand to the escrow agent for the earnest money. If only one party makes written demand for the earnest money, escrow agent shall promptly provide a copy of the demand to the other party. If escrow agent does not receive written objection to the demand from the other party within 15 days, escrow agent may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby releases escrow agent from all adverse claims related to the disbursement of the earnest money.
- D. **DAMAGES:** Any party who wrongfully fails or refuses to sign a release acceptable to the escrow agent within 7 days of receipt of the request will be liable to the other party for liquidated damages in an amount equal to the sum of: (i) three times the amount of the earnest money; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- E. **NOTICES:** Escrow agent's notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.

19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.

20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by applicable law, or if Seller fails to deliver an affidavit to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by facsimile or electronic transmission as follows:

To Buyer at: _____ To Seller at: _____

Telephone: _____ Telephone: _____

Facsimile: _____ Facsimile: _____

E-mail: brett.mccarroll@constellatio E-mail: _____
E-mail: n.com

Initialed for identification by Buyer Bml and Seller _____ TREC NO. 20-10

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 (Address of Property)

22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are (Check all applicable boxes):

- Third Party Financing Addendum for Credit Approval
- Seller Financing Addendum
- Addendum for Property Subject to Mandatory Membership in a Property Owners Association
- Buyer's Temporary Residential Lease
- Loan Assumption Addendum
- Addendum for Sale of Other Property by Buyer
- Addendum for Reservation of Oil, Gas and Other Minerals
- Addendum for "Back-Up" Contract
- Addendum for Coastal Area Property
- Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum
- Seller's Temporary Residential Lease
- Short Sale Addendum
- Addendum for Property Located Seaward of the Gulf Intracoastal Waterway
- Addendum for Seller's Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards as Required by Federal Law
- Other (list): _____

23. TERMINATION OPTION: For nominal consideration, the receipt of which is hereby acknowledged by Seller, and Buyer's agreement to pay Seller \$ 100.00 (Option Fee) within 2 days after the effective date of this contract, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within 10 days after the effective date of this contract (Option Period). If no dollar amount is stated as the Option Fee or if Buyer fails to pay the Option Fee to Seller within the time prescribed, this paragraph will not be a part of this contract and Buyer shall not have the unrestricted right to terminate this contract. If Buyer gives notice of termination within the time prescribed, the Option Fee will not be refunded; however, any earnest money will be refunded to Buyer. The Option Fee will will not be credited to the Sales Price at closing. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

24. CONSULT AN ATTORNEY: TREC rules prohibit real estate licensees from giving legal advice. **READ THIS CONTRACT CAREFULLY.** If you do not understand the effect of this contract, consult an attorney BEFORE signing.

Buyer's Attorney is: _____

Seller's Attorney is: _____

Telephone: _____

Telephone: _____

Facsimile: _____

Facsimile: _____

E-mail: _____

E-mail: _____

EXECUTED the _____ day of _____, _____ (EFFECTIVE DATE).
 (BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

Brett W. Carroll
 Buyer Brett C. McCarroll

Seller Amy Brunsting

Buyer

Seller

The form of this contract has been approved by the Texas Real Estate Commission. TREC forms are intended for use only by trained real estate licensees. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (http://www.trec.texas.gov) TREC NO. 20-10. This form replaces TREC NO. 20-8.

Contract Concerning 13630 Pinerock Ln Houston Tx 77079 Page 9 of 9 08-01-2011
Houston, 5914
 (Address of Property)

BROKER INFORMATION

Prudential Gary Greene
 Realtors License No. 0475512
 Other Broker Firm _____ License No. _____ Listing Broker Firm _____ License No. _____

represents Buyer only as Buyer's agent represents Seller and Buyer as an intermediary
 Seller as Listing Broker's subagent Seller only as Seller's agent

Sharon Teusink (281) 444-5140
 Licensed Supervisor of Associate Telephone _____ Licensed Supervisor of Associate Telephone _____

Mary Johnson (281) 451-5247
 Associate Telephone _____ Listing Associate Telephone _____

8817 Louetta Rd
 Other Broker's Address (281) 444-0630 Facsimile _____ Listing Broker's Office Address _____ Facsimile _____
 Spring Tx 77379
 City State Zip City State Zip

mary.johnson@garygreene.com
 Associate Email Address Listing Associate's Email Address _____

Selling Associate Telephone _____
 Selling Associate's Office Address Facsimile _____
 City State Zip
 Selling Associate's Email Address _____

Listing Broker has agreed to pay Other Broker 3% of the total sales price when the Listing Broker's fee is received. Escrow Agent is authorized and directed to pay Other Broker from Listing Broker's fee at closing.

OPTION FEE RECEIPT

Receipt of \$ _____ (Option Fee) in the form of _____ is acknowledged.
 Seller or Listing Broker _____ Date _____

CONTRACT AND EARNEST MONEY RECEIPT

Receipt of Contract and \$ _____ Earnest Money in the form of _____ is acknowledged.
 Escrow Agent: _____ Date: _____

By: _____
 Address _____ Email Address _____
 City State Zip Telephone: _____
 Facsimile: _____

TREC NO. 20-10



11-29-2010

PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

THIRD PARTY FINANCING ADDENDUM FOR CREDIT APPROVAL

TO CONTRACT CONCERNING THE PROPERTY AT

13630 Pinerock Ln Houston Tx 77079 Houston
 (Street Address and City)

Buyer shall apply promptly for all financing described below and make every reasonable effort to obtain credit approval for the financing (Credit Approval). Buyer shall furnish all information and documents required by lender for Credit Approval. Credit Approval will be deemed to have been obtained when (1) the terms of the loan(s) described below are available and (2) lender determines that Buyer has satisfied all of lender's requirements related to Buyer's assets, income and credit history. If Buyer cannot obtain Credit Approval, Buyer may give written notice to Seller within 25 days after the effective date of this contract and this contract will terminate and the earnest money will be refunded to Buyer. **If Buyer does not give such notice within the time required, this contract will no longer be subject to Credit Approval. Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

NOTE: Credit Approval does not include approval of lender's underwriting requirements for the Property, as specified in Paragraph 4.A.(1) of the contract.

Each note must be secured by vendor's and deed of trust liens.

CHECK APPLICABLE BOXES:

- A. CONVENTIONAL FINANCING:
 - (1) A first mortgage loan in the principal amount of \$ 417,000.00 (excluding any financed PMI premium), due in full in 30 year(s), with interest not to exceed 4.000 % per annum for the first 30 year(s) of the loan with Adjusted Origination Charges as shown on Buyer's Good Faith Estimate for the loan not to exceed 1.000 % of the loan.
 - (2) A second mortgage loan in the principal amount of \$ _____ (excluding any financed PMI premium), due in full in _____ year(s), with interest not to exceed _____ % per annum for the first _____ year(s) of the loan with Adjusted Origination Charges as shown on Buyer's Good Faith Estimate for the loan not to exceed _____ % of the loan.
- B. TEXAS VETERANS LOAN: A loan(s) from the Texas Veterans Land Board of \$ _____ for a period in the total amount of _____ years at the interest rate established by the Texas Veterans Land Board.
- C. FHA INSURED FINANCING: A Section _____ FHA insured loan of not less than \$ _____ (excluding any financed MIP), amortizable monthly for not less than _____ years, with interest not to exceed _____ % per annum for the first _____ year(s) of the loan with Adjusted Origination Charges as shown on Buyer's Good Faith Estimate for the loan not to exceed _____ % of the loan. As required by HUD-FHA, if FHA valuation is unknown, *"It is expressly agreed that, notwithstanding any other provision of this contract, the purchaser (Buyer) shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless the purchaser (Buyer) has been given in accordance with HUD/FHA or VA requirements a written statement issued by the Federal Housing Commissioner, Department of Veterans Affairs, or a Direct Endorsement Lender setting forth the appraised value of the Property of not less than \$ _____ . The purchaser (Buyer) shall have the privilege and option of proceeding with consummation of the contract without regard to the amount of the*

Initialed for identification by Buyer Bm and Seller _____

TREC NO. 40-4

Prudential Gary Greene, 1519 Brendon Trails Dr Spring, TX 77379
 Phone: 281.376.9635

Fax: 281.444.0630 Mary Johnson

Brett C. and Emily

Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

Monday, March 05, 2012

Tax Year: 2011

HARRIS COUNTY APPRAISAL DISTRICT
 REAL PROPERTY ACCOUNT INFORMATION
098560000031

Print E-mail

Ownership History

Owner and Property Information

Owner Name & Mailing Address:	NELVA E BRUNSTING TRUST 13630 PINEROCK LN HOUSTON TX 77079-5914	Legal Description:	LT 31 BLK 4 WILCHESTER WEST SEC 1 13630 PINEROCK LN HOUSTON TX 77079
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State Class Code

Land Use Code

A1 -- Real, Residential, Single-Family 1001 -- Residential Improved

Land Area	Total Living Area	Neighborhood	Neighborhood Group	Market Area	Map Facet	Key Map®
8,625 SF	2,761 SF	7750	25011	391	4858D	489F

Value Status Information

Capped Account	Value Status	Notice Date	Shared CAD
No	Noticed	04/02/2011	No

Exemptions and Jurisdictions

Exemption Type	Districts	Jurisdictions	ARB Status	2010 Rate	2011 Rate	Online Tax Bill
Residential Homestead Surviving Spouse Over-65	025	SPRING BRANCH ISD *	Certified: 08/12/2011	1.394500	1.394500	View
	040	HARRIS COUNTY	Certified: 08/12/2011	0.388050	0.391170	View
	041	HARRIS CO FLOOD CNTRL	Certified: 08/12/2011	0.029230	0.028090	
	042	PORT OF HOUSTON AUTHY	Certified: 08/12/2011	0.020540	0.018560	
	043	HARRIS CO HOSP DIST	Certified: 08/12/2011	0.192160	0.192160	
	044	HARRIS CO EDUC DEPT	Certified: 08/12/2011	0.006581	0.006581	
	061	CITY OF HOUSTON	Certified: 08/12/2011	0.638750	0.638750	

* Because the owner qualifies for an over-65 exemption, taxes may be frozen for this account.

Valuations

Value as of January 1, 2010

Value as of January 1, 2011

	Market	Appraised		Market	Appraised
Land	114,919		Land	114,919	
Improvement	138,353		Improvement	155,229	
Total	253,272	253,272	Total	270,148	270,148

5-Year Value History

Land

Market Value Land

Line	Description	Site Code	Unit Type	Units	Size Factor	Site Factor	Appr O/R Factor	Appr O/R Reason	Total Adj	Unit Price	Adj Unit Price	Value
1	1001 -- Res Improved Table Value	SF1	SF	8,400	1.00	1.00	0.50	Topography	0.50	27.00	13.50	113,400
2	1001 -- Res Improved Table Value	SF3	SF	225	1.00	0.50	0.50	Topography	0.25	27.00	6.75	1,519

Building

20-20566.485



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REALTOR® Agent



Lara Nesmith
CNE

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4.96/5.0 Overall Rating
★★★★★

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Room/Lot Dimension

Living:	17X14
Den:	20X16
Game Room:	17X12
Dining:	13X11
Kitchen:	12X13
Breakfast:	9X8
1st Bed:	15X14
2nd Bed:	12X10
3rd Bed:	12X10
4th Bed:	11X13
5th Bed:	12X11
Utility Room Desc:	Utility Room 1st Floor
Utility Room Dim:	9X5
Bedroom Desc:	Master Bed - 1st Floor

School Information

School District:	Spring Branch
Elementary Sch:	WILCHESTER
Middle Sch:	MEMORIAL
High Sch:	STRATFORD

(Information should be independently verified)

General Description

Wonderful custom home with an awesome floor plan on a great cul de sac in prestigious Wilchester West. This home appears to have been very well maintained, Two bedrooms and two full baths down, 3 bedrooms and play room/gameroom up with 3rd full bath, some updating in the 90's with Corian countertops and tile backsplash in the kitchen. This is a jewel and is priced only slightly above lot value! Great Pool and tennis courts and membership in Wilchester Club included, great schools too!

Listing Price:	\$469,000
Address:	13630 Pinerock Ln
City:	Houston
Zip Code:	77079-5914
Subdivision:	Wilchester West 1
Property Type:	Single Family Homes
Status:	⚠ Pending Continue to Show
Bedrooms:	5 Bedroom(s)
Baths:	3 Full & 0 Half Bath(s)
Garage:	2 Car Detached
Stories:	1 1/2 Story
Style:	Traditional
Year Built:	1966 / Appraisal District
Building Sqft:	3,049 / Appraisal
Lotsize:	8,825 / Appraisal District
Front Door:	South
Maintenance Fee:	\$654 annually
Mrkt Area:	Memorial West
Key Map® :	PAGE 48SF
MLS# / Area:	19348528 / 23-Memorial

Interior Feature

Drapes/Curtains/Window Cover, Fire/Smoke Alarm	
Fireplace:	1 / Gas Connections, Wood Burning
Fireplace:	Fireplace
Dishwasher:	Yes
Disposal:	Yes
Compactor:	No
Microwave:	No
Range:	Electric Range
Oven:	Double Oven, Electric Oven
Connection:	Washer, Electric Dryer, Gas Dryer
BedRooms:	Master Bed - 1st Floor
Heating:	Central Gas
Cooling:	Central Electric
Floors:	Carpet, Terrazo, Tile, Vinyl
Countertop:	Corian

Exterior Feature

Back Yard, Fully Fenced, Patio/Deck, Sprinkler System, Subdivision Tennis Court	
Extr Constrn:	Brick & Wood
Area Pool:	Yes
Private Pool:	No
Lot Desc:	Cul-De-Sac, Subdivision Lot, Wooded
Roof:	Composition
Foundation:	Slab

More Information

- [Schedule Showing](#)
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- [Email Company](#)
- [Email a Friend](#)
- [Send To Phone](#)
- [Print Flyer](#)

Tools / Research

- [Tax Information](#)
- [Mortgage Calculator](#)
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- [Translate It](#)
- [Currency Converter](#)

[MyCart \(0 Listings \)](#)

13630 Pinerock Ln, Houston, TX 77079



Google
© 2012 Texas General Land Office, Texas Orthometry Program, U.S. Geological Survey, USDA Farm Service Agency

[Birds Eye View](#) | [View Large Map](#) | [Directions](#) | [Email Map](#) | [Print Map](#) |

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

CANDACE LOUISE CURTIS

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CIVIL ACTION NO. H-12-CV-592

vs.

ANITA KAY BRUNSTING, and
AMY RUTH BRUNSTING

REQUEST FOR HEARING OR CALL IN CONFERENCE ON EMERGENCY MOTION

Defendants have filed an Emergency Motion for Remove Lis Pendens on this date.

Consistent with Judge Hoyt’s procedures, Section II, on Monday March 5, 2012, Defendant’s counsel contacted Plaintiff, who is acting *pro se*, to discuss resolution of the issue presented or a possible hearing on the motion. She advised that she would be available for a hearing or call in conference at any time this week at her work telephone number (925) 938-1600, extension 100, taking into consideration the time difference between Houston and California.

Defendants request a hearing or call in conference at the court’s earliest convenience due the urgency to have this matter resolved.

GREEN & MATHEWS, L.L.P.

/s/

BERNARD LILSE MATHEWS, III
State Bar # 13187450
14550 Torrey Chase Boulevard, Suite 245
Houston, Texas 77014
Telephone: (281) 580-8100
Facsimile: (281) 580-8104

Attorneys for Anita Kay and Amy Ruth Brunsting

Certificate of Service

I certify that on March 6, 2012 I served the foregoing Candace Louise Curtis by electronic filing and service at her e-mail address: occurtis@sbcglobal.net.

/s/

Bernard Lilse Mathews, III

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

CANDACE LOUISE CURTIS

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CIVIL ACTION NO. H-12-CV-592

vs.

ANITA KAY BRUNSTING, and
AMY RUTH BRUNSTING

ORDER REMOVING LIS PENDENS

On this date came on Defendants' Emergency Motion to Remove Lis Pendens. The court having considered the motion and any written or oral opposition thereto is of the opinion the motion is meritorious, and should be granted, and therefore,

IT IS ORDERED that the Lis Pendens submitted by Plaintiff in this case, and any recorded incident thereof related to that certain real property at 13639 Pinerock Lane, Houston, Texas 77079, legally described as Lot 31, Block 4 of Wilchester West, an Addition in Houston, Harris County, Texas, is hereby REMOVED and VACATED, and shall not constitute any cloud on title.

SIGNED this ____ day of March, 2012.

Judge, United States District Court

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

CANDACE LOUISE CURTIS

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CIVIL ACTION NO. H-12-CV-592

vs.

ANITA KAY BRUNSTING, and
AMY RUTH BRUNSTING

ORDER REMOVING LIS PENDENS

On this date came on Defendants' Emergency Motion to Remove Lis Pendens. The court having considered the motion and any written or oral opposition thereto is of the opinion the motion is meritorious, and should be granted, and therefore,

IT IS ORDERED that the Lis Pendens submitted by Plaintiff in this case, and any recorded incident thereof related to that certain real property at 13630 Pinerock Lane, Houston, Texas 77079, legally described as Lot 31, Block 4 of Wilchester West, an Addition in Houston, Harris County, Texas, is hereby REMOVED and VACATED, and shall not constitute any cloud on title.

SIGNED this ____ day of March, 2012.

Judge, United States District Court

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

Candace Louise Curtis

Plaintiff,

v.

Case No.: 4:12-cv-00592

Judge Kenneth M. Hoyt

Anita Kay Brunsting, et al.

Defendant.

TYPE OF CASE:

Civil

NOTICE OF SETTING

**TAKE NOTICE THAT A PROCEEDING IN THIS CASE HAS BEEN SET FOR
THE PLACE, DATE AND TIME SET FORTH BELOW.**

Before the Honorable

Kenneth M. Hoyt

PLACE:

by telephone
United States District Court
515 Rusk Ave
Houston, TX

DATE: 3/7/12

TIME: 11:00 AM

TYPE OF PROCEEDING: Telephone Conference

Date: March 6, 2012

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

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CIVIL ACTION NO. H-12-592

**ORDER FOLLOWING TELEPHONE SCHEDULING CONFERENCE
HELD ON March 7, 2012 at 11:00 a.m.**

Appearance for Plaintiff

Candace Louise Curtis, *pro se*

Appearance for Defendant

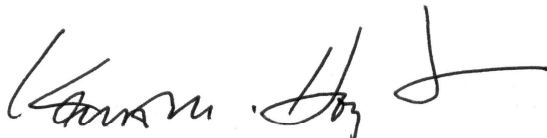
Bernard Lilse Mathews, III

The following rulings were made:

Pursuant to phone conference, the Court will, *sua sponte*, dismiss the plaintiff's case by separate order for lack of jurisdiction.

It is so ORDERED.

SIGNED at Houston, Texas this 8th day of March, 2012.



Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

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CIVIL ACTION NO. H-12-592

ORDER OF DISMISSAL
(Sua Sponte)

I.

Before the Court is the defendants, Amy Ruth Brunsting and Anita Kay Brunsting’s emergency motion for removal of *Lis Pendens* filed by the plaintiff, Candace Louise Curtis. After a phone conference and discussion with the plaintiff and counsel for the defendants, the Court determines that it lacks jurisdiction over the parties and subject matter of this litigation.

II.

Generally, the facts will show that the plaintiff and defendants are sisters and, along with other siblings, are beneficiaries of the Brunsting Family Living Trust. It appears from the pleadings and colloquy between the plaintiff and counsel for the defendants, that the plaintiff’s father and mother, Elmer H. and Nelva E. Brunsting, established the Brunsting Family Living Trust for the benefit of their offspring in 1996. Elmer H. Brunsting died on April 1, 2009, and Nelva E. Brunsting died on November 11, 2011. The plaintiff’s dispute arises out of the administration of the family Trust.

III.

The plaintiff contended, during the phone conference, that she is suing her sisters, the trustees, in their individual capacities. However, in her pleadings, the plaintiff asserts that she is

suing her sisters individually and severally as co-trustees for the Trust because they have failed . . . “to meet their first obligation under that power, to provide full, accurate, complete and timely accounting to the beneficiaries.” Therefore, the plaintiff alleges claims for breach of fiduciary obligations, fraud, constructive fraud and intentional infliction of emotional distress.

In its motion for removal of *Lis Pendens*, the defendants argue that the Court lacks subject matter jurisdiction over the dispute because it is, in truth, a probate matter and falls under the Probate Exception to federal court jurisdiction. *See Marshall v. Marshall*, 126 S. Ct. 1735, 1748 (2006). Responding to the defendants’ motion, the plaintiff seeks to satisfy the jurisdictional issue of the amount in controversy by stating that the *res* is the Trust. Yet, the plaintiff argues the controversy is a personal one, not a dispute about the Trust.

IV.

The Court is of the opinion that the Probate Exception to federal jurisdiction applies. *Marshall*, 126 S. Ct. at 1748. The plaintiff admits this fact, yet only to avoid the Court removing her *lis pendens* filing. *See* [Response Doc. No. ___; citing *Lepard v. NBD Bank*, 384 F. 3d 232, 237 (6th Cir. 2004)]. Hence, because the plaintiff’s suit is a dispute over the distribution of the family Trust, the Court lacks jurisdiction and the case must be DISMISSED. To the extent that a *lis pendens* has been filed among the papers in federal Court in this case, it is cancelled and held for naught.

It is so Ordered.

SIGNED at Houston, Texas this 8th day of March, 2012.



Kenneth M. Hoyt
United States District Judge

United States District Court
Southern District of Texas
FILED

MAR 09 2012

David J. Bradley, Clerk of Court

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Candace Louise Curtis
Plaintiff

v.

Anita Kay Brunsting, et al.
Defendants

Civil Action No. 4:12-cv-00592

Jury

**PLAINTIFF'S ANSWER TO DEFENDANTS MOTION FOR REMOVAL OF
LIS PENDENS**

TO THE HONORABLE COURT:

I, Candace Louise Curtis, Plaintiff pro se, file this Plaintiff's Answer to Defendant's Motion for Removal of Lis Pendens:

The above titled action is a personal injury action for the civil torts of breach of fiduciary, fraud, and intentional infliction of emotional distress. As such, it seeks in personam jurisdiction over the Defendants and does not seek to probate or annul a will or to administer an estate.

1. Defendants in the first instance, challenge the Court's jurisdiction to hear this matter under the probate exception to diversity, and then in the second instance attempt to invoke this Court to assume the same jurisdiction, and to reach to a lis pendens in the custody of the Harris County Recorder. Either this Court is foreclosed from reaching the subject matter under the probate exception to diversity, as Defendants claim, or it can reach to the lis pendens in the custody of the Harris County Recorder. Both of these things cannot be true. Either the federal court is without jurisdiction under the probate exception to diversity, or it has jurisdiction to reach the lis pendens.

2. Defendants are loath to bring any form of action in the District Court in the State of Texas, because as soon as they do they will be held to answer
**PLAINTIFF'S ANSWER TO DEFENDANTS MOTION FOR REMOVAL
OF LIS PENDENS**

and to account. They cannot answer and they cannot account. If they can, they should simply do so.

3. Defendants mischaracterize Plaintiff's claim. Plaintiff does not bring action against Defendants in the capacity of trustees and Plaintiff's claim does not seek distribution or other relief directly from the Brunsting Family Living Trust.

4. Plaintiff's claims are based upon the provable fact that Defendants have accepted the appointment to the office of trustee for the Brunsting Family Living Trust and/or any resulting trust, and have exercised the powers and privileges associated therewith, but have never fully occupied said office, as they have abjectly refused or otherwise failed to meet the obligations bound to their acceptance of said office.

5. Defendant's claim that this action arises in the context of trust administration is baseless. Defendant's abject refusal to answer, to account, to explain, to inform, to notify, or even to communicate in any form whatsoever, is not activity intrinsically related to the administration of a trust or an estate.

6. In paragraph 1 of Defendant's motion, they admit that they are co-trustees of the Brunsting Family Living Trust, and in paragraph 4 admit that Plaintiff is an heir. There can be no question that there is a fiduciary relationship and other than to examine the question of whether or not Defendants breached the obligations under that instrument, Plaintiff has no further use for the Brunsting Family Living Trust in this action.

7. Defendants filed their motion into the incorrect court, under an incorrect case number, and the motion gives an incorrect property description. The lis pendens at issue is a public record in the custody of the Harris County Recorder and is a public record exclusively within the jurisdiction of the Harris County District Court.

PLAINTIFF'S ANSWER TO DEFENDANTS MOTION FOR REMOVAL
OF LIS PENDENS

8. This Court is foreclosed from reaching the lis pendens under the probate exception to diversity jurisdiction as explained below.
9. Defendant's characterization of Plaintiff's claims as without merit and as emanating from unjustified anger is, in and of itself, the intentional infliction of emotional distress, as Plaintiff's factual experience is one of a long train of abuses that Plaintiff has suffered at the unclean hands of Defendants.
10. Plaintiff has serious questions regarding the selective exhibits attached to Defendant's motion, but this Court has no jurisdiction to hear a probate claim. Therefore, Plaintiff requests that the Defendants file their motion in the court having competent jurisdiction, the Harris County District Court, before Plaintiff will consider stipulating to removal of the lis pendens.

MEMORANDUM OF POINTS AND AUTHORITIES

11. Historically speaking the probate exception to federal jurisdiction is amongst the most misunderstood challenges to federal court jurisdiction. It has been claimed by some to apply to both federal questions, as well as to diversity cases, and was interpreted as a very broad exception until the US Supreme Court intervened in Marshall v Marshall¹.
12. The matter is probably best summed up by the Sixth Circuit in a case appearing to be on all fours with the case in point:

Wisecarver v Moore No. 06-6046 as follows:

It is well-settled that "a federal court has no jurisdiction to probate a will or administer an estate" Markham v. Allen, 326 U.S. 490, This exception, known as the probate exception, "is a practical doctrine designed to promote legal certainty and judicial economy by providing a single forum of litigation, and to tap the expertise of probate judges by conferring exclusive jurisdiction on the probate court." Lepard v. NBD Bank, 384

¹ Marshall v. Marshall, 547 U.S. 293, 126 S.Ct. 1735, 1746, 164 L.Ed.2d 480 (2006)

F.3d 232, 237 (6th Cir.2004) (quoting *Center v. Center*, 660 F.Supp. 793, 795 (E.D.Mich.1987)).

The Supreme Court delineated the probate exception's "distinctly limited scope" in *Markham*:

[W]hile a federal court may not exercise its jurisdiction to disturb or affect the possession of property in the custody of a state court, it may exercise its jurisdiction to adjudicate the rights in such property where the final judgment does not undertake to interfere with the state court's possession save to the extent that the state court is bound by the judgment to recognize the right adjudicated by the federal court.

Markham, 326 U.S. at 494, 66 S.Ct. 296. Recently, the Court noted that after *Markham*, "[l]ower courts have puzzled over the meaning of the words 'interfere with the probate proceedings'" Marshall, 126 S.Ct. at 1748. This ambiguous language, the Court found, was intended merely to reiterate the general rule that "when one court is exercising in rem jurisdiction over a res, a second court will not assume in rem jurisdiction over the same res²." clarified:

Thus, the probate exception reserves to the state probate courts the probate or annulment of a will and the administration of a decedent's estate; it also precludes federal courts from endeavoring to dispose of property that is in the custody of a state probate court, But it does not bar federal courts from adjudicating probate court matters outside those confines and otherwise within federal jurisdiction.

Id. Thus, it found that the plaintiff's claims for tortious interference with a gift fell outside the exception because the claim sought in personam relief, as opposed to relief seeking to reach the res over which the state court had custody.

Therefore, to the extent that Plaintiffs' claims seek in personam jurisdiction over the Defendants, and do not seek to probate or annul a will, the probate exception does not apply. Turning to the complaint, Plaintiffs allege, in relevant part:

² *Id.* at 1748, 126 S.Ct. 1735.

Loretta Moore and Evelyn Page exercised undue influence on Floyd C. McCamy, and procured from Floyd C. McCamy his signature on testamentary documents. The plaintiffs, upon information and belief, allege that the defendants obtained a Power of Attorney from the deceased prior to his death and used that Power of Attorney for their benefit. The defendants failed to use good faith in exercising the authority granted by the power of attorney.

The defendants through the use of their fiduciary and confidential relationship, with Floyd C. McCamy, prior to his death, persuaded him at a time when he was both physically and mentally incompetent, to execute a Will leaving his entire Estate to them even though the bulk of his Estate had come from the family of the plaintiffs and the deceased, Floyd C. McCamy, had stated his intent to leave the Estate to the plaintiffs.

[Defendants] used their relationship with Mr. McCamy and his frail, weak and deteriorating physical and mental condition to create animosity towards the plaintiffs and to exercise dominion and control over McCamy.

[B]y virtue of the confidential and fiduciary relationship and the defendants' dominance over Floyd C. McCamy, defendants procured a Will from him which was not the intent or desire of Floyd C. McCamy and was designed solely for the benefit of the defendants.

[D]efendants manipulated Floyd C. McCamy by means of undue pressure and undue influence in order to cause Floyd C. McCamy to execute a Will whereby the defendants were materially benefited [sic].

Defendants by way of conversion, have retained money and personal property of the deceased and have exercised dominion and control over such property as their own to [the] exclusion of the rightful owner.

Liberally construed, Plaintiffs' claims for breach of fiduciary duty, breach of confidential relationship, undue influence, and fraud are not barred by the probate exception because they seek in personam jurisdiction over the Defendants and do not seek to probate or annul a will. Instead, these claims allege that the Defendants received assets from McCamy during his lifetime by misusing the Power of Attorney executed by McCamy in

their favor and that Plaintiffs were damaged as a result.³ Moreover, these assets were allegedly transferred during McCamy's lifetime and were therefore not part of his estate at his death. Thus, these assets were not subject to the probate court's disposition of McCamy's estate. See *Lamica v. Pierre*, No. 5:05-CV-964, 2006 WL 3423861 (N.D.N.Y. Nov. 28, 2006) (finding probate exception inapplicable to claims relating to property transferred before decedent's death).

Since *Marshall*, other circuit courts considering similar claims have also held that causes of action alleging breach of fiduciary duties, fraud, and undue influence do not necessarily fall within the scope of the probate exception. See *Campi v. Chirco Trust UDT*, No. 05-55595, 2007 WL 628049, at *1 (9th Cir. Feb. 27, 2007) (cause of action alleging fraud, undue influence, and breach of fiduciary duties regarding property removed from a trust and never probated not barred by probate exception); *Jones v. Brennan*, 465 F.3d 304, 307-308 (7th Cir.2006) (breach of fiduciary duty claim regarding guardian's mismanagement not barred by probate exception). These decisions follow *Marshall's* in personam/in rem distinction and find that the principles underlying the probate exception are not implicated when federal courts exercise jurisdiction over claims seeking in personam jurisdiction based upon tort liability because the claims do not interfere with the res in the state court probate proceedings or ask a federal court to probate or annul a will.

While the issues involved in Plaintiff's remaining claims undoubtedly intertwine with the litigation proceeding in the probate courts, in addressing the claims, the federal court will not be asserting control of any res in the custody of a state court. *Marshall*, 126 S.Ct. at 1748. A federal court properly "exercise[s] its jurisdiction to adjudicate rights in [property in the custody of a state court] where the final judgment does not undertake to interfere with the state court's possession save to the extent that the state court is bound by the judgment to recognize the right adjudicated by the federal court." *Marshall*, 126 S.Ct. at 1747 (citing *Markham*, 326 U.S. at 494, 66 S.Ct. 296) (internal quotation marks omitted). The probate exception can no longer be used to dismiss "widely recognized tort [s]" such as breach of fiduciary duty or fraudulent misrepresentation merely because the issues intertwine with claims

³ We are careful to limit Plaintiffs' claims to money damages related to To the extent that the allegedly improper inter vivos transfers. Plaintiffs' claims for breach of fiduciary duty, fraud, or undue influence seek money damages equal to the amount of the probate disbursements, awarding such damages would clearly be prohibited by the probate exception since it would be tantamount to setting aside the will.

PLAINTIFF'S ANSWER TO DEFENDANTS MOTION FOR REMOVAL
OF LIS PENDENS

proceeding in state court. *Id.* at 1748. Accordingly, these claims may not be dismissed under the probate exception.⁴

13. As can clearly be seen by a thorough reading of *Marshall v Marshall* 126 S.Ct. at 1748, *Lefkowitz v. Bank of New York*, Docket 04-0435-cv from the Second Circuit; *Wisecarver v. Moore* No. 06-6046 from the Sixth Circuit and *Jones v. Brennan* No. 04-3528 from the Seventh Circuit, this Court has the jurisdiction to entertain Plaintiff's in personam suit against Defendants for civil torts, but does not have the jurisdiction to reach to the *lis pendens* in the custody of the Harris County Recorder. As summed up in *Lefkowitz* (*infra*):

“Thus, insofar as our Court's decision in *Moser* purported to direct courts to decline to exercise subject-matter jurisdiction over in personam and other claims that might “interfere” with probate proceedings only, see 294 F.3d at 341, that holding was overly-broad and has now been superseded by *Marshall*'s limitation of the exception. See *Marshall*, 126 S.Ct. at 1748. Following *Marshall* we must now hold that so long as a plaintiff is not seeking to have the federal court administer a probate matter or exercise control over a res in the custody of a state court, if jurisdiction otherwise lies, then the federal court may, indeed must, exercise it. See *id.* at 1741 (quoting Chief Justice Marshall in *Cohens v. Virginia*, 19 U.S.(6 Wheat.) 264, 404, 5 L.Ed. 257 (1821), for the maxim that while “[i]t is most true that this Court will not take jurisdiction if it should not it is equally true, that it must take jurisdiction, if it should. We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given”); see also, e.g., *Jones v. Brennan*, 465 F.3d 304, 307-08 (7th Cir.2006) (concluding probate exception does not bar federal jurisdiction for claim of estate administrator's breach of fiduciary duty with respect to estate pending in state court); *McAninch v. Wintermute*, 478 F.3d 882, 889 (8th Cir.2007) (same as to claim for breach of contract and libel by administrator).”

⁴ LEFKOWITZ v. BANK OF NEW YORK 04-0435-cv. Docket No. 04-0435-cv
Argued: Feb. 12, 2007. -- June 28, 2007

14. Plaintiff therefore reasserts her claim that the action brought against Defendants is an in personam tort action for breach of fiduciary, fraud, and intentional infliction of emotional distress. Plaintiff is seeking civil damages from Defendants in their individual capacity, and not as trustees, and Plaintiff's claim does not come within the probate exception to diversity.
15. Plaintiff further alleges that Defendant's motion is presented to the wrong court and that this court is without subject matter jurisdiction to grant the relief requested.
16. Plaintiff, therefore, respectfully requests that this Honorable Court dismiss Defendant's Emergency Motion for Removal of Lis Pendens and defer to the jurisdiction of the Harris County District Court.

Plaintiff respectfully requests the above relief.

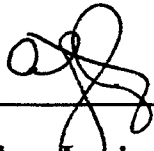


Candace Louise Curtis Tuesday, March 6, 2012

PLAINTIFF'S ANSWER TO DEFENDANTS MOTION FOR REMOVAL
OF LIS PENDENS

Certificate of Service

I certify that on March 6, 2012 I served the foregoing Answer to Defendant's Motion for Removal of Lis Pendens upon responsive counsel, Bernard Lilse Mathews, III, by electronic filing and service at his email address: texlawyer@gmail.com.



Candace Louise Curtis

CERTIFICATE OF SERVICE

20-20566.503

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Candace Louise Curtis
Plaintiff

v.

Civil Action No. 4:12-cv-00592

Anita Kay Brunsting, et al.
Defendant

I, Rik Wayne Munson, the below signed declarant, under penalty of perjury pursuant to the laws of the United States state to be true as follows:

I am a competent witness over the age of 18 and not a party to the above titled action. On Wednesday, March 07, 2012 I served the attached "plaintiff's answer to defendants motion to lift lis pendens" upon the following persons by placing a true copy in an envelope and depositing it in the US Mail Wednesday, March 07, 2012 at American Canyon California addressed as follows:

Bernard Lilse Mathews, III
Attorney at Law
Green & Mathews, LLP
14550 Torrey Chase Blvd., Suite 245
Houston, Texas 77014

David J. Bradley
Clerk of Court
P. O. Box 61010
Houston, TX 77208

Respectfully submitted  Wednesday, March 07, 2012
Rik Wayne Munson

**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Courts
Southern District of Texas
FILED

MAR 12 2012

David L. Bradley, Clerk of Court

Candace Louise Curtis
Plaintiff pro se

v.

Anita Kay Brunsting, et al.
Defendants

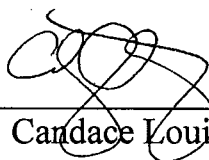
Civil Action No. 4:12-cv-00592

Jury

Plaintiff's Notice of Appeal

Parties are hereby noticed that above named Plaintiff will appeal the order dismissing Plaintiff's action under the probate exception to diversity jurisdiction entered March 8, 2012 by the Honorable Kenneth Hoyt.

Respectfully Submitted



Candace Louise Curtis

March 9, 2012

United States District Court
Southern District of Texas
Houston Division

CANDACE LOUISE CURTIS,
Plaintiff
v
ANITA BRUNSTING et al.
Defendants

Civil Action No. 4:12-cv-00592

Proof of Service Notice of Appeal

I, Rik Munson, below signed, under penalty of perjury pursuant to the laws of the United States do declare to be true as follows:

I am a competent fact witness over the age of 18 and not a party to the above titled action. My business address is 218 Landana St. American Canyon CA 94503

On Friday, March 09, 2012 I served a true copy of the attached Notice of Appeal on the parties by placing a true copy in an envelope with postage fully prepaid addressed as follows:

Bernard Lilse Mathews, III
Attorney at Law
Green & Mathews, LLP
14550 Torrey Chase Blvd., Suite 245
Houston, Texas 77014

David J. Bradley
Clerk of Court
P. O. Box 61010
Houston, TX 77208

Respectfully submitted


Rik Munson



Fw: NEW NOA Activity in Case 4:12-cv-00592 Candace Louise Curtis v. Anita Kay Brunsting et al Notice of Appeal
Amanda Sutton-Foy to: Brandy Lemelle

03/13/2012 10:06 AM

From: Amanda Sutton-Foy/CA05/05/USCOURTS
To: Brandy Lemelle/CA05/05/USCOURTS@USCOURTS

Follow Up: Normal Priority.



4-12cv592 - CASE OPENING SHEET.pdf
Amanda Sutton-Foy
U. S. Court of Appeals, 5th Circuit
Case Manager for Southern & Eastern Texas
600 S. Maestri Place
New Orleans, LA 70130
(504) 310-7670

United States Court of Appeals
Southern District of Texas
FILED

MAR 16 2012

David A. Bradley, Clerk of Court

Houston

12-20164

----- Forwarded by Amanda Sutton-Foy/CA05/05/USCOURTS on 03/13/2012 09:31 AM -----

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To: Amanda Sutton-Foy/CA05/05/USCOURTS@USCOURTS
Date: 03/12/2012 04:09 PM
Subject: NEW NOA Activity in Case 4:12-cv-00592 Candace Louise Curtis v. Anita Kay Brunsting et al Notice of Appeal
Sent by: Peter Conners

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Subject: Activity in Case 4:12-cv-00592 Candace Louise Curtis v. Anita Kay Brunsting et al Notice of Appeal

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*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

U.S. District Court

SOUTHERN DISTRICT OF TEXAS

Notice of Electronic Filing

The following transaction was entered on 3/12/2012 at 4:02 PM CDT and filed on 3/12/2012

Case Name: Candace Louise Curtis v. Anita Kay Brunsting et al

Case Number: 4:12-cv-00592

Filer: Candace Louise Curtis

WARNING: CASE CLOSED on 03/08/2012

Document Number: 16

Docket Text:

NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit re: [14] Order of Dismissal, by Candace Louise Curtis (Filing fee \$ 455), filed.(mlothmann)

4:12-cv-00592 Notice has been electronically mailed to:

Bernard Lilse Mathews , III texlawyer@gmail.com

4:12-cv-00592 Notice has not been electronically mailed to:

Candace Louise Curtis
1215 Ulfinian Way
Martinez, CA 94553

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1045387613 [Date=3/12/2012]

[FileNumber=14678418-

0] [60fb3fc08d0d16a698af456c30eec98203ed003b2700c1f52c48ae13d77aee4663b395a1e0bda24677583b8e88adc355285bc0e224e216e90566b3f154e7212b]]

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

Candace Louise Curtis	§
	§
v.	§ CASE NUMBER: 4:12-cv-00592
	§ District Judge: Kenneth M. Hoyt
Anita Kay Brunsting, et al	§ Court Reporter(s):
	§

NOTICE OF THE FILING OF AN APPEAL

In connection with this appeal, instrument # 16, filed by Candace Louise Curtis, a copy of the notice of appeal, the order being appealed and the docket sheet are attached.

In regard to this appeal:

- The Court of Appeal \$455.00 filing and docketing fees have not been paid, the appellant is a pro se litigant and a notice regarding a motion to proceed in forma pauperis was entered and a response is due.
- This case was decided without a hearing – no transcripts.
- The Clerk of Court will submit to the Fifth Circuit Court of Appeals a Certificate of Non-Compliance if the appellant fails to pay the filing fee (or submit an application to proceed in forma pauperis).

David Bradley, Clerk

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

Candace Louise Curtis	§
	§
v.	§ CASE NUMBER: 4:12-cv-00592
	§ District Judge: Kenneth M. Hoyt
Anita Kay Brunsting, et al	§ Court Reporter(s):
	§

FILING FEE INSTRUCTIONS TO APPELLANT

A filing fee of \$455.00 is required to proceed on appeal. The Clerk will file the notice of appeal without prepayment of the filing fee. However, for this appeal to proceed, the appellant must submit either: (1) the filing fee of \$455.00; or (2) a completed application to proceed in forma pauperis.

The appellant is instructed to comply as directed within thirty (30) days of the date of this notice. Failure to comply with this notice may result in your appeal being dismissed.

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

Candace Louise Curtis	§
	§
v.	§ CASE NUMBER: 4:12-cv-00592
	§ District Judge: Kenneth M. Hoyt
Anita Kay Brunsting, et al	§ Court Reporter(s):
	§

NOTICE OF THE FILING OF AN APPEAL

In connection with this appeal, instrument # 16, filed by Candace Louise Curtis, a copy of the notice of appeal, the order being appealed and the docket sheet are attached.

In regard to this appeal:

- The Court of Appeal \$455.00 filing and docketing fees have not been paid, the appellant is a pro se litigant and a notice regarding a motion to proceed in forma pauperis was entered and a response is due.
- This case was decided without a hearing – no transcripts.
- The Clerk of Court will submit to the Fifth Circuit Court of Appeals a Certificate of Non-Compliance if the appellant fails to pay the filing fee (or submit an application to proceed in forma pauperis).

David Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

§
§
§
§
§
§
§

CIVIL ACTION NO. H-12-592

ORDER OF DISMISSAL
(Sua Sponte)

I.

Before the Court is the defendants, Amy Ruth Brunsting and Anita Kay Brunsting’s emergency motion for removal of *Lis Pendens* filed by the plaintiff, Candace Louise Curtis. After a phone conference and discussion with the plaintiff and counsel for the defendants, the Court determines that it lacks jurisdiction over the parties and subject matter of this litigation.

II.

Generally, the facts will show that the plaintiff and defendants are sisters and, along with other siblings, are beneficiaries of the Brunsting Family Living Trust. It appears from the pleadings and colloquy between the plaintiff and counsel for the defendants, that the plaintiff’s father and mother, Elmer H. and Nelva E. Brunsting, established the Brunsting Family Living Trust for the benefit of their offspring in 1996. Elmer H. Brunsting died on April 1, 2009, and Nelva E. Brunsting died on November 11, 2011. The plaintiff’s dispute arises out of the administration of the family Trust.

III.

The plaintiff contended, during the phone conference, that she is suing her sisters, the trustees, in their individual capacities. However, in her pleadings, the plaintiff asserts that she is

suing her sisters individually and severally as co-trustees for the Trust because they have failed . . . “to meet their first obligation under that power, to provide full, accurate, complete and timely accounting to the beneficiaries.” Therefore, the plaintiff alleges claims for breach of fiduciary obligations, fraud, constructive fraud and intentional infliction of emotional distress.

In its motion for removal of *Lis Pendens*, the defendants argue that the Court lacks subject matter jurisdiction over the dispute because it is, in truth, a probate matter and falls under the Probate Exception to federal court jurisdiction. *See Marshall v. Marshall*, 126 S. Ct. 1735, 1748 (2006). Responding to the defendants’ motion, the plaintiff seeks to satisfy the jurisdictional issue of the amount in controversy by stating that the *res* is the Trust. Yet, the plaintiff argues the controversy is a personal one, not a dispute about the Trust.

IV.

The Court is of the opinion that the Probate Exception to federal jurisdiction applies. *Marshall*, 126 S. Ct. at 1748. The plaintiff admits this fact, yet only to avoid the Court removing her *lis pendens* filing. *See* [Response Doc. No. ___; citing *Lepard v. NBD Bank*, 384 F. 3d 232, 237 (6th Cir. 2004)]. Hence, because the plaintiff’s suit is a dispute over the distribution of the family Trust, the Court lacks jurisdiction and the case must be DISMISSED. To the extent that a *lis pendens* has been filed among the papers in federal Court in this case, it is cancelled and held for naught.

It is so Ordered.

SIGNED at Houston, Texas this 8th day of March, 2012.



Kenneth M. Hoyt
United States District Judge

**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Courts
Southern District of Texas
FILED

MAR 12 2012

David L. Bradley, Clerk of Court

Candace Louise Curtis
Plaintiff pro se

v.

Anita Kay Brunsting, et al.
Defendants

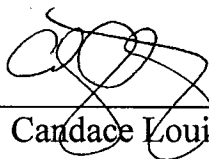
Civil Action No. 4:12-cv-00592

Jury

Plaintiff's Notice of Appeal

Parties are hereby noticed that above named Plaintiff will appeal the order dismissing Plaintiff's action under the probate exception to diversity jurisdiction entered March 8, 2012 by the Honorable Kenneth Hoyt.

Respectfully Submitted



Candace Louise Curtis

March 9, 2012

United States District Court
Southern District of Texas
Houston Division

CANDACE LOUISE CURTIS,
Plaintiff

v

ANITA BRUNSTING et al.
Defendants

Civil Action No. 4:12-cv-00592

Proof of Service Notice of Appeal

I, Rik Munson, below signed, under penalty of perjury pursuant to the laws of the United States do declare to be true as follows:

I am a competent fact witness over the age of 18 and not a party to the above titled action. My business address is 218 Landana St. American Canyon CA 94503

On Friday, March 09, 2012 I served a true copy of the attached Notice of Appeal on the parties by placing a true copy in an envelope with postage fully prepaid addressed as follows:

Bernard Lilse Mathews, III
Attorney at Law
Green & Mathews, LLP
14550 Torrey Chase Blvd., Suite 245
Houston, Texas 77014

David J. Bradley
Clerk of Court
P. O. Box 61010
Houston, TX 77208

Respectfully submitted


Rik Munson

APPEAL, CLOSED

**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (Houston)
CIVIL DOCKET FOR CASE #: 4:12-cv-00592
Internal Use Only**

Candace Louise Curtis v. Anita Kay Brunsting et al
Assigned to: Judge Kenneth M. Hoyt
Cause: 28:1332 Diversity-Fraud

Date Filed: 02/27/2012
Date **Terminated**: 03/08/2012
Jury Demand: Plaintiff
Nature of Suit: 370 Fraud or Truth-In-Lending
Jurisdiction: Diversity

Plaintiff**Candace Louise Curtis**

represented by **Candace Louise Curtis**
1215 Ulfinian Way
Martinez, CA 94553
925-759-9020
PRO SE

V.

Defendant**Anita Kay Brunsting**

represented by **Bernard Lilse Mathews , III**
Green and Mathews LLP
14550 Torrey Chase Blvd
Suite 245
Houston, TX 77014
281-580-8100
Fax: 281-580-8104
Email: texlawyer@gmail.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**Does 1-100****Defendant****Amy Ruth Brunsting**

represented by **Bernard Lilse Mathews , III**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/27/2012	1	PLAINTIFF'S ORIGINAL PETITION, COMPLAINT AND

20-20566.516

		APPLICATION FOR EX PARTE TEMPORARY RESTRAINING ORDER, ASSET FREEZE, TEMPORARY AND PERMANENT INJUNCTION against Amy Ruth Brungsting, Anita Kay Brunsting (Filing fee \$ 350) filed by Candace Louise Curtis. (Attachments: # 1 Continuation, # 2 Continuation, # 3 Continuation, # 4 Continuation, # 5 Continuation, # 6 Continuation, # 7 Continuation, # 8 Continuation, # 9 Continuation, # 10 Continuation, # 11 Continuation, # 12 Continuation, # 13 Continuation)(dterrell,) Modified on 2/27/2012 (dterrell,). (Entered: 02/27/2012)
02/27/2012	2	PROPOSED ORDER Injunctinctive Order Temporary Restraining Order, Asset Freeze, Production of Documents and Records, Appointment of Receiver, filed.(dterrell,) (Entered: 02/27/2012)
02/27/2012	3	INITIAL DISCLOSURES by Candace Louise Curtis, filed.(dterrell,) (Entered: 02/27/2012)
02/27/2012	4	REQUEST for Production of Documents from Anita Kay Brunsting and Amy Ruth Brunsting by Candace Louise Curtis, filed.(dterrell,) (Entered: 02/27/2012)
02/27/2012	5	NOTICE by Candace Louise Curtis, filed. (dterrell,) (Entered: 02/27/2012)
02/27/2012	6	NOTICE by Candace Louise Curtis, filed. (dterrell,) (Entered: 02/27/2012)
02/27/2012		Civil Filing fee re: 1 Complaint,, : \$350.00, receipt number CC003143, filed. (dterrell,) (Entered: 02/27/2012)
02/27/2012		Summons Issued as to Amy Ruth Brunsting, Anita Kay Brunsting, filed. (dterrell,) (Entered: 02/27/2012)
02/28/2012	7	ORDER for Initial Pretrial and Scheduling Conference by Telephone and Order to Disclose Interested Persons. Counsel who filed or removed the action is responsible for placing the conference call and insuring that all parties are on the line. The call shall be placed to (713)250-5613. Telephone Conference set for 5/29/2012 at 09:30 AM by telephone before Judge Kenneth M. Hoyt.(Signed by Judge Kenneth M. Hoyt) Parties notified. (ckrus,) (Entered: 02/28/2012)
03/01/2012	8	ORDER denying the application for a temporary restraining order and for injunction.(Signed by Judge Kenneth M. Hoyt) Parties notified.(dpalacios,) (Entered: 03/01/2012)
03/05/2012	9	Letter from Rik Munson re: serving copies on parties, filed. (Attachments: # 1 cover letter) (saustin,) (Entered: 03/05/2012)
03/06/2012	10	EMERGENCY MOTION by Amy Ruth Brunsting, Anita Kay Brunsting, filed. Motion Docket Date 3/27/2012. (Attachments: # 1 Affidavit Affidavit of Amy Brunsting, # 2 Exhibit Property Appraisal, # 3 Exhibit Sale Contract, # 4 Exhibit Tax Appraisal, # 5 Supplement Request for Hearing, # 6 Proposed Order Proposed Order)(Mathews, Bernard) (Entered: 03/06/2012)
03/06/2012	11	Corrected MOTION Removal of Lis Pendens by Amy Ruth Brunsting, Anita Kay Brunsting, filed. Motion Docket Date 3/27/2012. (Mathews, Bernard) (Entered: 03/06/2012)

20-20566.517

03/06/2012	12	NOTICE of Setting. Parties notified. Telephone Conference set for 3/7/2012 at 11:00 AM by telephone before Judge Kenneth M. Hoyt, filed. The call shall be placed to (713)250-5613. (chorace) (Entered: 03/06/2012)
03/08/2012	13	ORDER FOLLOWING TELEPHONE SCHEDULING CONFERENCE held on 3/7/12 Appearances: Candace L. Curtis, pro se, Bernard Lilse Mathews, III.. The Court will, sua sponte, dismiss the pltf's case by separate order for lack of jurisdiction. (Signed by Judge Kenneth M. Hoyt) Parties notified.(dpalacios,) (Entered: 03/08/2012)
03/08/2012	14	ORDER OF DISMISSAL (<i>Sua Sponte</i>) re: 10 EMERGENCY MOTION, 11 Corrected MOTION Removal of Lis Pendens. The Court lacks jurisdiction and this case is dismissed. To the extent that a <i>lis pendens</i> has been filed among the papers in federal Court in this case, it is cancelled and held for naught. (Signed by Judge Kenneth M. Hoyt) Parties notified.(dpalacios,) (Entered: 03/08/2012)
03/09/2012	15	Plaintiff's Answer to 11 Corrected MOTION Removal of Lis Pendens filed by Candace Louise Curtis. (pyebernetsky,) (Entered: 03/12/2012)
03/12/2012	16	NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit re: 14 Order of Dismissal, by Candace Louise Curtis (Filing fee \$ 455), filed. (mlothmann) (Entered: 03/12/2012)
03/16/2012	17	Notice of Assignment of USCA No. 12-20164 re: 16 Notice of Appeal, filed. (sguevara,) (Entered: 03/16/2012)

UNITED STATES DISTRICT COURT

District of _____

Plaintiff

V.

Defendant

APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT

CASE NUMBER: _____

I, _____ declare that I am the (check appropriate box)

petitioner/plaintiff/movant other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? Yes No (If "No," go to Part 2)

If "Yes," state the place of your incarceration _____

Are you employed at the institution? _____ Do you receive any payment from the institution? _____

Attach a ledger sheet from the institution(s) of your incarceration showing at least the past six months' transactions.

2. Are you currently employed? Yes No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

b. If the answer is "No," state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

- a. Business, profession or other self-employment Yes No
- b. Rent payments, interest or dividends Yes No
- c. Pensions, annuities or life insurance payments Yes No
- d. Disability or workers compensation payments Yes No
- e. Gifts or inheritances Yes No
- f. Any other sources Yes No

If the answer to any of the above is "Yes," describe, on the following page, each source of money and state the amount received and what you expect you will continue to receive.

4. Do you have any cash or checking or savings accounts? Yes No

If "Yes," state the total amount. _____

5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or any other thing of value? Yes No

If "Yes," describe the property and state its value.

6. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support.

I declare under penalty of perjury that the above information is true and correct.

Date

Signature of Applicant

NOTICE TO PRISONER: A Prisoner seeking to proceed without prepayment of fees shall submit an affidavit stating all assets. In addition, a prisoner must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

UNITED STATES DISTRICT COURT

District of

Plaintiff

V.

Defendant

ORDER ON APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES

CASE NUMBER:

Having considered the application to proceed without prepayment of fees under 28 USC §1915;

IT IS ORDERED that the application is:

GRANTED.

The clerk is directed to file the complaint.

IT IS FURTHER ORDERED that the clerk issue summons and the United States marshal serve a copy of the complaint, summons and this order upon the defendant(s) as directed by the plaintiff. All costs of service shall be advanced by the United States.

DENIED, for the following reasons:

ENTER this day of , .

Signature of Judge

Name and Title of Judge

Form 22

FORM 22. Transcript Purchase Order

United States Courts
Southern District of Texas
FILED

APR 12 2012

United States Court of Appeals for the Federal Circuit

David J. Bradley, Clerk of Court

Candace Louise Curtis - Plaintiff-Appellant) Appeal from U.S. District Court for So. Dist. Texas
) Court of International Trade
) Court of Federal Claims
—VERSUS—) TRIAL COURT NO. 4:12-cv-00592
Anita Brunsting et al., Defendant) CIRCUIT COURT NO. 12-21064
Appellees

TRANSCRIPT PURCHASE ORDER
(See Rules 10(b) and 11(b) of the Federal Rules of Appellate Procedure)

PART I - TO BE COMPLETED BY THE APPELLANT WITHIN 14 DAYS OF FILING OF NOTICE OF APPEAL.
When filing this form, distribute copies as follows: 3 copies to the court reporter; 1 copy to the Trial Court; 1 copy to the appellee; 1 copy retained by appellant.

A. Complete one of the following:

- () A transcript is not needed for the appeal
- () A transcript is already on file
- () Request is hereby made to the reporter for a transcript of the following proceedings (give particulars):

Note: voir dire and closing arguments are not prepared unless specifically requested.

Note: Unless the entire transcript is ordered, appellant must attach a statement of the issues to Copies 4 and 5.

B. I certify that financial arrangements have been made with the reporter. Payment is by:

- () Private Funds
- () Government expense (civil case). A motion for transcript has been submitted to the trial judge.

SIGNED [Signature] DATE 4/9/2012 COUNSEL FOR PRO SE
ADDRESS 1215 Ulfjan Way Martinez CA 94553
TELEPHONE 925-759-9020

PART II - TO BE COMPLETED BY THE COURT REPORTER

2 copies retained by the reporter; 1 copy to be transmitted to the Court of Appeals on same date transcript order is received.

Date Purchase Order received: _____

Estimated completion date: _____

Estimated number of pages: _____

I certify that satisfactory financial arrangements have/have not (strike one) been completed with appellant for payment of the cost of the transcript.

Signature and Date
Telephone _____

PART III - NOTIFICATION THAT TRANSCRIPT HAS BEEN FILED IN THE TRIAL COURT.

(To be completed by court reporter on date of filing transcript in Trial Court and this notification must be forwarded to Court of Appeals on the same date.)

This is to certify that the transcript has been completed. _____ volumes of transcript have been filed with the Trial Court today.

Date

Signature

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

David Bradley
CLERK

P.O. BOX 61010
HOUSTON, TX 77208

August 16, 2012

Mr. Lyle Wyman Cayce, Clerk
U.S. Court of Appeals, Fifth Circuit
600 South Maestri Place
New Orleans, LA 70130

IN RE: Curtis v. Brunsting
District Court Case No.: 4:12cv0592
Circuit Court Case No.: 12-20164

Dear Mr. Cayce:

Enclosed is a printed copy of the certified electronic record on appeal in the above referenced matter. This record contains 3 volumes of the printed record on appeal.

- No hearing were held in this matter.
- No sealed documents exist in this case.
- No state court records exist in this case.

Copies do not need to be returned to our Clerk's office. Please properly dispose of all items when the appeal process in complete.

Very Truly Yours,

David Bradley, Clerk

H Lerma
Deputy Clerk

726275 AUG 17, 2012 ACT WT 32.1 LBS #PK 1
SVC GNDCOM BL WT 33.0 LBS
TRACKING# 1Z7262750348653883 ALL CURRENCY USD
YOUR NAME: H LERMA
DEPARTMENT: APPEALS

HANDLING CHARGE	0.00	FRT: SHP	
SHIPMENT PUB RATE CHARGES:		SVC	14.71 USD
DV	0.00	COD	0.00
DC	0.00	DGD	0.00
AH	0.00	PR	0.00
TOT PUB CHG	14.71	RS	0.00
		ROD	0.00
		PUB+HANDLING	14.71

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
OFFICE OF THE CLERK**

**MICHAEL N. MILBY
CLERK**

**POST OFFICE BOX 61010
HOUSTON, TX 77208**

August 21, 2012

IN RE: Curtis v. Brunsting, et al
District Court No. 4:12-0592
Circuit Court No.: 12-20164

To Whom It May Concern:

Enclosed is a CD containing the original electronic record for the above referenced Notice of Appeal. Prepare your brief regarding this appeal using this copy of the paginated record.

Very Truly Yours,
David Bradley Clerk

H Lerma
Deputy Clerk

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

January 9, 2013

Lyle W. Cayce
Clerk

No. 12-20164

D.C. Docket No. 4:12-CV-592

United States District Court
Southern District of Texas
FILED

FEB 05 2013

CANDACE LOUISE CURTIS,

Plaintiff - Appellant

David J. Bradley, Clerk of Court

v.

ANITA KAY BRUNSTING; DOES 1-100; AMY RUTH BRUNSTING,

Defendants - Appellees

Appeal from the United States District Court for the
Southern District of Texas, Houston

Before HIGGINBOTHAM, SMITH, and ELROD, Circuit Judges.

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

It is ordered and adjudged that the judgment of the District Court is reversed, and the cause is remanded to the District Court for further proceedings in accordance with the opinion of this Court.

IT IS FURTHER ORDERED that each party bear its own costs on appeal.

ISSUED AS MANDATE:

A True Copy
Attest

Clerk, U.S. Court of Appeals, Fifth Circuit

By: 
Deputy

New Orleans, Louisiana

JAN 31 2013

20-20566.527

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

January 31, 2013

United States District Court
Southern District of Texas
FILED

FEB 05 2013

David J. Bradley, Clerk of Court

Mr. David J. Bradley
Southern District of Texas, Houston
United States District Court
515 Rusk Street
Room 5300
Houston, TX 77002


No. 12-20164, Candace Curtis v. Anita Brunsting, et al
USDC No. 4:12-CV-592

Enclosed, for the district court only, is a copy of the judgment issued as the mandate and a copy of the court's opinion.

Record/original papers/exhibits to be returned.

Sincerely,

LYLE W. CAYCE, Clerk

By: 
Linda B. Miles, Deputy Clerk
504-310-7709

cc: (letter only)
Ms. Candace Louise Curtis
Honorable Kenneth M. Hoyt
Mr. Bernard Lilse Mathews III
Mr. George William Vie III

P.S. to Judge Hoyt: A copy of the opinion was sent to your office via email the day it was filed.

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

January 9, 2013

Lyle W. Cayce
Clerk

No. 12-20164

CANDACE LOUISE CURTIS,

Plaintiff-Appellant

v.

ANITA KAY BRUNSTING; DOES 1-100; AMY RUTH BRUNSTING,

Defendants-Appellees

Appeal from the United States District Court
for the Southern District of Texas

Before HIGGINBOTHAM, SMITH, and ELROD, Circuit Judges.

PATRICK E. HIGGINBOTHAM, Circuit Judge:

This appeal concerns the scope of the probate exception to federal subject-matter jurisdiction in the wake of the Supreme Court's decision in *Marshall v. Marshall*.¹ The Plaintiff contends that, under *Marshall*, her claims for breach of fiduciary duty against the co-trustees of an inter vivos trust do not implicate the probate exception. We agree.

¹ 547 U.S. 293 (2006).

I.

In 1996, Elmer H. and Nelva E. Brunsting, Texas residents, established the Brunsting Family Living Trust (“the Trust”) for the benefit of their offspring. At the time of its creation, the Trust was funded with various assets. Both the will of Mr. Brunsting and the will of Mrs. Brunsting (collectively “the Brunstings’ Wills”) appear to include pour-over provisions, providing that all property in each estate is devised and bequeathed to the Trust.² Elmer H. Brunsting passed away on April 1, 2009, and Nelva E. Brunsting passed away on November 11, 2011. The current dispute arises out of the administration of the Trust.

Candace Curtis, Anita Brunsting, and Amy Brunsting are siblings. In February 2012, Candace Curtis (“Curtis”) filed a complaint in federal district court against Anita Brunsting and Amy Brunsting (collectively “the Defendants”) based on diversity jurisdiction. In that complaint, she alleged that Anita and Amy, acting as co-trustees of the Trust, had breached their fiduciary duties to Curtis, a beneficiary of the Trust. Specifically, she alleged that Anita and Amy had misappropriated Trust property, failed to provide her documents related to administration of the Trust, and failed to provide an accurate and timely accounting. The complaint alleged claims for breach of fiduciary duty, extrinsic fraud, constructive fraud, and intentional infliction of emotional distress. Curtis sought compensatory damages, punitive damages, a temporary restraining order against “wasting the estate,” and an injunction compelling both an accounting of Trust property and assets as well as production of documents and accounting records.

On March 1, 2012, the district court denied Curtis’s application for a temporary restraining order and injunction because the Defendants had not

² The signed copies of the Brunstings’ Wills are not included in the record, but Curtis provided unsigned copies, which we assume match the signed versions that have been admitted to probate.

been served with process. In the order, the district court judge noted that it “appears that the court lacks subject matter jurisdiction over the claim(s) asserted.” On March 6, 2012, in response to the lis pendens Curtis had filed related to property in Texas and Iowa, Anita and Amy filed an emergency motion to remove the lis pendens. The motion noted that it was subject to the Defendants’ contention that the federal district court lacked subject matter jurisdiction under the probate exception to federal court jurisdiction, an issue that the Defendants said would be raised in a separate Rule 12(b) motion to dismiss. On March 8, 2012, following a telephone conference with the parties, the district court judge entered a *sua sponte* order dismissing the case for lack of subject matter jurisdiction. In doing so, he concluded that the case falls within the probate exception to federal diversity jurisdiction. This appeal followed.

II.

This Court reviews *de novo* a district court’s dismissal for lack of subject-matter jurisdiction.³

III.

Although a federal court “has no jurisdiction to probate a will or administer an estate,”⁴ in *Markham v. Allen*, the Supreme Court recognized that the probate exception does not bar a federal court from exercising jurisdiction over all claims related to such a proceeding:

[F]ederal courts of equity have jurisdiction to entertain suits ‘in favor of creditors, legatees and heris’ and other claimants against a decedent’s estate ‘to establish their claims’ so long as the federal court does not interfere with the probate proceedings or assume

³ *Borden v. Allstate Ins. Co.*, 589 F.3d 168, 170 (5th Cir. 2009).

⁴ *Markham v. Allen*, 326 U.S. 490, 494 (1946).

general jurisdiction over the probate or control of the property in the custody of the state court.

Similarly while a federal court may not exercise its jurisdiction to disturb or affect the possession of property in the custody of a state court, it may exercise its jurisdiction to adjudicate rights in such property where the final judgment does not undertake to interfere with the state court's possession save to the extent that the state court is bound by the judgment to recognize the right adjudicated by the federal court.⁵

Sixty years later, in *Marshall v. Marshall*, the Supreme Court expressed concern with lower courts' interpretation of *Markham*, noting that "[l]ower federal courts have puzzled over the meaning of the words 'to interfere with the probate proceedings,' and some have read those words to block federal jurisdiction over a range of matters well beyond probate of a will or administration of a decedent's estate."⁶ Thus, the Supreme Court clarified the "distinctly limited scope" of the probate exception,⁷ explaining:

[W]e comprehend the 'interference' language in *Markham* as essentially a reiteration of the guiding principle that, when one court is exercising *in rem* jurisdiction over a *res*, a second court will not assume *in rem* jurisdiction over the same *res*. Thus, the probate exception reserves to state probate courts the probate or annulment of a will and the administration of a decedent's estate; it also precludes federal courts from endeavoring to dispose of property that is in the custody of a state probate court. But it does not bar federal courts from adjudicating matters outside those confines and otherwise within federal jurisdiction.⁸

The *Marshall* Court concluded that the federal district court had subject-matter jurisdiction, and the probate exception did not apply, reasoning: "[The claimant]

⁵ *Id.* (internal citations omitted).

⁶ 547 U.S. at 311.

⁷ *Id.* at 310.

⁸ *Id.* at 311–12.

seeks an *in personam* judgment against [the Defendant], not the probate or annulment of a will. Nor does she seek to reach a *res* in custody of a state court.”⁹ After *Marshall*, the probate exception only bars a federal district court from (1) probating or annulling a will or (2) “seek[ing] to reach a *res* in custody of a state court” by “endeavoring to dispose of [such] property.”¹⁰

As we see it, to determine whether the probate exception deprives a federal court of jurisdiction, *Marshall* requires a two-step inquiry into (1) whether the property in dispute is estate property within the custody of the probate court and (2) whether the plaintiff’s claims would require the federal court to assume *in rem* jurisdiction over that property. If the answer to both inquiries is yes, then the probate exception precludes the federal district court from exercising diversity jurisdiction. Here, we find the case outside the scope of the probate exception under the first step of the inquiry because the Trust is not property within the custody of the probate court.

As a threshold matter, the probate exception only applies if the dispute concerns property within the custody of a state court. The federal court cannot exercise *in rem* jurisdiction over a *res* in the custody of another court. Both of the Brunstings’ Wills were admitted to probate after the district court dismissed the case, and probate proceedings are ongoing.¹¹ However, nothing suggests that the Texas probate court currently has custody or *in rem* jurisdiction over the Trust. It likely does not. Assets placed in an inter vivos trust generally avoid probate, since such assets are owned by the trust, not the decedent, and

⁹ *Id.* at 312 (internal citations omitted).

¹⁰ *Id.* at 312–13.

¹¹ At the time the district court dismissed the case, no probate proceedings had been initiated. As such, there was no possibility that the case fell within the probate exception. Nevertheless, we must consider whether, upon remand, the federal district court would have subject-matter jurisdiction now that probate proceedings are ongoing.

therefore are not part of the decedent's estate.¹² In other words, because the assets in a living or inter vivos trust are not property of the estate at the time of the decedent's death, having been transferred to the trust years before, the trust is not in the custody of the probate court and as such the probate exception is inapplicable to disputes concerning administration of the trust. The record also indicates that there would be no probate of this Trust's assets upon the death of the surviving spouse.¹³ Finding no evidence that this Trust is subject to the ongoing probate proceedings, we conclude that the case falls outside the scope of the probate exception. The district court below erred in dismissing the case for lack of subject-matter jurisdiction.

IV.

For the reasons set forth above, we REVERSE the district court's dismissal of the case and REMAND for further proceedings. REVERSED AND REMANDED.

¹² See 3 TEX. PRAC. GUIDE WILLS, TRUSTS, AND EST. PLAN. § 10:83 ("Any property held in a revocable living trust is not considered a probate asset . . ."); 2 EST. TAX & PERS. FIN. PLAN. § 19:15 ("Avoidance of probate perhaps is the most publicized advantage of the revocable living trust."); 18 EST. PLAN. 98 ("Assets in a living trust are not subject to probate administration . . .").

¹³ Any assets "poured over" from the decedents' estates into the Trust would have to go through probate, but that does not change the fact that the Trust property over which the Defendants have been acting as Trustees would not be subject to probate, having been transferred to the Trust prior to the parents' deaths.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

§
§
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§
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§
§
§

CIVIL ACTION NO. 4:12-CV-592

NOTICE OF SETTING

The parties are hereby notified that a status/scheduling conference is set for **February 19, 2013 at 8:45 a.m.** and will be handled as a **telephone conference**. The plaintiff shall initiate the conference call and shall have defendants' counsel on the line when calling in. Counsels shall not call in to the conference line individually. The call shall be placed to **(713) 250-5613**.

Date: February 6, 2013

DAVID BRADLEY, CLERK

By: D. Palacios, Case Manager

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

**COUNSEL’S NOTICE OF APPEARANCE AND
SUBSTITUTION OF ATTORNEY OF RECORD FOLLOWING REMAND**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

George W. Vie III and the law firm of Mills Shirley L.L.P. file this Notice of Appearance as counsel of record for Defendants Anita Kay Brunsting and Amy Ruth Brunsting in the above numbered and entitled cause, following remand from the Fifth Circuit.

1. This Court entered an Order of dismissal in March 2012 (Dkt. 14). Prior to that time Defendants were represented in this Court by Bernard Lilse Mathews, III and the firm of Green & Mathews, L.L.P.
2. Following dismissal of the cause, Plaintiff gave notice of appeal. (Dkt. 16). Defendants, as Appellees, were represented by George W. Vie III of Mills Shirley L.L.P. in the subsequent appeal to the Fifth Circuit. The court of appeals thereafter reversed the dismissal and remanded the case to this Court for further proceedings.
3. On remand, Mills Shirley L.L.P. and the undersigned will continue representation of Defendants Anita Kay Brunsting and Amy Ruth Brunsting. George W. Vie III of Mills Shirley L.L.P. enters his appearance as attorney of record in lieu of Mr. Mathews and the

firm of Green & Mathews, L.L.P. Counsel has received an email, as did *Plaintiff pro se*, in which Mr. Mathews stated he did not presently represent Defendants.

4. The undersigned therefore respectfully moves this Court to take notice of this Appearance and to Substitute George W. Vie III and the law firm of Mills Shirley L.L.P. as Attorney of Record for Defendants Anita Kay Brunsting and Amy Ruth Brunsting for the proceedings on remand, and request the Clerk of the Court to note the representation of this Counsel for Defendants on the Court's docket.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III
George W. Vie III

Fed Id. No.

State Bar No. 20579310

One City Centre

1021 Main Street, Suite 1950

Houston, Texas 77002-6502

Tel: 713.225.0547 or 713.571.4232

Fax: 713.225.0844

Email: gvie@millsshirley.com

Attorneys for Anita Kay Brunsting and
Amy Ruth Brunsting

CERTIFICATE OF CONFERENCE

I certify that counsel for Defendants has attempted to confer with Mr. Mathews, regarding this Notice of Appearance and Substitution of Attorney of Record. Counsel did not receive a response before filing.

/s/ George W. Vie III
George W. Vie III

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing. Plaintiff *pro se*, if not a Filing User, will receive a true and accurate copy of the foregoing via first class U.S. mail and email on this 17th day of February 2013.

A copy of the filing is also provided to prior counsel, as follows:

Bernard Lilse Mathews, III
State Bar No. 13187450
14550 Torrey Chase Boulevard, Suite 245
Houston, Texas 77014
Phone: 281-580-8100
Facsimile: 281-580-8104

/s/ George W. Vie III
George W. Vie III

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

ORDER

BEFORE THE COURT is the Notice of Appearance and Substitution of Attorney of Record for Defendants Anita Kay Brunsting and Amy Ruth Brunsting. The Court, having taken notice of the filing,

ORDERS that George W. Vie III and the law firm of Mills Shirley L.L.P. are substituted as attorneys of record for Defendants in lieu of Bernard Lilse Mathews, III and the law firm of Green & Mathews, L.L.P.

The Clerk of the Court is directed to conform the Court’s docket to reflect the appearances and designation of counsel.

DONE this _____ day of February, 2013, at Houston, Texas.

UNITED STATES DISTRICT JUDGE

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

Candace Louise Curtis	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 4:12-cv-00592
	§	
Anita Kay Brunsting, et al.	§	
	§	
Defendant.	§	

**ORDER FOLLOWING TELEPHONE SCHEDULING CONFERENCE
HELD ON February 19, 2013 at 8:45 a.m.**

Appearances: Candace Curtis, pro se, George Vie

The following schedule shall govern the disposition of this case:

New parties/class allegations by:	April 30, 2013
Plaintiff's experts to be designated by:	September 30, 2013
Report furnished by:	September 30, 2013
Defendant's experts to be designated by:	October 30, 2013
Report furnished by:	October 30, 2013
Discovery to be completed by:	December 30, 2013
Dispositive motions due by:	December 30, 2013
Docket call to be held at 11:30 AM on:	March 3, 2014
Estimated trial time: TBA	Jury trial

The following rulings were made:

The defendant's are to file an answer to the plaintiff's suit on or before March 4, 2013.

It is so ORDERED.

SIGNED on the 19th of February 2013, at Houston, Texas.



Kenneth M. Hoyt
United States District Judge

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

ORDER

BEFORE THE COURT is the Notice of Appearance and Substitution of Attorney of Record for Defendants Anita Kay Brunsting and Amy Ruth Brunsting. The Court, having taken notice of the filing,

ORDERS that George W. Vie III and the law firm of Mills Shirley L.L.P. are substituted as attorneys of record for Defendants in lieu of Bernard Lipse Mathews, III and the law firm of Green & Mathews, L.L.P.

The Clerk of the Court is directed to conform the Court's docket to reflect the appearances and designation of counsel.

DONE this 20th day of February, 2013, at Houston, Texas.

Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

§
§
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4:12-CV-00592

MOTION TO STRIKE ATTACHMENTS UNDER RULE 12(F) AND,
SUBJECT TO THE MOTION TO STRIKE,
DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting move to strike the Declaration and accompanying exhibits attached to Plaintiffs' Complaint under Rule 12(f).

MOTION TO STRIKE DECLARATION AND EXHIBITS

Defendants object to, and move to strike under Rule 12(f), the inclusion in the Complaint of a 13-page Declaration and exhibits, adopted by reference in paragraphs 6, 13, 18, and 25 of the Complaint.

Under Federal Rule of Civil Procedure 8(a)(2), a pleading must contain a "short and plain statement of the claim showing that the pleader is entitled to relief." The Rule 8 pleading standard does not require "detailed factual allegations." *See Ashcroft v. Iqbal*, 556 U.S. 662, 677-78, 129 S. Ct. 1937, 1949, 173 L. Ed. 2d 868 (2009). Rule 10 permits the inclusion of a written instrument that is an exhibit to a pleading, but Plaintiff's Declaration is not a written instrument within the meaning of Rule 10 nor is it central to

the Plaintiff's claims. Moreover, it includes self-serving references to family history; personal history; alleged hearsay conversations and declarations of her deceased father and mother; criticisms of her sisters including "cruelty" and "character assassinations"; conclusory statements; and other immaterial matters.

Rule 12(f) grants the Court discretion to strike from a pleading . . . any redundant, immaterial, impertinent, or scandalous matter." Evidence pleading, as distinguished from the pleading of ultimate facts, is not favored under the Federal Rules. *See In re Beef Indus. Antitrust Litig.*, 600 F.2d 1148, 1169 (5th Cir.1979). Under the Rules, unnecessary evidentiary details that are prejudicial, or of no consequence to the controversy, may be stricken. In this case, so much of the Declaration includes redundant, immaterial, impertinent, and scandalous matters that parsing the attachment is not possible and the attachment as whole should be stricken. Defendants move to strike the Declaration attached to the Complaint, and its 44 exhibits (totaling 379 pages).

ANSWER TO COMPLAINT

Subject to the Motion, Defendants file this Answer to the complaint of Plaintiff. Unless expressly admitted, Defendants deny each allegation of the complaint. Defendants answer by corresponding paragraph numbers as follows:

I. PARTIES

1. Defendants, on information and belief, admit the allegations of the first sentence of paragraph 1. Defendants admit the balance of paragraph 1.

II. JURISDICTION AND VENUE

2. Defendants admit the allegations of paragraph 2 to the extent that the allegations

of the complaint would confer subject matter diversity jurisdiction on this Court under the alleged statutory ground of 28 U.S.C. § 1332(a)(1). Defendants deny 28 U.S.C. § 1332(b) is presently applicable. Defendants deny 28 U.S.C. § 1332 (C)(2) is applicable.

3. Defendants understand Plaintiff's suit to be *in personam* and not *in rem*, and the reference to the trust as "the Res" in this matter is therefore not fully accurate, but Defendants understand Plaintiff's causes of action arise from the referenced trust. The real property of the Trust is located in Iowa, and the allegation of the second sentence is denied with regard to the reference to Texas real property. With regard to the third sentence of paragraph 3, there is a Texas state action that includes claims about the Trust and legal representation of the former trustees of the Trust, but such action had not been filed "previous" to the filing of this suit. Defendants deny the allegation in the balance of the paragraph that the wills of the Settlor have not been filed with a court for probate, and both wills have in fact been admitted to probate in Texas.

4. Defendants admit the allegations of the first sentence of paragraph 4. Defendants admit the allegations of the second sentence of paragraph 4 to the extent that the allegations of the complaint would confer venue in this Court under the alleged statutory grounds.

III. NATURE OF ACTION

5. Defendants admit the first and second sentences of paragraph 5 only to the extent that they are Plaintiff's characterization of her suit. Defendants deny the last sentence of the paragraph, and assert that Plaintiff's right to amend, if any, is governed by Rule 15.

IV.
CAUSE OF ACTION COUNT ONE

Defendants, to the extent necessary, deny the assertion of law and citation of law in the first numbered paragraph of paragraph IV, as it is not an allegation of fact asserted against them by an opposing party.

6. Subject to the motion to strike, and only to the extent necessary, Defendants deny the allegations of paragraph 6.

7. Defendants admit the allegations of paragraph 7, except that Plaintiff is not a “named successor beneficiary.”

8. Defendants admit the duty of the trustees is the general duty to administer the trust in good faith according to its terms and the Texas Trust Code, and that in the absence of any contrary terms in the trust instrument or contrary provisions of the Texas Trust Code, when administering the trust the trustees shall perform all of the duties imposed on trustees by the common law. Defendants otherwise deny the allegations of paragraph 8, and deny anyone is a “successor beneficiary.”

9. Defendants deny the allegations of paragraph 9.

10. Defendants deny the allegations of paragraph 10.

11. Defendants deny the allegations of paragraph 11.

12. Defendants deny the allegations of paragraph 12.

COUNT TWO

13. Defendants reassert their response to paragraph 6.

14. Defendants deny the allegations of paragraph 14.

15. Defendants deny the allegations of paragraph 15, which is a repeated allegation of paragraph 10.

16. Defendants deny the allegations in paragraph 16.
17. Defendants deny the allegation of paragraph 17, which is a repeated allegation of paragraph 12.

COUNT THREE

18. Defendants reassert their response to paragraph 6.
19. Defendants deny the allegations in paragraph 19.
20. Defendants deny the allegations in paragraph 20.
21. Defendants deny the allegations in paragraph 21.
22. Defendants deny the allegations in paragraph 22.
23. Defendants deny the allegations in paragraph 23, which are a repeated allegation of paragraph 16.
24. Defendants deny the allegations in paragraph 24, which are a repeated allegation of paragraph 17.

COUNT FOUR

25. Defendants adopt by reference their answer to paragraph 6.
26. Defendants deny the allegations in paragraph 26.
27. Defendants deny the allegations in paragraph 27 and Plaintiff's attribution of a "principal defendant" label.
28. Defendants deny the allegations in paragraph 28.
29. Defendants deny the allegations in paragraph 29.

V.

Defendants object and move to strike the "Memorandum of Points and Authorities in the unnumbered paragraph of V as the material from treatises and case law recitals are

not allegations of fact and are not a short, plain statement of the claim against Defendants. Defendants cannot otherwise admit or deny the matters that are not factual allegations, and therefore they are denied to the extent necessary.

30. Defendants object and move to strike the “Memorandum of Points and Authorities in paragraph 30 as the statutory material is not an allegation of fact and is not a short, plain statement of the claim against Defendants. Defendants cannot otherwise admit or deny the matters that are not factual allegations, and therefore they are denied to the extent necessary.

31. [There is no paragraph 31 in the complaint].

VI.
PRAYERS FOR RELIEF

32. Defendants deny that the allegation of the prayer and all relief sought in the prayer, paragraphs 33-37.

REQUEST FOR EX PARTE TEMPORARY RESTRAINING ORDER

38. Defendants deny the allegations in paragraph 38 and the temporary relief there requested.

39. Defendants deny the allegations in paragraph 39.

40. Defendants deny the allegations in paragraph 40.

41. Defendants deny the allegations in paragraph 41.

42. Defendants deny the allegations in paragraph 42 and the temporary relief there requested.

VII.
AFFIRMATIVE DEFENSES

43. Defendants would show that the complaint fails to state a claim by which relief may be granted.
44. Defendants further plead the defenses of waiver, estoppel, laches, ratification (express or implied) and acceptance of benefits.
45. Defendants would show that to the extent Plaintiff has sustained damages, which Defendants deny, then Plaintiff has failed to mitigate or avoid damages.
46. Defendants plead all applicable provisions of the Trust and sub-trust instruments concerning the duties and liabilities of a person serving as Trustee, including any exculpatory provision applicable to alleged errors of judgment or mistake of fact or law or ordinary negligence.
47. Defendants would show that a claim of intentional infliction of emotional distress is a “gap-filler” tort, judicially created in Texas for the limited purpose of allowing recovery in those rare instances in which a defendant intentionally inflicts severe emotional distress in a manner so unusual that the victim has no other recognized theory of redress. Where the main charge in the plaintiff’s complaint is another tort, intentional infliction of emotional distress should not be available as a matter of law. Further, Defendants deny that the intended consequence or primary risk of their alleged conduct was severe emotional distress; as a result the tort of intentional infliction of emotional distress is unavailable as a matter of law.
48. Defendants would show that any claim for declaratory relief set out in the Prayer is without merit as the claim is subsumed within the other claims of Plaintiff.

49. Defendants plead the doctrine of comparative responsibility as provided in Chapter 33 of the Tex. Civ. Prac. & Rem. Code and its application to the Plaintiff's claims of fraud and all other torts (intentional or otherwise) that may be alleged against Defendants.

50. Plaintiff is not entitled to punitive damages, and any and all excessive amounts of such damages sought violate Chapter 41 of the Tex. Civ. Prac. & Rem. Code, the Texas Constitution, and the United States Constitution, all of which set limits on the award of punitive damages. Defendants' alleged actions and omissions were undertaken in good faith, with the absence of malicious intent to injure Plaintiff, and constitute lawful, proper and justified means to further the purposes of the Trust and sub-trusts.

WHEREFORE, Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court grant the Rule 12(f) motion and strike the Declaration of Plaintiff and its exhibits; that subject to the motion to strike, Plaintiff takes nothing by her Complaint; that Defendants recover their taxable costs and disbursements under the applicable statutory provision; and for such other and further relief as this Court may find proper.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

Email: gvie@millsshirley.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing; those who are not filing users will be served by email and regular mail.

/s/ George W. Vie III

George W. Vie III

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

February 26, 2013

Mr. David J. Bradley
Southern District of Texas, Houston
United States District Court
515 Rusk Street
Room 5300
Houston, TX 77002

United States Courts
Southern District of Texas

MAR 05 2013


David J. Bradley, Clerk of Court

No. 12-20164, Candace Curtis v. Anita Brunsting, et al
USDC No. 4:12-CV-592

The electronic copy of the record has been recycled.

Sincerely,

LYLE W. CAYCE, Clerk

By: 
Brandy C. Lemelle, Deputy Clerk
504-310-7714

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS

United States Courts
Southern District of Texas
FILED

MAR 11 2013

David J. Bradley, Clerk of Court

CANDACE LOUISE CURTIS

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Plaintiff,

V.

4:12-CV-00592

ANITA KAY BRUNSTING, et al.

Defendants.

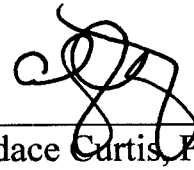
CERTIFICATE OF INTERESTED PERSONS

Computershare Investor services, LLC Clarence F. Kendall, II 3318 Mercer Rd Houston, TX 77069	Albert E. Vacek, Jr. Vacek & Freed, PLLC 11777 Katy Freeway, Suite 300 Houston, TX 77079
Edward Jones Securities 12555 Manchester Road Saint Louis, MO 63131	Bernard L. Mathews III Vacek & Freed, PLLC 11777 Katy Freeway, Suite 300 Houston, TX 77079
The Northern trust Company C/o Texas Secretary of State Citations Unit P.O. Box 12079 Austin, TX 78711-2079	Green & Mathews, LLP 14550 Torrey Chase Blvd., Suite 245 Houston, Texas 77014
Bank of America C/o CT Corporation System 350 N. Saint Paul, Suite 2900 Dallas, TX 75201-4234	Candace L. Kunz-Freed Vacek & Freed, PLLC 11777 Katy Freeway, Suite 300 Houston, TX 77079
Carl Brunsting 5629 Flack Dr. Houston, TX 77081	Anita Kay Brunsting 203 Bloomingdale Circle Victoria, TX 77904 361-550-7132

<p>Candace Curtis 1215 Ulfonian Way Martinez CA 94553</p> <p>Richard K. Ridders Kroese & Kroese, P.C. 540 N Main Sioux Center, IA, 51250</p>	<p>Amy Ruth Brunsting 2582 Country Ledge New Braunfels, TX 78132</p> <p>Carole Ann Brunsting 5822 Jason St. Houston, TX 77074</p>
--	---

Knowledge of any other interested person(s) is uniquely in the possession of the Defendants.

March 4, 2013



Candace Curtis, Plaintiff Pro se
1215 Ulfonian Way
Martinez CA 94553
occurtis@sbcglobal.com
925-759-9020

Candace Louise Curtis v. Anita Kay Brunsting, et al.,

Civil Action No. 4:12-cv-00592

PROOF OF SERVICE

I the below signed declare that I am over the age of eighteen and I am not a party to the titled above action. I served the following documents on the individuals named below by placing a true copy in the United States Mail with postage fully prepaid addressed as follows:

1. Plaintiff's Certificate of Interested Persons

George Vie III
One City Centre
1021 Main Street
Suite 1950
Houston, Texas 77002

David J. Bradley
Clerk of Court
P. O. Box 61010
Houston, TX 77208

I declare under penalty of perjury that this information is true.

Date: Tuesday, March 05, 2013

Server's signature

Printed name: Rik Munson

Server's address: 218 Landana St. American Canyon CA. 94503

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Court
Southern District of Texas
FILED

MAR 14 2013

David J. Bradley, Clerk of Court

CANDACE LOUISE CURTIS §
Plaintiff, §
§
versus §
ANITA KAY BRUNSTING, et al. §
Defendants. §

CIVIL ACTION NO. 4:12-cv-00592
Jury

**PLAINTIFF'S REPLY TO DEFENDANTS' ANSWER
AND DEFENDANTS' MOTION TO STRIKE**

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 Texas Trust Code §113.151..... 16
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Rule 10..... 6, 7
 Rule 12(f)..... 5
 Rule 8(a)(1) 5

Treatises

Bogert, *Trusts & Trustees*, Second Edition Revised, §961 13
 William E. Fratcher, *Scott On Trusts*, §173 14

PARTIES

1. Plaintiff, Candace Louise Curtis, is a citizen of the State of California.
2. Defendant Anita Brunsting resides in the county of Victoria; Defendant Amy Brunsting resides in the county of Comal.

NATURE OF ACTION

3. Plaintiff, as a beneficiary, brought this action under diversity jurisdiction, alleging breach of fiduciary duty, extrinsic and constructive fraud, and intentional infliction of emotional distress, against two of her sisters who claim to be trustees of the family trust.

JURISDICTION

4. This matter was originally brought in equity as breach of fiduciary and related equitable claims, and included a common law tort claim under diversity jurisdiction pursuant to 28 USC §1332 (a) (1) - 28 USC §1332 (b) and 28 USC §1332 (C) (2).

BRIEF HISTORY OF THE CASE

5. On February 27, 2012, Plaintiff filed a pro se complaint in the United States District Court for the Southern District of Texas, alleging the civil torts of breach of fiduciary, extrinsic and constructive fraud and intentional infliction of emotional distress, alleging that Defendants, Anita and Amy, acting as trustees for their

family's' trust, failed to notice her of actions affecting her beneficial interests, refused to provide copies of non-protected trust instruments and refused to account for trust assets, or to report on any other acts of administration. On March 8, 2012, Plaintiff's complaint was dismissed under the probate exception to federal diversity jurisdiction. Curtis promptly filed notice of appeal.

6. While this matter was pending appeal, a number of related actions were undertaken in Harris County courts.

7. On March 9, 2012, Plaintiff's brother, Carl Brunsting, filed a petition for deposition before suit in the Harris County District Court 80th Judicial District, No. 2012-14538.

8. On April 2, 2012, the Houston law firm of Vacek and Freed filed the Will of Elmer Brunsting [#412248] and a purported Will for Nelva Brunsting [#412249] with the Harris County Clerk.

9. On or about April 5, 2012, Plaintiff received a number of documents by email, addressed to herself, Carl Brunsting's attorney Bobbie Bayliss, and her sister Carole Brunsting, from Defendants' counsel Bernard Mathews, in response to the state court filing by Carl. These documents were offered to satisfy accounting requirements under the Texas Property Code and included spreadsheets labeled as Schedules A through J. These flat spreadsheet looking documents show a large

number of asset transfers, into and out of the trust accounts, which appear to evidence self-dealing, comingling, and misapplication of trust funds.

10. On August 15, 2012, Carl Brunsting filed an application to probate the wills of his parents and issue letters testamentary, into the Harris County Probate Court.

On August 28, 2012, the Harris County Probate Court issued letters testamentary naming Carl Henry Brunsting independent executor.

11. On December 26, 2012, Maureen McCutcheon of Mills Shirley filed an appearance in the Harris County Probate Court, on behalf of the current trustees.

12. On January 9, 2013, the Fifth Circuit Court of Appeals published their opinion and this matter was remanded for further proceedings.

13. On January 29, 2013, Carl Brunsting filed a civil suit against Candace Kunz-Freed (Freed) and the law firm of Vacek & Freed as executor on behalf of the Brunsting Estate¹

14. On January 30, 2013, this Court received a Mandate from the Fifth Circuit Court of Appeals for further proceedings.

DEFENDANTS' MOTION TO STRIKE

15. Defendants object to Plaintiff's Affidavit, submitted under California Jurat² with attached exhibits identified therein. Defendants are claiming that the

¹ 164th Judicial District No. 2013-05455

² Record on Appeal USCA5- p.32

submission is "unnecessary" under Rule 8(a)(1) and that Rule 12(f) allows striking from a pleading "an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter".

16. Defendants first express concern that the affidavit and exhibits are unnecessary under Rule 8(a)(2), that the affidavit, referred to as a declaration, "is not a written instrument within the meaning of Rule 10, nor is it central to the Plaintiff's claims", and that it is redundant, immaterial, impertinent, or scandalous and that it "...includes self-serving references to family history; personal history; alleged hearsay conversations and declarations of her deceased father and mother; criticisms of her sisters including "cruelty" and "character assassinations"; conclusory statements; and other immaterial matters."

PLAINTIFF'S REPLY TO DEFENDANTS' MOTION TO STRIKE

17. Defendants' objection, by innuendo, to references involving alleged "immaterial matters" is vague and mounts no particularized challenge to any specific assertion or exhibit as redundant, immaterial, impertinent, or scandalous, identifies no clear points of controversy and leaves Plaintiff without the luxury of answer on the merits.

18. Further, Defendants fail to distinguish between a mere declaration under notary affirmation and an Affidavit under a Jurat. A notary affirmation simply

affirms that the person who claims to have signed an instrument in fact signed it and has been held to be insufficient to convert the unsworn statement into a valid affidavit.³ A Jurat is quite different, as it affirms the statement was verified under oath and sworn to under penalty of perjury before one authorized to accept the oath.

19. Defendants' assertion that Plaintiff's affidavit "is not a written instrument within the meaning of Rule 10" is illogical. Everything contained in Plaintiff's affidavit is absolutely true, can be testified to at trial, can be supported with external and independent evidence, is probative, non-prejudicial, admissible, meets one of the exceptions to an evidentiary objection, is supported by oath under a California Jurat and is, therefore, fully admissible as an affidavit.

20. Plaintiff's affidavit serves to introduce the exhibits, which Defendants' objection does not challenge on the merits. It establishes a prima facie case and properly puts the burden of bringing forth evidence on the fiduciaries, where it explicitly belongs. The affidavit is incorporated into Plaintiff's complaint by reference and is an integral part of that written instrument within the meaning of Rule 10. Plaintiff agrees that this Court has the authority to strike a pleading or

³ *Nissho-Iwai Am. Corp. v. Kline*, 845F.2d 1300, 1305 (5th Cir. 1988)

portions of a pleading on its own motion, or upon motion of a party⁴ but Defendants cite to no authority compelling the court to do so, do not cite to a specific statement or exhibit to which they object, and state no ground for a particularized objection.

PLAINTIFF'S REPLY TO DEFENDANTS' ANSWER

- 21. The essence of Defendants' answer is a blanket general denial to the factual allegations of each claim, to each theory of damages, and to each claim for relief.
- 22. Defendants object to Plaintiff's claims for intentional infliction of emotional distress and declaratory judgment.

CLAIM FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

- 23. Plaintiff's claim for intentional infliction of emotional distress is a fact claim, independent of the equitable breaches and misapplications of fiduciary, and does not involve improper transactions per se, but actions designed to distract from improper transactions.
- 24. These complained of activities, by design, were intended to break down communications between the victims, thus damaging those familial relations and

⁴ Affidavits that fail to comply with the Rules of Procedure "should be stricken and disregarded." 35B C.J.S. Federal Civil Procedure §1214(2008). The proper avenue by which counsel should seek such exclusion on pending motion for summary judgment is by motion to strike pursuant to Rule 56(e) of the Rules of Civil Procedure or, alternatively, by raising a more general objection to the admissibility of the contents of the submission. Saucier v. Coldwell Banker JME Realty, 2007 WL2475943 *3 (S.D. Miss. 2007) (citing Auto Drive-Away Co. of Hialeah, Inc. v. Interstate Commerce Comm'n, 360F.2d 446, 448-49 (5th Cir. 1966)); Larouche v. Webster, 175 F.R.D. 452,454 (S.D.N.Y. 1996). (*Emphasis Curtis*)

(1) Defendants acted intentionally or recklessly; (2) Defendants' conduct was extreme and outrageous; (3) Defendants' actions caused Plaintiff emotional distress; (4) the emotional distress was severe; and (5) Defendants' conduct was so egregious in character, and so extreme in degree, as to go beyond all possible bounds of decency, and should properly be regarded as atrocious, and utterly intolerable in a civilized community. Plaintiff reaffirms this civil tort claim.

DECLATORY RELIEF

25. Chapter 37 of the Texas Civ. Practice and Remedies Code § 37.005 provides that: 1. A person interested as or through a . . . trustee . . . other fiduciary . . . or cestui que trust in the administration of a trust . . . may have a declaration of rights or legal relations in respect to the trust.

ALLEGED ABSENCE OF INJURY

26. The notion that Plaintiff has suffered no injury is fatuous. Injury is not an element of a breach of fiduciary, or Plaintiff's constructive and extrinsic fraud claims, and is neither requisite to, nor a limitation upon, Plaintiff's prayer for remedy.

27. These matters, intent to defraud, conspiracy, and injury or damage to the beneficiary, are immaterial to the determination of liability for breaches of fiduciary or misapplication of fiduciary . . .

It is well settled that in a suit of this kind recovery may be had by the beneficiary even though he has suffered no damages and even though the trustee may have acted in good faith. (emphasis added). *Slay v. Burnett Trust*, 187 S.W.2d 377, 388 (Tex. 1945)

The constructive fraud doctrine provides that if a fiduciary takes any discretionary action as a fiduciary which directly or indirectly benefits the fiduciary (or the fiduciary's family or affiliates) then the transaction is presumed fraudulent. The burden of proof then shifts to the fiduciary to provide that the transaction is fair. In any transaction wherein a person benefitting from it stands in a fiduciary relationship to one or more of the other parties, the transaction, if challenged, is presumed by equity to be unfair and, therefore, a constructive fraud unless the fairness of the transaction is proven by the benefitting fiduciary. *Stephens County Museum, Inc. v. Swenson*, 517 S.W.2d 257, 260 (Tex. 1974). Unlike actual fraud, constructive fraud does not necessarily involve dishonesty of purpose or an intent to deceive and, therefore, proof of such is not required in order to invoke the doctrine. *Archer v. Griffith*, 390 S.W.2d 735, 740 (Tex. 1964). Thus, once a plaintiff establishes that the transaction which he wishes to avoid was executed while a fiduciary relationship existed between him and the defendant, the burden of presenting evidence and securing a finding that the transaction was fair to the plaintiff is put upon the defendant fiduciary who claims the validity and benefits from the transaction. *Ginther v. Taub*, 570 S.W.2d 516, 525 (Tex. Civ. App.--Waco 1975, writ ref'd n.r.e.); *Gaynier v. Ginsberg*, 715 S.W.2d 749,754 (Tex. App.--Dallas 1986, writ ref'd n.r.e.). Evidence introduced by the defendant to meet this burden simply creates a question of fact. *Ginther*, 570 S.W.2d at 525. Absent any such proof, the presumption of unfairness and constructive fraud stands un rebutted, and the transaction is invalid as a matter of law. *Texas Bank and Trust v. A. E. Moore*, 595 S.W.2d 502 (Tex. 1980). Because the burden of proof in this cause of action is shifted to the defendant, it is distinguishable from other types of "constructive fraud" in which the entire burden rests on the party asserting it. *Miller v. Miller*, 700 S.W.2d 941 (Tex. App.--Dallas 1985, writ ref'd n.r.e.).

ADMISSIONS

28. At paragraph 2, Defendants admit "the allegations of the complaint would confer subject matter diversity jurisdiction on this Court under the alleged statutory ground of 28 U.S.C. § 1332(a)(1)." It is unnecessary to argue further.

29. Regarding paragraph 7:

Defendants admit at paragraph 7 that they are acting as trustees for the Brunsting family Living Trust and that Plaintiff is a beneficiary but not a "named successor beneficiary." They thus admit the existence of the fiduciary duty Defendants owe to Plaintiff.

Paragraph 7 reads as follows:

7. Plaintiff alleges that Defendant(s) Anita Brunsting and Amy Brunsting have accepted the appointment and are acting jointly as co-trustees for the Brunsting Family Living Trust (the Trust) of which I am a beneficiary and named successor beneficiary.

30. It is unclear by Defendants' denial whether they are denying Plaintiff is a named successor beneficiary to her parents, as stated in the Brunsting Family Trust, or that she is not a successor co-beneficiary under whatever ruptured condition the trust or trusts may currently be in. Defendants' argument over semantics is inconsequential.

31. Plaintiff is informed and believes, on the basis of Defendants' own disclosures⁵, that most of the questionable transactions occurred during the lifetime of Nelva Brunsting, while Plaintiff was a named successor co-beneficiary to her Mother's "Survivors Trust" and a successor co-beneficiary to her Father's "Decedents Trust". The apparent acts of self-dealing, co-mingling and misapplication of fiduciary began as inter vivos abuses, but have continued after the death of Nelva Brunsting, when Plaintiff became a first tier beneficiary.

AFFIRMATIVE DEFENSES

32. Defendants' affirmative defense claims (45) that Plaintiff failed to mitigate or avoid damages, (46) that Defendants followed the trust provisions and that they are exculpated for any poor judgment by the terms of the trust and/or that (49) Plaintiff is somehow comparatively liable for Defendants' breaches of fiduciary, co-mingling, self-dealing, misapplications of fiduciary and fraudulent concealment of those actions, are wholly without merit.

APPLICABLE PROVISIONS OF THE TRUST

33. At paragraph 46 Defendants affirmatively plead conformance with "applicable provisions of the Trust and sub-trust instruments". Plaintiff exhibit 29 at USCA5 p179-278 shows the provisions of the Brunsting trust.

⁵ Spreadsheet accounting schedules identified, attached to and offered as proof, in the accompanying Reapplication for Protective Orders.

34. At paragraph 49 Defendants plead comparative responsibility and at paragraph 50 Defendants plead good faith and affirmatively claim:

"Defendants' alleged actions and omissions were undertaken in good faith, with the absence of malicious intent to injure Plaintiff, and constitute lawful, proper and justified means to further the purposes of the Trust and sub-trusts."

35. Defendants' comparative responsibility and good faith claims put the burden of proof squarely upon the Defendants in this case.

36. Defendants are invited to answer the accompanying application for injunction and to show that their actions, as confessed by their accounting schedules, are consistent with their affirmative claims in items 45, 46, 49 and 50.

TRUSTEE'S COMMON LAW DUTY TO DISCLOSE

A fiduciary "has an affirmative duty to make a full and accurate confession of all his fiduciary activities, transactions, profits, and mistakes." *Jackson Law Office, P.C. v. Chappell*, 37 S.W.3d 15, 22 (Tex. App.—Tyler 2000, pet. denied)⁶.

Additionally, when a plaintiff alleges self-dealing by the fiduciary as part of a breach-of-fiduciary-duty claim⁷, a presumption of unfairness automatically arises, which the fiduciary bears the burden to rebut. See *Houston v. Ludwick*, No. 14-09-00600-CV, 2010 WL 4132215, at *7 (Tex. App.—Houston [14th Dist.] Oct. 21, 2010, pet. denied) (mem. op.); *Chappell*, 37 S.W.3d at 22⁸.

⁶ (citing *Montgomery v. Kennedy*, 669 S.W.2d 309, 312–14 (Tex. 1984); *Kinzbach Tool Co., Inc. v. Corbett-Wallace Corp.*, 160 S.W.2d 509, 513–14 (Tex. 1942))

⁷ USCA5 – 7, Curtis original Complaint Count I page 3, item 10,

⁸ (citing *Stephens County Museum, Inc. v. Swenson*, 517 S.W.2d 257, 261 (Tex. 1974); *Int'l Bankers Life Ins. Co. v. Holloway*, 368 S.W.2d 567, 576 (Tex. 1963))

37. Bogert, Trusts & Trustees, Second Edition Revised, §961 explains the reason for the trustees duty to disclose information as follows:

The beneficiary is the equitable owner of the trust property, in whole or in part. The trustee is a mere representative whose function is to attend to the safety of the trust property and to obtain its avails for the beneficiary in the manner provided by the trust instrument. That the settlor has created a trust and thus required that the beneficiary enjoy his property interest indirectly does not imply that the beneficiary is to be kept in ignorance of the trust, the nature of the trust property and the details of its administration. If the beneficiary is to be able to hold the trustee to proper standards of care and honesty and to obtain the benefits to which the trust instrument and doctrines of equity entitle him, he must know of what the trust property consists and how it is managed.⁹

38. William E. Fratcher, Scott On Trusts, §173 (Fourth Edition) states that:

The trustee is under a duty to the beneficiaries to give them on their request at reasonable times complete and accurate information as to the administration of the trust. The beneficiaries are entitled to know what the trust property is and how the trustee has dealt with it. They are entitled to examine the trust property and the accounts and vouchers and other documents relating to the trust and its administration. Where a trust is created for several beneficiaries, each of them is entitled to information as to the trust. Where the trust is created in favor of successive beneficiaries, a beneficiary who has a future interest under the trust, as well as a beneficiary who is presently entitled to receive income, is entitled to such information, whether his interest is vested or contingent.

⁹ Trustee's Common Law Duty to Disclose... A fiduciary has an affirmative duty to make a full and accurate disclosure of all material facts that might affect the beneficiary's rights. Huie v. DeShazo, 922 S.W.2d 920 (Tex. 1996); Montgomery v. Kennedy, 669 S.W. 2d 309 (Tex. 1984);Kinszbach Tool Co. Inc. v. Corbett-Wallace Corp.,160 S.W.2d 509 (Tex. 1942); Texas Bank & TrustCo. v. Moore, 595 S.W.2d 502, 508-09 (Tex.1980);Baird v. Mills, 119 S.W.2d 889, 892(Tex.Civ.App.-Austin 1938, writ ref'd); Inter First Bank Dallas, N.A. v. Risser, 739 S.W.2d 882(Tex.App.-Texarkana 1987, no writ); Bogert, The Law of Trusts and Trustees (6 ed. 2006) §§ 961-th974 ("Bogert"); Restatement (2d) of Trusts §§ 172-173 ("Restatement"). The rationale for this rule is described by William E. Fratcher, Scott On Trusts(4 ed. 1988) §173 ("Scott"):

TRUSTEE’S STATUTORY DUTIES

39. Defendants appear to blur the distinction between “Powers” and “Duties”.

Trustees are subject to the duties imposed by the common law, the duties imposed by the Texas Trust Code and the duties imposed by the instrument creating the Trust. Tex. Trust Code Ann. § 113.051 (Vernon 1984).

40. A statute may codify a common law fiduciary duty. With respect to statutory versus common law duties, Texas Trust Code § 111.005 provides:

If the law codified in this subtitle repealed a statute that abrogated or restated a common law rule, that common law rule is re-established, except as the contents or the rule are changed by this subtitle. Tex. Trust Code Ann. § 111.005 (Vernon 1984);

and Trust Code § 113.051 provides:

The trustee shall administer the trust according to its terms and this subtitle. In the absence of any contrary terms in the trust instrument or contrary provisions of this subtitle, in administering the trust the trustee shall perform all of the duties imposed by trustees by the common law. Tex. Trust Code Ann. § 113.051 (Vernon 1984)

41. The powers and duties imposed by the instrument creating the Trust are contained in this Court’s record by affidavit and exhibit at pages 179-278 of the official Record on Appeal, and is the only evidence of those elements before this Court. Of course, Defendants move to strike!

42. The powers and duties imposed by the Texas Legislature are found in the Texas Property Code Title 9 Subtitle B Chapters 101-123.

BURDEN OF PROOF

43. This action invokes the Court's equity jurisdiction. In equity actions where breach of fiduciary allegations are coupled with allegations of a misapplication of fiduciary, the burden of proof is upon the fiduciary to show that the questioned transactions were proper. As previously stated, the constructive fraud doctrine provides that if a fiduciary takes any discretionary action as a fiduciary, which directly or indirectly benefits the fiduciary (or the fiduciary's family or affiliates), then the transaction is presumed fraudulent. The burden of proof then shifts to the fiduciary to provide that the transaction is fair.

Additionally, when a plaintiff alleges self-dealing by the fiduciary as part of a breach-of-fiduciary-duty claim¹⁰, a presumption of unfairness automatically arises, which the fiduciary bears the burden to rebut. See *Houston v. Ludwick*, No. 14-09-00600-CV, 2010 WL 4132215, at *7 (Tex. App.—Houston [14th Dist.] Oct. 21, 2010, pet. denied) (mem. op.); *Chappell*, 37 S.W.3d at 22¹¹.

"Where facts lie peculiarly within the knowledge of a party and cannot, in the nature of the case, be known to his adversary, the party having knowledge has the burden of proving the facts." *Spencer v. Petit*, Tex. Civ. App., 17 S.W.2d 1102 @ 1106, (Affirmed, Tex. Com. App., 34 S.W.2d 798).

¹⁰ USCA5 – 7, Curtis original Complaint Count I page 3, item 10,

¹¹ (citing *Stephens County Museum, Inc. v. Swenson*, 517 S.W.2d 257, 261 (Tex. 1974); *Int'l Bankers Life Ins. Co. v. Holloway*, 368 S.W.2d 567, 576 (Tex. 1963))

DEMAND FOR SHOW OF PROOF

44. As to the notion that Defendants can seek refuge in exculpatory clauses, the Texas legislature has already foreclosed that argument¹². As to Defendants' claim that they have met their obligation under the terms of the trust¹³ Plaintiff demands a show of proof.

PUBLIC POLICY

45. Far too frequently our courts are flooded with litigation that would be all too easily avoided if these acts were properly viewed as crimes, and if injunctions against wasting estates and looting to pay lawyers were issued as a matter of course.

46. Public policy demands a level playing field. When trustees abuse their position of control over assets for their own unjust self-enrichment they are able to use resources intended for the benefit of the beneficiaries to defend their acts while the victims of these acts have no such luxury and often have no economic or other means of access to the courts.

47. The presumption of impropriety bears against the Defendant fiduciaries in this case and the mere suggestion of any comparative responsibility is an outrage.

¹² See Texas Trust Code § 111.0035 Default And Mandatory Rules; Conflict Between Terms And Statute and Texas Trust Code § 114.007 Exculpation Of Trustee

¹³ See also Texas Trust Code §113.151 Demand for Accounting and Texas Trust Code §113.152

REQUEST FOR RELIEF

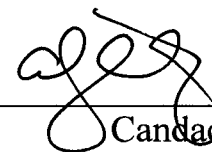
48. Defendants' did not object to Plaintiff's affidavit or exhibits on appeal. The motion to strike is a vague general blanket objection. The motion is ambiguous as it fails to raise opposition to any specific statement or exhibit and should be denied.

49. If Defendants want to cling to the affirmative defense (46) that they have met their obligations under the trust, or believe they can find refuge in some form of exculpation terms in the trust, or that their alleged actions and omissions were "undertaken in good faith, with the absence of malicious intent to injure Plaintiff, and constitute lawful, proper and justified means to further the purposes of the Trust and sub-trusts", then let them answer the attached application for temporary and permanent injunction. Plaintiff demands proof that the questioned transactions meet the criteria for their affirmative defense claims as a matter of law.

50. Plaintiff so prays this court order.

51. Plaintiff's renewed application for injunction and supporting affidavit are hereby incorporated by reference as if fully restated herein.

Respectfully submitted March 11, 2013



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

United States Court
District of Texas
ED

MAR 14 2013

District of Texas
District of Texas

United States District Court for the Southern District of Texas
Houston Division Civil Action No. 4:12-cv-00592

Curtis v Brunsting, et al.

I the undersigned, do declare that I am beyond the age of majority and not a party to the above action. I served the following documents upon the persons named below by placing a true copy in the United States Mail with postage fully prepaid at American Canyon California on Tuesday, March 12, 2013.

1. Plaintiff's Reply to Answer
2. Application for Injunctive Orders
3. Affidavit in Support of Application for Injunctive Orders
4. Proposed Injunctive Order
5. Certificate of Interested Persons
6. Schedules A-J
7. Decedent's Trust Checking Account report Dec 2012
8. Copy of Brunsting Family Trust assets and Expenses as of 12-26-12
9. Copy of Survivors trust checking Account report Dec 2012
10. Copy of Survivors trust Savings Account report Dec 2012

Addressed to:

David J. Bradley
Clerk of Court
P. O. Box 61010
Houston, TX 77208

*1 CD forwarded to
file room.*

George Vie III
1021 Main, Suite 1950
Houston, Texas 77002

Respectfully submitted

Rik Munson

Rik Munson
218 Landana St
American Canyon
CA 94503
925-349-8348

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

MAR 14 2013

David J. Bradley, Clerk of Court

CANDACE LOUISE CURTIS §
Plaintiff, §
§
versus §
ANITA KAY BRUNSTING, et al. §
Defendants. §

CIVIL ACTION NO. 4:12-cv-00592
Jury

**PLAINTIFF'S AFFIDAVIT IN SUPPORT OF
APPLICATION FOR INJUNCTION**

Comes now Plaintiff Candace Louise Curtis, the undersigned affiant, who does declare under penalty of perjury pursuant to the laws of the United States and does state the facts alleged in Plaintiff's application for injunctive relief are true and based upon personal knowledge except for those things alleged upon information and belief and as to those things I believe them to be true as well.

Defendants' own accounting spreadsheets support Plaintiff's application for restraint and show that (1) Plaintiff is likely to succeed on the merits of the underlying litigation; (2) Plaintiff is likely to suffer immediate, irreparable harm in the absence of preliminary relief; (3) the balance of equities weighs in favor of injunctive relief; and (4) an injunction in this instance is in the public interest.

Defendants' continue to use trust funds for their personal obligations, including paying their lawyers to defend their breaches of fiduciary in this action. Defendants have provided no acceptable accounting in either form or content,

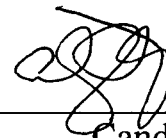
continue to refuse to communicate any information regarding the existence or administration of any trust, refuse to provide valid unaltered copies of any trust instruments.

The only thing Plaintiff Curtis has received from Defendants subsequent to the filing of this suit is the accounting-like spreadsheets offered into evidence as admissions exceptions to the Hearsay rule. The synopsis of these schedules and spreadsheets was kept brief, but there are anomalies and false assertions of alarming proportions raising very serious questions regarding what may have happened to large sums of money and why known assets remain unaccounted for.

Plaintiff has received no information from Carl Brunsting that may have been produced in any of the three state court actions and Plaintiff is concerned about that fact.

I declare under penalty of perjury, pursuant to the laws of the United States, that the above statement of facts is true and correct and based upon personal knowledge.

March 11, 2013



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

See Attached
for
Notary Public



CALIFORNIA JURAT

STATE OF: CALIFORNIA

COUNTY OF: CONTRA COSTA

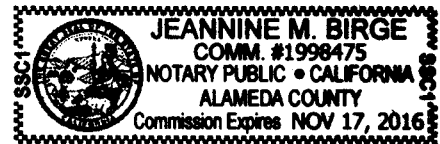
SUBSCRIBED AND SWORN TO (OR AFFIRMED) BEFORE ME
ON THIS 11th DAY OF MARCH, 2013 BY

CANDACE LOUISE CURTIS,

PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE
TO BE THE PERSON(S) WHO APPEARED BEFORE ME.



SIGNATURE: JEANNINE M. BIRGE, NOTARY PUBLIC



SEAL

TITLE OF DOCUMENT: PLAINTIFF'S AFFIDAVIT IN SUPPORT OF APPLICATION FOR INJUNCTION

TOTAL NUMBER OF PAGES INCLUDING ATTACHMENT: THREE

NOTARY COMMISSION EXPIRATION DATE: NOVEMBER 17, 2016

NOTARY COMMISSION NUMBER: 1998475

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Court
Southern District of Texas
FILED

MAR 14 2013

David J. Bradley, Clerk

CANDACE LOUISE CURTIS	§	
Plaintiff,	§	
	§	
versus	§	CIVIL ACTION NO. 4:12-cv-00592
	§	Jury
ANITA KAY BRUNSTING, et al.	§	
Defendants.	§	

**RENEWED APPLICATION FOR EX PARTE TEMPORARY
RESTRAINING ORDER, AND ASSET FREEZE,
TEMPORARY AND PERMANENT INJUNCTION**

PARTIES

1. Plaintiff, Candace Louise Curtis, is a citizen of the State of California.
2. Defendant Anita Brunsting resides in the county of Victoria; Defendant Amy Brunsting resides in the county of Comal.

NATURE OF ACTION

3. Plaintiff, is a beneficiary within the meaning of Texas Trust Code §111.004. Plaintiff brought this action under diversity jurisdiction, alleging breach of fiduciary duty, extrinsic and constructive fraud, and intentional infliction of emotional distress, against two of Plaintiff's sisters who claim to be trustees of the family trust.

JURISDICTION

4. This matter was originally brought in equity as breach of fiduciary and

related equitable claims and included a common law tort claim under diversity jurisdiction pursuant to 28 USC §1332 (a) (1) - 28 USC §1332 (b) and 28 USC §1332 (C) (2).

BRIEF HISTORY OF THE CASE

5. On February 27, 2012, Curtis filed a pro se complaint in the United States District Court for the Southern District of Texas, alleging the civil torts of breach of fiduciary, extrinsic and constructive fraud and intentional infliction of emotional distress, alleging that Defendants, Anita and Amy, acting as trustees for their parents trust, failed to notice her of actions affecting her beneficial interests, refused to provide copies of non-protected trust instruments and refused to account for trust assets, or to report on any other acts of administration. On March 8, 2012, Plaintiff's complaint was dismissed under the probate exception to federal diversity jurisdiction. Plaintiff promptly filed notice of appeal. On January 30, 2013, this Court received a Mandate from the Fifth Circuit Court of Appeals for further proceedings.

WASTING THE TRUST ESTATE

OFFER OF PROOF

6. On or about April 5, 2012, Plaintiff Curtis received a number of documents by email from Defendants' counsel Bernard Mathews. These documents were addressed to Bobbie Bayless, Candace Curtis and Carole Brunsting, apparently in

response to a state court petition brought in the name of Carl Brunsting as executor for the Elmer and Nelva Brunsting estate. On January 4, 2013, Plaintiff received four Excel spreadsheets purported to show “the assets in the trust as of year end”, sent by Defendant Anita Brunsting. Plaintiff herein offers the accounting schedules and related correspondence received from Defendants into evidence, as an offer of proof of the existence of self-dealing, co-mingling and misapplication of fiduciary. None of the spreadsheets were certified as true and correct, and are, in fact, incomplete and inaccurate. These schedules list a multitude of funds transfers of securities traded under the laws of the United States, primarily via electronic means. Other than these spreadsheets and schedules, Defendants have provided no other information, documents, notices, records, or any information of any kind regarding alleged administration of the trust.

SCHEDULES A THROUGH J AND JANUARY 2013 SPREADSHEETS

	Decedent		Survivor	
	Dec '10	Dec '12	Dec '10	Dec '12
Chevron Texaco	128,932.01	136,338.85	75,396.16	4,198.01
Exxon Mobil	157,848.84	51,722.62	173,895.85	60,337.71
Edward Jones	267,302.58	257,683.30	191,205.00	1.05
IRA			54,367.51	
Total	554,083.43	445,744.77	494,864.52	64,536.77
Decrease in Assets	108,338.66		430,327.75	
Total Decrease in Assets	538,666.41			

(Table 1)

7. Based upon the spreadsheets, Table 1 represents a rough estimate of the decrease in value of trust owned securities between December 2010, when Defendant Anita Brunsting proclaims herself to have become trustee, and December 2012, the date of the most recent spreadsheets, totaling **\$538,666.41**. Other questionable and/or unexplained transactions, apparent self-dealing, co-mingling, and/or misappropriation of trust assets include, but are not limited to, the following: Nelva Brunsting's social security payments were apparently diverted to an unknown location after January 3, 2011. Tax liabilities were created in direct violation of the terms of the trust and we have no evidence that those tax liabilities have been satisfied, or from what funds. Roughly \$108,000.00 in principal was removed from the Decedent's trust when the terms of the trust specifically state that no more than \$5,000.00 per year is allowed.¹ Almost \$100,000.00 was transferred, apparently to a Rights of Survivorship styled checking account jointly held by Plaintiff's sister Carole Brunsting and their Mother Nelva Brunsting. No other information about that account has ever been provided to Plaintiff. More than \$41,000.00 was paid from the trust account directly to credit cards assumed to be in the name of Anita Brunsting, and/or college funds for Defendant's children, and was excused as trustee compensation² at an exorbitant rate of 2% of the annual

¹ Article IX section A(2)(a) and (b) USCA5 p. 225.

² Trustee compensation is governed by article IV section G USCA5 p. 195.

value of the trust per month, allegedly under an agreement with Nelva Brunsting. On November 7, 2011, four days before Nelva Brunsting passed away, two wire transfers were made for \$10,000.00 to each of the Defendants, with a memo “for future trust exp”, categorized as “legal fees”, with a tag of “redeposited into new Surv Trust acct”. There is no evidence that these funds were ever redeposited into any account and, not including this \$20,000.00, legal fees paid with trust account funds since the passing of Nelva Brunsting exceed \$37,500.00. Transfers from Edward Jones into the Survivor’s Trust checking, between 12/23/2010 and 3/9/2012, exceed \$273,000.00. The balance of the Nelva Brunsting Survivor’s Trust Edward Jones Asset as of December 2010, as shown on Schedule B, is \$191,205.00. It is unclear where the difference of approximately \$81,795.00 came from.

8. After more than one year since Plaintiff’s first demand for an accounting, there are known assets of the trust that remain unaccounted for.

FAILURE TO HONOR TRUSTEE DUTIES

9. There are numerous anomalies and inconsistencies within these alleged accountings that are cumulative, but disconcerting none-the-less. Plaintiff could write *War and Peace* in an effort to itemize the obligations Defendants have failed to honor, but it is more economical to list the obligations that Defendants have honored.

10. The position of a trustee is voluntary. There are three substantive sources of duty that burden a trustee upon acceptance of that office. These are the common law; the law of the trust instrument; and statutes created by the legislature for the convenience of our courts in the settling of disputes.

11. Plaintiff can identify no common law duties that have been complied with by the alleged trustee Defendants. Plaintiff can identify no duties prescribed by the trust instrument that have been complied with by the alleged trustee Defendants, nor can Plaintiff identify duties prescribed by statute that have been fully complied with by the alleged trustee Defendants.

12. Amongst the duties prescribed by the trust,

Article XII Section E. Records, Books of Account and Reports p.12-10, states³:

“The Trustee shall promptly set up and thereafter maintain, or cause to be set up and maintained, proper books of account which shall accurately reflect the true financial condition of the trust estate.”

Defendants have failed to maintain complete and accurate books and records.

13. Defendants continue to conceal information and refuse to provide true, complete, and accurate accountings. Further, Defendants continue to communicate nothing regarding trust administration, or any other information regarding the trusts at all.

14. Affirmative Duty Of Trustee To Disclose Information To Beneficiaries:

³ USCA5 p.258

Texas Trust Code § 113.060. INFORMING BENEFICIARIES.

The trustee shall keep the beneficiaries of the trust reasonably informed concerning:

- (1) the administration of the trust; and
- (2) the material facts necessary for the beneficiaries to protect the beneficiaries' interests.

A trustee has the fiduciary duty, without any demand, to disclose to the beneficiaries all material facts known to the trustee that might affect the beneficiaries' rights. *Kinzbach v. The Corbett-Wallace Corporation*, 160 S.W.2d 509 (Tex. 1942); *Shannon v. Frost National Bank of San Antonio*, 533 S.W.2d 389 (Tex. Civ. App. – San Antonio 1975); *Montgomery v. Kennedy*, 669 S.W.2d 309 (Tex. 1984); *Huie v. Deshazo*, 922 S.W.2d 920 (Tex. 1996); *Restatement of the Law, Trusts 2d*, §170; *Scott on Trusts*, §170; *Bogert, Trusts and Trustees*, §961.

The breach of the duty of full disclosure by a fiduciary is tantamount to fraudulent concealment. *Willis v. Maverick*, 760 S.W.2d 642 (Tex. 1988). The beneficiary is not required to prove the elements of fraud, *Archer v. Griffith*, 309 S.W.2d 735 (Tex. 1965); *Langford v. Shamburger*, 417 S.W.2d 438, (Tex.App.—Ft. Worth 1967, writ ref'd n.r.e.), and need not even prove that he relied on the fiduciary to disclose the information. *Johnson v. Peckham*, 120 S.W.2d 786 (Tex. 1938); *Miller v. Miller*, 700 S.W.2d 941 (Tex.App.—Dallas 1985, writ ref'd n.r.e.).

The trustee's duty of full disclosure extends to all material facts affecting the beneficiaries' rights. This duty exists independently of the rules of discovery, applying even if no litigious dispute exists between the trustee and the beneficiaries. *Huie v. Deshazo*, 922 S.W.2d 920 (Tex. 1996).

TRUSTEE DUTY TO PROVIDE BIENNIAL ACCOUNTING

15. Section E of Article XII of the trust⁴ requires trustees to setup and maintain, or cause to be set up and maintained, proper books of account which shall accurately reflect the true financial condition of the trust estate. Section E in the next paragraph requires trustees to provide biennial accountings to each beneficiary in writing.

16. It should not be necessary to resort to the Texas Trust Code to compel the accounting required by the trust, or to define the content of a proper accounting, none-the-less those sections are §113.151 and 113.152.

DEFENDANTS' PERSONAL LIABILITIES

17. The most recent spreadsheets show Defendants are paying their legal fees for their breach of fiduciary defense out of property belonging to the trust, but the trust is not a defendant and is not liable for the Defendants' breach of fiduciary.

Texas Property Code Section 101.002 - Liability Of Trust Property

§ 101.002. LIABILITY OF TRUST PROPERTY. Although trust property is held by the trustee without identifying the trust or its beneficiaries, the trust property is not liable to satisfy the personal obligations of the trustee.

⁴USCA5 p. 258

BURDEN OF PROOF

18. In equity actions where breach of fiduciary allegations are coupled with misapplication of fiduciary, the burden of proof is upon the fiduciary to show that the transactions were proper. Further, in a fiduciary case, the usual burden of establishing a “probable right to recover”, before the court will grant a temporary injunction, does not apply if the gist of the complaint is “self-dealing”.

In a fiduciary self-dealing action, the “presumption of unfairness” attaches to the transactions of the fiduciary shifting the burden to the defendant to prove that the plaintiff will not recover. If the presumption cannot be rebutted as a matter of law at the temporary injunction stage, then the injunction should be granted since the plaintiff, by simply presenting a prima facie case of the existence of a fiduciary relationship and a probable breach of that duty has adduced sufficient facts tending to support his right to recover on the merits. *Cf. Camp v. Shannon*, 348 S.W.2d 517, 519 (Tex. 1961); and, *Jenkins v. Transdel Corp.*, 2004 WL 1404364 (Tex.App. – Austin 2004, no pet.) (exculpatory provision would not defeat showing of “probable right to recover” where some evidence that agreement including the clause was induced by fraud).

DEMAND FOR SHOW OF PROOF

19. At paragraph 46 of Defendants’ answer, Defendants affirmatively plead conformance with "applicable provisions of the Trust and sub-trust instruments" and at paragraph 50 Defendants affirmatively claim:

"Defendants’ alleged actions and omissions were undertaken in good faith, with the absence of malicious intent to injure Plaintiff, and constitute lawful, proper and justified means to further the purposes of the Trust and sub-trusts."

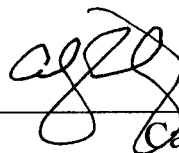
Plaintiff Exhibit 29 at USCA5 p.179-278 shows the provisions of the Brunsting trust. Defendants are invited to answer this application for injunction and to show that their actions, as confessed by their accountings, are consistent with their affirmative defense claims in items 46 and 50 of Defendants' answer.

REQUEST FOR RELIEF

20. Due to the lack of proper inventory, proper accounting, and full and complete disclosure, it is imperative that this Court act quickly to protect the Brunsting family of trusts from being further wasted by the present acting trustee Defendants. Injunction is the only way to protect the beneficiaries and the trust estate assets from further damage in the event the Defendants will not be able to adequately respond to the trusts' injuries. There is no other remedy at law that will prevent the irreparable injury that will result if the requested relief is not granted.

21. Wherefore, Plaintiff prays the Court issue the attached proposed order, or issue its own orders upon such terms as the Court deems most beneficial in protecting the trust assets and the rights of the beneficiaries.

Monday, March 11, 2013



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

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS	§	
Plaintiff,	§	
	§	
versus	§	CIVIL ACTION NO. 4:12-cv-00592
	§	Jury
ANITA KAY BRUNSTING, et al.	§	
Defendants.	§	

INJUNCTIVE ORDERS

**[PROPOSED] ORDER FOR TEMPORARY RESTRAINT, ASSET FREEZE,
TEMPORARY AND PERMANENT INJUNCTION**

This matter comes before the Court on Plaintiff's reapplication for preliminary injunction. Having reviewed the papers in support of and in opposition to (if any), the Court finds that Plaintiff Candace Louise Curtis has demonstrated both a strong likelihood of success on the merits, and the possibility that Plaintiff faces immediate irreparable injury from Defendants' conduct. Accordingly Plaintiff is entitled to provisional injunctive relief, and the Court GRANTS Plaintiff's motion as follows:

1. Upon finding that Plaintiff, Candace Louise Curtis, has carried her burden of showing (a) a possibility that Plaintiff faces irreparable injury and (b) a likelihood of success on the merits, this Preliminary Injunction is granted pursuant to Federal Rule of Civil Procedure 65, 15 U.S.C. §1116(a), and the inherent equitable powers of the Court.

2. The Court hereby preliminarily RESTRAINS AND ENJOINS Defendants, their agents, servants, employees, attorneys, and all others in active concert or participation with Defendant Amy Brunsting and/or Defendant Anita Brunsting, including all financial institutions holding money or assets of any kind in the name and/or for the benefit of the Brunsting Family Living Trust (the Trust), or any derivative, sub, or resulting trust, who receive actual notice of this order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other devise, shall be restrained from engaging in the following acts or practices, to wit: transferring, spending, hypothecating, concealing, encumbering, withdrawing, removing, dissipating, distributing, or allowing the transfer, removal, withdrawal or encumbering from any financial institution or from any other entity or location or from the jurisdiction of this Court, any money, cash, stocks, bonds, assets, notes, equipment, funds, receipts, reports, accounts receivable, policies of insurance, trust agreements, trust documents or other property, real, personal or mixed, wherever situated, belonging to the Brunsting Family Living Trust or any trust created under it, until further order of this court.

PRODUCTION OF ACCOUNTING AND TRANSACTION RECORDS

3. Defendants Anita Kay Brunsting and Amy Ruth Brunsting are hereby ordered to produce before this Court, a true, accurate and complete listing of all

assets of the Brunsting Family Living Trust and any trust created under or held by the Trust, with all supporting documentation, and to provide a true, accurate and complete statement of all transactions involving the Brunsting Family Living Trust as of the death of Elmer Brunsting, April, 2009, with all supporting documentation, and are to provide copies of all said documents and records to Plaintiff.

4. Said accounting shall conform to Texas Property Code §113.152 and be certified by the trustees as accurately reflecting the trusts affairs.

§ 113.152. CONTENTS OF ACCOUNTING.

A written statement of accounts shall show:

- (1) all trust property that has come to the trustee's knowledge or into the trustee's possession and that has not been previously listed or inventoried as property of the trust;
- (2) a complete account of receipts, disbursements, and other transactions regarding the trust property for the period covered by the account, including their source and nature, with receipts of principal and income shown separately;
- (3) a listing of all property being administered, with an adequate description of each asset;
- (4) the cash balance on hand and the name and location of the depository where the balance is kept; and
- (5) all known liabilities owed by the trust.

PRODUCTION OF TRUST TAX RETURNS, FARM MANAGEMENT RECORDS AND FARM LEASES

5. Defendants are hereby ordered to produce before this Court, all trust tax returns beginning with year ending 2007, all farm management records, and all farm leases beginning with year ending 2007.

PRODUCTION OF TRUST DOCUMENTS

6. Defendants Anita Kay Brunsting and Amy Ruth Brunsting are hereby ordered to produce true, accurate and complete copies of all documents relating to the Brunsting Family Living Trust and all sub-trusts, and to provide copies of all said documents and records to Plaintiff.

REPATRIATION OF ASSETS

7. If Defendants have removed any assets from the jurisdiction of this Court, whether personally owned or trust owned, Defendants are to identify and return said assets to the jurisdiction of this court.

Date: _____

The Honorable Kenneth M. Hoyt
United States District Court Judge

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

Candace Louise Curtis

Plaintiff,

v.

Case No.: 4:12-cv-00592

Judge Kenneth M. Hoyt

Anita Kay Brunsting, et al.

Defendant.

TYPE OF CASE:

Civil

NOTICE OF SETTING

**TAKE NOTICE THAT A PROCEEDING IN THIS CASE HAS BEEN SET FOR
THE PLACE, DATE AND TIME SET FORTH BELOW.**

Before the Honorable

Kenneth M. Hoyt

PLACE:

Courtroom 11A
United States District Court
515 Rusk Ave
Houston, TX

DATE: 4/9/13

TIME: 09:00 AM

TYPE OF PROCEEDING: Injunction Hearing
Motion for Temporary Restraining Order – #35

Date: March 22, 2013

David J. Bradley, Clerk

UNITED STATES COURTS
SOUTHERN DISTRICT OF TEXAS
FILED

APR 01 2013

United States District Court for the Southern District of Texas, David J. Bradley, Clerk of Court
Houston Division Civil Action No. 4:12-cv-00592

Curtis v Brunsting, et al.

I the undersigned do declare that I am beyond the age of majority and not a party to the above action.


On March 27, 2013 I served a copy of the attached Rule 11 Motion and Application for Order upon the persons named below by placing a true copy in the United States Mail with postage fully prepaid at American Canyon California.

Addressed to:

David J. Bradley
Clerk of Court
P. O. Box 61010
Houston, TX 77208

Bernard Lilse Mathews, III
Attorney at Law
Green & Mathews, LLP
14550 Torrey Chase Blvd., Suite 245
Houston, Texas 77014

Respectfully submitted 3/27/2013


Rik Munson
218 Landana St
American Canyon
CA 94503
925-349-8348

Proof of Service Wednesday, March 27, 2013

20-20566.592

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES COURTS
SOUTHERN DISTRICT OF TEXAS
FILED

APR 01 2013

CANDACE LOUISE CURTIS
Plaintiff,

§
§
§
§
§
§

David J. Bradley, Clerk of Court

versus

CIVIL ACTION NO. 4:12-cv-00592
Jury

ANITA KAY BRUNSTING, et al.
Defendants.

**APPLICATION FOR ORDER TO SHOW CAUSE
AND RULE 11 MOTION FOR SANCTIONS**

1. Federal Rule of Civil Procedure 11 authorizes federal courts to issue sanctions against parties or their attorneys who file pleadings, motions, or other papers that are filed for an improper purpose or lack a required level of evidentiary or legal support. The aim of Rule 11 is to deter frivolous filings, to "curb abuses of the judicial system,"¹ and to require litigants to refrain from conduct that frustrates Rule 11's goal of the "just, speedy, and inexpensive determination of every action."²

HISTORY OF THE ACTION

2. Plaintiff Curtis filed her petition before this equitable Court on February 27, 2012, seeking relief in the form of accountings, answers to information requests and monetary damages for known acts and omissions.

¹ Cooter & Gell v. Hartmarx Corp., 496 U.S. 384, 397 (1990).

² Fed. R. Civ. P. 1; Fed. R. Civ. P. 11 advisory committee's notes_ (1993)

3. Curtis' suit contends that all the information in this case was uniquely in the possession of Defendants.

4. On March 6, 2012 Defendants' counsel, Bernard Lisle Matthews III, Esq., filed an alleged emergency motion for removal of lis pendens.

5. As stated before the Fifth Circuit Court of Appeals, Defendants' counsel Bernard Matthews perpetrated a fraud upon the District Court in the opening paragraph of his alleged "emergency" motion stating:

[Note: This Motion is brought subject to the Trustees contention that this Court lacks subject matter jurisdiction due to the fact that Texas Probate Code §115.001 (7) confers exclusive jurisdiction over matters related to questions "arising in the administration or distribution of a trust" to the State District Court, and by analogy this case should not be considered under the Probate Exception to Federal Court Jurisdiction, *Marshall v. Marshall*, 126 S.Ct. 1735, 1748 (2006). These issues will be raised by a separate Motion to Dismiss under FRCP 12(b)]

6. In denying Plaintiff's application for injunction for want of service the court stated:

Before the Court is the ex parte application of the plaintiff, Candace Louise Curtis, for a temporary restraining order and injunction. The record shows that the defendants have not been served with process. Moreso, it appears that the Court lacks subject matter jurisdiction over the claim(s) asserted. Therefore, the application for a temporary restraining order and for injunction are denied.

7. It appears that Defendants' counsel, Bernard Mathews, was intentionally manipulating the Court's previous expression of concern over whether the court had subject matter jurisdiction, when he knowingly misstated Texas Property Code

§115.001, claiming it to be the Probate Code, and then bootstrapped a route test theory that was very harshly reversed by the Supreme Court on the second page of the Supreme Court opinion to which he cited.³

“Nevertheless, the Ninth Circuit in the instant case read the probate exception broadly to exclude from the federal courts' adjudicatory authority "not only direct challenges to a will or trust, but also questions which would ordinarily be decided by a probate court in determining the validity of the decedent's estate planning instrument." *392 F.3d 1118, 1133 (2004)*. The Court of Appeals further held that a State's vesting of exclusive jurisdiction over probate matters in a special court strips federal courts of jurisdiction to entertain any "probate related matter," including claims respecting "tax liability, debt, gift, [or] tort." *Id.*, at 1136. **We hold that the Ninth Circuit had no warrant from Congress, or from decisions of this Court, for its sweeping extension of the probate exception**". (*emphasis Curtis*)

8. On March 8, 2012 Curtis' complaint was dismissed sua sponte, possibly due to the Court's reliance upon the false assertions made before the Court under Rule 11, by officer of said Court, Bernard Mathews.

MATHEW'S CORALATIVE ACTION

9. On March 2, 2012 Defendants' counsel Bernard Matthews filed a complaint in the Harris County District Court, claiming breach of fiduciary on behalf of the plaintiff, in Reginald D. Parr vs. Sherry Evon Dunegan, Harris County District Court case number 2012-13022.

³ *Marshall v Marshall* 547 U.S. 293, 126 S. Ct. 1735, 1736

10. In that case Mr. Parr is suing Miss Dunegan for breach of fiduciary in the administration of a Texas trust. The trust in that case was drawn up by the law firm of Vacek and Freed.

11. It would seem to follow that an attorney preparing a complaint for the Harris County District Court, involving a substantively identical case to that of Plaintiff Curtis, would know that trusts are not heard exclusively before the probate court, would know the difference between the property code and the probate code and, having read the supreme court opinion in Marshall v. Marshall before signing his pleading, would know his route test assertions were false.

12. Defendants filed their "emergency" motion claiming to be trustees and that the property to which the lis pendens related was to be liquidated in order to distribute proceeds to the heirs, and that Plaintiff's only intent was to frustrate that sale.

13. The lis pendens at issue was amongst the papers filed with the court, but was never on file with the County Recorder as to frustrate a sale. Plaintiff Curtis has, to date, received no distribution from the proceeds of the sale of the house.

14. Upon dismissal of Plaintiff Curtis' action, Mathews promptly interfered with Curtis' subpoenas, preventing Curtis from obtaining information.

15. Plaintiff Curtis asks this court to take judicial notice of the asset schedules received from the Defendants, attached to Plaintiff's application for injunction, and to note the absence of any distributions to Plaintiff Curtis.

SHOW CAUSE ORDER

16. Plaintiff Curtis respectfully requests that this Court order Bernard Lyle Mathews III to appear before this court to Show Cause why the conduct complained of has not violated Rule 11(b).

17. Curtis further prays that Mathews be held in contempt for willfully violating Rule 11 and that he be sanctioned for his conduct.

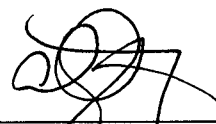
18. Curtis further prays that Mathews be held to produce subpoenas and other necessary process to obtain the information sought by Curtis, and that he be held to pay the cost for producing the electronic and other records requested by Curtis' three subpoenas: (1) to SBC Global for the email records of Nelva Brunsting, showing that she was both lucid and frugal while Defendants were defrauding her of her wealth and station, and that she was not being informed of Defendants' true activities; (2) To Computershare stock trading corporation for transaction records involving securities that were not in the trust, but somehow found their way onto spreadsheets as if in the trust, without first having been submitted to probate for pour-over; (3) Bank of America for records of access to the Brunsting safe deposit

box, where the original trust instruments were kept, and for checking, new account opening, and other banking transaction records.

19. On February 24, 2013, Plaintiff emailed a draft copy of the above Rule 11 Motion to Bernard Lisle Mathews III at his electronic filing email address, texlawyer@gmail.com.

Respectfully submitted.

March 27, 2013



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

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

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4:12-CV-00592

MEMORANDUM AND RESPONSE OF DEFENDANTS TO PLAINTIFF’S
“RENEWED APPLICATION FOR EX PARTE TEMPORARY RESTRAINING ORDER,
AND ASSET FREEZE, TEMPORARY AND PERMANENT INJUNCTION”

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting respond to Inst. #35
 (“the Renewed Application”) filed by Plaintiff.

STATEMENT OF THE NATURE AND STAGE OF THE PROCEEDING.

1. This is a diversity action and a suit among sisters involving a family trust. Plaintiff, a trust beneficiary, sues her sisters, Trustees. The real property of the Trust, a farm, is located in Iowa. There are other holdings of stock and bank accounts. The Court recently conducted a status conference and entered a docket control order. Plaintiff has sent some requests for production to Defendants, which are not yet due.

STATEMENT OF THE ISSUES TO BE RULED ON, AND THE STANDARD OF REVIEW THAT APPLIES.

2. At issue is a request for injunctive relief. “A preliminary injunction may be issued to protect the plaintiff from irreparable injury and to preserve the district court’s power to

render a meaningful decision after a trial on the merits.”¹ It is, however, “extraordinary” relief. Granting or refusing a temporary injunction is in the sound discretion of this Court.²

This Court “balances the conveniences of the parties and possible injuries to them according as they may be affected by the granting or withholding of the injunction.”³ Additionally, the Fifth Circuit has also established four prerequisites for grant of a preliminary injunction: (1) a substantial likelihood that plaintiff will prevail on the merits, (2) a substantial threat that plaintiff will suffer irreparable injury if the injunction is not granted, (3) that the threatened injury to plaintiff outweighs the threatened harm the injunction may do to defendant, and (4) that granting the preliminary injunction will not disserve the public interest.⁴

ARGUMENT:

PLAINTIFF’S REQUEST FOR INJUNCTIVE AND OTHER RELIEF SHOULD BE DENIED.

3. The purpose of injunctive relief is to preserve the status quo and not to adjudicate the merits. Plaintiff’s request does not seek to maintain the status quo, but to materially alter it. Further, her requests for relief reach the merits; she requests, for example, that

¹ *Canal Auth. of State of Fla. v. Callaway*, 489 F.2d 567, 572 (5th Cir. 1974).

² *Nalco Chemical Co. v. Hall*, 347 F.2d 90 (5th Cir. 1965).

³ *Wooten v. Ohler*, 303 F.2d 759, 762 (5th Cir. 1962).

⁴ *Queen v. Ocwen Loan Servicing, LLC*, 12-CV-2049, 2012 WL 5198358 (S.D. Tex. Oct. 19, 2012) (Ellison, J.), citing *Canal Auth. of State of Fla. v. Callaway*, 489 F.2d 567, 572–73 (5th Cir. 1974) (attached to Appendix).

Defendants marshal their proof in support of an affirmative defense advanced in their Answer.⁵ Plaintiff also seeks to compel an accounting, and seeks documents such as tax returns and farm records for a period beginning two years before the sisters' father's death. These latter requests are discovery matters (and discovery has been sent by Plaintiff to Defendants), not matters of equitable relief.

Plaintiff also seeks "repatriation" of Defendants' "personal assets."⁶ But following Supreme Court precedent, the Fifth Circuit has held several times, as a general federal rule of equity, that a court may not reach a defendant's assets unrelated to the underlying litigation and freeze them so that they may be preserved to satisfy a potential money judgment.⁷

4. Plaintiff's underlying complaint seeks money damages, punitive damages, and "legal fees and costs" from the Trustees.⁸ Plaintiff seeks injunctive relief that includes a request to restrain Defendants, as trustees, from any actions in connection with the trusts – her requested "asset freeze." And Plaintiff requests that financial institutions and others, that are not parties before this Court, likewise be enjoined from any actions in connection with the Family Trust.

⁵ See Inst. #35 (Renewed Application) at 9 (demanding a "show of proof").

⁶ See Inst. #35, proposed Order, at numbered paragraph 7.

⁷ See *In re Fredeman Litig.*, 843 F.2d 821, 824 (5th Cir. 1988), citing *De Beers in Federal Savings & Loan Insurance Corp. v. Dixon*, 325 U.S. 212, 65 S.Ct. 1130, 89 L.Ed. 1566 (1945).

⁸ See Inst. # 1 at 12.

Plaintiff cannot establish any of the four prerequisites to the issuance of a preliminary injunction. Regarding the likelihood Plaintiff will prevail on the merits,

Plaintiff acknowledges that she has received spreadsheets; accounting information; lists of assets as of December 2012; and schedules reflecting transfers, deposits, electronic fund transfers, gifts, payment of Iowa state and federal taxes, and payments of their brother's medical bills from 2010 to 2012.⁹ Plaintiff apparently disputes the accuracy of the spreadsheets (she refers in her Affidavit to "anomalies" and "false assertions" that "raise questions").¹⁰ Questions raised, or the lack of additional information, does not entitle Plaintiff to a prejudgment asset freezing of the Trust.¹¹ The presence of this documentary evidence – that she received from Defendants – does not establish a likelihood Plaintiff will prevail on the merits of her suit for money damages.

Nor do these claims and concerns establish irreparable harm. The claim of an irreparable injury must be harm that is actual and imminent, not speculative or remote.¹² In addition to the speculative nature of Plaintiff's concerns and "questions," she has not explained why money damages are not measurable or adequate. Plaintiff will presumably

⁹ See Inst. #35 ("Renewed Application) at 3. She has attached 30 pages of these documents to her Application.

¹⁰ See Inst. #34 (affidavit).

¹¹ Plaintiff also claims in her affidavit that she has not received information from "Carl Brunsting [her brother] that may have been produced in any of the three state court actions and Plaintiff is concerned about that fact." Inst. #34 at 2. It is unclear why her brother's non-disclosures have relevance to this Application.

¹² *Watson v. Federal Emergency Mgmt. Agency*, 437 F.Supp.2d 638, 648 (S.D. Tex. 2006).

have an adequate opportunity at a trial on the merits, after discovery, to try and prove she suffered some compensable injury from the administration of the Trust. Defendants will have their opportunity to prove their defenses, including the fact they have administered the Trust properly, and in good faith according to its terms and the Texas Trust Code, along with the application of any exculpatory provisions in the Trust applicable to alleged errors of judgment or mistake of fact or law or ordinary negligence. “The possibility that adequate compensatory . . . relief will be available at a later date, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm.”¹³

Thus, irreparable harm – which must be proven *likely* if injunctive relief will be granted ¹⁴ – is absent here.

A preliminary injunction is an extraordinary and drastic remedy which should not be granted unless the movant clearly carries the burden of persuasion.¹⁵ Plaintiff Curtis has not met her burden for injunctive relief, or shown entitlement to the other varied relief she requests in her proposed Order; moreover, the public interest would not be served by entry of the proposed Order. Defendants request the Court deny the Renewed Application.

¹³ *Sampson v. Murray* 415 U.S. 61, 90, 94 S.Ct. 937, 39 L.Ed.2d 166 (1974).

¹⁴ *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22, 129 S.Ct. 365, 172 L.Ed.2d 249 (2008).

¹⁵ *Planned Parenthood of Houston & S.E. Tex. v. Sanchez*, 403 F.3d 324, 329 (5th Cir. 2005); *Canal Auth. of State of Fla. v. Callaway*, 489 F.2d 567, 572–73 (5th Cir. 1974).

5. Finally, Rule 65 directs that the Court may issue a preliminary injunction “only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined” Plaintiff’s motion is absent any suggestion as to what would be a proper amount of security to protect these Defendants during the litigation. While Defendants claim there is no need to enter an injunction, based on the Application before the Court, any injunction against them would require appropriate security.

CONCLUSION AND RELIEF SOUGHT.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court deny the Renewed Application, and any request for preliminary injunctive relief, and grant Defendants any other and further relief as this Court may find proper.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III
George W. Vie III
gvie@millsshirley.com
State Bar No. 20579310
1021 Main, Suite 1950
Houston, Texas 77002
Telephone: 713.225.0547
Fax: 713.225.0844

ATTORNEYS FOR DEFENDANTS

Appendix Tab 1

2012 WL 5198358

Only the Westlaw citation is currently available.

United States District Court,
S.D. Texas,
Houston Division.

Derek QUEEN et al., Plaintiffs,

v.

OCWEN LOAN SERVICING, LLC, Defendant.

Civil Action No. 12-cv-2049. | Oct. 19, 2012.

Attorneys and Law Firms

Walter Earl Strickland, Jr., Attorney at Law, Houston, TX,
for Plaintiffs.

Papool S. Chaudhari, Reyes Browne, Dallas, TX, for
Defendant.

Opinion

MEMORANDUM AND ORDER

KEITH P. ELLISON, District Judge.

*1 Pending before the Court is Defendant's Motion to Dismiss. (Doc. No. 3). This case is brought by Plaintiffs Derek Queen, et al. ("Plaintiffs"), who seek to enjoin a foreclosure of property. After considering the motion, all responses thereto, and the applicable law, the Court finds that Defendant's Motion to Dismiss must be **GRANTED**.

I. BACKGROUND

In July 2006, Plaintiffs obtained a loan from Argent Mortgage Company on the property, 3313 Calumet Street, Houston, Texas 77004 (the "Property"). (Doc. No. 1, Ex. B pp. 3-7, *hereinafter* "Complaint" p. 2.) Argent Mortgage Company later conveyed the mortgage lien to Ocwen Loan Servicing, LLC ("Defendant"). (*Id.*) Plaintiffs do not contest that Defendant has a lien on the Property. (*Id.*) After Plaintiffs defaulted on the loan, Defendant served them with notice of a foreclosure sale. (*Id.*) Plaintiffs do not contend that Defendant failed to comply with statutory or common law foreclosure requirements. Rather, Plaintiffs acknowledge that Defendant was "in compliance with the procedures surrounding a foreclosure sale." (*Id.*) The foreclosure sale was set for July 3, 2012. (*Id.*) The Harris County Court granted a temporary restraining order enjoining the foreclosure sale until July 13,

2012. (Doc. No. 1, Ex. B.) Though the temporary restraining order has expired, Defendant has not yet foreclosed on the Property.

Plaintiffs allege that Defendant refused to discuss payments to redress the delinquency, and charged interest and fees that added approximately \$6,000 to the amount owed. (Compl. p. 3.) At the time of the scheduled foreclosure sale, Plaintiffs claim that the amount owed was in dispute. (*Id.*) Plaintiffs request that the Defendant be enjoined from foreclosing on the Property because they can "have another mortgage company in 60-90 days ready, willing and able to refinance the loan as soon as Defendant can produce an accurate payoff." (*Id.*)

Plaintiffs filed suit in state court, and Defendant timely removed to federal court. (Doc. No. 1.) Defendant then filed this Motion to Dismiss. (Doc No. 3.)

II. LEGAL STANDARD

"To survive a Rule 12(b)(6) motion to dismiss, a complaint 'does not need detailed factual allegations,' but must provide the plaintiff's grounds for entitlement to relief-including factual allegations that when assumed to be true 'raise a right to relief above the speculative level.' " *Cuvillier v. Taylor*, 503 F.3d 397, 401 (5th Cir.2007) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)). That is, a complaint must contain sufficient factual matter that, if it were accepted as true, would "state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (quoting *Twombly*, 550 U.S. at 570). A claim need not give rise to "probability," but need only plead sufficient facts to allow the court "to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Twombly*, 550 U.S. at 556). A pleading also need not contain detailed factual allegations, but it must go beyond mere "labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Twombly*, 550 U.S. at 555 (citation omitted).

*2 While the court must accept well-pleaded facts as true, *Iqbal*, 556 U.S. at 678, it should neither "strain to find inferences favorable to the plaintiffs" nor "accept 'conclusory allegations, unwarranted deductions, or legal conclusions.'" *R2 Investments LDC v. Phillips*, 401 F.3d 638, 642 (5th Cir.2005) (quoting *Southland Sec. Corp. v. Inspire Ins. Solutions, Inc.*, 365 F.3d 353, 362 (5th Cir.2004)). A court should not evaluate the merits of the allegations, but must

satisfy itself only that plaintiff has adequately pled a legally cognizable claim. *United States ex rel. Riley v. St. Luke's Episcopal Hosp.*, 355 F.3d 370, 376 (5th Cir.2004).

III. ANALYSIS

Plaintiffs seek to enjoin a foreclosure of the Property to allow themselves more time to refinance the debt. Defendant argues that this is not a cognizable claim, and the complaint should be dismissed because no cause of action has been pled.

A. Temporary Injunction

Plaintiffs request a temporary injunction enjoining Defendant from selling the property "so long as the Plaintiffs close on refinancing the property within a reasonable time." (Compl. p. 4.) "A preliminary injunction may be issued to protect the plaintiff from irreparable injury and to preserve the district court's power to render a meaningful decision after a trial on the merits." *Canal Auth. of State of Fla. v. Callaway*, 489 F.2d 567, 572 (5th Cir.1974). Granting or refusing a temporary injunction is in the sound discretion of the trial judge. *Nalco Chemical Co. v. Hall*, 347 F.2d 90 (5th Cir.1965). In exercising that discretion, the judge "balances the conveniences of the parties and possible injuries to them according as they may be affected by the granting or withholding of the injunction." *Yakus v. United States*, 321 U.S. 414, 440, 64 S.Ct. 660, 88 L.Ed. 834 (1944); *Wooten v. Ohler*, 303 F.2d 759, 762 (5th Cir.1962). The Fifth Circuit has also laid out four prerequisites for the "extraordinary relief of preliminary injunction." *Allison v. Froehlke*, 470 F.2d 1123 (5th Cir.1972). The four prerequisites are as follows: (1) a substantial likelihood that plaintiff will prevail on the merits, (2) a substantial threat that plaintiff will suffer irreparable injury if the injunction is not granted, (3) that the threatened injury to plaintiff outweighs the threatened harm the injunction may do to defendant, and (4) that granting the

preliminary injunction will not disserve the public interest. *Canal Auth. of State of Fla. v. Callaway*, 489 F.2d 567, 572-73 (5th Cir.1974) (citations omitted).

Plaintiffs fail to plead the first prerequisite since they do not plead a claim on which they are likely to prevail on the merits. Plaintiffs seek to enjoin Defendant from foreclosure until they can refinance the Property. The purpose of the injunction is not to protect Plaintiffs from irreparable injury or maintain the status quo until a trial on the merits; it is simply to gain relief from foreclosure. There is no recognized cause of action under the Texas Property Code that would require a lien holder to allow a homeowner time to refinance property before a foreclosure sale. *See* Tex. Prop.Code § 51.002. Plaintiffs have not pled a legal claim and no extraordinary circumstance exists to warrant the issuance of a temporary injunction. Therefore Defendant's motion to dismiss this claim must be granted.

B. Negligent Misrepresentation

*3 Plaintiffs plead negligent misrepresentation in their response to the motion to dismiss. However, this is a new cause of action that was not raised in the complaint and cannot be pled for the first time in a response to a motion. The Court need not determine the merits of this claim at this time.

IV. CONCLUSION

For the reasons discussed above, Defendant's Motion to Dismiss is **GRANTED**. Plaintiffs are granted leave to file an amended complaint, consistent with this Memorandum and Order, by October 29, 2012.

IT IS SO ORDERED.

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

**ORDER DENYING PLAINTIFF'S
RENEWED APPLICATION FOR EX PARTE TEMPORARY RESTRAINING ORDER,
AND ASSET FREEZE, TEMPORARY AND PERMANENT INJUNCTION**

BEFORE THE COURT is Plaintiff's Renewed Application for injunctive and other relief. The Court has considered the Application and the Response of Defendants Anita Kay Brunsting and Amy Ruth Brunsting. The Court gave notice and set the matter for hearing, at which time Plaintiff *pro se* and Counsel for Defendants appeared.

After consideration of the Renewed Application, the evidence submitted, the arguments, and other matters, the Court finds the Renewed Application should be DENIED.

DONE this _____ day of April, 2013, at Houston, Texas.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

§
§
§
§
§
§
§
§
§

4:12-CV-00592

NOTICE OF STATE COURT PROCEEDING FILED AGAINST THESE PARTIES
PLAINTIFF AND DEFENDANT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting would advise the Court of the institution of a state court suit on April 9, 2013. This notice is provided in supplementation of the information given at a temporary restraining order hearing held on April 9, 2013.

1. At the hearing on Plaintiff's request for a temporary restraining order, Dkt. # 40, counsel for Defendants referenced the existence of a Harris County District Court lawsuit Carl Brunsting had filed against certain attorneys.

Late in the afternoon on April 9, after the hearing was completed, counsel was forwarded a copy of a new suit filed in Harris County Probate Court against Defendants Anita Kay Brunsting and Amy Ruth Brunsting (individually and as Successor Trustees of the Trust); Plaintiff Candace Curtis; and non-party Carole Brunsting. The suit seeks declaratory relief; demands a trust accounting; seeks money damages against Defendants; contains claims of negligence, tortious interference with inheritance, conspiracy, and

conversion; requests injunctive relief and a constructive trust; and requests an award of attorney's fees. A copy of the suit is attached.

CONCLUSION AND RELIEF SOUGHT.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court take notice of this filing.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

gvie@millsshirley.com

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing; those who are not filing users will be served by email and regular mail.

/s/ George W. Vie III

George W. Vie III

Appendix Tab 1

NO. 412.249-401

ESTATE OF § IN PROBATE COURT
NELVA E. BRUNSTING, §
DECEASED § NUMBER FOUR (4) OF
§ HARRIS COUNTY, TEXAS

CARL HENRY BRUNSTING, § IN PROBATE COURT
individually and as independent §
executor of the estates of Elmer H. §
Brunsting and Nelva E. Brunsting §

vs. §

ANITA KAY BRUNSTING f/k/a §
ANITA KAY RILEY, individually, §
as attorney-in-fact for Nelva E. Brunsting, §
and as Successor Trustee of the Brunsting § NUMBER FOUR (4) OF
Family Living Trust, the Elmer H. §
Brunsting Decedent's Trust, the §
Nelva E. Brunsting Survivor's Trust, §
the Carl Henry Brunsting Personal §
Asset Trust, and the Anita Kay Brunsting §
Personal Asset Trust; §
AMY RUTH BRUNSTING f/k/a §
AMY RUTH TSCHIRHART, §
individually and as Successor Trustee §
of the Brunsting Family Living Trust, §
the Elmer H. Brunsting Decedent's Trust, §
the Nelva E. Brunsting Survivor's Trust, §
the Carl Henry Brunsting Personal §
Asset Trust, and the Amy Ruth Tschirhart §
Personal Asset Trust; §
CAROLE ANN BRUNSTING, individually §
and as Trustee of the Carole Ann §
Brunsting Personal Asset Trust; and §
as a nominal defendant only, §
CANDACE LOUISE CURTIS § HARRIS COUNTY, TEXAS

2013 APR -9 PM 2:33
HARRIS COUNTY, TEXAS

PETITION FOR DECLARATORY JUDGMENT, FOR AN ACCOUNTING,
FOR DAMAGES, FOR IMPOSITION OF A CONSTRUCTIVE TRUST, AND FOR
INJUNCTIVE RELIEF, TOGETHER WITH REQUEST FOR DISCLOSURES

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiff, CARL HENRY BRUNSTING, individually and as Independent Executor of the estates of Elmer H. Brunsting and Nelva E. Brunsting, filing his Petition for Declaratory Judgment, for Accounting, for Damages, for Imposition of a Constructive Trust, and for Injunctive Relief, together with Request for Disclosures, and in support thereof would show the Court as follows:

I.

Discovery Control Plan

1. Plaintiff intends to conduct discovery under Level 2 of the Texas Rules of Civil Procedure.

II.

Parties

2. Plaintiff is the duly appointed personal representative of the estates of both his father, Elmer H. Brunsting (“Elmer”),¹ and his mother, Nelva E. Brunsting (“Nelva”).² These estates are collectively referred to herein as the “Estates.” In his individual capacity, Plaintiff is referred to herein as “Carl.” Carl was previously a successor trustee of the Brunsting Family Living Trust created on October 10, 1996 and restated on January 12, 2005 (the “Family Trust”). Carl is a beneficiary of the Family Trust and the other trusts created by its terms. Elmer was a trustee and a beneficiary of the Family Trust, and Nelva was also a trustee and beneficiary of the Family Trust and its successor trusts. The successor trusts of the Family Trust resulted pursuant to the terms of the

¹Elmer died on April 1, 2009. Plaintiff qualified as Independent Executor of his estate on August 28, 2012.

²Nelva died on November 11, 2011. Plaintiff qualified as Independent Executor of her estate on August 28, 2012.

Family Trust upon Elmer's death. Those successor trusts are the Elmer H. Brunsting Decedent's Trust ("Elmer's Decedent's Trust") and the Nelva E. Brunsting Survivor's Trust ("Nelva's Survivor's Trust"). Those are sometimes collectively referred to herein as the "Successor Trusts." Carl is also the beneficiary, but not the trustee, of the Carl Henry Brunsting Personal Asset Trust ("Carl's Trust") which was created pursuant to the terms of the Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment signed on 8/25/10 (the "8/25/10 QBD"). As will be further discussed herein, Plaintiff believes the 8/25/10 QBD was the result of undue influence, was done when Nelva lacked capacity and/or was created by deception so that Nelva did not understand or consent to the document. In fact, it is far from clear what documents Nelva even signed or knew existed.

3. Defendant Anita Kay Brunsting f/k/a/ Anita Kay Riley is Carl's sister. It is believed that Anita's counsel will accept service, but, if not, Anita can be served with process at her home at 203 Bloomingdale Circle, Victoria, Victoria County, Texas 77904. In her individual capacity and when acting pursuant to the power of attorney purportedly executed by Nelva on August 25, 2010 ("8/25/10 POA"), this Defendant will be referred to herein as "Anita." Anita was named as a successor trustee under the terms of the tainted 8/25/10 QBD. Pursuant to the terms of that document, upon Nelva's death, Anita was to become co-trustee of the Family Trust and the Successor Trusts. On December 21, 2010, however, Nelva purportedly signed a resignation of her position as trustee and appointed Anita to be her successor even before her death. From that point until her mother's death on November 11, 2011, Anita acted as the sole trustee of the Family Trust and the Successor Trusts. As will be discussed herein, Plaintiff believes Anita convinced Nelva to resign from her trustee position and to appoint Anita as her replacement through improper means and for improper purposes. The terms of the tainted 8/25/10 QBD made Anita co-trustee of Carl's Trust.

Anita is also beneficiary and trustee of the Anita Kay Brunsting Personal Asset Trust (“Anita’s Trust”).

4. Defendant Amy Ruth Brunsting f/k/a/ Amy Ruth Tschirhart (“Amy”) is Carl’s sister. It is believed that Amy’s counsel will accept service, but, if not, Amy can be served with process at her home at 2582 Country Ledge, New Braunfels, Comal County, Texas 78132. Pursuant to the terms of the tainted 8/25/10 QBD, Amy became a co-trustee of the Family Trust and the Successor Trusts upon Nelva’s death. Anita and Amy in their capacity as trustees of the Family Trusts and the Successor Trusts are sometimes collectively referred to herein as the “Current Trustees”. Amy is also the beneficiary and the trustee of the Amy Ruth Brunsting Personal Asset Trust (“Amy’s Trust”). The terms of the tainted 8/25/10 QBD also made Amy co-trustee of Carl’s Trust.

5. Defendant Carole Ann Brunsting (“Carole”) is Carl’s sister. Carole may be served with process either at her home at 5822 Jason St., Houston, Harris County, Texas 77074 or at her place of employment at Cameron’s offices at 1333 West Loop South, Suite 1700, Houston, Texas 77027. Carole was named in Nelva’s health care power of attorney and was made a joint signatory on Nelva’s bank account when Anita took over as trustee. Carole is also the beneficiary and trustee of the Carole Ann Brunsting Personal Asset Trust (“Carole’s Trust”).

6. Candace Louise Curtis (“Candy”) is Carl’s sister. Candy is named in this action only because these claims impact her rights as a beneficiary of various trusts. Plaintiff does not seek to recover any damages from Candy, and it is anticipated that Candy will waive service of process. Candy and Carl were the only Brunsting siblings whose right to be trustees of their own trusts after Nelva died were extinguished by the changes implemented in the tainted 8/25/10 QBD. Candy is the beneficiary of the Candace Louise Curtis Personal Asset Trust (“Candy’s Trust”) of which Anita and Amy are the co-trustees.

III.

Jurisdiction

7. Plaintiff brings this cause of action pursuant to Chapters 37 of the Texas Civil Practice and Remedies Code and Chapter 115 of the Texas Property Code. More specifically, Plaintiff brings this proceeding to:

- (a) establish, construe the terms of, and determine the rights and liabilities of the parties under the Family Trust, the Successor Trusts, and the trusts purportedly created pursuant to the terms of the tainted 8/25/10 QBD;
- (b) require an accounting of all the trusts and other transactions resulting from Anita, Amy, and Carole's exercise of control over Elmer and Nelva's remaining assets, however held;
- (c) determine damages resulting from Anita, Amy, and Carole's wrongful acts, including, but not limited to, numerous breaches of fiduciary duties;
- (d) impose a constructive trust over assets wrongfully transferred, as well as anything of value obtained through the use of assets wrongfully transferred;
- (e) obtain injunctive relief to preserve Elmer and Nelva's assets, however held, until the records concerning the transfers of assets can be examined and appropriate remedies can be sought so that the improper transfers can be reversed and the assets can be properly allocated and distributed.

IV.

Venue

8. Venue in this cause is in Harris County, Texas, pursuant to Tex. Civ. Prac. & Rem. Code §15.002(a)(1) because all, or substantially all, of the acts giving rise to Plaintiff's claims occurred in Harris County, Texas.

V.

Background Facts

9. On October 10, 1996, Elmer and Nelva established the Family Trust. The Family Trust was restated on January 12, 2005. The Family Trust was initially revocable, but only until the death of either Elmer or Nelva. Thus, when Elmer died on April 1, 2009, the Family Trust became irrevocable. At that point, the Family Trust's assets were to be divided between Elmer's Decedent's Trust and Nelva's Survivor's Trust pursuant to Article VII of the Family Trust.

10. At some point, Anita and Amy implemented a plan to take over their parents' remaining assets and divide the spoils. That plan was made feasible when Carl became seriously ill with encephalitis in July, 2010. Carl had been an obstacle to Anita and Amy's plans, so they seized the opportunity to become even more aggressive in controlling their mother's actions. Carole's initial resistance to Anita and Amy's scheme was apparently eliminated through transfers of assets to which she was not entitled.

11. Anita and Amy carried out their plan of replacing their mother's wishes with their own with the help of Nelva's own legal counsel. The result was the tainted 8/25/10 QBD. Through bullying and deception, that document was executed without regard to Nelva's capacity and notwithstanding Nelva's apparent lack of understanding, knowledge, or consent to what was occurring. The 8/25/10 QBD removed Carl from his successor trustee roles. At that time all prior

powers of attorney were revoked and replaced with one giving Anita control of her mother's affairs. During the same period, Nelva's safe deposit box to which Carl had access was closed and a new one opened giving Anita access instead. Anita and Amy apparently determined which documents would be prepared, regardless of whether Nelva agreed with or even knew what they were doing. The only document which Anita and Amy wanted but seem to have been unsuccessful in implementing was a document intended to exclude Carl's daughter and granddaughter from inheriting through Nelva.

12. Perhaps because it became too difficult to even pretend to be obtaining Nelva's signature on documents needed to take all the steps Defendants wanted to take, or because Anita, Amy, and Carole did not want to wait for Nelva's death to begin using her assets for their own purposes, other steps were taken to obtain complete control of Nelva's assets, however held. Anita and Amy's continued efforts resulted in Nelva's purported resignation as trustee and purported appointment of Anita as substitute trustee of the Family Trust and the Successor Trusts on December 21, 2010. Thereafter, Anita used her position as trustee to repeatedly transfer assets for her own benefit and that of her children, for Amy's benefit and the benefit of Amy's children, and for Carole's benefit. Anita disregarded the terms of the Family Trust as she saw fit. For example, Anita began paying herself an exorbitant trustee's fee. Anita also began paying her own credit card bills, as well as other personal expenses, such as payments for her children's automobiles and educational expenses, from the Family Trust and Successor Trusts' accounts.

13. On December 31, 2010, an account was established, allegedly for Nelva's benefit to be used on day to day expenses but on which Carole was a signatory. Over the next year, more than \$150,000 was transferred from trust accounts by Anita and spent by Carole on what appears to be predominantly items for Carole's own benefit. At the same time, Anita was draining the other

accounts owned by Elmer's estate, Nelva, or the Successor Trusts, at least in part for her own purposes and/or other improper purposes.

14. On March 24, 2011, Anita divided the more than 4,000 shares of Exxon Mobile stock purportedly owned by the Family Trust between Elmer's Decedent's Trust and Nelva's Survivor's Trust. Then on May 9, 2011, Anita transferred 1,120 shares of that stock from Nelva's Survivor's Trust to Amy. On June 13, 2011, Anita transferred 160 shares from Nelva's Survivor's Trust to herself, and on June 15, 2011, Anita transferred 160 shares from Nelva's Survivor's Trust to Candy. An finally, on June 15, 2011, Anita transferred 1,325 shares from Elmer's Decedent's Trust to Carole. No shares were transferred to Carl, despite Anita's knowledge of Carl's serious health crisis and large medical expenses. In fact, Carl's family was not even informed of the transfers of stock and did not learn about them until after Nelva's death.

15. On June 14, 2011, Anita also transferred 135 shares of Chevron stock purportedly owned by Nelva's Survivor's Trust to each of her two children and to each of Amy's two children. No similar gift was made to either Carl's daughter or granddaughter or to Candy's two sons. Moreover, Carl's entire family was excluded from conversations addressing the status of the Brunsting estate, changes in the trusts, and Nelva's removal from involvement with and control over the trusts. Instead of assisting with Carl's medical bills, it is believed that trust assets were used to hire investigators to follow Carl's wife of 30 years and that a GPS tracking device was even placed on Carl's wife's car without her consent, at the apparent direction of Anita and Amy.

16. On Nelva's death on November 11, 2011, Amy joined Anita as co-trustee of the Family Trust, Elmer's Decedent's Trust, and Nelva's Survivor's Trust. Assets were to be divided equally into separate trusts for each of the Brunsting children upon Nelva's death. Until the tainted 8/25/10 QBD, each of the Brunsting children would have been trustee of their own trusts, but in the

tainted 8/25/10 QBD, both Carl and Candy were removed as trustees of their own trusts. Instead, Anita and Amy were named co-trustees of both Carl's Trust and Candy's Trust.

17. Of course, by the time of Nelva's death, the remaining assets had already been plundered. Indeed, two days before Nelva died, Anita even closed the safe deposit box used by Nelva and no inventory of its contents have ever been provided although it had been where valuable items and documents had been kept. A number of valuable items remain unaccounted for after Nelva's death, such as a significant amount of savings bonds which it is believed either Anita, Amy, or Carole have not admitted they discovered and kept. Likewise, no effort was made to value, preserve, inventory, and properly divide personal property.

18. Of course, many things have not been accounted for or properly shared with Plaintiff. Plaintiff has not, for example, been provided with a copy of the lease of the most valuable asset his parents owned, a multimillion dollar farm in Iowa. To the extent information has been provided because Plaintiff has sought it and even filed a pre-suit discovery action to obtain it, that information has made it clear the plundering started long ago and only court intervention or complete dissipation of the assets will stop it. Apparently the Current Trustees believe the division of assets should be made based on the terms of the tainted 8/25/10 QBD, and without taking into consideration what Anita, Amy & Carole have already taken.

V.

Construction of Trust and Suit for Declaratory Judgment

19. The 8/25/10 QBD contains a broad *in terrorem* clause providing that a party forfeits their interest in the resulting trust if contesting its provisions. Plaintiff asserts that the *in terrorem* clause is overly broad and void as against public policy because it prohibits the trust beneficiaries

from questioning any of the circumstances surrounding the Current Trustees' improper actions in this case, thereby preventing them from protecting their interests.

20. In addition, Plaintiff seeks declaratory relief construing the validity, terms, responsibilities, and obligations of the various documents signed or purportedly signed by Elmer and Nelva. In other words, Plaintiff also asks this Court to determine Plaintiff's rights and Defendants' responsibilities.

21. If the Court fails to find that the *in terrorem* clause is void as against public policy to the extent it prohibits beneficiaries from questioning the actions resulting in the QBDs and the actions supposedly taken under its terms, Plaintiff asks, in the alternative, that the Court construe the documents at issue herein and declare that Plaintiff's actions in filing and pursuing this action do not violate the *in terrorem* clause.

22. Plaintiff, in fact, seeks to determine and enforce his partents' intent and to further the purposes of that intent. In doing so, Plaintiff was required to bring this action requesting declaratory relief and an accounting. Such actions would not constitute a contest even if the provision were not void because it is against public policy.

23. Plaintiff further asserts that he had just cause to bring this lawsuit and that he has brought the action in good faith. Therefore, no forfeiture should result from the action.

VI.

Demand for Trust Accounting

24. Defendants have provided insufficient, conflicting, and unsupported information to Plaintiff accounting for the assets and transactions concerning the Family Trust, Elmer's Decedent's Trust, and Nelva's Survivor's Trust.

25. The Texas Trust Code and the trust indentures require the Current Trustees to keep complete and accurate books of account with regard to the trusts, trust property and all transactions pertaining thereto and to provide the appropriate information to the beneficiaries, but they have failed to do so. Plaintiff, therefore, requests that this Court order Defendants to account for the administration of all the trusts.

VII.

Breach of Fiduciary Duties

26. Defendants have breached their duties as fiduciaries, both because of their formal positions as trustees of the various trusts, as agents for Nelva, and/or because of their family relationship to their parents and their brother. Carole also had fiduciary duties to Plaintiff, particularly after becoming a signatory on Nelva's account. Not only is the family relationship one involving a high degree of trust, influence, and confidence, but in this particular case, the fiduciary obligations were magnified because of the dominance on the part of the fiduciaries and the weakness and dependence on the part of the parties to whom Defendants owed fiduciary duties. They have breached their responsibilities by, among other things, transferring valuable property without receiving appropriate consideration and taking assets for their own benefit and use and in violation of their duties and the trust instruments themselves. Breaches of fiduciary duty by Defendants include, but are not limited to, the following:

- a. failing to keep and provide clear, regular, accurate, and complete accountings of assets;
- b. resisting accountings of property and transactions;
- c. failing to abide by the terms of the various trust instruments;
- d. failing to preserve property and to prevent losses of property;

- e. conveying property in ways which were detrimental and in violation of their obligations;
- f. entering into transactions which were not in the best interests of persons and trusts to whom they owed fiduciary obligations;
- g. becoming involved in matters in which Anita, Amy, and Carole represented interests which conflicted with those of their parents, Carl, and the trusts and their beneficiaries, including Nelva;
- h. failing to be loyal to their family members and the trust beneficiaries and to take actions based upon the best interests of Nelva, Carl, and the trusts;
- i. failing to deal impartially, fairly, and equally with Nelva, Carl, and the trusts;
- j. failing to prevent transfers, gifts, or removal of assets;
- k. failing to make appropriate and equal distributions;
- l. failing to adequately inform the beneficiaries about assets and transactions and beneficiaries' rights;
- m. misrepresenting or allowing misrepresentations concerning assets and transactions and beneficiaries' rights;
- n. failing to prevent transactions which were detrimental to their family members and the trusts;
- o. allowing the payment of inappropriate amounts from assets they purportedly held as fiduciaries; and
- p. failing to follow and otherwise enforce the terms of the trust instruments.

27. In connection with actions by Defendants with regard to transactions involving self-dealing, Defendants, acting in a fiduciary capacity have the burden of establishing the propriety of

those transactions. Defendants must prove those transactions were fair and equitable to Plaintiff, and the transactions at issue in this case clearly were not.

28. As a result of Defendants' various actions described herein, Plaintiff has been damaged in an amount in excess of the minimum jurisdictional limits of this Court.

29. Because Defendants' actions were committed willfully and maliciously, Plaintiff also requests that exemplary damages be awarded against Defendants in a sum that exceeds the minimum jurisdictional limits of this Court.

VIII.

Conversion

30. Defendants' actions constitute conversion of property to which Plaintiff had a superior right, and as a result of such conversion, Plaintiff has been damaged in an amount in excess of the minimum jurisdictional limits of this Court.

31. Because Defendants' conversion was committed willfully and maliciously, Plaintiff requests that exemplary damages be awarded against Defendants in a sum that exceeds the minimum jurisdictional limits of this Court.

IX.

Negligence

32. Defendants had a duty to Plaintiff to use reasonable care to protect his interests in the capacities specified herein. Defendants failed to exercise such reasonable care, in that they allowed assets rightfully belonging to Elmer's estate, Nelva, and the various trusts of which Plaintiff was a beneficiary to be wrongfully removed, thereby improperly taking them or preventing their distribution to Plaintiff. As a result of Defendants' negligence, Plaintiff has been damaged in amounts in excess of the minimum jurisdictional limits of this Court.

33. Defendants' actions constituted gross negligence in that Defendants had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to Plaintiff's rights. Accordingly, Plaintiff requests that exemplary damages be awarded against Defendants in a sum that exceeds the minimum jurisdictional limits of this Court.

X.

Tortious Interference with Inheritance

34. Defendants' actions constitute tortious interference with Carl's inheritance rights.

35. As a direct and proximate result of Defendants' tortious interference with Carl's inheritance rights, Carl has been damaged in an amount in excess of the minimum jurisdictional limits of this Court.

36. Defendants' various actions were committed willfully, maliciously, and with the intent to conceal the true nature of the estate and the trusts to Carl's detriment. Accordingly, Carl requests that exemplary damages be awarded against Defendants in a sum that exceeds the minimum jurisdictional limits of this Court.

XI.

Constructive Trust

37. Plaintiff seeks the imposition of a constructive trust over the assets to which he is entitled, including all property improperly transferred by Anita and Amy, including, but not limited to, the property received by Anita, Amy, Carole, and their insiders or related entities, as well as the profits Defendants received as a result of the transfer of those assets. Plaintiff also seeks the imposition of a constructive trust over the assets of Anita, Amy, and Carole's Trusts to the extent needed to reverse the improper transfers. Plaintiff thus requests a distribution of those assets in the

amount lawfully due the Plaintiff, together with all interest accrued from the time such distribution should have been made.

XII.

Civil Conspiracy

38. Defendants combined to accomplish the unlawful objectives of facilitating the breach of duties to Plaintiff, as well as the commission of fraud and fraudulent concealment. Such actions by Defendants amount to a civil conspiracy.

39. As a direct and proximate result of the civil conspiracy between the Defendants, Plaintiff has been damaged in an amount in excess of the minimum jurisdictional limits of this Court.

40. Defendants' actions in furtherance of the civil conspiracy were taken willfully and maliciously, all to the detriment of Plaintiff. Accordingly, Plaintiff requests that exemplary damages be awarded against Defendants in a sum that exceeds the minimum jurisdictional limits of the Court.

XIII.

Fraudulent Concealment

41. Plaintiff was not aware of Defendants' wrongful actions. That is because Defendants took affirmative steps to deceive Nelva and Plaintiff and to conceal their wrongful actions from Nelva and Plaintiff. As a result of this affirmative deception by Defendants and Nelva and Plaintiff's reasonable reliance on that deception, Plaintiff did not know of these claims in this action until well after his mother's death on November 11, 2011, and, in fact, Plaintiff still does not know the full extent of his claims.

XIV.

Discovery Rule

42. Plaintiff affirmatively pleads the discovery rule and asserts that his claims have been brought within the required periods from the date when he knew, or reasonably should have known, that his claims had accrued.

XV.

Tolling of Limitations

43. Tex. Civ. Prac. & Rem. Code Ann. §16.062 tolls the limitations period for Plaintiff because of Elmer and Nelva's deaths.

XVI.

Conditions Precedent

44. All conditions precedent to the recovery of the relief sought hereunder have occurred or have been performed. Plaintiff is prosecuting this action in good faith and with just cause for the purpose of determining and protecting the assets of the trusts.

XVII.

Prejudgment Interest

45. Plaintiff is also entitled to prejudgment interest on his claims.

XVIII.

Request for Attorneys' Fees

46. Plaintiff requests that he be allowed to recover his fees and expenses for this action pursuant to Tex. Civ. Prac. Rem. Code Ann. §37.009. Plaintiff further requests that this Court award Plaintiff his costs and reasonable and necessary attorney's fees which had to be incurred prior to and

in connection with this matter pursuant to Tex. Prop. Code Ann. §114.064. Plaintiff also seeks awards for any appellate fees that may be required in connection with this action.

XIX.

Request for Injunctive Relief

47. Plaintiff also seeks injunctive relief. The expedited consideration of this request is essential due to the need to preserve the information concerning these trusts and the assets in these trusts. Plaintiff asks for an Order preventing Defendants and their agents from destroying, hiding or transferring the records and assets of the Family Trust, the Successor Trusts, and any trust created pursuant to the terms of the 8/25/10 QBD, or taking any other steps normally afforded to parties in Defendants' purported positions with regard to such trusts or the property Defendants have received which would result in a loss or secretion of the property, which would remove property from this Court's jurisdiction or control, or which would frustrate this Court in its exercise of jurisdiction or control, or thwart the purposes of the trust instruments by depriving Plaintiff of his rights.

48. Plaintiff further requests the Court direct Defendants to refrain from conducting any business or entering into any transactions on behalf of the trusts without the prior written consent of Plaintiff during the pendency of this action.

49. Defendants' previous conduct has indicated to Plaintiff that Defendants do not intend to provide Plaintiff with the assets of the trust to which he is entitled, and that unless appropriate orders are issued by this Court, Defendants will make additional transfers to avoid Plaintiff's rights and this Court's authority. Plaintiff will suffer irreparable harm, damage, and injury unless Defendants, their relatives, partners, agents, servants, attorneys, accountants, employees, assigns, representatives and those persons in active concert or in participation with them are ordered by this Court to secure and preserve all documents and other information concerning the trusts wherever it

may now be located. Plaintiff requests that Defendants be further ordered to refrain from taking any action with regard to the assets formerly or presently owned by Elmer, Nelva, or any of the trusts, moving or transferring any such assets, changing any positions of authority or exercising any powers or rights afforded to them as a result of the trusts, or applicable law. If orders are not entered as requested, Plaintiff will be irreparably harmed because assets can be further transferred, secreted or otherwise disbursed, and Defendants' prior actions while in control of these assets indicates they will indeed take those steps because they have already taken similar steps.

50. Plaintiff has no adequate remedy at law to preserve the assets at issue, and the loss of assets would be irreparable because if the assets are transferred or sold, the cash received in such a transaction could be even more easily be lost, hidden, or removed from this Court's control by Defendants, or if spent, will be lost to Plaintiff.

51. Defendants' previous conduct has indicated to Plaintiff that Defendants do not intend to provide Plaintiff with assets or income from the Trust, and Defendants and those acting in concert with them will continue to transfer assets in an attempt to avoid Plaintiff's rights. Unless appropriate orders are issued by this Court, nothing will prevent Defendants and those acting in concert with them will from continuing with their prior course of improper conduct. Therefore, Plaintiff will suffer irreparable harm, damage, and injury unless Defendants and their relatives, partners, agents, attorneys, employees, and those persons in active concert or in participation with them are ordered by this Court to cease all disbursements and transfers of assets from Elmer, Nelva, and the trusts, as well as from the assets they have already taken from Elmer, Nelva, and the trusts.

XXI.

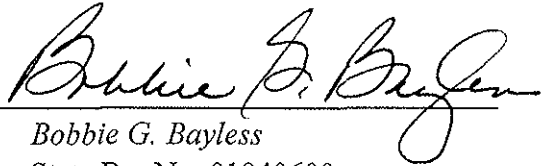
Plaintiff's Requests for Disclosures to Defendants

52. Pursuant to Rule 194, T.R.C.P., the Defendants are requested to disclose, within fifty (50) days of service of this request, the information or material described in Rule 194.2 (a) - (l).

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the parties listed above be cited to appear and answer, and that on final hearing this Court declare the rights, duties and liabilities of the parties to the Trust and enter a judgment as sought by Plaintiff and for such other and further relief to which Plaintiff may show himself justly entitled.

Respectfully submitted,

BAYLESS & STOKES

By: 

Bobbie G. Bayless
State Bar No. 01940600
2931 Ferndale
Houston, Texas 77098
Telephone: (713) 522-2224
Telecopier: (713) 522-2218
bayless@baylessstokes.com

Attorneys for Plaintiff

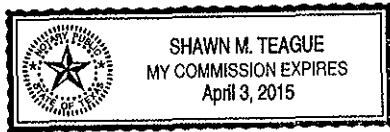
VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

BEFORE ME, the undersigned Notary Public, on this day personally appeared CARL HENRY BRUNSTING, who, being by me duly sworn on oath deposed and said that he is the Plaintiff in this action; that he has read the foregoing pleading and that every statement contained in that document is within his knowledge and is true and correct.

Carl Henry Brunsting
CARL HENRY BRUNSTING

SUBSCRIBED AND SWORN TO BEFORE ME on the 8th day of April, 2013, to certify which witness my hand and official seal.



Shawn M. Teague
Notary Public in and for the
State of T E X A S
Printed Name: Shawn M. Teague
My Commission Expires: 4-3-2015

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF TEXAS
 HOUSTON DIVISION

Candace Louise Curtis

Plaintiff,

v.

Anita Kay Brunsting et al.

Defendants.

Civil No. 4:12-cv-00592

Judge Kenneth M. Hoyt

Case Manager: Cynthia Horace

Court Reporter:

Proceeding: Evidentiary Hearing

EXHIBIT LIST OF DEFENDANTS

No.	Description	Offer	Object	Date ADMIT	Date N/ADMIT
1	Brunsting Family Irrevocable Trust			/	
2	Resignation of Trustee/Acceptance of Successor Trustee			/	
3	April 27, 2012 email			/	
4	April 29, 2012 email			/	
5	Email from Nelva regarding gift			/	
6					
7					
8					
9					
10					
11					
12					
13					
14					

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

§
§
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4:12-CV-00592

DEFENDANTS' MOTION FOR APPROVAL OF TAX PAYMENTS

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting move for an Order permitting the payment of tax related debts, consistent with the Court's ruling on April 9, 2013.

1. At the temporary restraining order hearing on April 9, Defendants' counsel and Defendant Anita Kay Brunsting advised the Court that tax payments from the Trust were due in the immediate future. The Court directed Defendants to move for an Order authorizing the payments from Trust funds.

2. The decedent's trust has a federal tax payment due of \$23,906. The decedent's trust also has an Iowa state tax payment due of \$4797. The survivor's trust has a federal tax payment of \$20 due.

The decedent's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3536. The survivor's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3523.

3. Accordingly, Defendants move for entry of the attached Order permitting the timely payments of these debts. As instructed by the Court, all beneficiaries will be served with a copy of this Motion.

CONCLUSION AND RELIEF SOUGHT.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court grant this Motion and enter the attached Order.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

gvie@millsshirley.com

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing; those who are not filing users will be served by email and regular mail. Additionally, non-party beneficiaries will be served by mail, email if known, and by copy to any attorney-of-record for those parties in state court litigation.

/s/ George W. Vie III

George W. Vie III

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

**ORDER GRANTING DEFENDANTS' MOTION
FOR APPROVAL OF TAX PAYMENTS**

BEFORE THE COURT is Defendants' Motion for Approval of Tax Payments, as discussed at the temporary restraining order hearing on April 9, 2013. After consideration of the Motion, the Court finds it should be granted for the reasons stated in the Motion. It is, therefore,

ORDERED that the Trustees have authority to pay, and shall pay, the following:

The decedent's trust federal tax payment in the amount of \$23,906.00;

The decedent's trust Iowa state tax payment in the amount of \$4797.00;

The survivor's trust federal tax payment in the amount of \$20.00.

The decedent's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3536. The survivor's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3523.

DONE this _____ day of April, 2013, at Houston, Texas.

KENNETH M. HOYT
UNITED STATES DISTRICT JUDGE

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

ORDER GRANTING DEFENDANTS' MOTION
FOR APPROVAL OF TAX PAYMENTS

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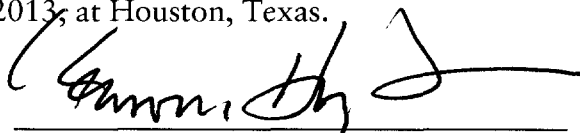
The decedent's trust federal tax payment in the amount of \$23,906.00;

The decedent's trust Iowa state tax payment in the amount of \$4797.00;

The survivor's trust federal tax payment in the amount of \$20.00.

The decedent's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3536. The survivor's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3523.

DONE this 11th day of April, 2013, at Houston, Texas.



 KENNETH M. HOYT
 UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. 4:12-CV-592
	§	
ANITA KAY BRUNSTING, <i>et al</i> ,	§	
	§	
Defendants.	§	

MEMORANDUM AND ORDER
PRELIMINARY INJUNCTION

I. INTRODUCTION

Before the Court is the *pro se* plaintiff’s, Candace Louise Curtis, renewed application for an *ex parte* temporary restraining order, asset freeze, and preliminary and permanent injunction [Dkt. No. 35]. Also before the Court is the defendants’, Anita Kay Brunsting and Amy Ruth Brunsting, memorandum and response to the plaintiff’s renewed motion [Dkt. No. 39]. The Court has reviewed the documents presented, including the pleadings, response and exhibits, received testimony and arguments, and determines that the plaintiff’s motion for a temporary injunction should be granted.

II. BACKGROUND

A. Procedural Background

The plaintiff filed her original petition on February 27, 2012, alleging that the defendants had breached their fiduciary obligations under the Brunsting Family Living Trust (“the Trust”). Additionally, the plaintiff claimed extrinsic fraud, constructive fraud, intentional infliction of emotional distress, and sought an accounting, as well as a

recovery of legal fees and damages. The Court denied the plaintiff's request for a temporary restraining order and for injunctive relief. However, concurrent with the Court's order denying the relief sought by the plaintiff, the defendants filed an emergency motion for the removal of a *lis pendens* notice that had been filed by the plaintiff on February 11, 2012, prior to filing her suit.

The defendants sought, by their motion, to have the *lis pendens* notice removed in order that they, as the Trustees of the Trust might sell the family residence and invest the sale proceeds in accordance with Trust instructions. After a telephone conference and consideration of the defendants' argument that the Court lacked jurisdiction, the Court concluded that it lacked jurisdiction, cancelled the *lis pendens* notice, and dismissed the plaintiff's case.

The plaintiff gave notice and appealed the Court's dismissal order. The United States Court of Appeals for the Fifth Circuit determined that the Court's dismissal constituted error. Therefore, the Fifth Circuit reversed the dismissal and remanded the case to this Court for further proceedings. This reversal gave rise to the plaintiff's renewed motion for injunctive relief that is now before the Court.

B. Contentions of the Parties

The plaintiff contends that she is a beneficiary of the Trust that the defendants, her sisters, serve as co-trustees. She asserts that, as co-trustees, the defendants owe a fiduciary duty to her to "provide [her] with information concerning trust administration, copies of trust documents and [a] semi-annual accounting." According to the plaintiff,

the defendants have failed to meet their obligation and have wrongfully rebuffed her efforts to obtain the information requested and that she is entitled.

The defendants deny any wrongdoing and assert that the plaintiff's request for injunctive relief should be denied. The defendants admit that a preliminary injunction may be entered by the Court to protect the plaintiff from irreparable harm and to preserve the Court's power to render a meaningful decision after a trial on the merits. *See Canal Auth. of State of Fla. V. Calloway*, 489, F.2d 567, 572 (5th Cir. 1974). Rather, the defendants argue that the plaintiff had not met her burden.

III. STANDARD OF REVIEW

The prerequisites for the granting of a preliminary injunction require a plaintiff to establish that: (a) a substantial likelihood exists that the plaintiff will prevail on the merits; (b) a substantial threat exists that the plaintiff will suffer irreparable injury if the injunction is not granted; (c) the threatened injury to the plaintiff outweighs the threatened harm that the injunction may do to the defendants; and, (d) granting the injunction will not disserve the public interest. *See Calloway*, 489 F.2d at 572-73.

IV. DISCUSSION AND ANALYSIS

The evidence and pleadings before the Court establish that Elmer Henry Brunsting and Nelva Erleen Brunsting created the Brunsting Family Living Trust on October 10, 1996. The copy of the Trust presented to the Court as Exhibit 1, however, reflects an effective date of January 12, 2005. As well, the Trust reveals a total of 14 articles, yet Articles 13 and part of Article 14 are missing from the Trust document. Nevertheless, the Court will assume, for purposes of this Memorandum and Order, that the document

presented as the Trust is, in fact, part of the original Trust created by the Brunstings in 1996.

The Trust states that the Brunstings are parents of five children, all of whom are now adults: Candace Louise Curtis, Carol Ann Brunsting; Carl Henry Brunsting; Amy Ruth Tschirhart; and Anita Kay Brunsting Riley. The Trust reflects that Anita Kay Brunsting Riley was appointed as the initial Trustee and that she was so designated on February 12, 1997, when the Trust was amended. The record does not reflect that any change has since been made.

The plaintiff complains that the Trustee has failed to fulfill the duties of Trustee since her appointment. Moreover, the Court finds that there are unexplained conflicts in the Trust document presented by the defendants. For example, The Trust document [Exhibit 1] shows an execution date of January 12, 2005.¹ At that time, the defendants claim that Anita Kay served as the Trustee. Yet, other records also reflect that Anita Kay accepted the duties of Trustee on December 21, 2010, when her mother, Nelva Erleen resigned as Trustee. Nelva Erleen claimed in her resignation in December that she, not Anita Kay, was the original Trustee.

The record also reflects that the defendants have failed to provide the records requested by the plaintiff as required by Article IX-(E) of the Trust. Nor is there evidence that the Trustee has established separate trusts for each beneficiary, as required under the Trust, even though more than two years has expired since her appointment.

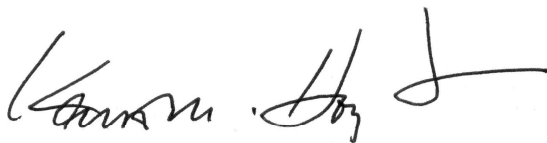
¹ It appears that Nelva Erleen Brunsting was the original Trustee and on January 12, 2005, she resigned and appointed Anita Brunsting as the sole Trustee.

In light of what appears to be irregularities in the documents and the failure of the Trustee to act in accordance with the duties required by the Trust, the Court ENJOINS the Trustee(s) and all assigns from disbursing any funds from any Trust accounts without prior permission of the Court. However, any income received for the benefit of the Trust beneficiary is to be deposited appropriately in an account. However, the Trustee shall not borrow funds, engage in new business ventures, or sell real property or other assets without the prior approval of the Court. In essence, all transactions of a financial nature shall require pre-approval of the Court, pending a resolution of disputes between the parties in this case.

The Court shall appoint an independent firm or accountant to gather the financial records of the Trust(s) and provide an accounting of the income and expenses of the Trust(s) since December 21, 2010. The defendants are directed to cooperate with the accountant in this process.

It is so Ordered

SIGNED on this 19th day of April, 2013.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

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4:12-CV-00592

JOINT NOTICE OF AGREED CERTIFIED PUBLIC ACCCOUNTANT FIRM
PURSUANT TO COURT’S ORDER FOR ACCOUNTING

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting, joined by Plaintiff, would advise the Court that the parties have agreed to a Certified Public Accounting firm that could potentially provide accounting services, as directed by the Court.

1. That CPA is:

Jeff Compton, Compston & Wendler, P.C.

Two Houston Center, 909 Fannin, Ste 3275

Houston, Texas 77010

713.659.5080

<http://www.jacompton.com/>

2. The parties have not contacted the firm to determine the cost of the accounting.

CONCLUSION AND RELIEF SOUGHT.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court take notice of this filing.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

gvie@millsshirley.com

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing; those who are not filing users will be served by email and regular mail.

/s/ George W. Vie III

George W. Vie III

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

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CIVIL ACTION NO. 4:12-CV-592

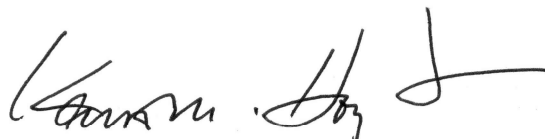
ORDER

The Court directed the parties to agree, if they could, on an accountant to account for the income and expenses of the Brunsting Trust. The agreement was to be made and the Court informed on or before April 16, 2013. When the parties failed to designate, the Court contacted an accountant, for appointment by the Court. The parties' joint notice [Dkt. No. 46] that they have agreed on an accountant is tardy, fails to seek approval of the Court and does not carry the signature of the plaintiff who has accused the defendants' of fraudulent conduct.

In light of the accusations in the pleadings and the Court's instructions, the Court is of the opinion that the best course forward is a Court appointed accountant who will be responsible to the Court. The Court, therefore, rejects the parties "agreed" notice as an appointment. An Order designating an accountant will be entered shortly.

It is so Ordered.

SIGNED on this 29th day of April, 2013.



Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

MAY 1 2013

David J. Bradley, Clerk of Court

CANDACE LOUISE CURTIS §
Individually and as Co-Trustee §
Plaintiff, §
versus §
ANITA KAY BRUNSTING, §
AMY RUTH BRUNSTING, §
CAROLE ANN BRUNSTING, §
CANDACE L. KUNZ-FREED, §
ALBERT E. VACEK, JR., §
VACEK & FREED, PLLC, §
THE VACEK LAW FIRM §
BERNARD LILSE MATHEWS III, §
And DOES 1 – 94 §
Defendants. §

CIVIL ACTION NO. 4:12-cv-00592
Jury

PLAINTIFF'S FIRST AMENDED COMPLAINT
Motion to Amend Complaint

PARTIES

1. Plaintiff, Candace Louise Curtis, is a citizen of the State of California.
2. Defendant Anita Brunsting resides in the county of Victoria; Defendant Amy Brunsting resides in the county of Comal; Defendant Carole Brunsting resides in the county of Harris; Defendant Bernard Mathews practices law as a partner in the firm of Green and Mathews LLP in the county of Harris, and is concurrently listed on the Vacek & Freed website as a staff attorney; Defendant(s)

Albert E. Vacek, Jr. and Candace L. Kunz-Freed conduct business as Vacek & Freed PLLC in the county of Harris.

3. Defendants Amy, Anita, and Carole Brunsting are the siblings of Plaintiff Curtis and, along with brother Carl Brunsting, co-successor beneficiaries under their Parents' trust and estate plans.

JURISDICTION AND VENUE

JURISDICTION

4. This matter was originally brought in equity as breach of fiduciary and related equitable claims that included a common law tort claim under diversity jurisdiction pursuant to 28 USC §1332 (a) (1) - 28 USC §1332 (b) and 28 USC §1332 (C) (2). Plaintiff hereby incorporates those claims by reference as if fully restated herein, but with newly discovered evidence presents additional and alternate claims. Additionally, Plaintiff is informed and believes Defendants are not de jure trustees.

5. This complaint now alleges violations of the wire, mail and securities laws of the United States as expressed in Chapter 63 of Title 18 of the United States Code, and Plaintiff is seeking to pursue additional remedies under 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act").

6. This court has federal question jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§1331 and 1367 and Section 27 of the Exchange Act¹ (15 U.S.C. §78aa) and exclusive jurisdiction over these claims, as this action arises under Section 10(b) of the Exchange Act (15 U.S.C. §§78j(b) and Rule 10b-5 promulgated thereunder (17 C.F.R. § 240.10b-5) and the causes of action implied therefrom.

7. In connection with the acts and omissions alleged in this complaint Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the internet, the mails, interstate telephone communications, and the facilities of the national securities markets.

VENUE

8. The acts complained of involve alleged administration of the family trust(s) established by Elmer and Nelva Brunsting of Houston Texas. The United States District Court for the Southern District of Texas, Houston Division, is therefore a proper venue under 28 USC §1391(a)(1).

¹ Securities Exchange Act of 1934, 15 U.S.C. §§78a-78kk (1982)

9. Venue is proper in this District pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. §1391(b) and (c), in that substantial acts in furtherance of the alleged fraud and/or its affects have occurred within this District.

NATURE OF ACTION

10. This action was brought as a diversity action alleging breach of fiduciary duty, extrinsic and constructive fraud, and intentional infliction of emotional distress, but Plaintiff now pleads additional and alternative causes.

HISTORY OF THE CASE

11. In 1996 Elmer Brunsting and his wife Nelva Brunsting created a living trust for their benefit and for the benefit of their 5 children. The stated co-successor beneficiary distribution was to be equal, 1/5 for each of the five Brunsting children: Candace, Carole, Carl, Amy, and Anita. The trust was also structured to preserve the Brunsting legacy for Elmer and Nelva's grandchildren.

12. Elmer and Nelva Brunsting restated their trust in 2005 and amended it for the first time in 2007. The 2007 amendment was the last known trust instrument signed by both Elmer and Nelva, and it changed references from Anita Riley to Anita Brunsting, and amended section IV replacing Amy Brunsting with Candace Curtis as co-successor trustee with Carl Brunsting.

13. Plaintiff Curtis' father Elmer H. Brunsting died April 1, 2009, at which time the family trust became irrevocable, pursuant to Article III.

14. On or about August 25, 2010 a number of documents were drawn up by the firm of Vacek & Freed, wherein changes to the trust were implemented without notice to Curtis. These alleged amendments disrupt the dispositive provisions of the irrevocable family trust and the irrevocable decedent's trust, which had been created from the family trust upon the death of Elmer Brunsting.

15. On October 23, 2010 Curtis received a number of trust documents in pdf format, attached to emails from Anita Brunsting. These had been requested by Plaintiff in anticipation of an upcoming conference call regarding changes to the trust.

16. On October 25, 2010 a teleconference was organized by Candace Kunz-Freed and Vacek & Freed employee, Summer Peoples². The call was held behind Nelva's back and it became apparent that the intent was to have Nelva declared incompetent, rather than to discuss changes to the trust. Co-trustee Carl Brunsting, the personal representative of both Elmer and Nelva's estates, was also not present and is believed to have been intentionally excluded from that teleconference. The

² Plaintiff's Exhibit 6 with original Affidavit.

purported changes to the trust had already been made two months prior to the conference call.

17. In December of 2011, in response to demands for accounting, Curtis received certified mail copies of the alleged same trust documents as the pdf documents received on October 23, 2010, along with other previously undisclosed documents dated December 21, 2010.³

18. On February 27, 2012, Curtis filed a pro se complaint in the United States District Court for the Southern District of Texas alleging the civil torts of breach of fiduciary, extrinsic and constructive fraud and intentional infliction of emotional distress alleging that defendants, Anita and Amy, acting as trustees for their Parents' trust, failed to notice her of actions adversely affecting her beneficial interests, refused to provide copies of non-protected trust instruments and refused to account for trust assets, or to report on any other acts of administration.

19. On March 8, 2012 Curtis' complaint was dismissed under the probate exception to federal diversity jurisdiction and Curtis promptly filed notice of appeal.

20. On March 9, 2012 Curtis brother Carl Brunsting filed a petition for depositions before suit in the Harris County District Court, case #2012-14538.

³ While this matter was pending appeal it was brought to Curtis' attention that signature pages for the alleged same copy of trust documents bear different signatures raising questions of authenticity.

21. On April 2, 2012 the Houston firm of Vacek and Freed filed the Will of Elmer Brunsting [#412248] and a purported Will for Nelva Brunsting [#412249] with the Harris County Probate Court.

22. On or about April 5, 2012 Plaintiff received a number of documents by email, addressed to herself, Carl's attorney Bobbie Bayless, and Carole Brunsting, from Defendants' counsel Bernard Mathews, in response to the state court filing by Carl Brunsting.

23. These documents were allegedly offered to satisfy accounting requirements under the Texas Property Code and included spreadsheet like pages labeled as Schedules A through J. These flat spreadsheet looking documents show an enormous number of asset transfers and include evidence of self-dealing and comingling of trust assets.

24. On August 15, 2012 Carl Brunsting filed an application to probate wills and issue letters testamentary into the Harris County Probate Court [#412248 & #412249] and on August 28, 2012 the Harris County Probate Court issued letters testamentary naming Carl Henry Brunsting independent executor.

25. On December 26, 2012 Maureen McCutcheon of Mills Shirley filed an appearance in the Probate court on behalf of Defendants Amy and Anita as trustees, but did not identify any particular trust.

26. On January 9, 2013 the Fifth Circuit Court of Appeals published their opinion Reversing and Remanding for further proceedings.

27. On January 29, 2013 Bobbie Bayless of the Houston based law firm of Bayless and Stokes filed a civil suit against Candace Kunz-Freed and the law firm of Vacek & Freed on behalf of Carl Brunsting as executor of the Brunsting Estate, alleging violations of the DTPA, Violations of the Texas Penal Code and other civil claims.

28. This matter was returned from the Fifth Circuit on January 30, 2013 for further proceedings. Plaintiff Curtis then reapplied for an injunction and the court set the matter for hearing on April 9, 2013, wherein a hearing was held and injunctive relief ordered.

29. After the April 9 hearing in the federal District Court an action was filed in the Harris County Probate Court [#412249401] naming Amy, Anita and Carole Brunsting as defendants and seeking injunctive relief over the trust in the custody of this Court.

DEFENDANTS

DEFENDANTS ANITA, AMY, AND CAROLE BRUNSTING

30. It is unclear and will have to be more specifically ascertained as to when each individual defendant involved themselves in the conspiracy, or to what extent

they are liable or culpable, but there is evidence of each of their involvement to varying degrees despite every effort to obfuscate and conceal their conduct.

31. The three Defendants Brunsting entered together into a conspiracy with the Defendant Lawyer/Notary Candace Kunz-Freed to defraud Nelva Brunsting, the Brunsting estate and the Brunsting family of trusts, in order to loot the trusts for their own unjust self-enrichment.

32. Defendants did secretly and fraudulently displace Nelva Brunsting from her proper standing as Trustee of the family trusts and did transfer assets to the benefit of one or more defendants and to the detriment and injury of Plaintiff, Nelva Brunsting, the Brunsting estate and the Brunsting family of trusts.

33. Defendants acted maliciously, intentionally, and with reckless indifference to the rights of Plaintiff, Nelva Brunsting, the Brunsting estate and the Brunsting family of trusts.

34. Defendants are individually and severally liable to Plaintiff, to Carl Brunsting, the Brunsting estate and to the Brunsting family of trusts, for real damages to the trust(s) plus \$1,000 per theft incident under the Texas Theft Liability Act at Title 6, Chapter 134 Civil Practice and Remedies Code. Further, Defendants are liable to Plaintiff for Exemplary Damages due to the malicious, indifferent and wholly uncivilized nature of their egregious acts.

DEFENDANT CAROLE BRUNSTING

35. Carole is alleged to have held a medical power of attorney for Nelva Brunsting and signature authority on an account labeled Carole/Mom which was apparently set up as a joint right of survivorship account. The account appears on the schedules released in April 2012 and may have been used to pay the personal obligations of Carole Brunsting.

36. The full extent of Carole's involvement is still under investigation but she is none-the-less named herein as a joint tortfeasor based upon evidence of her participation at various stages.

DEFENDANT CANDACE KUNZ-FREED

37. Defendant Candace Kunz-Freed is an attorney with the Vacek Law firm and a partner in Vacek & Freed PLLC. Defendant Candace Kunz-Freed is also a public official in that she is a Texas Notary Public.

38. Plaintiff is informed and believes Candace Kunz-Freed assisted Defendants Brunsting in rupturing the Brunsting family of trusts by creating documents improperly disrupting the dispositive provisions of Elmer and Nelva's estate plan.

39. Defendant Candace Kunz-Freed provided substantial assistance in such conspiracy resulting in the transfer of assets for the benefit of one or more Defendants to the injury of Plaintiff, and did do so knowingly, willfully and with

reckless indifference to the rights of Plaintiff and did receive compensation for her participation in said conspiracy.

40. Defendant Candace Kunz-Freed cultivated conflicting interests and when she did she left the law. When she left the law her public office and her license to practice law did not follow her. Candace Kunz-Freed did not simply assist the fraud, she enabled it, as without her involvement the injuries complained of would not have occurred.

DEFENDANT ALBERT R. VACEK, JR

41. Defendant Albert Vacek Jr. is an attorney with and the presumed owner of the Vacek Law firm, and a partner in Vacek & Freed PLLC.

42. Albert Vacek Jr., conducting business as Vacek & Freed PLLC and the Vacek Law Firm, advertises and sells estate planning products and services. Vacek warrants the merchantability of his products as protecting clients' assets from outsiders who might "want to take them"⁴ and as protection for families and beneficiaries from predators "who want to take their inheritance away from them, to shield families and heirs from creditors, con artists, death and estate taxes, lawsuits, probate, divorce and other threats to maintaining and passing personal wealth.

⁴ http://www.vacek.com/files/3-21__3-23_embassy.pdf

43. Albert Vacek Jr. places a copyright notice on his trust instruments thereby claiming full rights and responsibilities in warranting his products' merchantability and fitness.

44. Albert Vacek Jr. actively markets his products and services through seminars. Elmer and Nelva Brunsting were consumers⁵ and Albert Vacek Jr., Vacek & Freed PLLC, and the Vacek Law Firm are vendors of products and services.

45. Elmer and Nelva Brunsting, in reliance upon Vacek's seminar assurances, "spiced with interesting examples and anecdotes"⁶, purchased the Vacek & Freed estate, asset, and beneficiary protecting products that included a family trust and other estate planning instruments.

DEFENDANTS VACEK & FREED PLLC AND THE VACEK LAW FIRM

46. Vacek & Freed, PLLC, the Vacek Law Firm, and Albert Vacek Jr. are liable under the doctrine of Respondeat Superior.

DEFENDANT BERNARD LILSE MATHEWS III

47. Defendant Bernard Lilse Mathews III provided substantial assistance in such conspiracy, by seeking to improperly influence the Court by misstating both law

⁵ As this term is defined by the applicable statutes and just plain common sense.

⁶ Quote taken from Vacek Seminar advertisement on web site. Vacek.com

and fact, resulting in improper dismissal and nearly a full year delay, during which time additional injurious actions were taken by Defendants for their own unjust self-enrichment, to the harm of Plaintiff. It has come to Plaintiff's attention that Mr. Mathews is listed as a staff attorney on the Vacek & Freed letterhead and website, despite the fact that he enters this matter under the letterhead of Green and Mathews. Further, Mr. Mathews knew or should have known that he was substantially assisting the conspiracy involving Defendants Brunsting and the firm of Vacek & Freed PLLC, when he misstated the law after having filed an identical lawsuit on behalf of the plaintiff, in the Harris County District Court. The trust documents in both cases were drawn up by Vacek & Freed PLLC. Whether or not Mr. Mathews' conduct can be considered a predicate act will be determined through discovery or established at trial.

ACTS OF AGENTS

48. When it is alleged that defendants did any act, it is meant that defendants performed or participated in the act, or defendants' officers, agents or employees performed or participated in the act on behalf of, in concert with, and/or under the authority of, defendants.

49. Plaintiff is informed and believes Defendants are either liable as principals or did substantially assist fraud, fraudulent misrepresentation, misapplication of

fiduciary, breach of fiduciary, theft, conversion, extortion, falsification of legal documents (forgery), fraudulent concealment, undue influence, elder abuse, identity theft, tortious interference with beneficial interests, tortious interference with expectancy, tortious interference with fiduciary obligations, unjust self-enrichment, misfeasance of a public officer, malfeasance of a public officer, aiding and abetting the misfeasance and malfeasance of a public officer, wire, mail, and securities fraud with full scienter, and did conspire to accomplish such acts and/or did substantially aid the commission of such acts or are liable for such acts by the application of doctrines of Respondeat Superior, under the common law doctrines of Aiding and Abetting, and pursuant to state and federal statute including but not limited to: the Texas Deceptive Trade Practices Act (DTPA) and Title 15 U.S.C. §52 - Dissemination of false advertisements and 15 USC § 45 - Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce,⁷

CAUSES OF ACTION AND CLAIMS

CONSPIRACY AND FRAUD

Plaintiff is informed and believes:

⁷ Not presently alleged or plead herein, but potentially falling under Title 18 sections 1961-1968.

50. Defendants conspired to rupture the Irrevocable Brunsting Family Trust and in fact ruptured, looted, and despoiled that trust.

51. Defendants conspired to rupture the Irrevocable Elmer H. Brunsting Decedent's Trust and, in fact, did rupture, loot and despoil that trust.

52. Defendants conspired to rupture the revocable Nelva E. Brunsting Survivor's Trust and, in fact, did rupture, loot, and despoil that trust.

53. Defendants conspired to rupture the Brunsting Family of trusts for their own benefit and to the injury of Plaintiff and by such conspiracy did wrongfully effect the electronic transfer of assets, including cash, and securities traded under the laws of the United States, for their own use and benefit and to the injury of Plaintiff.

54. Defendants either participated directly as principals in the conspiracy or provided substantial assistance to such conspiracy, resulting in the transfer of assets for the benefit of one or more Defendants and to the injury of Plaintiff, and did so participate knowingly, willfully, maliciously and with reckless indifference to the rights of Plaintiff.

55. Plaintiff is informed and believes that Defendants, acting individually and in concert, conspired to wrongfully remove Nelva Brunsting from her lawful and proper position as sole trustee for the Brunsting Family of trusts and to insert Anita and Amy in her stead. In order to accomplish their scheme, documents were drawn

up by employees of Vacek & Freed PLLC that removed Nelva as trustee and disrupted the dispositive provisions of Elmer and Nelva Brunsting's estate plan. Neither Nelva Brunsting, nor successor co-trustees Carl or Candace, were noticed of the actions of Defendants.

56. Securities in the form of Exxon stocks were transferred out of the name of the Brunsting family trust, with Nelva Brunsting as trustee, into accounts held in the name of Anita Brunsting as trustee for the Decedent's and Survivor's trusts. Assets were then distributed amongst Amy, Anita, Carole, and Candace in uneven proportions, and there is no evidence of any distribution to brother Carl Brunsting. These asset transfers and distributions were not noticed to, and no detailed information regarding those acts was ever conveyed to Plaintiff.

57. Curtis' attempts to obtain information from Defendants Brunsting have been met with silence, and silence can only be equated with fraud where there is a duty to speak.

CONSTRUCTIVE FRAUD AND FRAUDULENT CONCEALMENT

58. Until April 9, 2013, with only the two exceptions noted in Plaintiff's renewed application for injunction, Defendants Brunsting have been absolutely silent in all matters regarding trust property and administration.

59. Defendants Anita and Amy are co-beneficiaries and also claim to be trustees, meaning they are conflicted, and they failed to notice co-beneficiary Curtis of actions allegedly changing her standing by removing her as successor co-trustee and appointing Defendants in her stead.

60. Defendants papers claim Curtis' beneficial and other interest in the Irrevocable Brunsting Family Living Trust, the Elmer H. Brunsting Irrevocable Decedent's Trust, and the Nelva E. Brunsting Survivor's Trust have been diminished, but failed to inform Curtis of those alleged changes prior to their implementation.

61. Plaintiff did not receive advance notice of alleged actions diminishing her beneficial interest or obligations as Defendants concealed those actions, and due to conflicts of interest have committed constructive fraud rendering those instruments void.

62. Plaintiff did not receive advance notice and did not grant approval for self-dealing asset transfers, as Defendants concealed those actions.

63. Defendants acted to diminish Plaintiff's rights without notice and concealed those actions from Curtis. The acts of constructive fraud benefited one or more Defendants to the injury of Plaintiff, and Defendants participated in the fraud knowingly, willfully, maliciously, and with reckless indifference to the rights of Plaintiff.

64. The Constructive Fraud Doctrine requires Defendants to show proof that Plaintiff received advance notice of those alleged actions. In the absence of notice Defendants are liable for constructive fraud and the vitiating instruments are void ab initio, and fall as a matter of right.

ELDER ABUSE, UNDUE INFLUENCE, FALSE INSTRUMENTS

Plaintiff is informed and believes:

65. Nelva Brunsting was diagnosed with cancer in October of 2009. She was in her eighth decade and thus of advanced age.

66. Defendants Amy, Anita, and Carole Brunsting are the issue of Elmer and Nelva Brunsting and, as such, owed the most basic of fiduciary duties to Elmer and Nelva Brunsting.

67. Defendants Brunsting exploited their confidential relationship with Nelva and her frail, weak and deteriorating physical condition, to exercise dominion and control over Nelva, her estate and the family trusts, improperly seizing control and secretly transferring assets to themselves.

68. By virtue of the confidential relationship and the Defendants' dominance over Nelva Brunsting, Defendants conspired with trust lawyer Candace Kunz-Freed to create documents which were not the intent or desire of Elmer or Nelva and were designed solely for the benefit of the Defendants.

69. These documents, in the form in which they were received, appear to contain digital images where there should be a copy of an actual signature, leading Plaintiff to question the authenticity and validity of certain critical documents affecting her interests.

70. When Nelva was informed of Defendants' acts she contacted Freed to correct the situation. Defendants subsequently made arrangements to have the competency of a very lucid Nelva Brunsting examined, but no declaration of incompetence was forthcoming from her doctors.

71. Defendants Brunsting used their falsified instruments to improperly seize control of the family trusts and to transfer assets to themselves. The bulk of the assets Defendants Brunsting improperly liquidated and/or transferred to themselves were securities traded under the laws of the United States, and the circumstances surrounding the mechanics of certain asset transfers makes Defendants' knowledge of the impropriety of their acts evident and, therefore, conclusive of scienter.

72. The bulk of the assets Defendants Brunsting improperly liquidated for their own benefit and/or transferred to themselves without Nelva's knowing consent, were securities traded under the laws of the United States. The transactions were mostly effected electronically.

BREACH OF FIDUCIARY DUTY

73. Plaintiff and Defendants Brunsting are siblings. Plaintiff was designated successor co-trustee with her brother Carl in the last valid amendment to the Family Trust, when both Elmer and Nelva Brunsting replaced Amy Brunsting with Candace Curtis in the list of successor trustees.

74. Defendants' true standing is in question, but Defendant Amy Brunsting filed a declaration into this Court claiming that she and her sister Anita are co-trustees for the Brunsting family of trusts.

75. Defendants Amy and Anita Brunsting have exercised the powers of trustees, whether de jure or de facto, and have assumed the obligations of trustees in addition to the fiduciary obligations of the sibling relationship.

76. Defendants Amy and Anita Brunsting owe fiduciary duties to Plaintiff under the law of the Trusts, whether trustees de jure or de facto.

77. Defendants Amy and Anita Brunsting owe fiduciary duties to Plaintiff under the common law as applicable to trusts in general, whether trustees de jure or de facto.

78. Defendants Amy and Anita Brunsting owe fiduciary duties to Plaintiff under the Texas property statutes, whether trustees de jure or de facto.

79. Defendants Amy and Anita Brunsting breached their fiduciary duties to Plaintiff and said breaches proximately caused injury to the Plaintiff and/or benefited one or more Defendants.

Breach of Duties of Loyalty

80. The obligations a trustee owes to a beneficiary are first defined by the trust instrument itself, second are the obligations prescribed by statute and third but not least are the obligations defined by the common law, as exemplified in treatise and case law decisions. Each act or omission resulting in a breach of fiduciary often violates more than one duty trustees owed to Plaintiff.

81. Every act or omission complained of herein violates a particularized duty owed to Plaintiff and is also a breach of the duty of loyalty, the duty of good faith and fair play, and the duty to avoid conflicts of interest, in addition to the specific acts complained of herein.

Breach of Duty to Inform and to Notice

82. See Constructive Fraud and Fraudulent Concealment – paragraphs 58-64.

Breach of Duty to Account

83. Defendants failed to account biannually as required by the trust.

84. Defendants failed to account after a written request, as required by statute, and failed to account annually, as required by statute.

85. Defendants failed to provide a full, true, complete and accurate accounting as required by the terms of the trust and the common law, and failed to meet the minimum requirements as defined by statute.

Breach of Duty to Keep and Maintain Accurate Books and Records

86. Defendants failed to establish, keep or maintain accurate books and records as required by the trust, common law and statute, and thus cannot account easily, if at all.

Breach of Duty of Impartiality

87. Defendants self-dealt and comingled assets to the exclusion of other beneficiaries without notice and consent.

Breach of Duty to Administer the Trust in the Best Interest of Beneficiaries

88. There is no evidence that Defendants considered the wellbeing or needs of the Plaintiff in any way whatsoever and substantial evidence that Defendants Brunsting placed their own personal interests above those of Nelva Brunsting.

AIDING AND ABETTING BREACH OF FIDUCIARY

Plaintiff is informed and believes:

89. Defendant Candace Kunz-Freed substantially assisted Defendants Brunsting in facilitating the improper seizure of control over the family trusts and the improper transfer of assets to Defendants.

90. Defendant Candace Kunz-Freed knowingly participated with Defendants in breaching fiduciary duties and the misapplication of fiduciary, and is thus liable as a principal, for substantially aiding and abetting the improper acts.

91. Without the substantial assistance of Candace Kunz-Freed, the damages complained of herein would not have been suffered.

TORTIOUS INTERFERENCE WITH FIDUCIARY OBLIGATIONS

92. Carl Brunsting fell ill from encephalitis and Curtis lives in California. Defendants used that opportunity to improperly seize control of Nelva Brunsting, The Brunsting Estate and the Brunsting family of trusts.

93. Defendants used falsified instruments to imposter themselves as trustees and to improperly seize control of Nelva Brunsting, the Brunsting Estate and the Brunsting family of trusts, thus tortiously interfering with Plaintiff Curtis' fiduciary obligations as a named successor co-trustee for the Brunsting family of trusts.

10(b) 10(b)-5.3 SECURITIES EXCHANGE ACT OF 1934

94. Defendants conspired to create deceptive instruments and those instruments were used to improperly effect the transfer of publicly traded securities in

contravention of the securities laws of the United States. Plaintiff suffered loss by these acts and is thus entitled to recovery under the implied causes of action pursuant to 10(b) and 10(b)-5 of the Securities Exchange Act of 1934 (15 USC 78(j) and the right of claims implied therefrom (17 C.F.R. § 240.10b-5).

95. Further, Anita Brunsting is believed to have made false statements of qualification and eligibility to engage in securities transactions, and that she knowingly forged and participated in the forgery of the signatures of others to improperly buy, sell and effect the transfer of publicly traded securities.

96. Anita Brunsting performed these acts with complete scienter.

VIOLATION OF TEXAS PENAL CODE §32.45 (B) & (C)(7)

MISAPPLICATION OF FIDUCIARY IN EXCESS OF \$200,000.00

97. An offense under this section is not merely a civil tort but a felony in the second degree if the value of property is \$100,000.00 or more but less than \$200,000.00, and a felony in the first degree if the value of property is more than \$200,000.00.

98. Defendants violated this Texas penal statute by misapplying fiduciary property to their own benefit when that property was owned by various trusts and was held for the benefit of Nelva Brunsting and her estate.

99. Plaintiff, as a named successor co-trustee and co-successor beneficiary, suffered damages proximately caused by Defendants' violation of these penal statutes while Defendants profited from these acts and are thus liable to Plaintiff for a variety of damages including but not limited to the Texas Theft Liability Act.

UNJUST SELF ENRICHMENT, TORTIOUS INTERFERENCE WITH BENEFICIAL INTERESTS, TORTIOUS INTERFERENCE WITH EXPECTANCY

100. Defendants unjustly enriched themselves ultimately injuring Plaintiff's expected enjoyment of beneficial interests. Defendants acted intentionally, maliciously and for their own benefit without regard for the rights of Plaintiff or the fiduciary obligations they volunteered to owe Plaintiff.

TORTIOUS INTERFERENCE WITH FIDUCIARY OBLIGATIONS

101. Defendants Brunsting entered into a conspiracy with Candace Freed to improperly seize control of the Brunsting family of trusts and in pursuit thereof did falsify instruments claiming to appoint themselves as trustees and did thereby seize control of the family of trusts, tortiously interfering with Plaintiff's fiduciary obligations as a de jure successor trustee. Defendants all had conflicts of interest and chose to serve themselves to the exclusion of those for whom they owed fiduciary obligations and such conduct is the proximate cause of Plaintiff's injuries both directly and indirectly.

TRESPASS DE BONIS, REPLEVIN AND TROVER

102. Amy and Anita entered into a conspiracy with Candace Freed to falsify documents and did use those documents to trespass upon the office of trustee thereby exercising wrongful control over assets belonging to Nelva Brunsting and the Brunsting family of trusts and did self-deal and also comingle trust assets with their own so as to be in some instances inseparable.

103. Defendants Brunsting's trespasses were the proximate cause of the injuries complained of and the burden is upon Defendants to separate comingled trust property from their own, as Plaintiff is entitled to recovery and repatriation of all comingled assets with awards of damages. Plaintiff is entitled to recovery under all three theories of trespasses above stated and also under the theory of conversion.

CONVERSION

104. Defendants by way of conversion have retained money and personal property of Nelva Brunsting, the Brunsting Estate and the Brunsting Family of Trusts and have exercised dominion and control over such property as their own to the exclusion of the rightful owners.

105. On numerous occasions Defendants converted to Defendants' personal use property owned by the Brunsting family of trusts including the Family trust, the

Elmer H. Brunsting Irrevocable Decedent's Trust, the Nelva E. Brunsting Survivor's Trust.

106. The property consists of real estate, cash, and various stocks, including Exxon and Chevron, and other securities traded through Edward Jones.

107. The property is worth in excess of \$300,000.00 Therefore, the Plaintiff demands judgment against the Defendants for repayment of actual value, plus estimated lost income, plus interest, plus costs, plus \$1,000.00 per incident under the Texas Theft Liability Act.

108. Plaintiff is informed and believes Carole Brunsting engaged and participated in various acts of conversion and was involved in the conspiracy.

DECEPTIVE CLAIMS AND FALSE ADVERTISEMENTS,

109. Albert Vacek Jr., Candace L. Kunz-Freed, Vacek & Freed, PLLC, and The Vacek Law Firm are liable to Plaintiff under the Texas Deceptive Trade Practices Act and Title 15 U.S.C. §52 - Dissemination of false advertisements and 15 USC § 45 - Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce.

110. Albert Vacek Jr., the Vacek Law Firm and Vacek & Freed, PLLC (Vacek), has placed a copyright on the form and content of the trust instruments sold to Elmer and Nelva. Vacek products are advertised as trust and estate management and asset protection vehicles. Through his web site and through seminars Vacek

tells prospective clients of the advantages of purchasing the firms products and services.

111. Vacek sells “peace of mind” with a myriad of assurances. The firm sold “peace of mind” to Elmer and Nelva Brunsting while actively cultivating conflicting associations and undertaking activities in direct conflict of interest with the fiduciary obligations owed and assurances of merchantability made to Elmer and Nelva Brunsting.

112. Vacek advertises its products and services as estate planning instruments and managerial services, facilitating avoidance of litigation, avoidance of excess taxes and the legitimate avoidance of the costs and delay associated with probate proceedings. As can be seen in the Harris County Probate Court, various Harris County District Court actions, in Candace Curtis' federal suit, and as exemplified by the very structure and form of the instruments themselves, it is clear that Vacek's design is either intentionally flawed and intended to foster and assure trust and estate looting and litigation, or so carelessly and negligently designed as to guarantee it.

113. Candace Kunz-Freed actively participated with Amy and Anita Brunsting in falsifying documents improperly removing control of the Brunsting trusts from Nelva Brunsting, the true and rightful trustee, and facilitating the improper transfer

of control away from Nelva Brunsting and facilitating the transfer of assets to imposter trustees Amy and Anita Brunsting, and others.

114. Elmer and Nelva Brunsting were consumers and Vacek & Freed were manufacturers, retailers and vendors under the above state and federal statutes and under the Uniform Commercial Code. The five Brunsting heirs were amongst the class of intended beneficiaries of the Vacek & Freed estate planning products as stated therein and, passing their wealth and legacy was the secondary purpose for which the Vacek products were purchased by Elmer and Nelva Brunsting.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and relief as follows:

115. Plaintiff demands a show of proof and seeks an order from this honorable Court directing Defendants, individually and severally, to produce and certify before this Court the alleged original documents signed by Nelva Brunsting on August 25, 2010 and December 21, 2010 along with the other original trust documents in the proposed order attached.

116. Plaintiff prays the Court grant declaratory and injunctive relief as appropriate.

117. Plaintiff prays the Court award compensatory damages in favor of Plaintiff against Defendant(s) for the actual damages sustained as a result of the wrongful

conduct alleged, in an amount to be determined, as established through discovery or at trial, together with interest thereon, from each Defendant for each offense found, and

118. Plaintiff prays for an amount in total damages for all claims and all theories of recovery including multiples from Defendants in an aggregate amount greater than \$5,000,000.00 (Five Million Dollars), or such damages as are fair and reasonable, against each Defendant in personam and against each Defendant in proportion to his or her adjudged measure of the liability as determined by this Court, or by jury as the case may be.

119. Plaintiff prays this Court award legal fees and costs to Plaintiff.

Plaintiff prays for such other and further relief as the Court may deem equitable and proper.

DECLARATORY JUDGEMENT

120. Plaintiff herein alleges that that she is informed and believes sufficient evidentiary basis exists for questioning the validity of trust amending instruments created after the death of Elmer Brunsting April 1, 2009. Plaintiff herein joins in and approves the request of Probate Court appointed Executor Carl Brunsting in his Probate Court Petition seeking declaratory relief from Defendants Brunsting.

CONSTRUCTIVE TRUST

121. Plaintiff herein joins the request of Carl Brunsting in his Probate Court Petition in seeking the imposition of a constructive trust over the assets to which Plaintiff is entitled, including all property improperly transferred by Anita and Amy, including, but not limited to, the property received by Anita, Amy, Carole, and their insiders or other entities, as well as the profits Defendants received as a result of the transfer of those assets. Plaintiff also seeks the imposition of a constructive trust over the assets of Anita, Amy, and Carole's trusts to the extent needed to reverse the improper transfers.

DISGORGEMENT OF FEES

122. Plaintiff requests that all compensation paid to the alleged trustees be disgorged and that triple the attorney's fees paid by the trust to Vacek & Freed PLLC be disgorged and returned to the trusts because of the reduced value of the services provided.

COMPENSATORY AND OTHER DAMAGES

123. Defendants in this case have fraudulently concealed their activities from Plaintiff and the damages are thus impossible to predict in advance of Defendants' full, true, and complete disclosure and accounting or, in the alternative, a detailed forensic investigation.

124. Plaintiff is entitled to treble damages under the Texas Deceptive Trade Practices Act and is entitled to recovery of costs, and therefore prays for such damages as are fair and reasonable in light of all the facts as revealed through discovery or shown at trial.

EXEMPLARY DAMAGES

125. Plaintiff herein claims exemplary damages are justified by fraud, malice and/or gross negligence and prays for an award of such damages as are fair and reasonable⁸.

PUNITIVE DAMAGES

126. Plaintiff cannot ascertain the damages thus concealed and therefore prays for such damages as are fair and reasonable in regards to all remedies.

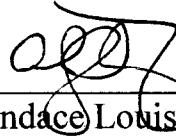
127. Plaintiff prays for fees and costs in addition to all claims for damages.

Plaintiff's attached Addendum to Affidavit is hereby incorporated herein as if fully restated.

⁸ TEXAS CIVIL PRACTICE AND REMEDIES CODE § 41.003

April 29, 2013

Respectfully submitted,



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

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

MAY - 1 2013

David J. Bradley, Clerk of Court

CANDACE LOUISE CURTIS
Plaintiff,

§
§
§
§
§
§

v

CIVIL ACTION NO. 4:12-cv-00592
Jury

ANITA KAY BRUNSTING, et al.
Defendants.

APPLICATION FOR JOINDER OF PARTIES AND ACTIONS
DEMAND FOR SHOW OF PROOF OF STANDING

PARTIES

1. Plaintiff, Candace Louise Curtis, is a citizen of the State of California.
2. Defendant Anita Brunsting resides in the county of Victoria. Defendant Amy Brunsting resides in the county of Comal. Parties to be joined either reside or conduct business in the county of Harris.

NATURE OF ACTION

3. This action was brought as a diversity action alleging breach of fiduciary duty, extrinsic and constructive fraud, and intentional infliction of emotional distress, against Defendants who claim to be trustees of the family trusts. The action now appears to include violations of state and federal criminal statutes that consist of the improper transfer of securities traded under the securities laws of the United States.

JURISDICTION

4. This matter was originally brought in equity, as breach of fiduciary and related equitable claims, and included a common law tort claim under diversity jurisdiction pursuant to 28 USC §1332 (a) (1) - 28 USC §1332 (b) and 28 USC §1332 (C) (2).

5. Plaintiff is now informed and believes this Court has federal question jurisdiction over the subject matter of this equity action pursuant to 28 U.S.C. §§1331 and 1367 and 27 of the Exchange Act¹ (15 U.S.C. §78aa), and that this Court has exclusive jurisdiction over these claims, as there now appears to be cause for claims arising under Section 10(b) of the Exchange Act of 1934 (15 U.S.C. §§78j(b)) and Rule 10b-5 promulgated thereunder (17 C.F.R. § 240.10b-5), and the right of claims implied therefrom, as hereinafter more fully appears.

6. In connection with the newly discovered acts and omissions alleged in this Application for Joinder, Plaintiff is informed and believes Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the internet, the mails, interstate telephone communications, and the facilities of the national securities markets to improperly transfer securities traded under the laws of the United States.

¹ Securities Exchange Act of 1934, 15 U.S.C. §§78a-78kk (1982)

VENUE

7. Venue is proper in this District pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. §1391(b) and (c). Substantial acts in furtherance of the alleged fraud and/or its effects have occurred within this District.

8. The acts complained of involve alleged administration of the family trust(s) established by Elmer and Nelva Brunsting of Houston, Texas. The United States District Court for the Southern District of Texas Houston Division is, therefore, a proper venue under 28 USC §1391(a)(1).

HISTORY OF THE CASE - OVERLAPPING STATE ACTIONS

9. This action involves a dispute over changes made to a family trust and damages resulting therefrom.

10. On February 27, 2012, Plaintiff Curtis filed a pro se complaint in the United States District Court for the Southern District of Texas, seeking an accounting and alleging the civil torts of breach of fiduciary, extrinsic and constructive fraud and intentional infliction of emotional distress in that Defendants, her siblings Anita and Amy Brunsting, acting as trustees for their parents' trust, failed to notice her of actions adversely affecting her beneficial interests, refused to provide copies of non-protected trust instruments, refused to account for trust assets or to report any other activities related to the family trusts. The case was dismissed March 8, 2012 and Curtis filed an appeal.

11. On January 9, 2013 the Fifth Circuit Court of Appeals published their opinion Reversing and Remanding to this Court for further proceedings.
12. On January 29, 2013 Bobbie Bayless, of the Houston based law firm of Bayless and Stokes, filed a civil suit in the Harris County District Court #2012-05455, against Candace Kunz-Freed and the law firm of Vacek & Freed, on behalf of Carl Brunsting as executor of the Brunsting Estate alleging violations of the DTPA, Violations of the Texas Penal Code, and other civil claims.
13. This matter was returned from the Fifth Circuit on January 30, 2013 for further proceedings. Plaintiff Curtis then reapplied for an injunction and the court set the matter for hearing on April 9, 2013, wherein a hearing was held and injunctive relief ordered.
14. After the hearing in the federal District Court an action was filed in the Harris County Probate Court #412249 naming Amy, Anita and Carole Brunsting as defendants and seeking injunctive relief over the trust in the custody of this Court.

PENDENT JURISDICTION

15. The Supreme Court shaped the contours of the modern pendent jurisdiction doctrine in United Mine Workers v. Gibbs². The Court held that when a federal court has subject matter jurisdiction over a substantial federal claim, it has the

² United Mine Workers v. Gibbs 383 U.S. 715 (1966). The Court expanded the "unnecessarily grudging" approach to pendent jurisdiction set forth in Hurn v. Oursler, 289 U.S. 238 (1933), 383 U.S. at 725. In Hurn, the Court held that a federal court had power to hear the entire case only when federal and state claims were "in support of a single cause of action." 289 U.S. at 246.

discretionary power to adjudicate state law claims arising out of “a common nucleus of operative facts”.³ This federal court thus has jurisdiction over the subject matter of the state court proceedings, as this federal claim and the state law claims derive from the same operative set of facts.

EXCLUSIVE FEDERAL JURISDICTION

16. Courts have long assumed the existence of exclusive federal jurisdiction over private actions implied from section 10(b) of the Securities Exchange Act of 1934⁴ and rule 10(b)-5.3

1. Section 10(b) [15 U.S.C. §78j(b)] provides:

It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange-

(b) To use or employ, in connection with the purchase or sale of any security registered on a national securities exchange or any security not so registered, any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors. 15 U.S.C. §78j(b)(1982) [hereinafter 10(b)].

2. Securities Exchange Act of 1934, 15 U.S.C. §§ 78a-78kk (1982) [hereinafter 1934 Act].

3. Rule 10b-5, promulgated by the Securities and Exchange Commission ("SEC") in 1942, provides: It shall be unlawful for any

³ 383 U.S. at 725, 726.

⁴ Securities Exchange Act of 1934, 15 U.S.C. §§78a-78kk (1982)

person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange,

(a) To employ any device, scheme, or artifice to defraud,

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

Whether a court has supplemental jurisdiction is determined by the following test: "a federal court has jurisdiction over an entire action, including state-law claims, wherever the federal-law and state law claims in the case 'derive from a common nucleus of operative fact' and are 'such that [a plaintiff] would ordinarily be expected to try them all in one judicial proceeding.'" ***Once the court has determined supplemental jurisdiction is proper under subsection (a) or (b), subsection (c) provides the list of circumstances under which the court can decline to exercise such supplemental jurisdiction:

(c) The district court may decline to exercise supplemental jurisdiction over a claim under subsection (a) if—

- (1) the claim raises a novel or complex issue of State law,
- (2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction;
- (3) the district court has dismissed all claims over which it has original jurisdiction, or
- (4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction.

SUPPLEMENTAL JURISDICTION

17. Section 27 as currently codified provides:

The district courts of the United States, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have exclusive jurisdiction of violations of this chapter or the rules and regulations thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created **by** this chapter or the rules and regulations thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created **by** this chapter or the rules and regulations thereunder, or to enjoin any violation of such chapter or rules and regulations, may be brought in any such district or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 1254, 1291 and 1292 of title 28. No costs shall be assessed for or against the Commission in any proceeding under this chapter brought by or against it in the Supreme Court or such other courts.

DEMAND FOR SHOW OF PROOF OF STANDING

18. Plaintiff Curtis is informed and believes that Nelva Brunsting signed neither the documents dated August 25, 2010, nor the documents dated December 21, 2010.

19. The alleged copies of trust documents received from Defendant Anita Brunsting October 23, 2010, and some of the hard copies of the alleged same documents received on or about December of 2011, bear distinctly different

signatures⁵. Curtis is informed and believes that some pertinent documents have been digitally altered and that they are not photo copies of the original, wet signed documents, nor do they bear valid digital signature stamps.

20. Federal Rules of Evidence 1002 requires production of the original documents, and because of a genuine question as to the authenticity of the alleged copies, Rule 1003, providing for the admissibility of duplicates, does not apply.

21. If Defendants cannot produce valid documents actually signed by Nelva Brunsting, demonstrating they have standing before this equitable Court as de jure trustees, then it must be presumed that they are not.

22. Candace Kunz-Freed is believed to have drawn up documents dated August 25, 2010 and December 21, 2010, that Defendants are using to claim to be trustees, and Freed is also the notary public that verified the alleged signatures of Nelva Brunsting on those instruments.

PRAYER FOR RELIEF

JOINDER

23. FRCP Rule 19 requires the joinder of necessary parties and Rule 20 allows joinder of parties.

⁵ See attached page 37 from the Qualified Beneficiary Designation and page 14-6 from the 2005 Restatement.

WHEREFORE, Plaintiff prays this honorable Court take judicial notice of state court proceedings filed subsequent to this federal complaint, as explained herein, and exercise its Supplemental Jurisdiction⁶ over the state court actions and remove those actions to this Court as (1) those actions are founded upon the same set of operative facts involving the same nucleus of persons (2) there is no concurrent state court jurisdiction over 10(b)-5 actions and, thus, this Court has exclusive jurisdiction over such claims and (3) without joinder separate courts issuing findings of facts and conclusions of law upon the same set of operative facts may produce contradictory and confusing results and (4) in consideration of res judicata, collateral estoppel, economy of the courts and uniformity of decision.

24. Plaintiff requests this Court order state court actions be joined before this Court, that state court plaintiff Carl Brunsting is joined in this Court as a co-plaintiff and that state court defendants be joined in this action as co-defendants for all claims, findings of facts and conclusions of law.

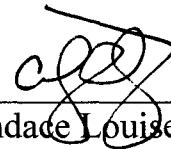
25. That the Securities Exchange Act violations alleged upon information and belief and the right of private claims implied therefrom be incorporated into the complaint before this Court.

⁶ 28 USC 1367, The language of 1367(a) gives court's jurisdiction over joinder of parties when joinder is not within 1332.

26. That Defendants be ordered to produce before this court the wet signed original documents dated August 25, 2010 and December 21, 2010 alleged to have been signed by Nelva Brunsting.

27. Plaintiff so moves this court.

Respectfully submitted, April 29, 2013



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

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

MAY - 1 2013

David J. Bradley, Clerk of Court

Candace Louise Curtis §
Individually and as Co-Trustee §
Plaintiff, §
versus §
Anita Kay Brunsting, et al. §
Defendants. §

CIVIL ACTION NO. 4:12-cv-00592
Jury

**PLAINTIFF'S VERIFIED AFFIDAVIT IN SUPPORT OF AMENDED
COMPLAINT AND IN SUPPORT OF APPLICATION FOR JOINDER**

This is an Addendum to my initial Affidavit and is to be considered as a continuation and not a replacement.

In my original Affidavit and Complaint I stated that all of the information in this case was uniquely in the possession of the Defendants, who had assumed the office of co-trustees. I also stated that there was no legitimate reason why my sisters would refuse to answer, account or even speak about the family trusts, either before or after the death of our Mother on November 11, 2011. They repeatedly insisted that I not discuss the trust with our brother Carl, who I believe is a proper successor co-trustee based upon the last instrument actually signed by both of our Parents.

After my request for information I received no current meaningful information and was forced to file suit on February 27, 2012 in order to compel answer and accounting. There was nothing else I could do to protect my beneficial interests. The action was dismissed in March 2012 and in April 2012 I received the first shocking evidence of impropriety and the reasons for all of the secrecy

became dreadfully apparent. They were stealing the family inheritance while our Mother was weakening and dying of cancer.

The Brunsting family trust assets lost value of more than half a million dollars in the last 15 months of our Mother's life, not including the lost income and dividends, or the tax liabilities created.

Primary amongst all of the ridiculous excuses for the Brunsting Defendants' self-dealing, comingling, and outright theft, was "that was a gift" from Mother. Anita had the audacity to claim that over \$40,000.00 in what appear to be her own personal credit card obligations, paid via electronic funds transfer directly from Mother's trust bank account, was justified by an imaginary compensation agreement she had with Mother for 2% of the value of the trust. The problems with that excuse are that none of them bothered to tell Carl or I before the fact, and because they are in a position of conflicting interests. Their failure to notice that they were accepting or taking anything unequally is the determining factor under which their conduct is judged.

In a March 2011 email from Anita¹ she says,

"I spoke w/ mom about the whole situation; she listens to reason and can understand our concerns for Carl, and will sign the changes to the trust next week. I have been very forthright in explaining the changes in the trust to her... I reminded her that she isn't trustee anymore and doesn't have access to the trust accounts - she seems fine w/ everything, and expressed no desire to put Carl back on as a trustee. I told her that in the event she did that, that it would not be fair to the rest of us, as we would end up having to deal w/ Drina, not Carl."

¹ Plaintiff Exhibit 9 USCA5 p51

If Mother was no longer trustee and no longer had access to the trust, how did she gift anything from the trust? If Mother had instructed Vacek & Freed to make changes to the trust, why would Anita have to explain the changes to her?

Amy, Anita and Carole each had a duty to notify the other beneficiaries before accepting any unusual benefits from the trust and trust law, like property law, makes this very simple. Whether or not Defendants Amy and Anita were ever de jure or de facto trustees makes no difference. Because of the conflict of interest, taking from the trust without notifying those equally stationed and equally entitled is stealing, and we need look no further than the question of consent. They never noticed me of their acts, and their self-dealing and co-mingling are all tainted by constructive fraud.

Let's talk about the original trust documents. Where are they? Amy and Anita's attorney filed his objection to discovery with his exhibits electronically, just prior to the hearing on my application for injunction on April 9, 2013. I was provided with a copy of Mr. Vie's exhibits at the hearing and did not have an opportunity to review the exhibits then, nor the pleadings he had filed electronically just before the hearing, nor any of the 4,922 pages of "voluntary disclosure" contained on a CD Mr. Vie also gave me at the same time. Mr. Vie filed his objection to disclosure the morning of the injunction hearing and handed me the CD acknowledging the fact that even under discovery it was the last day for compliance.

Exhibit 1 contained major portions of the Irrevocable Life Insurance Trust, for which Anita was the sole trustee². My original Affidavit addresses Anita's incompetence and infidelity regarding that trust. However, that trust is no longer in existence and is not part of this litigation.

² Plaintiff's original exhibit 24 (USCA5 Pages 90-156)

That exhibited document, the Irrevocable Life Insurance Trust, does not contain the signature page for the Irrevocable Life Insurance Trust at Article XI page 11-4, but it does contain portions from the 2005 Restatement of the Brunsting Family Living Trust beginning with Article XII and ending with the signature page, page 14-6, from the 2005 restatement³.

This alleged signature page is distinctly different from signature page 14-6 on the 2005 restatement⁴ that I received as an email attachment from Anita on October 23, 2010. Plaintiff Exhibit 24 was received by US mail more than 12 months after Exhibit 29 was received as an email attachment. The obvious question here is why is there more than one alleged original signature page for the 2005 Restatement?

There are numerous other signature page anomalies that have to be addressed here. While this action was pending appeal it was brought to my attention that some of the 12 documents received from Anita Brunsting⁵ via email⁶ as pdf attachments, on October 23, 2010, contained different signatures from the signature pages on the hard copies of the alleged same documents received from Anita Brunsting by certified mail sometime around December of 2011.

Page 14-6 was the second anomaly discovered. The first anomaly brought to my attention was signature page 37 of the Qualified Beneficiary Designation⁷ dated August 25, 2010. The copy I filed with the court was the one received October 23, 2010 via email, as a digital pdf, and the one received as a hard copy more than one year later was printed double sided, as mentioned in my original

³ Plaintiff original Exhibit 24 Located at page 155 of the Record on Appeal in USCA5 12-20164

⁴ Plaintiff Exhibit 29 Located at page 276 of the Record on Appeal in USCA5 12-20164

⁵ Affidavit list of documents received USCA5 p.27, also emails @ Plaintiff exhibit 7 ROA-USCA5 p.42-47.

⁶ The digital copies were received October 23, 2010 from akbrunsting@suddenlink.net and were emailed to occurtis@sbcglobal.net.

⁷ Plaintiff Exhibit P-40 ROA USCA5 pgs. 363-399

Affidavit, when it was mistaken for a duplicate of Plaintiff Exhibit 40⁸. It is not a duplicate because the signature pages are different⁹.

My assistant Rik Munson is a retired senior network engineer, certified by both Novell (CNE/CNA) and Microsoft (MCSE). He conducted an analysis of the digital documents received October 23, 2010 and discovered what appeared to be digital signature stamps on nearly every signature page, indicating that these were not photo copies (or scanned copies) of original wet signed documents.

Based upon these anomalies thought to signify forgery and fraud, on November 26, 2012, in compliance with Title 18 §4, Munson filed complaint TCR1353937817850 with the Securities and Exchange Commission (SEC) alleging possible improper transfer of securities. This complaint was updated in January 2013 with TCR1360513046085 alleging forgery of documents used by Anita Brunsting to transfer various securities to accounts in her name and into the names of others.

In the midst of these two SEC complaints, Munson opened an online support ticket with Adobe Systems Incorporated¹⁰, the owner of the patent on the portable document format (pdf), and uploaded selected digital documents from the October 23, 2010 pdf attachments for further analysis.

Adobe Systems technical support confirmed Munson's belief that the signatures on the examined documents were scanned to pdf, stamped with a digital image of a signature, printed and then rescanned to digital pdf files.

After updating his TCR with the SEC, Munson called the corporate offices for Adobe Systems Incorporated in San Jose California, specifically requesting a top level information systems technical analysis of the digital documents for

⁸ Plaintiff Exhibit 48

⁹ Plaintiff Exhibit 47

¹⁰ Plaintiff Exhibit 58

litigation purposes in this federal court suit. After receiving a call back from an Adobe engineer and following instructions to upload one of the suspicious files, Munson received a call back from the same engineer a couple days later. After an extended discussion it was determined that Munson's initial observation was most likely correct and that an examination of the original documents would be needed to verify their authenticity.

I then instructed Munson to obtain copies of the notary logs from Candace Kunz-Freed for August 25, 2010 and for December 21, 2010, which are public record. Upon request¹¹, Freed's initial response was an indication of obfuscation¹² and we were forced to send a second request¹³. The log pages we received¹⁴ raise a number of additional questions of document authenticity.

Since our brother Carl became ill in July 2010, my sisters have used various tactics to distract from their activities and to break down my relationships and communications, first with Carl and his family, and then with Mother¹⁵.

Consequently I did not receive any of the information obtained by Carl's attorney Bobbie Bayless eight or 9 months ago, until my assistant took it upon himself to contact her directly. On March 28, 2013, just twelve days before the injunction hearing, Carl's attorney was very gracious in sharing information.

Amongst the documents I was seeing for the first time was a forgery of my very own signature, two times, on an Exxon stock transfer form dated June 8, 2011¹⁶. The only way I know about this document now is because Bobbie Bayless obtained it from Computershare in Carl's petition for deposition before suit.

¹¹ Plaintiff Exhibit 61

¹² Plaintiff Exhibit 62

¹³ Plaintiff Exhibit 63

¹⁴ Plaintiff Exhibits 64 and 65

¹⁵ Plaintiff Exhibit 67

¹⁶ Plaintiff Exhibit 59

At the injunction hearing on April 9, 2013, the deadline for compliance with discovery, George Vie handed me a CD containing 4,922 Bates stamped documents. This is the same day he filed an objection to “Discovery” saying it was not due. Mr. Vie is apparently unaware that I am entitled to the same information as every other beneficiary, before any question of compelling disclosure by litigation enters into the equation. I am still trying to get some specific information.

Upon review of the CD, it is now crystal clear that Anita was an original successor trustee¹⁷ and that she was removed by our Parents and replaced with Carl and Amy as successor co-trustees in the 2005 restatement¹⁸. It is also clear that Amy was removed by our Parents and replaced with Carl and me in the 2007 amendment¹⁹. What also seems apparent is that the only information we have validating Amy and Anita’s claim to have been returned to the office of successor co-trustee are documents of questionable authenticity.

Exhibit 51, received from Defendants, shows an account titled NELVA E BRUNSTING SURVIVORS TRUST AMY RUTH BRUNSTING TRTEE ANITA K BRUNSTING TRTEE U/A 11/22/2011. Mother died 11/11/11. Why was a new survivor’s trust created eleven days after the demise of the surviving grantor?

Exhibits 55-57 contain an article and advertisements from the Vacek.com website promising everything he did not deliver in this case.

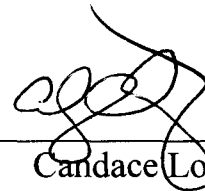
Exhibit 60 shows Anita verifying her net worth excluding her primary residence at 1.7 Million Dollars, and her occupation as a homemaker, for purposes of trading in Edward Jones securities.

¹⁷ Plaintiff Exhibit 66

¹⁸ Plaintiff Exhibit 29 USCA5 p178-279

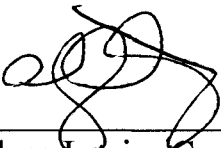
¹⁹ Plaintiff Exhibit 35 USCA5 321-322

Respectfully submitted,



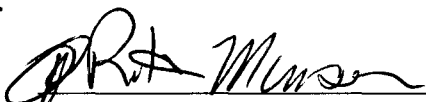
Candace Louise Curtis
1215 Ulfinian Way
Martinez, CA 94553
925-759-9020
occurtis@sbcglobal.net

I, the undersigned affiant Candace Louise Curtis, declare and state under penalty of perjury that the statements made herein and those made in my amended complaint are true, correct and based upon personal knowledge except for those things alleged upon information and belief and as to those things, I believe they are true as well.

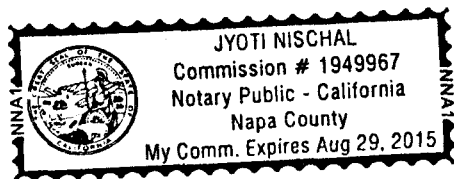


Candace Louise Curtis

I, the undersigned affiant Rik Munson, declare and state under penalty of perjury that the statements made by Mrs. Curtis herein regarding the matters stated are true and correct as they relate to my activities.



Rik Munson



State of California County of
NAPA
Subscribed and sworn to (or affirmed)
before me on this 29 day of APRIL, 2013, by
R/K MUNSON
proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.
Signature Jyoti Nischal
(Seal)

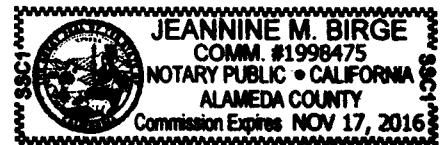
CALIFORNIA JURAT

STATE OF: CALIFORNIA

COUNTY OF: CONTRA COSTA

SUBSCRIBED AND SWORN TO (OR AFFIRMED) BEFORE ME
ON THIS 29th DAY OF APRIL, 2013 BY
CANDACE LOUISE CURTIS,
PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE
TO BE THE PERSON(S) WHO APPEARED BEFORE ME.

Jeannine M. Birge
SIGNATURE: JEANNINE M. BIRGE, NOTARY PUBLIC



SEAL

PLAINTIFF'S VERIFIED AFFIDAVIT IN SUPPORT OF AMENDED
TITLE OF DOCUMENT: COMPLAINT AND IN SUPPORT OF APPLICATION FOR JUDICIAL
TOTAL NUMBER OF PAGES INCLUDING ATTACHMENT: TEN
NOTARY COMMISSION EXPIRATION DATE: NOVEMBER 17, 2016
NOTARY COMMISSION NUMBER: 1998475

UNITED STATES DISTRICT COURT

Southern

DISTRICT OF

Texas

Candace Curtis

EXHIBIT AND WITNESS LIST

V.

Anita Brunsting et al,

Case Number: 2012-00592

PRESIDING JUDGE					PLAINTIFF'S ATTORNEY	DEFENDANT'S ATTORNEY
Kenneth Hoyt					Pro se	George Vie III
TRIAL DATE (S)					COURT REPORTER	COURTROOM DEPUTY
March 3, 2014						
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES	
9		2/27/2012			email admissions of Anita withholding trust docs and explaining trust changes to Nelva	
24		2/27/2012			Signature page 14-6 of the 2005 restatement Located at page 155 of the Record on Appeal	
29		2/27/2012			Signature page 14-6 of the 2005 restatement Located at page 276 of the Record on Appeal	
40		2/27/2012			Signature Page 37 from QBD 8/25/2010 received Oct 23,2010 af email attached pdf	
47		4/29/2013			Signature Page 37 from QBD 8/25/2010 received US mail December 2011 double sided	
48		2/27/2012			Original affidavit in support of complaint Page 10 of 13	
49		4/29/2013			Another digital image of an alleged Nelva signature	
50		4/29/2013			Signature page 11-4, Irrevocable life insurance trust	
51		4/29/2013			Brunsting000065, BofA_New survivors trust re; agreement 11/22/11	
52		4/29/2013			Brunsting002439 Edward Jones Wired funds Withdrawal Notification	
53		4/29/2013			Brunsting000077, Online Banking Decedents trust	
54		4/29/2013			Brunsting000074, Survivors trust bank statement (established 11/22/11	
55		4/29/2013			Vacek.com Advertisement	
56		4/29/2013			Vacek.com Advertisement	
57		4/29/2013			Vacek.com Article on using In Terrorem Clause to disinherit	
58		4/29/2013			Adobe Portal Support Incident printout Case 0184064797 & 0183862056	
59		4/29/2013			Forgery of Plaintiff's signature	
60		4/29/2013			Edward Jones Statement to Verify information on account. Anita worth 1.7 Million	
61		4/29/2013			Notary Log Request letter to Freed	
62		4/29/2013			Freed reply to request	
63		4/29/2013			2nd request for Freed Notary Log	
64		4/29/2013			Freed notary log request compliance letter	

* Include a notation as to the location of any exhibit not held with the case file or not available because of size.

Print

From: Candace Curtis (occurtis@sbcglobal.net)
To: occurtis@sbcglobal.net;
Date: Sat, February 18, 2012 11:29:12 AM
Cc:
Subject: Fw: New Development

----- Forwarded Message -----

From: Anita Brunsting <akbrunsting@suddenlink.net>
To: Candace Curtis <occurtis@sbcglobal.net>; Amy <at.home3@yahoo.com>; Carole Brunsting <cbrunsting@sbcglobal.net>
Sent: Tue, March 8, 2011 7:15:32 PM
Subject: RE: New Development

I got the same TM from Tino. I hesitate to promise them anything in writing about money. Rather than a monthly payment, I would rather grant them a certain amount each year, but only through the direct payment of their bills - for example; mom could gift Carl \$13,000/year, but only if they send me the bill statements to pay directly, and only for bills for living/medical expenses - when the trust has paid \$13,000 in bills for the year, that's the end of the money for that year. We could ask them to sign for this money against his inheritance, but then we'd have another form that we'd have to get them to sign (probably notarized), and as we don't know if she's had Carl declared incompetent, the validity of any form he signs might be questionable.

I do like the idea of a letter telling Drina that she may have no contact w/ mom (physical, verbal, visual, phone or electronic means) and she is not to enter mom's house. She can bring Carl to visit mom, but she must remain outside the house - any violation of this letter will be considered harassment and the police will be called if she does not comply. I would also like to add in the letter that Carl's inheritance will be put into a Personal Asset Trust for his care and living expenses - I think this information might be enough to tip her hand.

I would also like to ask Candace, what this letter would do for us legally - like if we did end up calling the police would the letter lend any credence to our case?

I won't do anything until we can come upon an agreement as what to do - I can also write this letter in the role of mom's power of attorney (which she signed last year).

I spoke w/ mom about the whole situation; she listens to reason and can understand our concerns for Carl, and will sign the changes to the trust next week. I have been very forthright in explaining the changes in the trust to her, and that they would be done in order to minimize any pathway that Drina might have to Carl's money. The changes are not to penalize Carl, but to ensure the money goes for his care. I told her to "just say No" to Carl or Drina if they brought up the trust or money and to refer them to me. I reminded her that she isn't trustee anymore and doesn't have access to the trust accounts - she seems fine w/ everything, and expressed no desire to put Carl back on as a trustee. I told her that in the event she did that, that it would not be fair to the rest of us, as we would end up having to deal w/ Drina, not Carl. Mom begrudgingly admits to knowledge of the unpleasantness of this whole situation and Drina's past behavior since Carl has been ill, but I think she is really naive regarding the lengths to which Drina may go through to get Carl's inheritance.

P-9

Section S. Elective Deductions

A Trustee will have the discretionary authority to claim any obligation, expense, cost or loss as a deduction against either estate tax or income tax, or to make any election provided by Texas law, the Internal Revenue Code, or other applicable law, and the Trustee's decision will be conclusive and binding upon all interested parties and shall be effective without obligation to make an equitable adjustment or apportionment between or among the beneficiaries of this trust or the estate of a deceased beneficiary.

We, ELMER H. BRUNSTING and NELVA E. BRUNSTING, attest that we execute this trust declaration and the terms thereof will bind us, our successors and assigns, our heirs and personal representatives, and any Trustee of this trust. This instrument is to be effective upon the date recorded immediately below.

Dated: January 12, 2005


ELMER H. BRUNSTING, Founder


NELVA E. BRUNSTING, Founder


ELMER H. BRUNSTING, Trustee


NELVA E. BRUNSTING, Trustee

Section S. Elective Deductions

A Trustee will have the discretionary authority to claim any obligation, expense, cost or loss as a deduction against either estate tax or income tax, or to make any election provided by Texas law, the Internal Revenue Code, or other applicable law, and the Trustee's decision will be conclusive and binding upon all interested parties and shall be effective without obligation to make an equitable adjustment or apportionment between or among the beneficiaries of this trust or the estate of a deceased beneficiary.

We, ELMER H. BRUNSTING and NELVA E. BRUNSTING, attest that we execute this trust declaration and the terms thereof will bind us, our successors and assigns, our heirs and personal representatives, and any Trustee of this trust. This instrument is to be effective upon the date recorded immediately below.

Dated: January 12, 2005


ELMER H. BRUNSTING, Founder


NELVA E. BRUNSTING, Founder


ELMER H. BRUNSTING, Trustee


NELVA E. BRUNSTING, Trustee

ratified and confirmed and shall remain in full force and effect except to the extent that any such provisions are amended hereby.

EXECUTED and effective on August 25, 2010.

Nelva E. Brunsting

NELVA E. BRUNSTING,
Founder and Beneficiary

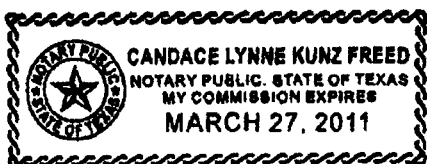
ACCEPTED and effective on August 25, 2010.

Nelva E. Brunsting

NELVA E. BRUNSTING,
Trustee

STATE OF TEXAS
COUNTY OF HARRIS

This instrument was acknowledged before me on August 25, 2010, by NELVA E. BRUNSTING, in the capacities stated therein.



Candace Lynne Kunz Freed

Notary Public, State of Texas

ratified and confirmed and shall remain in full force and effect except to the extent that any such provisions are amended hereby.

EXECUTED and effective on August 25, 2010.



NELVA E. BRUNSTING,
Founder and Beneficiary

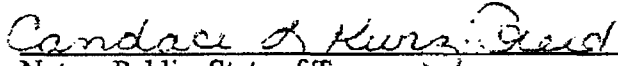
ACCEPTED and effective on August 25, 2010.



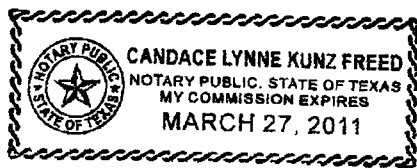
NELVA E. BRUNSTING,
Trustee

STATE OF TEXAS
COUNTY OF HARRIS

This instrument was acknowledged before me on August 25, 2010, by NELVA E. BRUNSTING, in the capacities stated therein.



Notary Public, State of Texas



beneficiary and not from the trustees, who still refuse to fully answer, and the bulk of which were obtained from Anita in October 2010.

Ordered by Document Date

AKB denotes documents received via email from Anita on 10/23/10

CHB denotes documents received from Carl in January 2012

All other documents were received from Anita pursuant to my demand letters, and received on the date noted

AKB Quit Claim Deed, State of Iowa, signed by EHB and NEB 10/29/96 and recorded in Sioux County Iowa 11/18/96 (P-23, 7 pgs.), which contained 3 asset schedules, A, B, C, all blank

The Brunsting Family Irrevocable Trust dated February 12, 1997 (life insurance trust) received from Anita on or about 1/26/2011, Anita Kay Riley trustee. (P-24, 53 pgs.)

AKB Affidavit of Trust made 1/12/2005 (only first page) (P-25)

AKB Certificate of Trust dated 1/12/05, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees. (P-26, 2 pgs.)

AKB Certificate of Trust dated 1/12/05, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees **UNSIGNED WITH AMY RUTH TSCHIRHART CROSSED OUT** (P-27, 2 pgs.)

AKB Affidavit of Trust made 1/12/05, with selected provisions attached, Article IV Our Trustees, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees with Amy Ruth Tschirhart crossed out. (I do not know when it was crossed out – before or after it was signed) (P-28, 32 pgs.)

AKB The Restatement of The Brunsting Family Living Trust, dated 1/12/05, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees with Amy Ruth Tschirhart crossed out. (I do not know when it was crossed out – before or after it was signed) (P-29 102 pgs.)

The Restatement of The Brunsting Family Living Trust, dated 1/12/05, Carl Henry Brunsting and Amy Ruth Tschirhart successor co-trustees with Amy Ruth Tschirhart crossed out. (I do not know when it was crossed out – before or after it was signed), received from Anita Kay Brunsting on or about 12/21/11 (duplication of P-29, printed front and back – copy omitted)

AKB Transfer To Grantor Trust Subject To Withdrawal Contribution Agreement, **UNSIGNED**, dated 01/12/05 (P-30, 2 pgs.)

AGREED AND UNDERSTOOD
3/11/11, 2011:

Nelva E. Brunsting
NELVA E. BRUNSTING, Grantor and Founder, under the
BRUNSTING FAMILY LIVING TRUST, dated October 10,
1996, as amended

AGREED AND UNDERSTOOD
March 10, 2011:

Anita Brunsting
Anita Brunsting, Trustee, under the BRUNSTING FAMILY
LIVING TRUST, dated October 10, 1996, as amended

EXHIBIT
P-49

BRUNSTING002349
20-20366-708

Section M. Generation Skipping Transfers

The Trustee, in the Trustee's sole discretion, may allocate or assist either Founders' personal representatives or trustees in the allocation of any remaining portion of either Founder's GST exemptions to any property as to which such Founder is the transferor, including any property transferred by such Founder during life as to which such Founder did not make an allocation prior to his or her death and/or among any generation skipping transfers (as defined in Section 2611 of the Internal Revenue Code) resulting under this trust declaration and/or that may later occur with respect to any trust established under this trust declaration, and the Trustee shall never be liable to any person by reason of such allocation, if it is made in good faith and without gross negligence. The Trustee may, in the Trustee's sole discretion, set apart, to constitute two separate trusts, any property which would otherwise have been allocated to any trust created hereunder and which would have had an inclusion ratio, as defined in Section 2642(a)(1) of the Internal Revenue Code, of neither one hundred percent nor zero so that one such trust has an inclusion ratio of one hundred percent and the other such trust has an inclusion ratio of zero. If either Founder's personal representative or trustee and/or the Trustee exercises the special election provided by Section 2652(a)(3) of the Internal Revenue Code, as to any share of either Founder's property that is to be held in trust under this trust declaration, then the Trustee is authorized, in the Trustee's sole discretion, to set apart property constituting such share in a separate trust so that its inclusion ratio of such trust is zero.

We, ELMER H. BRUNSTING and NELVA E. BRUNSTING, attest that we execute this irrevocable trust agreement and the terms thereof will bind us, our successors and assigns, our heirs and personal representatives, and any Trustee of this trust. We approve this irrevocable trust agreement in all particulars and request the Trustee to execute it. This instrument is to be effective upon the date recorded immediately below.

Dated: February 12, 1997


ELMER H. BRUNSTING, Founder


NELVA E. BRUNSTING, Founder


ANITA KAY RILEY, Trustee

NELVA E BRUNSTING SURVIVORS TRUST
 AMY RUTH BRUNSTING TRTEE
 ANITA K BRUNSTING TRTEE U/A 11/22/2011

Page 2 of 4
 Statement Period
 01-10-12 through 02-07-12
 B 05 E I E P I 5

Account Number: 5860 2756 3523

Regular Checking Additions

Deposits and Other Additions	Date Posted	Amount(\$)
Deposit	01-11	6,215.87
Total Deposits and Other Additions \$6,215.87		

Regular Checking Subtractions

Check #	Posting Date	Amount(\$)	Check #	Posting Date	Amount(\$)
111	01-25	425.94	113*	01-23	740.77
Total Checks Posted \$1,166.71					

* Gap in sequential check numbers.

Other Subtractions	Date Posted	Amount(\$)
Hc Prop Tax Des:hcpt1000 ID:b-0985600000031 Indn:Nelva Brunsting Surviv Co ID:40223600 Ppd	01-19	1,285.05
Stream Energy-TX Bill Payment	01-20	59.96
AT&T Bill (Sbc-AR,K,S,MO,OK,TX) Bill Payment	01-31	86.00
Bank Of America Credit Card Bill Payment	02-02	269.84
Total Other Subtractions \$1,700.85		

Daily Balance Summary

Date	Balance(\$)	Date	Balance(\$)	Date	Balance(\$)
Beginning	18,740.79	01-20	23,611.65	01-31	22,358.94
01-11	24,956.66	01-23	22,870.88	02-02	22,089.10
01-19	23,671.61	01-25	22,444.94		

**EXHIBIT
P-51**

BRUNSTING000085

12555 Manchester Road
St. Louis, MO 63131-3710
www.edwardjones.com

Edward Jones

November 22, 2011

ANITA KAY BRUNSTING TTEE
U/A DTD 10/10/1996
NELVA E BRUNSTING SURVIVORS TR
NELVA E BRUNSTING
203 BLOOMINGDALE CIRCLE
VICTORIA TX 77904-3049

NC_W

Account: 653-13555-1-6

WIRED FUNDS WITHDRAWAL NOTIFICATION

In our ongoing efforts to achieve quality, accuracy and protect your assets, this letter is being provided to confirm activity that recently occurred in your account. If the following information is correct, no further action is necessary.

Wired funds were issued from your account.

Date	November 21, 2011
Bank Name	BANK OF AMERICA NT AND SA NEW
Bank Account Registration	ANITA KAY BRUNSTING TTEE
Amount	\$25,112.57
Fees	\$25.00

This letter is intended to confirm the above specific activity and may not reflect all transactions for a given date. Please refer to your monthly statement for a complete transaction listing.

If this information is correct, no further action is necessary. If this information does not match your records, please direct inquiries to:

Client Relations Department
Phone Number: 1-800-803-3333
Monday - Friday 7 a.m. - 7 p.m. Central

Thank you for allowing Edward Jones to assist with your financial needs.

Sincerely,

Client Relations

EXHIBIT
P-52

BRUNSTING002439

20-20566.711

Bank of America



Bank of America, N.A.
 P.O. Box 25118
 Tampa, FL 33622-5118

Page 1 of 3
 Statement Period
 11-22-11 through 12-12-11
 B 07 0 A P PA 7 0138066
 Number of checks enclosed: 0
 Account Number: 5860 2756 3536

13099 001 SCM999 I 4 0

ELMER H BRUNSTING DECEDENTS TRUST
 ANITA K BRUNSTING TRTEE
 AMY RUTH BRUNSTING TRTEE U/A 10/10/1996
 203 BLOOMINGDALE CIR
 VICTORIA, TX 77904-3049

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www.bankofamerica.com

For additional information or service, you may call:
 1.800.432.1000 Customer Service
 1.800.288.4408 TDD/TTY Users Only
 1.800.688.6086 En Español

Or you may write to:
 Bank of America, N.A.
 P.O. Box 25118
 Tampa, FL 33622-5118

Deposit Accounts

Regular Checking

ELMER H BRUNSTING DECEDENTS TRUST ANITA K BRUNSTING TRTEE
 AMY RUTH BRUNSTING TRTEE U/A 10/10/1996

Your Account at a Glance

Account Number	5860 2756 3536
Beginning Balance on 11-22-11	\$ 0.00
Deposits and Other Additions	+ 381.32
Ending Balance on 12-12-11	\$ 381.32

Regular Checking Additions

Deposits and Other Additions	Date Posted	Amount(\$)
Deposit	11-22	381.32
Total Deposits and Other Additions		\$381.32

EXHIBIT
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BRUNSTING000077
 20-20566.712

NELVA E BRUNSTING SURVIVORS TRUST
 AMY RUTH BRUNSTING TRTEE
 ANITA K BRUNSTING TRTEE U/A 11/22/2011

Page 2 of 4
 Statement Period
 03-10-12 through 04-09-12
 B 05 E I E P I 5

Account Number: 5860 2756 3523

Regular Checking Additions

Deposits and Other Additions	Date Posted	Amount(\$)
Deposit	03-12	100.00
Online Banking transfer from Chk 3536 Confirmation# 4049713782	03-12	10,000.00
Deposit	03-13	10,040.00
Deposit	03-13	10,000.00
Deposit	03-13	237.16
Deposit	03-14	433,129.32
Deposit	03-23	162.73

Total Deposits and Other Additions \$463,669.21

Regular Checking Subtractions

Check #	Posting Date	Amount(\$)	Check #	Posting Date	Amount(\$)
116	03-19	2,175.00	118*	03-21	14.80

Total Checks Posted \$2,189.80

* Gap in sequential check numbers.

Service Charges and Other Fees	Date Posted	Amount(\$)
Returned Item Chargeback Fee	03-16	12.00

Total Service Charges and Other Fees \$12.00

Other Subtractions	Date Posted	Amount(\$)
Online Banking transfer to Chk 3536 Confirmation# 1875543361	03-14	20,000.00
Cpenergy Entex Des:Cpe ACH Check #:0117 Indn:000003850291 Co ID:9413994001 Arc	03-15	158.09
Return Item Chargeback	03-16	70.30
Stream Energy-TX Bill Payment	03-26	39.19

Total Other Subtractions \$20,267.58

Daily Balance Summary

Date	Balance(\$)	Date	Balance(\$)	Date	Balance(\$)
Beginning	5,035.86	03-15	448,384.25	03-23	446,274.88
03-12	15,135.86	03-16	448,301.95	03-26	446,235.69
03-13	35,413.02	03-19	446,126.95		
03-14	448,542.34	03-21	446,112.15		

**EXHIBIT
P-54**

BRUNSTING000074

Are you **CONCERNED** about **PROTECTING YOUR ESTATE and YOUR BENEFICIARIES?**

If your estate plan is out of date or based on a simple will (or no will at all), you should review and update it. But first, attend this free seminar, especially if you:

- ☐ **Have a handicapped or disabled child or other beneficiary**
- ☐ **Have a child who is not a good money manager**
- ☐ **Have a successful child who has a sizable net worth**
- ☐ **Have a child whose marriage is rocky**
 - ☐ **Are in poor health and concerned about who will make decisions**
- ☐ **Own real estate in several counties or states**
 - ☐ **Own property in joint tenancy**
 - ☐ **Want to know how to avoid guardianships**
- ☐ **Have both community and separate property issues**
 - ☐ **Have children by a prior marriage**
- ☐ **Are concerned about in-laws and step-children**
 - ☐ **Have large tax-deferred accounts (IRA's, Annuities, etc.)**
- ☐ **Don't want HIPAA to sabotage your estate plan**
- ☐ **Want to protect you and your assets and property from outsiders who might want to take them away from you**
- ☐ **Want to minimize death taxes on taxable estates**

COMMENTS FROM PREVIOUS ATTENDEES ABOUT THE PRESENTATION

"Very excellent presentation-spiced with interesting examples and anecdotes", D.L.C., Houston, TX

"Well organized, informative, useful and practical seminar presented in an interesting and even entertaining manner!", L.A.H., Baytown, TX

"Very well done, interesting and educational – time passed by so fast - Great, Thanks!", J.K.M., Hempstead, TX

"This was incredibly enlightening. An excellent presentation, thank you for opening this to the public." A.P., Houston, TX

"Sure wish I'd had this seminar before I had my trust created. Excellent presentation and Q & A", J.B., Baytown, TX

“...excellent presentation—spiced with interesting examples and anecdotes.” D.L.C., Houston, TX

SAFEGUARD YOUR ESTATE! AVOID COMMON AND COSTLY MISTAKES MANY PEOPLE MAKE

Learn how a properly designed estate plan can protect from:

- Forcing your family through **court** if you are *disabled*
- Forcing your family through **court** if you *die*
- Falling prey to the uncertainty of the new “permanent” death tax law
- Failing to **protect your beneficiaries from predators** who want to take their inheritance away from them (divorce, lawsuits, creditors, etc.)
- Allowing **HIPAA to sabotage** your estate plan
- Failing to assure that your beneficiaries take advantage of the **maximum income tax “stretch out”** and protecting your loved ones from **losing your IRA** to divorce, lawsuits, creditors, etc.
- Failing to **protect you and your assets and property** from outsiders who might want to take them away from you
- Failing to **minimize death taxes** on taxable estates



Mr. Vacek is Board Certified as a specialist in Estate Planning and Probate Law by the Texas Board of Legal Specialization

Act Now! Space is Limited • Call 281-531-5800 To Reserve Your Seat

Attorney Albert E. Vacek, Jr. has practiced estate planning for over 41 years and has designed and prepared customized estate plans for over 9,000 people. *It's no coincidence that many families have turned to his law firm to set up their trust or upgrade their original trust when they wanted greater asset protection for their loved ones!*

You'll definitely want to hear what he has to say - - and take action soon

Thursday, March 21 at 7:00 pm or Saturday, March 23 at 10:00 am
EMBASSY SUITES (I-10 and Kirkwood)
11730 Katy Freeway
Houston, Texas 77079

Vacek & Freed, PLLC

Attorneys at Law

Phone: 281.531.5800 1.800-229-3002

11777 Katy Freeway, Suite 300 South, Houston, Texas 77079

www.vacek.com



'In terrorem' clause is one way to cut heir out of will

By ALBERT E. VACEK JR.
HOUSTON CHRONICLE

Nov. 6, 2009, 10:42PM

Curry Glassell, the daughter of oilman and arts benefactor Alfred Glassell, is disputing his last will in a high-profile Houston court battle that will have serious consequences for Houston's arts groups as well as for the Glassell family. One of the issues at stake is what is called an "in terrorem" clause in the will (also known as a forfeiture clause) that provides that anyone who contests the will is to lose whatever bequest has been granted to him or her — hence, the "terror" that will result if one does not follow the directives of the will. The will of the recently and tragically deceased John O'Quinn also contains a no contest clause.

Many people who are not specialists in estate planning law would tend to take such a clause at face value and believe that, if their lawyer includes such a clause in their will, their chosen heirs will be protected forever from the possibility of litigation challenging the will. Unfortunately, this is not the case.

An "in terrorem" clause sounds great and offers apparent reassurance to those who rely on a will, but it is no panacea. In fact, a new Texas law that went into effect on June 19, 2009, reduces the effectiveness of these clauses even further by clarifying that they do not apply if an attack on the will is made and maintained in good faith and on the basis that probable cause exists. On the other hand, an "in terrorem" clause may still apply if a lawsuit challenging a will is deemed to be just a frivolous nuisance suit designed to extort more money from the beneficiaries.

Unhappy heirs or potential heirs who decide to challenge a will often do so either on the basis that the testator was unduly influenced by a beneficiary, or that he or she was suffering from diminished capacity at the time the will was made and did not really know

what he was doing — as in the recent New York case involving the estate of wealthy socialite and philanthropist Brooke Astor. In that case, the jury agreed with prosecutors that Brooke Astor's son took advantage of her reduced mental capacity to trick her into changing her will to his benefit.

There are other, better ways to protect a will from a challenge than just relying on an "in terrorem" clause. One method is to, in a sense, buy off a potential challenger by leaving him or her something of value so that he or she will be tempted to take the money rather than file a lawsuit and await the uncertain outcome of litigation.

Another tactic is for the testator (the person making the will) to be entirely frank with heirs and potential heirs while he or she is still alive, and let them know exactly what to expect, so there will be no nasty surprises or disappointment down the road. If a potential heir is to be disinherited or left very little in comparison to others, the will should state that fact plainly, so that a challenger cannot claim that the testator was not in his or her right mind and simply forgot about his oldest son or youngest grandchild. Such a clause might state that the testator had adequately provided for the heir during his lifetime, or that he is leaving the potential heir some small amount, or even that the potential heir is to receive nothing, in the words of the infamous Leona Helmsley will, "for reasons well known to them."

In every case, all the required formalities should be carefully observed, such as, for example, making sure the will is signed in the presence of impartial witnesses. It's also a good idea for any testator to design and execute a plan to provide for heirs well in advance of serious illness and death so there can be little question later that he or she didn't know what he was doing.

Testators should also consider a living trust as a

EXHIBIT
P-57



valuable tool to minimize the possibility of a contest. Typically, living trusts are harder to contest than wills.

Few testators have \$500 million to bequeath, as did Alfred Giessell, or the many millions probably involved in the John O'Quinn estate.

But whatever amount a testator may have to leave to loved ones, whether large or small, a proper will should include every possible protection to ensure that his or her wishes will be observed.

Vacek is a board-certified estate planning and probate attorney who has been practicing in Houston for more than 38 years.

EXHIBIT
P-57_2 of 2

- *More company info* (www.adobe.com/aboutadobe/?promoid=JZPLK)

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Welcome, Rik Munson (www.adobe.com/account.html)

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Sign in (www.adobe.com/cfusion/membership/index.cfm?loc=en_us&nl=1) *Privacy* (www.adobe.com/privacy.html) *My*

Adobe (www.adobe.com/go/gnav_myadobe_en_us)

Customer Support Portal

Rik Munson, 1600 Riviera drive Walnut Creek, Walnut Creek

Recent activity

Updated	
2/22/13	Case #0184064797: general info (www.adobe.com/cfusion/support/index.cfm?event=casedetail&id=0184064797&loc=en_us) Withdrawn
12/5/12	Case #0183862056: Chat:issue with Digital Signing the PDF (www.adobe.com/cfusion/support/index.cfm?event=casedetail&id=0183862056&loc=en_us) Withdrawn

Self-Help Resources

Adobe Flash Player support
(www.adobe.com/http://www.adobe.com/support/flashplayer/)

Adobe Reader support
(www.adobe.com/http://www.adobe.com/support/reader/)

Download and installation
(www.adobe.com/http://www.adobe.com/support/download-install/index.html)

Activation and deactivation
(www.adobe.com/http://www.adobe.com/activation/index.html)

Check the status of an order
(www.adobe.com/http://adobe.com/go/orderstatus)

Search the knowledgebase
(www.adobe.com/http://www.adobe.com/go/gntray_supp_kb)

**EXHIBIT
P-58**

+

Computershare

Computershare
P.O. Box 43078
Providence, RI, 02940-3078

New Holder/Recipient Information

Account 1

Account Type	Individual	Shares to Transfer	160		
	Holder	SSN/EIN	457-25-1860		
First Name	Anita	Middle Initial			
Last Name	Brunsting				
Street Address	203 Bloomingdale Circle				
City	Victoria	State	TX	Zip	77904

*Form W-9: This section must be signed by the NEW HOLDER/RECIPIENT, as shown above, whose SSN/EIN is entered above.
 Certification: Under penalty of perjury, I certify that (1) the number shown on this form is my correct Taxpayer identification number, and (2) I am not subject to backup withholding because (a) I am exempt from backup withholding or (b) I have not been notified by the IRS that I am subject to backup withholding as a result of failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and (3) I am a US citizen or other US person.

Certification Instructions: You must cross out item (2) in the above paragraph if you have been notified by IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return.

Signature of Holder	Date (mm/dd/yyyy)
<i>Anita Brunsting</i>	06/07/2011

Investment Plan Enrollment - The shares being transferred to you were enrolled by the prior owner in the Company's investment plan. The terms and conditions of the plan are available online or by calling us at the number listed on the reverse side of this form. By signing below, you agree to keep the shares in the plan and to be bound by the plan's terms and conditions. **NOTE: IF THE PLAN PROVIDES FOR REINVESTMENT OF DIVIDENDS, SHARES HELD IN THE PLAN WILL BE SUBJECT TO FULL REINVESTMENT.** If you do not sign below, whole shares will be placed in DRs book entry form and not enrolled in the plan and a check will be mailed to you for any fractional shares.

Signature of New Holder/Recipient	Date (mm/dd/yyyy)
<i>Anita Brunsting</i>	06/07/2011

Account 2

Account Type	Individual	Shares to Transfer	160		
	Holder	SSN/EIN	509-56-6240		
First Name	Candace	Middle Initial			
Last Name	Curtis				
Street Address	1215 Uffnian Way				
City	Martinez	State	CA	Zip	94553

*Form W-9: This section must be signed by the NEW HOLDER/RECIPIENT, as shown above, whose SSN/EIN is entered above.
 Certification: Under penalty of perjury, I certify that (1) the number shown on this form is my correct Taxpayer identification number, and (2) I am not subject to backup withholding because (a) I am exempt from backup withholding or (b) I have not been notified by the IRS that I am subject to backup withholding as a result of failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and (3) I am a US citizen or other US person.

Certification Instructions: You must cross out item (2) in the above paragraph if you have been notified by IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return.

Signature of Holder	Date (mm/dd/yyyy)
<i>Candace Curtis</i>	06/08/2011

Investment Plan Enrollment - The shares being transferred to you were enrolled by the prior owner in the Company's investment plan. The terms and conditions of the plan are available online or by calling us at the number listed on the reverse side of this form. By signing below, you agree to keep the shares in the plan and to be bound by the plan's terms and conditions. **NOTE: IF THE PLAN PROVIDES FOR REINVESTMENT OF DIVIDENDS, SHARES HELD IN THE PLAN WILL BE SUBJECT TO FULL REINVESTMENT.** If you do not sign below, whole shares will be placed in DRs book entry form and not enrolled in the plan and a check will be mailed to you for any fractional shares.

Signature of New Holder/Recipient	Date (mm/dd/yyyy)
<i>Candace Curtis</i>	06/08/2011

**EXHIBIT
P-59**

Page 2 of 2
+

1245 JJ Kelley Memorial Dr.
St. Louis, MO 63131-3600
(314) 515-6240
www.edwardjones.com

Edward Jones



072369 ECV001B4
ANITA KAY BRUNSTING TTEE
U/A DTD 10/10/1996
ELMER H BRUNSTING DECEDENTS TR
203 BLOOMINGDALE CIRCLE
VICTORIA TX 77904-3049

May 22, 2012

Thank you for continuing to let Edward Jones help you prepare for your financial future. In order to provide you with quality service, we are required to verify the information we have on file related to this account. This helps Edward Jones better assist you in making financial decisions.

We're contacting you because either your financial advisor recently updated your account information or it has been three years since we last verified your information.

Please review the enclosed pages, which list your account information. If the information is correct, you do not need to return this letter. However, if changes are needed, please print the new information on the attached pages and sign and return them in the postage-paid return envelope or fax to 877-888-0981 so that we can update our records. **Please do not enclose cash, checks or other securities with this letter.** Please note that any information you share with Edward Jones is confidential. For more information on our privacy policy, please visit www.edwardjones.com. We have also enclosed information titled "Account Safety" that provides helpful reminders for maintaining account records.

As the primary account holder, you will receive all correspondence. You may elect to access all your Edward Jones accounts, updated every day with the latest information, through Edward Jones Online Account Access. This free service, available at www.edwardjones.com, allows you to select electronic delivery for certain types of information, specifically statements, proxies, etc.

Again, thank you for your business and your confidence in Edward Jones. We look forward to serving your investment needs.

Sincerely,

Ronald L. Gorgen
Principal, Compliance Division

EXHIBIT
P-60_1 of 4



BRUNSTING003982

20-20566.720

072369 ECV001B4 010773

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EXHIBIT
P-60_2 of 4

BRUNSTING003983

20-20566.721

1245 JJ Kelley Memorial Dr.
St. Louis, MO 63131-3600
(314) 515-6240
www.edwardjones.com



Account Type: TRUST
Account Number: 653-13579
Branch Number: 06539

Date: May 22, 2012

Enter current information for all persons listed on the account. Please sign and return in the postage-paid envelope or fax to 877-888-0981 only those pages requiring updates to the information you see printed. For your protection, do not enclose cash, checks, securities or other material.

1. **Name and MAILING Address (first, middle, last):**
ANITA KAY BRUNSTING TTEE
U/A DTD 10/10/1996
ELMER H BRUNSTING DECEDENTS TR
203 BLOOMINGDALE CIRCLE
VICTORIA TX 77904-3049

2. **Account Objectives** (see definition of terms):
You have selected an Edward Jones Advisory Solutions - Fund Model account. Your account objectives were determined by information provided when you completed the Advisory Solutions Investment Objective Questionnaire and are contained on your Advisory Solutions Client Agreement. If you do not believe you have selected an Edward Jones Advisory Solutions - Fund Model account, or your objectives have changed, please make a note on this letter and return in the postage paid envelope.

3. **Net Worth** (must exclude value of primary residence):
\$1,700,000

4. **Annual Income:**
\$64,000

5. **Prior Investment Experience** (see definition of terms):
(4) Extensive Experience

*6. **Risk Profile** (see definition of terms):
(3) MODERATE

7. **Approximate dollar amount of assets held in the account expected to be withdrawn within three years:**
\$0

*8. **Investment Time Horizon** (see definition of terms):
(C) 6-10 Years

9. **Is any account holder:**
a. an Edward Jones employee or related to an Edward Jones employee? NO

b. employed or related to someone employed by an NYSE (New York Stock Exchange) member financial institution? NO

c. employed or related to someone employed by an NASD (National Association of Security Dealers) member financial institution? NO

Client's Signature: _____

Date: _____

EXHIBIT
P-60_3 of 4

BRUNSTING003984

20-20566.722



1245 JJ Kelley Memorial Dr.
St. Louis, MO 63131-3600
(314) 515-6240
www.edwardjones.com



Account Type: TRUST
Account Number: 653-13579
Branch Number: 06539

Date: May 22, 2012

Enter current information for all persons listed on the account. Please sign and return in the postage-paid envelope or fax to 877-888-0981 only those pages requiring updates to the information you see printed. For your protection, do not enclose cash, checks, securities or other material.

1. **Legal Name & Home Address, no PO Box:**
(first, middle, last)

ANITA KAY BRUNSTING

203 BLOOMINGDALE CIRCLE

VICTORIA, TX 779043049

2. **Date of Birth:** 08/07/1963

3. **Home Telephone Number:** 361-550-7132

4. **Current Occupation:** HOMEMAKER

5. **Current Employer Name:** NA

Client's Signature: _____

Date: _____

EXHIBIT
P-60_4 of 4

BRUNSTING003985

20-20566.723

Rik Munson
218 Landana Street
American Canyon CA 94503

To
Candace Kunz-Freed
14800 St Marys Ln Ste 230
Houston, Tx 77099

Tuesday, December 11, 2012
Certified Mail #7012 2210 0000 1342 6586

Dear Ms. Kunz- Freed

I will need to see your notary log book entries for August 25, 2010 and for December 21, 2010.

According to the Secretary of State the maximum fee is fifty cents per page. I am enclosing a money order for \$10.00 as a deposit for fees along with a self addressed return envelope with postage fully prepaid.

If the number of pages exceeds 20 please notify me that I may make the necessary fee adjustment.

Respectfully

Rik Munson
218 Landana St
American Canyon CA 94503

EXHIBIT
P-61
20-20566.724

VACEK & FREED, PLLC

ALBERT E. VACEK, JR. *
SUSAN S. VACEK
CANDACE L. KUNZ-FREED
PAUL J. BROWER
JULIE A. MATHIASON
BERNARD L. MATHEWS, III, *Of Counsel*
*Board Certified Estate Planning and Probate Law
Texas Board of Legal Specialization

11777 Katy Freeway, Suite 300 South
Houston, Texas 77079

(281) 531-5800
1-800-229-3002

Telefax (281) 531-5885
E-mail Address: consult@vacek.com

December 19, 2012

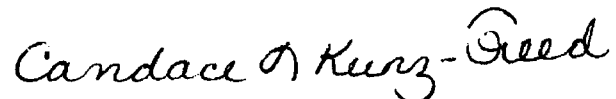
Mr. Rik Munson
218 Landana St.
American Canyon, CA 94503

Dear Mr. Munson:

I am in receipt of your request for copies of my notary pages that correspond to book entries for August 25, 2010 and December 21, 2010. Unfortunately, I am unable to fulfill your request for said copies in order to protect the privacy and maintain the confidentiality of my other clients who also signed documents those dates and thus signed my notary book. If you will be so kind as to identify the specific client for whom you are interested in obtaining these public records, then I will redact the other clients' names and personal information with which you are not concerned.

Enclosed you will find your envelope and money order, which are being returned to you. Please note that any check payable to me for a copy of my notary records should be made payable to the law firm, VACEK & FREED, PLLC. There are four (4) pages total that correspond to these dates you request, so please remit payment of \$2.00 for these copies. Finally, note that we have moved offices and our current office address is as identified in the letterhead above.

Sincerely,



Candace L. Kunz-Freed

CLF/sp
Enclosures

EXHIBIT
P-62

20-20566.725

Rik Munson
218 Landana Street
American Canyon CA 94503

To
Candace Kunz-Freed
11777 Katy Freeway Ste 300 S.
Houston, Tx 77079

cc: John Steen
Notary Public Unit
Secretary of State
P.O. Box 13375
Austin, Texas 78711-3375

Certified Mail #7012 2210 0000 1342 6593

Dear Ms. Kunz- Freed

You recently responded to certified mail letter 7012 2210 0000 1342 6586, wherein I requested copies of your notary log book entries for August 25, 2010 and for December 21, 2010.

I received a reply on December 24, 2012 in which you expressed concerns over the privacy of certain of your clients. You further intimated that any check payable for a copy of your notary records should be made payable to the law firm, VACEK & FREED, PLLC.

Ms. Freed your Texas State Bar Association number is 24041282 and your Texas state Notary ID is 126053214. I should not have to instruct you on the notary laws in Texas. You renewed your Notary license when it expired in March 2011 and the address you gave to the Secretary of State is 14800 St Marys Ln, Ste 230, Houston, TX 77099. If this is not correct please update your information with the Secretary so that it is correct.

The Secretary of State has addressed your concerns and long since posted the information on the government's website for all to see¹. The notary book belongs to the notary public. The employer is not the owner of a notary's record book or

¹ <http://www.sos.state.tx.us/statdoc/forms/notary-public-ed-info.pps>

EXHIBIT
P_63

seal, even if the employer paid for the materials. Tex. Atty. Gen. Op. GA-0723. A Texas notary public is required by law to maintain a record book containing information on every notarization performed and is required to authenticate every official act with the seal of office. The record book is public information and a notary is required to produce copies of the book upon request. Therefore, the book and seal should remain in the possession of the notary at all times.

The Attorney General Opinion cited above may be found on the Attorney General's website². For more information on the records of notaries public, consult the Secretary of State. As their FAQ says, Texas notaries public are governed by Chapter 406 of the Government Code³, Chapter 121 of the Civil Practice and Remedies Code⁴ and the secretary of state's administrative rules found in 1 Texas Administrative Code Chapter 87⁵, as well as other applicable state and federal laws.

Under section 406.014 of the Texas Government Code, a notary public is required to maintain a record book which includes the following information:

1. Date of each instrument notarized;
2. Date of the notarization;
3. Name of the signer, grantor or maker;
4. Residence of the signer, grantor or maker;
5. Whether the signing party was personally known, identified by a governmental identification card, or was introduced and the name of the introducing party;
6. Name and residence of the grantee; and Brief description of the instrument.

These requests concern any and all log book pages containing entries for August 25, 2010 and all log book pages containing entries for December 21, 2011. Please also inform me of the number of pages and the cost to produce copies of your notary log from June 1, 2010 through April 15, 2012 inclusive.

Please be advised that this request is being made on behalf of John Q. Public who is the owner of the information in the requested public records. Both the object and the subject of these requests are the official acts entered by the Notary Public Candace Kuntz-Freed as evidenced by the notary log required by the Texas Government Code cited above. The law requires the notary to produce copies of the public records containing the legally required information without redaction.

² <https://www.oag.state.tx.us/opinions/opinions/50abbott/op/2009/htm/ga-0723.htm>

³ <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.406.htm>

⁴ <http://www.statutes.legis.state.tx.us/Docs/CP/htm/CP.121.htm>

⁵ [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=4&ti=1&pt=4&ch=87](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=1&pt=4&ch=87)

EXHIBIT
P-63

If Mr. Public experiences any further difficulties in obtaining a suitable reply to this request he will file a notary complaint. If you have any further reservations in complying with this request I suggest you might direct your questions and concerns directly to Texas Secretary of State John Steen.

According to the Secretary the maximum fee is fifty cents per page. I am enclosing the same money order for \$10.00 as a deposit for fees along with a self addressed return envelope with postage fully prepaid. Payment is made to Candace Kunz-Freed the Notary Public to whom these requests are made and not to the law firm of Vacek & Freed having nothing to do with these requests.

If the number of pages exceeds 20 please notify me that I may make the necessary fee deposit adjustments.

I will expect your compliance with this inquiry within fifteen days of your receipt of this second request as required by Texas state law.

Respectfully

Rik Munson
218 Landana St
American Canyon CA 94503

EXHIBIT
P-63

Page 3 of 3

20-20566.728

VACEK & FREED, PLLC

ALBERT E. VACEK, JR.*
SUSAN S. VACEK
CANDACE L. KUNZ-FREED
PAUL J. BROWER
JULIE A. MATHIASON
BERNARD L. MATHEWS, III, *Of Counsel*
*Board Certified Estate Planning and Probate Law
Texas Board of Legal Specialization

11777 Katy Freeway, Suite 300 South
Houston, Texas 77079

(281) 531-5800
1-800-229-3002

Telefax (281) 531-5885
E-mail Address: consult@vacek.com

January 15, 2013

Mr. Rik Munson
218 Landana St.
American Canyon, CA 94503

Dear Mr. Munson:

Per your request, enclosed are copies of my notary pages for book entries dated August 25, 2010 and December 21, 2010. The additional pages you request for dates June 1, 2010 through April 15, 2012 total 24 pages. Please remit the exact fee of \$12.00 for these additional pages, if you so request them. You will need to once again provide a self-addressed return envelope for these additional copies.

Finally, you will find a check for \$8.00 payable to you for the return of the money order you previously submitted, less the cost of the four pages included herein. I am unable to hold these funds on account.

Sincerely,

Candace L. Kunz-Freed
Candace L. Kunz-Freed

CLF/sp
Enclosures

EXHIBIT
P-64

20-20566.729

Notarization Date/Time	Document Date	Type of Notarization	Name of Signer	Signer's Signature	Signer's Address and Telephone Number
11/22/10	11/22/10		Shelley Crates	X Shelley Crates	14311 Islandwoods Dr, Houston TX 77065
11/24/10	11/24/10		Floy Stockdick	X Floy Stockdick	4011 Franz Katy, TX 77423
11/24/10	11/24/10		Rosanne Lopez	X Rosanne Lopez	6005 Francis Katy, TX 77423
12/1/10	12/1/10		Dr. C.V. Beghtol	X CV Beghtol	11454 Valley Spring Houston TX 77043
12/9/10	2/9/10		M. Chan	X M Chan	21326 Rosehollow Houston/Katy TX 77450
12/14/10	12/14/10		Irene Kovar	X Irene Kovar	
12/21/10	12/21/10		Deva Brunsting	X Deva E. Brunsting	13630 Pinerock Houston TX 77061
12/21/10	2/21/10		Anita Brunsting	X Anita Brunsting	203 Bloomingdale Cir Victoria, TX 77904
12/21/10	12/21/10		Herbert E. McKay	X Herbert E. McKay	8010 Heffert Houston, TX
12/29/10	12/29/10		Kyung Jacobs	X Kyung Jacobs	8326 Ash Garden Ct. Houston TX 77083
12/30/10	12/30/10		J.W. Burns	X J.W. Burns	12806 Inwood Houston TX 77044
1/03/11	1/03/11		Kyung Jacobs	X Kyung Jacobs	8326 Ash Garden Ct. Houston, TX 77083
1/26/11	1/26/11		John Sutherland	X John Sutherland	416 Southman Lane Houston TX 77024
1/26/11	1/26/11		Ellen Sutherland	X Ellen Sutherland	Podere Binacco 58020 Scarlino (GR) Italy
1/26/11	1/26/11		Karen Lee Cook	X Karen Lee Cook	2210 Deer Trail Houston TX
2/9/11	2/9/11		M. Chan	X M Chan	21326 Rosehollow Ln Katy TX 77450

EXHIBIT

20-2056-765

Page 15 of 23
 Filed on 05/01/13 in TXSD
 Document 50-2
 Case 4:13-cv-00592

Type of Identification <input type="checkbox"/> D.L. <input type="checkbox"/> Credible Witness	<input type="checkbox"/> I.D. Card <input type="checkbox"/> Passport	<input type="checkbox"/> Personally Known <input type="checkbox"/> Other	Description of Document, Additional Information, or Comments	Fee	Signer's Right Thumbprint			
					Top of Thumbprint	Bottom of Thumbprint		
Personal Knowledge			HIPAA -> PAT TRUSTEES DESIGNATION OF SUCCESSOR TEE Certi. of Tr.	\$ 0	Top of Thumbprint	161	Bottom of Thumbprint	162
Personal Knowledge			Qualified Benef. Design.	\$	Top of Thumbprint		Top of Thumbprint	
Personal Knowledge			Appt. of Succ Trustees Qualified Benef. Designation	\$	Top of Thumbprint	163	Top of Thumbprint	164
Personal Knowledge			Funding Pkg. COTs (ST) DT, LT (3) Med POA, HIPAA, WBD, APPT SUCC TEE GWB's and AC KNOWL.	\$	Top of Thumbprint		Top of Thumbprint	
Personal Knowledge			Amended Affidavit/Oath.	\$	Top of Thumbprint	165	Top of Thumbprint	166
Personal Knowledge			Appt. of Succ Tee Resignation documents.	\$	Top of Thumbprint		Top of Thumbprint	
Personal Knowledge			COTs (3) Acceptance as ^{SUCC} Trustee	\$	Top of Thumbprint	167	Top of Thumbprint	168
Personal Knowledge				\$	Top of Thumbprint		Top of Thumbprint	
Personal Knowledge			Beneficiary form for Chase IRA	\$	Top of Thumbprint	169	Top of Thumbprint	170
Personal Knowledge			Birth Certificate Correction	\$	Top of Thumbprint		Top of Thumbprint	
Personal Knowledge				\$	Top of Thumbprint	171	Top of Thumbprint	172
Personal Knowledge			Farmers Insurance Claim Trustee Stmt for LT	\$	Top of Thumbprint		Top of Thumbprint	
Personal Knowledge			Resignation of Tee Med POA	\$	Top of Thumbprint	173	Top of Thumbprint	174
Personal Knowledge			Accept of Succ Co Tee COT, Delegation of Auth	\$	Top of Thumbprint		Top of Thumbprint	
Personal Knowledge			Accept of Succ Co Tee Accept of Delegation COT	\$	Top of Thumbprint	175	Top of Thumbprint	176
Personal Knowledge			Funding (PM2) Med POA; COTs (3) Deed HS, Deed other, Assign P/P.	\$	Top of Thumbprint		Top of Thumbprint	

20-20566.731

	Notarization Date/Time	Document Date	Type of Notarization	Name of Signer	Signer's Signature	Signer's Address and Telephone Number
129	7/20/10	7/20/10	in office	Robert Holmes	X Robert Holmes	13218 Verbena Houston TX 77083
130	7/23/10	7/23/10	in office	Nancy Karistanava	X Nancy J. Karistanava	1873 Birchwood Dr. OKemos, ME 48864
131	7/27/10	7/27/10		Carol L. Noyes	X Carol L. Noyes	5206 Summerfield Ln Spring, TX 77379
132	7/27/10	7/27/10		Karen Renee Noyes	X Karen Renee Noyes	13819 CADY COURT HOUSTON, TX 77077
133	7/27/10	7/27/10		Lisa Hanney	X Lisa Hanney	5706 Lone Cedar Kingwood, TX 77345
134	8/3/10	8/3/10	in office	Laurie Godbold	X Laurie Godbold	8148 Willow Forest Dr. Tomball TX 77375
135	8/10/10	8/10/10	" "	" "	X Laurie Godbold	" "
136	8/17/10	8/17/10		Irene R. Goddard	X Irene R. Goddard	1510 Breezy Bend Katy TX 77494
137				Fred Ben Himburg	X Fred Ben Himburg	
138				Patricia Rhea Mullins	X Patricia Rhea Mullins	
139				Suzan Faye Stringer	X Suzan Faye Stringer	
140				Phyllis Himburg Delano	X Phyllis Himburg Delano	
141	8/25/10			Nelva Brunsting	X Nelva E. Brunsting	13630 Piping Rock Houston TX 77079
142	8/26/10			Betty Jean Brancy	X Betty Jean Brancy	8915 Opelika Houston TX 77080
143	9/8/10			Mark R. Yarbrough	X Mark R. Yarbrough	4101 Monterey Ave, Unit #1221 Austin TX 78749
144	9/18/10			Jeffrey J. Yarbrough	X Jeffrey J. Yarbrough Jr	2617 Piping Rock Tr. Austin TX 78748

Type of Identification <input type="checkbox"/> D.L. <input type="checkbox"/> I.D. Card <input type="checkbox"/> Personally Known <input type="checkbox"/> Credible Witness <input type="checkbox"/> Passport <input type="checkbox"/> Other	Description of Document, Additional Information, or Comments	Fee	Signer's Right Thumbprint	
Personal Knowledge	Memil Lynch DT Memil Lynch ST	\$	129	130
Personal Knowledge	COT for Noyes Fut	\$	131	132
Personal Knowledge	COT for Noyes FLT	\$	133	134
Personal Knowledge	COT for Noyes Armity living trust	\$	135	136
Personal Knowledge	COTS(8) Funding Bks.	\$	137	138
"	Funding forms	\$ —	139	140
Personal Knowledge	Funding Bk.	\$	141	142
Personal Knowledge	QBD, COTS(3) MEDPOA, DGPOA, APPT SUCC TEE DEED	\$	143	144
Personal Knowledge	SS4 COTS Aff of Heir Mtr. Vehicle (a)	\$		
Personal Knowledge	SS4 Aff. Heirship for Mtr. Veh (a)	\$		

20-20566-733

Certificate of Trust

The undersigned Founders hereby certify the following:

- 1. This Certificate of Trust refers to a joint revocable living trust agreement executed by ELMER H. BRUNSTING and NELVA E. BRUNSTING, Founders and initial Trustees. Either Founder while acting as Trustee may conduct business on behalf of the trust without the consent of any other Trustee. The full legal name of our trust for purposes of transferring assets into the trust, holding title of assets and conducting business for and on behalf of the trust, shall be known as:

ELMER H. BRUNSTING or NELVA E. BRUNSTING, Trustees, or the successor Trustees, under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

- 2. Should either original Trustee fail or cease to serve as Trustee by reason of death, disability or for any reason, the remaining original Trustee will continue to serve alone.
- 3. If both of the original Trustees fail or cease to serve as Trustee by reason of death, disability or for any reason, then the following individuals or entities will serve as Trustee in the following order:

First, ANITA KAY RILEY
 Second, CARL HENRY BRUNSTING
 Third, AMY RUTH TSCHIRHART

- 4. The Trustee(s) under the trust agreement are authorized to acquire, sell, convey, encumber, lease, borrow, manage and otherwise deal with interests in real and personal property in trust name. All powers of the Trustee(s) are fully set forth in Article Twelve of the trust agreement.
- 5. The trust has not been revoked and there have been no amendments limiting the powers of the Trustee(s) over trust property.
- 6. No person or entity paying money to or delivering property to any Trustee shall be required to see to its application. All persons relying on this document regarding the Trustees and their powers over trust property shall be held harmless for any resulting loss or liability from such reliance. A copy of this Certificate of Trust shall be just as valid as the original.

The undersigned certify that the statements in this Certificate of Trust are true and correct and that it was executed in the County of Harris, in the State of Texas, on October 10, 1996.

Elmer H. Brunsting
 ELMER H. BRUNSTING,
 Founder and Trustee

Nelva E. Brunsting
 NELVA E. BRUNSTING,
 Founder and Trustee

STATE OF TEXAS
 COUNTY OF HARRIS

The foregoing Certificate of Trust was acknowledged before me on October 10, 1996, by ELMER H. BRUNSTING and NELVA E. BRUNSTING, as Founders and Trustees.

Witness my hand and official seal.

Shannon E. Sweeney
 Notary Public, State of Texas



SHANNON E. SWEENEY
 NOTARY PUBLIC, STATE OF TEXAS
 MY COMMISSION EXPIRES
 FEB. 25, 1998

EXHIBIT
P-66

BRUNSTING001517

20-20566.734

From: Candace Curtis (occurtis@sbcglobal.net)
To: at.home3@yahoo.com; akbrunsting@suddenlink.net; cbrunsting@sbcglobal.net;
Date: Tue, November 8, 2011 11:38:04 AM
Cc:
Subject: Mother

I am sorry for any animosity I have created over the last week. I have only been seeking information about her status. When I am unable to reach her by phone I never know why because I am not in the information loop.

I have been trying to call Mother just to say hello. The phone numbers I have been given are never answered. If she is unable to talk, please let me know and I will stop trying. If one of you, or a caregiver, is with her and she's awake, I would really appreciate a cell phone call so I could say hi to her. If it's not already too late, it may be the last time I speak to her while she still knows who I am.

My fears are based upon information I have gathered speaking to one of you, or Tino, or Robert. It appears that everyone sees the situation in a slightly different light. I have no idea what is best for Mother. All I know is that when I put myself in Mother's shoes I become Dorothy - "THERE'S NO PLACE LIKE HOME"

C

EXHIBIT
P-67

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Candace Louise Curtis	§	
Individually and as Co-Trustee	§	
Plaintiff,	§	
versus	§	CIVIL ACTION NO. 4:12-cv-00592
	§	Jury
Anita Kay Brunsting, et al.	§	
	§	
Defendants.	§	

PROPOSED ORDER FOR SUPPLEMENTAL JURISDICTION AND JOINDER

Having considered Plaintiff’s Motion to Amend Complaint and Join Additional Parties, the Court being fully advised, and good cause shown:

IT IS HEREBY ORDERED that Plaintiff’s Motion to Amend Complaint is GRANTED; Plaintiff having demonstrated that compelling justification exists to warrant an amendment to verified complaint.

IT IS HEREBY ORDERED that Plaintiff is granted leave to file Verified Amended Complaint with this Court.

Plaintiff’s Motion for Joinder is GRANTED; Plaintiff having demonstrated that compelling justification exists to warrant the exercise of Supplemental Jurisdiction and Joinder of state court actions to this suit.

IT IS HEREBY ORDERED that Plaintiff is granted leave to join the following state court actions and parties pursuant to Fed. R. Civ. P. 19(a):

(1) Carl Brunsting vs. Candace Kunz-Freed

Harris County District Court Case No. 2013-05455

(2) Carl Brunsting vs. Anita Kay Brunsting, Amy Ruth Brunsting and Carole

Ann Brunsting Defendants; Candace Curtis Nominal Defendant

Harris County Probate Case No. 412-249401

IT IS HEREBY ORDERED that Plaintiff is granted leave to join the

following parties (a):

(1) Carole Ann Brunsting Defendant

(2) Candace Kunz-Freed Defendant

(3) Albert Vacek Jr. Defendant

(4) Vacek & Freed PLLC Defendant

(5) Bernard Lisle Mathews Defendant

(6) Carl Brunsting Plaintiff

SIGNED on the _____ day of _____, 2013, at Houston, Texas.

Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Candace Louise Curtis	§	
Individually and as Co-Trustee	§	
Plaintiff,	§	
versus	§	CIVIL ACTION NO. 4:12-cv-00592
	§	Jury
Anita Kay Brunsting, et al.	§	
Defendants.	§	

PROPOSED ORDER FOR PRODUCTION OF ORIGINAL DOCUMENTS

The Court has reviewed Plaintiff's Application for exercise of Supplemental Jurisdiction and Joinder, and good cause having been shown, the Court issues the following order:

Defendants are to produce before the Court the documents physically signed by Elmer and/or Nelva Brunsting identified below, verified under penalty of perjury to be the original wet signed trust instruments.

- (1) The Brunsting Family Living Trust (BFLT) dated October 10, 1996
- (2) Restatement of the Brunsting Family Living Trust dated January 12, 2005
- (3) Affidavit of Trust dated January 12, 2005
- (4) Certificate of Trust dated January 12, 2005
- (5) (Pour-Over Will) Last Will of Elmer H. Brunsting January 12, 2005
- (6) Living Will of Nelva Brunsting January 12, 2005
- (7) Durable Power of Attorney for Nelva Brunsting
- (8) First Amendment to BFLT dated September 6, 2007
- (9) Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment under Living Trust Agreement dated June 15, 2010.
- (10) Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment under Living Trust Agreement dated August 25, 2010
- (11) Appointment of Successor Trustees dated August 25, 2010

- (12) Certificate of Trust for the Nelva E Brunsting Survivor's Trust dated August 25, 2010
- (13) Certificate of Trust for the Elmer H Brunsting Decedent's Trust dated August 25, 2010
- (13) Certificate of Trust for the Brunsting Family Living Trust dated August 25, 2010
- (14) Information Concerning Medical Power of Attorney dated August 25, 2010.
- (15) Resignation of Nelva Brunsting dated December 21, 2010
- (16) Appointment of Successor Trustee dated December 21, 2010
- (17) Acceptance of Appointment as Trustee for Anita Brunsting dated December 21, 2010
- (18) Acceptance of Appointment as Trustee for Amy Brunsting
- (19) Any Power of Attorney for Nelva Brunsting
- (20) Agreement dated 11/22/11

SIGNED on the _____ day of _____, 2013, at Houston, Texas.

Kenneth M. Hoyt
United States District Judge

AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

UNITED STATES DISTRICT COURT
for the
Southern District of Texas
MAY 01 2013
United States District Court
Southern District of Texas
FILED

Candace Louise Curtis
Plaintiff
v.

Anita Brunsting et al.,
Defendant

David J. Bradley, Clerk of Court
Civil Action No. 4:12-cv-00592

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Candace Kunz-Freed 11777 Katy Freeway Suite 300 South Houston, Texas 77079
(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days *(give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States)* from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

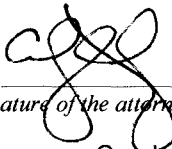
If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 04/28/2013



Signature of the attorney or unrepresented party
Candace Curtis

Printed name
1215 Ulfian Way
Martinez CA 94553

Address
occurtis@sbcglobal.net

E-mail address
925-759-9020

Telephone number

AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

UNITED STATES DISTRICT COURT

for the Southern District of Texas

United States District Court Southern District of Texas FILED

MAY 01 2013

David J. Bradley, Clerk of Court

Candace Louise Curtis

Plaintiff

v.

Anita Brunsting et al.,

Defendant

Civil Action No. 4:12-cv-00592

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Carole Ann Brunsting 5822 Jason St. Houston, TX 77074

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days (give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 04/28/2013

Signature of the attorney or unrepresented party

Candace Curtis

Printed name

218 Landana Street American Canyon CA 94503

Address

occurtis@sbcglobal.net

E-mail address

925-759-9020

Telephone number

AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

UNITED STATES DISTRICT COURT

United States District Court
Southern District of Texas
FILED

for the
Southern District of Texas

MAY 01 2013

David J. Bradley, Clerk of Court

Candace Louise Curtis

Plaintiff

v.

Anita Brunsting et al.,

Defendant

Civil Action No. 4:12-cv-00592

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Albert Vacek Jr. & Vacek & Freed P.L.L.C. 11777 Katy Freeway Suite 300 South Houston, Texas 77079

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days (give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

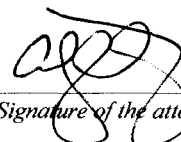
If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 04/28/2013



Signature of the attorney or unrepresented party

Candace Curtis

Printed name

1215 Ulfian Way
Martinez CA 94553

Address

occurtis@sbcglobal.net

E-mail address

925-759-9020

Telephone number

AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

UNITED STATES DISTRICT COURT

for the Southern District of Texas

United States District Court Southern District of Texas FILED

MAY 01 2013

Candace Louise Curtis

Plaintiff

v.

Anita Brunsting et al.,

Defendant

David J. Bradley, Clerk of Court

Civil Action No. 4:12-cv-00592

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Bernard Lise Mathews, III & Green & Mathews, LLP 14550 Torrey Chase Blvd., Suite 245 Houston, Texas 77014 (Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days (give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 04/28/2013

Handwritten signature of Candace Curtis

Signature of the attorney or unrepresented party

Candace Curtis

Printed name

218 Landana Street American Canyon CA 94503

Address

occurtis@sbcglobal.net

E-mail address

925-759-9020

Telephone number

2. The parties shall have ten (10) days from the entry of this order in which to file any objections to the appointment of West. Any such objection(s) may include a request for a hearing.

3. West's duties are to undertake an analysis of the Brunsting Trust, including, but not limited to, its books and records and thereafter create an accounting of the income and expenses of the trust since December 21, 2010. In order to aid in West's performance of said duties, the parties shall comply with all of West's reasonable requests for information and/or assistance.

4. West shall be authorized to communicate *ex parte* with the Court or any of the parties.

5. West shall complete his investigation and submit his report(s) directly to the Court by July 31, 2013 or on such other date(s) as the permitted by the Court. West will provide copies of the report(s) to other parties only as directed by the Court. The report shall contain a summary of the activities undertaken by West, the detailed accounting information described in paragraph 3 above, and an invoice for all of West's compensation, expenses, and attorneys' fees. West shall retain all files related to his investigation for a period of 3 years after the submission of his final report(s).

6. West shall be compensated at an hourly rate of \$260.00 and any staff working directly under his supervision will be charged at their regular rates (staff rates are currently \$95.00-\$230.00 per hour). West shall also be entitled to recover all expenses and attorneys' fees incurred and related to his appointment by the Court. The parties shall bear the cost of West's compensation, expenses, and attorneys' fees. The Court shall have the right to allocate all such compensation, expenses, and attorneys' fees as appropriate, and regardless of any such allocation West shall be entitled to recover all of his compensation, expenses, and attorneys' fees from the Brunsting Trust, and shall be entitled to payment of all such compensation, expenses, and attorneys' fees directly from the Brunsting Trust immediately upon the completion of his work.

7. West shall be granted all of the powers and authority proscribed in Rule 53(c) of the Federal Rules of Civil Procedure.

8. West has been appointed to prepare his report(s) for the Court and not for any of the parties. Therefore, West is accountable only to the Court. As such, West is entitled to and hereby granted the same judicial immunity as this Court itself, and West shall not be responsible to any party provided his report is made in good faith. Further, in the event that any claims are asserted against West related to his appointment, investigation, and/or preparation of his report(s), West shall be entitled to a defense and indemnity, to be allocated and funded in the same manner as his compensation described in paragraph 5 above.

SIGNED on this 9th day of May, 2013.



THE HONORABLE KENNETH M. HOYT,
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

§
§
§
§
§
§
§
§

4:12-CV-00592

DEFENDANTS’ MEMORANDUM AND RESPONSE IN OPPOSITION TO
PLAINTIFF’S “APPLICATION FOR JOINDER OF PARTIES AND ACTIONS”
AND TO MOTION TO AMEND COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting respond in opposition to an “Application for Joinder of Parties and Actions” (Inst. #49, “the Application”), and to the Motion to Amend Complaint which is referenced in the title of Plaintiff’s First Amended Complaint (Inst. #48).

STATEMENT OF THE NATURE AND STAGE OF THE PROCEEDING.

1. This is a diversity action and a suit among sisters involving a family trust. The Court recently entered a temporary restraining order regarding the assets of the trust, and thereafter ordered an independent accountant to gather the financial records and provide an accounting of trust income and expenses since December 21, 2010. (Inst. # 45, 55). The Court had entered a docket control order before the hearing on the temporary relief, and that order includes a deadline for joinder of parties. Plaintiff has timely moved to join parties and to add claims in this suit.

There are two state court suits related to the proceedings here, filed in Harris County Probate Court and Harris County District Court. The Harris County suit was discussed briefly at the temporary restraining order hearing, and is brought by the executor of the Brunsting estate against certain attorneys.¹ A second action was filed the day after the temporary restraining order hearing in Probate Court, in which Defendants and their sister Carole Brunsting are named as defendants and the executor of the Brunsting estate is plaintiff.² Plaintiff Candace Brunsting is also named a defendant in that state court litigation as a “nominal defendant only.”³

STATEMENT OF THE ISSUES TO BE RULED ON, AND THE STANDARD OF REVIEW THAT APPLIES.

2. At issue is Plaintiff’s Application, which seeks to add certain non-parties to this suit and to allege new causes of action against these Defendants. The Application also relates to an amended complaint that Plaintiff has filed, without leave, in which new claims against new parties are alleged, and other new claims are asserted. Although no formal motion for leave to amend has been filed, the Application refers to the claims in the First Amended Complaint and the complaint has the additional title “Motion to Amend Complaint.” There is no certificate of conference for either the Application or the Amended Complaint/Motion to Amend Complaint, as required by LR 7.1(D), and

¹ See Inst. #49 (Application) at 4, paragraph 12.

² A copy of the petition in the Harris County Probate Court suit is attached to Inst. #41, by which Defendants provided notice to the Court of the state suit’s filing.

³ See Appendix Tab 1 to Inst. #41.

Plaintiff did not confer with Defendant's counsel before the instruments were filed. The amended complaint has no discussion of why leave should be granted to amend the original complaint on file.

The standard of review for amendment of pleadings is provided by Rule 15(a), which states that the Court "should freely give leave when justice so requires." The grant or denial of a motion under Rule 15(a) is reviewed for abuse of discretion.⁴ Rule 15(a), however, is inapposite where a party never requests leave to amend, either in a formal motion or within the body of an amended complaint.⁵ "[F]ailing to request leave from the court when leave is required makes a pleading more than technically deficient. The failure to obtain leave results in an amended complaint having no legal effect."⁶

Joinder of parties is governed by Rule 19 and 20, both of which are cited in Plaintiff's Application.⁷ Rule 19(a) relates to the joinder of necessary parties. Under that rule, the Court is to determine whether an absent person "who is subject to service of process and whose joinder will not deprive the court of subject-matter jurisdiction" should be joined as a "required party." If the Court finds in the affirmative, that person

⁴ *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 230, 9 L.Ed.2d 222 (1962).

⁵ *Suter v. Univ. of Texas at San Antonio*, 495 Fed. App'x. 506 (5th Cir. 2012).

⁶ *Id.*, citing *U.S. ex rel. Mathews v. HealthSouth Corp.*, 332 F.3d 293, 296 (5th Cir. 2003).

⁷ See Inst. #49 (Application) at 8.

must be joined, unless joinder is not feasible, and then the Court must determine under Rule 19(b) whether to proceed without the absent person or to dismiss the action.⁸

The first type of required party under Rule 19(a)(1) is one whose absence prevents the court from according complete relief among the existing parties.⁹ The second type of required party under Rule 19(a)(1) is one who “claims an interest relating to the subject of the action and is so situated that disposing of the action in the person’s absence may (i) as a practical matter impair or impede the person’s ability to protect the interest; or (ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.”¹⁰

Rule 20 governs permissive joinders of parties plaintiff or defendant. It incorporates a “same transaction or occurrence” test and a requirement of a common question of law or fact linking all claims.¹¹ Even when these tests are met, the Court has discretion to refuse joinder in the interest of avoiding prejudice and delay; ensuring judicial economy; or safeguarding principles of fundamental fairness.¹²

⁸ See *In re Chinese Manufactured Drywall Products Liab. Litig.*, 273 F.R.D. 380, 385 (E.D. La. 2011).

⁹ *Id.* citing FED. R. CIV. P. 19(a)(1)(A).

¹⁰ *Id.* at 386, citing FED. R. CIV. P. 19(a)(1)(B).

¹¹ *Acevedo v. Allsup’s Convenience Stores, Inc.*, 600 F.3d 516, 521 (5th Cir. 2010).

¹² *Id.*

ARGUMENT:

PLAINTIFF'S REQUEST FOR JOINDER OF ADDITIONAL PARTIES AND NEW CLAIMS, AND LEAVE TO FILE THE PROPOSED AMENDED COMPLAINT, SHOULD BE DENIED.

3. Plaintiff seeks to add parties plaintiff and defendant to this suit. Essentially, Plaintiff asks this Court to “remove” the state court actions to this Court and to join those state court actions in this Court.¹³ She wants to add as defendants her sister Carole, who is a defendant in the state court Probate suit, and the attorneys that are defendants in the Harris County district court suit; she wants to force joinder of her brother as co-plaintiff (and perhaps add his claims brought in the Harris County Probate Court suitor his District Court suit); and she wants to join attorney Mathews as a defendant (who previously represented these Defendants in this suit prior to the Court's order of dismissal).

4. Plaintiff has not shown that her proposed joinder involves necessary or required parties as described by Rule 19. She has not explained why these proposed parties, who are litigants in suits on file in state court, are required to be in this case. Plaintiff's amended complaint includes claims that all the proposed defendants conspired with each other to injure her and to “rupture” the trusts.¹⁴ She also alleges her sister Carole's involvement is “under investigation” but that she is nevertheless named in the amended

¹³ See Inst. #49 (Application) at 8-9, paragraph 23 and 24. The state court actions are not subject to removal under 28 U.S.C. § 1441(a)(2), and in any event would require the consent of all defendants to removal.

¹⁴ See Inst. #48 (Amended Complaint) at 15-16.

complaint “as a joint tortfeasor.”¹⁵ Assuming that all of these parties are thought by Plaintiff to be joint tortfeasors, the Supreme Court has long held it is not necessary for all alleged joint tortfeasors to be named as defendants in a single lawsuit.¹⁶

Moreover, it cannot be disputed by Plaintiff that the state lawsuits are already on file, and that all of the parties she wants to join are already parties plaintiff or defendant in those suits, and that she is a party to one of the suits, albeit as a nominal defendant. Indeed, it would likely be more efficient for Plaintiff to intervene in those cases as plaintiff than to join numerous parties in this case.

Further, there is no showing these other parties are necessary within the meaning of Rule 19 to provide complete relief in this action. Indeed the existence of one of the two suits and the presence of other beneficiaries was discussed with the Court at the temporary restraining order hearing, and the Court suggested the absence of those parties was not fatal to a prompt disposition of this matter.

5. Nor is joinder appropriate under Rule 20. Plaintiff’s claims against the various proposed parties arise from dissimilar factual settings and varying transactions and occurrences. The proposed claims against the attorneys relate to alleged transactions and occurrences that they engaged in as counsel for Nelva Brunsting or the estate or the trusts. Plaintiff references DTPA claims under Texas law: those claims would have a different factual basis – resting on consumer status under the DTPA of her parents and the issue of

¹⁵ See Inst. #48 (Amended Complaint) at 10, paragraph 36.

¹⁶ *Temple v. Synthes Corp., Ltd.*, 498 U.S. 5, 7, 111 S. Ct. 315, 316, 112 L. Ed. 2d 263 (1990).

duties owed and to whom – than the claims made against these Defendants in their capacity as trustees.¹⁷ Additionally, other proposed claims against the attorneys relate to alleged marketing, false advertising, and representations made by them and allegedly relied on by Plaintiff's parents,¹⁸ and theories of respondeat superior against the associated law firm.¹⁹ Plaintiff also seeks disgorgement of fees paid to the law firm. These claims do not have a common nucleus of fact with the claims against these Defendants.

The proposed claims against Defendants' former attorney Mathews include allegations about his conduct representing Defendants in this court,²⁰ and raise issues of the discharge of the attorney's duties in litigation and claims of opposing parties. These proposed claims do not have a common nucleus of fact with the claims against these Defendants and would interject collateral matters into the suit.

6. “While leave to amend must be freely given, that generous standard is tempered by the necessary power of a district court to manage a case.”²¹ The Court may consider undue prejudice to the opposing party by virtue of allowance of the amendment. Defendants contend that permitting Plaintiff to duplicate here many of the claims asserted in two state court suits is prejudicial, and Defendants suggest such an amendment does not promote efficient, orderly administration of justice. Plaintiff's amendment raises issues

¹⁷ Inst. #48 (Amended Complaint) at 29.

¹⁸ Inst. #48 (Amended Complaint) at 27-29.

¹⁹ Inst. #48 (Amended Complaint) at 11-12.

²⁰ Inst. #48 (Amended Complaint) at 12-13.

²¹ *Shivangi v. Dean Witter Reynolds, Inc.*, 825 F.2d 885, 891 (5th Cir. 1987).

of consumer status of decedents and whether a beneficiary has capacity and standing to pursue those claims. If those claims were severed under the Court's power granted by Rule 21, the result would be duplication of litigation.²²

The Court may also consider futility of amendment. Plaintiff may not have standing or capacity to pursue the claims against her parent's attorneys, and those claims are being prosecuted in state court by the executor. Further, Texas appellate courts have held that neither a party to a lawsuit nor his lawyer has a right of recovery against the opposing attorney arising from conduct engaged in as part of that attorney's duties in representing his client in that lawsuit.²³ Thus the proposed amendment against Defendants' former trial counsel in this case would be futile. There is also the questions of whether Plaintiff's proposed new claim under 15 U.S.C. § 78(j) for alleged violations of the Securities Act reaches all the Defendants where no public or private offering of securities to investors is at issue.

For all these reasons, Defendants oppose the granting of leave to file the Amended Complaint, Inst. #48.

CONCLUSION AND RELIEF SOUGHT.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court deny the Application for Joinder or Parties and Actions, and strike from the docket the

²² Severance under Rule 21 creates two separate actions or suits where previously there was but one. Where a single claim is severed out of a suit, it proceeds as a discrete, independent action. *United States v. O'Neil*, 709 F.2d 361, 368 (5th Cir. 1983).

²³ *Lewis v. Am. Exploration Co.*, 4 F. Supp. 2d 673, 676 (S.D. Tex. 1998).

Amended Complaint (Inst. #48) filed by the clerk before leave was granted. Defendants request any other and further relief as this Court may find proper.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

gvie@millsshirley.com

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing; those who are not filing users will be served by email and regular mail on May 21, 2013.

/s/ George W. Vie III

George W. Vie III

Appendix Tab 1

Unpublished Disposition
495 Fed.Appx. 506 (Table)

NOTICE: THIS IS AN UNPUBLISHED OPINION.
(The Court's decision is referenced in a "Table of Decisions Without Reported Opinions" appearing in the Federal Reporter. Use FI CTA5 Rule 47 for rules regarding the citation of unpublished opinions.)
United States Court of Appeals,
Fifth Circuit.

Kelly Jo SUTER, Ph.D., Plaintiff–Appellant

v.

UNIVERSITY OF TEXAS AT SAN ANTONIO;
George Perry, Ph.D.; James M. Bower, Ph.D.;
Mathew J. Gdovin, Ph.D.; Robert W. Gracy,
Ph.D.; J. Aaron Cassill, Ph.D.; Edwin J. Barea–
Rodriguez, Ph.D., Defendants–Appellees.

No. 12–50212 | Summary
Calendar. | Oct. 26, 2012.

Synopsis

Background: Female professor sued state university and university employees, in their individual capacities, alleging negligence, negligent misrepresentation, tortious interference with contract, breach of fiduciary duty, breach of contract, and violation of Equal Pay Act (EPA). The United States District Court for the Western District of Texas, 859 F.Supp.2d 851, granted summary judgment for defendants. Professor appealed.

Holdings: The Court of Appeals held that:

[1] professor's failure to move for leave to amend complaint, as required, resulted in amended complaint having no legal effect;

[2] professor failed to establish good cause for modification of district court's schedule to allow her late motions for leave to amend complaint;

[3] claims for negligence, negligent misrepresentation, and tortious interference with contract were barred by two-year statute of limitations under Texas law, regardless of whether discovery rule or legal injury rule applied;

[4] claims for breach of contract and breach of fiduciary duty accrued when start-up funding for research laboratory was not available to professor upon her employment date;

[5] discovery rule did not apply to toll limitations period on claims for breach of contract and breach of fiduciary duty; and

[6] university did not violate Equal Pay Act.

Affirmed.

West Headnotes (6)

[1] **Federal Civil Procedure**

🔑 Leave of court in general

Plaintiff's failure to move for leave to amend complaint, as required, resulted in amended complaint having no legal effect. Fed.Rules Civ.Proc.Rule 15(a), 28 U.S.C.A.

[2] **Federal Civil Procedure**

🔑 Time for amendment

Federal Civil Procedure

🔑 Order

Plaintiff did not act with due diligence with respect to right-to-sue letter from Equal Employment Opportunity Commission (EEOC), and thus failed to establish good cause for modification of district court's schedule to allow her late motions for leave to amend complaint, where plaintiff failed to inquire about letter for two months, even though she knew of impending deadline for filing motions to amend pleadings. Fed.Rules Civ.Proc.Rule 16(b)(4), 28 U.S.C.A.

[3] **Limitation of Actions**

🔑 Negligence

Limitation of Actions

🔑 Nature of harm or damage, in general

Limitation of Actions

🔑 Injuries to property

Limitation of Actions

➤ Fraud as Ground for Relief

Limitation of Actions

➤ What constitutes discovery of fraud

At the latest, professor learned of alleged mishandling of her start-up funds for research laboratory more than two years before she filed original complaint in action against state university and university employees, even if she did not then know of all defendants' acts and omissions, and therefore, under Texas law, professor's claims for negligence, negligent misrepresentation, and tortious interference with contract were barred by two-year statute of limitations regardless of whether discovery rule or legal injury rule applied.

[4] Limitation of Actions

➤ Contract of employment

Limitation of Actions

➤ Fraud as Ground for Relief

Under Texas law, professor's claims against state university and university employees for breach of contract and breach of fiduciary duty accrued when start-up funding for research laboratory was not available to professor upon her employment date, as she expected it to be. V.T.C.A., Civil Practice & Remedies Code §§ 16.004(a)(5), 16.051.

[5] Limitation of Actions

➤ Contracts; warranties

Limitation of Actions

➤ Fraud of person acting in official or fiduciary capacity

Information about availability of federal grant money to provide start-up funding for professor's research laboratory at state university was not inherently undiscoverable, since professor could have asked university employees or obtained information on grant program herself, and therefore, under Texas law, discovery rule did not apply to toll limitations period on professor's claims against university and university employees for breach of contract and breach of fiduciary duty, which were based upon unavailability of funding upon start of

her employment with university. V.T.C.A., Civil Practice & Remedies Code §§ 16.004(a)(5), 16.051.

[6] Labor and Employment

➤ Seniority system; job experience

Labor and Employment

➤ Merit system; job rating system

Variances in pay received by female professor for state university and male professors with similar qualifications resulted from merit evaluations that were in turn based on professors' teaching, research, and service, as well as seniority, and therefore university did not violate Equal Pay Act. Equal Pay Act, § 3, 29 U.S.C.A. § 206.

Attorneys and Law Firms

*507 Regina Bacon Criswell, Esq., Law Office of Regina B. Criswell, San Antonio, TX, for Plaintiff–Appellant.

Lars Hagen, Assistant Attorney General, Office of the Attorney General, Austin, TX, for Defendants–Appellees.

Appeal from the United States District Court for the Western District of Texas, USDC No. 5:10–CV–692.

Before REAVLEY, DAVIS, and OWEN, Circuit Judges.

Opinion

PER CURIAM: *

Plaintiff–Appellant Kelly Jo Suter appeals the district court's grant of summary judgment in favor of Defendant–Appellees on her tort and contract claims and her claims under 42 U.S.C. § 1983 and the Equal Pay Act, 29 U.S.C. § 206. Suter is a biology professor at Defendant University of Texas at San Antonio (“UTSA” or “University”). Suter alleges that Defendants mishandled start-up funds that she expected would be available to her when she began employment at the University, which funds were meant to support her in establishing a research laboratory at UTSA. In particular, she alleges that the individual Defendants failed to fully inform her about or otherwise secure a key source of funding for her

research, namely a federal grant through the Research Centers in Minority Institutions (RCMI) program. Suter claims that as a result of Defendants' acts and omissions, she lost a year of research and suffered professional injury therefrom. She further alleges that she has suffered unequal treatment on the basis of gender, because two male professors at UTSA received RCMI funding even when she had not, and because there is a variance in pay for female and male professors. Suter filed suit on July 16, 2010.

Suter makes two contentions on appeal. First, she argues that the district court *508 erred in twice denying her leave to amend her complaint. We review the district court's refusal to grant leave to amend for abuse of discretion. *Stripling v. Jordan Prod. Co.*, 234 F.3d 863, 872 (5th Cir.2000). Second, Suter argues that the district court erred in granting summary judgment to Defendants on her various claims. We review the district court's grant of summary judgment *de novo*. *Noble Energy, Inc. v. Bituminous Cas. Co.*, 529 F.3d 642, 645 (5th Cir.2008). For the reasons that follow, we AFFIRM.

I.

At pretrial, the district court entered a scheduling order that set a deadline for "all motions to amend or supplement pleadings" by January 13, 2011. On that date, Suter filed a first amended complaint, but she neglected to file a motion for leave to amend. Suter filed her first motion for leave to amend thirty days later. Additionally, forty-eight days after the January 13 deadline, Suter filed a second amended complaint that was accompanied by a motion for leave to amend. The district court denied both motions and ordered that the two amended complaints be stricken from the record.

[1] Suter argues that, at the very least, the first amended complaint should have been the "live" complaint at trial because it was timely filed, even if it was not accompanied by a formal motion for leave to amend. Suter cites Federal Rule of Civil Procedure 15(a), which states that the district court "should freely give leave when justice so requires." FED.R.CIV.P. 15(a)(2). However, Rule 15(a) is inapposite because Suter never requested leave to amend, whether in a formal motion or within the body of her amended complaint. "[F]ailing to request leave from the court when leave is required makes a pleading more than technically deficient. The failure to obtain leave results in an amended complaint having no legal effect." *U.S. ex rel. Mathews v. HealthSouth Corp.*, 332 F.3d 293, 296 (5th Cir.2003); *see also U.S. ex*

rel. Willard v. Humana Health Plan of Tex., Inc., 336 F.3d 375, 387 (5th Cir.2003) ("A party who neglects to ask the district court for leave to amend cannot expect to receive such a dispensation from the court of appeals.")

[2] Failing that argument, Suter invokes Rule 16(b), which permits a district court to modify its schedule on a showing of good cause. FED.R.CIV.P. 16(b)(4); *S & W Enters., L.L.C. v. SouthTrust Bank of Ala., NA*, 315 F.3d 533, 536 (5th Cir.2003). Suter contends that although she was late in filing her two motions for leave, the district court nevertheless abused its discretion in denying those two motions because she could show good cause for her delay. However, the district court did not abuse its discretion in ruling that Suter had failed to show good cause. Suter's only meaningful explanation for why her motions were late was that she was waiting for a right-to-sue letter from the EEOC. Yet, as the district court pointed out, the good cause standard of Rule 16(b) "requires the 'party seeking relief to show that the deadlines cannot reasonably be met despite the diligence of the party needing the extension.'" *S & W Enters.*, 315 F.3d at 535 (citation omitted). Suter did not conduct due diligence with respect to the right-to-sue letter; indeed, she failed to inquire about the letter for two months even though she knew there was an impending deadline. Thus, the district court did not abuse its discretion in ruling that Suter had failed to show good cause, nor did it abuse its discretion in deciding to enforce its scheduling order.

II.

Suter also contests the district court's grant of summary judgment to Defendants *509 on her five state law claims and two federal law claims. First, Suter argues that the district court erred in ruling that her state law claims for negligence, negligent misrepresentation, tortious interference with contract, breach of fiduciary duty, and breach of contract were time-barred.

Under Texas law, tort claims for negligence, negligent misrepresentation, and tortious interference are subject to a two-year statute of limitations.¹ Claims for breach of fiduciary duty and breach of contract are subject to a four-year statute of limitations.² "Limitations begins to run upon accrual of the cause of action." *Barker v. Eckman*, 213 S.W.3d 306, 311 (Tex.2006). In most cases, the legal injury rule applies, under which "a cause of action accrues when a wrongful act causes an injury, regardless of when the

plaintiff learns of that injury or if all resulting damages have yet to occur.” *Childs v. Haussecker*, 974 S.W.2d 31, 36–37 (Tex.1998); see *Murphy v. Campbell*, 964 S.W.2d 265, 270 (Tex.1997). In some rare cases when “the nature of the injury incurred is inherently undiscoverable and the evidence of injury is objectively verifiable,” *Computer Assocs. Int'l, Inc. v. Altai, Inc.*, 918 S.W.2d 453, 456 (Tex.1996), the statute of limitations is tolled by the discovery rule, under which “a cause of action does not accrue until a plaintiff knows or, through the exercise of reasonable care and diligence, ‘should have known of the wrongful act and resulting injury.’” *Childs*, 974 S.W.2d at 37 (citation omitted).

The district court did not explicate the accrual date for Suter's actions for negligence, negligent misrepresentation, and tortious interference. Instead, the court merely stated that, “[t]hrough it is likely that any such claims arose before this time, in February 2008, the Plaintiff initiated the first of several formal complaints against University employees for mishandling her ‘start-up’ funds. It is clear that this is the *latest possible* time at which the Plaintiff knew, or should have known of the existence of any of these claims. Because the original complaint in this case was not filed until July of 2010, each such claim is barred by limitations.” It appears that the district court assumed, implicitly and for the sake of argument, that the discovery rule applied to these three tort claims and held that even under the discovery rule the claims were time-barred. So construed, we agree with the district court's reasoning.

[3] Assuming that the discovery rule applies, the latest that the rule could have tolled limitations was when Suter learned about the mishandling of her funds. Suter argues on appeal that limitations could not have barred judgment against *all* the defendants because she only learned after July 2008 (and thus less than two years before July 2010) about certain defendants' acts and omissions regarding the mishandling of funds. In other words, Suter interprets the discovery rule to mean that a cause of action accrues not when a plaintiff learns of her injury, but rather when she learns about the specifics of each wrongful act that might have caused her injury. However, the Texas Supreme Court has expressly rejected that interpretation of the discovery rule and has clarified *510 that the rule means “that accrual occurs when the plaintiff knew or should have known of the wrongfully caused injury.” *KPMG Peat Marwick*, 988 S.W.2d at 749. Suter learned about the mishandling of her start-up funds, in particular Defendants' failure to provide RCMI funds to her, in February 2008, which is more than two years before

July 16, 2010. She therefore cannot prevail on these three tort actions under the discovery rule, meaning she cannot prevail under the legal injury rule either. Her actions for negligence, negligent misrepresentation, and tortious interference are necessarily time-barred under Texas's two-year statute of limitations.

[4] In contrast, the district court did decide on an accrual date for Suter's breach of fiduciary duty and breach of contract claims. To wit, the district court concluded that the two causes of action accrued when Suter's start-up funds were not immediately available to her upon her employment date of July 1, 2006. We agree. Under the legal injury rule, the default accrual date for limitations would be the date on which an injury occurred. For breach of fiduciary duty and breach of contract claims, an injury occurs at the moment of breach. *Leigh v. Weiner*, 679 S.W.2d 46, 48–49 (Tex.App.1984) (breach of fiduciary duty); *Barker*, 213 S.W.3d at 311 (breach of contract). After Suter was hired, she expected all of her start-up funding, including the \$100,000 in RCMI funds, to be made immediately available for the purposes of setting up her research laboratory. Indeed, Suter's main complaint is that she would not have accepted UTSA's employment offer had she known that the funds were not immediately available and that they were subject to a conditional carry-forward request. Thus, if any breach occurred, it occurred when the funds were not immediately available at the moment Suter expected them to be—that is, on July 1, 2006. This is therefore the date on which she suffered an injury and is the default accrual date for her breach of fiduciary duty and breach of contract claims.

However, this does not end our inquiry. Suter further argues that the discovery rule tolls the statute of limitations for these two causes of action. The district court disagreed with Suter, stating simply that “Plaintiff has failed to sufficiently plead [the discovery rule] or to plead facts that would properly put the defendant on notice of such a defense.”³ The discovery rule must be affirmatively pleaded in federal court, whether specifically or through “sufficient facts to put the defense on notice of the theories on which the complaint is based.” *Colonial Penn Ins. Co. v. Mkt. Planners Ins. Agency, Inc.*, 1 F.3d 374, 376 (5th Cir.1993) (internal quotation marks and citation omitted). We need not decide whether Suter sufficiently pleaded the discovery rule, because we hold that even if she did, she has failed to establish the defense by proof on summary judgment.

Under Texas law, “[t]he discovery rule, in application, proves to be a very limited exception to statutes of limitations....

Generally, application has been permitted in those cases where the nature of the injury incurred is inherently undiscoverable and the evidence of injury is objectively verifiable. The requirement of inherent undiscoverability recognizes that the discovery rule exception should be permitted only in circumstances where ‘it is difficult *511 for the injured party to learn of the negligent act or omission.’” *Computer Assocs.*, 918 S.W.2d at 455–56 (citation omitted).

[5] While Suter claims, and Defendants do not dispute, that she learned about insufficiency of funds in October or November 2006, there is evidence that she was earlier put on notice about funding sources and deadlines. Most notably, Suter's employment offer letter, dated May 30, 2006, explicates that her \$200,000 for equipment “[m]ust be spent within the RCMi grant cycle [.]” While the letter does not clarify the end of the then-current grant cycle, Suter at least should have been aware that there was a deadline for the funds, and she could have easily asked Defendants or others about the deadline. There is no evidence that Defendants would have misrepresented such information or otherwise withheld it from her. Moreover, Suter was never foreclosed from herself obtaining information on the RCMi program, since such federal grant money was administered through the National Institutes of Health (NIH), with the University acting only as its steward. While Suter might not have *actually* known about the deadline to use these funds, the evidence fails to prove that information about the funds was “inherently undiscoverable.” *Id.* Therefore, we hold that even if Suter sufficiently pleaded the discovery rule, the rule would not apply to toll Suter's breach of fiduciary duty and breach of contract claims, and so those claims accrued on the date of the alleged breach, July 1, 2006. Because that is more than four years before Suter filed suit, these two actions are time-barred under Texas's four-year statute of limitations.

[6] Finally, Suter alleges that Defendants violated the Equal Pay Act. She specifically seeks damages from Defendant Edwin Barea–Rodriguez (Chair of the Department of Biology), in his individual capacity under 42 U.S.C. § 1983, for violating the Equal Pay Act. We agree with the district court's reasoning on these claims in toto.⁴ To wit, the district court properly concluded that Defendants proved by a preponderance of the evidence that there was adequate justification for variances in pay between Suter and other professors with similar qualifications. In particular, differences in pay between Suter and Dr. Fidel Santamaria and Dr. Todd Troyer—her two male colleagues with whom she constitutes the RCMi “faculty development core”—are based on merit evaluations, a system under which Suter has even benefitted.⁵ These merit evaluations are in turn based on a professor's teaching, research, and service, and the system also considers the seniority of professors—all of which proves affirmative defenses to a prima facie case under the Equal Pay Act. *See Siler–Khodr v. Univ. of Tex. Health Science Ctr. San Antonio*, 261 F.3d 542, 546 (5th Cir.2001) (“[T]he four affirmative defenses set forth in the Equal Pay Act [are] (1) a seniority system; (2) a merit system; (3) a system which measures earnings by quantity or quality of *512 production; or (4) any other factor than sex.”) (internal quotation marks and citation omitted). Accordingly, we affirm the district court's summary judgment for Defendants on Suter's Equal Pay Act and § 1983 claims.

AFFIRMED.

Parallel Citations

2012 WL 5285108 (C.A.5 (Tex.)), 289 Ed. Law Rep. 600

Footnotes

- * Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.
- 1 See *KPMG Peat Marwick v. Harrison Cnty. Hous. Fin. Corp.*, 988 S.W.2d 746, 750 (Tex.1999) (negligence); *Hendricks v. Thornton*, 973 S.W.2d 348, 364 & n. 19 (Tex.App.–Beaumont 1998, pet. denied) (negligent misrepresentation); *Milestone Props., Inc. v. Federated Metals Corp.*, 867 S.W.2d 113, 118–19 (Tex.App.–Austin 1993, no writ) (negligent misrepresentation); *Snyder v. Eanes Indep. Sch. Dist.*, 860 S.W.2d 692, 699 (Tex.App.–Austin 1993, writ denied) (tortious interference with contract).
- 2 TEX. CIV. PRAC. & REM.CODE ANN. §§ 16.004(a)(5) (breach of fiduciary duty), 16.051 (residual limitations period).
- 3 The district court and Defendants have also pointed out that Suter cannot prevail on a theory of fraudulent concealment. On appeal, Suter's arguments concerning fraudulent concealment are at most tangential. In any case, the theory does not alter our analysis. We therefore consider the discovery rule aside from any claim of fraud or concealment.
- 4 Suter specifically alleges that Barea–Rodriguez violated the Equal Pay Act because he “authorized and/or approved higher pay levels for male faculty” than for female faculty. The district court awarded summary judgment to Barea–Rodriguez on the ground that

289 Ed. Law Rep. 600

Suter's § 1983 claim against him was a remedial redundancy, when she already had a claim against the University under the Equal Pay Act. We agree with this reasoning, but it is unnecessary to decide the outcome, as Defendants have sufficiently proved that Suter cannot prevail under the Equal Pay Act, whether against Barea-Rodriguez or any other defendant.

5 For example, in September 2010, Suter received a one-time bonus that was about \$400 greater than Santamaria's, based on a better annual evaluation rating for Suter. Additionally, since the 2009 academic year, Suter has earned more than Troyer.

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

ORDER DENYING PLAINTIFF'S
"APPLICATION FOR JOINDER OF PARTIES AND ACTIONS"
AND TO MOTION TO AMEND COMPLAINT

BEFORE THE COURT is Plaintiff's Application for Joinder and Amended Complaint. The Court has considered the Application, the proposed amendment to the Original Complaint, and the Response of Defendants Anita Kay Brunsting and Amy Ruth Brunsting to the Application and any Motion for Leave to Amend.

After consideration of the Application and the Amended Complaint, and other matters, the Court finds the Application for Joinder of Parties, and Claims and leave to file the proposed Amended Complaint, should be DENIED. The Amended Complaint, having been docketed by the Clerk of the Court as Inst. #48 before leave was granted for its filing, is STRICKEN from the docket.

DONE this _____ day of _____, 2013, at Houston, Texas.

UNITED STATES DISTRICT JUDGE

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

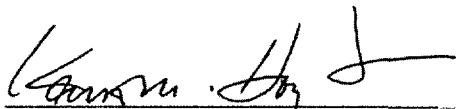
CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

ORDER DENYING PLAINTIFF'S
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AND TO MOTION TO AMEND COMPLAINT

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After consideration of the Application and the Amended Complaint, and other matters, the Court finds the Application for Joinder of Parties, and Claims and leave to file the proposed Amended Complaint, should be DENIED. The Amended Complaint, having been docketed by the Clerk of the Court as Inst. #48 before leave was granted for its filing, is STRICKEN from the docket.

SIGNED on this 22nd day of May, 2013.



Kenneth M. Hoyt
United States District Judge

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

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

§
§
§
§
§
§
§
§
§

4:12-CV-00592

DEFENDANTS' MOTION FOR APPROVAL OF DISBURSEMENT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting move for an Order permitting the payment of two invoices from a tax preparer, consistent with the Court's April 19, 2013, Order requiring Court's approval of all disbursement of funds from the Trust.

1. At the temporary restraining order hearing, Defendants advised the Court that tax payments from the Trust were due. The Court thereafter entered an Order authorizing the payments from Trust funds of federal and state taxes.

2. The decedent's trust and survivor's trust had employed Kroese & Kroese P.C., a CPA firm, to prepare the necessary tax returns. That firm has submitted invoices for its professional services, in the amount of \$600 for the decedent's trust return and \$400 for the survivor's trust return. The invoices are attached.

3. Accordingly, Defendants move for entry of the attached Order permitting the payments of these invoices. The disbursement for tax preparation of the decedent's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3536. The

disbursement for tax preparation of the survivor's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3523.

4. As instructed by the Court, all beneficiaries will be served with a copy of this Motion (through their counsel of record in the state court suits). The Master appointed by the Court will also be served.

CONCLUSION AND RELIEF SOUGHT.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court grant this Motion and enter the attached Order.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

gvie@millsshirley.com

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing; those who are not filing users will be served by email and regular mail. Additionally, non-party beneficiaries will be served by copy to any attorney-of-record for those parties in state court litigation.

/s/ George W. Vie III

George W. Vie III

Appendix Tab 1



540 North Main Ave
 Sioux Center, IA 51250
 Phone: (712) 722-3375
 E-mail: cpa@kk-cpa.com
 Web: www.kk-cpa.com

Elmer H Brunsting Decedents Trust DTD
 203 Bloomingdale Circle
 Victoria, TX 77904

Invoice Date: 04/28/2013
Invoice Number: 49333

For professional service rendered as follows:

Preparation of 1041 Estates and Trusts Tax Return
 Trust Work

	<u>\$600.00</u>
Invoice Total	<u><u>\$600.00</u></u>
Beginning Balance	\$0.00
Invoices	600.00
Payments	0.00
Adjustments	0.00
Finance Charges	0.00
Net Due	<u><u>\$600.00</u></u>

<u>Current</u>	<u>31 - 60 Days</u>	<u>61 - 90 Days</u>	<u>91 - 120 Days</u>	<u>Over 120 Days</u>	<u>Total</u>
600.00	0.00	0.00	0.00	0.00	\$600.00

Please return bottom portion with payment.

Elmer H Brunsting Decedents Trust DTD

Client Number: 9706

Invoice Date: 04/28/2013

Invoice Number: 49333

Amount Due: \$600.00

Amount Enclosed: \$ _____

BALANCE IS DUE IN FULL ON OR BY THE 20TH OF THE MONTH. A 1.5% per month finance charge is assessed on past due accounts.





540 North Main Ave
 Sioux Center, IA 51250
 Phone: (712) 722-3375
 E-mail: cpa@kk-cpa.com
 Web: www.kk-cpa.com

Nelva E Brunsting Survivors Trust
 203 Bloomingdale Cir
 Victoria, TX 77904

Invoice Date: 04/28/2013
Invoice Number: 49368

For professional service rendered as follows:

Preparation of 1041 Estates and Trusts Tax Return	400.00
	\$400.00
Invoice Total	\$400.00
Beginning Balance	\$0.00
Invoices	400.00
Payments	0.00
Adjustments	0.00
Finance Charges	0.00
Net Due	\$400.00

<u>Current</u>	<u>31 - 60 Days</u>	<u>61 - 90 Days</u>	<u>91 - 120 Days</u>	<u>Over 120 Days</u>	<u>Total</u>
400.00	0.00	0.00	0.00	0.00	\$400.00

Please return bottom portion with payment.

Nelva E Brunsting Survivors Trust

Client Number: 9963

Invoice Date: 04/28/2013

Invoice Number: 49368

Amount Due: \$400.00

Amount Enclosed: \$ _____

BALANCE IS DUE IN FULL ON OR BY THE 20TH OF THE MONTH. A 1.5% per month finance charge is assessed on past due accounts.



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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

**ORDER GRANTING DEFENDANTS' MOTION
FOR APPROVAL OF DISBURSEMENTS**

BEFORE THE COURT is Defendants' Motion for Approval of the payment of two invoices from a tax preparer. After consideration of the Motion, the Court finds it should be granted for the reasons stated in the Motion. It is, therefore,

ORDERED that the Trustees have authority to pay, and shall pay, the following:

Kroese & Kroese P.C.'s invoice 49333 in the amount of \$600.00;

Kroese & Kroese P.C.'s invoice 49368 in the amount of \$400.00.

Invoice 49333 will be paid out of Bank of America Checking acct: xxxxxxxx3536 (decedent's trust). Invoice 49368 will be paid out of Bank of America Checking acct: xxxxxxxx3523 (survivor's trust).

Signed this _____ day of June, 2013.

KENNETH M. HOYT
UNITED STATES DISTRICT JUDGE

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

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FOR APPROVAL OF DISBURSEMENTS

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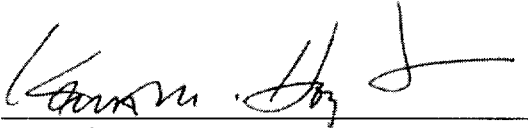
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Kroese & Kroese P.C.'s invoice 49368 in the amount of \$400.00.

Invoice 49333 will be paid out of Bank of America Checking acct: xxxxxxxx3536 (decedent's trust). Invoice 49368 will be paid out of Bank of America Checking acct: xxxxxxxx3523 (survivor's trust).

Signed this 10th day of June, 2013.



 Kenneth M. Hoyt
 United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

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CIVIL ACTION NO. 4:12-CV-592

**ORDER FOLLOWING TELEPHONE SCHEDULING CONFERENCE
HELD ON July 15, 2013 at 8:15 AM**

Appearance for Other Party

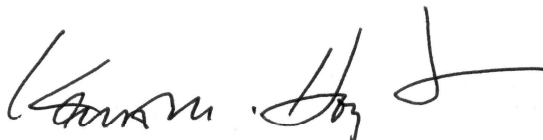
William G. West (Accountant)

The following rulings were made:

Pursuant to phone conference, the Court conferred with Mr. West concerning his report due at the end of the month. Upon receipt, a hearing date will be set to address any concerns of the parties.

It is so ORDERED.

SIGNED on this 15th day of July, 2013.



Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

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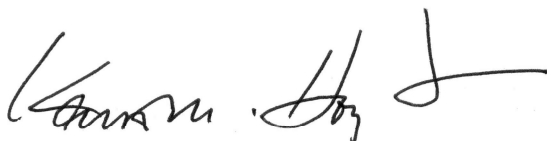
CIVIL ACTION NO. 4:12-CV-592

ORDER

Before the Court is the report of the Court-appointed accountant for the Brunsting Family Living Trust for the period December 21, 2010 through May 31, 2013. In light of the questions that may arise and objections or corrections that must be noted, the Court sets this matter for a hearing at 515 Rusk, Courtroom 11-A, on September 3, 2013, at 1:30 p.m. Objections to the report and the accountant’s invoice shall be filed on or before August 27, 2013.

It is so Ordered.

SIGNED on this 5th day of August, 2013.



Kenneth M. Hoyt
United States District Judge

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

IN RE:	§	
	§	
CANDACE LOUISE CURTIS	§	CIVIL ACTION NO. 4:12-CV-592
Plaintiff	§	
	§	
VS.	§	
	§	
ANITA KAY BRUNSTING, et al,	§	
Defendants	§	

REPORT OF MASTER

**ACCOUNTING OF INCOME/RECEIPTS AND
EXPENSES/DISTRIBUTIONS OF THE BRUNSTING
FAMILY LIVING TRUST FOR THE PERIOD
DECEMBER 21, 2010 THROUGH May 31, 2013**

**Report of William G. West, CPA
William G. West, P.C.**

Dated July 31, 2013

**REPORT OF ACCOUNTING OF INCOME/RECEIPTS AND
EXPENSES/DISTRIBUTIONS OF THE BRUNSTING FAMILY LIVING TRUST**

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Exhibits

1. Statement of Income/Receipts and Expenses/Distributions for the period December 21, 2010 through May 31, 2013
2. Detail of Accounts for the period December 21, 2010 through May 31, 2013
3. Stock Distribution Analysis

I. Introduction

On February 27, 2012, Candace Curtis filed a pro se complaint in the United States District Court for the Southern District of Texas, alleging the civil torts of breach of fiduciary, extrinsic and constructive fraud and intentional infliction of emotional distress, alleging that the Brunsting Defendants acting as trustees for their parents' trust, failed to notice her of actions affecting her beneficial interests, refused to provide copies of non-protected trust instruments and refused to account for trust assets, or to report on any other acts of administration. On March 8, 2012, Plaintiff's complaint was dismissed under the probate exception to federal diversity jurisdiction. The Plaintiff filed a notice of appeal. On January 30, 2013, the Fifth Circuit Court of Appeals reversed the dismissal. On April 19, 2013, the District Court issued a memorandum and order for preliminary injunction. In the order, the Court ordered the appointment of an independent firm or accountant to gather the financial records of the trust and provide an accounting of the income and expenses of the trust since December 21, 2010. The defendants were ordered to cooperate with the accountant in the process. On May 9, 2013, the Court ordered the appointment of William G. West as master to perform an accounting. Though the injunction order was signed in April, the master received substantial records through May 31, 2013, and has used that date as the ending date for the report. Therefore, the report covers the time period of December 21, 2010, through May 31, 2013, except for any periods for which information was not received as noted later in this report.

II. Time Line of Records Received

On or about April 18, 2013, the accounting firm of William G. West, P.C., C.P.A. (“West”) was contacted by the court concerning the preparation of the report contained herein since the parties to the suit had not mutually agreed upon the selection of an accountant. After discussing the case with the Judge and a conflict check, West agreed to accept the appointment. West then instructed his attorney to draft and prepare an order appointing him as master to perform an accounting of the income and expenses of the trust since December 21, 2010. This order was signed on May 9, 2013. Shortly thereafter, West reviewed the court docket and read certain pleadings filed in the case. On May 22, 2013, West contacted the attorney for the defendants, Mr. George Vie (“Vie”), to schedule a meeting to discuss the records and the collection of them. On May 29, 2013, West went to Vie’s office for the meeting. At the meeting West was given a box of paper records containing bank statements, brokerage statements, statements for dividend reinvestment accounts and tax returns. He was also given a CD which were said to contain pdf copies of most of these records. West was also given a listing of records being turned over and those statements missing or not yet obtained. West was told the missing records were in the process of being obtained. West also requested copies of any electronic accounting or bookkeeping files the defendants may have for the trust. Subsequently, on or about June 4, 2013, West was emailed some Quicken accounting program files which he was able to successfully download and open in order to review. On or about June 6, 2013, West received additional records from Vie. During this time West contacted the plaintiff to discuss the case with her and request copies of any records of the trust she may have in her possession. Towards the end of June, West

contacted Vie for an update on the status of the receipt of missing records which had yet to be produced. Additional records were promised in the near future. On or about July 1st West received emails from the plaintiff containing pdf copies of various records. West found, that for the most part, he had these records already from Vie (the plaintiff had told West beforehand that most of the records she had, in fact, came from the defendants' attorney, except some her brother had given her). On July 5th Vie sent additional records to West (and pdf copies of same on CD). After review of these records received on July 5th, West sent an email to Vie inquiring as to when additional records would be received. West specifically addressed his concern that there were many bank disbursements for which he had no copies of cancelled checks or paid bill invoices to document said disbursements. On July 15, 2013, West sent another email addressing this same issue and received a letter from Vie in explanation of certain distributions. On July 24, 2013, Vie forwarded several more missing bank statements. Up until the submittal date of this report, West communicated with Vie for clarification on certain deposits or disbursements.

III. Work Performed by Accountants

Upon receipt of the first batch of records from Vie, West had his staff reconcile the paper records received with those in pdf on the CD and with the scheduled listing of records turned over and those not yet turned over. When the Quicken files were received and opened, they were download, reviewed and converted into excel spreadsheets for use by West's staff. It is West's opinion that the Quicken files kept by the defendant(s) were more for use as an electronic checkbook to keep bank balances as opposed to a more fully integrated bookkeeping system. To some extent the Quicken files did serve as

an outline for the subsequent work done by West. West set up a client account in QuickBooks to serve as an accounting database to compile the income and expense report for the trust. Once the chart of accounts was set up, all of the cash receipt and cash disbursement activity reflected on the Quicken files and bank statements were entered into QuickBooks. Some of the disbursements from the bank accounts did not have cancelled checks associated with the bank statements. A great many disbursements did not have support to document them reflecting the recipient, what was being paid for and the like. West had to rely on descriptions he found in the Quicken records, bank statements or elsewhere in the documents given to him. West has also relied on information/explanations supplied to him in a letter by the defendants' attorney dated July 15, 2013. In summary, West was not given unrelated third party documentation for many of the disbursements run through the bank accounts. The entry of these receipts and disbursements was extremely time consuming; Approximately a thousand entries were made into the QuickBooks database in order to record them. These entries were made only after reviewing related documents provided and ascertaining how best to record the entries. Additionally, paid bills or invoices, if present for reviewing, were compared to the bank disbursements.

West was also given brokerage account statements for three Edward Jones accounts and twelve dividend reinvestment accounts for either Chevron or ExxonMobil. West's staff had to do a reconciliation of monthly or quarterly reports for each account and/or transfers between them. This activity was entered via journal entries. The entry of these stock type accounts was also extremely time consuming, approximately five hundred entries were made into the QuickBooks database in order to record them after a careful

review and analysis of the respective account statements covering a two and a half year time frame. Numerous work papers were prepared to analyze: 1. transfers between accounts; 2. stock dividends reinvested; and, 3. stocks which were either sold or distributed.

West has used his best judgment in classifying the receipts and disbursements into account categories on the income and expense report. West requested that the defendants provide him with all the accounting information of the trust(s) and he is relying upon the belief they have complied and there are no other available records to be turned over. West has relied on the information given to him and interpreted as best he could. West reserves the right to amend the report as needed as new and additional information becomes available.

IV. Summary of Accounts Reviewed

For the purposes of this Report, the following bank and stock accounts activity for the applicable periods have been recorded for the preparation of the income and expense report contained herein:

Bank of America account # [REDACTED]-1143

Bank of America account # [REDACTED]-3523

Bank of America account # [REDACTED]-8577

Bank of America account # [REDACTED]-9546

Bank of America account # [REDACTED]-6643

Bank of America account # [REDACTED]-3536

Edward Jones account # [REDACTED] 5-1-6

Edward Jones account # [REDACTED] 6-1-9

Edward Jones account # [REDACTED] 9-1-8

Chevron dividend reinvestment account (Bank of New York)

Chevron dividend reinvestment account # C [REDACTED] 9415

Chevron dividend reinvestment account # C [REDACTED] 9407

Chevron dividend reinvestment account # C [REDACTED] 9423

John Deere dividend reinvestment account

ExxonMobil dividend reinvestment account # C [REDACTED] 0102

ExxonMobil dividend reinvestment account # C [REDACTED] 6261

ExxonMobil dividend reinvestment account # C [REDACTED] 6287

ExxonMobil dividend reinvestment account # C [REDACTED] 7769

ExxonMobil dividend reinvestment account # C [REDACTED] 7777

ExxonMobil dividend reinvestment account # C [REDACTED] 3319

ExxonMobil dividend reinvestment account # C [REDACTED] 3301

V. Report Exceptions and Missing Documents

In our review, we noted that we did not receive copies of approximately thirteen checks. We relied upon other information provided by the defendants to reflect the payee and categorize the type of expense incurred. We were supplied with a limited number of paid bills and invoices supporting many of the disbursements and payments made. Again we relied on the various types of information provided to us to categorize the type of expense paid. We did not receive monthly statements for payments made on a Bank of America credit card. These payments are reflected in summary on the report (Exhibit 1) and also in

the detail of accounts (Exhibit 2). The categorization of these payments can be amended should the statements and supporting documents be received.

The following account statements were not received and the activity for the periods has not been recorded in the report:

Bank of America checking accounting # [REDACTED]-9546, 12/14/2011 to 5/31/13.

Edward Jones account # [REDACTED]5-1-6, 4/26/2013 to 5/31/2013.

Chevron dividend reinvestment account # [REDACTED]9423 12/31/2011 to 5/31/2013

ExxonMobil dividend reinvestment account # [REDACTED]6287 9/30/2012 to 5/31/2013

John Deere dividend reinvestment account (summary provided, but no monthly reports)

Met Life dividend reinvestment account (summary provided, but no monthly reports)

VI. Stock Distributed/Dividend Reinvestment Account Information

During the period, a number of Dividend Reinvestment Accounts (“DRP”) were maintained. The information we received included accounts with Chevron Corporation (“CVX”) shares, Exxon/Mobil Corporation (“XOM”) shares, Deere and Company (“DE”) shares and MetLife Inc (“MET”) shares. When shares were distributed to the beneficiaries or parties in interest, the transaction was accounted for on the QuickBooks database at the fair market value at the time of the distribution or transfer. The fair market value was determined from historical records of stock prices at the close of the date of the transaction. These amounts may or may not be the actual amounts realized by the individuals receiving the stock. Please refer to Exhibit 3 in relation to this section.

At the beginning of the review period, there were 1,292.2088 shares of CVX and 4,010.20048 shares of XOM according to the records we received. According to account information provided to us 95 shares of MET were attributable to the estate and 9.5807 shares of DE were never transferred to the Nelva Brunsting Survivor's Trust.

During the review period, 675 shares of CVX were transferred as follows:

Anita Brunsting received 135 shares
Ann Brunsting UGMA received 135 shares
Jack Brunsting UGMA received 135 shares
Katie Riley UGMA received 135 shares
Luke Riley received 135 shares.

During the review period, 2,675 shares of XOM were transferred as follows:

Amy Brunsting received 1,120 shares
Carole Brunsting received 1,325 shares
Anita Brunsting received 160 shares
Candy Curtis received 160 shares.

Dividends were reinvested in stocks purchased at the fair market values at the time of the transactions as follows:

CVX shares purchased were 84.83095
XOM shares purchased were 60.51429
DE shares purchased were 0.04946

Partial shares were sold as follows:

XOM shares sold were 0.79847
DE shares sold were 0.9117

612 CVX shares were maintained in an account not under control of Anita Brunsting at the beginning of the review period, but were eventually transferred into the main CVX DRP account. A final accounting of 37.131 shares of CVX stock could not be determined since reports after 12/31/2011 were unavailable for one of the DRP accounts.

4.42786 shares of XOM were unaccounted for because reports after 9/30/2012 were unavailable from one of the DRP accounts.

95 shares of MET were attributed to the trust information, however the only reports reflecting information on these shares were dated late in the review period and did not show whether the shares were available to the estate at the beginning of the period.

Only 0.04946 shares of DE were attributed to the estate at the end of the period. No reports reflected the balance as of the beginning of the period and 8.669 shares were not accounted for during the period.

At the end of the review period, 1,276.88344 shares of CVX, 1,300.25643 shares of XOM, 0.04946 shares of DE and 95 shares of MET were available to the trust.

VII. Comments on Certain Accounts

In the Income/Receipts section of the report there are accounts titled *Long Term Capital Gains– Funds* and *Short Term Capital Gains– Funds*. These amounts do not represent sales made by the Trust, per se, but rather sales of securities made by stock or bond funds held in the Trust accounts and then passed on to the Trust.

In the Expense/Distributions section of the report there is an account titled *Cash/Check to Family Members*. This account represents cash, checks, electronic fund transfers paid or sent to family members or payments made for the benefit of family members, as best as West could ascertain. In Exhibit 2, the detail of accounts, there is a

listing of the payments found that fit this account category. In the information provided to West, *many* of the payments are noted as *reimbursement* to family members for expenses (trustee fees, legal fees, repairs, work performed, etc.) incurred on behalf of the trust and are noted as such in the memo section of the detail of accounts. Also the July 15, 2013, letter from Vie in explanation of certain distributions is referenced here in regard to certain distributions. It is important to note this section lists distributions out of bank accounts to or for the benefit of family members. It does not list distributions of stock which are listed separately in the last section of the Statement of Income/Receipts and Expenses/Distributions and the related Section VI above and in Exhibit 3.

An account titled *Payments to Credit Cards* is included in the Expense/Distributions section of the report. This account reflects payments made on credit cards for which we could not find supporting documentation *or* ascertain how the amounts should be allocated to other Expense/Disbursement accounts. Section V above addresses Bank of America credit card payments and lack of statements and supporting documents. There were also payments to a Bluebonnet credit card account (also referenced as “Cardmember Services” in information given to us), for which we were given monthly statements and some supporting documentation. Due to the general lack of supporting documents for these payments they have been placed into this account.

VIII. Summation

In this case I have been asked to prepare an accounting to help the Court consider the issues in dispute. I have undertaken an analysis of the books and records provided to me. It

is my belief that all my requests for information from the various parties were reasonable and that I made it clear I wanted all available records. This report has been based on all records received to date. The report can be amended should additional records be received if so directed by the Court. This report has been made in good faith.

Respectfully submitted on this 31st day of July, 2013.

William G. West



12345 Jones Rd., Suite 120
Houston, TX 77070

EXHIBIT 1

Brunsting Family Living Trust**Statement of Income/Receipts & Expenses/Disbursements**

December 21, 2010 through May 31, 2013

Income/Receipts

Farm/Rental Income	\$127,790.41
Investment Income	
Dividend Income	28,321.46
Interest Income	3,085.05
Long Term Capital Gains - Funds	1,047.31
Short Term Capital Gains- Funds	489.10
Stock Sales less Broker Fees	183,662.79
Total Investment Income	<u>216,605.71</u>
Miscellaneous Income	6,460.73
Pension Income	8,303.58
Proceeds from Sale of Home	433,392.05
Social Security Income	17,800.00
Tax Refunds	19,816.87
Total Income/Receipts	<u>830,169.35</u>

Expenses/Disbursements

Automobile Expense	2,965.76
Bank & Brokerage Charges	8,540.62
Checks/Cash to Family Members	108,924.91
Dues and Subscriptions	278.47
Food/Dining/Groceries	5,958.67
Funeral	3,556.29
Household	1,237.20
Insurance Expense	4,737.88
Lawn Care	1,262.00
Legal Fees	36,312.44
Medical Expenses	
In Home Care	119,232.61
Medical Supplies	65.47
Medical Expenses - Other	2,568.98
Total Medical Expenses	<u>121,867.06</u>
Miscellaneous Expenses	6,753.72
Office Supplies	63.70
Payments to Credit Cards	
Bank of America Credit Cards	14,042.99
Bluebonnet Credit Union Cred Cd	11,986.96
Total Payments to Credit Cards	<u>26,029.95</u>

Brunsting Family Living Trust**Statement of Income/Receipts & Expenses/Disbursements**

December 21, 2010 through May 31, 2013

Personal Care	798.14
Pet Care	
Pet Food and Supplies	69.68
Veterinary Expenses	1,976.24
Total Pet Care	<u>2,045.92</u>
Postage	78.15
Professional Fees	7,563.86
Repairs and Maintenance	783.31
Supplies	29.83
Taxes	
Taxes - Federal	53,416.00
Taxes - Property	9,811.99
Taxes - State	4,793.00
Total Taxes	<u>68,020.99</u>
Telephone Expense	4,519.17
Utilities	
Cable TV	776.41
Electricity	2,259.90
Gas	942.66
Water	2,537.22
Total Utilities	<u>6,516.19</u>
Total Expenses/Disbursements	<u>418,844.23</u>
Net of Income/Receipts & Expenses/Disbursements	411,325.12
Less Stock Distributed to Family Members	
Value of Stock Transferred Out	<u>298,976.80</u>
Net of Income/Receipts & Expenses/Disbursements Less Value of Stock Distributed	<u><u>\$112,348.32</u></u>

EXHIBIT 2

Brunsting Family Living Trust
Detail of Accounts

12/21/2010-05/31/2013

Type	Date	Num	Name	Memo	Class	Amount	Balance
Ordinary Income/Expense							
Income							
Farm/Rental Income							
General Journal	3/1/2011	EJ20120458	Invest inc - Farm		Nelva	15,540.40	15,540.40
General Journal	9/29/2011	EJ20120476	Farm inc - invest inc		Nelva	15,510.00	31,050.40
General Journal	10/5/2012	EJ20120442	Farm Rent		Elmer	26,437.50	57,487.90
General Journal	1/11/2013	EJ20120437	Farm Rent		Elmer	13,902.51	71,390.41
General Journal	3/2/2013	EJ20120450	Farm Rent		Elmer	29,962.50	101,352.91
General Journal	3/5/2013	EJ20120438	Farm Rent		Elmer	26,437.50	127,790.41
Total Farm/Rental Income						127,790.41	127,790.41
Investment Income							
Dividend Income							
General Journal	12/21/2010	EJ20101223	Dividends on Capital Income Builder Fund A		Survivor	60.19	60.19
General Journal	12/22/2010	EJ20101212	Dividends on Dodge & Cox Intl Stock Fund		Elmer	368.36	428.55
General Journal	12/22/2010	EJ20101212	Dividends on Dodge & Cox Income Fund		Elmer	325.77	754.32
General Journal	12/27/2010	EJ20101213	Dividend on Investment Co of America Cl F1		Elmer	112.43	866.75
General Journal	12/27/2010	EJ20101213	Dividend on Pioneer Fund Cl Y		Elmer	62.73	929.48
General Journal	12/28/2010	EJ20101214	Dividend on New World Fund Cl F1		Elmer	77.32	1,006.80
General Journal	12/30/2010	EJ20101215	Dividend on Oppnhr Cmd Strat Ttl Rtn Cl Y		Elmer	200.58	1,207.38
General Journal	12/31/2010	EJ20101216	Dividend from Oppenheimer Intl Bond Fund Y		Elmer	33.39	1,240.77
General Journal	12/31/2010	EJ20101216	Dividend on Money Market		Elmer	0.01	1,240.78
General Journal	1/3/2011	EJ20110105	Dividends Reinvested in Fed Money Market Instl Cl		Elmer	0.05	1,240.83
General Journal	1/3/2011	EJ20110105	Dividends Reinvested in DWS Small Cap Value Fund Instl		Elmer	4.39	1,245.22
General Journal	1/3/2011	EJ20110105	Dividends Reinvested in ING Global Real Estate Fund I		Elmer	146.39	1,391.61
General Journal	1/3/2011	EJ20110105	Dividends Reinvested in JPMorgan Core Bond Fund		Elmer	78.79	1,470.40
General Journal	1/3/2011	EJ20110105	Dividends Reinvested in JP Morgan High Yield Fd		Elmer	35.40	1,505.80
General Journal	1/3/2011	EJ20110105	Dividends Reinvested in T Rowe Price New Inc Fd		Elmer	73.83	1,579.63
General Journal	1/28/2011	EJ20110128	Dividends on Dow Chemical Co		Survivor	24.60	1,604.23
General Journal	1/31/2011	EJ20110130	Dividends on Stryker Corp		Survivor	33.51	1,637.74
General Journal	2/1/2011	EJ 20110201	Dividends on Deere & Co Stk		Survivor	573.65	2,211.39
General Journal	2/1/2011	EJ20110201	Dividends from JPMorgan Core Bond Fund		Elmer	75.01	2,286.40
General Journal	2/1/2011	EJ20110201	Dividends from JPMorgan High Yield Fund		Elmer	31.82	2,318.22
General Journal	2/1/2011	EJ20110201	Dividends from Oppenheimer Intl Bond Fund		Elmer	26.65	2,344.87
General Journal	2/1/2011	EJ20110201	Dividends from T Rowe Price New Income Fund		Elmer	63.83	2,408.70
General Journal	3/1/2011	EJ20110301	Dividends on JPMorgan Core Bond Fund		Elmer	73.22	2,481.92
General Journal	3/1/2011	EJ20110301	Dividends on JPMorgan High YieldFd		Elmer	28.77	2,510.69
General Journal	3/1/2011	EJ20110301	Dividends on Oppenheimer Intl Bond Fund Y		Elmer	25.14	2,535.83
General Journal	3/1/2011	EJ20110301	Dividends on T Rowe Price New Income Fund		Elmer	66.69	2,602.52
General Journal	3/7/2011	EJ20110304	Dividend on Investment Co of America Cl F1		Elmer	81.32	2,683.84
General Journal	3/10/2011	EJ20110321	Dividends on Chevron Corp		Survivor	66.96	2,750.80
General Journal	3/11/2011	DR12110301	Dividends on Chevron Stock		Family	930.39	3,681.19
General Journal	3/21/2011	EJ20110322	Dividends on Capital Income Builder Fund A		Survivor	40.69	3,721.88
General Journal	3/25/2011	EJ20110307	Dividends on Columbia Mid Cap Value Fd Cl Z		Elmer	5.86	3,727.74
General Journal	3/25/2011	EJ20110307	Dividends on DWS Small Cap Value Fund Instl		Elmer	29.55	3,757.29
General Journal	3/25/2011	EJ20110307	Dividends on Pioneer Fund Cl Y		Elmer	55.34	3,812.63
General Journal	3/28/2011	EJ20110309	Dividends From Thornburg Invnt Value Fd		Elmer	4.67	3,817.30
General Journal	3/29/2011	EJ20110310	Dividends from Dodge & Cox Income Fund		Elmer	273.60	4,090.90
General Journal	3/30/2011	EJ20110311	Dividends on T Rowe Price Equity Fd		Elmer	68.64	4,159.54
General Journal	4/1/2011	EJ20110401	Dividends on JPMorgan Core Bond Fund		Elmer	75.49	4,235.03
General Journal	4/1/2011	EJ20110401	Dividends on JPMorgan High Yield Fd		Elmer	33.22	4,268.25
General Journal	4/1/2011	EJ20110401	Dividends on Oppenheimer Intl Bond Fund		Elmer	26.87	4,295.12
General Journal	4/1/2011	EJ20110401	Dividends on T Rowe Price New Income Fund		Elmer	66.69	4,361.81
General Journal	4/4/2011	EJ20110402	Dividends on ING Global Real Estate Fund I		Elmer	54.86	4,416.67
General Journal	4/29/2011	EJ20110425	Dividends on Stryker Corp		Survivor	33.62	4,450.29
General Journal	4/29/2011	EJ20110425	Dividends on Dow Chemical Corp		Survivor	24.60	4,474.89
General Journal	5/2/2011	EJ20110501	Dividends on Deere & Co		Survivor	435.05	4,909.94
General Journal	5/2/2011	EJ20110501	Dividends on JPMorgan Core Bond Fund		Elmer	73.68	4,983.62
General Journal	5/2/2011	EJ20110501	Dividends on JPMorgan High Yield Fd Select		Elmer	34.05	5,017.67
General Journal	5/2/2011	EJ20110501	Dividends on Oppenheimer Intl Bond Fund Y		Elmer	27.64	5,045.31
General Journal	5/2/2011	EJ20110501	Dividends on T Rowe Price New Income Fund		Elmer	72.37	5,117.68
General Journal	6/1/2011	EJ20110601	Dividends on JPMorgan Core Bond Fund		Elmer	75.94	5,193.62
General Journal	6/1/2011	EJ20110601	Dividends on JPMorgan High Yield Fund		Elmer	33.56	5,227.18
General Journal	6/1/2011	EJ20110601	Dividends on Oppenheimer Intl Bond Fund		Elmer	26.54	5,253.72
General Journal	6/1/2011	EJ20110601	Dividends on T Rowe Price New Income Fund		Elmer	66.95	5,320.67
General Journal	6/10/2011	EJ20110622	Dividend Reinvestment on XOM Stk 7777		Survivor	461.53	5,782.20
General Journal	6/10/2011	EJ20110622	Dividend Reinvestment on CVX Stk		Nelva	547.75	6,329.95
General Journal	6/10/2011	EJ20110622	Dividend Reinvestment on CVX Stk 9415		Elmer	461.45	6,791.40
General Journal	6/13/2011	EJ20110602	Dividends on Investment Co of America Cl F1		Elmer	81.34	6,872.74
General Journal	6/23/2011	EJ20110603	Dividends on Columbia Mid Cap Value Fd Cl Z		Elmer	13.58	6,886.32
General Journal	6/24/2011	EJ20110605	Dividends on Pioneer Fund		Elmer	70.20	6,956.52
General Journal	6/28/2011	EJ20110608	Dividends on Dodge & Cox Income Fund		Elmer	264.88	7,221.40
General Journal	6/29/2011	EJ20110609	Dividends on T Rowe Price Equity Income Fd		Elmer	83.36	7,304.76
General Journal	7/1/2011	EJ20110701	Dividends on JPMorgan Core Bond Fund Select		Elmer	71.68	7,376.44
General Journal	7/1/2011	EJ20110701	Dividends on JPMorgan High Yield Fd Select		Elmer	30.38	7,406.82
General Journal	7/1/2011	EJ20110701	Dividends on Oppenheimer Intl Bond Fund		Elmer	27.12	7,433.94
General Journal	7/1/2011	EJ20110701	Dividends on T Rowe Price New Income Fund		Elmer	70.47	7,504.41
General Journal	7/5/2011	EJ20110702	Dividends on ING Global Real Estate Fund I		Elmer	52.94	7,557.35
General Journal	8/1/2011	EJ20110801	Dividends on Deere & Co		Survivor	254.20	7,811.55
General Journal	8/1/2011	EJ20110801	Dividends on JPMorgan Core Bond Fund Select		Elmer	69.82	7,881.37
General Journal	8/1/2011	EJ20110801	Dividends on JPMorgan High Yield Fd Select		Elmer	31.82	7,913.19
General Journal	8/1/2011	EJ20110801	Dividends on Oppenheimer Intl Bond Fund Y		Elmer	27.92	7,941.11
General Journal	8/1/2011	EJ20110801	Dividends on T Rowe Price New Income Fund		Elmer	69.49	8,010.60
General Journal	9/1/2011	EJ20110901	Dividends on JPMorgan Core Bond Fund Select		Elmer	73.97	8,084.57
General Journal	9/1/2011	EJ20110901	Dividends on JPMorgan High Yield Fd Select		Elmer	32.63	8,117.20
General Journal	9/1/2011	EJ20110901	Dividends on Oppenheimer Intl Bond Fund Y		Elmer	25.71	8,142.91
General Journal	9/1/2011	EJ20110901	Dividends on T Rowe Price New Income Fund		Elmer	70.82	8,213.73
General Journal	9/9/2011	EJ20110136	Exxon Invest Inc		Survivor	274.01	8,487.74

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Type	Date	Num	Name	Memo	Class	Amount	Balance
General Journal	9/9/2011	EJ20110921		Dividend Reinvestment of XOM Stk 7777	Survivor	313.80	8,801.54
General Journal	9/9/2011	EJ20110921		Dividend Reinvestment of Chevron Stk	Nelva	28.50	8,830.04
General Journal	9/9/2011	EJ20110921		Dividend Reinvestment of Chevron Stk 9415	Elmer	465.04	9,295.08
General Journal	9/19/2011	EJ20110904		Dividends on Investment Co of America CI F1	Elmer	83.95	9,379.03
General Journal	9/23/2011	EJ20110908		Dividend on Pioneer Fund CI Y	Elmer	78.19	9,457.22
General Journal	9/27/2011	EJ20110907		Dividends on Columbia Mid Cap Value Fd CI Z	Elmer	14.76	9,471.98
General Journal	9/28/2011	EJ20110909		Dividends on Dodge & Cox Income Fund	Elmer	186.06	9,658.04
General Journal	9/29/2011	EJ20110910		Dividends on T Rowe Price Equity Income Fd	Elmer	88.37	9,746.41
General Journal	10/3/2011	EJ20111001		Dividends on JPMorgan Core Bond Fund Select	Elmer	42.25	9,788.66
General Journal	10/3/2011	EJ20111001		Dividends on JPMorgan High Yield Fd Select	Elmer	28.14	9,816.80
General Journal	10/3/2011	EJ20111001		Dividends on Oppenheimer Intl Bond Fund Y	Elmer	26.16	9,842.96
General Journal	10/3/2011	EJ20111001		Dividends on Pimco Tot Ret Fd IV Inst CI	Elmer	2.25	9,845.21
General Journal	10/3/2011	EJ20111001		Dividends on T Rowe Price New Income Fund	Elmer	65.22	9,910.43
General Journal	10/4/2011	EJ20111002		Dividends on ING Global Real Estate Fund I	Elmer	49.75	9,960.18
General Journal	10/4/2011	EJ20111002		Dividends on Loomis Sayles Inv Grade Bd Y	Elmer	27.14	9,987.32
General Journal	11/1/2011	EJ20111101		Dividends on Deere & Co	Survivor	254.20	10,241.52
General Journal	11/1/2011	EJ20111101		Dividends on JPMorgan Core Bond Fund Select	Elmer	42.38	10,283.90
General Journal	11/1/2011	EJ20111101		Dividends on JPMorgan High Yield Fd Select	Elmer	27.09	10,310.99
General Journal	11/1/2011	EJ20111101		Dividends on Oppenheimer Intl Bond Fund Y	Elmer	22.68	10,333.67
General Journal	11/1/2011	EJ20111101		Dividends on Pimco Tot Ret Fd IV Inst CI	Elmer	10.42	10,344.09
General Journal	11/1/2011	EJ20111101		Dividends on T Rowe Price New Income Fund	Elmer	50.00	10,394.09
General Journal	11/2/2011	EJ20111102		Dividends on Loomis Sayles Inv Grade Bd Y	Elmer	28.43	10,422.52
General Journal	12/1/2011	EJ20111212		Dividend on JP Morgan Core Bond	Elmer	40.15	10,462.67
General Journal	12/1/2011	EJ20111212		Dividend on JP Morgan High Yield	Elmer	29.67	10,492.34
General Journal	12/1/2011	EJ20111212		Dividend on Oppenheimer Intl Bd	Elmer	23.27	10,515.61
General Journal	12/1/2011	EJ20111212		Dividend on Pimco Total Return IV	Elmer	13.84	10,529.45
General Journal	12/1/2011	EJ20111212		Dividend on T Rowe Price New Income	Elmer	50.92	10,580.37
General Journal	12/2/2011	EJ20111213		Dividend on Loomis Sayles Inv Grade Bd	Elmer	28.43	10,608.80
General Journal	12/9/2011	EJ20110152		Exxon Div Income	Survivor	274.01	10,882.81
General Journal	12/9/2011	EJ20111215		Dividend on MFS Research International	Elmer	335.71	11,218.52
General Journal	12/9/2011	EJ20111221		Dividend Reinvestment of XOM Stk 7777	Survivor	315.83	11,534.35
General Journal	12/9/2011	EJ20111221		Dividend Reinvestment of Chevron Stk	Nelva	29.84	11,564.19
General Journal	12/9/2011	EJ20111221		Dividend Reinvestment of Chevron Stk 9415	Elmer	487.02	12,051.21
General Journal	12/13/2011	EJ20111216		Dividend on Columbia Mid Cap Value	Elmer	26.01	12,077.22
General Journal	12/14/2011	EJ20111217		Dividend on T Rowe Price Equity Income	Elmer	95.96	12,173.18
General Journal	12/20/2011	EJ20111220		Dividend on DWS Small Cap Value	Elmer	66.58	12,239.76
General Journal	12/21/2011	EJ20111221		Dividend on Dodge & Cox Intl Stock	Elmer	580.68	12,820.44
General Journal	12/21/2011	EJ20111221		Dividend on Dodge & Cox Income	Elmer	196.04	13,016.48
General Journal	12/22/2011	EJ20111222		Dividend on Oppenheimer Common Strat Total Ret	Elmer	285.22	13,301.70
General Journal	12/23/2011	EJ20111223		Dividend on Investment Co of America	Elmer	116.38	13,418.08
General Journal	12/23/2011	EJ20111223		Dividend on Pioneer Fund	Elmer	95.42	13,513.50
General Journal	12/27/2011	EJ20111224		Dividend on Thornburg Value	Elmer	7.84	13,521.34
General Journal	12/28/2011	EJ20111225		Dividend on Loomis Sayles Inv Grade Bd	Elmer	67.05	13,588.39
General Journal	12/28/2011	EJ20111225		Dividend on New World	Elmer	73.75	13,662.14
General Journal	12/30/2011	EJ20111226		Dividend on Oppenheimer Intl Bd	Elmer	118.46	13,780.60
General Journal	1/3/2012	EJ20120102		Dividends on JP Morgan Fed Money Mkt	Elmer	0.03	13,780.63
General Journal	1/3/2012	EJ20120102		Dividends on ING Global Real Estate	Elmer	39.90	13,820.53
General Journal	1/3/2012	EJ20120102		Dividends on JP Morgan Core Bond	Elmer	41.21	13,861.74
General Journal	1/3/2012	EJ20120102		Dividends on JP Morgan High Yield	Elmer	30.00	13,891.74
General Journal	1/3/2012	EJ20120102		Dividends on JP Pimco Total Return IV	Elmer	13.97	13,905.71
General Journal	1/3/2012	EJ20120102		Dividends on T Rowe Price New Income	Elmer	57.12	13,962.83
General Journal	1/10/2012	EJ20120104		Dividends on Pimco Total Return IV	Elmer	2.85	13,965.68
General Journal	2/1/2012	EJ20120201		Dividends on JPMorgan Core Bond Select CI	Elmer	37.79	14,003.47
General Journal	2/1/2012	EJ20120201		Dividends on JPMorgan High Yield Select CI	Elmer	25.27	14,028.74
General Journal	2/1/2012	EJ20120201		Dividends on Oppenheimer Intl Bd	Elmer	25.02	14,053.76
General Journal	2/1/2012	EJ20120201		Dividends on Pimco Total Return IV Inst CI	Elmer	15.86	14,069.62
General Journal	2/1/2012	EJ20120201		Dividends on T Rowe Price New Income	Elmer	47.63	14,117.25
General Journal	2/2/2012	EJ20120202		Dividends on Loomis Sayles Inv Grade Bd Y	Elmer	27.89	14,145.14
General Journal	3/1/2012	EJ20120301		Dividends on JP Morgan Core Bond Select CI	Elmer	36.71	14,181.85
General Journal	3/1/2012	EJ20120301		Dividends on JP Morgan High Yield Select CI	Elmer	27.26	14,209.11
General Journal	3/1/2012	EJ20120301		Dividends on Oppenheimer Intl Bd	Elmer	23.99	14,233.10
General Journal	3/1/2012	EJ20120301		Dividends on Pimco Total Return IV Inst CI	Elmer	17.35	14,250.45
General Journal	3/1/2012	EJ20120301		Dividends on T Rowe Price New Income	Elmer	49.53	14,299.98
General Journal	3/2/2012	EJ20120302		Dividends on Loomis Sayles Inv Grade Bd Y	Elmer	27.36	14,327.34
General Journal	3/7/2012	EJ20110154		Exxon div income	Survivor	274.01	14,601.35
General Journal	3/9/2012	EJ20120321		Dividend Reinvestment of XOM Stk 7777	Survivor	317.68	14,919.03
General Journal	3/9/2012	EJ20120321		Dividend Reinvestment of CVX Stk 9415	Survivor	490.82	15,409.85
General Journal	3/15/2012	EJ20120304		Dividends on Investment Co of America	Elmer	78.17	15,488.02
General Journal	3/23/2012	EJ20120305		Dividends on Pioneer Fund	Elmer	77.25	15,565.27
General Journal	3/26/2012	EJ20120306		Dividends on Columbia Mid Cap Value	Elmer	10.25	15,575.52
General Journal	3/28/2012	EJ20120307		Dividends on Dodge & Cox Income	Elmer	189.13	15,764.65
General Journal	3/28/2012	EJ20120307		Dividends on T Rowe Price Equity	Elmer	93.48	15,858.13
General Journal	4/2/2012	EJ20120401		Dividends on JP Morgan Core Bond	Elmer	37.99	15,896.12
General Journal	4/2/2012	EJ20120401		Dividends on JP Morgan High Yield	Elmer	28.66	15,924.78
General Journal	4/2/2012	EJ20120401		Dividends on Oppenheimer Intl Bd	Elmer	27.30	15,952.08
General Journal	4/2/2012	EJ20120401		Dividends on Pimco Total Return IV	Elmer	17.89	15,969.97
General Journal	4/2/2012	EJ20120401		Dividends on T Rowe Price New Income	Elmer	51.76	16,021.73
General Journal	4/3/2012	EJ20120402		Dividends on ING Global Real Estate	Elmer	42.05	16,063.78
General Journal	4/3/2012	EJ20120402		Dividends on Loomis Sayles Inv Grade Bd	Elmer	27.75	16,091.53
General Journal	5/1/2012	EJ20120501		Dividends on JP Morgan Core Bond	Elmer	34.52	16,126.05
General Journal	5/1/2012	EJ20120501		Dividends on JP Morgan High Yield	Elmer	23.81	16,149.86
General Journal	5/1/2012	EJ20120501		Dividends on Oppenheimer Intl Bd	Elmer	22.93	16,172.79
General Journal	5/1/2012	EJ20120501		Dividends on Pimco Total Return IV	Elmer	14.59	16,187.38
General Journal	5/1/2012	EJ20120501		Dividends on T Rowe Price New Income	Elmer	47.45	16,234.83
General Journal	5/2/2012	EJ20120502		Dividends on Loomis Sayles Inv Grade Bd	Elmer	27.39	16,262.22
General Journal	6/1/2012	EJ20120601		Dividends on JP Morgan Core Bond	Elmer	33.99	16,296.21
General Journal	6/1/2012	EJ20120601		Dividends on Mainstay High Yield Corp Bd	Elmer	57.74	16,353.95
General Journal	6/1/2012	EJ20120601		Dividends on Oppenheimer Intl Bd	Elmer	24.63	16,378.58

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Type	Date	Num	Name	Memo	Class	Amount	Balance
General Journal	6/1/2012	EJ20120601		Dividends on Pimco Total Return IV	Elmer	15.12	16,393.70
General Journal	6/1/2012	EJ20120601		Dividends on T Rowe Price New Income	Elmer	50.82	16,444.52
General Journal	6/4/2012	EJ20120602		Dividends on Loomis Sayles Inv Grade Bd	Elmer	27.34	16,471.86
General Journal	6/11/2012	EJ20120604		Dividends on Investment Co of America	Elmer	52.65	16,524.51
General Journal	6/11/2012	EJ20120621		Dividends Reinvested in XOM Stk 7769	Elmer	332.31	16,856.82
General Journal	6/11/2012	EJ20120621		Dividends Reinvested in XOM Stk 7777	Survivor	387.38	17,244.20
General Journal	6/11/2012	EJ20120621		Dividends Reinvested in CVX Stk 9415	Elmer	549.72	17,793.92
General Journal	6/11/2012	EJ20120621		Dividends Reinvested in CVX Stk 9407	Elmer	101.37	17,895.29
General Journal	6/18/2012	EJ20120605		Dividends on Capital World Growth & Income	Elmer	147.46	18,042.75
General Journal	6/22/2012	EJ20120606		Dividends on Pioneer Fund	Elmer	53.57	18,096.32
General Journal	6/25/2012	EJ20120607		Dividends on Columbia Mid Cap Value	Elmer	31.55	18,127.87
General Journal	6/27/2012	EJ20120609		Dividends on Capital World Bond	Elmer	30.40	18,158.27
General Journal	6/27/2012	EJ20120609		Dividends on Dodg & Cox Income	Elmer	128.94	18,287.21
General Journal	6/28/2012	EJ20120610		Dividends on T Rowe Price Equity Income	Elmer	96.35	18,383.56
General Journal	6/29/2012	EJ20120611		Dividends on Mainstay High Yield Corp Bd	Elmer	58.09	18,441.65
General Journal	7/2/2012	EJ20120701		Dividends on JP Morgan Core Bond	Elmer	32.90	18,474.55
General Journal	7/2/2012	EJ20120701		Dividends on Oppenheimer Intl Bd	Elmer	17.05	18,491.60
General Journal	7/2/2012	EJ20120701		Dividends on Pimco Total Return IV	Elmer	14.25	18,505.85
General Journal	7/2/2012	EJ20120701		Dividends on T Rowe Price New Income	Elmer	46.81	18,552.66
General Journal	7/3/2012	EJ20120702		Dividends on ING Global Real Estate	Elmer	51.95	18,604.61
General Journal	7/3/2012	EJ20120702		Dividends on Loomis Sayles Inv Grade Bd	Elmer	26.87	18,631.48
General Journal	8/1/2012	EJ20120801		Dividends on JPMorgan Fed Mon Mkt	Elmer	0.04	18,631.52
General Journal	8/1/2012	EJ20120801		Dividends on JPMorgan Core Bond	Elmer	35.33	18,666.85
General Journal	8/1/2012	EJ20120801		Dividends on Mainstay High Yield Corp Bd	Elmer	58.45	18,725.30
General Journal	8/1/2012	EJ20120801		Dividends on Oppenheimer Intl Bd	Elmer	16.06	18,741.36
General Journal	8/1/2012	EJ20120801		Dividends on Pimco Total Return IV	Elmer	11.10	18,752.46
General Journal	8/1/2012	EJ20120801		Dividends on T Rowe Price New Income	Elmer	42.96	18,795.42
General Journal	8/2/2012	EJ20120802		Dividends on Loomis Sayles Inv Grade Bd	Elmer	27.14	18,822.56
General Journal	9/4/2012	EJ20120901		Dividends on JP Morgan Core Bond	Elmer	33.06	18,855.62
General Journal	9/4/2012	EJ20120901		Dividends on Mainstay High Yield Corp Bd	Elmer	58.81	18,914.43
General Journal	9/4/2012	EJ20120901		Dividends on Oppenheimer Intl Bd	Elmer	18.18	18,932.61
General Journal	9/4/2012	EJ20120901		Dividends on Pimco Total Return IV	Elmer	11.75	18,944.36
General Journal	9/4/2012	EJ20120901		Dividends on T Rowe Price New Income	Elmer	46.82	18,991.18
General Journal	9/5/2012	EJ20120902		Dividends on Loomis Sayles Inv Grade Bd	Elmer	27.89	19,019.07
General Journal	9/10/2012	EJ20120921		Dividend Reinvestment in XOM Stk 7769	Elmer	334.71	19,353.78
General Journal	9/10/2012	EJ20120921		Dividend Reinvestment in XOM Stk 7777	Survivor	390.17	19,743.95
General Journal	9/10/2012	EJ20120921		Dividend Reinvestment in CVX Stk 9415	Elmer	554.60	20,298.55
General Journal	9/10/2012	EJ20120921		Dividend Reinvestment in CVX Stk 9407	Elmer	114.44	20,412.99
General Journal	9/17/2012	EJ20120904		Dividends on Investment Co of America	Elmer	52.67	20,465.66
General Journal	9/21/2012	EJ20120905		Dividends on Pioneer Fund	Elmer	50.19	20,515.85
General Journal	9/24/2012	EJ20120906		Dividends on Capital World Growth & Income	Elmer	57.95	20,573.80
General Journal	9/26/2012	EJ20120908		Dividends on Columbia Mid Cap Value	Elmer	40.07	20,613.87
General Journal	9/26/2012	EJ20120908		Dividends on Dodge & Cox Income	Elmer	124.92	20,738.79
General Journal	9/27/2012	EJ20120909		Dividends on T Rowe Price Equity Income	Elmer	89.99	20,828.78
General Journal	9/28/2012	EJ20120910		Dividends on Mainstay High Yield Corp Bd	Elmer	59.16	20,887.94
General Journal	10/1/2012	EJ20121001		Dividends on JP Morgan Core Bond	Elmer	31.95	20,919.89
General Journal	10/1/2012	EJ20121001		Dividends on Oppenheimer Intl Bd	Elmer	13.87	20,933.76
General Journal	10/1/2012	EJ20121001		Dividends on Pimco Total Return IV	Elmer	9.14	20,942.90
General Journal	10/1/2012	EJ20121001		Dividends on T Rowe Price New Income	Elmer	36.25	20,979.15
General Journal	10/2/2012	EJ20121002		Dividends on ING Global Real Estate	Elmer	46.97	21,026.12
General Journal	10/2/2012	EJ20121002		Dividends on Loomis Sayles Inv Grade Bd	Elmer	26.30	21,052.42
General Journal	10/9/2012	EJ20121004		Dividends on Capital World Bond	Elmer	23.09	21,075.51
General Journal	11/1/2012	EJ20121101		Dividends on JP Morgan Core Bond	Elmer	30.84	21,106.35
General Journal	11/1/2012	EJ20121101		Dividends on Mainstay High Yield Corp Bd	Elmer	59.51	21,165.86
General Journal	11/1/2012	EJ20121101		Dividends on Oppenheimer Intl Bd	Elmer	17.63	21,183.49
General Journal	11/1/2012	EJ20121101		Dividends on Pimco Total Return IV	Elmer	12.79	21,196.28
General Journal	11/1/2012	EJ20121101		Dividends on T Rowe Price New Income	Elmer	40.84	21,237.12
General Journal	11/2/2012	EJ20121102		Dividends on Loomis Sayles Inv Grade Bd	Elmer	26.21	21,263.33
General Journal	12/3/2012	EJ20121201		Dividends on JP Morgan Core Bond	Elmer	30.90	21,294.23
General Journal	12/3/2012	EJ20121201		Dividends on Mainstay High Yield Corp Bd	Elmer	59.87	21,354.10
General Journal	12/3/2012	EJ20121201		Dividends on Oppenheimer Intl Bd	Elmer	17.62	21,371.72
General Journal	12/3/2012	EJ20121201		Dividends on Pimco Total Return IV	Elmer	13.77	21,385.49
General Journal	12/3/2012	EJ20121201		Dividends on T Rowe Price New Income	Elmer	42.81	21,428.30
General Journal	12/4/2012	EJ20121202		Dividends on Loomis Sales Inv Grade Bd	Elmer	26.84	21,455.14
General Journal	12/4/2012	EJ20121202		Dividends on Mainstay High Yield Corp Bd	Elmer	60.23	21,515.37
General Journal	12/7/2012	EJ20121204		Dividends on Blackrock Cap App	Elmer	45.22	21,560.59
General Journal	12/7/2012	EJ20121204		Dividends on Oppenheimer Rising Divid Fd Y	Elmer	57.90	21,618.49
General Journal	12/10/2012	EJ20121221		Dividend Reinvestment XOM Stk 6261	Elmer	334.71	21,953.20
General Journal	12/10/2012	EJ20121221		Dividend Reinvestment XOM Stk 3301	Nelva	390.17	22,343.37
General Journal	12/10/2012	EJ20121221		Dividend Reinvestment CVX Stk 9415	Elmer	4.36	22,347.73
General Journal	12/10/2012	EJ20121221		Dividend Reinvestment CVX Stk 9407	Elmer	4.35	22,352.08
General Journal	12/10/2012	EJ20121221		Dividend Reinvestment CVX Stk 9423	Elmer	1,110.22	23,462.30
General Journal	12/12/2012	EJ20121206		Dividends on MFS Research International	Elmer	316.70	23,779.00
General Journal	12/14/2012	EJ20121208		Dividends on Columbia Mid Cap Value	Elmer	33.89	23,812.89
General Journal	12/14/2012	EJ20121208		Dividends on T Rowe Price Equity Income	Elmer	111.31	23,924.20
General Journal	12/17/2012	EJ20121209		Dividends on Capital World Growth & Income	Elmer	97.20	24,021.40
General Journal	12/17/2012	EJ20121209		Dividends on Fidelity New Insights	Elmer	13.61	24,035.01
General Journal	12/20/2012	EJ20121210		Dividends on Dodge & Cox Intl Stock	Elmer	303.81	24,338.82
General Journal	12/20/2012	EJ20121210		Dividends on DWS Small Cap Value	Elmer	75.04	24,413.86
General Journal	12/20/2012	EJ20121210		Dividends on Dodge & Cox Income	Elmer	109.20	24,523.06
General Journal	12/21/2012	EJ20121211		Dividends on Capital World Bond	Elmer	31.56	24,554.62
General Journal	12/24/2012	EJ20121212		Dividends on Investment Co of America	Elmer	137.47	24,692.09
General Journal	12/24/2012	EJ20121212		Dividends on Loomis Sayles Inv Grade Bd	Elmer	75.83	24,767.92
General Journal	12/27/2012	EJ20121213		Dividends on New World	Elmer	110.57	24,878.49
General Journal	12/28/2012	EJ20121214		Dividends on Oppenheimer Rising Divid Fd Y	Elmer	43.70	24,922.19
General Journal	12/28/2012	EJ20121214		Dividends on Pimco Total Return IV	Elmer	65.59	24,987.78
General Journal	12/31/2012	EJ20121215		Dividends on Oppenheimer Intl Bd	Elmer	15.74	25,003.52
General Journal	1/2/2013	EJ20130101		Dividends on ING Global Real Estate	Elmer	201.20	25,204.72

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Type	Date	Num	Name	Memo	Class	Amount	Balance
General Journal	1/2/2013	EJ20130101		Dividends on JP Morgan Core Bond	Elmer	36.97	25,241.69
General Journal	1/2/2013	EJ20130101		Dividends on Pimco Total Return IV	Elmer	10.56	25,252.25
General Journal	1/2/2013	EJ20130101		Dividends on T Rowe Price New Income	Elmer	38.09	25,290.34
General Journal	2/1/2013	EJ20130201		Dividends on JP Morgan Core Bond	Elmer	28.70	25,319.04
General Journal	2/1/2013	EJ20130201		Dividends on Mainstay High Yield Corp Bd	Elmer	60.59	25,379.63
General Journal	2/1/2013	EJ20130201		Dividends on Oppenheimer Intl Bd	Elmer	17.37	25,397.00
General Journal	2/1/2013	EJ20130201		Dividends on Pimco Total Return IV	Elmer	8.54	25,405.54
General Journal	2/1/2013	EJ20130201		Dividends on T Rowe Price New Income	Elmer	35.87	25,441.41
General Journal	2/4/2013	EJ20130202		Dividends on Loomis Sayles Inv Grade Bd	Elmer	26.43	25,467.84
General Journal	3/1/2013	EJ20130301		Dividends on JP Morgan Core Bond	Elmer	29.95	25,497.79
General Journal	3/1/2013	EJ20130301		Dividends on Mainstay High Yield Corp Bd	Elmer	60.95	25,558.74
General Journal	3/1/2013	EJ20130301		Dividends on Oppenheimer Intl Bd	Elmer	16.53	25,575.27
General Journal	3/1/2013	EJ20130301		Dividends on Pimco Total Return IV	Elmer	9.68	25,584.95
General Journal	3/1/2013	EJ20130301		Dividends on T Rowe Price New Income	Elmer	37.06	25,622.01
General Journal	3/4/2013	EJ20130302		Dividends on Loomis Sayles Inv Grade Bd	Elmer	27.61	25,649.62
General Journal	3/11/2013	EJ20130321		Dividend Reimbursement on XOM Stk 3319	Elmer	1.72	25,651.34
General Journal	3/11/2013	EJ20130321		Dividend Reimbursement on XOM Stk 6261	Elmer	336.88	25,988.22
General Journal	3/11/2013	EJ20130321		Dividend Reimbursement on XOM Stk 3301	Nelva	392.70	26,380.92
General Journal	3/11/2013	EJ20130321		Dividend Reimbursement on CVX Stk 9415	Elmer	4.41	26,385.33
General Journal	3/11/2013	EJ20130321		Dividend Reimbursement on CVX Stk 9407	Elmer	4.39	26,389.72
General Journal	3/11/2013	EJ20130321		Dividend Reimbursement on CVX Stk 9423	Elmer	1,122.04	27,511.76
General Journal	3/14/2013	EJ20130304		Dividends on Investment Co of America	Elmer	53.50	27,565.26
General Journal	3/18/2013	EJ20130305		Dividends on Capital World Growth & Income	Elmer	61.70	27,626.96
General Journal	3/22/2013	EJ20130307		Dividends on DWS Small Cap Value	Elmer	42.72	27,669.68
General Journal	3/25/2013	EJ20130308		Dividends on Columbia Mid Cap Value	Elmer	25.46	27,695.14
General Journal	3/27/2013	EJ20130309		Dividends on Capital World Bond	Elmer	23.47	27,718.61
General Journal	3/27/2013	EJ20130309		Dividends on Dodge & Cox Income	Elmer	111.08	27,829.69
General Journal	3/27/2013	EJ20130309		Dividends on T Rowe Price Equity Income	Elmer	77.55	27,907.24
General Journal	4/1/2013	EJ20130401		Dividends on JP Morgan Core Bond	Elmer	30.02	27,937.26
General Journal	4/1/2013	EJ20130401		Dividends on Mainstay High Yield Corp Bd	Elmer	61.31	27,998.57
General Journal	4/1/2013	EJ20130401		Dividends on Oppenheimer Intl Bd	Elmer	17.62	28,016.19
General Journal	4/1/2013	EJ20130401		Dividends on Pimco Total Return IV	Elmer	12.00	28,028.19
General Journal	4/1/2013	EJ20130401		Dividends on T Rowe Price New Income	Elmer	37.30	28,065.49
General Journal	4/2/2013	EJ20130402		Dividends on ING Global Real Estate	Elmer	40.72	28,106.21
General Journal	4/2/2013	EJ20130402		Dividends on Loomis Sayles Inv Grade Bd	Elmer	27.34	28,133.55
General Journal	5/1/2013	EJ20130501		Dividends on JP Morgan Core Bond	Elmer	30.08	28,163.63
General Journal	5/1/2013	EJ20130501		Dividends on Mainstay High Yield Corp Bd	Elmer	61.67	28,225.30
General Journal	5/1/2013	EJ20130501		Dividends on Oppenheimer Intl Bd	Elmer	17.94	28,243.24
General Journal	5/1/2013	EJ20130501		Dividends on Pimco Total Return IV	Elmer	13.27	28,256.51
General Journal	5/1/2013	EJ20130501		Dividends on T Rowe Price New Income	Elmer	38.30	28,294.81
General Journal	5/2/2013	EJ20130502		Dividends on Loomis Sayles Inv Grade Bd	Elmer	26.65	28,321.46
Total Dividend Income						28,321.46	28,321.46
Interest Income							
General Journal	12/27/2010	EJ 20101202		Interest on VK Bld Amer Bonds	Survivor	67.90	67.90
General Journal	12/27/2010	EJ 20101202		Interest on Invsco Bld Amer Bds	Survivor	23.70	91.60
General Journal	12/31/2010	EJ 20101203		Interest for December	Survivor	0.03	91.63
General Journal	1/20/2011	EJ 20110102		Interest on Toyota Motor Cr Corp	Survivor	25.00	116.63
General Journal	1/25/2011	EJ 20110103		Interest on VK Bld Amer Bonds	Survivor	67.90	184.53
General Journal	1/25/2011	EJ 20110103		Interest on VK Bld Amer Bonds	Survivor	51.00	235.53
General Journal	2/22/2011	EJ 20110204		Interest on Toyota Motor Cr Corp	Survivor	25.00	260.53
General Journal	2/22/2011	EJ 20110204		Interest on Money Market Fund	Survivor	0.01	260.54
General Journal	2/25/2011	EJ 20110205		Interest on VK Bld Amer Bonds Incm	Survivor	68.04	328.58
General Journal	2/25/2011	EJ 20110205		Interest on Invsco Bld Amer Bonds Incm	Survivor	50.90	379.48
General Journal	3/15/2011	EJ 20110301		Interest on GMAC Smartnotes	Survivor	317.25	696.73
General Journal	3/21/2011	EJ 20110302		Interest on Toyota Motor Cr Corp	Survivor	25.00	721.73
General Journal	3/25/2011	EJ 20110303		Interest on VK Bld Amer Bonds Incm	Survivor	67.90	789.63
General Journal	3/25/2011	EJ 20110303		Interest on Invsco Bld Amer Bds Incm	Survivor	51.00	840.63
General Journal	4/14/2011	EJ 20110402		Accrued Int - Sale of Toyota Motor Cr Corp	Survivor	20.00	860.63
General Journal	4/14/2011	EJ 20110402		Accrued Interest Sale of GMAC SmartNotes	Survivor	51.11	911.74
General Journal	4/15/2011	EJ20110421		Interest on GE Capital Corp Internotes	Survivor	333.13	1,244.87
General Journal	4/20/2011	EJ 20110403		Proceeds from Sale of In Fin Auth Rev Parkview Hlth	Survivor	387.29	1,632.16
General Journal	4/25/2011	EJ 20110404		Interest on VK Bld Amer Bonds Incm	Survivor	67.76	1,699.92
General Journal	4/25/2011	EJ 20110404		Interest on Invsco Bld Amer Bds Incm	Survivor	50.90	1,750.82
General Journal	5/13/2011	EJ20110521		Sell GE Capital Corp Internotes	Survivor	51.82	1,802.64
General Journal	5/13/2011	EJ20110521		Sell GMAC Smartnotes	Survivor	277.50	2,080.14
General Journal	5/23/2011	EJ20110523		Interest on Money Market Funds	Survivor	0.93	2,081.07
General Journal	5/25/2011	EJ20110502		Interest on VK Bld Amer Bonds Incm	Survivor	67.76	2,148.83
General Journal	5/25/2011	EJ20110502		Interest on Invsco Bld Amer Bds Incm	Survivor	51.00	2,199.83
General Journal	6/21/2011	EJ20110621		Interest on Money Market Funds	Survivor	0.30	2,200.13
General Journal	6/27/2011	EJ20110604		Interest on VK Bld Amer Bonds	Survivor	67.90	2,268.03
General Journal	6/27/2011	EJ20110604		Interest on Invsco Bld Amer Bds	Survivor	50.90	2,318.93
General Journal	7/25/2011	EJ20110701		Interest on VK Bld Amer Bonds	Survivor	67.76	2,386.69
General Journal	7/25/2011	EJ20110701		Interest on VK Bld Amer Bonds	Survivor	51.00	2,437.69
General Journal	8/1/2011	EJ20110801		Interest on VK Bld Amer Bonds Incm	Survivor	67.76	2,505.45
General Journal	8/1/2011	EJ20110801		Interest on Invsco Bld Amer Bds Incm	Survivor	50.90	2,556.35
General Journal	9/26/2011	EJ20110901		Interest on VK Bld Amer Bonds Incm	Survivor	68.04	2,624.39
General Journal	9/26/2011	EJ20110901		Interest on Invsco Bld Amer Bds Incm	Survivor	50.90	2,675.29
General Journal	10/13/2011	EJ20111001		Accrued Interest in Sale of VK Bld Amer Bonds	Survivor	6.72	2,682.01
General Journal	10/25/2011	EJ20111002		Interest in VK Bld Amer Bonds Incm	Survivor	67.90	2,749.91
General Journal	10/25/2011	EJ20111002		Interest on Invsco Bld Amer Bds Incm	Survivor	51.10	2,801.01
General Journal	11/16/2011	EJ20111103		Proceeds from Sale of Invsco Bld Amer Bds	Survivor	10.20	2,811.21
General Journal	11/21/2011	EJ20111105		Interest on Money Market Funds	Survivor	0.05	2,811.26
General Journal	11/25/2011	EJ20111106		Interest on Invsco Bld Amer Bds Incm	Survivor	51.00	2,862.26
General Journal	10/10/2012	EJ20120422		Interest income	Survivor	0.27	2,862.53
General Journal	10/12/2012	EJ20120443		Interest Earned	Elmer	1.17	2,863.70
Deposit	10/23/2012			October Interest	Survivor	17.34	2,881.04
General Journal	11/7/2012	EJ20120424		Interest inc	Survivor	5.72	2,886.76

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Type	Date	Num	Name	Memo	Class	Amount	Balance
General Journal	11/9/2012	EJ20120445		Interest inc	Elmer	1.08	2,887.84
Deposit	11/21/2012			November Interest	Survivor	26.47	2,914.31
General Journal	12/7/2012	EJ20120425		Interest inc	Survivor	6.13	2,920.44
General Journal	12/11/2012	EJ20120446		Interest Earned	Elmer	1.23	2,921.67
Deposit	12/20/2012			December Interest	Survivor	20.08	2,941.75
General Journal	1/9/2013	EJ20120427		Interest inc	Survivor	6.75	2,948.50
General Journal	1/11/2013	EJ20120447		Interest Earned	Elmer	1.19	2,949.69
Deposit	1/23/2013			January Interest	Survivor	23.32	2,973.01
General Journal	2/6/2013	EJ20120428		Interest inc	Survivor	5.74	2,978.75
General Journal	2/8/2013	EJ20120448		Interest Earned	Elmer	1.08	2,979.83
Deposit	2/20/2013			February Interest	Survivor	19.23	2,999.06
General Journal	3/8/2013	EJ20120430		Interest Earned	Survivor	6.15	3,005.21
General Journal	3/12/2013	EJ20120449		Interest Earned	Elmer	1.66	3,006.87
Deposit	3/21/2013			March Interest	Survivor	19.91	3,026.78
General Journal	4/9/2013	EJ20120432		Interest Earned	Survivor	6.55	3,033.33
General Journal	4/11/2013	EJ20120452		Interest Earned	Elmer	1.77	3,035.10
Deposit	4/22/2013			April Interest	Survivor	21.98	3,057.08
General Journal	5/9/2013	EJ20120433		Interest Earned	Survivor	5.90	3,062.98
General Journal	5/13/2013	EJ20120453		Interest Earned	Elmer	1.46	3,064.44
Deposit	5/22/2013			May Interest	Survivor	20.61	3,085.05
Total Interest Income						3,085.05	3,085.05
Long Term Capital Gains - Funds							
General Journal	12/31/2010	EJ20101216		LTCG on Oppenheimer Intl Bond Fund Y	Elmer	75.11	75.11
General Journal	12/8/2011	EJ20111214		LTCG on T Rowe Price New Income	Elmer	77.13	152.24
General Journal	12/16/2011	EJ20111218		LTCG on JP Morgan Core Bond	Elmer	26.07	178.31
General Journal	12/16/2011	EJ20111218		LTCG on JP Morgan High Yield	Elmer	58.93	237.24
General Journal	12/19/2011	EJ20111219		LTCG on Credit Suisse Comm Ret Strat	Elmer	6.24	243.48
General Journal	12/20/2011	EJ20111220		LTCG on DWS Small Cap Value	Elmer	42.21	285.69
General Journal	12/28/2011	EJ20111225		LTCG on Loomis Sayles Inv Grade Bd	Elmer	47.77	333.46
General Journal	6/26/2012	EJ20120608		LTCG on Baron Small Cap	Elmer	2.48	335.94
General Journal	11/30/2012	EJ20121104		LTCG on Baron Small Cap	Elmer	152.76	488.70
General Journal	12/10/2012	EJ20121205		LTCG on T Rowe Price New Income	Elmer	85.71	574.41
General Journal	12/13/2012	EJ20121207		LTCG on Pimco Total Return IV	Elmer	26.80	601.21
General Journal	12/14/2012	EJ20121208		LTCG on JP Morgan Core Bond	Elmer	16.83	618.04
General Journal	12/20/2012	EJ20121210		LTCG on DWS Small Cap Value	Elmer	76.86	694.90
General Journal	12/21/2012	EJ20121211		LTCG on Capital World Bond	Elmer	41.81	736.71
General Journal	12/24/2012	EJ20121212		LTCG on Investment Co of America	Elmer	176.84	913.55
General Journal	12/24/2012	EJ20121212		LTCG on Loomis Sayles Inv Grade Bd	Elmer	62.90	976.45
General Journal	12/31/2012	EJ20121215		LTCG on Oppenheimer Intl Bd	Elmer	31.01	1,007.46
General Journal	3/22/2013	EJ20130307		LTCG on DWS Small Cap Value	Elmer	39.85	1,047.31
Total Long Term Capital Gains - Funds						1,047.31	1,047.31
Short Term Capital Gains- Funds							
General Journal	1/24/2011	EJ20110107		STCG on Fidelity New Insights Fd Instl	Elmer	1.98	1.98
General Journal	2/14/2011	EJ20110204		STCG on Fidelity New Insights Fd Instl	Elmer	22.38	24.36
General Journal	12/8/2011	EJ20111214		STCG on T Rowe Price New Income	Elmer	38.56	62.92
General Journal	12/16/2011	EJ20111218		STCG on JP Morgan High Yield	Elmer	36.12	99.04
General Journal	12/28/2011	EJ20111225		STCG on Loomis Sayles Inv Grade Bd	Elmer	16.95	115.99
General Journal	12/10/2012	EJ20121205		STCG on T Rowe Price New Income	Elmer	68.57	184.56
General Journal	12/13/2012	EJ20121207		STCG on Pimco Total Return IV	Elmer	173.87	358.43
General Journal	12/14/2012	EJ20121208		STCG on JP Morgan Core Bond	Elmer	1.54	359.97
General Journal	12/17/2012	EJ20121209		STCG on Fidelity New Insights	Elmer	86.18	446.15
General Journal	12/20/2012	EJ20121210		STCG on DWS Small Cap Value	Elmer	14.89	461.04
General Journal	12/21/2012	EJ20121211		STCG on Capital World Bond	Elmer	22.74	483.78
General Journal	12/24/2012	EJ20121212		STCG on Loomis Sayles Inv Grade Bd	Elmer	5.32	489.10
Total Short Term Capital Gains- Funds						489.10	489.10
Stock Sales less Broker Fees							
General Journal	1/4/2011	EJ 20110101		Sale of Deere & Co Stock	Survivor	10,082.45	10,082.45
General Journal	1/4/2011	EJ 20110101		Commission on Sale of Deere & Co Stock	Survivor	-208.11	9,874.34
General Journal	1/4/2011	EJ 20110101		Transaction Fee on Sale of Deere & Co Stock	Survivor	-4.95	9,869.39
General Journal	2/8/2011	EJ 20110202		Sell 275 Shares Deere & Co	Survivor	25,563.45	35,432.84
General Journal	2/8/2011	EJ 20110202		Commission on Sale of 275 Shares Deere & Co	Survivor	-460.63	34,972.21
General Journal	2/8/2011	EJ 20110202		Transaction Fee on Sale of 275 Shares Deere & Co	Survivor	-4.95	34,967.26
General Journal	4/14/2011	EJ 20110402		Principal Amt Sale of Toyota Motor Cr Corp	Survivor	5,000.00	39,967.26
General Journal	4/14/2011	EJ 20110402		Transaction Fee - Sale of Toyota Motor Cr Corp	Survivor	-4.95	39,962.31
General Journal	4/14/2011	EJ 20110402		Principal Amt Sale of GMAC SmartNotes	Survivor	8,730.00	48,692.31
General Journal	4/14/2011	EJ 20110402		Transaction Fee - Sale of GMAC SmartNotes	Survivor	-4.95	48,687.36
General Journal	4/20/2011	EJ 20110403		Proceeds from Sale of In Fin Auth Rev Parkview Hlth	Survivor	14,824.35	63,511.71
General Journal	4/20/2011	EJ 20110403		Transaction Fee from Sale of In Fin Auth Rev Parkview Hlth	Survivor	-4.95	63,506.76
General Journal	5/13/2011	EJ20110521		Transaction Fee on Sale of GE Capital Corp Internotes	Survivor	-4.95	63,501.81
General Journal	5/13/2011	EJ20110521		Transaction Fee on Sale of GMAC Smartnotes	Survivor	-4.95	63,496.86
General Journal	5/16/2011	EJ20110522		Commission on Sale Chevron Corp	Survivor	-199.66	63,297.20
General Journal	5/16/2011	EJ20110522		Transaction Fee on Sale Chevron Corp	Survivor	-4.95	63,292.25
General Journal	5/16/2011	EJ20110522		Commission on Sale of Stryker Corp	Survivor	-228.32	63,063.93
General Journal	5/16/2011	EJ20110522		Transaction Fee on Sale of Stryker Corp	Survivor	-4.95	63,058.98
General Journal	5/16/2011	EJ20110522		Commission on Sale of Dow Chemical	Survivor	-146.44	62,912.54
General Journal	5/16/2011	EJ20110522		Transaction Fee on Sale of Dow Chemical	Survivor	-4.95	62,907.59
General Journal	5/16/2011	EJ20110522		Commission on Sale of Gen Motors Warrants (WSA)	Survivor	-50.00	62,857.59
General Journal	5/16/2011	EJ20110522		Transaction Fee on Sale of Gen Motors Warrants (WSA)	Survivor	-4.95	62,852.64
General Journal	5/16/2011	EJ20110522		Commission on Sale of Gen Motors Warrants (WSB)	Survivor	-50.00	62,802.64
General Journal	5/16/2011	EJ20110522		Transaction Fee on Sale of Gen Motors Warrants (WSB)	Survivor	-4.95	62,797.69
General Journal	5/16/2011	EJ20110522		Transaction Fee on Sale of Gen Motors Common	Survivor	-4.95	62,792.74
General Journal	5/16/2011	EJ20110522		Commission on Sale of Gen Motors Common	Survivor	-50.00	62,742.74
General Journal	5/27/2011	EJ20110524		Adjust Value on GE Capital Corp Internotes	Survivor	-46.87	62,695.87
General Journal	5/27/2011	EJ20110524		Adjust Value on GMAC SmartNotes	Survivor	-272.55	62,423.32
General Journal	5/27/2011	EJ20110524		Adjust Value on Chevron Corp (CVX)	Survivor	204.61	62,627.93

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Type	Date	Num	Name	Memo	Class	Amount	Balance
General Journal	5/27/2011	EJ20110524		Adjust Value on Dow Chemical (DOW)	Survivor	151.39	62,779.32
General Journal	5/27/2011	EJ20110524		Adjust Value on Gen Motors Warrants (WSA)	Survivor	54.95	62,834.27
General Journal	5/27/2011	EJ20110524		Adjust Value on Gen Motors Warrants (WSB)	Survivor	54.95	62,889.22
General Journal	5/27/2011	EJ20110524		Adjust Value on Gen Motors Co (GM)	Survivor	54.95	62,944.17
General Journal	5/27/2011	EJ20110524		Adjust Value on Stryker Corp (SYK)	Survivor	233.27	63,177.44
General Journal	6/10/2011	EJ20110601		Sales Price on Sale of 623 Sh Deere & Company	Survivor	51,039.90	114,217.34
General Journal	6/10/2011	EJ20110601		Commission on Sale of 623 Sh Deere & Company	Survivor	-643.86	113,573.48
General Journal	6/10/2011	EJ20110601		Transaction Fee on Sale of 623 Sh Deere & Company	Survivor	-4.95	113,568.53
General Journal	6/10/2011	EJ20110123		Exxon IDC000946776 Invest Inc	Survivor	896.76	114,465.29
General Journal	7/28/2011	EJ20110721		Redeem Gen Motors Co Warrant (WSB)	Survivor	12.93	114,478.22
General Journal	7/28/2011	EJ20110721		Redeem Gen Motors Co Warrant (WSA)	Survivor	17.87	114,496.09
General Journal	7/28/2011	EJ20110721		Redeem Gen Motors Co Common	Survivor	0.37	114,496.46
General Journal	10/13/2011	EJ20111001		Proceeds from Sale of VK Bld Amer Bonds	Survivor	14,492.80	128,989.26
General Journal	10/26/2011	EJ20111003		Sale Price in Sale of Deere & Co Stock	Survivor	30,470.12	159,459.38
General Journal	10/26/2011	EJ20111003		Commission in Sale of Deere & Co Stock	Survivor	-458.73	159,000.65
General Journal	10/26/2011	EJ20111003		Transaction Fee in Sale of Deere & Co Stock	Survivor	-4.95	158,995.70
General Journal	10/28/2011	EJ20111022		Redeem Gen Motors Warrant (WSB)	Survivor	8.33	159,004.03
General Journal	10/28/2011	EJ20111022		Redeem Gen Motors Warrant (WSA)	Survivor	11.92	159,015.95
General Journal	10/28/2011	EJ20111022		Redeem Gen Motors Common	Survivor	19.85	159,035.80
General Journal	11/15/2011	EJ20111102		Sale of Deere & Co Stock	Survivor	14,381.25	173,417.05
General Journal	11/15/2011	EJ20111102		Commission on Sale of Deere & Co Stock	Survivor	-266.15	173,150.90
General Journal	11/15/2011	EJ20111102		Transacton Fee on Sale of Deere & Co Stock	Survivor	-4.95	173,145.95
General Journal	11/16/2011	EJ20111103		Proceeds from Sale of Invsco Bld Amer Bds	Survivor	10,508.70	183,654.65
General Journal	1/9/2012	EJ20120121		Commission on Sale of Gen Motors Common	Survivor	-2.10	183,652.55
General Journal	1/9/2012	EJ20120121		Transaction Fee on Sale of Gen Motors Common	Survivor	-4.95	183,647.60
General Journal	1/27/2012	EJ20120122		Adjust Value on Gen Motors Common	Survivor	7.02	183,654.62
General Journal	6/15/2012	EJ20120621		Redeem Motors Liq Co Guc Tr Ben Int	Survivor	8.17	183,662.79
Total Stock Sales less Broker Fees						183,662.79	183,662.79
Total Investment Income						216,605.71	216,605.71
Miscellaneous Income							
Deposit	12/31/2010			Deposit	Nelva	70.30	70.30
General Journal	3/1/2011	EJ20120460		Invest inc	Nelva	390.64	460.94
General Journal	4/11/2011	EJ20120463		Online Banking Transfer from chking Acct 2839	Nelva	1,500.00	1,960.94
General Journal	6/9/2011	EJ20110122		Invest Inc	Survivor	4.18	1,965.12
General Journal	6/28/2011	EJ20120471		Invest inc.	Nelva	725.64	2,690.76
General Journal	8/18/2011	EJ20120473		Invest inc	Nelva	702.72	3,393.48
General Journal	9/19/2011	EJ20120475		Invest inc	Nelva	507.76	3,901.24
General Journal	11/9/2011	EJ20110147		Invest Inc	Survivor	30.40	3,931.64
General Journal	1/3/2012	EJ20120436		Counter credit - invest inc	Elmer	495.72	4,427.36
General Journal	3/7/2012	EJ20110153		Other income	Survivor	20.49	4,447.85
General Journal	3/13/2012	EJ20120411		--Split--	Survivor	237.16	4,685.01
General Journal	4/16/2012	EJ20120440		fed - Invest inc	Elmer	383.45	5,068.46
General Journal	5/17/2012	EJ20120418		Invest Income	Survivor	30.40	5,098.86
General Journal	6/5/2012	EJ20120419		Invest inc	Survivor	71.04	5,169.90
General Journal	10/15/2012	EJ20120444		Invest inc	Elmer	57.86	5,227.76
General Journal	10/26/2012	EJ20120423		Invest inc	Survivor	24.04	5,251.80
General Journal	11/22/2012	EJ20120435		Invest inc	Elmer	381.32	5,633.12
General Journal	12/24/2012	EJ20120426		Inv inc - Chevron and Metlife	Survivor	104.26	5,737.38
General Journal	3/1/2013	EJ20120429		Inv inc - John Deere	Survivor	71.61	5,808.99
General Journal	3/13/2013	EJ20120439		Other inc	Elmer	495.72	6,304.71
General Journal	4/5/2013	EJ20120431		Deposit --Split--	Survivor	54.22	6,358.93
General Journal	4/5/2013	EJ20120451		Hull Co-op Invest inc	Elmer	101.80	6,460.73
Total Miscellaneous Income						6,460.73	6,460.73
Pension Income							
Deposit	12/31/2010			Pension ID ██████████9128	Nelva	594.41	594.41
Deposit	12/31/2010			Minnesota Life Annuity	Nelva	91.78	686.19
General Journal	1/31/2011	BOA20110105		Net Pension Receipt	Survivor	600.71	1,286.90
General Journal	2/2/2011	BOA20110106		Minnesota Life DES:Annuity ID:0	Survivor	91.78	1,378.68
General Journal	2/28/2011	BOA20110111		Benefits DES: Pension ID: ██████0518	Survivor	600.71	1,979.39
General Journal	3/1/2011	BOA20110112		Minnesota Life DES:Annuity ID:0	Survivor	91.78	2,071.17
General Journal	3/31/2011	BOA20110114		Benefits DES:Pension ID ██████0208	Survivor	600.71	2,671.88
General Journal	4/1/2011	BOA20110115		Minnesota Life DES:Annuity ID:0	Survivor	91.78	2,763.66
General Journal	4/29/2011	EJ20110110		Benefits DES:Pension ID ██████0518	Survivor	600.71	3,364.37
General Journal	4/29/2011	EJ20110111		Minnesota Life DES:Annuity ID:0	Survivor	91.78	3,456.15
General Journal	5/31/2011	EJ20110118		Benefits DES:Pension ID: ██████0508	Survivor	600.71	4,056.86
General Journal	6/1/2011	EJ20110119		Minnesota Life DES: Annuity ID:0	Survivor	91.78	4,148.64
General Journal	6/30/2011	EJ20110124		Benefits DES:Pension ID: ██████0218	Survivor	600.71	4,749.35
General Journal	7/1/2011	EJ20110125		Minnesota Life DES:Annuity ID:0	Survivor	91.78	4,841.13
General Journal	7/29/2011	EJ20110128		Benefits DES:Pension ID: ██████0528	Survivor	600.71	5,441.84
General Journal	8/1/2011	EJ20110129		Minnesota Life DES:Annuity ID:0	Survivor	91.78	5,533.62
General Journal	8/31/2011	EJ20110134		Benefits DES:Pension ID: ██████0168	Survivor	600.71	6,134.33
General Journal	9/1/2011	EJ20110135		Minnesota Life DES: Annuity ID:0	Survivor	91.78	6,226.11
General Journal	9/30/2011	EJ20110141		Minnesota Life DES: Annuity ID:0	Survivor	91.78	6,317.89
General Journal	9/30/2011	EJ20110142		Benefits DES:Pension ID: ██████2468	Survivor	600.71	6,918.60
General Journal	10/31/2011	EJ20110144		Benefits DES:Pension ID: ██████3478	Survivor	600.71	7,519.31
General Journal	11/1/2011	EJ20110145		Minnesota Life DES:Annuity ID:0	Survivor	91.78	7,611.09
General Journal	11/1/2011	EJ20110157		Minnesota Life Des:Annuity ID:0	Survivor	91.78	7,702.87
General Journal	11/30/2011	EJ20110149		Benefits DES:Pension ID: ██████3368	Survivor	600.71	8,303.58
Total Pension Income						8,303.58	8,303.58
Proceeds from Sale of Home							
General Journal	3/12/2012	EJ20120408		Option fee for house - Other inc	Survivor	100.00	100.00
General Journal	3/14/2012	EJ20120413		Sale of house - Other income	Survivor	433,129.32	433,229.32
General Journal	3/23/2012	EJ20120414		Sale of house --Split--	Survivor	162.73	433,392.05

Brunsting Family Living Trust
Detail of Accounts

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Type	Date	Num	Name	Memo	Class	Amount	Balance
Total Proceeds from Sale of Home						433,392.05	433,392.05
Social Security Income							
General Journal	2/3/2011	EJ20120457		Soc Security ID:2	Nelva	1,780.00	1,780.00
General Journal	3/3/2011	EJ20120459		Social Security	Nelva	1,780.00	3,560.00
General Journal	4/1/2011	EJ20120462		Social Security	Nelva	1,780.00	5,340.00
General Journal	5/2/2011	EJ20120464		Social Security	Nelva	1,780.00	7,120.00
General Journal	6/3/2011	EJ20120465		Social Security	Nelva	1,780.00	8,900.00
General Journal	7/1/2011	EJ20120469		Social Security	Nelva	1,780.00	10,680.00
General Journal	8/3/2011	EJ20120472		Social Security	Nelva	1,780.00	12,460.00
General Journal	9/2/2011	EJ20120474		Social Security	Nelva	1,780.00	14,240.00
General Journal	10/3/2011	EJ20120477		Social Security	Nelva	1,780.00	16,020.00
General Journal	11/3/2011	EJ20120478		Social Security	Nelva	1,780.00	17,800.00
Total Social Security Income						17,800.00	17,800.00
Tax Refunds							
General Journal	1/3/2011	BOA20110101		US Treasury 310 DES	Survivor	1,780.00	1,780.00
General Journal	1/11/2012	EJ20110159		Tax Refund	Survivor	6,215.87	7,995.87
General Journal	4/16/2012	EJ20120441		Federal tax refund	Elmer	6,913.00	14,908.87
General Journal	4/25/2012	EJ20120416		Federal Tax Refund	Survivor	4,908.00	19,816.87
Total Tax Refunds						19,816.87	19,816.87
Total Income						830,169.35	830,169.35
Expense							
Automobile Expense							
Check	1/18/2011	EFT	Exxon Mobil	Auto:Fuel	Nelva	20.93	20.93
Check	1/27/2011	EFT	Chevron	Fuel	Nelva	20.86	41.79
Check	1/31/2011	EFT	Chevron	Fuel	Nelva	21.07	62.86
Check	2/8/2011	EFT	Exxon Mobil	Fuel	Nelva	20.06	82.92
Check	2/9/2011	EFT	Nnt Hare Repai	Auto Service	Nelva	574.65	657.57
Check	2/10/2011	EFT	Exxon Mobil	Fuel	Nelva	10.67	668.24
Check	2/14/2011	EFT	Chevron	Fuel	Nelva	20.10	688.34
Check	2/23/2011	EFT	Exxon Mobil	Fuel	Nelva	20.36	708.70
Check	3/2/2011	EFT	Exxon Mobil	Fuel	Nelva	21.69	730.39
Check	3/7/2011	EFT	Chevron	Fuel	Nelva	22.98	753.37
Check	3/14/2011	EFT	Chevron	Fuel	Nelva	22.20	775.57
Check	3/14/2011	EFT	Exxon Mobil	Fuel	Nelva	22.20	797.77
Check	3/21/2011	EFT	Chevron	Fuel	Nelva	21.50	819.27
Check	3/21/2011	EFT	Chevron	Fuel	Nelva	24.55	843.82
Check	3/23/2011	EFT	Chevron	Fuel	Nelva	24.66	868.48
Check	3/28/2011	EFT	Chevron	Fuel	Nelva	21.76	890.24
Check	3/29/2011	EFT	Chevron	Fuel	Nelva	22.76	913.00
Check	4/1/2011	EFT	Chevron	Fuel	Nelva	24.65	937.65
Check	4/8/2011	EFT	Exxon Mobil	Fuel	Nelva	54.60	992.25
Check	4/14/2011	EFT	Chevron	Fuel	Nelva	21.02	1,013.27
Check	4/18/2011	EFT	Chevron	Fuel	Nelva	23.88	1,037.15
Check	4/18/2011	EFT	Exxon Mobil	Fuel	Nelva	22.51	1,059.66
Check	4/25/2011	EFT	Fastop	Fuel	Nelva	2.90	1,062.56
Check	4/25/2011	EFT	Fastop	Fuel	Nelva	50.84	1,113.40
Check	4/25/2011	EFT	Exxon Mobil	Fuel	Nelva	59.02	1,172.42
Check	4/25/2011	EFT	Chevron	Fuel	Nelva	14.05	1,186.47
Check	5/3/2011	EFT	Exxon Mobil	Fuel	Nelva	28.78	1,215.25
Check	5/6/2011	EFT	Exxon Mobil	Fuel	Nelva	23.63	1,238.88
Check	5/9/2011	EFT	Exxon Mobil	Fuel	Nelva	27.80	1,266.68
Check	5/9/2011	EFT	Chevron	Fuel	Nelva	28.76	1,295.44
Check	5/16/2011	EFT	Chevron	Fuel	Nelva	29.32	1,324.76
Check	5/16/2011	EFT	Exxon Mobil	Fuel	Nelva	24.64	1,349.40
Check	5/20/2011	EFT	Chevron	Fuel	Nelva	23.73	1,373.13
Check	5/23/2011	EFT	Chevron	Fuel	Nelva	24.40	1,397.53
Check	5/23/2011	EFT	Chevron	Fuel	Nelva	2.90	1,400.43
Check	5/24/2011	EFT	Chevron	Fuel	Nelva	23.33	1,423.76
Check	5/25/2011	EFT	TX Med Ctr Garage	Parking	Nelva	6.00	1,429.76
Check	5/26/2011	EFT	TX Med Ctr Garage	parking	Nelva	6.00	1,435.76
Check	5/27/2011	EFT	TX Med Ctr Garage	parking	Nelva	5.00	1,440.76
Check	5/31/2011	EFT	TX Med Ctr Garage	parking	Nelva	6.00	1,446.76
Check	5/31/2011	EFT	Chevron	Fuel	Nelva	24.48	1,471.24
Check	5/31/2011	EFT	TX Med Ctr Garage	parking	Nelva	2.00	1,473.24
Check	6/3/2011	EFT	Chevron	Fuel	Nelva	24.00	1,497.24
Check	6/6/2011	EFT	Exxon Mobil	Fuel	Nelva	43.12	1,540.36
Check	6/7/2011	EFT	Chevron	Fuel	Nelva	22.92	1,563.28
Check	6/8/2011	EFT	Exxon Mobil	Fuel	Nelva	22.08	1,585.36
Check	6/13/2011	EFT	Exxon Mobil	Fuel	Nelva	23.84	1,609.20
Check	6/14/2011	EFT	Exxon Mobil	Fuel	Nelva	29.37	1,638.57
Check	6/15/2011	EFT	Chevron	Fuel	Nelva	26.47	1,665.04
Check	6/20/2011	EFT	Exxon Mobil	Fuel	Nelva	25.60	1,690.64
Check	6/21/2011	EFT	Chevron	Fuel	Nelva	26.58	1,717.22
Check	6/27/2011	EFT	Chevron	Fuel	Nelva	25.13	1,742.35
Check	6/28/2011	EFT	Chevron	Fuel	Nelva	22.70	1,765.05
Check	7/1/2011	EFT	Chevron	Fuel	Nelva	26.25	1,791.30
Check	7/5/2011	EFT	Shell	Fuel	Nelva	23.05	1,814.35
Check	7/5/2011	EFT	Chevron	Fuel	Nelva	26.86	1,841.21
Check	7/8/2011	EFT	Chevron	Fuel	Nelva	25.68	1,866.89
Check	7/11/2011	EFT	Chevron	Fuel	Nelva	21.07	1,887.96
Check	7/13/2011	EFT	Chevron	Fuel	Nelva	23.37	1,911.33
Check	7/18/2011	EFT	Exxon Mobil	Fuel	Nelva	25.35	1,936.68
Check	7/19/2011	EFT	Chevron	Fuel	Nelva	30.18	1,966.86
Check	7/20/2011	EFT	Chevron	Fuel	Nelva	24.10	1,990.96

Brunsting Family Living Trust
Detail of Accounts

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Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	7/25/2011	EFT	Chevron	Fuel	Nelva	26.07	2,017.03
Check	7/27/2011	EFT	Chevron	Fuel	Nelva	24.45	2,041.48
Check	8/1/2011	EFT	Exxon Mobil	Fuel	Nelva	25.68	2,067.16
Check	8/1/2011	EFT	Chevron	Fuel	Nelva	21.07	2,088.23
Check	8/2/2011	EFT	Chevron	Fuel	Nelva	20.62	2,108.85
Check	8/8/2011	EFT	Chevron	Fuel	Nelva	25.37	2,134.22
Check	8/9/2011	EFT	Chevron	Fuel	Nelva	26.27	2,160.49
Check	8/10/2011	EFT	Exxon Mobil	Fuel	Nelva	25.53	2,186.02
Check	8/15/2011	EFT	Chevron	Fuel	Nelva	25.41	2,211.43
Check	8/17/2011	EFT	Chevron	Fuel	Nelva	26.21	2,237.64
Check	8/22/2011	EFT	Chevron	Fuel	Nelva	25.52	2,263.16
Check	8/23/2011	EFT	Chevron	Fuel	Nelva	22.25	2,285.41
Check	8/25/2011	EFT	Chevron	Fuel	Nelva	15.14	2,300.55
Check	8/29/2011	EFT	Chevron	Fuel	Nelva	20.14	2,320.69
Check	8/31/2011	EFT	Chevron	Fuel	Nelva	20.16	2,340.85
Check	9/6/2011	EFT	Chevron	Fuel	Nelva	21.50	2,362.35
Check	9/6/2011	EFT	Chevron	Fuel	Nelva	16.07	2,378.42
Check	9/6/2011	EFT	Chevron	Fuel	Nelva	14.34	2,392.76
Check	9/7/2011	EFT	Chevron	Fuel	Nelva	21.15	2,413.91
Check	9/13/2011	EFT	Exxon Mobil	Fuel	Nelva	23.96	2,437.87
Check	9/15/2011	EFT	Chevron	Fuel	Nelva	20.57	2,458.44
Check	9/19/2011	EFT	Chevron	Fuel	Nelva	20.23	2,478.67
Check	9/22/2011	EFT	Chevron	Fuel	Nelva	23.31	2,501.98
Check	9/27/2011	EFT	Chevron	Fuel	Nelva	25.07	2,527.05
Check	9/30/2011	EFT	Chevron	Fuel	Nelva	23.30	2,550.35
Check	10/3/2011	EFT	Chevron	Fuel	Nelva	25.22	2,575.57
Check	10/5/2011	EFT	Exxon Mobil	Fuel	Nelva	20.11	2,595.68
Check	10/6/2011	EFT	Chevron	Fuel	Nelva	20.52	2,616.20
Check	10/11/2011	EFT	Chevron	Fuel	Nelva	21.07	2,637.27
Check	10/12/2011	EFT	Chevron	Fuel	Nelva	22.02	2,659.29
Check	10/12/2011	EFT	Exxon Mobil	Fuel	Nelva	2.14	2,661.43
Check	10/14/2011	EFT	Chevron	Fuel	Nelva	24.70	2,686.13
Check	10/17/2011	EFT	Chevron	fuel	Nelva	21.07	2,707.20
Check	10/17/2011	EFT	Chevron	Fuel	Nelva	20.92	2,728.12
Check	10/19/2011	EFT	Chevron	Fuel	Nelva	21.78	2,749.90
Check	10/26/2011	eft	Exxon Mobil	fUEL	Nelva	20.25	2,770.15
Check	10/27/2011	EFT	Chevron	Fuel	Nelva	20.99	2,791.14
Check	10/31/2011	EFT	Chevron	Fuel	Nelva	22.72	2,813.86
Check	10/31/2011	EFT	Chevron	Fuel	Nelva	21.06	2,834.92
Check	11/2/2011	EFT	Chevron	Fuel	Nelva	20.90	2,855.82
Check	11/4/2011	EFT	Chevron	Fuel	Nelva	19.91	2,875.73
Check	11/7/2011	EFT	Chevron	Fuel	Nelva	22.79	2,898.52
Check	11/9/2011	EFT	Chevron	Fuel	Nelva	20.41	2,918.93
Check	11/14/2011	eft	Chevron	fUEL	Nelva	25.76	2,944.69
Check	11/14/2011	eft	Chevron	Fuel	Nelva	21.07	2,965.76
Total Automobile Expense						2,965.76	2,965.76
Bank & Brokerage Charges							
Check	12/23/2010	EFT	Bank of America	External Transfer Fee	Nelva	3.00	3.00
General Journal	12/28/2010	EJ20101214		Offset Admin Fee	Elmer	-13.88	-10.88
Check	12/30/2010	EFT	Bank of America	Check Order	Nelva	27.00	16.12
General Journal	1/6/2011	EJ20110106		Advisory Solutions Program Fee	Elmer	305.91	322.03
Check	1/13/2011	EFT	Bank of America	Check Order	Nelva	26.00	348.03
Check	1/19/2011	EFT	Bank of America	NSF Returned Item Fee for Activity	Nelva	35.00	383.03
Check	1/19/2011	EFT	Bank of America	NSF Overdraft Item Fee For Activity	Nelva	35.00	418.03
Check	1/19/2011	EFT	Bank of America	NSF: Returned Item Fee for Activity	Nelva	35.00	453.03
Check	1/20/2011	EFT	Bank of America	External Transfer Fee	Survivor	3.00	456.03
General Journal	1/27/2011	EJ20110108		Offset of Admin Fee	Elmer	-12.41	443.62
General Journal	1/27/2011	EJ20120456		Fee Refund Nbkhu28 - Reimbursement	Nelva	-105.00	338.62
General Journal	2/4/2011	EJ20110203		Redeem JPM Fed Money Market Instl CI	Elmer	297.60	636.22
General Journal	2/23/2011	EJ20110205		Fee Offset Less Admin Fee	Elmer	-11.67	624.55
General Journal	3/4/2011	EJ20110303		Redeem JPM Fed Money Market Inst	Elmer	273.03	897.58
General Journal	3/11/2011	DR12110301		Svc Fee on Reinvestment of Dividends on Chevron Stock	Family	3.00	900.58
General Journal	3/23/2011	EJ20110306		Fee Offset Less Admin Fee	Elmer	-13.01	887.57
General Journal	4/5/2011	EJ20110403		Redeem JPM Fed Money Market Instl CI	Elmer	300.68	1,188.25
General Journal	4/21/2011	EJ20110404		Fee Offset Less Admin Fee	Elmer	-11.70	1,176.55
General Journal	5/5/2011	EJ20110502		Redeem JPM Fed Money Market Instl	Elmer	295.92	1,472.47
General Journal	5/17/2011	EJ20110503		Fee Offset Less Admin Fee	Elmer	-12.12	1,460.35
General Journal	6/1/2011	EJ20110602		Minimum Balance Fee	Survivor	3.00	1,463.35
General Journal	6/1/2011	EJ20110601		Redeem JPM Fed Money Market Instl CI	Elmer	305.34	1,768.69
Check	6/14/2011	EFT	Bank of America	External Transfer Fee - 3 Day bank charge	Survivor	3.00	1,771.69
General Journal	6/22/2011	EJ20110604		Fee Offset Less Admin Fee	Elmer	-11.59	1,760.10
Check	6/23/2011	EFT	Bank of America	Check order fee	Nelva	23.00	1,783.10
General Journal	7/8/2011	EJ20110703		Redeemed JPM Fed Money Market Instl CI	Elmer	288.60	2,071.70
Check	7/20/2011	EFT	Bank of America	Safebox Fee	Survivor	8.00	2,079.70
General Journal	7/26/2011	EJ20110704		Fee Offset Less Admin Fee	Elmer	-12.20	2,067.50
Check	7/27/2011	EFT	Bank of America	External transfer fee - 3 Day	Survivor	3.00	2,070.50
General Journal	8/4/2011	EJ20110802		Redeemed JPM Fed Money Market Instl CI	Elmer	302.09	2,372.59
General Journal	8/25/2011	EJ20110803		Fee Offset Less Admin Fee	Elmer	-11.67	2,360.92
General Journal	9/7/2011	EJ20110902		Redeemed JPM Fed Money Market Instl C	Elmer	279.62	2,640.54
General Journal	9/22/2011	EJ20110906		Fee Offset Less Admin Fee	Elmer	-13.30	2,627.24
General Journal	10/6/2011	EJ20111003		Redeemed JPM Fed Money Market Instl CI	Elmer	260.78	2,888.02
General Journal	10/25/2011	EJ20111005		Fee Offset Less Admin Fee	Elmer	-14.31	2,873.71
General Journal	11/1/2011	EJ20110145		Minnesota Life DES:Annuity ID:0	Survivor	91.78	2,965.49
Check	11/3/2011	EFT	Bank of America	check order	Nelva	23.00	2,988.49
General Journal	11/4/2011	EJ20111103		Redeemed JPM Fed Money Market Instl CI	Elmer	264.30	3,252.79
Check	11/7/2011	EFT	Bank of America	Wire transfer fee	Survivor	25.00	3,277.79
Check	11/7/2011	EFT	Bank of America	Wire transfer fee	Survivor	25.00	3,302.79

Brunsting Family Living Trust Detail of Accounts

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Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	11/8/2011	eft	Bank of America	External transfer fee - 3 Day	Survivor	3.00	3,305.79
Check	11/9/2011	EFT	Bank of America	TX Tir payment to Sdb 2575 banking	Survivor	25.00	3,330.79
General Journal	11/10/2011	EJ20110148		Safe Deposit Box Rent Refund Fde	Survivor	-82.00	3,248.79
Check	11/14/2011	EFT	Bank of America	Safe box fee	Survivor	135.00	3,383.79
General Journal	11/18/2011	EJ20111104		Estate Service Fee	Survivor	100.00	3,483.79
General Journal	11/21/2011	EJ20111105		Wire Transfer Fee	Survivor	25.00	3,508.79
Check	11/21/2011	EFT	Bank of America	wire transfer fee	Survivor	12.00	3,520.79
General Journal	11/22/2011	EJ20111104		Fee Offset Less Admin Fee	Elmer	-13.47	3,507.32
Check	12/1/2011	Debit	Bank of America-Brun...	Check order	Survivor	26.00	3,533.32
General Journal	12/9/2011	EJ20111211		Estate Valuation Fee	Survivor	50.00	3,583.32
General Journal	12/23/2011	EJ20111223		Fee Offset Less Admin Fee	Elmer	-13.85	3,569.47
General Journal	12/31/2011	EJ20111204		Redeem JPMorgan Fed Money Market Instl Cl	Elmer	256.62	3,826.09
General Journal	1/6/2012	EJ20120103		Redeemed JP Morgan Fed Mon Mkt	Elmer	264.78	4,090.87
Check	1/11/2012	EFT	Bank of America		Elmer	14.00	4,104.87
General Journal	1/19/2012	EJ20120105		Fee Offset Less Admin Fee	Elmer	-13.09	4,091.78
General Journal	2/3/2012	EJ20120203		Redeemed JP Morgan Fed Mon Mkt Instl Cl	Elmer	269.92	4,361.70
General Journal	2/24/2012	EJ20120204		Fee Offset Less Admin Fee	Elmer	-12.21	4,349.49
General Journal	2/28/2012	EJ20120221		Annual Service Fee	Survivor	40.00	4,389.49
Check	3/5/2012	TXFR	Bank of America	External transfer fee - 3 day	Survivor	3.00	4,392.49
General Journal	3/6/2012	EJ20120303		Redeem JP Morgan Fed Mon Mkt Instl Cl	Elmer	260.41	4,652.90
Check	3/15/2012	EFT	Bank of America		Elmer	31.00	4,683.90
Check	3/16/2012	EFT	Bank of America	Returned Item Chargeback Fee	Survivor	12.00	4,695.90
Check	3/16/2012	EFT	Bank of America	Returned Item Chargeback - Met Life dupl check	Survivor	70.30	4,766.20
General Journal	3/28/2012	EJ20120307		Fee Offset Less Admin Fee	Elmer	-12.62	4,753.58
General Journal	4/5/2012	EJ20120403		Redeem JP Morgan Fed Mon Mkt	Elmer	283.77	5,037.35
General Journal	4/20/2012	EJ20120404		Fee Offset Less Admin Fee	Elmer	-11.53	5,025.82
General Journal	5/4/2012	EJ20120503		Redeem JP Morgan Fed Mon Mkt	Elmer	272.29	5,298.11
General Journal	5/30/2012	EJ20120506		Fee Offset Less Admin Fee	Elmer	-11.98	5,286.13
General Journal	6/5/2012	EJ20120603		Redeem JP Morgan Fed Mon Mkt	Elmer	272.55	5,558.68
General Journal	6/25/2012	EJ20120607		Fee Offset Less Admin Fee	Elmer	-12.29	5,546.39
General Journal	7/6/2012	EJ20120703		Redeem JP Morgan Fed Mon Mkt	Elmer	259.71	5,806.10
Check	7/17/2012	EFT	Bank of America	External transfer fee - 3 Day	Survivor	3.00	5,809.10
General Journal	7/27/2012	EJ20120704		Fee Offset Less Admin Fee	Elmer	-16.56	5,792.54
General Journal	8/3/2012	EJ20120803		Redeem JP Morgan Fed Mon Mkt	Elmer	275.06	6,067.60
General Journal	8/23/2012	EJ20120804		Fee Offset Less Admin Fee	Elmer	-16.69	6,050.91
General Journal	9/7/2012	EJ20120903		Redeem JP Morgan Fed Mon Mkt	Elmer	281.37	6,332.28
General Journal	9/25/2012	EJ20120907		Fee Offset Less Admin Fee	Elmer	-16.75	6,315.53
General Journal	10/4/2012	EJ20121003		Redeem JP Morgan Fed Mon Mkt	Elmer	278.62	6,594.15
General Journal	10/24/2012	EJ20121006		Fee Offset Less Admin Fee	Elmer	-17.20	6,576.95
General Journal	11/6/2012	EJ20121103		Redeem JP Morgan Fed Mon Mkt	Elmer	288.03	6,864.98
General Journal	11/30/2012	EJ20121104		Fee Offset Less Admin Fee	Elmer	-17.01	6,847.97
General Journal	12/6/2012	EJ20121203		Redeem JP Morgan Fed Mon Mkt	Elmer	275.75	7,123.72
General Journal	12/21/2012	EJ20121211		Fee Offset Less Admin Fee	Elmer	-17.22	7,106.50
General Journal	1/7/2013	EJ20130102		Redeem JP Morgan Fed Mon Mkt	Elmer	290.80	7,397.30
General Journal	1/25/2013	EJ20130104		Fee Offset Less Admin Fee	Elmer	-16.98	7,380.32
General Journal	2/5/2013	EJ20130203		Redeem JP Morgan Fed Mon Mkt	Elmer	299.80	7,680.12
General Journal	2/22/2013	EJ20130204		Fee Offset Less Admin Fee	Elmer	-17.22	7,662.90
General Journal	2/28/2013	EJ20130222		Annual Fee	Survivor	40.00	7,702.90
General Journal	3/7/2013	EJ20130303		Redeem JP Morgan Fed Mon Mkt	Elmer	273.58	7,976.48
General Journal	3/19/2013	EJ20130306		Fee Offset Less Admin Fee	Elmer	-18.33	7,958.15
General Journal	4/9/2013	EJ20130403		Redeem JP Morgan Fed Mon Mkt	Elmer	306.53	8,264.68
General Journal	4/18/2013	EJ20130404		Fee Offset Less Admin Fee	Elmer	-17.32	8,247.36
Check	4/30/2013	EFT	Bank of America	Monthly Fee	Nelva	12.00	8,259.36
General Journal	5/7/2013	EJ20130503		Redeem JP Morgan Fed Mon Mkt	Elmer	298.51	8,557.87
General Journal	5/28/2013	EJ20130504		Fee Offset Less Admin Fee	Elmer	-17.25	8,540.62
Total Bank & Brokerage Charges						8,540.62	8,540.62
Checks/Cash to Family Members							
Check	12/21/2010	6849	Amy Brunsting Tschir...	Christmas Gifts	Nelva	200.00	200.00
Check	12/21/2010	EFT	Amy Brunsting Tschir...	Transfer Confirmation #6403973884	Nelva	7,000.00	7,200.00
Check	12/31/2010	ATM	Cash	TX Tr Cash Withdrawal at Banking Center Town and Country	Nelva	25.00	7,225.00
Check	1/12/2011	ATM	Cash	ATM 01/11 #000007185	Nelva	40.00	7,265.00
Check	1/19/2011	EFT	Amy Tschirhart	ties to G Vie letter/sch's dated 7/15/13	Survivor	6,000.00	13,265.00
Check	1/25/2011	ATM	Cash	ATM - Cash 01/25 #000006811	Nelva	10.00	13,275.00
Check	1/25/2011	115	Cash	CASH	Nelva	100.00	13,375.00
Check	2/22/2011	140	Cash	Cash	Nelva	100.00	13,475.00
Check	3/14/2011	149	Candace Curtis		Nelva	25.00	13,500.00
Check	3/20/2011	7007	Amy Brunsting	Reimbursement for supplies	Survivor	40.00	13,540.00
Check	4/7/2011	EFT	Candace Curtis	Gifts Given/ref acct 2272/ties to G Vie letter/sch's dated 7/15/13	Survivor	3,000.00	16,540.00
Check	4/21/2011	EFT	Best uy	Tino phone	Nelva	376.38	16,916.38
Check	5/10/2011	7014	TDECU	Luke Truck, ties to G Vie letter/sch's dated 7/15/13	Survivor	5,443.22	22,359.60
Check	5/27/2011	7016	The Victoria Col	Luke college -in lieu of Anita Trustee fee per G Vie letter	Survivor	461.00	22,820.60
Check	6/2/2011	EFT	Iowa 529	Kt college - Ach DES:Contribution ID:0000	Survivor	500.00	23,320.60
Check	6/3/2011	EFT	Am-Honda	For Katie DES:PMT ID:000001032223 ties to G Vie letter/sch's ...	Survivor	5,750.51	29,071.11
Check	6/6/2011	EFT	Chase Credit Card	in lieu of Anita Trustee fee as per G Vie letter DES:EPAY ID:11...	Survivor	2,358.75	31,429.86
Check	6/8/2011	TXFR	Candace Curtis	Candy Curtis to ckg ...2272 ties to G Vie letter/sch's dated 7/15...	Survivor	2,000.00	33,429.86
Check	6/13/2011	TXFR	Amy Tschirhart	Reimbursement - Supplies to fix house	Survivor	100.00	33,529.86
Check	6/23/2011	240	Luke Riley	Household yard work	Nelva	25.00	33,554.86
Check	6/27/2011	EFT	Bank of America Cre...	in lieu of Anita Trustee fee as per G Vie letter \$ amt. transposed...	Survivor	2,364.34	35,919.20
Check	7/6/2011	EFT	Chase Credit Card	in lieu of Anita Trustee fee as per G Vie letter DES:EPAY ID:114...	Survivor	2,976.35	38,895.55
Check	7/15/2011	EFT	Bank of America Cre...	Cr Card pymt in lieu of Trustee fee Anita, G Vie letter and Trust ...	Survivor	7,242.83	46,138.38
Check	7/18/2011	EFT	Chase Credit Card	in lieu of Anita Trustee fee as per G Vie letterDES:EPAY ID:115...	Survivor	1,998.19	48,136.57
Check	7/26/2011	EFT	Amy Tschirhart	Reimbursement supplies to fix house	Survivor	100.00	48,236.57
Check	8/24/2011	EFT	Candace Curtis	ties to G Vie letter/sch's dated 7/15/13	Survivor	2,000.00	50,236.57
Check	8/24/2011	EFT	Candace Curtis	to chk 2839	Nelva	75.00	50,311.57
Check	8/25/2011	EFT	Candace Curtis	to chk 2839	Nelva	15.00	50,326.57
Check	8/25/2011	EFT	Candace Curtis	to chk 2839	Nelva	15.00	50,341.57
Check	8/26/2011	EFT	UTSA Admissions	Luke college - Education	Survivor	575.00	50,916.57

Brunsting Family Living Trust Detail of Accounts

12/21/2010-05/31/2013

Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	9/6/2011	EFT	Chase Credit Card	in lieu of Anita Trustee fee as per G Vie letter DES:EPay ID:117...	Survivor	999.04	51,915.61
Check	9/7/2011	EFT	Candace Curtis	to chk 2839	Nelva	125.00	52,040.61
Check	9/8/2011	EFT	Candace Curtis	to chk 2839	Nelva	550.00	52,590.61
Check	9/23/2011	EFT	Bank of America Cre...	in lieu of Anita Trustee fee as per G Vie letter date on his sch 9/7	Survivor	4,767.36	57,357.97
Check	10/4/2011	EFT	Chase Credit Card	in lieu of Anita Trustee fee as per G Vie letter DES:EPay ID:119...	Survivor	2,390.35	59,748.32
Check	10/5/2011	EFT	Candace Curtis	to chk 2839`	Nelva	500.00	60,248.32
Check	10/18/2011	356	Nelva Brunsting	Cash	Nelva	50.00	60,298.32
Check	10/19/2011	EFT	Chase Credit Card	in lieu of Anita Trustee fee as per G Vie letter DES:EPay ID:120...	Survivor	2,033.30	62,331.62
Check	10/21/2011	7032	Vehs Bankd Boosters	Katy band	Survivor	280.00	62,611.62
Check	10/26/2011	EFT	Candace Curtis	ties to G Vie letter/sch's dated 7/15/13	Survivor	2,000.00	64,611.62
Check	11/1/2011	TXFR	Luke Riley	Luke College ties to G Vie letter/sch's dated 7/15/13	Survivor	2,000.00	66,611.62
Check	11/3/2011	EFT	Bank of America Cre...	in lieu of Anita Trustee fee as per G Vie letter his sch had 10/6 d...	Survivor	102.52	66,714.14
Check	11/7/2011	EFT	Anita Brunsting	Legal fees Wire Type:Wire Out Date:111107 T to anita for futu...	Survivor	10,000.00	76,714.14
Check	11/7/2011	EFT	Amy Brunsting	Legal fees Wire Type:Wire Out Date:111107 T to amy for f...	Survivor	10,000.00	86,714.14
Check	11/7/2011	EFT	Amy Tschirhart	Reimbursement - for supplies to fix house	Survivor	1,000.00	87,714.14
Check	11/8/2011	EFT	Chase Credit Card	in lieu of Anita Trustee fee as per G Vie letter DES:EPay ID: 121...	Survivor	3,274.51	90,988.65
Check	11/10/2011	EFT	Candace Curtis	ties to G Vie letter/sch's dated 7/15/13	Survivor	2,000.00	92,988.65
Check	1/25/2012	111	Amy Brunsting	Reimbursement - moving/repair expenses	Survivor	425.94	93,414.59
Check	2/27/2012	TXFR	Carole Brunsting	Reimbursement - leveling house	Survivor	10,000.00	103,414.59
Check	3/2/2012	TXFR	Amy Brunsting	Reimbursement trust expenses	Survivor	841.45	104,256.04
Check	3/2/2012	TXFR	Carole Brunsting	Reimbursement - leveling house	Survivor	2,537.50	106,793.54
Check	3/5/2012	TXFR	Carole Brunsting	Reimbursement - leveling house	Survivor	10,000.00	116,793.54
Check	3/6/2012	TXFR	Carole Brunsting	Reimbursement - leveling house	Survivor	3,117.50	119,911.04
General Journal	3/13/2012	EJ20120410	Amy Brunsting	Reimbursement	Survivor	-10,000.00	109,911.04
General Journal	3/13/2012	EJ20120412	Anita Brunsting	Reimbursement	Survivor	-10,040.00	99,871.04
Check	4/16/2012	122	Candace Curtis	Remainder of Life Ins Trust - Other Income	Survivor	60.00	99,931.04
Check	4/16/2012	123	Carl Brunsting	Remainder of Life Ins Trust	Survivor	60.00	99,991.04
Check	4/16/2012	124	Amy Brunsting	Remainder of Life Ins Trust - Other Inc	Survivor	60.00	100,051.04
Check	4/16/2012	125	Carole Brunsting	Remainder of Life Ins Trust - Other Inc	Survivor	60.00	100,111.04
Check	4/16/2012	127	Anita Brunsting	Remainder of Life Ins Trust - Other Inc	Survivor	44.65	100,155.69
Check	4/20/2012	EFT	Carole Brunsting	Moving Expenses Reimbursement	Survivor	1,563.50	101,719.19
Check	4/25/2012	131	Anita Brunsting	Legal fees Reimbursement for Retainer to Chip Mathews	Survivor	5,000.00	106,719.19
Check	4/25/2012	130	Anita Brunsting	Reimbursement for UPS to mail boxes to S Mills	Survivor	102.11	106,821.30
Check	5/16/2012	101	Anita Brunsting	Reimbursement for 1/2 farm tax	Elmer	1,679.43	108,500.73
Check	7/16/2012	TXFR	Amy Brunsting	Trust expenses - Reimbursement	Survivor	353.43	108,854.16
Check	9/10/2012	139	Anita Brunsting	Reimburse postage	Survivor	61.75	108,915.91
Check	9/10/2012	140	Anita Brunsting	Stamps reimbursement	Survivor	9.00	108,924.91
Total Checks/Cash to Family Members						108,924.91	108,924.91
Dues and Subscriptions							
Check	3/15/2011	154	Birds and Blooms		Nelva	10.00	10.00
Check	4/25/2011	187	Doon Press		Nelva	26.50	36.50
Check	8/17/2011	294	Houston Chronicle		Nelva	138.00	174.50
Check	8/18/2011	292	Time Magazine		Nelva	20.00	194.50
Check	9/21/2011	322	Iowa Outdoors		Nelva	15.00	209.50
Check	9/10/2012	137	Houston Chronicle	final payment - subscription	Survivor	68.97	278.47
Total Dues and Subscriptions						278.47	278.47
Food/Dining/Groceries							
Check	12/21/2010	6848	Randalls		Nelva	60.51	60.51
Check	1/10/2011	EFT	Randalls	01/09 #000555055	Nelva	234.97	295.48
Check	1/18/2011	EFT	Kroger		Nelva	32.33	327.81
Check	1/24/2011	EFT	Randalls	01/23 #000635058	Nelva	35.89	363.70
Check	1/24/2011	EFT	Chick-fil-a #0103	Dining	Nelva	3.29	366.99
Check	1/31/2011	EFT	Randalls		Nelva	51.87	418.86
Check	1/31/2011	EFT	Randalls		Nelva	47.24	466.10
Check	1/31/2011	EFT	Chick-fil-a #0103	Dining	Nelva	3.29	469.39
Check	2/7/2011	EFT	Randalls		Nelva	71.64	541.03
Check	2/14/2011	EFT	Randalls		Nelva	23.68	564.71
Check	2/14/2011	EFT	Randalls		Nelva	76.92	641.63
Check	2/18/2011	EFT	Kroger		Nelva	27.33	668.96
Check	2/22/2011	EFT	Subway	Dining	Nelva	3.25	672.21
Check	2/22/2011	EFT	Chick-fil-a #0103	Dining	Nelva	5.83	678.04
Check	2/22/2011	EFT	Randalls		Nelva	47.02	725.06
Check	2/22/2011	EFT	Wal-Mart		Nelva	46.27	771.33
Check	2/22/2011	EFT	Randalls		Nelva	8.68	780.01
Check	2/22/2011	EFT	Walgreens		Nelva	28.12	808.13
Check	2/24/2011	EFT	Randalls		Nelva	24.39	832.52
Check	3/7/2011	EFT	Randalls		Nelva	24.30	856.82
Check	3/7/2011	EFT	Chick-fil-a #0103		Nelva	3.29	860.11
Check	3/7/2011	EFT	Randalls		Nelva	9.77	869.88
Check	3/7/2011	eft	Wal-Mart		Nelva	11.89	881.77
General Journal	3/7/2011	EJ20120461		DEBIT 1943	Nelva	-6.48	875.29
Check	3/8/2011	eft	Subway		Nelva	3.25	878.54
Check	3/14/2011	EFT	Randalls		Nelva	29.21	907.75
Check	3/14/2011	EFT	Chick-fil-a #0103	Dining	Nelva	14.16	921.91
Check	3/14/2011	EFT	Randalls		Nelva	13.23	935.14
Check	3/14/2011	EFT	Taco Cabana	Dining	Nelva	6.48	941.62
Check	3/14/2011	EFT	Chick-fil-a #0103	Dining	Nelva	3.29	944.91
Check	3/14/2011	EFT	Chick-fil-a #0103	Dining	Nelva	1.83	946.74
Check	3/14/2011	EEFT	Taco Cabana	Dining	Nelva	8.63	955.37
Check	3/16/2011	EFT	Randalls		Nelva	60.94	1,016.31
Check	3/16/2011	EFT	Randalls		Nelva	12.44	1,028.75
Check	3/18/2011	EFT	Randalls		Nelva	69.77	1,098.52
Check	3/21/2011	EFT	Taco Cabana	Dining	Nelva	22.68	1,121.20
Check	3/21/2011	EFT	Taco Cabana	Dining	Nelva	23.77	1,144.97
Check	3/21/2011	EFT	Wal-Mart		Nelva	114.67	1,259.64
Check	3/21/2011	EFT	Randalls		Nelva	18.37	1,278.01

Brunsting Family Living Trust
Detail of Accounts

12/21/2010-05/31/2013

Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	3/21/2011	EFT	Randalls		Nelva	13.11	1,291.12
Check	3/28/2011	EFT	Randalls		Nelva	36.05	1,327.17
Check	3/29/2011	EFT	Subway	Dining	Nelva	4.33	1,331.50
Check	3/30/2011	EFT	Randalls		Nelva	8.85	1,340.35
Check	4/4/2011	EFT	Wal-Mart		Nelva	37.28	1,377.63
Check	4/4/2011	EFT	Randalls		Nelva	34.54	1,412.17
Check	4/4/2011	EFT	Randalls		Nelva	52.52	1,464.69
Check	4/5/2011	EFT	Subway	Dining	Nelva	3.25	1,467.94
Check	4/6/2011	EFT	Randalls		Nelva	34.97	1,502.91
Check	4/8/2011	EFT	Randalls		Nelva	15.87	1,518.78
Check	4/11/2011	EFT	Subway	Dining	Nelva	3.79	1,522.57
Check	4/11/2011	EFT	Chick-fil-a #0103	Dining	Nelva	1.83	1,524.40
Check	4/11/2011	EFT	Chick-fil-a #0103	Dining	Nelva	1.83	1,526.23
Check	4/11/2011	EFT	Randalls		Nelva	16.56	1,542.79
Check	4/11/2011	EFT	Randalls		Nelva	51.94	1,594.73
Check	4/12/2011	EFT	Subway	Dining	Nelva	3.25	1,597.98
Check	4/12/2011	EFT	Randalls		Nelva	34.69	1,632.67
Check	4/13/2011	EFT	Randalls		Nelva	67.04	1,699.71
Check	4/14/2011	EFT	Randalls		Nelva	24.03	1,723.74
Check	4/15/2011	EFT	Chick-fil-a #0103	Dining	Nelva	10.25	1,733.99
Check	4/18/2011	EFT	Randalls		Nelva	26.45	1,760.44
Check	4/18/2011	EFT	Randalls		Nelva	23.16	1,783.60
Check	4/18/2011	EFT	Randalls		Nelva	17.30	1,800.90
Check	4/22/2011	EFT	Randalls		Nelva	57.60	1,858.50
Check	4/25/2011	EFT	Subway	Dining	Nelva	3.79	1,862.29
Check	4/25/2011	EFT	Subway	Dining	Nelva	3.79	1,866.08
Check	4/25/2011	EFT	Taco Cabana	Dining	Nelva	22.68	1,888.76
Check	4/25/2011	EFT	Randalls		Nelva	86.07	1,974.83
Check	5/2/2011	EFT	Randalls		Nelva	140.07	2,114.90
Check	5/3/2011	EFT	Randalls		Nelva	36.75	2,151.65
Check	5/6/2011	EFT	Randalls		Nelva	17.30	2,168.95
Check	5/9/2011	EFT	Randalls		Nelva	33.74	2,202.69
Check	5/9/2011	EFT	Randalls		Nelva	55.52	2,258.21
Check	5/11/2011	EFT	Randalls		Nelva	10.39	2,268.60
Check	5/16/2011	EFT	Chick-fil-a #0103	Dining	Nelva	3.29	2,271.89
Check	5/16/2011	EFT	Chick-fil-a #0103	Dining	Nelva	3.29	2,275.18
Check	5/18/2011	EFT	Randalls		Nelva	42.56	2,317.74
Check	5/20/2011	EFT	Randalls		Nelva	21.87	2,339.61
Check	5/23/2011	EFT	Randalls		Nelva	57.35	2,396.96
Check	5/25/2011	EFT	Randalls	Dining	Nelva	43.52	2,440.48
Check	5/31/2011	EFT	Randalls		Nelva	31.71	2,472.19
Check	6/3/2011	EFT	Randalls		Nelva	23.46	2,495.65
Check	6/6/2011	EFT	Kroger		Nelva	32.17	2,527.82
Check	6/6/2011	EFT	Randalls		Nelva	23.97	2,551.79
Check	6/6/2011	EFT	Randalls		Nelva	20.00	2,571.79
Check	6/6/2011	EFT	Fastop	Dining	Nelva	4.25	2,576.04
Check	6/13/2011	EFT	McDonald's	Dining	Nelva	13.46	2,589.50
Check	6/13/2011	EFT	Kroger		Nelva	3.05	2,592.55
Check	6/13/2011	EFT	Randalls		Nelva	43.77	2,636.32
Check	6/13/2011	EFT	Randalls		Nelva	54.05	2,690.37
Check	6/14/2011	EFT	McDonald's	Dining	Nelva	2.17	2,692.54
Check	6/20/2011	EFT	Randalls		Nelva	24.19	2,716.73
Check	6/24/2011	EFT	Randalls		Nelva	41.68	2,758.41
Check	6/28/2011	EFT	Randalls		Nelva	50.83	2,809.24
Check	7/1/2011	EFT	Randalls		Nelva	18.92	2,828.16
Check	7/5/2011	EFT	Randalls		Nelva	25.61	2,853.77
Check	7/5/2011	EFT	Randalls		Nelva	34.05	2,887.82
Check	7/6/2011	EFT	Chick-fil-a #0103	Dining	Nelva	5.13	2,892.95
Check	7/8/2011	EFT	Randalls		Nelva	46.61	2,939.56
Check	7/11/2011	EFT	Randalls		Nelva	52.99	2,992.55
Check	7/11/2011	EFT	McDonald's	Dining	Nelva	2.48	2,995.03
Check	7/11/2011	EFT	Randalls		Nelva	29.80	3,024.83
Check	7/18/2011	EFT	Randalls		Nelva	35.41	3,060.24
Check	7/18/2011	EFT	Randalls		Nelva	25.14	3,085.38
Check	7/18/2011	EFT	Wal-Mart		Nelva	260.73	3,346.11
Check	7/21/2011	EFT	Randalls		Nelva	45.34	3,391.45
Check	7/25/2011	EFT	Randalls		Nelva	43.38	3,434.83
Check	7/25/2011	EFT	Randalls		Nelva	60.57	3,495.40
Check	7/25/2011	EFT	Kolache Factory	Dining	Nelva	3.76	3,499.16
Check	7/28/2011	EFT	Randalls		Nelva	31.23	3,530.39
Check	7/28/2011	EFT	Randalls		Nelva	26.20	3,556.59
Check	7/29/2011	EFT	Chick-fil-a #0103	Dining	Nelva	1.83	3,558.42
Check	8/1/2011	EFT	Randalls		Nelva	47.94	3,606.36
Check	8/1/2011	EFT	Walgreens		Nelva	20.99	3,627.35
Check	8/1/2011	EFT	Chick-fil-a #0103	Dining	Nelva	3.29	3,630.64
Check	8/2/2011	EFT	Randalls		Nelva	29.74	3,660.38
Check	8/4/2011	EFT	McDonald's	Dining	Nelva	2.17	3,662.55
Check	8/5/2011	EFT	Randalls		Nelva	24.92	3,687.47
Check	8/8/2011	EFT	Randalls		Nelva	30.29	3,717.76
Check	8/8/2011	EFT	Randalls	08/06	Nelva	57.90	3,775.66
Check	8/10/2011	EFT	Randalls		Nelva	21.76	3,797.42
Check	8/15/2011	EFT	Randalls		Nelva	58.34	3,855.76
Check	8/15/2011	EFT	Randalls		Nelva	46.75	3,902.51
Check	8/17/2011	EFT	HEB		Nelva	34.39	3,936.90
Check	8/17/2011	EFT	HEB		Nelva	19.77	3,956.67
Check	8/22/2011	EFT	Randalls		Nelva	39.52	3,996.19
Check	8/22/2011	EFT	Randalls		Nelva	44.99	4,041.18
Check	8/24/2011	EFT	Randalls		Nelva	44.36	4,085.54

Brunsting Family Living Trust
Detail of Accounts

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Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	8/24/2011	EFT	Randalls		Nelva	28.74	4,114.28
Check	8/25/2011	EFT	Randalls		Nelva	18.33	4,132.61
Check	8/29/2011	EFT	Randalls		Nelva	36.15	4,168.76
Check	9/2/2011	EFT	Randalls		Nelva	21.71	4,190.47
Check	9/6/2011	EFT	Randalls		Nelva	33.12	4,223.59
Check	9/6/2011	EFT	Chick-fil-a #0103	Dining	Nelva	3.29	4,226.88
Check	9/6/2011	EFT	Randalls		Nelva	68.27	4,295.15
Check	9/7/2011	EFT	Randalls		Nelva	50.29	4,345.44
Check	9/8/2011	EFT	Randalls		Nelva	14.60	4,360.04
Check	9/9/2011	EFT	Chick-fil-a #0103		Nelva	3.29	4,363.33
Check	9/12/2011	EFT	Randalls		Nelva	92.24	4,455.57
Check	9/12/2011	EFT	Randalls		Nelva	20.00	4,475.57
Check	9/19/2011	EFT	Randalls		Nelva	42.84	4,518.41
Check	9/23/2011	EFT	Walgreens		Nelva	11.99	4,530.40
Check	9/26/2011	EFT	Wal-Mart		Nelva	133.75	4,664.15
Check	9/26/2011	EFT	Randalls		Nelva	23.57	4,687.72
Check	9/28/2011	EFT	Randalls		Nelva	14.06	4,701.78
Check	9/28/2011	EFT	Randalls		Nelva	18.90	4,720.68
Check	9/30/2011	EFT	Randalls		Nelva	28.77	4,749.45
Check	9/30/2011	EFT	Randalls		Nelva	19.06	4,768.51
Check	10/3/2011	EFT	Wal-Mart		Nelva	55.92	4,824.43
Check	10/3/2011	EFT	Randalls		Nelva	32.16	4,856.59
Check	10/3/2011	EFT	HEB		Nelva	20.75	4,877.34
Check	10/3/2011	EFT	Randalls		Nelva	8.95	4,886.29
Check	10/4/2011	EFT	Randalls		Nelva	38.92	4,925.21
Check	10/7/2011	EFT	Randalls		Nelva	39.04	4,964.25
Check	10/11/2011	EFT	Chick-fil-a #0103	Dining	Nelva	3.29	4,967.54
Check	10/11/2011	EFT	Randalls		Nelva	26.50	4,994.04
Check	10/11/2011	EFT	Randalls		Nelva	14.06	5,008.10
Check	10/12/2011	EFT	Randalls		Nelva	25.47	5,033.57
Check	10/17/2011	EFT	Randalls		Nelva	65.96	5,099.53
Check	10/17/2011	EFT	Randalls		Nelva	45.32	5,144.85
Check	10/17/2011	EFT	Randalls		Nelva	28.98	5,173.83
Check	10/17/2011	EFT	Randalls		Nelva	28.05	5,201.88
Check	10/17/2011	EFT	Randalls		Nelva	17.30	5,219.18
Check	10/17/2011	EFT	McDonald's	Dining	Nelva	6.26	5,225.44
Check	10/19/2011	EFT	Randalls		Nelva	27.71	5,253.15
Check	10/20/2011	EFT	Chick-fil-a #0103	dINING	Nelva	3.29	5,256.44
Check	10/21/2011	eft	Randalls		Nelva	7.61	5,264.05
Check	10/21/2011	eft	Chick-fil-a #0103	dINING	Nelva	3.29	5,267.34
Check	10/24/2011	EFT	Randalls		Nelva	41.88	5,309.22
Check	10/24/2011	eft	Chick-fil-a #0103	dINING	Nelva	3.29	5,312.51
Check	10/25/2011	eft	Randalls		Nelva	52.17	5,364.68
Check	10/26/2011	eft	Randalls		Nelva	42.23	5,406.91
Check	10/26/2011	EFT	Subway	Dining	Nelva	14.70	5,421.61
Check	10/31/2011	EFT	Randalls		Nelva	94.10	5,515.71
Check	10/31/2011	EFT	Randalls		Nelva	20.33	5,536.04
Check	10/31/2011	EFT	Randalls		Nelva	6.90	5,542.94
Check	11/1/2011	EFT	Randalls		Nelva	33.16	5,576.10
Check	11/2/2011	EFT	Randalls	Fuel	Nelva	25.78	5,601.88
Check	11/4/2011	EFT	Randalls		Nelva	10.00	5,611.88
Check	11/4/2011	EFT	Randalls		Nelva	53.01	5,664.89
Check	11/7/2011	EFT	Au Bon Pain-memo	Dining	Nelva	3.94	5,668.83
Check	11/7/2011	EFT	Chick-fil-a #0103	Dining	Nelva	3.29	5,672.12
Check	11/7/2011	EFT	McDonald's	Dining	Nelva	1.08	5,673.20
Check	11/7/2011	EFT	Randalls		Nelva	33.51	5,706.71
Check	11/7/2011	EFT	Randalls		Nelva	34.35	5,741.06
Check	11/8/2011	EFT	Randalls		Nelva	17.84	5,758.90
Check	11/8/2011	EFT	McDonald's	Dining	Nelva	6.70	5,765.60
Check	11/8/2011	EFT	Randalls		Nelva	48.45	5,814.05
Check	11/9/2011	EFT	HEB		Nelva	43.40	5,857.45
Check	11/14/2011	eft	Randalls		Nelva	32.71	5,890.16
Check	11/14/2011	eft	Randalls		Nelva	30.92	5,921.08
Check	11/14/2011	eft	Randalls		Nelva	22.41	5,943.49
Check	11/14/2011	EFT	McDonald's	Dining	Nelva	8.60	5,952.09
Check	11/14/2011	EFT	Chick-fil-a #0103	Dining	Nelva	3.29	5,955.38
Check	11/14/2011	EFT	Chick-fil-a #0103	Dining	Nelva	3.29	5,958.67
Total Food/Dining/Groceries						5,958.67	5,958.67
Funeral							
Check	11/12/2011	7033	Memorial Oaks		Survivor	1,595.00	1,595.00
Check	11/14/2011	7035	Memorial Oaks		Survivor	1,511.29	3,106.29
Check	11/15/2011	7036	Memorial Oaks	Organist	Survivor	150.00	3,256.29
Check	11/15/2011	7037	Bob Johnson	pastor	Survivor	300.00	3,556.29
Total Funeral						3,556.29	3,556.29
Household							
Check	1/20/2011	111	Mrs. Gutierrez	Cleaning	Nelva	70.00	70.00
Check	2/11/2011	125	Mrs. Gutierrez	Cleaning	Nelva	70.00	140.00
Check	2/18/2011	161	Mrs. Gutierrez	Cleaning	Nelva	70.00	210.00
Check	2/22/2011	EFT	Southwest Fertilizer		Nelva	8.73	218.73
Check	2/28/2011	EFT	Southwest Fertilizer		Nelva	59.73	278.46
Check	2/28/2011	EFT	Radio Shack		Nelva	94.13	372.59
Check	3/1/2011	EFT	Home Depot		Nelva	20.55	393.14
Check	3/25/2011	169	Mrs. Gutierrez	Cleaning	Nelva	70.00	463.14
Check	3/28/2011	EFT	Southwest Fertilizer		Nelva	13.39	476.53
Check	4/6/2011	EFT	Southwest Fertilizer		Nelva	9.73	486.26
Check	4/8/2011	179	Mrs. Gutierrez	Cleaning	Nelva	70.00	556.26

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Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	4/18/2011	EFT	Sou The Home	04/16 #000457501	Nelva	22.83	579.09
Check	4/25/2011	196	Mrs. Gutierrez	Cleaning	Nelva	70.00	649.09
Check	5/3/2011	EFT	Southwest Fertilizer		Nelva	21.98	671.07
Check	5/9/2011	210	Mrs. Gutierrez	Cleaning	Nelva	70.00	741.07
Check	5/23/2011	221	Mrs. Gutierrez	Cleaning	Nelva	70.00	811.07
Check	6/3/2011	237	Mrs. Gutierrez	Cleaning	Nelva	70.00	881.07
Check	6/27/2011	EFT	Sou The Home		Nelva	161.36	1,042.43
Check	7/26/2011	EFT	Southwest Fertilizer	Garden	Nelva	25.88	1,068.31
Check	8/11/2011	300	Maria Vaquera	Cleaning	Nelva	50.00	1,118.31
Check	9/13/2011	EFT	Southwest Fertilizer	Garden	Nelva	18.89	1,137.20
Check	9/26/2011	336	Maria Vaquera	Cleaning	Nelva	50.00	1,187.20
Check	10/6/2011	345	Maria Vaquera	Cleaning	Nelva	50.00	1,237.20
Total Household						1,237.20	1,237.20
Insurance Expense							
Check	1/5/2011	EFT	State Farm Insurance		Survivor	299.93	299.93
Check	2/2/2011	EFT	State Farm Insurance	PPD	Survivor	299.93	599.86
Check	3/2/2011	EFT	State Farm Insurance	PPD	Survivor	299.93	899.79
Check	4/4/2011	EFT	State Farm Insurance	PPD	Survivor	301.36	1,201.15
Check	5/3/2011	EFT	State Farm Insurance		Survivor	300.62	1,501.77
Check	6/2/2011	EFT	State Farm Insurance	PPD	Survivor	300.62	1,802.39
Check	7/5/2011	EFT	State Farm Insurance	PPD	Survivor	300.62	2,103.01
Check	8/2/2011	EFT	State Farm Insurance		Survivor	300.62	2,403.63
Check	9/2/2011	EFT	State Farm Insurance	PPD	Survivor	290.04	2,693.67
Check	10/4/2011	EFT	State Farm Insurance	PPD	Survivor	290.04	2,983.71
Check	11/2/2011	EFT	State Farm Insurance	PPD	Survivor	290.04	3,273.75
Check	12/2/2011	EFT	State Farm Insurance	PPD	Survivor	290.04	3,563.79
Check	1/5/2012	EFT	State Farm Insurance	PPF	Survivor	290.04	3,853.83
Check	2/2/2012	EFT	State Farm Insurance	PPD	Survivor	290.04	4,143.87
Check	3/2/2012	EFT	State Farm Insurance	PPD	Survivor	292.79	4,436.66
Check	4/3/2012	EFT	State Farm Insurance	PPD	Survivor	301.22	4,737.88
Total Insurance Expense						4,737.88	4,737.88
Lawn Care							
Check	2/14/2011	133	Mr. Phan Chan	Household	Nelva	100.00	100.00
Check	3/11/2011	157	Mr. Phan Chan	Household	Nelva	100.00	200.00
Check	3/21/2011	160	Nicolas	Yard work	Nelva	52.00	252.00
Check	4/15/2011	190	Mr. Phan Chan	mowing	Nelva	100.00	352.00
Check	5/20/2011	222	Mr. Phan Chan	mowing	Nelva	100.00	452.00
Check	5/24/2011	226	Fernando	yard work Home repair	Nelva	35.00	487.00
Check	6/27/2011	255	Mr. Phan Chan	mowing	Nelva	125.00	612.00
Check	7/25/2011	280	Mr. Phan Chan	mowing	Nelva	125.00	737.00
Check	9/23/2011	337	Mr. Phan Chan	Household	Nelva	225.00	962.00
Check	10/21/2011	361	Mr. Phan Chan	Household	Nelva	100.00	1,062.00
Check	12/23/2011	105	Mr. Phan Chan	13630 Pinerock	Survivor	200.00	1,262.00
Total Lawn Care						1,262.00	1,262.00
Legal Fees							
Check	1/19/2011	7003	Vacek & Freed PLLC		Survivor	880.15	880.15
Check	3/17/2011	7006	Vacek & Freed PLLC	Legal Fees	Survivor	340.00	1,220.15
Check	6/2/2011	7015	Vacek & Freed PLLC		Survivor	575.59	1,795.74
Check	8/5/2011	7025	Vacek & Freed PLLC	Retainer	Survivor	1,000.00	2,795.74
Check	10/12/2011	7030	DeKoster & DeKoster	farm contract	Survivor	100.00	2,895.74
Check	12/20/2011	101	Vacek & Freed PLLC	Retainer	Survivor	4,500.00	7,395.74
Check	1/3/2012	110	Herb Jamison	House appraisal	Survivor	450.00	7,845.74
Check	4/20/2012	128	Mills Shirley LLP	Suit	Survivor	10,000.00	17,845.74
Check	4/20/2012	129	Bernard Mathews		Survivor	1,029.60	18,875.34
Check	7/18/2012	135	Mills Shirley LLP		Survivor	17,000.00	35,875.34
Check	3/21/2013	142	Mills Shirley LLP		Survivor	437.10	36,312.44
Check	4/2/2013	143	Mills Shirley LLP	George vie Candy's suit	Survivor	10,000.00	46,312.44
General Journal	5/31/2013	EJ20120434		From Mills Shirley - Reimbursement	Survivor	-10,000.00	36,312.44
Total Legal Fees						36,312.44	36,312.44
Medical Expenses							
In Home Care							
Check	12/29/2010	6851	Tino	Faustiino Vaquera, Jr	Nelva	1,245.00	1,245.00
Check	12/29/2010	6852	Michael Brooks		Nelva	855.00	2,100.00
Check	1/4/2011	6853	Robert Cantu		Survivor	736.00	2,836.00
Check	1/7/2011	91	Michael Brooks		Nelva	585.00	3,421.00
Check	1/10/2011	92	Tino		Nelva	1,413.14	4,834.14
Check	1/11/2011	93	Robert Cantu		Nelva	605.00	5,439.14
Check	1/13/2011	102	Michael Brooks		Nelva	585.00	6,024.14
Check	1/18/2011	101	Tino		Nelva	1,065.00	7,089.14
Check	1/18/2011	110	Robert Cantu		Nelva	810.00	7,899.14
General Journal	1/19/2011	EJ20120455		Return of Posted Check / Item (Robert Cantu)	Nelva	-810.00	7,089.14
Check	1/21/2011	112	Tino		Nelva	1,619.00	8,708.14
Check	1/21/2011	113	Robert Cantu		Nelva	888.00	9,596.14
Check	1/24/2011	114	Robert Cantu		Nelva	1,083.91	10,680.05
Check	1/27/2011	116	Tino		Nelva	906.55	11,586.60
Check	1/28/2011	120	Robert Cantu		Nelva	856.93	12,443.53
Check	2/1/2011	121	Tino		Nelva	1,249.00	13,692.53
Check	2/1/2011	144	Robert Cantu		Nelva	801.80	14,494.33
Check	2/2/2011	122	Robert Cantu		Nelva	460.00	14,954.33
Check	2/4/2011	124	Tino		Nelva	842.00	15,796.33
Check	2/7/2011	126	Robert Cantu		Nelva	807.00	16,603.33
Check	2/11/2011	130	Tino		Nelva	1,166.00	17,769.33
Check	2/11/2011	131	Robert Cantu		Nelva	637.41	18,406.74
Check	2/14/2011	135	Robert Cantu		Nelva	430.00	18,836.74

Brunsting Family Living Trust
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Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	2/17/2011	138	Tino		Nelva	1,454.42	20,291.16
Check	2/18/2011	136	Robert Cantu		Nelva	771.23	21,062.39
Check	2/22/2011	162	Tino		Nelva	1,067.57	22,129.96
Check	2/25/2011	141	Tino		Nelva	826.72	22,956.68
Check	2/25/2011	143	Robert Cantu		Nelva	510.00	23,466.68
Check	3/4/2011	146	Robert Cantu		Nelva	538.68	24,005.36
Check	3/7/2011	148	Tino		Nelva	1,704.19	25,709.55
Check	3/10/2011	155	Michael Brooks		Nelva	285.00	25,994.55
Check	3/10/2011	156	Robert Cantu		Nelva	1,045.67	27,040.22
Check	3/14/2011	158	Tino		Nelva	1,253.02	28,293.24
Check	3/16/2011	159	Michael Brooks		Nelva	55.00	28,348.24
Check	3/18/2011	163	Robert Cantu		Nelva	289.78	28,638.02
Check	3/21/2011	164	Tino		Nelva	1,248.70	29,886.72
Check	3/21/2011	165	Michael Brooks		Nelva	367.50	30,254.22
Check	3/21/2011	166	Robert Cantu		Nelva	360.00	30,614.22
Check	3/23/2011	167	Michael Brooks		Nelva	67.50	30,681.72
Check	3/24/2011	168	Robert Cantu		Nelva	490.86	31,172.58
Check	3/24/2011	170	Tino		Nelva	50.00	31,222.58
Check	3/25/2011	172	Tino		Nelva	1,636.77	32,859.35
Check	3/28/2011	173	Michael Brooks		Nelva	65.00	32,924.35
Check	3/28/2011	174	Robert Cantu		Nelva	701.91	33,626.26
Check	4/1/2011	175	Tino		Nelva	1,689.00	35,315.26
Check	4/4/2011	177	Robert Cantu		Nelva	1,303.48	36,618.74
Check	4/7/2011	178	Michael Brooks		Nelva	184.00	36,802.74
Check	4/8/2011	180	Tino		Nelva	1,475.00	38,277.74
Check	4/11/2011	181	Robert Cantu		Nelva	1,042.10	39,319.84
Check	4/13/2011	185	Michael Brooks		Nelva	75.00	39,394.84
Check	4/15/2011	189	Michael Brooks		Nelva	91.00	39,485.84
Check	4/15/2011	191	Tino		Nelva	1,704.81	41,190.65
Check	4/18/2011	192	Michael Brooks		Nelva	195.00	41,385.65
Check	4/19/2011	194	Michael Brooks		Nelva	216.50	41,602.15
Check	4/20/2011	195	Michael Brooks		Nelva	75.00	41,677.15
Check	4/22/2011	197	Michael Brooks		Nelva	202.00	41,879.15
Check	4/22/2011	198	Tino		Nelva	2,156.83	44,035.98
Check	4/25/2011	199	Robert Cantu		Nelva	215.00	44,250.98
Check	4/25/2011	200	Michael Brooks		Nelva	300.00	44,550.98
Check	4/26/2011	202	Shimeka Hughes		Nelva	1,080.00	45,630.98
Check	4/27/2011	203	Michael Brooks		Nelva	60.00	45,690.98
Check	4/29/2011	204	Robert Cantu		Nelva	645.00	46,335.98
Check	4/29/2011	205	Michael Brooks		Nelva	90.00	46,425.98
Check	5/3/2011	208	Robert Cantu		Nelva	202.50	46,628.48
Check	5/4/2011	207	Tino		Nelva	1,721.11	48,349.59
Check	5/4/2011	209	Michael Brooks		Nelva	270.00	48,619.59
Check	5/6/2011	211	Tino		Nelva	743.00	49,362.59
Check	5/6/2011	212	Michael Brooks		Nelva	67.50	49,430.09
Check	5/6/2011	213	Robert Cantu		Nelva	225.00	49,655.09
Check	5/9/2011	214	Robert Cantu		Nelva	902.30	50,557.39
Check	5/9/2011	215	Michael Brooks		Nelva	202.00	50,759.39
Check	5/12/2011	216	Michael Brooks		Nelva	45.00	50,804.39
Check	5/13/2011	217	Tino		Nelva	1,320.53	52,124.92
Check	5/13/2011	218	Robert Cantu		Nelva	255.00	52,379.92
Check	5/16/2011	219	Robert Cantu		Nelva	868.81	53,248.73
Check	5/16/2011	220	Michael Brooks		Nelva	217.50	53,466.23
Check	5/20/2011	223	Tino		Nelva	1,483.53	54,949.76
Check	5/23/2011	227	Robert Cantu		Nelva	1,026.00	55,975.76
Check	5/23/2011	228	Michael Brooks		Nelva	207.00	56,182.76
Check	5/25/2011	229	Michael Brooks		Nelva	219.50	56,402.26
Check	5/25/2011	231	Michael Brooks		Nelva	227.50	56,629.76
Check	5/27/2011	232	Tino		Nelva	1,621.50	58,251.26
Check	5/31/2011	235	Robert Cantu		Nelva	796.86	59,048.12
Check	5/31/2011	236	Katrina Harper		Nelva	360.00	59,408.12
Check	6/3/2011	239	Tino		Nelva	1,215.36	60,623.48
Check	6/7/2011	241	Robert Cantu		Nelva	1,115.00	61,738.48
Check	6/7/2011	242	Katrina Harper		Nelva	360.00	62,098.48
Check	6/10/2011	243	Tino		Nelva	1,110.00	63,208.48
Check	6/13/2011	244	Robert Cantu		Nelva	720.00	63,928.48
Check	6/13/2011	246	Katrina Harper		Nelva	600.00	64,528.48
Check	6/16/2011	247	Daisy Harper		Nelva	720.00	65,248.48
Check	6/17/2011	248	Robert Cantu		Nelva	930.00	66,178.48
Check	6/20/2011	250	Katrina Harper		Nelva	870.00	67,048.48
Check	6/21/2011	249	Daisy Harper		Nelva	40.00	67,088.48
Check	6/22/2011	252	Cameo Caregivers		Nelva	68.00	67,156.48
Check	6/23/2011	256	Tino		Nelva	1,170.00	68,326.48
Check	6/27/2011	257	Robert Cantu		Nelva	926.19	69,252.67
Check	6/27/2011	258	Katrina Harper		Nelva	360.00	69,612.67
Check	6/29/2011	259	Tino		Nelva	1,121.65	70,734.32
Check	7/1/2011	263	Robert Cantu		Nelva	930.00	71,664.32
Check	7/5/2011	265	Katrina Harper		Nelva	450.00	72,114.32
Check	7/5/2011	266	Robert Cantu		Nelva	60.00	72,174.32
Check	7/7/2011	269	Tino		Nelva	1,166.70	73,341.02
Check	7/8/2011	270	Robert Cantu		Nelva	915.00	74,256.02
Check	7/11/2011	271	Katrina Harper		Nelva	465.00	74,721.02
Check	7/15/2011	273	Robert Cantu		Nelva	720.00	75,441.02
Check	7/18/2011	274	Katrina Harper		Nelva	673.50	76,114.52
Check	7/21/2011	275	Tino		Nelva	1,172.66	77,287.18
Check	7/21/2011	276	Tino		Nelva	100.00	77,387.18
Check	7/22/2011	272	Tino		Nelva	1,300.06	78,687.24
Check	7/22/2011	278	Robert Cantu		Nelva	165.00	78,852.24

Brunsting Family Living Trust
Detail of Accounts

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Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	7/22/2011	279	Katrina Harper		Nelva	465.00	79,317.24
Check	7/25/2011	277	Daisy Harper		Nelva	60.00	79,377.24
Check	7/25/2011	281	Robert Cantu		Nelva	765.00	80,142.24
Check	7/28/2011	282	Tino		Nelva	705.00	80,847.24
Check	8/1/2011	283	Robert Cantu		Nelva	1,018.00	81,865.24
Check	8/1/2011	284	Katrina Harper		Nelva	1,062.47	82,927.71
Check	8/4/2011	288	Tino		Nelva	907.50	83,835.21
Check	8/8/2011	289	Robert Cantu		Nelva	930.00	84,765.21
Check	8/9/2011	290	Katrina Harper		Nelva	465.00	85,230.21
Check	8/11/2011	291	Tino		Nelva	1,125.00	86,355.21
Check	8/15/2011	301	Robert Cantu		Nelva	946.00	87,301.21
Check	8/15/2011	302	Katrina Harper		Nelva	450.00	87,751.21
Check	8/18/2011	303	Tino		Nelva	1,146.83	88,898.04
Check	8/19/2011	304	Robert Cantu		Nelva	172.50	89,070.54
Check	8/19/2011	306	Katrina Harper		Nelva	459.50	89,530.04
Check	8/22/2011	308	Robert Cantu		Nelva	735.00	90,265.04
Check	8/24/2011	309	Tino		Nelva	1,110.00	91,375.04
Check	8/29/2011	311	Robert Cantu		Nelva	1,004.00	92,379.04
Check	8/30/2011	312	Katrina Harper		Nelva	517.50	92,896.54
Check	9/1/2011	313	Tino		Nelva	1,162.50	94,059.04
Check	9/6/2011	314	Katrina Harper		Nelva	173.00	94,232.04
Check	9/6/2011	315	Robert Cantu		Nelva	750.00	94,982.04
Check	9/6/2011	316	Daisy Harper		Nelva	80.00	95,062.04
Check	9/6/2011	317	Katrina Harper		Nelva	440.00	95,502.04
Check	9/8/2011	318	Tino		Nelva	1,193.59	96,695.63
Check	9/12/2011	319	Robert Cantu		Nelva	750.00	97,445.63
Check	9/13/2011	328	Katrina Harper		Nelva	628.15	98,073.78
Check	9/15/2011	330	Tino		Nelva	1,034.67	99,108.45
Check	9/19/2011	332	Robert Cantu		Nelva	715.00	99,823.45
Check	9/20/2011	334	Katrina Harper		Nelva	576.00	100,399.45
Check	9/22/2011	335	Tino		Nelva	1,054.46	101,453.91
Check	9/26/2011	338	Robert Cantu		Nelva	784.86	102,238.77
Check	9/27/2011	339	Katrina Harper		Nelva	630.00	102,868.77
Check	9/29/2011	340	Tino		Nelva	810.29	103,679.06
Check	10/3/2011	341	Robert Cantu		Nelva	976.34	104,655.40
Check	10/4/2011	342	Katrina Harper		Nelva	576.57	105,231.97
Check	10/6/2011	344	Tino		Nelva	1,030.00	106,261.97
Check	10/7/2011	346	Robert Cantu		Nelva	165.00	106,426.97
Check	10/11/2011	348	Robert Cantu		Nelva	570.00	106,996.97
Check	10/11/2011	349	Katrina Harper		Nelva	581.66	107,578.63
Check	10/11/2011	350	Robert Cantu		Nelva	240.00	107,818.63
Check	10/14/2011	351	Robert Cantu		Nelva	515.00	108,333.63
Check	10/17/2011	352	Robert Cantu		Nelva	570.00	108,903.63
Check	10/18/2011	353	Katrina Harper		Nelva	985.00	109,888.63
Check	10/19/2011	357	Tino		Nelva	1,342.50	111,231.13
Check	10/21/2011	358	Katrina Harper		Nelva	165.00	111,396.13
Check	10/24/2011	363	Robert Cantu		Nelva	860.00	112,256.13
Check	10/25/2011	364	Katrina Harper		Nelva	370.00	112,626.13
Check	10/26/2011	365	Tino		Nelva	1,187.19	113,813.32
Check	10/31/2011	CHK	Unknown payee		Nelva	793.00	114,606.32
Check	10/31/2011	366	Katrina Harper		Nelva	165.00	114,771.32
Check	11/1/2011	375	Katrina Harper		Nelva	540.00	115,311.32
Check	11/4/2011	376	Tino		Nelva	1,235.29	116,546.61
Check	11/7/2011	377	Robert Cantu		Nelva	885.00	117,431.61
Check	11/8/2011	401	Katrina Harper		Nelva	360.00	117,791.61
Check	11/14/2011	431	Latoya Harper		Nelva	90.00	117,881.61
Check	11/14/2011	432	Katrina Harper		Nelva	810.00	118,691.61
Check	11/14/2011	433	Robert Cantu		Nelva	541.00	119,232.61
Total In Home Care						119,232.61	119,232.61
Medical Supplies							
Check	1/3/2011	6847	Medical Aids		Survivor	32.48	32.48
Check	1/19/2011	104	Duke Medical Equipm...		Nelva	2.54	35.02
Check	4/22/2011	184	Duke Medical Equipm...		Nelva	17.75	52.77
Check	7/7/2011	7023	Duke Medical Equipm...		Survivor	7.62	60.39
Check	7/7/2011	251	Duke Medical Equipm...	Supplies	Nelva	5.08	65.47
Total Medical Supplies						65.47	65.47
Medical Expenses - Other							
Check	1/10/2011	EFT	Walgreens	Food & Dining Groceries POS DEB 1943 01/03/11 00027165	Nelva	21.62	21.62
Check	1/18/2011	103	Memorial City Hermann		Nelva	220.00	241.62
Check	1/19/2011	105	Memorial Clinical Ass...	Doctor	Nelva	8.02	249.64
Check	1/19/2011	108	Radiology West	Doctor	Nelva	1.23	250.87
Check	1/20/2011	106	Memoria City Surgical...	Doctor	Nelva	39.74	290.61
Check	2/2/2011	118	Memorial Pathology C...	Doctor	Nelva	7.10	297.71
Check	2/7/2011	117	Rosewood Family Ph...	Doctor	Nelva	65.00	362.71
Check	2/9/2011	127	Schleicher Dental	Dentist	Nelva	105.00	467.71
Check	2/17/2011	134	Medical Chest Associ...	Doctor	Nelva	15.01	482.72
Check	3/8/2011	151	Memorial City Hermann		Nelva	181.58	664.30
Check	3/10/2011	150	Radiology West		Nelva	5.37	669.67
Check	3/14/2011	153	ACS Primary Care		Nelva	7.56	677.23
Check	4/18/2011	188	ACS Primary Care		Nelva	7.23	684.46
Check	4/19/2011	183	Medical Chest Associ...	Doctor	Nelva	19.52	703.98
Check	4/22/2011	193	Cardiologist Assoc of ...		Nelva	28.60	732.58
Check	6/23/2011	254	Memorial Clinical Ass...	Doctor	Nelva	5.76	738.34
Check	7/1/2011	260	Schleicher Dental	Dental	Nelva	143.00	881.34
Check	7/6/2011	7024	Medical Chest Associ...	Medical: Doctor	Survivor	4.12	885.46
Check	8/5/2011	285	Dr. Achari	Doctor	Nelva	24.98	910.44

**Brunsting Family Living Trust
Detail of Accounts**

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Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	8/15/2011	298	memorial Hermann M...		Nelva	13.47	923.91
Check	8/16/2011	299	ACS Primary Care		Nelva	7.23	931.14
Check	8/19/2011	297	Azmat Khan MDPA	Doctor	Nelva	10.13	941.27
Check	8/29/2011	310	Legends Pharmacy		Nelva	42.00	983.27
Check	9/13/2011	323	Dentex	Doctor	Nelva	155.40	1,138.67
Check	9/13/2011	324	Memorial City Hermann		Nelva	25.00	1,163.67
Check	9/16/2011	321	ACS Primary Care	Doctor	Nelva	6.87	1,170.54
Check	9/22/2011	327	Memorial City Hermann		Nelva	59.77	1,230.31
Check	9/28/2011	320	Dr. Khawaja	Doctor	Nelva	28.04	1,258.35
Check	10/18/2011	355	OC Pharmacy	Medicine	Nelva	10.00	1,268.35
Check	10/19/2011	354	Oncology Consultants	Doctor	Nelva	22.48	1,290.83
Check	11/7/2011	EFT	Mht Nutrit Svcs H		Nelva	8.12	1,298.95
Check	11/10/2011	371	Dr. Achari	Doctor	Nelva	29.30	1,328.25
Check	11/10/2011	372	Northwoods Urology	Doctor	Nelva	84.97	1,413.22
Check	11/14/2011	374	Medical Chest Associ...	Doctor	Nelva	34.42	1,447.64
Check	12/6/2011	7041	Justin Alexander	for kt - reimburse Medical	Survivor	40.00	1,487.64
Check	12/15/2011	103	Memorial City Hermann	Doctor	Survivor	41.72	1,529.36
Check	12/22/2011	107	Kelsey-Seybold Clinic	Doctor	Survivor	13.92	1,543.28
Check	12/22/2011	108	Memorial City Hermann	Doctor	Survivor	226.40	1,769.68
Check	12/22/2011	109	ACS Primary Care	Doctor	Survivor	6.87	1,776.55
Check	1/23/2012	113	Northwoods Urology	Doctor	Survivor	740.77	2,517.32
Check	2/24/2012	112	Dr. Annie Urail	Doctor	Survivor	44.06	2,561.38
Check	4/16/2012	120	Houston Progressive ...	Doctor	Survivor	2.20	2,563.58
Check	4/16/2012	121	Medical Chest Associ...	Doctor	Survivor	5.40	2,568.98
Total Medical Expenses - Other						2,568.98	2,568.98
Total Medical Expenses						121,867.06	121,867.06
Miscellaneous Expenses							
Check	1/18/2011	107	Hull Co-op	Misc	Nelva	238.50	238.50
Check	11/14/2011	WDR	Withdrawal	NO INFORMATION GIVEN FOR THIS TRANSACTION AND BA...	Nelva	6,500.00	6,738.50
Check	11/14/2011	EFT	Houston Metro Ca	Misc	Nelva	15.22	6,753.72
Total Miscellaneous Expenses						6,753.72	6,753.72
Office Supplies							
Check	1/13/2011	EFT	Bank of America	Check Order	Survivor	15.00	15.00
Check	12/31/2012	141	Office Depot	Printer Ink	Survivor	48.70	63.70
Total Office Supplies						63.70	63.70
Payments to Credit Cards							
Bank of America Credit Cards							
Check	2/1/2011	EFT	Bank of America Cre...		Nelva	43.29	43.29
Check	3/1/2011	EFT	Bank of America Cre...	Household	Survivor	282.47	325.76
Check	3/18/2011	EFT	Bank of America Cre...		Nelva	84.82	410.58
Check	4/1/2011	EFT	Bank of America Cre...	Payment	Survivor	38.00	448.58
Check	5/2/2011	EFT	Bank of America Cre...		Survivor	2,967.61	3,416.19
Check	6/1/2011	EFT	Bank of America Cre...	Credit card	Survivor	6,355.65	9,771.84
Check	9/1/2011	EFT	Bank of America Cre...		Survivor	3,256.32	13,028.16
Check	11/7/2011	EFT	Bank of America Cre...		Survivor	323.88	13,352.04
Check	12/2/2011	EFT	Bank of America Cre...		Survivor	359.79	13,711.83
Check	2/2/2012	EFT	Bank of America Cre...		Survivor	269.84	13,981.67
Check	3/2/2012	EFT	Bank of America Cre...		Survivor	61.32	14,042.99
Total Bank of America Credit Cards						14,042.99	14,042.99
Bluebonnet Credit Union Cred Cd							
Check	1/18/2011	EFT	Bank of America Cre...	Payment	Nelva	725.00	725.00
General Journal	1/19/2011	EJ20120455		Return of Posted Check / Item (R - BOA Cr Cd payment	Nelva	-725.00	0.00
Check	1/21/2011	EFT	Bank of America Cre...	Payment	Nelva	725.00	725.00
Check	3/14/2011	152	Bluebonnet Credit Uni...	Credit card	Nelva	3,248.57	3,973.57
Check	3/15/2011	312	Cardmember Serv	Credit Card	Nelva	111.00	4,084.57
Check	5/26/2011	225	Bluebonnet Credit Uni...	Credit card	Nelva	1,852.24	5,936.81
Check	5/27/2011	EFT	Bluebonnet Credit Uni...	w/medical	Survivor	1,864.49	7,801.30
Check	6/21/2011	9000	Cardmember Serv	payment	Nelva	195.00	7,996.30
Check	7/18/2011	EFT	Bluebonnet Credit Uni...	w medical	Survivor	175.47	8,171.77
Check	8/16/2011	EFT	Bluebonnet Credit Uni...	with medical	Survivor	1,172.08	9,343.85
Check	9/19/2011	EFT	Bluebonnet Credit Uni...	w/medical	Survivor	790.04	10,133.89
Check	10/18/2011	EFT	Bluebonnet Credit Uni...	w/medical	Survivor	687.84	10,821.73
Check	11/29/2011	EFT	Bluebonnet Credit Uni...	includes medical	Survivor	1,165.23	11,986.96
Total Bluebonnet Credit Union Cred Cd						11,986.96	11,986.96
Total Payments to Credit Cards						26,029.95	26,029.95
Personal Care							
Check	2/25/2011	139	Silvana	Hair	Nelva	52.00	52.00
Check	5/27/2011	230	Silvana	hair	Nelva	25.00	77.00
Check	6/13/2011	EFT	Target	Shopping-Clothing	Nelva	53.12	130.12
Check	6/13/2011	EFT	J C Penney	Shopping - Clothing	Nelva	125.93	256.05
Check	6/20/2011	EFT	J C Penney	Shopping - Clothing	Nelva	61.70	317.75
Check	6/20/2011	EFT	J C Penney	Shopping - Clothing	Nelva	251.94	569.69
General Journal	6/21/2011	EJ20120468		ATM - Target - Shopping - Clothing	Nelva	-53.12	516.57
Check	6/21/2011	EFT	Target	Shopping - Clothing	Nelva	30.84	547.41
General Journal	7/11/2011	EJ20120470		ATM JCPenney Shopping - Clothing	Nelva	-140.42	406.99
Check	7/11/2011	EFT	Stein Mart	Shopping - Clothing	Nelva	102.77	509.76
Check	7/11/2011	EFT	J C Penney	Shopping - Clothing	Nelva	80.05	589.81
Check	7/18/2011	EFT	J C Penney	Shopping - Clothing	Nelva	208.33	798.14
Total Personal Care						798.14	798.14
Pet Care							

Brunsting Family Living Trust
Detail of Accounts

12/21/2010-05/31/2013

Type	Date	Num	Name	Memo	Class	Amount	Balance
Pet Food and Supplies							
Check	2/28/2011	EFT	Petsmart	Food & Dining:Groceries	Nelva	36.79	36.79
Check	7/29/2011	EFT	Petsmart		Nelva	32.89	69.68
Total Pet Food and Supplies						69.68	69.68
Veterinary Expenses							
Check	5/23/2011	EFT	Houston Veterinary	Carole covered healthcare worked pay when this acct was low - ...	Nelva	1,019.72	1,019.72
Check	6/14/2011	EFT	Houston Veterinary	Carole had to cover worker pay - Reimbursement	Nelva	216.80	1,236.52
General Journal	6/15/2011	EJ20120467		ATM - Checkcard 0612 Houston Veterinary	Nelva	-433.60	802.92
Check	9/19/2011	EFT	Equine Sports Med	Carole covered worker pay - Reimbursement	Nelva	812.50	1,615.42
Check	10/3/2011	EFT	Greenway Animal C	Carole covered worker pay - Reimbursement	Nelva	360.82	1,976.24
Total Veterinary Expenses						1,976.24	1,976.24
Total Pet Care						2,045.92	2,045.92
Postage							
Check	3/21/2012	118	Postmaster	Estate tax info to Rich	Survivor	14.80	14.80
Check	4/16/2012	126	Postmaster	Mailing Cert Life Ins Checks	Survivor	12.60	27.40
Check	6/27/2012	134	Postmaster	Trust docs	Survivor	29.19	56.59
Check	7/18/2012	136	Postmaster	Papers to lawyer	Survivor	15.45	72.04
Check	4/4/2013	144	Postmaster	contract to g. vie	Survivor	6.11	78.15
Total Postage						78.15	78.15
Professional Fees							
Check	6/9/2011	7017	Kroese & Kroese	Mom - Tax preparations	Survivor	561.93	561.93
Check	6/9/2011	7018	Kroese & Kroese	Decedents trust Tax preparation	Survivor	1,123.87	1,685.80
Check	9/5/2011	7029	Kroese & Kroese	farm lease Tax preparation	Survivor	203.06	1,888.86
Check	10/20/2011	7031	Kroese & Kroese	Tax preparation	Survivor	700.00	2,588.86
Check	3/11/2012	116	Kroese & Kroese	Farm appraisal/mgmt	Survivor	2,175.00	4,763.86
Check	4/13/2012	119	Kroese & Kroese	Tax preparation	Survivor	1,050.00	5,813.86
Check	5/16/2012	102	Kroese & Kroese	Accounting services	Elmer	750.00	6,563.86
Check	5/16/2012	103	Kroese & Kroese	Accounting services - farm contract and trust advice	Elmer	1,000.00	7,563.86
Total Professional Fees						7,563.86	7,563.86
Repairs and Maintenance							
Check	6/13/2011	EFT	Sears	Home appliance repair	Nelva	134.93	134.93
Check	8/16/2011	295	P&M Air Conditioning	Home repair	Nelva	148.38	283.31
Check	2/29/2012	115	Durapier	Leveling house - home repair	Survivor	500.00	783.31
Total Repairs and Maintenance						783.31	783.31
Supplies							
Check	1/31/2011	EFT	Lowe's	Garden	Nelva	0.95	0.95
Check	2/22/2011	EFT	Lowe's	Garden	Nelva	22.99	23.94
Check	6/27/2011	EFT	Lowe's	Garden	Nelva	5.89	29.83
Total Supplies						29.83	29.83
Taxes							
Taxes - Federal							
Check	1/25/2011	7001	United States Treasury	2010 Estimated Taxes	Survivor	2,840.00	2,840.00
Check	4/15/2011	7010	United States Treasury	Decedents trust 2010 tax	Survivor	7,095.00	9,935.00
Check	4/15/2011	7011	United States Treasury	Decedents trust 2011 tax qtr est	Survivor	1,780.00	11,715.00
Check	4/15/2011	7012	United States Treasury	Surv Trust 2011 tax qtr est	Survivor	3,095.00	14,810.00
Check	4/15/2011	7013	United States Treasury	Surv Trust 2010 tax	Survivor	3,620.00	18,430.00
Check	6/9/2011	7020	United States Treasury	Surv Trust 2010 tax qtrly Tax:Fed	Survivor	3,620.00	22,050.00
Check	6/9/2011	7022	United States Treasury	Dec Trust 2010 tax qtrly Tax:Fed	Survivor	1,780.00	23,830.00
Check	9/5/2011	7027	United States Treasury	Sept mom's trust pmt	Survivor	2,100.00	25,930.00
Check	9/5/2011	7028	United States Treasury	Sept dad's trust pmt	Survivor	1,780.00	27,710.00
Check	12/15/2011	104	United States Treasury	Tax:Fed	Survivor	1,780.00	29,490.00
Check	4/4/2013	146	United States Treasury	Tax:Fed	Survivor	20.00	29,510.00
Check	4/14/2013	104	United States Treasury		Elmer	23,906.00	53,416.00
Total Taxes - Federal						53,416.00	53,416.00
Taxes - Property							
Check	1/19/2011	7004	Tax Assessor-Collector	098-560-000-0031	Survivor	1,112.87	1,112.87
Check	3/2/2011	145	Wilchester West Fund	Tax:ZZZZZ	Nelva	365.23	1,478.10
Check	4/8/2011	EFT	County Treasurer	DES: TAX ID: 971 farm	Survivor	1,387.40	2,865.50
Check	6/9/2011	7019	Wilchester West Fund	Tax:ZZZZZ 13630 Pinerock	Survivor	327.00	3,192.50
Check	10/4/2011	EFT	County Treasurer	DES:Tax ID:119 farm	Survivor	1,598.40	4,790.90
Check	11/23/2011	EFT	Spring Branch ISD	DES: checkpaymt Tax:ZZZZZZZZ	Survivor	227.24	5,018.14
Check	12/15/2011	102	Wilchester West Fund	Tax:ZZZZZZZZ 13630 Pinerock	Survivor	359.00	5,377.14
Check	1/19/2012	114	HC Property Tax		Survivor	1,285.05	6,662.19
Check	10/15/2012	EFT	County Treasurer	DES: Tax ID: 166	Elmer	1,586.40	8,248.59
Check	3/18/2013	EFT	County Treasurer	DES: Tax ID: 178 - Farm Tax	Elmer	1,563.40	9,811.99
Total Taxes - Property						9,811.99	9,811.99
Taxes -State							
Check	2/1/2011	7002	State of Iowa Treasurer		Survivor	330.00	330.00
Check	6/9/2011	7021	Treasurer State of Iowa		Survivor	47.00	377.00
Check	9/5/2011	7026	Treasurer State of Iowa	mom	Survivor	230.00	607.00
General Journal	4/23/2012	EJ20120415		Deposit Iowa Tax Refund	Survivor	-690.00	-83.00
Check	9/10/2012	138	Treasurer State of Iowa	Amended taxes	Survivor	79.00	-4.00
Check	4/14/2013	105	Treasurer State of Iowa		Elmer	4,797.00	4,793.00
Total Taxes -State						4,793.00	4,793.00
Total Taxes						68,020.99	68,020.99
Telephone Expense							
Check	1/24/2011	EFT	Verizon		Nelva	106.42	106.42

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20-20566.808

Brunsting Family Living Trust
Detail of Accounts

12/21/2010-05/31/2013

Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	1/27/2011	EFT	AT&T		Survivor	68.68	175.10
Check	2/24/2011	EFT	Verizon		Nelva	172.35	347.45
Check	2/28/2011	7008	AT&T	(SBC-AR, KS,MO,OK,TX) B	Survivor	76.39	423.84
Check	3/15/2011	EFT	AT&T	(SBC-AR,KS,MO,OK,TX) B	Survivor	70.42	494.26
Check	3/28/2011	EFT	Verizon		Nelva	138.92	633.18
Check	4/21/2011	EFT	Verizon		Nelva	72.88	706.06
Check	4/26/2011	EFT	AT&T	(SBC-AR,KS,MO,OK,TS) B	Survivor	176.85	882.91
Check	5/9/2011	EFT	AT&T		Survivor	177.21	1,060.12
Check	5/27/2011	EFT	AT&T		Survivor	95.73	1,155.85
Check	6/6/2011	EFT	Verizon		Nelva	225.00	1,380.85
Check	6/9/2011	EFT	AT&T	DES:Payment ID:787780565AUS	Survivor	154.09	1,534.94
Check	6/28/2011	EFT	AT&T	Bill (SBC-AR, KS, MO, OK, TX) B	Survivor	86.12	1,621.06
Check	7/5/2011	EFT	Verizon		Nelva	282.03	1,903.09
Check	7/11/2011	EFT	AT&T	DES:Payment ID:787780565AUS	Survivor	224.42	2,127.51
Check	7/27/2011	EFT	AT&T	Bill(SBC-AR, KS, MO, OK, TX) B	Survivor	82.16	2,209.67
Check	8/2/2011	EFT	Verizon		Nelva	245.03	2,454.70
Check	8/10/2011	EFT	AT&T	DES:Payment ID: 787780565AUS	Survivor	170.89	2,625.59
Check	8/25/2011	EFT	Verizon		Nelva	242.00	2,867.59
Check	8/26/2011	EFT	AT&T	Bill (SBC-AR, KS, MO, OK, TX) bill payment	Survivor	84.47	2,952.06
Check	9/12/2011	EFT	AT&T	DES:Payment ID:787780565AUS	Survivor	168.71	3,120.77
Check	9/23/2011	EFT	Verizon		Nelva	137.66	3,258.43
Check	9/26/2011	EFT	AT&T	Bill (SBC-AR, KS, MO, OK, TX) B	Survivor	84.47	3,342.90
Check	10/11/2011	EFT	AT&T	DES:Payment ID:787780565AUS	Survivor	184.35	3,527.25
Check	11/1/2011	EFT	Verizon		Nelva	189.54	3,716.79
Check	11/8/2011	EFT	AT&T	Bill (SBC-AR, KS, MO, OK, TX) B	Survivor	84.44	3,801.23
Check	11/10/2011	EFT	AT&T	DES:Payment ID: 787780565AUS	Survivor	168.24	3,969.47
Check	11/23/2011	EFT	Verizon		Nelva	192.13	4,161.60
Check	12/5/2011	EFT	AT&T	Bill (SBC-AR, KS, MO, OK, TX) B	Survivor	90.82	4,252.42
Check	12/28/2011	EFT	AT&T	Bill(SBC-AR,KS,MO,OK,TX) B	Survivor	108.59	4,361.01
Check	1/31/2012	EFT	AT&T	Bill (SBC-AR,KS,MO,OK,TX) B	Survivor	86.00	4,447.01
Check	2/14/2012	EFT	AT&T	Bill (SBC-AR,KS,MO,OK,TX)	Survivor	72.16	4,519.17
Total Telephone Expense						4,519.17	4,519.17
Utilities							
Cable TV							
Check	1/5/2011	EFT	Comcast		Survivor	64.04	64.04
Check	1/27/2011	EFT	Comcast		Survivor	59.77	123.81
Check	2/25/2011	EFT	Comcast		Survivor	67.65	191.46
Check	3/23/2011	EFT	Comcast		Survivor	63.71	255.17
Check	4/26/2011	EFT	Comcast		Survivor	63.71	318.88
Check	4/26/2011	EFT	Comcast		Survivor	63.71	382.59
Check	5/26/2011	EFT	Comcast		Survivor	11.52	394.11
Check	5/31/2011	EFT	Comcast		Survivor	11.52	405.63
Check	6/28/2011	EFT	Comcast	Elmer H Brunsting	Survivor	52.20	457.83
Check	7/28/2011	EFT	Comcast	Elmer	Survivor	63.72	521.55
Check	8/29/2011	EFT	Comcast		Survivor	63.72	585.27
Check	9/28/2011	EFT	Comcast		Survivor	63.72	648.99
Check	10/28/2011	EFT	Comcast		Survivor	63.71	712.70
Check	11/29/2011	EFT	Comcast		Survivor	63.71	776.41
Total Cable TV						776.41	776.41
Electricity							
Check	1/21/2011	EFT	Stream Energy of TX		Survivor	134.05	134.05
Check	2/18/2011	EFT	Stream Energy of TX	Utilities: Gas & Electric	Survivor	106.89	240.94
Check	3/15/2011	EFT	Stream Energy of TX		Survivor	100.71	341.65
Check	4/18/2011	EFT	Stream Energy of TX		Survivor	93.99	435.64
Check	5/19/2011	EFT	Stream Energy of TX		Survivor	174.61	610.25
Check	6/17/2011	EFT	Stream Energy of TX	Bill payment	Survivor	217.04	827.29
Check	7/18/2011	EFT	Stream Energy of TX	Bill payment	Survivor	166.12	993.41
Check	8/17/2011	EFT	Stream Energy of TX	bill payment	Survivor	308.10	1,301.51
Check	9/16/2011	EFT	Stream Energy of TX	bill payment	Survivor	344.55	1,646.06
Check	10/17/2011	EFT	Stream Energy of TX		Survivor	217.43	1,863.49
Check	11/15/2011	EFT	Stream Energy of TX	payment	Survivor	160.68	2,024.17
Check	12/28/2011	eft	Stream Energy of TX	PAYMENT	Survivor	81.95	2,106.12
Check	1/20/2012	EFT	Stream Energy of TX		Survivor	59.96	2,166.08
Check	2/17/2012	EFT	Stream Energy of TX		Survivor	19.10	2,185.18
Check	3/26/2012	EFT	Stream Energy of TX		Survivor	39.19	2,224.37
Check	4/25/2012	EFT	Stream Energy of TX	Payment	Survivor	25.00	2,249.37
Check	6/7/2012	133	Stream Energy of TX		Survivor	10.53	2,259.90
Total Electricity						2,259.90	2,259.90
Gas							
Check	1/19/2011	7005	Entex		Survivor	130.42	130.42
Check	4/18/2011	EFT	Entex	PPD	Nelva	323.62	454.04
Check	6/22/2011	EFT	Entex	PPD	Nelva	73.47	527.51
Check	8/15/2011	296	Entex		Nelva	52.48	579.99
Check	9/14/2011	325	Entex		Nelva	42.59	622.58
Check	11/23/2011	EFT	Entex	PPD	Survivor	65.66	688.24
Check	12/22/2011	106	Centerpoint Energy	PPD	Survivor	54.62	742.86
Check	3/1/2012	117	Centerpoint Energy	PPD	Survivor	158.09	900.95
Check	6/7/2012	132	Entex	PPD	Survivor	41.71	942.66
Total Gas						942.66	942.66
Water							
Check	12/23/2010	EFT	City of Houston Water		Nelva	52.74	52.74
Check	1/21/2011	EFT	City of Houston Water		Survivor	80.94	133.68
Check	3/1/2011	EFT	City of Houston Water	Water Bill	Survivor	52.74	186.42
Check	4/4/2011	EFT	City of Houston Water		Survivor	90.34	276.76

**Brunsting Family Living Trust
Detail of Accounts**

12/21/2010-05/31/2013

Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	5/11/2011	eft	City of Houston Water	WATER BILL	Survivor	99.74	376.50
Check	6/9/2011	EFT	City of Houston Water	DES: Water bill I	Survivor	130.35	506.85
Check	6/22/2011	7710	Electchk	Bcf - 14411 We 06/ Westh, Houston, TX #000032384	Survivor	314.57	821.42
Check	7/11/2011	EFT	City of Houston Water	DES:Water bill I	Survivor	282.51	1,103.93
Check	8/8/2011	EFT	City of Houston Water	DES: water bill I	Survivor	277.78	1,381.71
Check	9/8/2011	EFT	City of Houston Water	DES:water bill I	Survivor	265.10	1,646.81
Check	10/12/2011	EFT	City of Houston Water	DES:water bill I	Survivor	227.06	1,873.87
Check	11/10/2011	EFT	City of Houston Water	DES: water bill I	Survivor	201.70	2,075.57
Check	12/9/2011	EFT	City of Houston Water	DES:Water bill I	Survivor	252.42	2,327.99
Check	1/9/2012	EFT	City of Houston Water	DES:Water bill I	Survivor	115.49	2,443.48
Check	2/13/2012	EFT	City of Houston Water	DES:Water bill I	Survivor	47.13	2,490.61
Check	3/19/2012	EFT	City of Houston Water	DES:Water bill I	Survivor	20.42	2,511.03
Check	4/12/2012	EFT	City of Houston Water	DES:Water bill I	Survivor	26.19	2,537.22
Total Water						2,537.22	2,537.22
Total Utilities						6,516.19	6,516.19
Total Expense						418,844.23	418,844.23
Net Ordinary Income						411,325.12	411,325.12
Other Income/Expense							
Other Expense							
FMV of Stocks Transferred Out							
General Journal	5/11/2011	EJ20110522		Distribute 1,120 Sh Exxon Stock to Amy Brunsting	Survivor	90,854.40	90,854.40
General Journal	6/15/2011	EJ20110621		Distribute 1,325 Sh Exxon to Carole Brunsting	Elmer	110,597.75	201,452.15
General Journal	6/15/2011	EJ20110621		Distribute 160 Sh Exxon to Candy Curtis	Survivor	13,355.20	214,807.35
General Journal	6/15/2011	EJ20110621		Distribute 160 Sh Exxon to Anita Brunsting	Survivor	13,355.20	228,162.55
General Journal	6/15/2011	EJ20110621		Distribute 135 Sh Chevron to Ann Brunsting	Nelva	14,162.85	242,325.40
General Journal	6/15/2011	EJ20110621		Distribute 135 Sh Chevron to Anita Brunsting	Nelva	14,162.85	256,488.25
General Journal	6/15/2011	EJ20110621		Distribute 135 Sh Chevron to Jack Brunsting	Nelva	14,162.85	270,651.10
General Journal	6/15/2011	EJ20110621		Distribute 135 Sh Chevron to Katie Riley	Nelva	14,162.85	284,813.95
General Journal	6/15/2011	EJ20110621		Distribute 135 Sh Chevron to Luke Riley	Nelva	14,162.85	298,976.80
Total FMV of Stocks Transferred Out						298,976.80	298,976.80
Total Other Expense						298,976.80	298,976.80
Net Other Income						-298,976.80	-298,976.80
Net Income						112,348.32	112,348.32

EXHIBIT 3

Curtis V Brunsting

Stock Distribution Analysis

Exhibit 3

Approximate Date	Exxon/Mobil		Chevron Corporation		Totals	
	Shares	Value	Shares	Value	Shares	Value
Amy Brunsting						
5/11/2011	1,120.00000	90,854.40			1,120.00000	90,854.40
Carole Brunsting						
6/15/2011	1,325.00000	110,597.75			1,325.00000	110,597.75
Candy Curtis						
6/15/2011	160.00000	13,355.20			160.00000	13,355.20
Ann Brunsting						
6/15/2011			135.00000	14,162.85	135.00000	14,162.85
Jack Brunsting						
6/15/2011			135.00000	14,162.85	135.00000	14,162.85
Katie Riley						
6/15/2011			135.00000	14,162.85	135.00000	14,162.85
Luke Riley						
6/15/2011			135.00000	14,162.85	135.00000	14,162.85
Anita Brunsting						
6/15/2011	160.00000	13,355.20	135.00000	14,162.85	295.00000	27,518.05
Totals	<u>2,765.00000</u>	<u>228,162.55</u>	<u>675.00000</u>	<u>70,814.25</u>	<u>3,440.00000</u>	<u>298,976.80</u>
Recap by Date						
5/11/2011	1,120.00000	90,854.40			1,120.00000	90,854.40
6/15/2011	1,325.00000	110,597.75			1,325.00000	110,597.75
6/15/2011	320.00000	26,710.40	675.00000	70,814.25	995.00000	97,524.65
	<u>2,765.00000</u>	<u>228,162.55</u>	<u>675.00000</u>	<u>70,814.25</u>	<u>3,440.00000</u>	<u>298,976.80</u>

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

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

§
§
§
§
§
§
§
§
§
§

4:12-CV-00592

DEFENDANTS' MOTION FOR APPROVAL OF DISBURSEMENTS
TO PAY PROPERTY TAX BILLS

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting move for an Order permitting the payment of four invoices from Randall J. Jacobsma, Sioux County Treasurer, Orange City, Iowa, consistent with the Court's Order requiring approval of all disbursements of funds from the Trust (Dkt. #45).

1. The decedent's trust has received invoices for property taxes from July 2012 through June 30, 2013, for four parcels of land in Sioux County, Iowa, referenced as 1002101003, 1002126001, 1002151002, and 1002176001. These parcels are assets of the Trust.

The invoices from Randall J. Jacobsma, Sioux County Treasurer, directed to the Elmer H. Brunsting Decedent's Trust are attached. Movants seek leave to pay the taxes due for the next six months on each parcel.

2. Accordingly, Defendants move for entry of the attached Order permitting the payments of these invoices. The disbursement for property taxes will be paid out of Bank of America Checking acct: xxxxxxxx3536.

3. As instructed by the Court, all beneficiaries will be served with a copy of this Motion (through their counsel of record in the state court suits).

CONCLUSION AND RELIEF SOUGHT.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court grant this Motion and enter the attached Order.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

Fed. Id. No. 12402

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

gvie@millsshirley.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing; those who are not filing users will be served by email and regular mail. Additionally, non-party beneficiaries will be served by copy to any attorney-of-record for those parties in state court litigation.

/s/ George W. Vie III

George W. Vie III

Appendix Tab 1

SIoux COUNTY TREASURER
 RANDALL J. JACOBSMA
 PO BOX 77
 ORANGE CITY, IA 51041-0077
 Phone: 712-737-3505

2012 CT

Receipt #
614382

SIoux COUNTY TREASURER
 RANDALL J. JACOBSMA
 PO BOX 77
 ORANGE CITY, IA 51041-0077
 Phone: 712-737-3505

2012 CT

Receipt #
614382

TAX DUE: Sept 1, 2013 or Full Year
Penalty Begins: Oct 1, 2013

FULL YEAR	SEPT 1, 2013
\$612.00	\$306.00



TAX DUE: March 1, 2014
Penalty Begins: April 1, 2014

MAR 1, 2014
\$306.00



BRUNSTING, ELMER H.
 DECEDENTS TRUST
 203 BLOOMINGDALE CIR
 VICTORIA TX 77904

BRUNSTING, ELMER H.
 DECEDENTS TRUST
 203 BLOOMINGDALE CIR
 VICTORIA TX 77904

Dist: 210 Parcel: 1002101003

Dist: 210 Parcel: 1002101003

SIoux COUNTY TAX BILL for SEPTEMBER 2013 and MARCH 2014. Please keep it in a safe place. Send the correct stubs along with your check for payment. If your taxes are paid by your Bank in Escrow, this is for your information only. SEE REVERSE SIDE. Based on January 1, 2012 valuations. Taxes for July 1, 2012 through June 30, 2013. Payable September 2013 and March 2014.

P Dist/Parcel: 210 1002101003 District Name BOYDEN-HULL WELCOME
A Receipt# 614382 Type 2012 CT Location
R Cont. Deed BRUNSTING, ELMER H. Mail BRUNSTING, ELMER H. Class A
C Sec/Twp/Rng 02-096-45 Net Acres 26.64 Address # 00033055
E Legal: NW NW EXC TR 542.5' X 660'
L

	This Year		Last Year	
	Assessed	Taxable	Assessed	Taxable
U Land:	46,620	27,941	46,620	26,826
A Buildings:	0	0	0	0
T Dwelling:	0	0	0	0
O Less Military Credit:		0		0
NET TAXABLE VALUE:	46,620	27,941	46,620	26,826
Value Times Levy Rate of:	23.2243300		23.3328100	
T EQUALS GROSS TAX OF:	\$648.91		\$625.93	
A Less Credits of: Homestead:	\$.00		\$.00	
X Low Income/Elderly Credit:	\$.00		\$.00	
E Ag Land Credit:	\$37.47-		\$32.95-	
S Family Farm Credit:	\$.00		\$.00	
Prepaid Tax:	\$.00			

TAX DUE:
 A Other taxes unpaid NO
 X Special Assessments due NO
 Drainage due NO
 D Tax sale certificate NO
 U
 E
 O DEED: BRUNSTING, ELMER H.
 W DECEDENTS TRUST
 N 203 BLOOMINGDALE CIR
 E VICTORIA TX 77904
 R
 S CONT:

NET ANNUAL TAXES: \$612.00 \$592.00

TAXING AUTHORITY:	Distribution of your current & prior year taxes			TOTAL property taxes levied by taxing authority		
	% Total	This Year	Last Year	This Year	Prior	Percent +/-
BOYDEN HULL COMM SCH	62.418	\$382.00	\$371.51	2,551,463	2,465,523	3.486+
COUNTY GENERAL BASIC FUND	16.160	\$98.90	\$94.87	5,070,066	4,840,672	4.739+
COUNTY RURAL BASIC FUND	10.338	\$63.27	\$60.89	1,728,935	1,647,544	4.940+
COUNTY SERVICES FUND	3.216	\$19.68	\$19.76	1,009,122	1,008,520	0.060+
NORTHWEST IOWA COMM COLLEGE	2.974	\$18.20	\$16.33	2,328,413	2,062,277	12.905+
DEBT SERVICE	1.575	\$9.64	\$8.04	583,802	533,247	9.481+
WELCOME TOWNSHIP	1.296	\$7.93	\$7.78	13,216	12,715	3.940+
COUNTY ASSESSOR FUND	1.219	\$7.46	\$7.21	382,476	368,162	3.888+
COUNTY AG EXTENSION FUND	0.789	\$4.83	\$4.71	247,616	240,591	2.920+
STATE BANGS	0.015	\$0.09	\$0.08	4,458	4,272	4.354+

YOU MAY PAY ONLINE AT www.iowatreasurers.org

SIoux COUNTY TREASURER RANDALL J. JACOBSMA PO BOX 77 ORANGE CITY, IA 51041-0077	Receipt # 614382	DUE Sept 1, 2013 \$306.00	DUE March 1, 2014 \$306.00
		Date Paid: _____	Date Paid: _____
		CHECK #: _____	CHECK #: _____

Retain this lower portion for your records. Enter the date paid and your check number for your information. Keep in a safe place. **20-20566-816** F 4

SIoux COUNTY TREASURER
 RANDALL J. JACOBSMA
 PO BOX 77
 ORANGE CITY, IA 51041-0077
 Phone: 712-737-3505

2012 CT

Receipt #
614383

SIoux COUNTY TREASURER
 RANDALL J. JACOBSMA
 PO BOX 77
 ORANGE CITY, IA 51041-0077
 Phone: 712-737-3505

2012 CT

Receipt #
614383

TAX DUE: Sept 1, 2013 or Full Year
Penalty Begins: Oct 1, 2013

FULL YEAR	SEPT 1, 2013
\$806.00	\$403.00



TAX DUE: March 1, 2014
Penalty Begins: April 1, 2014

MAR 1, 2014
\$403.00



BRUNSTING, ELMER H.
 DECEDENTS TRUST
 203 BLOOMINDALE CIR
 VICTORIA TX 77904

BRUNSTING, ELMER H.
 DECEDENTS TRUST
 203 BLOOMINDALE CIR
 VICTORIA TX 77904

Dist: 210 Parcel: 1002126001

Dist: 210 Parcel: 1002126001

SIoux COUNTY TAX BILL for SEPTEMBER 2013 and MARCH 2014. Please keep it in a safe place. Send the correct stubs along with your check for payment. If your taxes are paid by your Bank in Escrow, this is for your information only. SEE REVERSE SIDE. Based on January 1, 2012 valuations. Taxes for July 1, 2012 through June 30, 2013. Payable September 2013 and March 2014.

P Dist/Parcel: 210 1002126001 District Name BOYDEN-HULL WELCOME
A Receipt# 614383 Type 2012 CT Location
R Cont. Deed BRUNSTING, ELMER H. Mail BRUNSTING, ELMER H. Class A
C Sec/Twp/Rng 02-096- 45 Net Acres 35.50 Address # 00033055
E Legal: NE NW
L

	This Year		Last Year	
	Assessed	Taxable	Assessed	Taxable
L Land:	61,440	36,823	61,440	35,353
A Buildings:	0	0	0	0
T Dwelling:	0	0	0	0
O Less Military Credit:		0		0
S NET TAXABLE VALUE:	61,440	36,823	61,440	35,353
Value Times Levy Rate of:	23.2243300		23.3328100	
T EQUALS GROSS TAX OF:	\$855.19		\$824.88	
A Less Credits of: Homestead:	\$.00		\$.00	
X Low Income/Elderly Credit:	\$.00		\$.00	
E Ag Land Credit:	\$49.38-		\$44.84-	
S Family Farm Credit:	\$.00		\$.00	
Prepaid Tax:	\$.00			

TAX DUE:
A Other taxes unpaid NO
X Special Assessments due NO
 Drainage due NO
D Tax sale certificate NO
U
E

O DEED: BRUNSTING, ELMER H.
W DECEDENTS TRUST
N 203 BLOOMINDALE CIR
E VICTORIA TX 77904
R
S CONT:

NET ANNUAL TAXES: \$806.00 \$780.00

TAXING AUTHORITY:	Distribution of your current & prior year taxes			TOTAL property taxes levied by taxing authority		
	% Total	This Year	Last Year	This Year	Prior	Percent +/-
BOYDEN HULL COMM SCH	62.420	\$503.10	\$489.48	2,551,463	2,465,523	3.486+
COUNTY GENERAL BASIC FUND	16.159	\$130.24	\$124.98	5,070,066	4,840,672	4.739+
COUNTY RURAL BASIC FUND	10.339	\$83.33	\$80.23	1,728,935	1,647,544	4.940+
COUNTY SERVICES FUND	3.216	\$25.92	\$26.04	1,009,122	1,008,520	0.060+
NORTHWEST IOWA COMM COLLEGE	2.974	\$23.97	\$21.52	2,328,413	2,062,277	12.905+
DEBT SERVICE	1.576	\$12.70	\$10.59	583,802	533,247	9.481+
WELCOME TOWNSHIP	1.297	\$10.45	\$10.25	13,216	12,715	3.940+
COUNTY ASSESSOR FUND	1.218	\$9.82	\$9.51	382,476	368,162	3.888+
COUNTY AG EXTENSION FUND	0.789	\$6.36	\$6.21	247,616	240,591	2.920+
STATE BANGS	0.014	\$0.11	\$0.11	4,458	4,272	4.354+

YOU MAY PAY ONLINE AT www.iowatreasurers.org

SIoux COUNTY TREASURER
 RANDALL J. JACOBSMA
 PO BOX 77
 ORANGE CITY, IA 51041-0077

Receipt #
614383

DUE Sept 1, 2013 **\$403.00**

Date Paid: _____

CHECK #: _____

DUE March 1, 2014 **\$403.00**

Date Paid: _____

CHECK #: _____

SIOUX COUNTY TREASURER
RANDALL J. JACOBSMA
PO BOX 77
ORANGE CITY, IA 51041-0077
Phone: 712-737-3505

2012 CT

Receipt #
614384

TAX DUE: Sept 1, 2013 or Full Year
Penalty Begins: Oct 1, 2013

FULL YEAR	SEPT 1, 2013
\$894.00	\$447.00



BRUNSTING, ELMER H.
DECEDENTS TRUST
203 BLOOMINDALE CIR
VICTORIA TX 77904

Dist: 210 Parcel: 1002151002

SIOUX COUNTY TREASURER
RANDALL J. JACOBSMA
PO BOX 77
ORANGE CITY, IA 51041-0077
Phone: 712-737-3505

2012 CT

Receipt #
614384

TAX DUE: March 1, 2014
Penalty Begins: April 1, 2014

MAR 1, 2014
\$447.00



BRUNSTING, ELMER H.
DECEDENTS TRUST
203 BLOOMINDALE CIR
VICTORIA TX 77904

Dist: 210 Parcel: 1002151002

SIOUX COUNTY TAX BILL for SEPTEMBER 2013 and MARCH 2014. Please keep it in a safe place. Send the correct stubs along with your check for payment. If your taxes are paid by your Bank in Escrow, this is for your information only. SEE REVERSE SIDE. Based on January 1, 2012 valuations. Taxes for July 1, 2012 through June 30, 2013. Payable September 2013 and March 2014.

P A R C E L	Dist/Parcel: 210 1002151002	District Name BOYDEN-HULL WELCOME	Class A
	Receipt# 614384 Type 2012 CT	Location	
	Cont.	Deed BRUNSTING, ELMER H.	Mail BRUNSTING, ELMER H.
	Sec/Twp/Rng 02-096-45	Net Acres 38.08	Address # 00033055
	Legal: SW NW		

VALUATIONS AND TAXES:	This Year		Last Year	
	Assessed	Taxable	Assessed	Taxable
U Land:	68,110	40,821	68,110	39,191
A Buildings:	0	0	0	0
T Dwelling:	0	0	0	0
O Less Military Credit:		0		0
NET TAXABLE VALUE:	68,110	40,821	68,110	39,191
Value Times Levy Rate of:	23.2243300		23.3328100	
T EQUALS GROSS TAX OF:	\$948.04		\$914.44	
A Less Credits of: Homestead:	\$.00		\$.00	
X Low Income/Elderly Credit:	\$.00		\$.00	
E Ag Land Credit:	\$54.74-		\$50.16-	
S Family Farm Credit:	\$.00		\$.00	
Prepaid Tax:	\$.00			

TAX DUE:
A Other taxes unpaid NO
X Special Assessments due NO
Drainage due NO
D Tax sale certificate NO
U
E

**O DEED: BRUNSTING, ELMER H.
W DECEDENTS TRUST
N 203 BLOOMINDALE CIR
E VICTORIA TX 77904
R
S CONT:**

NET ANNUAL TAXES:	\$894.00	\$864.00
Ag Dwelling Tax:	\$.00	\$.00
		Emergency Management Dollars County \$163,417.00

TAXING AUTHORITY:	Distribution of your current & prior year taxes				TOTAL property taxes levied by taxing authority		
	% Total	This Year	Last Year		This Year	Prior	Percent +/-
BOYDEN HULL COMM SCH	62.419	\$558.03	\$542.20		2,551,463	2,465,523	3.486+
COUNTY GENERAL BASIC FUND	16.158	\$144.45	\$138.45		5,070,066	4,840,672	4.739+
COUNTY RURAL BASIC FUND	10.338	\$92.42	\$88.87		1,728,935	1,647,544	4.940+
COUNTY SERVICES FUND	3.216	\$28.75	\$28.84		1,009,122	1,008,520	0.060+
NORTHWEST IOWA COMM COLLEGE	2.974	\$26.59	\$23.84		2,328,413	2,062,277	12.905+
DEBT SERVICE	1.575	\$14.08	\$11.73		583,802	533,247	9.481+
WELCOME TOWNSHIP	1.296	\$11.59	\$11.35		13,216	12,715	3.940+
COUNTY ASSESSOR FUND	1.219	\$10.90	\$10.53		382,476	368,162	3.888+
COUNTY AG EXTENSION FUND	0.790	\$7.06	\$6.88		247,616	240,591	2.920+
STATE BANGS	0.015	\$0.13	\$0.12		4,458	4,272	4.354+

YOU MAY PAY ONLINE AT www.iowatreasurers.org

SIOUX COUNTY TREASURER
RANDALL J. JACOBSMA
PO BOX 77
ORANGE CITY, IA 51041-0077

Receipt #
614384

DUE Sept 1, 2013 **\$447.00**
Date Paid: _____
CHECK #: _____

DUE March 1, 2014 **\$447.00**
Date Paid: _____
CHECK #: _____

SIoux COUNTY TREASURER
 RANDALL J. JACOBSMA
 PO BOX 77
 ORANGE CITY, IA 51041-0077
 Phone: 712-737-3505

2012 CT

Receipt #
614385

SIoux COUNTY TREASURER
 RANDALL J. JACOBSMA
 PO BOX 77
 ORANGE CITY, IA 51041-0077
 Phone: 712-737-3505

2012 CT

Receipt #
614385

TAX DUE: Sept 1, 2013 or Full Year
Penalty Begins: Oct 1, 2013

TAX DUE: March 1, 2014
Penalty Begins: April 1, 2014

FULL YEAR	SEPT 1, 2013
\$918.00	\$459.00

MAR 1, 2014
\$459.00



BRUNSTING, ELMER H.
 DECEDENTS TRUST
 203 BLOOMINDALE CIR
 VICTORIA TX 77904

BRUNSTING, ELMER H.
 DECEDENTS TRUST
 203 BLOOMINDALE CIR
 VICTORIA TX 77904

Dist: 210 Parcel: 1002176001

Dist: 210 Parcel: 1002176001

SIoux COUNTY TAX BILL for SEPTEMBER 2013 and MARCH 2014. Please keep it in a safe place. Send the correct stubs along with your check for payment. If your taxes are paid by your Bank in Escrow, this is for your information only. SEE REVERSE SIDE. Based on January 1, 2012 valuations. Taxes for July 1, 2012 through June 30, 2013. Payable September 2013 and March 2014.

P Dist/Parcel: 210 1002176001 District Name BOYDEN-HULL WELCOME
A Receipt# 614385 Type 2012 CT Location
R Cont. Deed BRUNSTING, ELMER H. Mail BRUNSTING, ELMER H. Class A
C Sec/Twp/Rng 02-096- 45 Net Acres 40.00 Address # 00033055
E Legal: SENW
L

	This Year		Last Year	
	Assessed	Taxable	Assessed	Taxable
Land:	69,920	41,905	69,920	40,233
Buildings:	0	0	0	0
Dwelling:	0	0	0	0
Less Military Credit:		0		0
NET TAXABLE VALUE:	69,920	41,905	69,920	40,233
Value Times Levy Rate of:	23.2243300		23.3328100	
EQUALS GROSS TAX OF:	\$973.22		\$938.75	
Less Credits of: Homestead:	\$0.00		\$0.00	
Low Income/Elderly Credit:	\$0.00		\$0.00	
Ag Land Credit:	\$56.19-		\$49.48-	
Family Farm Credit:	\$0.00		\$0.00	
Prepaid Tax:	\$0.00			

TAX DUE:
 A Other taxes unpaid NO
 X Special Assessments due NO
 Drainage due NO
 D Tax sale certificate NO
 U
 E

 O DEED: BRUNSTING, ELMER H.
 W DECEDENTS TRUST
 N 203 BLOOMINDALE CIR
 E VICTORIA TX 77904
 R
 S CONT:

NET ANNUAL TAXES: \$918.00 \$890.00

TAXING AUTHORITY:	Distribution of your current & prior year taxes			TOTAL property taxes levied by taxing authority		
	% Total	This Year	Last Year	This Year	Prior	Percent +/-
BOYDEN HULL COMM SCH	62.419	\$573.01	\$558.51	2,551,463	2,465,523	3.486+
COUNTY GENERAL BASIC FUND	16.160	\$148.35	\$142.60	5,070,066	4,840,672	4.739+
COUNTY RURAL BASIC FUND	10.338	\$94.90	\$91.54	1,728,935	1,647,544	4.940+
COUNTY SERVICES FUND	3.216	\$29.52	\$29.71	1,009,122	1,008,520	0.060+
NORTHWEST IOWA COMM COLLEGE	2.974	\$27.30	\$24.56	2,328,413	2,062,277	12.905+
DEBT SERVICE	1.575	\$14.46	\$12.09	583,802	533,247	9.481+
WELCOME TOWNSHIP	1.296	\$11.90	\$11.69	13,216	12,715	3.940+
COUNTY ASSESSOR FUND	1.219	\$11.19	\$10.85	382,476	368,162	3.888+
COUNTY AG EXTENSION FUND	0.789	\$7.24	\$7.09	247,616	240,591	2.920+
STATE BANGS	0.014	\$0.13	\$0.13	4,458	4,272	4.354+

YOU MAY PAY ONLINE AT www.iowatreasurers.org

SIoux COUNTY TREASURER
 RANDALL J. JACOBSMA
 PO BOX 77
 ORANGE CITY, IA 51041-0077

Receipt #
614385

DUE Sept 1, 2013 **\$459.00**
 Date Paid: _____
 CHECK #: _____

DUE March 1, 2014 **\$459.00**
 Date Paid: _____
 CHECK #: _____

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

**ORDER GRANTING DEFENDANTS' MOTION FOR APPROVAL
OF DISBURSEMENTS TO PAY PROPERTY TAX BILLS**

BEFORE THE COURT is Defendants' Motion for Approval of Disbursements to Pay Property Tax Bills. After consideration of the Motion, the Court finds it should be granted for the reasons stated in the Motion. It is, therefore,

ORDERED that the Trustees have authority to pay, and shall pay, the following:

An invoice in the amount of \$306.00 from Randall J. Jacobsma, Sioux County Treasurer, Orange City, Iowa, for property taxes to be paid on or after September 1, 2013, on land in Sioux County, Iowa, referenced as Parcel 1002101003;

An invoice in the amount of \$403.00 from Randall J. Jacobsma, Sioux County Treasurer, for property taxes to be paid on or after September 1, 2013, on land in Sioux County, Iowa, referenced as Parcel 1002126001;

An invoice in the amount of \$447.00 from Randall J. Jacobsma, Sioux County Treasurer, for property taxes to be paid on or after September 1, 2013, on land in Sioux County, Iowa, referenced as Parcel 1002151002;

An invoice in the amount of \$459.00 from Randall J. Jacobsma, Sioux County Treasurer, for property taxes to be paid on or after September 1, 2013, on land in Sioux County, Iowa, referenced as Parcel 1002176001.

These four invoices are to be paid out of Bank of America Checking acct:
xxxxxxxx3536 (decendent's trust).

DONE this _____ day of August, 2013, at Houston, Texas.

KENNETH M. HOYT
UNITED STATES DISTRICT JUDGE

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

CANDACE LOUISE CURTIS	§	
	§	
<i>Plaintiff,</i>	§	
V.	§	4:12-CV-00592
	§	
ANITA KAY BRUNSTING, AND	§	
AMY RUTH BRUNSTING	§	
	§	
<i>Defendants.</i>	§	

DEFENDANTS' MOTION FOR APPROVAL AND RENEWAL OF
FARM LEASE UNDER EXISTING TERMS ON AUGUST 31, 2013

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting move for an Order permitting the renewal of the present farm lease on a 141 acre tract in Iowa, consistent with the Court's Order requiring approval of all transactions of a financial nature (Dkt. #45).

1. The decedent's trust has previously entered into an Iowa State Bar Association Farm Lease that will renew on August 31, 2013. The lease is with tenant Doyle Wissink, in Hull, Iowa, under which Mr. Wissink leases 141 acres (but not the farm building) with possession for a period of 1 year commencing March 1, 2013, and ending February 28, 2014.

Under the terms of the lease, the trust is paid \$425 an acre for the 141 acres, with one payment of \$29,962.50 on March 1 and a similar payment on October 1 of the lease year.

2. The lease automatically renews from year-to-year, upon the same terms and conditions. Defendants request approval to renew the lease on its existing terms, and in

support of that request states that the existing lease amount is appropriate since grain prices have lowered, relevant land prices have stabilized, and the rent was increased last year when the lease was made.

3. Accordingly, Defendants move for entry of the attached Order permitting the renewal of the Farm Lease between Anita Brunsting, Trustee and Grantor, and Doyle Wissink, Grantee, under the terms of the August 31, 2012, lease in the Official Form No. 135 of the Iowa State Bar Association. A copy is attached.

4. As instructed by the Court, all beneficiaries will be served with a copy of this Motion (through their counsel of record in the state court suits).

CONCLUSION AND RELIEF SOUGHT.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court grant this Motion and enter the attached Order.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

Fed. Id. No. 12402

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

gvie@millsshirley.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing; those who are not filing users will be served by email and regular mail. Additionally, non-party beneficiaries will be served by copy to any attorney-of-record for those parties in state court litigation.

/s/ George W. Vie III

George W. Vie III

Appendix Tab 1



FARM LEASE
THE IOWA STATE BAR ASSOCIATION
Official Form No. 135
Recorder's Cover Sheet

Preparer Information: (Name, address and phone number)

John G. De Koster, 1102 Main Street, P.O. Box 801, Hull, IA 51239, Phone: (712) 439-2511

Taxpayer Information: (Name and complete address)

Elmer H. Brunsting Decedent's Trust, Anita Brunsting, Trustee, c/o Kroese & Kroese, 540 North Main Avenue, Sioux Center, IA 51250

Return Document To: (Name and complete address)

John G. De Koster, 1102 Main Street, P.O. Box 801, Hull, IA 51239, Phone: (712) 439-2511

Grantors:

Anita Brunsting, Trustee

Grantees:

Doyle Wissink

Legal description: See Page 2

Document or instrument number of previously recorded documents:



FARM LEASE - CASH OR CROP SHARES

THIS LEASE ("Lease") is made between Elmer H. Brunsting Decedent's Trust, dated April 1, 2009,
Anita Brunsting, Trustee, ("Landlord"), whose address for the purpose of this Lease is
c/o Kroese & Kroese, 540 North Main Avenue, Sioux Center, IA 51250, and
Doyle Wissink ("Tenant"), whose
address for the purpose of this Lease is 3414 340th Street, Hull, IA 51239.

THE PARTIES AGREE AS FOLLOWS:

1. **PREMISES AND TERM.** Landlord leases to Tenant the following real estate situated in Sioux
County, Iowa (the "Real Estate"):
The Northwest Quarter (NW¼) of Section Two (2), Township Ninety-six (96) North, Range
Forty-five (45) West of the Fifth P.M., except the farm building site therein,

and containing 141 (total)(tillable) acres, more or less, with possession by Tenant for a term of 1 years to
commence on 03/01/13, and end on February 28th, 2014. The Tenant has had or been offered
an opportunity to make an independent investigation as to the acres and boundaries of the premises. In the event that possession
cannot be delivered within fifteen (15) days after commencement of this Lease, Tenant may terminate this Lease by giving the
Landlord notice in writing.

2. **RENT.** Tenant shall pay to Landlord as rent for the Real Estate (the "Rent"):

a. Total annual cash rent of \$ 59,925.00 payable, unless otherwise agreed, as follows:
\$29,962.50 on 1st day of March, \$29,962.50 on 1st day of
October, and \$ _____ on _____ day of _____; or

~~XXXXXX Crop share XXXXXXXXXXXXXXXXXXXX % of corn XXXXXXXXXXXXXXXXXXXX % of soybeans, and XXXXXXXXXXXXXXXXXXXX %
of other crops raised on the Real Estate XXXXXXXXXXXXXXXXXXXX % of soybeans, and XXXXXXXXXXXXXXXXXXXX %~~

All Rent is to be paid to Landlord at the address above or at such other place as Landlord may direct in writing. Rent must be
in Landlord's possession on or before the due date. Participation of this farm in any offered program by the U.S. Department of Agriculture
or any state for crop production control or soil conservation, the observance of the terms and conditions of this program, and the division of
farm program payments, requires Landlord's consent. Payments from participation in these programs shall be divided
0 % Landlord 100 % Tenant. Governmental cost-sharing payments for permanent soil conservation structures
shall be divided 0 % Landlord 100 % Tenant. Crop disaster payments shall be divided 0 % Landlord
100 % Tenant.

3. **LANDLORD'S LIEN AND SECURITY INTEREST.** As security for all sums due or which will become due from Tenant to
Landlord, Tenant hereby grants to Landlord, in addition to any statutory liens, a security interest as provided in the Iowa Uniform
Commercial Code and a contractual lien in all crops produced on the premises and the proceeds and products thereof, all contract rights
concerning such crops, proceeds and/or products, all proceeds of insurance collected on account of destruction of such crops, all contract
rights and U.S. government and/or state agricultural farm program payments in connection with the above described premises whether
such contract rights be payable in cash or in kind, including the proceeds from such rights, and any and all other personal property kept or
used on the real estate that is not exempt from execution. Tenant shall also sign any additional forms required to validate the security
interest in government program payments.

8. ENVIRONMENTAL.

a. Landlord. To the best of Landlord's knowledge to date:

- i) Neither Landlord nor, Landlord's former or present tenants, are subject to any investigation concerning the premises by any governmental authority under any applicable federal, state, or local codes, rules, and regulations pertaining to air and water quality, the handling, transportation, storage, treatment, usage, or disposal of toxic or hazardous substances, air emissions, other environmental matters, and all zoning and other land use matters.
- ii) Any handling, transportation, storage, treatment, or use of toxic or hazardous substances that has occurred on the premises has been in compliance with all applicable federal, state, and local codes, rules, and regulations.
- iii) No leak, spill release, discharge, emission, or disposal of toxic or hazardous substances has occurred on the premises.
- iv) The soil, groundwater, and soil vapor on or under the premises is free of toxic or hazardous substances except for chemicals (including without limitation fertilizer, herbicides, insecticides) applied in conformance with good farming methods, applicable rules and regulations and the label directions of each chemical.

Landlord shall hold Tenant harmless against liability for removing solid waste disposal sites existing at the execution of this Lease, with the exception that Tenant shall be liable for removal of solid waste disposal sites to the extent that the Tenant created or contributed solid waste disposal site at any time.

Landlord shall assume liability and shall indemnify and hold Tenant harmless against any liability or expense arising from any condition which existed, whether known or unknown, at the time of execution of the lease which is not a result of actions of the Tenant or which arises after date of execution but which is not a result of actions of the Tenant.

Landlord shall disclose in writing to Tenant the existence of any known wells, underground storage tanks, hazardous waste sites, and solid waste disposal sites. Disclosure may be provided by a properly completed groundwater hazard statement to be supplemented if changes occur.

b. Tenant. Tenant shall comply with all applicable environmental laws concerning application, storage and handling of chemicals (including, without limitation, herbicides and insecticides) and fertilizers. Tenant shall apply any chemicals used for weed or insect control at levels not to exceed the manufacturer's recommendation for the soil types involved. Farm chemicals (~~may~~) (**may not**) be stored on the premises for more than one year. Farm chemicals for use on other properties (~~may~~) (**may not**) be stored on this property. Chemicals stored on the premises shall be stored in clearly marked, tightly closed containers. No chemicals or chemical containers will be disposed of on the premises. Application of chemicals for agricultural purposes per manufacturer's recommendation shall not be construed to constitute disposal.

Tenant shall employ all means appropriate to insure that well or ground water contamination does not occur, and shall be responsible to follow all applicator's licensing requirements. Tenant shall install and maintain safety check valves for injection of any chemicals and/or fertilizers into an irrigation system (injection valve only, not main well check valve). Tenant shall properly post all fields (when posting is required) whenever chemicals are applied by ground or air. Tenant shall haul and spread all manure on appropriate fields at times and in quantities consistent with environmental protection requirements. Tenant shall not dispose of waste oil, tires, batteries, paint, other chemicals or containers anywhere on the premises. Solid waste (~~may~~) (**may not**) be disposed of on the premises. Dead livestock (~~may~~) (**may not**) be buried on the premises. If disposal of solid waste or burial of dead animals is permitted as stated in the previous two sentences, the disposal or burial shall be in compliance with all applicable environmental laws. Tenant shall not use waste oil as a means to suppress dust on any roads on or near the premises. No underground storage tanks, except human waste septic systems that meet current codes, rules, and regulations, shall be maintained on the premises.

Tenant shall immediately notify Landlord of any chemical discharge, leak, or spill which occurs on premises. Tenant shall assume liability and shall indemnify and hold Landlord harmless for any claim or violation of standards which results from Tenant's use of the premises. Tenant shall assume defense of all claims, except claims resulting from Landlord's negligence, in which case each party shall be responsible for that party's defense of any claim. After termination, Tenant shall remain liable for violations which occurred during the term of this Lease.

In the absence of selection of an alternative where choices are provided in this paragraph 8b, the choice of word "may" shall be presumed unless that presumption is contrary to applicable environmental laws and regulations.

9. TERMINATION OF LEASE. This Lease shall automatically renew upon expiration from year-to-year, upon the same terms and conditions unless either party gives due and timely written notice to the other of an election not to renew this Lease. If renewed, the tenancy shall terminate on March 1 of the year following, provided that the tenancy shall not continue because of an absence of notice in the event there is a default in the performance of this Lease. All notices of termination of this Lease shall be as provided by law.

10. POSSESSION AND CONDITION AT END OF TERM. At the termination of this Lease, Tenant will relinquish possession of the Real Estate to the Landlord. If Tenant fails to do so Tenant agrees to pay Landlord \$ 200.00 per day, as liquidated damages until possession is delivered to Landlord. At the time of delivery of the Real Estate to Landlord, Tenant shall assure that the Real Estate is in good order and condition, and substantially the same as it was when received by Tenant at the commencement of this Lease, excusable or insurable loss by fire, unavoidable accidents and ordinary wear, excepted.

11. LANDLORD'S RIGHT OF ENTRY AND INSPECTION. In the event notice of termination of this Lease has been properly served, Landlord may enter upon the Real Estate or authorize someone else to enter upon the Real Estate to conduct any normal tillage or fertilizer operation after Tenant has completed the harvesting of crops even if this is prior to the date of termination of the lease. Landlord may enter upon the Real Estate at any reasonable time for the purpose of viewing or seeding or making repairs, or for other reasonable purposes.

12. VIOLATION OF TERMS OF LEASE. If Tenant or Landlord violates the terms of this Lease, the other may pursue the legal and equitable remedies to which each is entitled. Tenant's failure to pay any Rent when due shall cause all unpaid Rent to become immediately due and payable, without any notice to or demand upon Tenant.

13. REPAIRS. Tenant shall maintain the fences on the leased premises in good and proper repair. Landlord shall furnish necessary materials for repairs that Landlord deems necessary within a reasonable time after being notified of the need for repairs. Tenant shall haul the materials to the repair site without charge to Landlord.

14. **NEW IMPROVEMENTS.** All buildings, fences and improvements of every kind and nature that may be erected or established upon the Real Estate during the term of the Lease by the Tenant shall constitute additional rent and shall inure to the Real Estate, becoming the property of Landlord unless the Landlord has agreed in writing prior to the erection that the Tenant may remove the improvement at the end of the lease.

15. **WELL, WINDMILL, WATER AND SEPTIC SYSTEMS.** Tenant shall maintain all well, windmill, water and septic systems on the Real Estate in good repair at Tenant's expense except damage caused by windstorm or weather. Tenant shall not be responsible for replacement or installation of well, windmill, water and septic systems on the Real Estate, beyond ordinary maintenance expenses. Landlord does not guarantee continuous or adequate supplies of the water for the premises.

16. **EXPENSES INCURRED WITHOUT CONSENT OF LANDLORD.** No expense shall be incurred for or on account of the Landlord without first obtaining Landlord's written authorization. Tenant shall take no actions that might cause a mechanic's lien to be imposed upon the Real Estate.

17. **NO AGENCY.** Tenant is not an agent of the Landlord.

18. **TELEVISION AND RADIO.** Tenant may install and remove, without causing material injury to the premises, Tenant's television reception antennas, microwave dishes, and radio reception and transmission antennas.

19. **ACCOUNTING.** The method used for dividing and accounting for the harvested grain shall be the customary and usual method used in the locale.

20. **ATTORNEY FEES AND COURT COSTS.** If either party files suit to enforce any of the terms of this Lease, the prevailing party shall be entitled to recover court costs and reasonable attorneys' fees,

21. **CHANGE IN LEASE TERMS.** The conduct of either party, by act or omission, shall not be construed as a material alteration of this Lease until such provision is reduced to writing and executed by both parties as addendum to this Lease.

22. **CONSTRUCTION.** Words and phrases herein, including the acknowledgement, are construed as in the singular or plural and as the appropriate gender, according to the context.

23. **NOTICES.** The notices contemplated in this Lease shall be made in writing and shall either be delivered in person, or be mailed in the U.S. mail, certified mail to the recipient's last known mailing address, except for the notice of termination set forth in Section 9, which shall be governed by the Code of Iowa.

24. **ASSIGNMENT.** Tenant shall not assign this Lease or sublet the Real Estate or any portion thereof without prior written authorization of Landlord.

25. **CERTIFICATION.** Tenant certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitation this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Tenant hereby agrees to defend, indemnify and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

26. **ADDITIONAL PROVISIONS.**

A. Tenant shall report to Kroese & Kroese, acting on Landlord's behalf, on or before August 1 in each year of this Lease, a listing of all fertilizer and chemicals applied on the subject premises. Said report shall include the names of the chemicals and fertilizers, amounts applied and any application records, including grid sampling that the Tenant may have or may be able to obtain.

B. Prior to the end of each calendar year during the term of this Lease, Tenant shall report to Kroese & Kroese, acting on Landlord's behalf, the yield of all crops planted on the subject premises as certified for purposes of Federal Crop Insurance or as certified to the Farm Service Agency.

DATED: Aug 31, 2012

TENANT: Doyle P. Wissink
Doyle Wissink

LANDLORD: ELMER H. BRUNSTING DECEDENT'S TRUST
By Aunt Kay Brunsting
Amy R Brunsting 10/13/12

STATE OF _____
COUNTY OF _____

This instrument was acknowledged before me on _____, _____, by _____

_____, Notary Public

STATE OF _____
COUNTY OF _____

This instrument was acknowledged before me on _____, _____,
by _____
as _____
of _____

If a corporation: Said person(s) acknowledged that the corporation (has no seal) (has a seal which is affixed hereto).

_____, Notary Public

[ATTACH OTHER APPROPRIATE ACKNOWLEDGEMENT(S) HERE]

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

**ORDER GRANTING DEFENDANTS' MOTION FOR APPROVAL AND
RENEWAL OF
FARM LEASE UNDER EXISTING TERMS ON AUGUST 31, 2013**

BEFORE THE COURT is Defendants' Motion for entry of an Order permitting the renewal of the present farm lease on a 141 acre tract in Iowa. After consideration of the Motion, the Court finds it should be granted for the reasons stated in the Motion. It is, therefore,

ORDERED that the Trustees have authority to permit the renewal of the Farm Lease between Anita Brunsting, Trustee and Grantor, and Doyle Wissink, Grantee, under the terms of the August 31, 2012, lease in the Official Form No. 135 of the Iowa State Bar Association. The Trustees may execute a lease document if necessary to effectuate the renewal of the Farm Lease under its present terms.

DONE this _____ day of August, 2013, at Houston, Texas.

KENNETH M. HOYT
UNITED STATES DISTRICT JUDGE

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

**ORDER GRANTING DEFENDANTS' MOTION FOR APPROVAL
OF DISBURSEMENTS TO PAY PROPERTY TAX BILLS**

BEFORE THE COURT is Defendants' Motion for Approval of Disbursements to Pay Property Tax Bills. After consideration of the Motion, the Court finds it should be granted for the reasons stated in the Motion. It is, therefore,

ORDERED that the Trustees have authority to pay, and shall pay, the following:

An invoice in the amount of \$306.00 from Randall J. Jacobsma, Sioux County Treasurer, Orange City, Iowa, for property taxes to be paid on or after September 1, 2013, on land in Sioux County, Iowa, referenced as Parcel 1002101003;

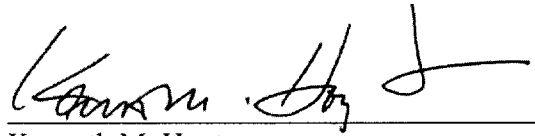
An invoice in the amount of \$403.00 from Randall J. Jacobsma, Sioux County Treasurer, for property taxes to be paid on or after September 1, 2013, on land in Sioux County, Iowa, referenced as Parcel 1002126001;

An invoice in the amount of \$447.00 from Randall J. Jacobsma, Sioux County Treasurer, for property taxes to be paid on or after September 1, 2013, on land in Sioux County, Iowa, referenced as Parcel 1002151002;

An invoice in the amount of \$459.00 from Randall J. Jacobsma, Sioux County Treasurer, for property taxes to be paid on or after September 1, 2013, on land in Sioux County, Iowa, referenced as Parcel 1002176001.

These four invoices are to be paid out of Bank of America Checking acct:
xxxxxxxx3536 (decedent's trust).

SIGNED on this 27th day of August, 2013.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge

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

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

§
§
§
§
§
§
§
§
§

4:12-CV-00592

RESPONSE OF DEFENDANTS TO REPORT OF MASTER

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting file this Response to the Report of the Master. Defendants desire to clarify certain matters in the report and to provide to the Court relevant background information they provided to the Master and on which the Master relied in his report. To the extent necessary under Rule 53, and to the extent the Court treats any part of the Master’s report as a finding of fact, Defendant’s clarifying information may also be considered an objection to the related finding of fact, under Rule 53(f)(2) and (3).

RESPONSES TO MATTERS NOTED IN THE REPORT

1. In section II of the Report, at page 3, the Master notes that counsel for Defendants provided a letter in explanation of certain distributions on 7/15/2013. In section III of the Report, at page 4, the Master notes that he relied on information and explanations supplied in the 7/15/2013 letter. Another reference to the letter is made in Section VII at page 10. In order that the Court may have the benefit of that information, a true copy of the letter to the Master is attached as Appendix Item 1.

2. In section V of the Report, the Master notes certain exceptions to the Report and references missing documents. The Defendants have complied in good faith with the requests of the Master for information and assistance, which were all reasonable requests. The following explanations or comments address certain of the Master's noted exceptions.

A. At page 6, the Master notes that he did not receive monthly statements for payments on a Bank of America credit card. The payments to the Bank of America credit card were for Defendant Anita Brunsting's trustee fee compensation. The Master was advised of the payments to a personal card in the 7/15/2013 letter at paragraph 1. Other prior counsel for the Trust had calculated a reasonable fee for Ms. Brunsting, as also related in the 7/15/2013 letter. The payments to the credit cards are documented on the bank statements provided to the Master, as he notes.

B. At page 7, the Master notes that statements were not received for Bank of America checking account ending in 9546, from 12/14/2011 to the effective date of the Report. As noted in the 7/15/2013 letter, the Trustee was not a signatory on this account; rather, Defendants' mother placed their sister Carole Brunsting on the account as a Joint Tenant with Right of Survivorship, so Carole could assist with Mrs. Brunsting's day-to-day expenses. The Trustee did transfer funds into this account for her mother and Carole to write checks or make withdrawals for her mother's needs. Defendants believe the referenced account was closed approximately January 2012 but do not have the final statement. It was not obtained by their sister before the Master's tender of the report, but likely can be obtained.

C. The Master further notes that statements were not received for an account with Edward Jones ending in 5-1-6, after 4/26/2013 to the effective date of the Report. Defendants respond that no statements have been posted by Edward Jones after 4/26/2013, and therefore there are no documents that could be provided after that date and through May 31, 2013.

D. The Master further notes that statements were not received for a Chevron dividend investment account ending in 9423, from 12/31/2011 to 5/31/2013. Defendants respond that they are missing statements from 9/11/2012 through 6/9/2013, and no additional statements have been posted by Computershare. Defendants were not able to determine from Computershare why no statements have been posted, but did provide the transaction history to the Master to evidence of dividend reinvestment and that no funds had been removed from the account.

E. The Master notes that statements were missing for an ExxonMobil dividend reinvestment account ending in 6287, from 9/30/2012 to 5/31/2013. Defendants respond that they provided statements to the Master from 9/12/2012 to 5/10/2013 as part of a transmittal of supplemental documents on 7/5/2013. The fact that additional records were provided on 7/5/2013 is referenced at Section II, page 5, of the Master's report. Defendants' transmittal letter to the Master is attached as Appendix Item 2.

F. The Master notes that statements were missing for a John Deere dividend reinvestment account. Defendants comment that they did provide a May 2013 statement to the Master.

3. In Section VI of the Report, addressing Stock Distributed, the Master notes “[a] final accounting of 37.131 shares of CVX stock could not be determined since reports after 12/31/2011 were unavailable for one of the DRP accounts.” Defendants respond that they believe the Master is referring to the shares in the survivor’s trust Chevron account ending in 7657. The Defendants only have a tax statement for 2012 and did provide a 6/10/2013 statement as referenced in Appendix Item 2. There are currently 38.334668 shares in this account.

4. Additionally in Section VI, at page 9, the Master notes that 95 shares of Met Life Inc. shares were attributed to the Trust “however the only reports reflecting information on these shares were dated late in the review period and did not show whether the shares were available to the estate at the beginning of the period.” Defendants did provide the Master in the initial set of documents with an accounting (“the Vacek accounting”) that has a schedule B. That schedule is a survivor’s trust asset list and there notes a December 2010 value for the same 95 shares of Met Life Inc. stock. This is some evidence as to the shares available at the beginning of the Master’s report period.

5. Additionally in Section VI, at page 9, the Master notes that “[o]nly 0.04946 shares of [Deere and Company] were attributed to the estate at the end of the period. No reports reflected the balance as of the beginning of the period and 8.669 shares were not accounted for during the period.” Defendants did provide a transaction history at Bates number AABrunsting.Financials004272; also the Vacek accounting shows 9.5807 shares in December 2010 and 9.7125 shares March 2012, while the transaction history provided

to the Master on 7/5/13 evidences 9.9117 shares in the survivor's trust (and none in the decedent's trust). Defendants believe the shares are accounted for.

6. In Section VII, at page 10 the Master notes that he prepared an account titled *Payments to Credit Cards* in the Expense/Distributions section of the Report, and that this account references payments to a Bluebonnet credit card account. The Master does note monthly statements and some supporting documentation were provided for the credit card account. Defendants add that this was their mother's personal credit card and that she allowed caretakers to use it as needed to purchase groceries, medical supplies, and other similar necessities.

7. Finally, Defendants would emphasize that as to the Stock Distribution Analysis, attached as Exhibit 3 to the Master's Report, all of the distributions noted on that exhibit were during the life of Defendants' mother and at Mrs. Nelva Brunsting's directions. These distributions continued Nelva Brunsting's prior history of gifting and are discussed in several paragraphs of the 7/15/2013 letter.

CONCLUSION AND RELIEF SOUGHT.

8. Defendants are individuals, not financial professionals. They concede, as the Master notes, that they used the Quicken electronic files to maintain Trust records but neither they nor their parents had used a more fully integrated bookkeeping system. Still, Defendants have endeavored to meet their obligations under the Trust in good faith, notwithstanding the number of accounts involved; the transferences upon death of their parents; the transition of client records that resulted from Computershare purchasing BNYMellon; a life insurance trust, farm lease, and other matters. They have provided all

documents they had access to or were able to obtain from providers and vendors within the period of the Report.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court take notice of this filing.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III
George W. Vie III

Fed. Id. No. 12402

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

gvie@millsshirley.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing; those who are not filing users will be served by email and regular mail. Additionally, non-party beneficiaries will be served by copy to any attorney-of-record for those parties in state court litigation.

/s/ George W. Vie III

George W. Vie III

Appendix Tab 1

MILLS SHIRLEY L.L.P.

ESTABLISHED 1846

GEORGE W. VIE III
PARTNER
gvie@millsshirley.com
Direct Dial (409) 761-4032 or
(713) 571-4232

1021 MAIN STREET, SUITE 1950
ONE CITY CENTRE
HOUSTON, TEXAS 77002-6502
PHONE (713) 225-0547
FACSIMILE (713) 225-0844
www.millsshirley.com

July 15, 2013

Re: Case No. 4:12-cv-00592; *Candace Louise Curtis v. Anita Kay Brunsting et al* – In the United States District Court for the Southern District of Texas, Houston Division

Mr. William G. West, C.P.A. & Bankruptcy Trustee
Southern District of Texas
12345 Jones Road, Suite 120
Houston, TX 77070

Dear Mr. West:

We previously delivered three binders, a folder, CDs (Bates #s AABrunsting.Financials 002359-004082) and a chart of the Brunsting accounts to you as requested and pursuant to the Court's order. We also delivered an additional binder and CD (Bates #s AABrunsting.Financials 004083-0042832). We want to provide the following information to assist you in your review of the documentation and to provide some background and context you otherwise might not have.

1. Under the terms of the Living Trust and its sub-trusts, the Trustee is entitled to a fee. Anita Brunsting became Successor Trustee on December 21, 2010. Ms. Brunsting consulted with Vacek & Freed, the attorneys who prepared the Living Trust and its sub-trusts, to determine the percentage amount of her fee. Instead of taking her \$41,070.08 Trustee's fee in cash, Ms. Brunsting paid her personal credit cards with trust assets and paid for some of her children's college expenses beginning May 5, 2011, through November 8, 2011. During this period, two percent of the trust value was \$45,826.00; thus we contend the Trustee's fee was reasonable. (See Bates 002346).
2. Mr. and Mrs. Brunsting had a history of making financial gifts to their five children as well as their seven grandchildren. Numerous gifts were given to the older Brunsting children (Carl, Candace and Carole); Candace's sons, Kevan Curtis and Andy Curtis (currently in their mid-30s); and Carl's daughter, Marta Brunsting Huntsman (prior to Mr. Brunsting's death) to assist with their college, business and/or wedding expenses. Mrs. Brunsting continued gifting when she was

Mr. William G. West

July 15, 2013

Page 2

Trustee. The financial documents we have provided will not show all of the gifts to the older children and the older grandchildren, since many gifts were made prior to Mr. Brunsting's death. Because Anita and Amy are the youngest children and, in turn, their children are the youngest grandchildren, gifts to them may seem to predominate, when in fact all previous gifts to the older children and older grandchildren may not be reflected in the records. (See Bates 002341-002343). Further, prior to Anita becoming Trustee, Mr. and Mrs. Brunsting gave Candace Curtis at least \$42,000.00 and loaned her an additional \$20,000.00 against her inheritance. After Anita became Trustee, her mother requested that an additional \$11,000.00 in gifts be made to Candace Curtis (detailed below). See enclosed spreadsheet detailing gifts.

3. When Anita Brunsting became Trustee in December 2010, Mrs. Brunsting wanted to continue her history of gifting to her children and grandchildren. In May 2011, at her mother's direction, Anita transferred stock from the Survivor's Trust to Amy so that Amy could pay off her mortgage, and in June 2011 transferred stock from the Decedent's Trust to Carole so that Carole could update her home and pay off her mortgage. Note that Mrs. Brunsting wanted to ensure that Amy's and Carole's homes were paid off as she and her husband did the same for Anita in approximately 2005. (See Bates 002342-002343). Amy and her husband divorced and Mrs. Brunsting was concerned about the welfare of Amy and her children since Amy's ex-husband terminated his parental rights and was not paying any child support. Mrs. Brunsting also instructed Anita to make gifts to Amy's two children, J.B. and A.B., and for Anita's two children, Katie Riley and Luke Riley for future car and college expenses. Each of the four grandchildren received 135 shares of Chevron stock from the Survivor's Trust in June 2011. (See Bates 002343) Before Anita transferred the stock at her mother's instructions, she consulted with attorney Candace Freed of Vacek & Freed, the attorneys who prepared the Living Trust and its sub-trusts, and accountant Rich Rikkers confirming it was not improper to make these transfers.
4. In November 2010, Mrs. Brunsting sent an e-mail to Amy Brunsting stating Mrs. Brunsting was gifting Amy \$13,000.00, although the transfer was not complete until 2011. Specifically, \$7,000.00 was given on December 31, 2010, and \$6,000.00 was given on January 19, 2011 (See Bates 002333, 002360).
5. Mrs. Brunsting informed Anita that she had been giving money to Candace and instructed her to continue to give Candace what she needed. In April 2011, Anita gave \$3,000.00 to Candace Curtis. (See Bates 002334,002374) In June 2011, Anita gave \$2,000.00 to Candace Curtis. (See Bates 002336, 002384). In August 2011, Anita gave \$2,000.00 to Candace Curtis. (See Bates 002337, 002395) In October 2011, Anita gave \$2,000.00 to Candace Curtis. (See Bates 002338, 002404) In November 2011, Anita gave \$2,000.00 to Candace Curtis. In November 2011, Mrs. Brunsting instructed Anita to give \$2,000.00 for her son,

Mr. William G. West
July 15, 2013
Page 3

Luke Riley's education. (See Bates 002339, 002408-002409). Anita distributed \$12,585.60 in Exxon stock from the survivor's trust to Candace Curtis in June 2011 for a reserve to help Candace Curtis with expenses, should Mrs. Brunsting passed away.

6. In approximately July 2010, Carl Brunsting became very ill. He was hospitalized and, for a period of time, lived with Mrs. Brunsting instead of his wife, Drina Brunsting. Mrs. Brunsting paid almost \$47,000.00 for personal care providers for Carl. (See Bates 002344-002345).
7. Anita Brunsting resides in Victoria, Texas, approximately two hours and approximately 120 miles from her parents' home in Houston. Because Anita could not be with her mother on a daily basis, it was not practical for Anita to oversee her mother's daily incidentals. Thus, Mrs. Brunsting placed Carole Brunsting as a Joint Tenant with Right of Survivorship on one of her Bank of America accounts (ending in 9546), so Carole could assist with Mrs. Brunsting's day-to-day expenses. Since Anita was not a signatory on this account she, as Trustee, transferred funds into this account for her mother and Carole to write checks or make withdrawals for her mother's needs. Note that on April 7, 2011, a \$3,000.00 gift was given to Candace Curtis from this account. (See Bates 002336-002340). (This is in addition to the gifts to Candace Curtis described above.)
8. The Brunsting family home was sold in March 2012 and \$433,129.52 was deposited into the Survivor's Trust at Bank of America (account ending in 3523). (See Bates 002439) Because the deposits would exceed the FDIC limit, Anita Brunsting transferred \$167,000.00 to a Bank of America account ending in 3536. (See Bates 002459, 002524) However, this is an account of the Decedent's Trust, not the Survivor's Trust, so the funds were then transferred to a Survivor's Trust savings account at Bank of America (account ending in 8577). (See Bates 002527, 002576).

If you have any questions regarding the funds or transfers between accounts, my clients and I will be happy to answer them.

Thank you.

Sincerely,

/s/ George W. Vie III

George W. Vie III

255001/100925.3

20-20566.844

Date	Gift	Stock price	amount	Person	purpose
Mom/Dad were trustees					
12/21/2010	trxf		\$ 7,000.00	Amy Brunsting	mom wanted to help w/ the child support that Amy lost by the kids' dad waiving his parental rights
1/4/2011	trxf		\$ 6,000.00	Amy Brunsting	mom wanted to help w/ the child support that Amy lost by the kids' dad waiving his parental rights
6/22/2009			\$ 1,000.00	Amy Brunsting	college fund
7/14/2009			\$ 1,000.00	Amy Brunsting	college fund
11/14/2007	chk# 5715		\$ 5,000.00	Amy Brunsting	unsolicited gift
1/20/2006	chk# 5143		\$ 200.00	Amy Brunsting	
2/11/2002	chk# 3526		\$ 200.00	Amy Brunsting	college fund
12/31/2002	chk# 3911		\$ 200.00	Amy Brunsting	college fund
	Total Amy Brunsting		\$ 20,600.00		
10/2/2009	chk# 6359		\$ 1,000.00	Andy Curtis	
2/8/2010	chk# 6518		\$ 5,000.00	Anita Brunsting	unsolicited gift
6/24/2009	chk# 6278		\$ 1,000.00	Anita Brunsting	graduation gift to me for finishing my doctorate
7/14/2009	chk# 6294		\$ 1,000.00	Anita Brunsting	college fund
9/8/2009	chk# 6338		\$ 1,000.00	Anita Brunsting	college fund
10/19/2009	chk# 6403		\$ 1,250.00	Anita Brunsting	
1/20/2006	chk# 5142		\$ 200.00	Anita Brunsting	college fund
1/31/2006	chk# 5155		\$ 150.00	Anita Brunsting	mom wanted to pay for housekeeper - I didn't have a housekeeper, mom wanted me to get one
2/21/2006	chk# 5172		\$ 150.00	Anita Brunsting	mom wanted to pay for housekeeper - I didn't have a housekeeper, mom wanted me to get one
4/1/2006	chk# 5233		\$ 150.00	Anita Brunsting	mom wanted to pay for housekeeper - I didn't have a housekeeper, mom wanted me to get one
1/10/2003	chk# 3920		\$ 200.00	Anita Brunsting	college fund
2/11/2002	chk# 3527		\$ 200.00	Anita Brunsting	college fund
	Total Anita Brunsting		\$ 10,300.00		
3/17/2010	chk # 6386		\$ 750.00	Candy Curtis	
1/27/2009	chk # 6124		\$ 2,000.00	Candy Curtis	
7/29/2009	chk# 6309		\$ 4,000.00	Candy Curtis	
7/8/2008	chk # 5917		\$ 2,000.00	Candy Curtis	
8/3/2009	chk# 5944		\$ 1,500.00	Candy Curtis	
7/6/2001	trxf		\$ 20,000.00	Candy Curtis	
1/19/2010			\$ 5,000.00	Candy Curtis	
3/29/2010			\$ 7,000.00	Candy Curtis	
6/22/2010			\$ 20,000.00	Candy Curtis	Taken against inheritance (documentation on file w/ Vacek & Freed) expenses, divorce
	Total Candy Curtis		\$ 62,250.00		
11/10/2005	chk# 5070		\$ 10,000.00	Carl Brunsting	
3/12/2003	chk# 3986		\$ 9,000.00	Carl Brunsting	
4/9/2003	chk# 4017		\$ 11,000.00	Carl Brunsting	
9/17/2001	chk# 3347		\$ 2,000.00	Carl Brunsting	
10/6/2010			\$ 25,000.00	Carl Brunsting	medical bills
2010-2011			\$ 21,899.61	Carl Brunsting	paid one medical bill (\$1565.70) and to caretakers directly for his care from 7/13/2010 through 1/9/2011, (additional days occurred from Jan-April 2011 than included payment to caretakers as well as groceries and his medical supplies, but specific dates in this time period were not recorded)
	Total Carl Brunsting		\$ 78,899.61		
6/27/2009	chk# 6285		\$ 2,000.00	Carole Brunsting	
2/12/2009	chk# 5794		\$ 500.00	Carole Brunsting	
3/18/2008	chk# 5821		\$ 250.00	Carole Brunsting	
11/13/2007	chk# 5713		\$ 600.00	Carole Brunsting	
1/5/2006	chk# 5129		\$ 1,000.00	Carole Brunsting	loan?
7/1/2006	chk# 5287		\$ 1,200.00	Carole Brunsting	
3/23/2005	chk# 4785		\$ 450.00	Carole Brunsting	
12/8/2005	chk# 5090		\$ 1,500.00	Carole Brunsting	
7/2/2005	chk# 4901		\$ 350.00	Carole Brunsting	
10/2/2005	chk# 5016		\$ 2,500.00	Carole Brunsting	
10/21/2003	chk# 4232		\$ 1,000.00	Carole Brunsting	
12/12/2002	chk# 9878 ?		\$ 1,500.00	Carole Brunsting	
12/17/2002	chk# 3883 ?		\$ 5,000.00	Carole Brunsting	
3/23/2010			\$ 7,000.00	Carole Brunsting	
5/18/2010			\$ 1,000.00	Carole Brunsting	
10/1/2010			\$ 20,000.00	Carole Brunsting	original intent to take against inheritance, but no letter/documentation found to date; will be treated as a gift; to fix house
	Total Carole Brunsting		\$ 45,850.00		
10/2/2009	chk# 6358		\$ 1,000.00	Kevan Curtis	

Date	Gift	Stock price	amount	Person	purpose
Anita became trustee Dec. 2011					
5/11/2011	1120 shares Exxon Survivors trust	\$ 81.12		90854.4 Amy Brunsting	to pay off house
	Total Amy Brunsting		\$	90,854.40	
5/10/2011			\$	5,443.22 Anita Brunsting	pay off Luke's truck
6/3/2011			\$	5,750.51 Anita Brunsting	pay off Honda for Katie
6/14/2011	135 shares chevron Survivors trust	\$ 100.60	\$	13,581.00 Anita Brunsting	borrowed against inheritance - for college expenses
6/15/2011	160 shares Exxon Survivors trust	\$ 78.66	\$	12,585.60 Anita Brunsting	borrowed against inheritance - for college expenses
	Total Anita Brunsting		\$	37,360.33	
4/7/2011			\$	3,000.00 Candy Curtis	property taxes
6/8/2011			\$	2,000.00 Candy Curtis	new bed?
6/15/2011	160 shares Exxon Survivors trust	\$ 78.66	\$	12,585.60 Candy Curtis	for reserve after mom passed away to keep helping her w/ expenses if trust money was not available
8/24/2011			\$	2,000.00 Candy Curtis	expenses
10/26/2011			\$	2,000.00 Candy Curtis	medical bills
11/10/2011			\$	2,000.00 Candy Curtis	travel to see mom
	Total Candy Curtis		\$	23,585.60	
6/15/2011	1325 shares Exxon Decedents trust	\$ 78.66	\$	104,224.50 Carole Brunsting	to pay off/fix house
	Total Carole Brunsting		\$	104,224.50	
6/14/2011	135 shares chevron Survivors trust	\$ 100.60	\$	13,581.00 J.B. (grandchild)	gift for future car/college exp
6/14/2011	135 shares chevron Survivors trust	\$ 100.60	\$	13,581.00 A.B. (grandchild)	gift for future car/college exp
6/14/2011	135 shares chevron Survivors trust	\$ 100.60	\$	13,581.00 Katie Riley UGMA (grandchild)	gift for college exp
6/14/2011	135 shares chevron Survivors trust	\$ 100.60	\$	13,581.00 Luke Riley (grandchild)	gift for college exp

Appendix Tab 2

MILLS SHIRLEY L.L.P.

ESTABLISHED 1846

400 WASHINGTON BUILDING
2228 MECHANIC STREET
P.O. BOX 1943 (77553)
GALVESTON, TEXAS 77550
(409) 763-2341
FACSIMILE (409) 763-2879
www.millsshirley.com

Maureen Kuzik McCutchen
Partner
Board Certified Estate Planning and Probate Law
mmccutchen@millsshirley.com
Direct Line 409-761-4023; Houston Line 713-571-4223

July 5, 2013

Re: Case No. 4:12-cv-00592; *Candace Louise Curtis v. Anita Kay Brunsting et al* – In the
United States District Court for the Southern District of Texas, Houston Division

Mr. William G. West, C.P.A. & Bankruptcy Trustee
Southern District of Texas
12345 Jones Road, Suite 120
Houston, TX 77070

Dear Mr. West:

Enclosed are a binder and a CD (Bates #s AABrunsting.Financials004083-004283) containing additional financial documents. We are working with our clients to obtain the outstanding statements as quickly as possible.

- **Bank of America account # [REDACTED] 1143**
 - December 1, 2010 - December 31, 2010 statement
 - January 1, 2012 - January 31, 2012 statement
 - February 1, 2012 - February 29, 2012 statement
 - Missing March 1, 2012 – March 31, 2012, April 1, 2012 – April 30, 2012 (requested from Bank of America)
 - *Note account was closed in April 2012, not April 2013 – Quicken account erroneously noted it was closed in 2013*

- **Bank of America account # [REDACTED] 3523**
 - May 10, 2013 - June 7, 2013 statement
 - Copy of retainer refund and deposit slip
 - **Complete**

- **Bank of America account # [REDACTED] 3536**
 - May 14, 2013 – June 11, 2013 statement
 - **Complete**

Mr. William G. West
July 5, 2013
Page 2

- **Bank of America account # [REDACTED] 8577**
 - April 23, 2013 – May 22, 2013 statement
 - May 23, 2013 – June 20, 2013 statement
 - **Complete**

- **Bank of America account # [REDACTED] 9546**
 - December 31, 2010 – December 14, 2011 statements
 - The statement reflecting the \$1,540.47 deposit on January 3, 2012, is in the possession of Carol Brunsting. Anita Brunsting was not on this account. We requested the statement from Carole Brunsting and the deposit into the account and hope to have it shortly.

- **Bank of America account # [REDACTED] 6643**
 - Missing April 14, 2011 and March 16, 2012 statements
 - This account was owned by the Brunsting Life Insurance Trust and is not part of this lawsuit. All proceeds of this account were evenly distributed to the five Brunsting children.

- **Edward Jones account [REDACTED] 5-1-6**
 - November 26, 2011 – December 31, 2011
 - Missing April 26, 2013, to date statements because no statements have been posted by Edward Jones
 - **Complete**

- **Edward Jones account [REDACTED] 6-1-9**
 - Missing May 31, 2013, to date statements because no statements have been posted by Edward Jones
 - **Complete**

- **Edward Jones account [REDACTED] 9-1-8**
 - November 26, 2011 – December 31, 2011
 - Missing May 31, 2013, to date statements because no statements have been posted by Edward Jones
 - **Complete**

- **Edward Jones Portfolio Summary November 26, 2011 – December 31, 2011**

- **Bluebonnet Visa [REDACTED] -6626**
 - this account was closed in December 2011 – the last statement shows a zero balance
 - **Complete**

- **Chevron/Computershare [REDACTED] 9423**
 - June 10, 2013
 - Missing September 11, 2012 – June 9, 2013 statements – no additional statements are available, please refer to transaction history
 - **Complete**

Mr. William G. West
July 5, 2013
Page 3

- **John Deere/Computershare [REDACTED] 6354**
 - May 1, 2013
 - Missing February 3, 2010 to April 30, 2013
 - Note the Trustee had major difficulties obtaining statements from BNY Mellon
 - There were only 9 shares of stock in this account

- **Exxon/Computershare [REDACTED] 0102**
 - March 24, 2011 to date statements – Mrs. Nelva Brunsting split this account between [REDACTED] 7769 and [REDACTED] 7777 in March 2011 so there are no statements after March 2011
 - **Complete**

- **Exxon/Computershare [REDACTED] 7769**
 - June 11, 2011, June 15, 2011
 - March 24, 2011 Direct Registration Advice (2)
 - March 24, 2011 Account Summary
 - June 15, 2011 Direct Registration Advice
 - June 11, 2012 Account Summary
 - September 12, 2012 Direct Registration Advice
 - September 12, 2012 Account Summary
 - October 10, 2012 Account Summary
 - No other statements available
 - Note that in September 2012, Amy Brunsting was added as a Co-Trustee and the account was changed to [REDACTED] 6261 and [REDACTED] 3319, so there are no statements after September 2012
 - **Complete**

- **Exxon/Computershare [REDACTED] 6261**
 - September 12, 2012 Reinvestment Confirmation
 - September 12, 2012 Account Summary
 - December 10, 2012 Account Summary
 - 2012 Form 1099
 - March 11, 2013 Statement
 - June 10, 2013 Statement
 - **Complete**

- **Exxon/Computershare [REDACTED] 3319**
 - October 10, 2012 Direct Registration Advice
 - October 22, 2012 Reinvestment Confirmation
 - December 10, 2012 Account Summary
 - March 11, 2013 Statement
 - June 10, 2013 Statement
 - **Complete**

Mr. William G. West
July 5, 2013
Page 4

- **Exxon/Computershare [REDACTED] 7777**
 - September 10, 2012 Account Summary
 - September 12, 2012 Account Summary (2)
 - statements after September 12, 2012 - Amy Brunsting was added as a Co-Trustee and the account was changed to [REDACTED] 6287 and [REDACTED] 3301 so there are no statements after September 2012
 - **Complete**

- **Exxon/Computershare [REDACTED] 6287**
 - September 12, 2012 Reinvestment Confirmation
 - September 12, 2012 Account Summary
 - March 11, 2013 Statement
 - June 10, 2013 Statement
 - Missing statements from September 12, 2012, to March 10, 2013
 - Please refer to transaction history

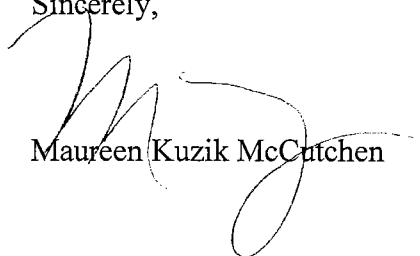
- **Exxon/Computershare [REDACTED] 3301**
 - March 11, 2013 Statement
 - June 10, 2013 Statement
 - **Complete**

- **Computershare/Chevron/Exxon - Decedent's Trust Recent Transactions**

- **Computershare/Chevron/Deere/Exxon - Survivor's Trust Recent Transactions**

Please let me know if you have questions. Thank you.

Sincerely,



Maureen Kuzik McCutchen

MKM/mn/254612/100925.3
Enclosures

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

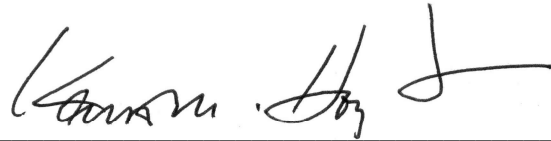
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CIVIL ACTION NO. 4:12-CV-592

ORDER FOR EXPEDITED RESPONSE

The defendant's motion for approval and renewal of farm lease (#65) has been filed. A response to this motion is required on an expedited basis. The response is due on or at the hearing set for September 3, 2013 at 1:30 p.m.

SIGNED on this 28th day of August, 2013.



Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States District Court
Southern District of Texas
August 29, 2013
Clerk

CANDACE LOUISE CURTIS
Plaintiff,

§
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§

AUG 29 2013

v

CIVIL ACTION NO. 4:12-cv-00592

ANITA KAY BRUNSTING, et al.
Defendants.

Jury

**PLAINTIFF'S RESPONSE TO THE REPORT OF MASTER AND
APPLICATIONS FOR ORDERS**

1. Statement of the Case

1.1 Plaintiff and Defendants are siblings. Their parents, Elmer and Nelva Brunsting, created a living trust for their benefit and for the benefit of their five children. The stated co-successor beneficiary distribution was to be equal, 1/5 for each of the five Brunsting children: Candace, Carole, Carl, Amy, and Anita. The trust was also structured to preserve the Brunsting legacy for Elmer and Nelva's grandchildren.

1.2 Plaintiff Curtis' father died April 1, 2009 and her mother died November 11, 2011.

1.3 On February 27, 2012, Plaintiff filed a pro se complaint in the United States District Court for the Southern District of Texas, alleging the civil torts of breach of fiduciary, extrinsic and constructive fraud, and intentional infliction of

emotional distress, alleging that the Defendants, acting as trustees for their parents' trust, failed to notice her of actions affecting her beneficial interests, refused to provide copies of non-protected trust instruments, and refused to account for trust assets or to report on any other acts of administration. On March 8, 2012, Plaintiff's complaint was dismissed under the probate exception to federal diversity jurisdiction. The Plaintiff filed a notice of appeal. On January 30, 2013, the Fifth Circuit Court of Appeals reversed the dismissal. On April 19, 2013, the District Court issued a memorandum and order for preliminary injunction. In the order, the Court ordered the appointment of an independent firm or accountant to gather the financial records of the trust and provide an accounting of the income and expenses of the trust since December 21, 2010. The defendants were ordered to cooperate with the accountant in this process.

1.4 On May 9, 2013, the Court ordered the appointment of William G. West as Master to perform an accounting. The Report of Master¹, dated July 31, 2013, was submitted to the Court and the Court set this matter for hearing on September 3, 2013, with a deadline for filing objections to the report and the accountant's invoice on or before August 27, 2013.

¹Case 4:12-cv-00592 Document 62 Filed in TXSD on 08/08/13

2. The Report of Master

2.1 The Report of Master (“Report”) corroborates Plaintiff’s claims that Defendants have refused to account for trust assets, to report on any other acts of administration, concealed information that they have a fiduciary duty to disclose, and that Defendants failed to keep accurate books and records, and therefore are unwilling or unable to account.

2.2 The Report indicates to Plaintiff that Defendants have failed to keep any books whatsoever, and cannot or will not produce all of the records necessary for a full, true and complete accounting of trust assets, income, and expenditures. Many of these records they have simply claimed as “missing”, after numerous requests from the Master to provide the information.

2.3 Therefore, on the basis of the absence of records, as shown by the Report, Plaintiff objects to the accounting provided by Defendants as incomplete, and hereby challenges all transactions.

3. General Challenge to Validity of Transactions

3.1 Defendants’ inability or unwillingness to disclose supporting evidence that would give the accounting veracity, continues to inform this Plaintiff’s belief that Defendants have something to hide.

3.2 Plaintiff hereby generally challenges all transactions, including but not limited to those claimed to be gifts, reimbursements, trustee compensation, and legal expenses. Plaintiff specifically challenges all transactions from which Defendants personally benefited.

4. Known Assets of the Trust Unaccounted For

4.1 Plaintiff has personal knowledge that U.S. Treasury Series EE/E Savings Bonds existed after the death of Nelva Brunsting and have not appeared on any schedule of assets to date.

5. Application for Order to Obtain Records Regarding U.S. Treasury Bonds

5.1 Plaintiff moves this court for an order for procurement of the records on file with the U.S. Treasury, pursuant to the attached proposed order.

6. Application for Order to Obtain Additional Records and Records Noted in the Master's Report to be "Missing"

6.1 The extent to which the trust assets have been mismanaged cannot be determined without complete transparency and documentation. Plaintiff therefore moves this court for an order for procurement of additional and "missing" records pursuant to the attached proposed order.

7. Challenge to Validity of Securities Transactions

7.1 The Report reflects stock distributions to the Defendants and their children. Plaintiff specifically challenges all stock transactions from which Defendants personally benefited. Defendants did not notice Plaintiff, nor obtain her consent, for distributions that benefited the Defendants substantially more than, and to the exclusion of, other co-beneficiaries.

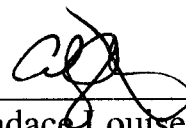
8. Other Relief Requested

8.1 Plaintiff requests that Defendants be ordered to bear the costs associated with the execution of these orders.

8.2 Plaintiff further requests that the Preliminary Injunction remain in full force and effect.

8.3 Plaintiff further respectfully requests that this Court grant any other available relief that it finds reasonable or necessary under the totality of the circumstances.

Respectfully submitted, Monday, August 26, 2013



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

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS
Plaintiff,

v

ANITA KAY BRUNSTING, et al.
Defendants.

§
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CIVIL ACTION NO. 4:12-cv-00592
Jury

ORDER

BEFORE THE COURT is Plaintiff's Application for Order to Obtain Records Regarding U.S. Treasury Bonds. After consideration, the court finds it should be granted.

It is therefore,

ORDERED that the Special Master obtain the U.S. Department of Treasury's complete transaction records for any and all Treasury Bonds issued to ELMER H. BRUNSTING, NELVA E. BRUNSTING, AND ELMER H. BRUNSTING OR NELVA E. BRUNSTING TR U/A DTD 10-10-96, and all Treasury Securities issued under their respective TINs.

SIGNED on this _____ day of _____, 2013.

Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS	§	
Plaintiff,	§	
	§	
v	§	CIVIL ACTION NO. 4:12-cv-00592
	§	Jury
ANITA KAY BRUNSTING, et al.	§	
Defendants.	§	

ORDER

BEFORE THE COURT is Plaintiff’s Application for Order to Obtain Additional Records, and Records Noted in the Master’s Report to be “Missing”. After consideration, the Court finds it should be granted.

It is therefore,

ORDERED that the Special Master obtain the following records from the respective custodians of those records:

1. All account statements listed on page 7 of the Master’s report as “not received”.
2. All account statements and supporting transaction receipts for credit card accounts paid from the trust, specifically including but not limited to, the Blue Bonnet account 40376601013896626, held in the names of Nelva E. Brunsting and Elmer H. Brunsting, the Bank of America credit card bearing the last four digits 4254, in the name of Nelva E. Brunsting, and the Blue Bonnet account with the last four digits 5805, holder unknown.
3. Records of Social Security and Medicare payments withheld and paid on behalf of caregivers compensated by the trust.

4. All IRS Forms 56 filed in connection with the “ELMER H. BRUNSTING or NELVA E. BRUNSTING, Trustees, or the successor Trustees, under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended, and any related trust(s) created thereunder.
5. Itemized billing statements for all legal fees, accounting fees, farm management fees, private investigators, and other consultants, if any, paid from the trust during the accounting period. If fees were classified as retainers for work yet to be performed, this Order shall include itemized statements of work that was performed against those retainers whether inside or outside the accounting period.
6. All Engagement Letters in connection with legal, accounting, farm management, private investigation, and other consulting services, if any, provided during the accounting period, regardless of the effective date of the engagement.

SIGNED on this _____ day of _____, 2013.

Kenneth M. Hoyt
United States District Judge

CERTIFICATE OF SERVICE

I, Rik Munson, hereby certify that a true and correct copy of Plaintiff's Response to the Report of Master and attached proposed orders have been forwarded to Defendants' Counsel of Record, George W. Vie III, 1021 Main, Suite 1950, Houston, Texas 77002, via Certified Mail, Return Receipt Requested, on August 26, 2013.



Rik Munson

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States District Court
Southern District of Texas
August 29, 2013
Clerk

CANDACE LOUISE CURTIS
Plaintiff,

§
§
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§
§
§

AUG 29 2013

v

CIVIL ACTION NO. 4:12-cv-00592

ANITA KAY BRUNSTING, et al.
Defendants.

Jury

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¹Case 4:12-cv-00592 Document 62 Filed in TXSD on 08/08/13

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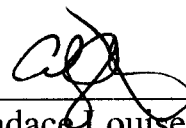
8. Other Relief Requested

8.1 Plaintiff requests that Defendants be ordered to bear the costs associated with the execution of these orders.

8.2 Plaintiff further requests that the Preliminary Injunction remain in full force and effect.

8.3 Plaintiff further respectfully requests that this Court grant any other available relief that it finds reasonable or necessary under the totality of the circumstances.

Respectfully submitted, Monday, August 26, 2013



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

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS
Plaintiff,

v

ANITA KAY BRUNSTING, et al.
Defendants.

§
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CIVIL ACTION NO. 4:12-cv-00592
Jury

ORDER

BEFORE THE COURT is Plaintiff's Application for Order to Obtain Records Regarding U.S. Treasury Bonds. After consideration, the court finds it should be granted.

It is therefore,

ORDERED that the Special Master obtain the U.S. Department of Treasury's complete transaction records for any and all Treasury Bonds issued to ELMER H. BRUNSTING, NELVA E. BRUNSTING, AND ELMER H. BRUNSTING OR NELVA E. BRUNSTING TR U/A DTD 10-10-96, and all Treasury Securities issued under their respective TINs.

SIGNED on this _____ day of _____, 2013.

Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS	§	
Plaintiff,	§	
	§	
v	§	CIVIL ACTION NO. 4:12-cv-00592
	§	Jury
ANITA KAY BRUNSTING, et al.	§	
Defendants.	§	

ORDER

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3. Records of Social Security and Medicare payments withheld and paid on behalf of caregivers compensated by the trust.

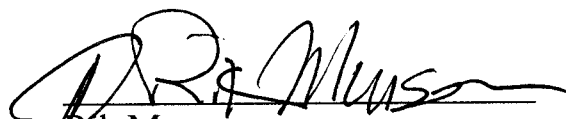
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5. Itemized billing statements for all legal fees, accounting fees, farm management fees, private investigators, and other consultants, if any, paid from the trust during the accounting period. If fees were classified as retainers for work yet to be performed, this Order shall include itemized statements of work that was performed against those retainers whether inside or outside the accounting period.
6. All Engagement Letters in connection with legal, accounting, farm management, private investigation, and other consulting services, if any, provided during the accounting period, regardless of the effective date of the engagement.

SIGNED on this _____ day of _____, 2013.

Kenneth M. Hoyt
United States District Judge

CERTIFICATE OF SERVICE

I, Rik Munson, hereby certify that a true and correct copy of Plaintiff's Response to the Report of Master and attached proposed orders have been forwarded to Defendants' Counsel of Record, George W. Vie III, 1021 Main, Suite 1950, Houston, Texas 77002, via Certified Mail, Return Receipt Requested, on August 26, 2013.



Rik Munson

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

ORDER

Before the Court is the Defendants’ Response to the Report of the Master, in which the Defendants address certain matters raised in the Master’s Report, Sections V and VI. To the extent the Defendants’ Response in paragraphs 2(A) through (F) and paragraphs 3 through 5 constitute objections to any findings of fact under Rule 53(c) of the Federal Rules of Civil Procedure, those matters are recommitted to the Master for consideration of the Defendants’ Response. The Master may, within 10 days of the entry of this Order, submit an amended report addressing any of the matters recommitted, or shall notify the Court that no amendment of the Report is necessary. The Court will reserve any action to adopt, modify, or reject the Report, in whole or in part, until the expiration of the 10 day period.

SIGNED on this ____ day of _____, 2013.

KENNETH M. HOYT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States District Court
Southern District of Texas
FILED

SEP 03 2013

David J. Brailey, Clerk of Court

CANDACE LOUISE CURTIS	§	
Plaintiff,	§	
	§	
v	§	CIVIL ACTION NO. 4:12-cv-00592
	§	Jury
ANITA KAY BRUNSTING, et al.	§	
Defendants.	§	

PLAINTIFF’S OBJECTION TO DEFENDANTS’ MOTION FOR APPROVAL OF RENEWAL OF FARM LEASE UNDER EXISTING TERMS ON AUGUST 31, 2013

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Plaintiff has received notice of Defendants’ motion and the Court’s ORDER FOR EXPEDITED RESPONSE, and Plaintiff objects to the granting of Defendants’ motion on the following ground:

1. Defendants’ motion is untimely. It was filed approximately 72 hours before auto-renewal of the existing Lease. Under Iowa Statute¹ Defendants’ have already defaulted on notice for the termination of the existing Lease and, therefore, the Lease has automatically renewed as a matter of Iowa law.

A lease can be terminated either by mutual agreement of the parties (whether via a written lease or oral agreement) or in accordance with the statutory provision

¹ Iowa Code §562.7

for the service of notice, which required written notice to be delivered on or before September 1 to terminate the tenancy on March 1.

Under Iowa law, if the lease is not terminated by either of these methods, and involves 40 acres or more, the lease automatically renews for another year on the same terms and conditions as the original lease.²

2. Although the Motion is moot, Plaintiff would like to address Defendants' contentions.

Defendants support their request by stating that "the existing lease amount is appropriate since grain prices have lowered, relevant land prices have stabilized, and the rent was increased last year when the lease was made".

Regarding grain prices, according to *Ag Decision Maker* dated August 2013³, published by the Iowa State University Extension and Outreach Department (attached), cash corn prices received by Iowa farmers were \$6.19 per bushel in August 2011 and \$7.17 per bushel in 2012. In 2013, the preliminary marketing year average calculated through mid-July is \$7.00 per bushel.

Regarding relevant land price stabilization, the March 31, 2013 edition of the *Cedar Valley Business Monthly Online*⁴ (attached) reports that Iowa farmland prices are up 17%.

² Iowa Code §562.6

³ Plaintiff Exhibit 70 attached

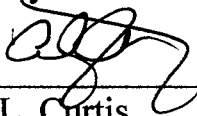
⁴ Plaintiff Exhibit 71 attached

Plaintiff cannot comment on existing rent, and whether or not it is appropriate, as Plaintiff has requested copies of all farm leases on numerous occasions and has never received any lease other than the one before the Court. It should be noted that approximately two months before Plaintiff's father Elmer died, an email from Rich Ridders to Nelva, on February 5, 2009⁵ (attached), suggests since Elmer cannot sign "why don't you go ahead and sign and I will notarize it here..." and "Just sign Elmer's name and send it back."

These indications of impropriety, and the lack of a page number or notarial acknowledgment on the signature page of the proffered lease is alarming, and suggests the need to examine the original lease where a change of tenancy was made.

3. Plaintiff cannot comprehend Defendants' purpose behind the filing of this motion and can only envision Defendants are attempting to legitimize their cumulative failure to notice and their execution of a lease without proper authority. Plaintiff prays the Court deny Defendants' motion.

Respectfully submitted,

By:  _____
By: /s/

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

⁵ Plaintiff Exhibit 73 attached

CERTIFICATE OF SERVICE

I, Rik Munson, hereby certify that a true and correct copy of the foregoing has been forwarded to Defendants' Counsel of Record, George W. Vie III, 1021 Main, Suite 1950, Houston, Texas 77002, via email and U.S Mail, on September 3, 2013.


Rik Munson

Ag Decision Maker

File A2-11
August 2013

www.extension.iastate.edu/agdm

Iowa Cash Corn and Soybean Prices

Table 1. Cash corn prices, \$/bushel (received by Iowa farmers). 1925-2013

The annual averages are a simple average of the monthly coefficients and are not weighted according to the amount of grain Iowa farmers sold each month.

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Avg * Cal Yr	Avg ** Mktg Yr
1925	\$1.08	\$1.10	\$1.03	\$0.91	\$0.98	\$1.03	\$0.99	\$0.98	\$0.88	\$0.70	\$0.61	\$0.57	\$0.91	\$0.62
1926	0.60	0.57	0.54	0.53	0.56	0.57	0.62	0.73	0.69	0.67	0.58	0.57	0.60	0.68
1927	0.58	0.59	0.57	0.58	0.69	0.85	0.88	0.95	0.90	0.83	0.69	0.74	0.74	0.84
1928	0.72	0.76	0.81	0.85	0.98	0.95	0.94	0.89	0.89	0.77	0.66	0.66	0.82	0.77
1929	0.71	0.78	0.78	0.76	0.75	0.76	0.81	0.86	0.90	0.84	0.71	0.69	0.78	0.73
1930	0.69	0.69	0.64	0.69	0.68	0.69	0.68	0.84	0.85	0.74	0.56	0.59	0.70	0.55
1931	0.56	0.51	0.50	0.48	0.47	0.45	0.47	0.43	0.37	0.28	0.35	0.32	0.43	0.29
1932	0.32	0.29	0.29	0.27	0.25	0.23	0.25	0.25	0.21	0.14	0.13	0.12	0.23	0.22
1933	0.12	0.12	0.13	0.20	0.31	0.30	0.47	0.37	0.36	0.24	0.32	0.35	0.27	0.40
1934	0.37	0.36	0.37	0.36	0.38	0.47	0.51	0.67	0.71	0.71	0.75	0.90	0.55	0.79
1935	0.87	0.84	0.80	0.83	0.82	0.77	0.76	0.76	0.73	0.68	0.48	0.46	0.73	0.59
1936	0.47	0.49	0.49	0.48	0.51	0.51	0.76	1.06	1.04	0.99	1.01	1.03	0.74	1.09
1937	1.09	1.11	1.10	1.24	1.23	1.14	1.17	0.97	0.86	0.46	0.41	0.43	0.93	0.47
1938	0.47	0.45	0.43	0.44	0.44	0.44	0.46	0.39	0.41	0.33	0.34	0.38	0.42	0.37
1939	0.39	0.35	0.35	0.36	0.39	0.40	0.36	0.36	0.48	0.39	0.40	0.44	0.39	0.49
1940	0.47	0.47	0.48	0.51	0.56	0.56	0.55	0.55	0.55	0.52	0.51	0.47	0.52	0.54
1941	0.49	0.49	0.49	0.55	0.59	0.61	0.62	0.63	0.64	0.58	0.60	0.64	0.58	0.70
1942	0.70	0.72	0.72	0.73	0.74	0.75	0.76	0.76	0.74	0.69	0.68	0.74	0.73	0.84
1943	0.82	0.83	0.87	0.92	0.94	0.94	0.94	0.94	0.94	0.94	0.92	1.00	0.92	0.99
1944	1.00	1.00	1.00	1.01	1.01	1.01	1.02	1.02	1.02	1.02	0.95	0.95	1.00	0.98
1945	0.95	0.94	0.95	0.96	0.97	1.00	1.01	1.02	1.02	1.02	1.00	0.96	0.98	1.18
1946	0.98	0.99	1.01	1.03	1.25	1.29	1.95	1.66	1.63	1.63	1.13	1.10	1.30	1.51
1947	1.10	1.12	1.43	1.56	1.50	1.80	1.96	2.16	2.40	2.23	2.24	2.54	1.84	2.19
1948	2.60	1.90	2.11	2.20	2.16	2.15	1.95	1.85	1.71	1.30	1.13	1.19	1.85	1.20
1949	1.20	1.04	1.11	1.16	1.15	1.15	1.18	1.10	1.09	1.04	0.97	1.10	1.11	1.17
1950	1.13	1.13	1.15	1.20	1.28	1.29	1.35	1.34	1.35	1.32	1.36	1.44	1.28	1.50
1951	1.51	1.55	1.58	1.58	1.58	1.56	1.58	1.60	1.61	1.60	1.61	1.63	1.58	1.61
1952	1.60	1.54	1.54	1.60	1.63	1.68	1.66	1.63	1.61	1.43	1.35	1.41	1.56	1.40
1953	1.39	1.33	1.37	1.38	1.41	1.38	1.39	1.40	1.44	1.29	1.30	1.39	1.37	1.40
1954	1.39	1.40	1.40	1.41	1.44	1.46	1.45	1.47	1.49	1.44	1.32	1.36	1.42	1.37
1955	1.36	1.35	1.30	1.33	1.38	1.40	1.40	1.32	1.29	1.16	1.19	1.22	1.31	1.30
1956	1.21	1.21	1.21	1.33	1.41	1.43	1.44	1.47	1.44	1.21	1.21	1.20	1.31	1.21
1957	1.19	1.14	1.14	1.18	1.20	1.21	1.20	1.18	1.07	1.00	0.88	0.85	1.10	0.96
1958	0.78	0.78	0.83	1.00	1.07	1.12	1.09	1.09	1.05	0.98	0.86	0.97	0.97	1.01
1959	0.97	0.97	1.00	1.06	1.08	1.09	1.06	1.07	1.02	0.97	0.92	0.89	1.01	0.96
1960	0.90	0.88	0.90	0.96	1.00	1.03	1.04	1.01	1.00	0.96	0.80	0.85	0.94	0.94
1961	0.90	0.93	0.93	0.90	0.98	1.00	1.01	1.00	0.99	0.96	0.93	0.93	0.96	0.96
1962	0.93	0.93	0.94	0.96	0.97	0.98	1.00	0.96	0.98	0.98	0.92	0.98	0.96	1.03
1963	1.01	1.03	1.03	1.04	1.05	1.11	1.14	1.13	1.16	1.04	1.00	1.03	1.06	1.07
1964	1.05	1.04	1.07	1.11	1.12	1.10	1.06	1.07	1.10	1.07	1.03	1.12	1.08	1.13

Source: USDA National Agricultural Statistics Service, Iowa Field Office

EXHIBIT

IOWA STATE UNIVERSITY
Extension and Outreach

Ann Johanson
extension program specialist
641-732-5574
ajholste@iastate.edu

P-70

20-20566.876

Table 1. Cash corn prices, \$/bushel (received by Iowa farmers), continued.

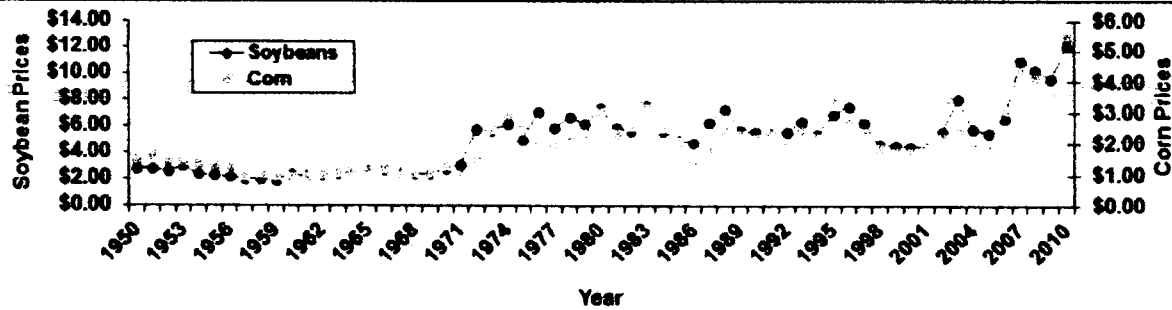
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Avg * Cal Yr	Avg ** Mktg Yr
1965	\$1.13	\$1.14	\$1.15	\$1.18	\$1.20	\$1.19	\$1.15	\$1.11	\$1.11	\$1.06	\$1.01	\$1.09	\$1.13	\$1.13
1966	1.14	1.13	1.09	1.14	1.16	1.16	1.22	1.27	1.28	1.23	1.20	1.25	1.19	1.21
1967	1.24	1.20	1.22	1.20	1.21	1.23	1.18	1.06	1.06	1.02	0.95	0.99	1.13	1.02
1968	1.00	1.01	1.02	1.05	1.08	1.06	1.02	0.96	0.97	0.97	1.00	1.02	1.01	1.06
1969	1.06	1.06	1.05	1.07	1.15	1.14	1.14	1.13	1.09	1.05	1.04	1.04	1.09	1.10
1970	1.07	1.06	1.05	1.08	1.12	1.15	1.18	1.21	1.31	1.24	1.24	1.31	1.17	1.31
1971	1.36	1.36	1.36	1.34	1.32	1.38	1.31	1.13	1.01	0.94	0.94	1.05	1.21	1.04
1972	1.04	1.04	1.05	1.08	1.10	1.09	1.10	1.09	1.16	1.10	1.14	1.35	1.11	1.50
1973	1.30	1.26	1.28	1.31	1.51	1.93	1.96	2.65	2.00	2.06	2.14	2.31	1.81	2.48
1974	2.51	2.67	2.59	2.30	2.40	2.53	2.91	3.34	3.26	3.44	3.27	3.24	2.87	2.94
1975	3.01	2.82	2.63	2.65	2.67	2.65	2.70	2.94	2.76	2.54	2.30	2.30	2.66	2.52
1976	2.37	2.43	2.44	2.42	2.59	2.69	2.78	2.60	2.60	2.27	2.01	2.22	2.45	2.16
1977	2.30	2.30	2.28	2.24	2.20	2.09	1.84	1.56	1.59	1.67	1.85	1.89	1.98	1.98
1978	1.92	1.95	2.19	2.18	2.26	2.25	2.12	1.92	1.90	1.87	1.96	1.99	2.04	2.14
1979	1.99	2.04	2.08	2.18	2.24	2.38	2.55	2.45	2.36	2.28	2.20	2.22	2.25	2.37
1980	2.34	2.23	2.26	2.29	2.31	2.41	2.65	2.85	2.91	2.88	2.98	3.14	2.60	3.06
1981	3.10	3.11	3.17	3.21	3.20	3.10	3.08	2.78	2.42	2.33	2.29	2.30	2.84	2.37
1982	2.38	2.32	2.35	2.48	2.51	2.49	2.41	2.17	2.09	1.99	2.09	2.15	2.29	2.57
1983	2.25	2.47	2.64	2.90	3.00	2.96	3.03	3.27	3.21	3.06	3.11	3.08	2.92	3.15
1984	3.08	3.00	3.15	3.28	3.28	3.25	3.21	3.05	2.84	2.56	2.46	2.44	2.97	2.55
1985	2.52	2.51	2.58	2.62	2.60	2.56	2.52	2.34	2.25	2.11	2.14	2.16	2.41	2.11
1986	2.20	2.19	2.20	2.21	2.30	2.21	1.90	1.48	1.26	1.24	1.40	1.42	1.83	1.40
1987	1.36	1.30	1.36	1.44	1.55	1.60	1.51	1.35	1.36	1.46	1.54	1.61	1.45	1.86
1988	1.66	1.74	1.78	1.79	1.85	2.30	2.66	2.57	2.52	2.52	2.45	2.46	2.19	2.45
1989	2.51	2.48	2.53	2.48	2.50	2.43	2.36	2.17	2.14	2.11	2.15	2.17	2.34	2.30
1990	2.15	2.15	2.26	2.45	2.56	2.55	2.54	2.41	2.19	2.10	2.09	2.13	2.30	2.22
1991	2.15	2.21	2.32	2.27	2.33	2.27	2.23	2.30	2.25	2.23	2.25	2.26	2.26	2.31
1992	2.30	2.40	2.48	2.44	2.42	2.41	2.26	2.06	2.04	1.98	1.93	1.90	2.22	2.02
1993	1.94	1.93	2.03	2.10	2.08	2.04	2.15	2.14	2.11	2.19	2.40	2.65	2.15	2.45
1994	2.66	2.72	2.66	2.60	2.55	2.53	2.21	2.07	2.05	2.01	1.97	2.04	2.34	2.22
1995	2.08	2.13	2.21	2.27	2.33	2.44	2.54	2.53	2.60	2.71	2.78	2.96	2.47	3.44
1996	3.00	3.25	3.33	3.66	4.02	4.08	4.39	4.46	3.95	2.84	2.61	2.52	3.51	2.69
1997	2.59	2.55	2.72	2.72	2.61	2.47	2.34	2.41	2.44	2.44	2.45	2.45	2.52	2.33
1998	2.44	2.47	2.47	2.37	2.28	2.20	2.08	1.81	1.72	1.87	1.92	1.94	2.13	1.87
1999	1.94	1.96	1.98	1.97	1.95	1.90	1.66	1.65	1.59	1.58	1.65	1.77	1.80	1.76
2000	1.77	1.91	1.97	1.98	2.07	1.86	1.58	1.43	1.46	1.66	1.83	1.89	1.78	1.77
2001	1.86	1.87	1.88	1.83	1.72	1.66	1.79	1.83	1.81	1.78	1.80	1.91	1.81	1.90
2002	1.88	1.86	1.89	1.86	1.84	1.88	2.03	2.27	2.43	2.25	2.22	2.22	2.05	2.23
2003	2.19	2.23	2.23	2.26	2.31	2.27	2.09	2.04	2.12	2.05	2.15	2.27	2.18	2.43
2004	2.33	2.55	2.67	2.79	2.80	2.77	2.48	2.23	2.14	2.16	2.00	1.99	2.41	1.99
2005	2.04	1.88	1.98	1.95	1.92	1.95	2.00	1.84	1.81	1.78	1.74	1.87	1.90	1.95
2006	1.87	1.95	2.02	2.04	2.08	2.11	2.09	2.04	2.08	2.43	2.84	3.03	2.22	3.09
2007	3.04	3.46	3.34	3.39	3.53	3.44	3.29	3.26	3.23	3.26	3.43	3.74	3.37	4.40
2008	3.97	4.50	4.61	4.98	5.07	5.40	5.26	5.34	5.16	4.48	4.35	4.21	4.78	4.13
2009	4.44	3.96	3.98	3.93	4.06	4.04	3.65	3.30	3.23	3.67	3.72	3.68	3.81	3.57
2010	3.76	3.66	3.61	3.46	3.52	3.42	3.50	3.61	4.01	4.28	4.61	4.86	3.86	5.46
2011	5.07	5.59	5.32	6.20	6.25	6.30	6.19	6.84	6.63	5.65	5.75	5.78	5.96	6.35
2012	5.99	6.21	6.23	6.23	6.31	6.37	7.17	7.89	6.84	6.82	7.02	6.92	6.67	7.00
2013 ¹	7.06	7.00	7.13	7.10	7.06	7.09	7.00						7.06	

* Average based on calendar year (Jan. 1 - Dec. 31)

** Average based on marketing year (Sept. 1 - Aug. 31)

¹ Preliminary, marketing year average calculated through mid-July 2013

Figure 1. Average Iowa corn and soybean prices by marketing year. 1950-2011



Source: USDA National Agricultural Statistics Service, Iowa Field Office

Table 2. Cash soybean prices, \$/bushel (received by Iowa farmers). 1925-2013

The annual averages are a simple average of the monthly coefficients and are not weighted according to the amount of grain Iowa farmers sold each month.

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Avg * Cal Yr	Avg ** Mktg Yr
1925	\$3.30	\$3.00	\$2.70	\$3.00	\$2.80	\$2.60	\$3.60	\$3.20	\$2.90	\$3.20	\$1.96	\$2.80	\$2.92	\$2.68
1926	3.00	2.65	2.53	2.65	2.70	2.80	2.70	2.30	2.60	2.00	2.50	2.10	2.54	2.48
1927	2.20	2.20	2.50	2.50	2.70	3.00	2.80	2.70	2.50	2.25	2.00	1.95	2.44	2.15
1928	1.90	1.90	2.20	2.15	2.25	2.25	2.20	2.20	2.30	1.90	1.90	1.80	2.08	2.00
1929	1.90	1.80	1.95	2.05	2.10	2.35	2.10	1.80	1.80	1.75	1.55	1.50	1.89	1.78
1930	1.65	1.85	1.75	1.90	2.10	2.15	1.75	1.60	1.70	1.50	1.35	1.50	1.73	1.29
1931	1.50	1.30	1.20	1.25	1.25	1.10	0.95	0.90	0.75	0.55	0.39	0.41	0.96	0.55
1932	0.42	0.50	0.51	0.60	0.70	0.65	0.55	0.60	0.55	0.45	0.40	0.39	0.53	0.59
1933	0.39	0.38	0.46	0.55	0.75	0.90	1.00	0.85	0.70	0.60	0.60	0.65	0.65	1.11
1934	0.65	0.90	1.10	1.10	1.15	2.05	2.05	1.80	1.20	0.80	0.85	1.10	1.23	1.18
1935	1.35	1.50	1.50	1.40	1.40	1.35	1.10	0.60	0.55	0.60	0.65	0.65	1.05	0.72
1936	0.70	0.70	0.70	0.65	0.70	0.70	0.94	1.15	1.10	1.00	1.10	1.25	0.89	1.28
1937	1.40	1.45	1.45	1.60	1.60	1.35	1.15	0.90	0.80	0.80	0.80	0.80	1.18	0.81
1938	0.80	0.85	0.85	0.80	0.90	0.85	0.80	0.70	0.65	0.65	0.60	0.65	0.76	0.68
1939	0.65	0.65	0.70	0.75	0.85	0.80	0.70	0.55	0.65	0.70	0.80	0.95	0.73	0.84
1940	1.00	0.93	0.98	0.98	0.97	0.81	0.66	0.60	0.62	0.62	0.81	0.76	0.81	0.93
1941	0.84	0.79	0.83	1.00	1.15	1.20	1.25	1.25	1.65	1.40	1.40	1.45	1.18	1.59
1942	1.80	1.75	1.75	1.70	1.70	1.80	1.55	1.53	1.50	1.55	1.55	1.57	1.61	1.80
1943	1.57	1.57	1.61	1.61	1.69	1.70	1.65	1.62	1.66	1.80	1.80	1.80	1.67	1.84
1944	1.83	1.83	1.87	1.89	1.89	1.89	1.89	1.90	1.92	2.05	2.05	2.05	1.92	2.07
1945	2.05	2.10	2.10	2.10	2.10	2.13	2.10	2.10	2.05	2.05	2.10	2.10	2.09	2.14
1946	2.10	2.10	2.10	2.10	2.15	2.15	2.25	2.45	2.14	2.29	3.14	2.76	2.31	2.97
1947	2.94	3.00	3.70	3.65	2.98	3.05	3.00	3.00	3.02	3.14	3.44	3.70	3.22	3.45
1948	4.13	2.95	3.23	3.65	3.70	3.92	3.71	2.82	2.60	2.27	2.35	2.39	3.14	2.27
1949	2.25	2.04	2.10	2.05	2.17	2.11	2.25	2.70	2.14	2.10	2.04	2.14	2.17	2.37
1950	2.16	2.18	2.32	2.50	2.70	2.80	2.94	2.43	2.25	2.03	2.52	2.73	2.46	2.79
1951	2.87	3.09	3.13	3.13	3.14	2.94	2.83	2.76	2.62	2.61	2.76	2.81	2.89	2.78
1952	2.76	2.75	2.72	2.64	2.69	2.97	2.95	3.06	2.85	2.69	2.71	2.73	2.79	2.66
1953	2.67	2.59	2.77	2.78	2.74	2.63	2.41	2.38	2.33	2.40	2.59	2.81	2.59	3.02
1954	2.80	2.95	3.18	3.51	3.57	3.48	3.40	3.20	2.45	2.48	2.53	2.53	3.01	2.39
1955	2.52	2.55	2.47	2.35	2.28	2.27	2.15	2.14	1.98	2.05	2.07	2.09	2.24	2.35
1956	2.19	2.23	2.35	2.61	2.96	2.87	2.41	2.37	2.05	2.08	2.26	2.26	2.39	2.20
1957	2.30	2.21	2.24	2.23	2.18	2.14	2.18	2.21	2.07	2.00	1.99	2.00	2.15	2.04
1958	2.01	2.00	2.06	2.12	2.10	2.08	2.06	2.03	1.94	1.92	1.94	2.02	2.02	2.02
1959	2.03	2.04	2.06	2.08	2.10	2.07	2.04	1.96	1.87	1.91	1.97	1.92	2.00	1.92
1960	1.94	1.93	1.93	1.96	1.92	1.90	1.89	1.93	1.90	1.88	1.89	1.95	1.92	2.39
1961	2.22	2.48	2.61	3.04	2.94	2.63	2.55	2.53	2.28	2.17	2.29	2.33	2.51	2.31
1962	2.34	2.32	2.34	2.36	2.33	2.31	2.32	2.31	2.29	2.20	2.27	2.32	2.31	2.36
1963	2.36	2.42	2.43	2.38	2.42	2.43	2.39	2.37	2.40	2.50	2.63	2.53	2.44	2.45
1964	2.60	2.54	2.51	2.42	2.31	2.32	2.31	2.31	2.45	2.49	2.54	2.68	2.46	2.64

Page 4

File A2-11

Table 2. Cash soybean prices, \$/bushel (received by Iowa farmers) continued.

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Avg * Cal Yr	Avg ** Mktg Yr
1985	\$2.70	\$2.75	\$2.81	\$2.79	\$2.65	\$2.68	\$2.65	\$2.49	\$2.43	\$2.28	\$2.34	\$2.47	\$2.59	\$2.75
1986	2.62	2.71	2.66	2.74	2.86	3.02	3.38	3.53	2.90	2.77	2.82	2.85	2.91	2.72
1987	2.77	2.68	2.71	2.67	2.65	2.67	2.63	2.52	2.51	2.44	2.44	2.49	2.60	2.51
1988	2.52	2.55	2.54	2.54	2.56	2.52	2.51	2.51	2.45	2.33	2.40	2.41	2.49	2.45
1989	2.44	2.45	2.45	2.49	2.54	2.49	2.50	2.49	2.32	2.19	2.22	2.23	2.40	2.40
1970	2.31	2.35	2.37	2.44	2.49	2.56	2.70	2.62	2.61	2.71	2.80	2.69	2.55	2.84
1971	2.80	2.86	2.85	2.73	2.79	2.95	3.17	3.07	2.90	2.94	2.84	2.94	2.90	3.11
1972	2.90	2.97	3.14	3.35	3.34	3.30	3.32	3.37	3.31	3.06	3.40	3.99	3.29	5.81
1973	4.12	5.44	6.02	6.11	8.25	10.10	6.65	9.30	5.75	5.49	5.10	5.60	6.49	5.71
1974	5.80	6.00	5.85	5.05	5.15	5.09	6.09	7.52	7.34	8.19	7.45	7.13	6.39	6.16
1975	6.25	5.73	5.30	5.63	4.95	4.91	5.25	5.82	5.35	4.88	4.48	4.20	5.23	5.03
1976	4.41	4.43	4.37	4.45	4.88	6.17	6.69	6.08	6.62	5.80	6.06	6.54	5.54	7.07
1977	6.76	6.95	7.71	8.62	9.20	8.40	6.76	5.42	5.18	5.35	5.51	5.57	6.79	5.90
1978	5.63	5.41	6.05	6.27	6.67	6.68	6.28	6.15	6.12	6.16	6.35	6.40	6.18	6.68
1979	6.42	6.77	6.98	6.86	6.93	7.15	7.18	6.89	6.66	6.38	6.19	6.12	6.71	6.16
1980	6.18	5.95	5.73	5.49	5.66	5.82	6.63	7.10	7.47	7.51	8.00	7.76	6.61	7.43
1981	7.66	7.44	7.61	7.63	7.42	6.99	7.14	6.53	6.05	5.93	5.90	5.88	6.85	5.93
1982	5.95	5.86	5.90	6.05	6.16	6.01	5.94	5.49	5.21	5.04	5.20	5.33	5.68	5.74
1983	5.39	5.54	5.71	6.03	5.99	5.81	6.22	7.37	8.19	7.87	7.86	7.63	6.63	7.62
1984	7.82	7.19	7.69	7.68	8.08	7.98	6.96	6.43	6.06	5.99	5.87	5.68	6.95	5.66
1985	5.73	5.60	5.76	5.75	5.61	5.54	5.34	5.02	4.90	4.81	4.84	4.95	5.32	5.00
1986	5.04	5.05	5.14	5.13	5.16	5.10	5.02	4.87	4.75	4.42	4.51	4.59	4.90	4.78
1987	4.59	4.58	4.63	4.77	5.10	5.32	5.16	4.95	4.89	4.96	5.25	5.48	4.97	6.31
1988	5.54	5.86	5.96	6.25	6.79	8.14	8.34	8.23	7.89	7.57	7.45	7.53	7.13	7.25
1989	7.64	7.31	7.50	7.24	7.12	6.98	6.72	5.99	5.68	5.47	5.54	5.51	6.56	5.66
1990	5.47	5.40	5.54	5.70	5.90	5.81	5.89	5.95	5.93	5.82	5.65	5.58	5.72	5.62
1991	5.53	5.48	5.64	5.72	5.62	5.53	5.30	5.59	5.62	5.42	5.40	5.34	5.52	5.53
1992	5.41	5.47	5.62	5.57	5.76	5.85	5.54	5.35	5.30	5.19	5.30	5.40	5.48	5.65
1993	5.46	5.45	5.56	5.65	5.71	5.81	6.47	6.44	6.19	5.97	6.26	6.63	5.97	6.35
1994	6.63	6.62	6.65	6.51	6.69	6.66	5.87	5.51	5.39	5.28	5.33	5.33	6.04	5.45
1995	5.34	5.25	5.41	5.47	5.49	5.57	5.79	5.71	5.91	6.02	6.27	6.61	5.74	6.88
1996	6.56	6.85	6.88	7.23	7.58	7.39	7.57	7.72	7.84	6.89	6.80	6.80	7.18	7.47
1997	6.99	7.27	7.88	8.17	8.39	8.10	7.46	7.08	6.66	6.35	6.85	6.67	7.32	6.31
1998	6.53	6.43	6.36	6.22	6.17	6.09	6.00	5.35	5.19	5.14	5.39	5.28	5.85	4.74
1999	5.16	4.61	4.57	4.57	4.44	4.29	4.04	4.22	4.42	4.35	4.30	4.37	4.45	4.60
2000	4.44	4.67	4.82	4.95	5.17	4.88	4.47	4.32	4.53	4.41	4.60	4.75	4.67	4.50
2001	4.53	4.40	4.29	4.19	4.26	4.42	4.77	4.87	4.60	4.05	4.14	4.14	4.39	4.49
2002	4.11	4.15	4.29	4.36	4.57	4.84	5.26	5.40	5.37	5.20	5.40	5.42	4.86	5.60
2003	5.44	5.50	5.54	5.76	6.02	6.11	5.80	5.62	6.06	6.58	7.14	7.34	6.08	8.06
2004	7.62	8.39	9.44	9.67	9.72	9.34	8.58	6.80	5.96	5.62	5.36	5.32	7.65	5.84
2005	5.37	5.33	5.85	5.95	6.12	6.50	6.58	6.07	5.80	5.70	5.59	5.67	5.88	5.54
2006	5.72	5.53	5.48	5.47	5.60	5.54	5.52	4.84	5.11	5.48	6.07	6.27	5.55	6.62
2007	6.21	6.81	6.89	6.85	7.10	7.55	7.48	7.66	8.22	8.36	9.87	10.30	7.78	11.00
2008	10.10	11.60	11.10	11.70	12.00	13.10	13.00	12.60	11.10	10.40	9.91	9.54	11.35	10.26
2009	10.10	9.47	9.05	9.72	10.60	11.30	10.90	11.00	9.89	9.35	9.53	9.81	10.06	9.55
2010	9.66	9.30	9.27	9.33	9.35	9.39	9.69	10.00	9.87	9.98	10.90	11.60	9.86	12.06
2011	11.80	12.60	12.40	12.90	13.20	13.20	13.00	13.50	12.60	11.80	11.60	11.30	12.49	13.08
2012	11.80	12.10	12.80	13.60	13.80	13.70	15.00	16.80	14.40	14.10	14.30	14.30	13.89	14.58
2013 ¹	14.10	14.60	14.60	14.40	14.90	15.20	15.50						14.76	

* Average based on calendar year (Jan. 1 - Dec. 31)

** Average based on marketing year (Sept. 1 - Aug. 31)

¹ Preliminary, marketing year average calculated through mid-July 2013

... and justice for all

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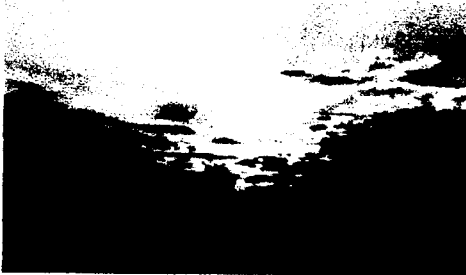
Issued in furtherance of Cooperative Extension work, Acts of May 8 and July 30, 1914, in cooperation with the U.S. Department of Agriculture. Cathann A. Kress, director, Cooperative Extension Service, Iowa State University of Science and Technology, Ames, Iowa.

20-20566.879



FARMLAND

Iowa farmland prices up 17 percent



MARCH 31, 2013 9:00 PM • BY GEORGE C. FORD, GEORGE.FORD@SOURCEMEDIA.NET

CEDAR RAPIDS, Iowa — The value of an average acre of Iowa farmland rose 9.4 percent since last September to \$8,690 per acre, according to a new survey by the Iowa chapter of the Realtors Land Institute.

On a year-over-year basis, an average acre of Iowa farmland rose 17.1 percent in value from March 1, 2012, to March 1 of this year.

The average price of tillable farmland on March 1 ranged from a low of \$5,928 an acre in south central Iowa to \$10,415 an acre in northwest Iowa.

Northeast Iowa recorded the largest percentage change in values over the last six months with a 12.6 percent increase.

High quality crop land is selling for an average \$12,661 per acre in Northeast Iowa, up from \$11,216 on Sept. 1.

Statewide, high quality farmland is averaging \$11,515 per acre, up from \$10,524 in September.

The land is classified by potential corn production.

The average price of an acre of "unimproved" Iowa farmland — land considered tillable but with nothing planted on it — has more than doubled from the \$4,208 per acre average recorded in 2008.

Troy Louwagie of Hertz Farm Management in Mount Vernon attributed the continued rise in average farmland values to several factors, including strong commodity prices, low long-term interest rates and limited amount of land offered for sale.

"We had a lot of land sales late in the fall as people were concerned about the fiscal cliff and potential adverse tax changes," Louwagie said.

"After Congress acted in early January and the tax changes weren't as severe and, in some cases, were beneficial, we saw land sales pick up. In fact, we've seen some really strong sales over the last three months."

Congress retained the \$5 million threshold in net worth before estate taxes are imposed, continuing favorable tax treatment for the sale of farmland.

**EXHIBIT
P-71**

From: Nelva Brunsting
To: Rich Ridders
Subject: Re: Lease...
Date: Thursday, February 05, 2009 7:39:14 AM

Rick: Sorry about the delay. I was depending on Carole for a witness but Elmer is back in the hospital and she's been taking care of medical matters for him, but will get the lease in the mail today.

--- On Thu, 2/5/09, Rich Ridders <richr@kk-cpa.com> wrote:

From: Rich Ridders <richr@kk-cpa.com>
Subject: Lease...
To: elmernelva@sbcglobal.net
Date: Thursday, February 5, 2009, 7:25 AM

Nelva,

Doyle needs that lease and I need that power of attorney for the FSA office so Doyle can get signed up for the farm program.

If Elmer can't sign, why don't you go ahead and sign and I will notarize it here or we will forget about having it notarized.

Just sign Elmer's name and send it back.

Thanks,

Rich

Richard Ridders, CPA, MS, CSEP

Kroese & Kroese, P.C.

540 North Main

Sioux Center IA 51250

Bus. 712-722-3375

Fax 712-722-3365

EXHIBIT
P-73

20-20566.881

"Helping You Attain Your Financial Goals"

...It's Our Commitment

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States District Court
Southern District of Texas
FILED
SEP 03 2013
David J. Bracey, Clerk of Court

CANDACE LOUISE CURTIS §
Plaintiff, §
v § CIVIL ACTION NO. 4:12-cv-00592
ANITA KAY BRUNSTING, et al. § Jury
Defendants. §

**PLAINTIFF’S OBJECTION TO DEFENDANTS’ MOTION FOR ORDER
TO RECOMMIT MATTERS TO MASTER FOR CONSIDERATION**

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Plaintiff has received notice of Defendants’ motion and proposed Order to recommit to the Master, matters of Defendants’ Response to Report of Master, for further consideration and possible action. Plaintiff objects to the granting of Defendants’ motion on the following ground:

1. Defendants’ motion is misplaced and frivolous.

The Master’s task was simply to provide an accounting of receipts and disbursements. Defendants either provided full and complete books and records to the Master, or they did not.

The Defendants’ manufacture of justification is putting the cart before the horse and Plaintiff can see no purpose in Defendants providing rationalizations as a substitute for third party transaction records.

The Bates stamped documents referenced in the Appendix Tab I are Defendants' own Schedules, absent corroborative third party records. These same self-serving spreadsheets were received April 5, 2012, as "an accounting in the format required by Texas Trust Code §113.152", and do not even begin to meet the legal definition of transaction records for trust accounting purposes.

2. Plaintiff specifically objects to the matter being returned to the Master with the self-serving letter of bias dated July 15, 2013¹, stating "We want to provide the following information to assist you in review of the documentation and to provide some background and context you otherwise might not have."

Not only are the claims of fact inaccurate, value judgment as to the legitimacy of Defendants' trust administration was beyond the scope of the Court's accounting order. Plaintiff believes this exercise was clearly intended to improperly influence the classification of disbursements.

Defendants' Response in paragraphs 2A through F contains excuses and explanations, not transaction records relevant to the Master's accounting of receipts and disbursements.

Furthermore, whether distributions to family members were gifts, trustee compensation, or misapplications of fiduciary, and whether the letter's assertions are relevant, is a question of law and fact for the Court

¹ Case 4:12-cv-00592 Document 67-1 Filed in TXSD on 08/27/13 Page 2 of 6

After two years and eight months, and at a cost of nearly \$50,000 dollars for the Defendants' incomplete accounting, Defendants now want this Court to send the matter back to the Master in another attempt to avoid providing third party transaction records and receipts, readily available to them upon request.

Plaintiff cannot fathom what Defendants may still be hiding, or what justice would be served by granting of this motion.

The doctrine of unclean hands bars a Court of equity from hearing the pleas of, or granting relief to, the unclean. Defendants were intentionally silent when they had a duty to speak and the doctrine of estoppel by silence bars their speaking now, when speaking might help them to the disadvantage of Plaintiff to whom they owed the duty to speak when they were silent.

Plaintiff asks the court to deny Defendants' motion to recommit to the Master and further asks that Defendants be ordered to answer and to bear costs.

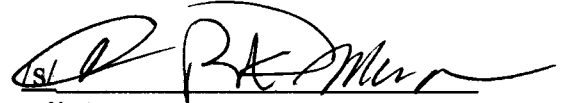
Respectfully submitted,

By: /s/ _____

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

CERTIFICATE OF SERVICE

I, Rik Munson, hereby certify that a true and correct copy of the foregoing has been forwarded to Defendants' Counsel of Record, George W. Vie III, 1021 Main, Suite 1950, Houston, Texas 77002, via email and U.S Mail, on September 3, 2013.


Rik Munson

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States District Court
Southern District of Texas
FILED

SEP 03 2013

David J. Erwin, Clerk of Court

CANDACE LOUISE CURTIS
Plaintiff,

§
§
§
§
§
§
§

v

CIVIL ACTION NO. 4:12-cv-00592
Jury

ANITA KAY BRUNSTING, et al.
Defendants,

**PLAINTIFF'S EX PARTE MOTION FOR ORDER TO SHOW CAUSE AND
APPLICATON FOR JUDGMENT OF CIVIL CONTEMPT**

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Plaintiff respectfully moves this Court for entry of an Order of Civil Contempt, based upon the Defendants' fraudulent concealment of information they have a fiduciary duty to disclose and for Defendants' Counsel's misrepresentation of fact before this Court.

Statement of the Case

Plaintiff and Defendants are three of five siblings: Candace, Carole, Carl, Amy and Anita. Their parents, Elmer and Nelva Brunsting, established The Brunsting Family Living Trust on October 10, 1996, superseded by restatement on January 12, 2005.

Elmer died April 1, 2009 and Nelva died November 11, 2011.

On February 27, 2013, Plaintiff filed a pro se complaint in the United States District Court for the Southern District of Texas, alleging the civil torts of breach of fiduciary, extrinsic and constructive fraud, and intentional infliction of emotional distress.

On March 8, 2012, Plaintiff's complaint was dismissed under the probate exception to federal diversity jurisdiction. Plaintiff promptly filed notice of appeal. On January 30, 2103, the Circuit Court issued its mandate and reversed and remanded for further proceedings.

Injunctive relief was ordered at a hearing on April 9, 2103, and on April 19, 2103 this Court issued a Memorandum and Order Preliminary Injunction.

Pursuant to the Memorandum, on May 9, 2013 the Court ordered the appointment of William G. West as Master to "create an accounting of the income and expenses of the trust since December 21, 2010".

Upon submission of the Report of Master, dated July 31, 2013, the Court set this matter for a hearing on September 3, 2013 and further ordered that "objections to the report and the accountant's invoice shall be filed on or before August 27, 2013".

1. Defendants' Failure to Disclose

Plaintiff's requests for information began in October of 2010, thirteen months before the death of Nelva Brunsting. Those requests never received a satisfactory response and Plaintiff began to wonder why.

During the week following the death of Nelva Brunsting on November 11, 2011, Plaintiff became acutely aware that something was not quite kosher when Defendants absolutely refused to talk about the trust.

In Plaintiff's continuing quest for information, Plaintiff began to write demand letters. A common law demand was sent certified mail on December 19, 2011¹. This demand was met with silence, so on January 3, 2012, Plaintiff made a statutory demand². Defendants were given approximately two weeks to provide Plaintiff with an expression of their good faith intention to respond. Defendants' response was insufficient to the point of being nonresponsive and on February 27, 2012, Plaintiff filed suit into this Court seeking an accounting of the trust administration.

After the matter of dismissal was reversed and remanded, Plaintiff issued a written demand for disclosure pursuant to the common law and Defendants'

¹ Plaintiff Exhibit 17 Case 4:12-cv-00592 Document 1-2 Filed in TXSD on 02/27/12 Page 5 of 30

² Plaintiff Exhibit 20 Case 4:12-cv-00592 Document 1-2 Filed in TXSD on 02/27/12 Page 9 of 30

fiduciary obligations³. Plaintiff further continued with an expression that the request was only being made under the rules of discovery as a last resort.

Defendants' response seeks to take refuge in discovery objections. Defendants refused to provide a copy of the irrevocable trust indentures, offering in the alternative a visual inspection which neither meets their fiduciary duty to provide a copy, nor does it aid this Court regarding their claims of trust provisions or exculpatory clause defenses.

Defendants have an affirmative duty to provide the information requested and by seeking refuge under the rules of discovery, they have breached that affirmative fiduciary obligation.

2. Defendants Seek Refuge in Terms of the Trust

Defendants came before this Court on April 9, 2103 waiving Exhibit 1, a 66 page alleged copy of the Brunsting Family Living Trust. This document informs you that it is The Brunsting Family Irrevocable Trust, established February 12, 1997. The Brunsting Family Living Trust before this Court was established October 10, 1996.

Further, looking at Defendants' Exhibit 1, it is obvious that this instrument was printed from Plaintiff's exhibits in the Record on Appeal, and not produced for Counsel by his clients. Defendants' Exhibit 1 is, in fact, part of The Brunsting

³ Plaintiff Exhibit 68 five pages attached

Family Irrevocable Trust, a life insurance trust that has been settled and is not a part of this litigation.

Defendants seek refuge in terms of the trust, yet refuse to provide Plaintiff or this Court with an instrument that they are willing to claim is a copy of the wet signed original document. Defendants cannot take refuge in the terms of an instrument they refuse to produce before this Court. Where is the trust?

3. Who is the Trust Attorney?

On April 9, 2013, Mr. Vie asserted that Vacek & Freed were the trust attorneys⁴, saying that he had offered a visual inspection of the trust at the offices of the trust attorneys (those attorneys in the other suit) rather than making an alleged copy available to Plaintiff and this Court.

Defendants' July 15, 2013 letter to the Master makes reference to other former trust counsel⁵. If Vacek & Freed are no longer "trust counsel" who is? When did this change occur? Was Counsel untruthful before this Court on April 9, 2013, or did Defendants disobey this Court's Order?

Did Defendants retain Mills Shirley as trust counsel after April 9, 2013, without the consent of this Court?

⁴ Transcript April 9, 2013 page 38 lines 10-15

⁵ Case 4:12-cv-00592 Document 67 Filed in TXSD on 08/27/13 Page 2 of 6, paragraph 2 last sentence

If this is the case, a dangerous conflict of interest has been created. The firm representing Defendants for breach of fiduciary in their individual capacities cannot also represent Defendants in the capacity of trustees who are charged with a duty of impartiality. Counsel defending Defendants for breach of fiduciary cannot be objective in regards to the administration of the trust. The jural relations appropriate to each of those distinct realms of discourse cannot be allowed to be confused.

4. The Court Should Act Swiftly to Preserve its Dignity and Authority

"If a party can make himself a judge of the validity of orders which have been issued, and by his own act of disobedience set them aside, then are the courts impotent, and what the Constitution now fittingly calls the 'judicial power of the United States' would be a mere mockery." *Gompers v. Buck Stove & Range Co.*, 221 U.S. 418, 450 (1911).

Far from treating the Court's Order with obedience and respect, Defendants have disparagingly acted as if the preliminary injunction permits them to continue to perpetuate the same fraudulent concealment that compelled Plaintiff to seek preliminary injunction in the first place.

Defendants' attempt to defeat the purpose of the Court's Order and to further their presumed litigation strategy of concealing fiduciary information, is an affront to the Court's dignity and authority.


Any act designed to taint the course of justice and to produce a result from these proceedings other than what would result in the ordinary course of litigation may be considered a contempt of court. The Court accordingly should hold Defendants and their Counsel in civil contempt.

Plaintiff therefore requests that the Court order Defendants and their Counsel to appear and give any legal reason why this Court should not find them in contempt.

Plaintiff further asks that Defendants be removed as acting trustees and be ordered to surrender all trust property pursuant to the Court's instructions.

Plaintiff so moves this Court.

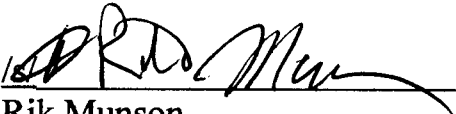
Respectfully submitted,

By: /s/ _____

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

CERTIFICATE OF SERVICE

I, Rik Munson, hereby certify that a true and correct copy of the foregoing has been forwarded to Defendants' Counsel of Record, George W. Vie III, 1021 Main, Suite 1950, Houston, Texas 77002, via email and U.S Mail, on September 3, 2013.



Rik Munson

DEMAND FOR PRODUCTION OF DOCUMENTS

Beneficiary/Plaintiff Candace Louise Curtis requests that Defendants Anita Kay Brunsting and Amy Ruth Brunsting respond within 30 days to the demand that Defendants produce and provide Plaintiff with copies of the documents and records referenced below.

For purposes of this demand, the following terms are defined as stated:

Beneficiary includes successor beneficiaries and remaindermen¹.

Trustee includes only the Defendants and does not include an original trustee, an independent special co-trustee, or a trustee named in the Trust other than Defendants, unless specifically so stated.

Document or record means every form of expression, whether analog or digital, handwritten or typed, audio, video, copied or printed, in Defendants' possession or known by Defendants to exist, but does not include any unrecorded verbal statement.

GENERAL DEMAND FOR DISCLOSURE

**PURSUANT TO PUBLIC POLICY IN CONFORMANCE WITH THE
COMMON LAW**

The following demand for disclosure of documents and records is first made as a beneficiary, and is to be construed as an equitable command to the alleged trustees under the common law². This demand is a continuation of the common law demand made December 19, 2011.

IN CONFORMANCE WITH STATUTE

The following demand for production of documents and records is secondly made only as a last resort under the laws governing a legal discovery request under

¹ Brunsting Family trust Article I, Page 1-2 to 1-3

² Texas Property Code Section 111.005 - Reenactment Of Common Law

§ 111.005. REENACTMENT OF COMMON LAW. If the law codified in this subtitle repealed a statute that abrogated or restated a common law rule, that common law rule is reestablished, except as the contents of the rule are changed by this subtitle.

Federal Rule Of Civil Procedure 34 (b) [F.R.C.P. 34(b)] This demand is to be construed as a continuation of the state statutory demand for documents and accounting records made January 3, 2012 and only becomes applicable if defendants breach their fiduciary obligations of disclosure under the common law.

(1) Defendants are to produce all documents in their possession or known by them to exist, purporting to be part of or related to the Brunsting Family Living Trust "the Trust", including but not limited to all sub-trusts, amendments, revisions, wills, diagrams, photographs, and descriptions. If none, say none and give the legal reason why any demanded document or record is not in Defendants' possession, does not exist, or why it is otherwise unavailable for scrutiny.

(2) Defendants are to produce a full, true and complete statement of inventory, listing all assets belonging to the Brunsting Family Living Trust "the Trust". The inventories should be supported by true and complete copies of all transactions involving trust property and should include all associated documents, vouchers, transaction records, and receipts. If none, say none and give the legal reason why any demanded document or record does not exist or why it is otherwise unavailable for scrutiny.

(3) There was a phone conference held on or about October 25, 2010. Defendants are to produce all documents and communications relating to that phone conference, in whatever form, electronic or otherwise, which indicate from and to whom the communications were sent. If none, say none and give the legal reason why any demanded document or record does not exist or why it is otherwise unavailable for scrutiny.

(4) Defendants are to produce all documents containing proposed amendments or revisions to the trust that did not become part of the trust, including but not limited to any document intending to disinherit Carl's daughter Marta or that Nelva refused to sign. If none, say none with an affirmative statement that no such document is known to have existed.

(5) Defendants are to produce copies of all documents, receipts, and transaction records relating to handling of any Exxon stock, which may tend to show how it was managed, when and by whom, using what instruments of authority and/or evidencing any other action which may tend to explain how the stocks were accessed, converted, or distributed to beneficiaries, with statements of individual amounts, when and how deposited to what accounts, and all other Exxon stock

associated records and receipts as of the death of Elmer Brunsting 4/1/2009, including specifically, but not limited to:

- a. Any documents or records showing any communication with Plaintiff Curtis involving the transfer of Exxon stock into an account established in the name of Curtis.
- b. Any evidence that Curtis consented to the use of her Social Security Number in the creation of that account, or that she in any way participated in the creation or funding of that account.
- c. Transaction records showing the credentials that were used to create and fund that account.
- d. Proof that Anita Brunsting was authorized to create and fund that account.
- e. Proof that the Exxon stock that was transferred into an account in the name of Anita Brunsting was registered to the trust and not to Elmer and/or Nelva in their personal capacity.

If none, say none and give the legal reasons if any.

(6) Defendants are to produce copies of all documents, receipts, and transaction records explaining and documenting all trust transactions involving acquisition or sale of trust assets from April 1, 2009 to the present. If none, say none and give the legal reasons if any.

(7) Defendants are to produce a full, true and complete accounting of the Trust assets with adequate explanations of each act of the trustees when moving, transferring, liquidating, distributing or in any other way changing the status or condition of trust property from April 1, 2009 up until and including the present, including all trust tax returns. If none, say none and give the legal reasons if any.

**SPECIFIC DEMANDS FOR PRODUCTION
CERTIFIED MAIL RECEIPTS OR OTHER PROOFS OF NOTICE³**

(8) Defendants are to produce copies of all documents notifying beneficiaries of proposed changes to the trust after April 1, 2009. If none, say none and explain in detail the legal reason(s) why the trustees were not required to notice the

³ Article 14 Section L. governs Notices and Section M governs Delivery of notice. All notices required to be given in this agreement shall be made in writing...

beneficiaries. Proof of Notice of actions intending to change the trust includes all notices regarding creation and endorsement of the following documents:

- a. The First Restatement and Amendment to the Brunsting family trust dated January 12, 2005.
- b. The Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment Under Living Trust Agreement dated August 25, 2010.
- c. Appointment of Successor Trustees dated August 25, 2010.
- d. Certificates of Trust dated August 25, 2010 for the Nelva E. Brunsting Survivor's trust, The Elmer H. Brunsting Decedent's trust and the Brunsting Family Trust.
- e. The Pour Over Will of Elmer Brunsting dated January 12, 2005.
- f. The Medical Power of Attorney for Nelva Brunsting dated August 25, 2010.
- g. The Durable Power of Attorney for Nelva Brunsting dated August 25, 2010.
- h. The Pour Over Will of Nelva Brunsting dated January 12, 2005.
- i. Conveyance regarding transfer of an undivided 1/2 interest in the Iowa farm land dated August 25, 2010.

(9) Defendants are to produce copies of all certified mail notices notifying beneficiaries of any intended division or combination of trusts as required by and conforming to Sec. 112.057 et seq., of the Texas Property Code.

(10) Defendants are to produce copies of all documents notifying beneficiaries of a right to receive distributions from any trust, account or policy of insurance, after April 1, 2009.

(11) Defendants are to produce copies of all documents authored or signed by Nelva Brunsting indicating a desire to change her estate plan after April 1, 2009.

(12) Defendants are to produce copies of all documents in their possession or known by them to exist relating to the competency of Nelva Brunsting, including but not limited to the identity and report of any and every doctor who may have examined Nelva for competency.

TRUST PROTECTOR

(13) Defendants are to produce copies of all documents in their possession or known by them to exist, appointing a trust protector, including but not limited to any and every document identifying the name, address and phone number of said trust protector. If none, say none and explain why not.

SPECIAL CO-TRUSTEE

(14) Defendants are to produce copies of all documents appointing an independent special co-trustee, including but not limited to documents identifying the name, address and phone number of said independent special co-trustee if any. If none, say none and explain why not.

SELF DEALING AND COMMINGLING

(15) Provide Proof of certified mail or other notices delivered to Candace Curtis or any beneficiary (1) informing a beneficiary of Defendants' intent, as trustees, to transfer assets to Defendants for their own personal use, and (2) provide written evidence of any agreement wherein Nelva Brunsting consented to trustee compensation for Defendants, as shown on the accounting schedules prepared by Defendants and/or Vacek & Freed, PLLC, and received by Plaintiff in April 2012.

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

Candace Louise Curtis

Plaintiff,

v.

Case No.: 4:12-cv-00592

Judge Kenneth M. Hoyt

Anita Kay Brunsting, et al.

Defendant.

TYPE OF CASE:

Civil

NOTICE OF SETTING

**TAKE NOTICE THAT A PROCEEDING IN THIS CASE HAS BEEN SET FOR
THE PLACE, DATE AND TIME SET FORTH BELOW.**

Before the Honorable

Kenneth M. Hoyt

PLACE:

Courtroom 11A
United States District Court
515 Rusk Ave
Houston, TX

DATE: 10/2/13

TIME: 11:30 AM

TYPE OF PROCEEDING: Motion Hearing
Motion for Order to Show Cause – #74

Date: September 3, 2013

David J. Bradley, Clerk

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

CANDACE LOUISE CURTIS
Plaintiff,

§
§
§
§
§
§

4-12-CV-00592

ANITA KAY BRUNSTING, and
AMY RUTH BRUNSTING
Defendants.

ORDER GRANTING APPROVAL OF DISBURSEMENTS TO
SPECIAL MASTER & SPECIAL MASTER'S ATTORNEY

BEFORE THE COURT the appointed Special Master has requested approval of the payment of two invoices from his accounting firm and the law firm of Munsch, Hardt, Kopf, & Harr, P.C. After consideration of the request the Court finds that, after the hearing conducted on September 3, 2013, the invoices should be paid for the reasons stated at the hearing. It is, Therefore,

ORDERED that the Trustees have authority to pay, and shall pay, the following:

William G. West, P.C., C.P.A. invoice 2498 in the amount of **\$42,288.21**

Munsch Hart Kopf & Harr, P.C. invoice 10289925 in the amount of **\$942.50**

Signed this 3rd day of September, 2013.



Kenneth M. Hoyt
United States District Judge

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

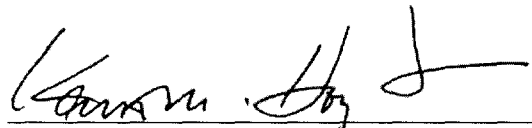
CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

ORDER GRANTING DEFENDANTS' MOTION FOR APPROVAL AND
RENEWAL OF
FARM LEASE UNDER EXISTING TERMS ON AUGUST 31, 2013

BEFORE THE COURT is Defendants' Motion for entry of an Order permitting the renewal of the present farm lease on a 141 acre tract in Iowa. After consideration of the Motion, the Court finds it should be granted for the reasons stated in the Motion. It is, therefore,

ORDERED that the Trustees have authority to permit the renewal of the Farm Lease between Anita Brunsting, Trustee and Grantor, and Doyle Wissink, Grantee, under the terms of the August 31, 2012, lease in the Official Form No. 135 of the Iowa State Bar Association. The Trustees may execute a lease document if necessary to effectuate the renewal of the Farm Lease under its present terms.

SIGNED on this 3rd day of September, 2013.



Kenneth M. Hoyt
United States District Judge

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

Candace Louise Curtis

Plaintiff,

v.

Case No.: 4:12-cv-00592

Judge Kenneth M. Hoyt

Anita Kay Brunsting, et al.

Defendant.

Official Transcript Filed

An official transcript has been filed. It may contain information protected from public disclosure by law. *See* E-Government Act of 2002, Fed. R. Civ. P. 5.2(a) or Fed. R. Crim. P. 49.1(a).

Ninety days after a transcript has been filed, it will be electronically available to the public on PACER. To comply with the rules on privacy, the parties must redact protected information before it is available on PACER.

If redaction is needed, the parties must file a statement listing the items to be redacted, with the transcript's docket number and the item's location by page and line. It must be filed within 21 days of the transcript being filed. A suggested form is at www.txs.uscourts.gov.

Only these portions of data may be visible:

- Last four digits of a social security number or taxpayer identification number;
- Year of a person's birth;
- Initials of a minor's name;
- Last four digits of an account number; and
- City and state of a home address in criminal cases.

Additional redactions require a separate motion and court approval.

A party may view the transcript at the public terminals in the clerk's office or buy it through www.txs.uscourts.gov or by calling (713) 250-5500. A party is only responsible for reviewing the:

- Opening and closing statements made for his party;
- Statements by his party;
- Testimony of witnesses called by his party; and
- Other parts ordered by the court.

Redaction is your responsibility. The court, clerk, court reporter, or transcriber will not review this transcript for compliance.

David J. Bradley, Clerk

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

Candace Louise Curtis

v.

Case No.: 4:12-cv-00592

Judge Kenneth M. Hoyt

Anita Kay Brunsting, et al.

Defendant

NOTICE OF RESETTING

TAKE NOTICE THAT A PROCEEDING IN THIS CASE HAS BEEN SET FOR THE PLACE, DATE AND TIME SET FORTH BELOW.

Before the Honorable

Kenneth M. Hoyt

PLACE:

Courtroom 11A
United States District Court
515 Rusk Ave
Houston, TX

DATE: 10/2/13

TIME: 09:00 AM

TYPE OF PROCEEDING: Motion Hearing

Date: September 23, 2013

David J. Bradley, Clerk

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

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

§
§
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4:12-CV-00592

DEFENDANTS’ OPPOSITION TO
“EX PARTE MOTION FOR ORDER TO SHOW CAUSE AND APPLICATION FOR
JUDGMENT OF CIVIL CONTEMPT”

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting file this Response in opposition to the Plaintiff’s Motion seeking an order of civil contempt (Dkt. #74).

1. Without a conference before filing, Plaintiff has filed a motion for contempt against Defendants and counsel.¹ The alleged basis for the contempt findings are (a) the sufficiency of discovery objections or responses from Defendants; (b) the alleged failure to

¹ LR 7.1(D) requires that the movant confer with respondent before filing a motion, and that the motion contain an averment that counsel cannot agree about the disposition of the motion. Pro se status does not excuse Plaintiff from following the Local Rules or the Federal Rules. *Anderson v. Astrue*, 7:07-CV-0079-O, 2008 WL 2152024 (N.D. Tex. May 21, 2008). *See also LaBlanche v. Ahmad*, 4:11-CV-4504, 2012 WL 1717639 (S.D. Tex. May 11, 2012) (observing the United States District Court Guidelines for Litigants Without Lawyers do not take the place of a pro se litigant’s responsibility to comply with the Local Rules, the Federal Rules of Civil Procedure and all other laws).

produce a copy of the “wet signed original of the trust;” (c) a reference to “former trust counsel” in a letter from Defendant’s counsel to the Master; and (d) a claim that the Court’s injunction has been violated by “fraudulent concealment” of fiduciary information.

2. Defendants have complied in good faith with their discovery obligations, including the production to Plaintiff (and the other beneficiaries who are not litigants in this Court) of all of the documents provided to the Master for its Report. This was a total of 4289 pages of underlying financial documents concerning trust activity. Many of those documents had previously been produced to Plaintiff, as noted in the Master’s Report at page 3.² Defendants previously filed written responses to discovery requests, which responses were timely under the Federal Rules. Defendants have supplemented those responses to include the documents provided to the Master. None of these discovery disputes, if any still exist, merit or support civil contempt findings.

3. Regarding Plaintiff’s complaints about a copy of the “wet signed original of the trust,” it is not accurate to state the Defendants offered only a visual inspection of the trust instruments.³ Rather, counsel offered inspection and copying of the instruments at the offices of Vacek & Freed PLLC. Counsel made this offer because Plaintiff has challenged the authenticity of copies of the trust documents which she otherwise already

² “On or about July 1st West received emails from the plaintiff containing pdf copies of various records. West found, that for the most part, he had these records already from Vie (*the plaintiff had told West beforehand that most of the records she had, in fact, came from the defendants’ attorney, except some her brother had given her*).”

³ See Ex Parte Motion at page 4.

has,⁴ and inspection and copying at the offices of the attorneys that prepared the documents would hopefully cure that complaint. This offer was made prior to and at the preliminary injunction hearing (when the Court requested Plaintiff and counsel for Defendants confer),⁵ and Plaintiff declined the offer.

Defendants remain ready to provide copying of the trust documents in a way that will cure Plaintiff's concerns.

4. In item 3 of her Ex Parte Motion, Plaintiff asks whether the undersigned attorneys are now trust counsel, and whether this was done without Court approval, and whether Defendant's counsel was untruthful at the preliminary injunction hearing on April 9, 2013. This all follows from a reference to Vacek & Freed PLLC, in a letter to the Master, as "former trust counsel." The Motion to Show Cause in this regard is simply based on Plaintiff's conjecture and speculation.

Mills Shirley LLP has not been retained as trust counsel, and counsel was not dishonest at the hearing in his references to Vacek & Freed PLLC. The reference to Vacek & Freed PLLC as "former trust counsel" was based on the fact that Carl Henry Brunsting, as Independent Executor of the estates of Elmer H. Brunsting and Nelva E. Brunsting, has filed suit against Defendants, Candace L. Kunz-Freed, Individually and

⁴ Plaintiff attached to her complaint filed in February 2012 (Dkt. #1) affidavits of trust; certificates of trust; the Restatement of the Brunsting Family Living Trust; the First Amendment to the Restatement of the Brunsting Family Living Trust; The Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment under Living Trust Agreement; Appointments of Successor Trustees; Resignation of Original Trustee; and Acceptance by Successor Trustee, along with other documents.

⁵ See attached email, with highlighted emphasis, as Appendix Tab 1.

Vacek & Freed, PLLC f/k/a The Vacek Law Firm, PLLC for professional negligence and other torts related to the Trust, the former Trustees, and the current Trustees.⁶ Under those circumstances, Vacek & Freed PLLC would not be expected to continue to serve as trust counsel, and would not be asked to serve. If the Trustees need to employ new counsel in connection with the Trust, they would seek Court approval of the employment – but there has been no such need to date.

CONCLUSION AND RELIEF SOUGHT.

5. There has been no fraudulent concealment of fiduciary information. The trustees have continued to make reports to the beneficiaries, and have included the other beneficiaries, through counsel, in the filings and discovery made in this cause. Further, there has been no violation of the Court's injunction and no basis for a contempt judgment as requested by Plaintiff.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court deny Plaintiff's Motion seeking an order of civil contempt (Dkt. #74).

⁶ Cause number 2013-05455, *Brunsting, Carl Henry v. Kunz-Freed, Candace*, in the 164th Judicial District of Harris County.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

Fed. Id. No. 12402

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

gvie@millsshirley.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing; those who are not filing users will be served by email and regular mail.

/s/ George W. Vie III

George W. Vie III

Appendix Tab 1



{In Archive} Documents to provide you

George Vie to: Candace Curtis
Bcc: akbrunsting, at.home3, Maureen McCutchen

04/04/2013 06:35 PM

From: George Vie/Millsshirley
To: Candace Curtis <occurtis@sbcglobal.net>
Bcc: akbrunsting@suddenlink.net, at.home3@yahoo.com, Maureen McCutchen/Millsshirley@Millsshirley
Archive: This message is being viewed in an archive.

In connection with production of documents, I have Bates numbered documents from 1 to 4922.

I can email many of these documents, but not all of them, because the total file size of all is 246 MB. It is unlikely your mail box and ISP would permit that.

If you are available to receive a Fed Ex for Saturday delivery, I can prepare a CD tomorrow and ship it to you for Saturday delivery.

I can also provide some of the recent documents now by email (and include them also on CD) as many of the attachments 10MB or less. It would obviously be multiple emails.

What would you prefer?

Also, when you are here Tuesday for the preliminary injunction hearing do you want to arrange for inspection of original records?

George W. Vie III
Licensed in Hawai'i and Texas
Board Certified (Texas), Civil Appellate Law

Mills Shirley LLP
One City Centre
1021 Main Street, Suite 1950
Houston, Texas 77002
Direct Tel 713.571.4232 | 713.571.4218 | 409.761.4032
Fax 713.893.6095

<http://www.millsshirley.com/Bio/GeorgeVie.asp>

Candace Curtis George, I have examined the prospect of pleadin... 02/18/2013 08:52:26 PM

From: Candace Curtis <occurtis@sbcglobal.net>
To: gvie@millsshirley.com,
Date: 02/18/2013 08:52 PM
Subject: Second Thoughts

George,

I have examined the prospect of pleading opposing theories and have decided to go ahead and proceed in this case just the way it is.

I do not believe the defendants are trustees, but if they want to continue to claim to be

trustees then I will await your answer to the existing complaint. I will consider whether or not to change theories after I have had some discovery.

Tomorrow the court will need to know how much time you will require for your answer. I hope a couple weeks will be enough. Sorry for any inconvenience, it just doesn't seem practical make any changes at this time.

Candace

Appendix Tab 2

2008 WL 2152024

Only the Westlaw citation is currently available.

United States District Court,
N.D. Texas,
Wichita Falls Division.

Allen L. ANDERSON, Plaintiff,

v.

Michael J. ASTRUE, Commissioner
of Social Security, Defendant.

No. 7:07-CV-0079-O ECF. | May 21, 2008.

Attorneys and Law Firms

Allen L. Anderson, Wichita Falls, TX, pro se.

Tami C. Parker, U.S. Attorney's Office, Fort Worth, TX, for
Defendant.

Opinion

MEMORANDUM OPINION & ORDER

REED O'CONNOR, District Judge.

*1 Before this Court is the defendant, Michael J. Astrue's ("Defendant" or "Commissioner") Motion to Dismiss (doc. # 22), filed January 24, 2008. For the reasons stated herein, the motion is GRANTED.

I.

The plaintiff, Allen L. Anderson ("Plaintiff" or "Anderson"), filed this action on May 21, 2007 seeking to reinstate his social security benefits. Pl.'s Compl. at 1. The Commissioner states that he determined that Anderson's disability benefits should have ceased in January of 2005 because of an outstanding arrest warrant. Def's Br. at 2.; Def's App. at 3, 10-14. The Commissioner states that because Anderson was paid benefits until February of 2006, he also informed Plaintiff that Plaintiff owed \$9,382.20 in overpaid benefits. *Id.* The Commissioner states that Anderson filed a request for reconsideration on March 22, 2006, which was denied on March 28, 2006, because Anderson did not provide proof that his warrant was satisfied. Def's Br. at 2; Def's App. at 4, 12. The Commissioner states that Anderson was instructed to complete a form to request a waiver

of overpayment and return it by April 28, 2006, but that Anderson did not do so nor did Anderson appeal the denial. Def's Br. at 2; Def's App. at 12. The Commissioner states that approximately a year later on May 18, 2007, Anderson filed another request for reconsideration. Def's Br. at 2. The Commissioner states that Anderson was informed that the second request was treated as a duplicate request, and it was also denied because Anderson did not provide proof that his outstanding warrant was satisfied. *Id.* at 3; Def's App. at 13. The Commissioner states that because Plaintiff did not proceed through the administrative process, this Court lacks subject matter jurisdiction because the Commissioner has not issued a "final decision ... made after a hearing," as required under 42 U.S.C. § 405(g). Def's Br. at 1-2.

II.

"Federal courts are courts of limited jurisdiction. We must presume that a suit lies outside this limited jurisdiction, and the burden of establishing federal jurisdiction rests on the party seeking the federal forum." *Howery v. Allstate Ins. Co.*, 243 F.3d 912, 916 (5th Cir.2001) (citations omitted). "Accordingly, the plaintiff constantly bears the burden of proof that jurisdiction does in fact exist." *Ramming v. United States*, 281 F.3d 158, 161 (5th Cir.2001) (citing *Menchaca v. Chrysler Credit Corp.*, 613 F.2d 507, 511 (5th Cir.1980)). A federal court has subject matter jurisdiction over civil actions involving a federal question or diversity of citizenship. 28 U.S.C. §§ 1331-1332. Therefore, Plaintiff must present the Court with facts or claims sufficient to give rise to federal question jurisdiction or diversity of citizenship jurisdiction. *See* 28 U.S.C. §§ 1331-32; *Howery*, 243 F.3d at 916. Without the presence of such facts or claims, the Court does not have jurisdiction over the case. *See Howery*, 243 F.3d at 916.

*2 The Social Security Act confers jurisdiction on district courts to review "any final decision of the Commissioner of Social Security made after a hearing to which he was a party." 42 U.S.C. § 405(g). "[A] final decision of the [Commissioner] made after a hearing ... [is] central to the requisite grant of subject-matter jurisdiction-the statute empowers district courts to review a particular type of decision by the [Commissioner], that type being those which are 'final' and 'made after a hearing.'" *Weinberger v. Salfi*, 422 U.S. 749, 763-64, 95 S.Ct. 2457, 45 L.Ed.2d 522 (1975). "If a claimant fails to request review from the Council, there is no final decision and ... [the] claimant may not obtain judicial review because he has failed to exhaust

administrative remedies.” *Sims v. Apfel*, 530 U.S. 103, 107, 120 S.Ct. 2080, 147 L.Ed.2d 80 (2000). *See also McQueen v. Apfel*, 168 F.3d 152, 155 (5th Cir.1999) (“A court should not review the Commissioner's final decision unless the claimant has exhausted his administrative remedies.” (citing *Paul v. Shalala*, 29 F.3d 208, 210 (5th Cir.1994))).

III.

As the Commissioner points out, “Anderson's Complaint is void of any statement or exhibit that evidences the issuance of a ‘final decision’ by the Commissioner or how this Court otherwise has jurisdiction.” Def.'s Br. at 6; *see* PL's Compl. at 1. “A pleading that states a claim for relief must contain ... a short and plain statement of the grounds for the court's jurisdiction ...” FED. R. CIV. P. 8(a)(1). Furthermore, “Anderson provided no evidence or argument that he provided [] a form [requesting a waiver of the overpayment of social security benefits] or that he appealed the matter to an ALJ.” Def.'s Br. at 3. Anderson did not file a response and an accompanying brief addressing this Court's subject matter jurisdiction. “A response to an opposed motion must be accompanied by a brief that sets forth the responding party's contentions of fact and/or law, and argument and authorities.” Local Rule 7.1(d). The party asserting jurisdiction bears the burden of proof for a Rule 12(b)(1) motion to dismiss. *Ramming*, 281 F.3d at 161. Since

Plaintiff is proceeding *pro se*, the Court liberally construes his allegations and makes more allowances. *See Hughes v. Rowe*, 449 U.S. 5, 9, 101 S.Ct. 173, 66 L.Ed.2d 163 (1980); *Sec. & Exch. Comm'n v. AMX, Int'l, Inc.*, 7 F.3d 71, 75 (5th Cir.1993). However, Plaintiff's *pro se* status does not excuse him from following the Local Civil Rules or the Federal Rules. *See Douglass v. United Servs. Auto. Ass'n*, 65 F.3d 452, 455 n. 4 (5th Cir.1995) (“The statement of facts and argument sections of Douglass' brief contain no citations to the record, contrary to FED. R.APP. P. 28(a)(4), (6). Although we liberally construe briefs filed by *pro se* litigants, we still require them to comply with the Federal Rules of Appellate Procedure.... Douglass is cautioned that disregard for the rules of appellate procedure may result in dismissal.” (citations omitted)). As the Commissioner asserts, it does not appear that this Court has subject matter jurisdiction in this case, and Plaintiff has not shown to this Court that it is otherwise. Therefore, the Commissioner's motion to dismiss is granted.

IV.

*3 The Commissioner's motion to dismiss (doc. # 22) is granted, and Plaintiff's complaint is dismissed without prejudice.

SO ORDERED.

Appendix Tab 3

2012 WL 1717639

Only the Westlaw citation is currently available.
United States District Court,
S.D. Texas,
Houston Division.

Shirly J. LaBLANCHE (Mother of Decedent) In the
Estate of Kent R. LaBlanche, Deceased, Plaintiff,
v.
Dr. Zulfiqar AHMAD, M.D., Defendant.

Civ. Action No. 4:11-cv-4504. | May 11, 2012.

Attorneys and Law Firms

Shirley Lablanche, Houston, TX, pro se.

Matthew M. Prewett, Houston, TX, for Defendant.

Opinion

MEMORANDUM AND ORDER

KEITH P. ELLISON, District Judge.

*1 Before the Court is Defendant's Amended Motion to Dismiss Under Rules 12(b)(2), 12(b)(6), 9(b), and 12(b)(1) and Brief in Support ("Motion"). (Doc. No. 14.) After considering the Motion, Plaintiff's Response (Doc. No. 16), and the applicable law, the Court concludes that the Motion must be **GRANTED**.

I. BACKGROUND

Proceeding *pro se*, Shirley J. LaBlanche ("LaBlanche" or "Plaintiff") filed this lawsuit in federal court in December 2011, bringing claims against Dr. Zulfiqar Ahmad ("Ahmad" or "Defendant"). (Doc. No. 1.) Defendant filed a Motion to Dismiss (Doc. No. 8), which the Court denied without prejudice to refile, while simultaneously granting Plaintiff leave to amend her Complaint to cure the defects observed by Defendant. Plaintiff filed an Amended Claim for Diversity: Fraud, Medical Fraud, and Medical Malpractice of Death Certificate ("Amended Complaint"). (Doc. No. 13.) In the Amended Complaint, Plaintiff alleges that Defendant fraudulently documented "Possible Atherosclerotic Heart Disease" as the cause of death on her son's ("the decedent") death certificate. (Am. Compl. at 1.) According to Plaintiff, the decedent was only hospitalized for kidney failure, and had

never experienced heart disease issues. (*Id.*) Plaintiff avers that Defendant at no time found, documented, diagnosed, or treated the decedent for atherosclerotic heart disease. (*Id.*) Plaintiff accuses Defendant of illegally and fraudulently describing the heart failure as a "possibility," when the State of Arizona (where the Death Certificate is registered) requires doctors to list "causes." (*Id.* at 2.) Furthermore, Plaintiff complains, Defendant fraudulently listed "end stage of kidney disease" after the non-existent "Possible Atherosclerotic Heart Disease." (*Id.*) Plaintiff brings her lawsuit pursuant to this Court's diversity jurisdiction, as well as its subject matter jurisdiction for fraud, medical fraud, and medical malpractice. (*Id.*) As relief, Plaintiff seeks correction of the Death Certificate, as well as damages. (*Id.*)

Defendant filed an Amended Motion to Dismiss. (Doc. No. 14.) Plaintiff filed a one-paragraph Response. (Doc. No. 16.) In the Response, Plaintiff claims that the lawsuit should not be dismissed because she has complied with Federal Rules of Civil Procedure 12(b)(1), 12(b)(2), 12(b)(6), and 9(b). (Resp. to Mot. Dismiss at 1.) Furthermore, Plaintiff avers that she has met the requirements outlined in the United States District Court Guidelines for Litigants Without Lawyers ("Guidelines"). (*Id.*) Plaintiff attaches these Guidelines, and observes that she specifically conformed to the requirements outlined in the Guidelines for a *pro se* plaintiff's filing of a complaint. (Ex. A to Resp. to Mot. Dismiss, Southern District of Texas Guidelines for Litigants Without Lawyers ("Guidelines"), at 1.)

II. LEGAL STANDARD

"Absent a rule or statute to the contrary, ... a federal court [may] exercise jurisdiction over only those defendants who are subject to the jurisdiction of courts of the state in which the court sits." *Point Landing, Inc. v. Omni Capital Intern., Ltd.*, 795 F.2d 415, 419 (5th Cir.1986), *aff'd sub nom. Omni Capital Intern., Ltd. v. Rudolf Wolff & Co., Ltd.*, 484 U.S. 97, 108 S.Ct. 404, 98 L.Ed.2d 415 (1987). Because the Texas long-arm statute, Tex. Civ. Prac. & Rem.Code Ann. §§ 17.041–17.045, is coterminous with the Due Process Clause of the Fourteenth Amendment to the United States Constitution, the Court's constitutional due process inquiry into personal jurisdiction also serves as an inquiry into personal jurisdiction under the Texas long-arm statute. *Command-Aire Corp. v. Ontario Mech. Sales & Service Inc.*, 963 F.2d 90, 93–94 (5th Cir.1992).

*2 Plaintiffs bear the burden of demonstrating facts sufficient to support personal jurisdiction over any

nonresident defendants. *United Galvanizing, Inc. v. Imperial Zinc Corp.*, No. H-08-0551, 2008 WL 4746334, at *3 (S.D.Tex. Oct.27, 2008). To comport with constitutional due process, plaintiffs must show that: (1) defendants purposefully availed themselves of the benefits and protections of Texas law, thereby establishing “minimum contacts” with Texas such that defendants could reasonably have anticipated being haled into court there; and (2) under the circumstances, the exercise of personal jurisdiction does “not offend traditional notions of fair play and substantial justice.” *Command-Aire Corp.*, 963 F.2d. at 94 (citing *Asahi Metal Industry Co. v. Superior Court of California*, 480 U.S. 102, 107 S.Ct. 1026, 94 L.Ed.2d 92 (1987); *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 105 S.Ct. 2174, 85 L.Ed.2d 528 (1985); and *Asarco, Inc. v. Glenara, Ltd.*, 912 F.2d 784 (5th Cir.1990)). “ ‘There are two types of minimum contacts: those that give rise to specific personal jurisdiction and those that give rise to general personal jurisdiction.’ ” *Johnston v. Multidata Systems Intern. Corp.*, 523 F.3d 602, 609 (5th Cir.2008) (quoting *Lewis v. Fresne*, 252 F.3d 352, 358 (5th Cir.2001)).

Specific jurisdiction exists “[w]hen a nonresident defendant has purposefully directed its activities at the forum state and the litigation results from alleged injuries that arise out of or relate to those activities.” *Cent. Freight Lines, Inc. v. APA Transp. Corp.*, 322 F.3d 376, 381 (5th Cir.2003) (citation omitted). “The non-resident’s purposefully directed activities in the forum must be such that he could reasonably anticipate being haled into court in the forum state.” *Clemens v. McNamee*, 615 F.3d 374, 378 (5th Cir.2010) (citing *Burger King*, 471 U.S. at 474). *See also Choice Healthcare, Inc. v. Kaiser Foundation Health Plan of Colo.*, 615 F.3d 364, 369 (5th Cir.2010) (“The ‘purposeful availment’ element ensures that a defendant will not be haled into court in a jurisdiction solely as a result of random, fortuitous, or attenuated contacts or the unilateral activity of another person or third party.”). Further, specific jurisdiction “requires a sufficient nexus between the non-resident’s contacts with the forum and the cause of action.” *Clemens*, 615 F.3d at 378–79. Indeed, the non-resident defendant must purposefully avail herself of the privilege of conducting activities in the forum state. *Id.* at 379.

General jurisdiction, in contrast, can be exercised when a defendant’s contacts with the forum state are substantial, continuous, and systematic, though unrelated to the litigation. *Cent. Freight Lines, Inc.*, 322 F.3d at 381. The “continuous and systematic contacts test is a difficult one to meet,

requiring extensive contacts between a defendant and a forum.” *Johnston*, 523 F.3d at 609.

Although the party seeking to invoke the power of the court bears the burden of proving that jurisdiction exists, a *prima facie* showing suffices, and the plaintiff need not establish jurisdiction by a preponderance of the evidence. *Luv N’ Care, Ltd. v. Insta-Mix, Inc.*, 438 F.3d 465, 469 (5th Cir.2006) (citation omitted). Moreover, the “court must resolve all undisputed facts submitted by the plaintiff, as well as all facts contested in the affidavits, in favor of jurisdiction.” *Id.* (citation omitted). “ ‘The court may determine the jurisdictional issue by receiving affidavits, interrogatories, depositions, oral testimony, or any combination of the recognized methods of discovery.’ ” *Alfred v. Moore & Peterson*, 117 F.3d 278, 281 (5th Cir.1997) (quoting *Stuart v. Spademan*, 772 F.2d 1185, 1192 (5th Cir.1985)).

III. ANALYSIS

*3 Defendant attaches an affidavit explaining that Defendant is licensed to practice medicine in the State of Arizona, not Texas, and has never treated any patients in Texas. (Doc. No. 14–2, Ex. 1 to Mot. Dismiss, Tauqir Z. Ahmad Aff. ¶4.) Moreover, the affidavit explains, Defendant has never:

- Had an office mailing address, telephone number, facsimile number, or e-mail address in Texas;
- Maintained any agents, servants, or employees (actual or apparent) in Texas;
- Advertised or solicited any person or entity in Texas;
- Maintained a banking, savings, or investment account in Texas;
- Borrowed money from a financial institution in Texas;
- Owned, leased, rented, or controlled property in Texas;
- Paid or been obliged to pay taxes in Texas;
- Maintained, or been required to maintain, a registered agent for service in Texas;
- Recruited Texas residents, directly or through an intermediary located in Texas, for employment inside or outside of Texas;

- Engaged in tortious conduct, and/or committed a tort (in whole or in part), in Texas; or
- Conducted activities in Texas, much less done so continuously, systematically or substantially.

(*Id.*) Plaintiff provides no allegations or evidence to make a *prima facie* case that this Court has personal jurisdiction over Defendant. Importantly, the Guidelines for Litigants without Lawyers state that they do “not take the place of a pro se litigant’s responsibility to comply with the Local Rules (L.R.), the Federal Rules of Civil Procedure (Fed.R.Civ.P.) and all other laws.” (Guidelines, at 1.) Indeed, the Guidelines emphasize that they are “not legal advice” and that any plaintiff relies on them at their “own risk.” (*Id.*)

Of course, as Plaintiff is “proceeding *pro se* in this case, the Court must construe the Complaint liberally, and it should be mindful that ‘a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.’ ” *Ekberg v. Wells Fargo*

Bank, N.A., No. A–11–CA–573 LY, 2011 WL 5999375, at *4 (W.D.Tex. Nov.30, 2011) (quoting *Erickson v. Pardus*, 551 U.S. 89, 127 S.Ct. 2197, 167 L.Ed.2d 1081 (2007) (per curiam)). Yet in her Amended Complaint, Plaintiff merely alleges that Defendant fraudulently filled out an Arizona Death Certificate. (Am. Compl. at 1–2.) Plaintiff nowhere claims that the Death Certificate was filled out in Texas, that the decedent died in Texas, or that Defendant otherwise had any contacts with Texas sufficient to give rise to personal or specific jurisdiction. Furthermore, the Death Certificate itself-attached to Plaintiff’s Amended Complaint-shows the place of death as Arizona. (Am Comp. at 4.) The Court finds that it does not have personal jurisdiction over Defendant.

IV. CONCLUSION

For the reasons explained above, the Motion is **GRANTED**. Plaintiff’s claims are dismissed without prejudice.

***4 IT IS SO ORDERED.**

End of Document

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

ORDER

BEFORE THE COURT is Plaintiff’s Motion seeking an order of civil contempt (Dkt. #74). After consideration of the Motion, and the Defendants’ Response in Opposition, the Court finds the Motion should be denied for the reasons stated in the Response. It is, therefore,

ORDERED that Plaintiff’s “Ex Parte Motion for Order to Show Cause and Application for Judgment of Civil Contempt” is DENIED.

DONE this _____ day of September, 2013, at Houston, Texas.

KENNETH M. HOYT
UNITED STATES DISTRICT JUDGE

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

Candace Louise Curtis

Plaintiff,

v.

Case No.: 4:12-cv-00592

Judge Kenneth M. Hoyt

Anita Kay Brunsting, et al.

Defendant.

Official Transcript Filed

An official transcript has been filed. It may contain information protected from public disclosure by law. *See* E-Government Act of 2002, Fed. R. Civ. P. 5.2(a) or Fed. R. Crim. P. 49.1(a).

Ninety days after a transcript has been filed, it will be electronically available to the public on PACER. To comply with the rules on privacy, the parties must redact protected information before it is available on PACER.

If redaction is needed, the parties must file a statement listing the items to be redacted, with the transcript's docket number and the item's location by page and line. It must be filed within 21 days of the transcript being filed. A suggested form is at www.txs.uscourts.gov.

Only these portions of data may be visible:

- Last four digits of a social security number or taxpayer identification number;
- Year of a person's birth;
- Initials of a minor's name;
- Last four digits of an account number; and
- City and state of a home address in criminal cases.

Additional redactions require a separate motion and court approval.

A party may view the transcript at the public terminals in the clerk's office or buy it through www.txs.uscourts.gov or by calling (713) 250-5500. A party is only responsible for reviewing the:

- Opening and closing statements made for his party;
- Statements by his party;
- Testimony of witnesses called by his party; and
- Other parts ordered by the court.

Redaction is your responsibility. The court, clerk, court reporter, or transcriber will not review this transcript for compliance.

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

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CIVIL ACTION NO. 4:12-CV-592

ORDER

Before the Court is the plaintiff’s, Candace Louise Curtis, motion for an order to show cause and application for contempt against the defendants, Anita Kay Brunsting and Amy Ruth Brunsting, trustee and co-trustee of the Brunsting Family Living Trust. In principle, the plaintiff seeks to examine and copy the “original” signatures on the Trust documents and to remove the defendants in their capacities as a result of their failure to comply with the plaintiff’s discovery requests.

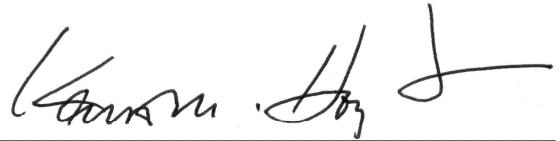
The Court is satisfied that the injunction entered in this case preserves the assets of the Trust Estate. The Court is further satisfied that copies of all documents requested by the plaintiff have been produced. However, the plaintiff has failed to inspect the original documents that the defendants have made available to the plaintiff.

Finally, the Court is of the view that the plaintiff’s failure to employ counsel hinders the necessary discourse between the plaintiff and the defendants and further prevents the parties from fulfilling their responsibilities to the Court, *i.e.*, to manage and process all pretrial matters necessary to a resolution of this case. Therefore, the Court Directs that the plaintiff employ

counsel within 60 days so that the case may proceed according to the rules of discovery and evidence. The plaintiff's motion is Denied without prejudice.

It is so Ordered.

SIGNED on this 3rd day of October, 2013.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge

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

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

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4:12-CV-00592

DEFENDANTS' MOTION FOR APPROVAL OF DISBURSEMENT
TO PAY PREPARER OF WRITTEN FARM LEASE

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting move for an Order permitting the payment of an invoice from Kroese & Kroese, P.C., certified public accountants, consistent with the Court's Order requiring approval of all disbursements of funds from the Trust (Dkt. #45).

1. By previous Order the Court authorized the Decedent's trust to renew a farm lease and authorized the Trustees to execute a lease document (Dkt. #78). Kroese & Kroese, P.C. in connection with its farm management activities thereafter prepared a farm lease, which was subsequently executed by Defendant Anita Kay Brunsting. The lease has been produced to Plaintiff pro se and the attorneys for the trust beneficiaries. The invoice from Kroese & Kroese, P.C. is attached and Defendants seek leave to pay it.

2. Accordingly, Defendants move for entry of the attached Order permitting the payments of this invoice. The disbursement will be paid out of Bank of America Checking acct: xxxxxxxx3536.

3. As instructed by the Court, all beneficiaries will be served with a copy of this Motion (through their counsel of record in the state court suits).

CONCLUSION AND RELIEF SOUGHT.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court grant this Motion and enter the attached Order.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

Fed. Id. No. 12402

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

gvie@millsshirley.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing; those who are not filing users will be served by email and regular mail. Additionally, non-party beneficiaries will be served by copy to any attorney-of-record for those parties in state court litigation.

/s/ George W. Vie III

George W. Vie III

Appendix Tab 1



540 North Main Ave
 Sioux Center, IA 51250
 Phone: (712) 722-3375
 E-mail: cpa@kk-cpa.com
 Web: www.kk-cpa.com

Elmer H Brunsting Decedents Trust DTD
 203 Bloomingdale Circle
 Victoria, TX 77904

Invoice Date: 09/28/2013
Invoice Number: 50902

For professional service rendered as follows:

Farm Management	840.00
	\$840.00
Invoice Total	\$840.00
Beginning Balance	\$0.00
Invoices	840.00
Payments	0.00
Adjustments	0.00
Finance Charges	0.00
Net Due	\$840.00

<u>Current</u>	<u>31 - 60 Days</u>	<u>61 - 90 Days</u>	<u>91 - 120 Days</u>	<u>Over 120 Days</u>	<u>Total</u>
840.00	0.00	0.00	0.00	0.00	\$840.00

Please return bottom portion with payment.

Elmer H Brunsting Decedents Trust DTD
Client Number: 9706

Invoice Date: 09/28/2013

Invoice Number: 50902

Amount Due: \$840.00

Amount Enclosed: \$ _____

BALANCE IS DUE IN FULL ON OR BY THE 20TH OF THE MONTH. A 1.5% per month finance charge is assessed on past due accounts.

20-20566.927

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

**ORDER GRANTING DEFENDANTS' MOTION FOR APPROVAL
OF DISBURSEMENT TO PAY PREPARER OF WRITTEN FARM LEASE**

BEFORE THE COURT is Defendants' Motion for Approval of Disbursement to Pay Kroese & Kroese, P.C. for preparation and renewal of the farm lease. After consideration of the Motion, the Court finds it should be granted for the reasons stated in the Motion. It is, therefore,

ORDERED that the Trustees have authority to pay, and shall pay, the following:

An invoice in the amount of \$840.00 from Kroese & Kroese, P.C., referenced as invoice no. 50902.

This invoice is to be paid out of Bank of America Checking acct: xxxxxxxx3536 (decendent's trust).

DONE this _____ day of November, 2013, at Houston, Texas.

KENNETH M. HOYT
UNITED STATES DISTRICT JUDGE

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

**ORDER GRANTING DEFENDANTS' MOTION FOR APPROVAL
OF DISBURSEMENT TO PAY PREPARER OF WRITTEN FARM LEASE**

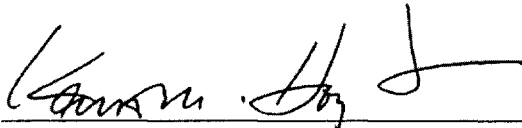
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ORDERED that the Trustees have authority to pay, and shall pay, the following:

An invoice in the amount of \$840.00 from Kroese & Kroese, P.C., referenced as invoice no. 50902.

This invoice is to be paid out of Bank of America Checking acct: xxxxxxxx3536 (decendent's trust).

SIGNED on this 12th day of November, 2013.



 Kenneth M. Hoyt
 United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States District Court
Southern District of Texas
FILED

DEC 05 2013

David J. Bradley, Clerk of Court

CANDACE LOUISE CURTIS

Plaintiff,

v

ANITA KAY BRUNSTING, et al.

Defendants.

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CIVIL ACTION NO. 4:12-cv-00592
Jury

**PLAINTIFF'S MOTION FOR APPROVAL OF DISBURSEMENT
TO PAY FEE RETAINER**

Plaintiff Curtis, in an effort to comply with this Court's directive¹, herein moves the Court for an order permitting the payment of a retainer for fees and expenses to the law firm of Ostrom/Sain forthwith, consistent with the Court's Order requiring approval of all disbursements of funds from the trust².

GROUND FOR MOTION

1. Communications with Defendants have proved fruitless. Rather than break down into meaningless discussions of fault, it seems the prudent course to appease the Court's directive. However, Plaintiff has no funds for paying a fee retainer to obtain counsel and cannot be compelled to perform the impossible.

¹ Dkt. # 87

² Dkt. # 78

2. At the Application for Injunction hearing on April 9, 2013, the Court addressed Plaintiff's concern over Defendants paying their legal fees with trust assets when the trust is not liable.³

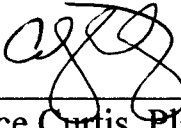
3. The Court has foreseen this motion in the affirmative⁴. Plaintiff therefore requests an Order consistent with this Court's Directive to Plaintiff Curtis to retain counsel, and further asks the Court to instruct Defendants to render payment from the trust forthwith and to maintain the appropriate transaction records.

4. As instructed by the Court, all beneficiaries will be served with a copy of this Motion (through their counsel of record in the state court suits).

CONCLUSION AND RELIEF SOUGHT

Plaintiff prays that the Court grant this Motion and enter the attached Order.

Respectfully submitted,


By: 
Candace Curtis, Plaintiff PRO SE

³ Transcript of April 9, 2013 page 46 line 10; the Court: "if the parties are going to come together and agree that your fee should be paid, then we should then move to a situation where we have a mediator in place or a designee in place who will then make sure that if Ms. Curtis needs counsel, she can get that. That equally would be paid out of the estate."

⁴ Transcript of April 9, 2013 page 46 line 10; the Court: "if the parties are going to come together and agree that your fee should be paid, then we should then move to a situation where we have a mediator in place or a designee in place who will then make sure that if Ms. Curtis needs counsel, she can get that. That equally would be paid out of the estate."

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service will be served by email and regular mail. Additionally, non-party beneficiaries will be served by email copy to any attorney-of-record for those parties in state court litigation.


Rik W. Munson 12-1-2013

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS	§	
	§	
Plaintiff,	§	
	§	
v	§	CIVIL ACTION NO. 4:12-cv-00592
	§	Jury
ANITA KAY BRUNSTING, et al.	§	
	§	
Defendants.	§	

**ORDER GRANTING PLAINTIFF’S MOTION
FOR APPROVAL OF DISBURSEMENT TO PAY FEE RETAINER**

BEFORE THE COURT is Plaintiff’s Motion for Approval of Disbursement to Pay Fee Retainer. After consideration of the Motion, the Court finds it should be granted for the reasons stated in the Motion. It is, therefore,

ORDERED that the Defendants have authority to pay, and shall pay, the following:

A fee retainer, in the amount of \$5,000.00, to OSTROM/Sain. Payment is to be mailed forthwith to OSTROM/Sain, 5020 Montrose Blvd., Suite 310, Houston, Texas 77006.

DONE this _____ day of December, 2013, at Houston, Texas.

Kenneth Hoyt,
Judge of the United States District Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

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CIVIL ACTION NO. 4:12-CV-592

NOTICE OF SETTING

The parties are hereby notified that a motion hearing is set for **December 18, 2013 at 8:30 a.m.** and will be handled as a **telephone conference**. Each party shall call in to the Court's "meet me" line. The call shall be placed to (713) 250-5126.

Date: December 12, 2013

DAVID BRADLEY, CLERK

By: C. Horace, Case Manager to
Judge Kenneth M. Hoyt

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

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

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4:12-CV-00592

DEFENDANTS' RESPONSE TO
PLAINTIFF'S MOTION FOR APPROVAL TO PAY RETAINER

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting file this Response to plaintiff's Motion which seeks leave to pay a retainer from the Trust for employment of counsel (Dkt. No. 90). Defendants do not oppose the relief sought but request a similar distribution to pay attorney's fees they have incurred since the Court's temporary injunction order entered April 19, 2013.

1. Without a conference before filing, plaintiff has filed a motion for leave to pay a retainer in the amount of \$5000, from trust assets, for employment of counsel.¹

¹ LR 7.1(D) requires that the movant confer with respondent before filing a motion, and that the motion contain an averment that counsel cannot agree about the disposition of the motion. Pro se status does not excuse plaintiff from following the Local Rules or the Federal Rules. *Anderson v. Astrue*, 7:07-CV-0079-O, 2008 WL 2152024 (N.D. Tex. May 21, 2008). See also *LaBlanche v. Ahmad*, 4:11-CV-4504, 2012 WL 1717639 (S.D. Tex. May 11, 2012).

2. Defendants do not oppose the relief sought. Defendant reserve the right to have the Court determine at a later date whether the attorney's fees and expenses of plaintiff paid from the Trust should be charged against her share of the Trust.

3. Defendants' counsel had received a retainer check in the amount of \$10,000 issued on April 2, 2013, from the Survivor's Trust account (check #143 as noted in the Master's Report at page 13 of the Detail of Accounts, Legal Fees). In light of the Court's temporary injunction order and the discussions at the temporary injunction hearing, counsel for defendants reimbursed the Trust on May 24, 2013, by issuing a check to the Trust in the amount of \$10,000 (shown as EJ20120434 in the Master's Report at page 13 of the Detail of Accounts, Legal Fees). Counsel has not been paid any fees or expenses in this case since the hearing on the temporary injunction.

4. As a matter of fairness, defendants request that the Court permit a check in the amount of \$5000 to issue to their attorneys for attorney's fees incurred, such disbursement to be made on the same terms as the Court may order for plaintiff's requested retainer. The Court is requested to take judicial notice of the proceedings that have occurred before it at the temporary injunction hearing and thereafter in this regard.

CONCLUSION AND RELIEF SOUGHT.

5. Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court enter the Defendants' proposed Order in connection with Plaintiff's Motion.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III
George W. Vie III

Fed. Id. No. 12402

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

gvie@millsshirley.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing; those who are not filing users will be served by email and regular mail.

/s/ George W. Vie III

George W. Vie III

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

ORDER GRANTING APPROVAL OF DISBURSEMENTS

BEFORE THE COURT is plaintiff’s motion for approval of disbursement to pay a retainer for employment of counsel (Dkt. No. 90), and defendants’ response. After consideration of the motion and response, the Court finds the plaintiff’s motion should be granted on the following terms. It is, therefore,

ORDERED that the Trustees have authority to pay, and shall pay, the following:

A check for a retainer in in the amount of \$5000 to Ostrom/Sain LLP, 5020 Montrose, Suite 310, Houston, TX 77006, for employment of counsel for plaintiff.

A check for attorney’s fees and expenses incurred by defendants after the temporary injunction Order entered April 19, 2013, in the amount of \$5000 to Mills Shirley LLP, 2228 Mechanic Street, Suite 400, Galveston, TX 77550.

These checks are to be paid out of Bank of America Checking acct: xxxxxxxx3536 (decendent’s trust).

Signed on this _____ day of December, 2013.

Kenneth M. Hoyt
United States District Judge

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

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

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4:12-CV-00592

SUBMISSION OF AGREED PROPOSED ORDER

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Counsel for defendants Anita Kay Brunsting and Amy Ruth Brunsting submits the following Agreed Proposed Order in connection with the pending motion of plaintiff for approval of disbursement to pay a retainer for employment of counsel (Dkt. No. 90), and defendants' response (Dkt. No. 92).

1. Consistent with the comments of the Court at the hearing on plaintiff's motion, counsel for defendants has conferred with Mr. Ostrom of Ostrom/Sain LLP regarding entry of an agreed order resolving the disbursement issue. Plaintiff and defendants have reached agreement on the form and substance of an order, which is now submitted to the Court for entry.
2. All beneficiaries will be served with a copy of this submission and proposed agreed order (through their counsel of record in the state court suits).

CONCLUSION AND RELIEF SOUGHT.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting, *joined by plaintiff and with her consent*, request the Court take notice of this filing and enter the attached Order.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

Fed. Id. No. 12402

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

gvie@millsshirley.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing; those who are not filing users will be served by email and regular mail. Additionally, non-party beneficiaries will be served by copy to any attorney-of-record for those parties in state court litigation.

/s/ George W. Vie III

George W. Vie III

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

AGREED ORDER GRANTING APPROVAL OF DISBURSEMENTS

BEFORE THE COURT is the parties' agreed proposed order in connection with plaintiff's motion for approval of disbursement to pay a retainer for employment of counsel (Dkt. No. 90), and defendants' response (Dkt. No. 92). Consistent with the comments of the Court at the hearing on plaintiff's motion, and after consideration of the agreed proposed order, the Court finds the plaintiff's motion should be granted on the following terms. It is, therefore,

ORDERED that the Trustees have authority to pay, and shall pay, the following:

A check for a retainer in in the amount of \$5000 to Ostrom/Sain LLP, 5020 Montrose, Suite 310, Houston, TX 77006, for employment of counsel for plaintiff.

A check for attorney's fees and expenses incurred by defendants after the temporary injunction Order entered April 19, 2013, in the amount of \$5000 to Mills Shirley LLP, 2228 Mechanic Street, Suite 400, Galveston, TX 77550.

These checks are to be paid out of Bank of America Checking acct: xxxxxxxx3536 (decendent's trust).

Neither plaintiff nor defendants, by requesting entry of an agreed proposed order, waive the right to have the Court determine at a later date whether the above distributions should be charged against the respective parties' share of the Trust.

Any other request by plaintiff or defendants for a distribution from the Trust for reimbursement or prepayment of attorney's fees and expenses incurred is subject to further order of the Court.

Signed on this 30th day of December, 2013.

Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

§
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§
§

CIVIL ACTION NO. 4:12-CV-592

**ORDER FOLLOWING TELEPHONE CONFERENCE
HELD ON December 18, 2013 at 8:30 AM**

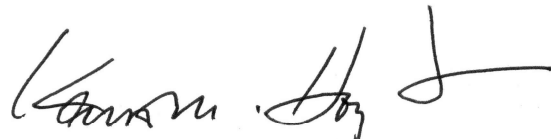
Appearances: Candace Curtis, Jason Ostrom, George William Vie, III

The following rulings were made:

Pursuant to phone conference, the parties agree to seek and agree upon an accommodation that satisfies the plaintiff's request for a disbursement for attorney's fees, if they can do so. The Court sanctions this process and sets December 30, 2013 as the deadline for filing any agreement.

It is so ORDERED.

SIGNED on this 18th day of December, 2013.



Kenneth M. Hoyt
United States District Judge

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

CANDACE LOUISE CURTIS
PLAINTIFF,

§
§
§
§
§
§
§

V.

4:12-CV-00592

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

NOTICE OF APPEARANCE

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

NOTICE IS HEREBY MADE that the undersigned attorneys, will appear as the attorneys of record for Candace Louise Curtis, Plaintiff.

Respectfully Submitted,

OSTROM/sain

A limited Liability Partnership

BY: /s/ Jason B. Ostrom

JASON B. OSTROM

(Fed. Id. #33680)

(TBA #24027710)

NICOLE K. SAIN THORNTON

(TBA #24043901)

5020 Montrose Blvd., Ste. 310

Houston, Texas 77006

713.863.8891

713.863.1051 (Facsimile)

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

In accordance with Texas Rules of Civil Procedure 21a, a copy of the foregoing instrument was forwarded by facsimile, hand-delivery, or certified mail, return receipt requested to the following on the 6th day of January, 2014:

Mr. George W. Vie III
(Fed. Id. #12402)
(TBA #20579310)
1021 Main, Suite 1950
Houston, Texas 77002
713.225.0547
713.225.0844 (Facsimile)

/s/ Jason B. Ostrom
Jason B. Ostrom
Nicole K. Sain Thornton

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

AGREED ORDER GRANTING APPROVAL OF DISBURSEMENTS

BEFORE THE COURT is the parties' agreed proposed order in connection with plaintiff's motion for approval of disbursement to pay a retainer for employment of counsel (Dkt. No. 90), and defendants' response (Dkt. No. 92). Consistent with the comments of the Court at the hearing on plaintiff's motion, and after consideration of the agreed proposed order, the Court finds the plaintiff's motion should be granted on the following terms. It is, therefore,

ORDERED that the Trustees have authority to pay, and shall pay, the following:

A check for a retainer in in the amount of \$5000 to Ostrom/Sain LLP, 5020 Montrose, Suite 310, Houston, TX 77006, for employment of counsel for plaintiff.

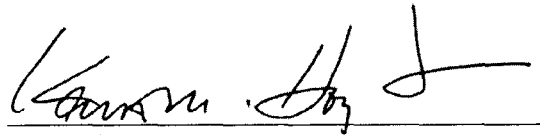
A check for attorney's fees and expenses incurred by defendants after the temporary injunction Order entered April 19, 2013, in the amount of \$5000 to Mills Shirley LLP, 2228 Mechanic Street, Suite 400, Galveston, TX 77550.

These checks are to be paid out of Bank of America Checking acct: xxxxxxxxxx3536 (decendent's trust).

Neither plaintiff nor defendants, by requesting entry of an agreed proposed order, waive the right to have the Court determine at a later date whether the above distributions should be charged against the respective parties' share of the Trust.

Any other request by plaintiff or defendants for a distribution from the Trust for reimbursement or prepayment of attorney's fees and expenses incurred is subject to further order of the Court.

SIGNED on this 6th day of January, 2014.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

§
§
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§

CIVIL ACTION NO. 4:12-CV-592

NOTICE OF SETTING

The parties are hereby notified that a status conference is set for **February 28, 2014 at 8:30 a.m.** and will be handled as a telephone conference. The filing or removing party, or its attorney if represented, is responsible for initiating the conference call and must have all other participating parties, or their counsel, if applicable, on the line when contacting the Court. *Under no circumstances, should any party call the Court's conference line individually.* All conference calls are to be placed to **(713) 250-5613.**

Date: February 24, 2014

DAVID BRADLEY, CLERK

By: C. Horace, Case Manager to
Judge Kenneth M. Hoyt

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

§
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CIVIL ACTION NO. 4:12-CV-592

**ORDER FOLLOWING TELEPHONE SCHEDULING CONFERENCE
HELD ON February 28, 2014 at 8:30 AM**

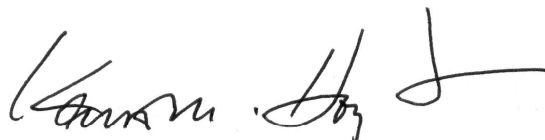
Appearances: Jason B. Ostrom, George William Vie, III

The following rulings were made:

Pursuant to phone conference conducted this day, the plaintiff, who determines that additional parties and claims may be necessary for a complete resolution of the case, also fears loss of diversity jurisdiction on the part of the Court. In this regard, and with an eye toward resolving these concerns, the plaintiff is to report the nature and extent of this progress to the Court on or before March 30, 2014. Docket call is cancelled.

It is so ORDERED.

SIGNED on this 28th day of February, 2014.



Kenneth M. Hoyt
United States District Judge

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

CANDACE LOUISE CURTIS	§	
	§	
<i>Plaintiff,</i>	§	
V.	§	4:12-CV-00592
	§	
ANITA KAY BRUNSTING, AND	§	
AMY RUTH BRUNSTING	§	
	§	
<i>Defendants.</i>	§	

DEFENDANTS' MOTION FOR APPROVAL OF DISBURSEMENTS
TO PAY PROPERTY TAX BILLS

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting move for an Order permitting the payment of farm property taxes to four invoices from Randall J. Jacobsma, Sioux County Treasurer, Orange City, Iowa, consistent with the Court's Order requiring approval of all disbursements of funds from the Trust (Dkt. #45).

1. The decedent's trust must pay the April 1, 2014, installments on property taxes for four parcels of land in Sioux County, Iowa, referenced as 1002101003, 1002126001, 1002151002, and 1002176001. These parcels are assets of Elmer H. Brunsting Decedent's Trust.

Evidence of the payments that are due to Randall J. Jacobsma, Sioux County Treasurer, is attached. (Prior payment entries have been redacted). Movants seek leave to pay the taxes due for the next six months on each parcel, in the amount of \$306 (parcel 1002101003); \$403 (parcel 1002126001); \$447 (parcel 1002151002); and \$459 (parcel 1002176001).

2. Accordingly, Defendants move for entry of the attached Order permitting the payments of these invoices. The disbursement for property taxes will be paid out of Bank of America Checking acct: xxxxxxxx3536.

3. As instructed by the Court, opposing counsel and all beneficiaries will be served with a copy of this Motion (through their counsel of record in the state court suits).

CONCLUSION AND RELIEF SOUGHT.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court grant this Motion and enter the attached Order.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

Fed. Id. No. 12402

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

gvie@millsshirley.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing. Non-party beneficiaries will be served by copy to any attorney-of-record for those parties in state court litigation.

/s/ George W. Vie III

George W. Vie III

Appendix – Exhibit A

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Parcel Detail Information

Detail Information	
BRUNSTING, ELMER H. DECEDENTS TRUST 203 BLOOMINDALE CIR VICTORIA TX 779040000 NW NW NW NW EXC TR 542.5' X 660'	Parcel: 1002101003 District: 210

2012 Real Estate Payment Details (Annual Amount: \$612.00)	Amount
Installment 1 - Delinquent on 10/01/2013	\$306.00
Interest and Fees for Installment 1	
Payment Applied for Installment 1	(\$306.00)
Amount Due for Installment 1	\$0.00
Installment 2 - Delinquent on 04/01/2014	\$306.00
Interest and Fees for Installment 2	\$0.00
Payment Applied for Installment 2	\$0.00
Amount Due for Installment 2	\$306.00
Total Amount Payable Online:	\$306.00

Online Payment Details

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Parcel Detail Information

Detail Information	
BRUNSTING, ELMER H. DECEDENTS TRUST 203 BLOOMINDALE CIR VICTORIA TX 779040000 NE NW NE NW	Parcel: 1002126001 District: 210

2012 Real Estate Payment Details (Annual Amount: \$806.00)		Amount
Installment 1 - Delinquent on 10/01/2013		\$403.00
Interest and Fees for Installment 1		
Payment Applied for Installment 1		(\$403.00)
Amount Due for Installment 1		\$0.00
Installment 2 - Delinquent on 04/01/2014		\$403.00
Interest and Fees for Installment 2		\$0.00
Payment Applied for Installment 2		\$0.00
Amount Due for Installment 2		\$403.00
Total Amount Payable Online:		\$403.00

Online Payment Details

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Sioux County Home Page

[Back](#)

Parcel Detail Information

Detail Information	
BRUNSTING, ELMER H. DECEDENTS TRUST 203 BLOOMINDALE CIR VICTORIA TX 779040000 SW NW SW NW	Parcel: 1002151002 District: 210

2012 Real Estate Payment Details (Annual Amount: \$894.00)	Amount
Installment 1 - Delinquent on 10/01/2013	\$447.00
Interest and Fees for Installment 1	
Payment Applied for Installment 1	(\$447.00)
Amount Due for Installment 1	\$0.00
Installment 2 - Delinquent on 04/01/2014	\$447.00
Interest and Fees for Installment 2	\$0.00
Payment Applied for Installment 2	\$0.00
Amount Due for Installment 2	\$447.00
Total Amount Payable Online:	\$447.00

Online Payment Details

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Parcel Detail Information

Detail Information	
BRUNSTING, ELMER H. DECEDENTS TRUST 203 BLOOMINDALE CIR VICTORIA TX 779040000 SE NW SE NW	Parcel: 1002176001 District: 210

2012 Real Estate Payment Details (Annual Amount: \$918.00)	Amount
Installment 1 - Delinquent on 10/01/2013	\$459.00
Interest and Fees for Installment 1	
Payment Applied for Installment 1	(\$459.00)
Amount Due for Installment 1	\$0.00
Installment 2 - Delinquent on 04/01/2014	\$459.00
Interest and Fees for Installment 2	\$0.00
Payment Applied for Installment 2	\$0.00
Amount Due for Installment 2	\$459.00
Total Amount Payable Online:	\$459.00

Online Payment Details

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

**ORDER GRANTING DEFENDANTS' MOTION FOR APPROVAL
OF DISBURSEMENTS TO PAY PROPERTY TAX BILLS**

BEFORE THE COURT is Defendants' Motion for Approval of Disbursements to Pay Property Tax Bills. After consideration of the Motion, the Court finds it should be granted for the reasons stated in the Motion. It is, therefore,

ORDERED that the Trustees have authority to pay, and shall pay, the following:

\$306.00 to Randall J. Jacobsma, Sioux County Treasurer, Orange City, Iowa, for property taxes to be paid on or before April 1, 2014, on land in Sioux County, Iowa, referenced as Parcel 1002101003;

\$403.00 to Randall J. Jacobsma, Sioux County Treasurer, for property taxes to be paid on or before April 1, 2014, on land in Sioux County, Iowa, referenced as Parcel 1002126001;

\$447.00 to Randall J. Jacobsma, Sioux County Treasurer, for property taxes to be paid on or before April 1, 2014, on land in Sioux County, Iowa, referenced as Parcel 1002151002;

\$459.00 to Randall J. Jacobsma, Sioux County Treasurer, for property taxes to be paid on or before April 1, 2014, on land in Sioux County, Iowa, referenced as Parcel 1002176001.

These four invoices are to be paid out of Bank of America Checking acct:
xxxxxxxx3536 (decedent's trust).

SIGNED on this _____ day of March, 2014.

Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

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CIVIL ACTION NO. 4:12-CV-592

**ORDER GRANTING DEFENDANTS' MOTION FOR APPROVAL
OF DISBURSMENTS TO PAY PROPERTY TAX BILLS**

Before the Court is Defendants' Motion for Approval of Disbursements to Pay Property Tax Bills. After consideration of the Motion, the Court finds it should be GRANTED for the reasons stated in the Motion.

It is therefore ORDERED that the Trustees have authority to pay, and shall pay, the following:

\$306.00 to Randall J. Jacobsma, Sioux County Treasurer, Orange City, Iowa, for property taxes to be paid on or before April 1, 2014, on land in Sioux County, Iowa, referenced as Parcel 1002101003;

\$403.00 to Randall J. Jacobsma, Sioux County Treasurer, for property taxes to be paid on or before April 1, 2014, on land in Sioux County, Iowa, referenced as Parcel 1002126001;

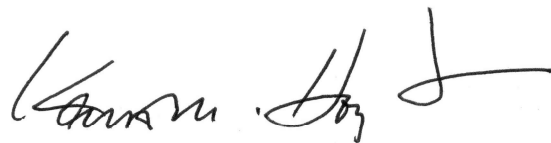
\$447.00 to Randall J. Jacobsma, Sioux County Treasurer, for property taxes to be paid on or before April 1, 2014, on land in Sioux County, Iowa, referenced as Parcel 1002151002;

\$459.00 to Randall J. Jacobsma, Sioux County Treasurer, for property taxes to be paid on or before April 1, 2014, on land in Sioux County, Iowa, referenced as Parcel 1002176001.

These four invoices are to be paid out of Bank of America Checking acct:

xxxxxxx3536 (decedent's trust).

SIGNED on this 10th day of March, 2014.



Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

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4:12-CV-00592

DEFENDANTS' SECOND MOTION FOR APPROVAL OF TAX PAYMENTS
TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting move for an Order permitting the payment of tax-related debts, consistent with the Court's Order requiring approval of all disbursements of funds from the Trust (Dkt. #45).

1. At the temporary restraining order hearing on April 9, 2013, defendants' counsel and defendant Anita Kay Brunsting advised the Court that tax payments from the Trust were due in the immediate future. The Court directed defendants to move for an Order authorizing the payments from Trust funds. Thereafter, the Court entered an Order requiring approval of all disbursements.

2. Tax payments are again due. The decedent's trust has a 2013 federal tax payment due of \$28,956. The decedent's trust also has an Iowa state tax payment due of \$2139. The survivor's trust has a federal tax payment of \$27 due.

The decedent's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3536. The survivor's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3523.

3. Accordingly, defendants move for entry of the attached Order permitting the timely payments of these debts. As instructed by the Court, all beneficiaries will be served with a copy of this Motion.

CONCLUSION AND RELIEF SOUGHT.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court grant this Motion and enter the attached Order.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

gvie@millsshirley.com

Fed Id. 12402

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing. Non-party beneficiaries will be served by copy to any attorney-of-record for those parties in state court litigation

/s/ George W. Vie III

George W. Vie III

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

**ORDER GRANTING DEFENDANTS' SECOND MOTION
FOR APPROVAL OF TAX PAYMENTS**

BEFORE THE COURT is defendants' Second Motion for Approval of Tax Payments. After consideration of the Motion, the Court finds it should be granted for the reasons stated in the Motion. It is, therefore,

ORDERED that the Trustees have authority to pay, and shall pay, the following:

The decedent's trust federal tax payment in the amount of \$28,956.00;

The decedent's trust Iowa state tax payment in the amount of \$2139.00;

The survivor's trust federal tax payment in the amount of \$27.00.

The decedent's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3536. The survivor's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3523.

SIGNED on this _____ day of _____, 2014.

Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. 4:12-CV-592
	§	
ANITA KAY BRUNSTING, <i>et al</i> ,	§	
	§	
Defendants.	§	

**ORDER GRANTING DEFENDANTS' SECOND MOTION
FOR APPROVAL OF TAX PAYMENTS**

Before the Court is defendants' Second Motion for Approval of Tax Payments. After consideration of the Motion, the Court finds it should be GRANTED for the reasons stated in the Motion.

It is, therefore, ORDERED that the Trustees have authority to pay, and shall pay, the following:

The decedent's trust federal tax payment in the amount of \$28,956.00;

The decedent's trust Iowa state tax payment in the amount of \$2139.00;

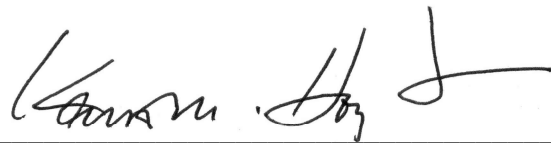
The survivor's trust federal tax payment in the amount of \$27.00.

The decedent's trust taxes will be paid out of Bank of America Checking acct:

xxxxxxx3536. The survivor's trust taxes will be paid out of Bank of America Checking

acct: xxxxxxxx3523.

SIGNED on this 27th day of March, 2014.



Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

CANDACE LOUISE CURTIS	§	
	§	
<i>Plaintiff,</i>	§	
V.	§	4:12-CV-00592
	§	
ANITA KAY BRUNSTING, AND	§	
AMY RUTH BRUNSTING	§	
	§	
<i>Defendants.</i>	§	

DEFENDANTS' MOTION FOR APPROVAL OF QUARTERLY TAX PAYMENTS
TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting move for an Order permitting the payment of quarterly federal and Iowa state estimated income tax payments, consistent with the Court's Order requiring approval of all disbursements of funds from the Trust (Dkt. #45).

1. The Court has previously entered two orders (Dkt. #44, 102) permitting the decedent's trust and survivor's trust to make 2012 and 2013 federal and Iowa state tax payments when due in the respective tax years. Defendants now request approval to make quarterly estimated federal and state income tax payments for tax year 2014 liability for the decedent's trust, so as to avoid any future interest or penalties. (The survivor's trust income tax liability is sufficiently small that quarterly estimated payments are not necessary).

2. The quarterly estimated federal tax payment will be \$7120. The quarterly estimated state tax payment will be \$535. The decedent's trust estimated tax payments will be paid out of Bank of America Checking acct: xxxxxxxxx3536.

3. Accordingly, defendants move for entry of the attached Order permitting the payment of quarterly estimated federal and state tax payments. As instructed by the Court, counsel for all beneficiaries will be served with a copy of this Motion.

CONCLUSION AND RELIEF SOUGHT.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court grant this Motion and enter the attached Order.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

gvie@millsshirley.com

Fed Id. 12402

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing. Non-party beneficiaries will be served by copy to any attorney-of-record for those parties in state court litigation

/s/ George W. Vie III

George W. Vie III

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

CANDACE LOUISE CURTIS	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	4-12-CV-00592
	§	
	§	
ANITA KAY BRUNSTING, and	§	
AMY RUTH BRUNSTING	§	
<i>Defendants.</i>	§	

**ORDER GRANTING DEFENDANTS' MOTION
FOR APPROVAL OF QUARTERLY ESTIMATED TAX PAYMENTS**

BEFORE THE COURT is defendants' Motion for leave to make quarterly estimated federal and Iowa state income tax payments for tax year 2014, applicable to the decedent's trust. After consideration of the Motion, the Court finds it should be granted for the reasons stated in the Motion. It is, therefore,

ORDERED that the Trustees have authority to pay, and shall pay, the following:

The decedent's trust quarterly estimated federal income tax payments in the amount of \$7120 each quarter;

The decedent's trust Iowa quarterly estimated state income tax payment in the amount of \$535 each quarter;

The decedent's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3536.

SIGNED on this _____ day of April, 2014.

Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

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CIVIL ACTION NO. 4:12-CV-592

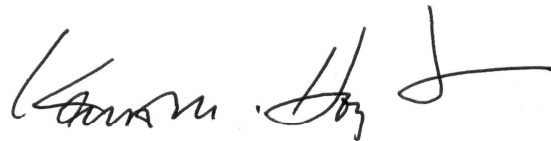
ORDER GRANTING DEFENDANTS' MOTION FOR APPROVAL OF QUARTERLY ESTIMATED TAX PAYMENTS

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SIGNED on this 16th day of April, 2014.



Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, AND
AMY RUTH BRUNSTING

Defendants.

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CIVIL ACTION NO. 4:12-CV-592

DEFENDANTS' MOTION FOR APPROVAL OF DISBURSEMENTS

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Anita Kay Brunsting and Amy Ruth Brunsting move for an Order permitting the payment of two invoices from a tax preparer, consistent with the Court's Order requiring approval of all disbursements of funds from the Trust (Dkt. #45).

1. By Order entered March 27, the Court authorized payments from Trust funds of federal and Iowa state income taxes for tax year 2013.

2. The decedent's trust and survivor's trust employed Kroese & Kroese P.C., a CPA firm, to prepare the necessary 2013 income tax returns. Kroese & Kroese P.C. has submitted invoices for its professional services in the amount of \$825 for the decedent's trust return and \$350 for the survivor's trust return. The invoices are attached.

3. Defendants move for entry of the attached Order permitting the payments of these invoices. The disbursement for tax preparation of the decedent's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3536. The disbursement for tax preparation of the survivor's trust taxes will be paid out of Bank of America Checking acct: xxxxxxxx3523.

4. As instructed by the Court, all beneficiaries will be served with a copy of this Motion through their counsel of record in this case or in the state court suits.

CONCLUSION AND RELIEF SOUGHT.

Defendants Anita Kay Brunsting and Amy Ruth Brunsting pray that the Court grant this Motion and enter the attached Order.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By: /s/ George W. Vie III

George W. Vie III

gvie@millsshirley.com

State Bar No. 20579310

1021 Main, Suite 1950

Houston, Texas 77002

Telephone: 713.225.0547

Fax: 713.225.0844

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing; those who are not filing users will be served by email and regular mail. Additionally, non-party beneficiaries will be served by copy to any attorney-of-record for those parties in state court litigation.

/s/ George W. Vie III

George W. Vie III

Appendix Tab 1



540 North Main Ave
 Sioux Center, IA 51250
 Phone: (712) 722-3375
 E-mail: cpa@kk-cpa.com
 Web: www.kk-cpa.com

Elmer H Brunsting Decedents Trust DTD
 203 Bloomingdale Circle
 Victoria, TX 77904

Invoice Date: 03/28/2014
Invoice Number: 55608

For professional service rendered as follows:

Preparation of 1041 Estates and Trusts Tax Return
 Trust Work

	<u>\$825.00</u>
Invoice Total	<u><u>\$825.00</u></u>
Beginning Balance	\$0.00
Invoices	825.00
Payments	0.00
Adjustments	0.00
Finance Charges	0.00
Net Due	<u><u>\$825.00</u></u>

<u>Current</u>	<u>31 - 60 Days</u>	<u>61 - 90 Days</u>	<u>91 - 120 Days</u>	<u>Over 120 Days</u>	<u>Total</u>
825.00	0.00	0.00	0.00	0.00	\$825.00

Please return bottom portion with payment.

Elmer H Brunsting Decedents Trust DTD

Client Number: 9706

Invoice Date: 03/28/2014

Invoice Number: 55608

Amount Due: \$825.00

Amount Enclosed: \$ _____

BALANCE IS DUE IN FULL ON OR BY THE 20TH OF THE MONTH. A 1.5% per month finance charge is assessed on past due accounts.

20-20566.972



540 North Main Ave
 Sioux Center, IA 51250
 Phone: (712) 722-3375
 E-mail: cpa@kk-cpa.com
 Web: www.kk-cpa.com

Nelva E Brunsting Survivors Trust
 203 Bloomingdale Cir
 Victoria, TX 77904

Invoice Date: 03/28/2014
Invoice Number: 55685

For professional service rendered as follows:

Preparation of 1041 Estates and Trusts Tax Return	350.00
	<u>\$350.00</u>
Invoice Total	<u><u>\$350.00</u></u>
Beginning Balance	\$0.00
Invoices	350.00
Payments	0.00
Adjustments	0.00
Finance Charges	0.00
Net Due	<u><u>\$350.00</u></u>

<u>Current</u>	<u>31 - 60 Days</u>	<u>61 - 90 Days</u>	<u>91 - 120 Days</u>	<u>Over 120 Days</u>	<u>Total</u>
350.00	0.00	0.00	0.00	0.00	\$350.00

Please return bottom portion with payment.

Nelva E Brunsting Survivors Trust

Client Number: 9963

Invoice Date: 03/28/2014

Invoice Number: 55685

Amount Due: \$350.00

Amount Enclosed: \$ _____

BALANCE IS DUE IN FULL ON OR BY THE 20TH OF THE MONTH. A 1.5% per month finance charge is assessed on past due accounts.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

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CIVIL ACTION NO. 4:12-CV-592

**ORDER GRANTING DEFENDANTS' MOTION FOR APPROVAL
OF DISBURSEMENTS**

Before the Court is defendants' Motion for approval of the payment of two invoices from a tax preparer. After consideration of the Motion, the Court finds it should be granted for the reasons stated in the Motion.

It is, therefore, ORDERED that the Trustees have authority to pay, and shall pay, the following:

- Kroese & Kroese P.C.'s invoice 55608 in the amount of \$850.00;
- Kroese & Kroese P.C.'s invoice 55685 in the amount of \$350.00.

Invoice 55608 will be paid out of Bank of America Checking acct: xxxxxxxx3536 (decedent's trust). Invoice 55685 will be paid out of Bank of America Checking acct: xxxxxxxx3523 (survivor's trust).

SIGNED on this _____ day of April, 2014.

Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. 4:12-CV-592
	§	
ANITA KAY BRUNSTING, <i>et al</i> ,	§	
	§	
Defendants.	§	

ORDER GRANTING DEFENDATS' MOTION FOR APPROVAL OF DISBUREMENTS

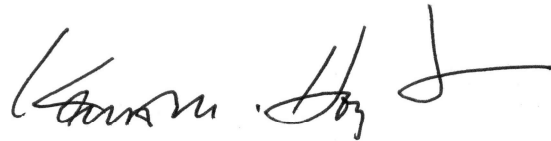
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It is, therefore, ORDERED that the Trustees have authority to pay, and shall pay, the following:

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SIGNED on this 22nd day of April, 2014.



Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS

CANDACE LOUISE CURTIS,
PLAINTIFF

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VS.

CIVIL ACTION No. 4:12-cv-00592
JUDGE KENNETH M. HOYT

ANITA KAY BRUNSTING,
AMY RUTH BRUNSTING,
AND DOES 1-100,
DEFENDANTS

JURY TRIAL DEMANDED

MOTION FOR LEAVE TO FILE FIRST AMENDED PETITION

TO THE HONORABLE COURT:

Comes Now, Plaintiff, Candice Louis Curtis and files this Motion for Leave to File First Amended Petition pursuant to Federal Rule of Civil Procedure 15(a), and in support thereof would respectfully show as follows:

I. INTRODUCTION

1. In light of recently discovered evidence in this case, Plaintiff moves this Court to permit her to file an amended complaint. The proposed amendment asserts an additional legal theory grounded in the same basic facts as the existing complaint, but that will ensure that all parties to be impacted by the ultimate judgment are participants. Moreover, because the claim to be asserted in the amendment appears to be meritorious, it would be in the interests of justice for this claim to be included in the case.

II. BACKGROUND

2. In her Original Petition, Plaintiff brought causes of action against Defendants Anita Brunsting and Amy Brunsting as Co-Trustees of the Brunsting Family Trust, stemming from

actions they took with regard to the Trust and Trust assets that harmed Plaintiff.

3. Through reviewing the hundreds of documents produced, Plaintiff has discovered that the Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment (“Modification Documents”) executed by Nelva Brunsting after her husband’s death improperly attempted to change the terms of the then-irrevocable Trust. Plaintiff now seeks leave to file a Declaratory Judgment Action as to the validity of the Modification Documents.

III. ARGUMENTS AND AUTHORITY

4. Leave to amend the pleadings “shall be freely given when justice so requires.” FED. R. CIV. P. 15(a). The United States Supreme Court has long instructed that “this mandate is to be heeded.” *Foman v. Davis*, 371 U.S. 178, 183 (1962). The Ninth Circuit, moreover, has stated that the policy of permitting amendments “should be applied with ‘extreme liberality.’” *DCD Programs, Ltd. v. Leighton*, 833 F.2d 183, 186 (9th Cir. 1987).
5. Rule 15(a) reinforces one of the fundamental policies underlying the Federal Rules - that pleadings are not an end in themselves, but instead are only a means of helping ensure that each case is decided on its merits. *See* 6 CHARLES ALAN WRIGHT ET AL., FEDERAL PRACTICE AND PROCEDURE § 1473, at 521 (2nd ed. 1990). Thus, “if the underlying facts relied upon by a plaintiff may be a proper subject for relief, he ought to be afforded an opportunity to test his claim on the merits.” *Foman*, 371 U.S. at 182; *see also Frost v. Perry*, 919 F. Supp. 1459, 1468 (D. Nev. 1996) (stating that Rule 15 should be interpreted “very liberally, in order to permit meritorious actions to go forward, despite inadequacies in the pleadings”).
6. Quite appropriately, “courts have not imposed any arbitrary timing restrictions on a party’s request for leave to amend and permission has been granted under Rule 15(a) at various

stages of the litigation: following discovery; after a pretrial conference; . . . when the case is on the trial calendar and has been set for a hearing by the district court; at the beginning, during, and at the close of trial; after a judgment has been entered; and even on remand following an appeal.” 6 CHARLES ALAN WRIGHT ET AL., FEDERAL PRACTICE AND PROCEDURE § 1488, at 652-57 (2d ed. 1990) (citations omitted). Thus, delay - either in seeking to amend or occasioned by an amendment - in itself cannot justify denial of leave to amend. *See, e.g., DCD Programs*, 833 F.2d at 186.

7. Given the liberal policy toward amendments, the burden of demonstrating why leave to amend should not be granted falls squarely on the nonmoving party. *See id.* at 187; *Frost*, 919 F. Supp. at 1469. In deciding whether the nonmovant has carried this burden, courts commonly consider the following four factors: (1) bad faith or dilatory motive on the part of the movant; (2) undue delay in filing the motion; (3) prejudice to the opposing party; and (4) the futility of the proposed amendment. *See, e.g., Roth v. Marquez*, 942 F.2d 617, 628 (9th Cir. 1991).
8. Plaintiff has not unduly delayed submitting the proposed amendment, as the evidence supporting the claim has only recently come to light. These facts warrant an amendment of the Plaintiff’s pleadings.
9. The Defendants would not be unfairly prejudiced by such an amendment, and their counsel has indicated that he is not opposed to our Motion for Leave.
10. Plaintiff therefore seeks leave to file the First Amended Complaint attached hereto as Exhibit “A.” Justice requires that Plaintiff be afforded an opportunity to test the merits of that claim.

IV. PRAYER

WHEREFORE, Plaintiff respectfully requests that the Court (a) grant leave to file the First

Amended Complaint attached hereto as Exhibit "A," and (b) grant such other and further relief that the Court deems just and appropriate.

Respectfully Submitted,

OSTROM/*Sain*

A limited Liability Partnership

BY: /s/ Jason B. Ostrom

JASON B. OSTROM

(Fed. Id. #33680)

(TBA #24027710)

NICOLE K. SAIN THORNTON

(TBA #24043901)

5020 Montrose Blvd., Ste. 310

Houston, Texas 77006

713.863.8891

713.863.1051 (Facsimile)

Attorneys for Plaintiff

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that he has conferred with opposing counsel and they are unopposed to this motion to amend the complaint.

/s/ Jason B. Ostrom

Jason B. Ostrom

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing. Additionally, this document will be served by copy to any attorney-of-record for those parties in state court litigation.

/s/ Jason B. Ostrom

Jason B. Ostrom

Exhibit A

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS

CANDACE LOUISE CURTIS,
PLAINTIFF

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VS.

CIVIL ACTION NO. 4:12-cv-00592
JUDGE KENNETH M. HOYT

ANITA KAY BRUNSTING,
AMY RUTH BRUNSTING,
AND DOES 1-100,
DEFENDANTS

JURY TRIAL DEMANDED

PLAINTIFF’S FIRST AMENDED PETITION

I. PARTIES

1. Plaintiff, Candice Louis Curtis is a citizen of the State of California.
2. Defendant Anita Kay Brunsting is a citizen of the State of Texas, who has answered and appeared herein.
3. Defendant Amy Ruth Brunsting is a citizen of the State of Texas, who has answered and appeared herein.
4. Necessary Party and involuntary plaintiff is Carl Brunsting, individually and as Executor of the Estate of Nelva Brunsting, who is a citizen of the State of Texas and is expected to waive the issuance of citation. He is being added to effectuate complete relief regarding the claims and to avoid the risk of inconsistent judgments being rendered.
5. Necessary Party is Carole Ann Brunsting, who is a citizen of the State of Texas, and who can be served with citation at 5822 Jason St., Houston, Texas 77074. She is being added to effectuate complete relief regarding the claims and to avoid the risk of inconsistent judgments being rendered.

II. JURISDICTION AND VENUE

6. This Court had jurisdiction of the state law claims alleged herein pursuant to 28 USC § 1332(a)(1) – 28 USC § 1332(b), and 28 USC § 1332(C)(2) in that this action is between parties who are citizens of different states and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interests and costs. Jurisdiction may be destroyed if all necessary parties are joined.
7. The Res in this matter includes assets belonging to the Brunsting Family Living Trust (“Trust”) and assets belonging to the Estate of Nelva Brunsting, Deceased, under the care and control of Necessary Party Carl Brunsting.

III. NATURE OF ACTION

8. This action arises out of the misappropriate and mismanagement of assets that belonged to Nelva Brunsting during her life and of assets that belonged to the Brunsting Family Trust, and the execution of invalid documents seeking to amend the Brunsting Family Trust.

IV. CAUSES OF ACTION

9. Breach of Fiduciary Duty. Defendants Anita Brunsting and Amy Brunsting are Co-Trustees of the Trust and owed to Plaintiff, Carl Brunsting, and Carole Brunsting, a fiduciary duty, which includes : (1) a duty of loyalty and utmost good faith; (2) a duty of candor; (3) a duty to refrain from self-dealing; (4) a duty to act with integrity of the strictest kind; (5) a duty of fair, honest dealing; and (6) a duty of full disclosure. Defendants have violated this duty by engaging in self-dealing, by failing to disclose the existence of assets to Plaintiff, by failing to account to Plaintiffs for Trust assets and income, by failing to place Plaintiff’s interests ahead of their own, and by making distributions that deviate from the strict language of the Trust. Plaintiff seeks actual and exemplary damages, together with pre- and post-judgment

interest and costs of court.

10. Fraud. Defendants Anita Brunsting and Amy Brunsting made misrepresentations of material facts with the intent that Plaintiff rely upon them, and Plaintiff did rely upon such misrepresentations to her detriment. Such misrepresentations included statements regarding the Trust, Trust assets, and her right to receive both information and Trust assets. On information and belief, Defendants made fraudulent misrepresentations to Nelva Brunsting upon which she relied to her detriment and to the ultimate detriment of her Estate. Plaintiff seeks actual and exemplary damages, together with pre- and post-judgment interest both on behalf of herself, and on behalf of the Estate of Nelva Brunsting, Deceased.
11. Constructive Fraud. Constructive fraud exists when a breach of a legal or equitable duty occurs that has a tendency to deceive others and violate their confidence. As a result of Defendants' fiduciary relationship with Plaintiff and with Nelva Brunsting, Defendants owed Plaintiff and Nelva Brunsting legal duties. The breaches of the fiduciary duties discussed above and incorporated herein by reference constitute constructive fraud, which caused injury to both Nelva Brunsting's Estate and Plaintiff. Plaintiff seeks actual damages, as well as, punitive damages individually and on behalf of Nelva Brunsting's Estate.
12. Money Had and Received. Defendants have taken money that belongs in equity and good conscience to Plaintiff, and has done so with malice and through fraud. Plaintiff seeks her actual damages, exemplary damages, pre- and post-judgment interest and court costs.
13. Conversion. Defendants have converted assets that belong to Plaintiff as beneficiary of the Brunsting Family Trust, assets that belong to the Brunsting Family Trust, and assets that belonged to Nelva Brunsting and that should be a part of her Estate. Defendants have

wrongfully and with malice exercised dominion and control over these assets, and has damaged Plaintiff, the Brunsting Family Trust, as well as the Estate of Nelva Brusting by so doing. Plaintiff seeks actual damages, exemplary damages, pre- and post-judgment interest and court costs, both individually and on behalf of the Decedent's Estate.

14. Tortious Interference with Inheritance Rights. A cause of action for tortious interference with inheritance rights exists when a defendant by fraud, duress, or other tortious means intentionally prevents another from receiving from a third person an inheritance or gift that he would otherwise have received. Defendants herein breached their fiduciary duties and converted funds that would have passed to Plaintiff through the Brunsting Family Trust, and in doing so tortiously interfered with Plaintiff's inheritance rights. Plaintiff seeks actual damages as well as punitive damages.
15. Declaratory Judgment Action. The Brunsting Family Trust was created by Nelva and Elmer Brunsting, and became irrevocable upon the death of Elmer Brunsting. After his death, Nelva executed a Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment ("Modification Documents"), which attempted to change the terms of the then-irrevocable Trust. Upon information and belief, Nelva did not understand what she was signing when she signed the Modification Documents, and signed them as a result of undue influence and/or duress. Plaintiff seeks a declaration that the Modification Documents are not valid, and further that the *in terrorem* clause contained therein is overly broad, against public policy and not capable of enforcement. Plaintiff further seeks a declaration as to her rights under the Brunsting Family Trust. Plaintiff contends and will show that she has brought her action in good faith.
16. Demand for Accounting. Plaintiff seeks a formal accounting from Defendants in compliance

with the Texas Property Code.

V. JURY DEMAND

17. Plaintiff hereby makes her demand for a jury trial in this matter.

VI. PRAYER

18. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that upon final trial in this matter, she will take judgment for her actual and exemplary damages, actual and exemplary damages will be awarded to the Estate of Nelva Brunsting, that pre- and post-judgment interest and costs of court will be assessed against the Defendants, and that she be granted such other and further relief to which she may show herself justly entitled.

Respectfully Submitted,

OSTROM/*Sain*

A limited Liability Partnership

BY: /s/ Jason B. Ostrom

JASON B. OSTROM

(Fed. Id. #33680)

(TBA #24027710)

NICOLE K. SAIN THORNTON

(TBA #24043901)

5020 Montrose Blvd., Ste. 310

Houston, Texas 77006

713.863.8891

713.863.1051 (Facsimile)

Attorneys for Plaintiff

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/s/ Jason B. Ostrom
Jason B. Ostrom

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS

CANDACE LOUISE CURTIS,
PLAINTIFF

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VS.

CIVIL ACTION NO. 4:12-CV-00592
JUDGE KENNETH M. HOYT

ANITA KAY BRUNSTING,
AMY RUTH BRUNSTING,
AND DOES 1-100,
DEFENDANTS

JURY TRIAL DEMANDED

PLAINTIFF’S FIRST AMENDED PETITION

I. PARTIES

1. Plaintiff, Candice Louis Curtis is a citizen of the State of California.
2. Defendant Anita Kay Brunsting is a citizen of the State of Texas, who has answered and appeared herein.
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17. Plaintiff hereby makes her demand for a jury trial in this matter.

VI. PRAYER

18. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that upon final trial in this matter, she will take judgment for her actual and exemplary damages, actual and exemplary damages will be awarded to the Estate of Nelva Brunsting, that pre- and post-judgment interest and costs of court will be assessed against the Defendants, and that she be granted such other and further relief to which she may show herself justly entitled.

Respectfully Submitted,

OSTROM/*Sain*

A limited Liability Partnership

BY: /s/ Jason B. Ostrom

JASON B. OSTROM

(Fed. Id. #33680)

(TBA #24027710)

NICOLE K. SAIN THORNTON

(TBA #24043901)

5020 Montrose Blvd., Ste. 310

Houston, Texas 77006

713.863.8891

713.863.1051 (Facsimile)

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing. Additionally, this document will be served by copy to any attorney-of-record for those parties in state court litigation.

/s/ Jason B. Ostrom
Jason B. Ostrom

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS

CANDACE LOUISE CURTIS,
PLAINTIFF

VS.

ANITA KAY BRUNSTING,
AMY RUTH BRUNSTING,
AND DOES 1-100,
DEFENDANTS

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CIVIL ACTION No. 4:12-cv-00592
JUDGE KENNETH M. HOYT

JURY TRIAL DEMANDED

MOTION TO REMAND

TO THE HONORABLE COURT:

Comes Now, Plaintiff, Candice Louis Curtis and files this Motion to Remand pursuant to Federal Rule of Civil Procedure 15(a), and in support thereof would respectfully show as follows:

I. INTRODUCTION

1. Plaintiff filed her Original Petition bringing causes of action against Defendants Anita Brunsting and Amy Brunsting as Co-Trustees of the Brunsting Family Trust. Diversity jurisdiction existed between Plaintiff and Defendants.
2. Contemporaneously with this Motion, Plaintiff is filing her Motion for Leave to File First Amended Petition, which will add necessary parties to this case in order to have complete adjudication of all matters and to avoid inconsistent judgments. Necessary parties include Carl Brunsting, Executor of the Estate of Nelva Brunsting, Deceased and Carole Brunsting.
3. Plaintiff believes that the filing of the First Amended Petition and addition of necessary parties will destroy the diversity jurisdiction that is required by 28 U.S.C. § 1332(a).
4. Carl Brunsting, Executor of the Estate of Nelva Brunsting, Deceased, is currently a party to

an action pending in Harris County Probate Court Number Four involving the same parties. Similar issues of fact and law are pending in that court.

II. ARGUMENTS AND AUTHORITIES

5. Here, the interests of justice and comity with State courts counsel in favor of this Court abstaining from exercising further jurisdiction over this Action and remanding it to Harris County Probate Court Number Four.
6. The First Amended Petition seeks a declaration as to certain Trust documents, and complete relief as to this issue cannot be granted without the addition of necessary parties, which will destroy diversity jurisdiction.
7. If this Court retains this case despite the lack of diversity, it is possible that inconsistent judgments may be reached as between this Court and Harris County Probate Court Number Four where the Estate of Nelva Brunsting, Deceased is pending and where similar issues of fact and law are currently pending.
8. Because diversity jurisdiction will be destroyed via the First Amended Petition and because similar issues of fact and law are pending before Harris County Probate Court Number Four, equity mandates that this cause be remanded to Harris County Probate Court Number Four and consolidated with the cause pending under Cause Number 412,249.
9. Counsel for Defendants Anita Brunsting and Amy Brunsting has been consulted and is not opposed to the remand.

IV. PRAYER

WHEREFORE, Plaintiff respectfully requests that the Court (a) remand this cause of action to Harris County Probate Court Number Four to be consolidated into Cause Number 412,249 and (b) grant such other and further relief that the Court deems just and appropriate.

Respectfully Submitted,

OSTROM/*Sain*

A limited Liability Partnership

BY: /s/ Jason B. Ostrom

JASON B. OSTROM

(Fed. Id. #33680)

(TBA #24027710)

NICOLE K. SAIN THORNTON

(TBA #24043901)

5020 Montrose Blvd., Ste. 310

Houston, Texas 77006

713.863.8891

713.863.1051 (Facsimile)

Attorneys for Plaintiff

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that he has conferred with opposing counsel and they are unopposed to this motion to remand.

/s/ Jason B. Ostrom

Jason B. Ostrom

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing. Additionally, this document will be served by copy to any attorney-of-record for those parties in state court litigation.

/s/ Jason B. Ostrom

Jason B. Ostrom

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS

CANDACE LOUISE CURTIS,
PLAINTIFF

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VS.

CIVIL ACTION NO. 4:12-cv-00592
JUDGE KENNETH M. HOYT

ANITA KAY BRUNSTING,
AMY RUTH BRUNSTING,
AND DOES 1-100,
DEFENDANTS

JURY TRIAL DEMANDED

ORDER GRANTING PLAINTIFF’S MOTION TO REMAND

The matter before the Court is the Plaintiff’s Motion to Remand. Plaintiff seeks remand of the case to state court on substantive and procedural grounds including a lack of complete diversity between the parties and the existence of similar questions of law and fact currently pending before Harris County Probate Court Number Four under Cause Number 412,249. The Court finds that the remand should be granted.

The Court finds that Plaintiff originally filed her Petition against Defendants Anita Brunsting and Amy Brunsting as Co-Trustees of the Brunsting Family Trust and that diversity jurisdiction existed between Plaintiff and Defendants. Plaintiff has sought and been granted leave to file her First Amended Petition, in which she has named additional necessary parties including Carl Brunsting, individually and as Executor of the Estate of Nelva Brunsting and Carole Ann Brunsting, which has destroyed diversity jurisdiction. Plaintiff’s First Amended Petition also alleges questions of law and fact similar to those currently pending in Harris County Probate Court Number Four under Cause Number 412,249, and that the possibility of inconsistent judgments exists if these questions of law and fact are not decided simultaneously. The Court further finds that no parties are

opposed to this remand and that no parties have filed any objection thereto. It is, therefore,

ORDERED that this case shall be and hereby is remanded to Harris County Probate Court Number Four, to be consolidated with the cause pending under Cause Number 412,429. It is further,

ORDERED that all Orders rendered by this Court shall carry the same force and effect through the remand that they would have had if a remand had not been ordered.

JUDGE PRESIDING

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS

CANDACE LOUISE CURTIS,
PLAINTIFF

VS.

ANITA KAY BRUNSTING,
AMY RUTH BRUNSTING,
AND DOES 1-100,
DEFENDANTS

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CIVIL ACTION No. 4:12-cv-00592
JUDGE KENNETH M. HOYT

JURY TRIAL DEMANDED

ORDER GRANTING MOTION FOR LEAVE TO FILE FIRST AMENDED PETITION

On this day the Court considered the Motion for Leave to File First Amended Petition filed by Plaintiff, Candice Louis Curtis seeking leave to file Plaintiff's First Amended Petition. The Court, having considered the same, is of the opinion and finds that Plaintiff's request to amend should be granted. It is therefore,

ORDERED that the Plaintiff is hereby granted leave to amend her Original Petition by filing her First Amended Petition in its stead.

SIGNED on this ____ day of _____, 2014.

JUDGE PRESIDING

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

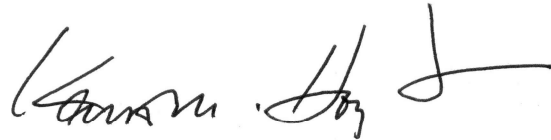
CANDACE LOUISE CURTIS, <i>et al</i> ,	§	
	§	
Plaintiffs,	§	
VS.	§	CIVIL ACTION NO. 4:12-CV-592
	§	
ANITA KAY BRUNSTING, <i>et al</i> ,	§	
	§	
Defendants.	§	

ORDER GRANTING MOTION FOR LEAVE TO FILE FIRST AMENDED PETITION

On this day, the Court considered the plaintiff’s motion for leave to file first amended petition. The Court, having considered the same, is of the opinion and finds that plaintiff’s request to amend should be GRANTED.

It is therefore, ORDERED that the plaintiff is hereby granted leave to amend her original petition by filing her first amended petition in its stead.

SIGNED on this 15th day of May, 2014.



Kenneth M. Hoyt
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS, <i>et al</i> ,	§	
	§	
Plaintiffs,	§	
VS.	§	CIVIL ACTION NO. 4:12-CV-592
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ANITA KAY BRUNSTING, <i>et al</i> ,	§	
	§	
Defendants.	§	

ORDER GRANTING PLAINTIFF’S MOTION TO REMAND

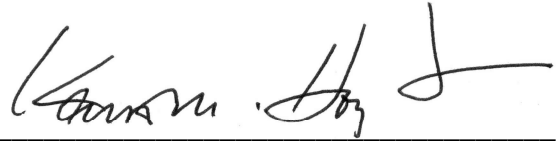
The matter before the Court is the Plaintiff's Motion to Remand. Plaintiff seeks remand of the case to state court on substantive and procedural grounds including a lack of complete diversity between the parties and the existence of similar questions of law and fact currently pending before Harris County Probate Court Number Four under Cause Number 412,249. The Court finds that the remand should be GRANTED.

The Court finds that Plaintiff originally filed her Petition against Defendants Anita Brunsting and Amy Brunsting as Co-Trustees of the Brunsting Family Trust and that diversity jurisdiction existed between Plaintiff and Defendants. Plaintiff has sought and been granted leave to file her First Amended Petition, in which she has named additional necessary parties including **Carl Brunsting**, individually and as Executor of the Estate of Nelva Brunsting and Carole Ann Brunsting, which has destroyed diversity jurisdiction. Plaintiff's First Amended Petition also alleges questions of law and fact similar to those currently pending in Harris County Probate Court Number Four under Cause Number 412,249, and that the possibility of inconsistent judgments exists if these questions of law and fact are not decided simultaneously. The Court further finds that no parties are opposed to this remand and that no parties have filed any objection thereto.

It is, therefore, ORDERED that this case shall be and hereby is remanded to Harris County Probate Court Number Four, to be consolidated with the cause pending under Cause Number 412,429.

It is further, ORDERED that all Orders rendered by this Court shall carry the same force and effect through the remand that they would have had if a remand had not been ordered.

SIGNED on this 15th day of May, 2014.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge

United States District Court
Southern District of Texas
FILED

JUL 25 2016

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

David J. Bradley, Clerk of Court

CANDACE LOUISE CURTIS
Plaintiff,

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v

Civil Action No. 4:12-cv-00592

ANITA KAY BRUNSTING, et al
Defendants

**PLAINTIFF CANDACE LOUISE CURTIS'
MOTION FOR PERMISSION FOR ELECTRONIC CASE FILING.**

As the Plaintiff in the above-captioned matter, I respectfully ask the Court for permission to participate in electronic case filing ("e-filing") in this case. I hereby affirm that:

1. I have reviewed the requirements for e-filing and agree to abide by them.
2. I understand that once I register for e-filing, I will receive notices and documents only by email in this case and not by regular mail.
3. I have regular access to the technical requirements necessary to e-file successfully:
 - a. A computer with internet access;
 - b. An email account on a daily basis to receive notifications from the Court and notices from the e-filing system.
 - c. A scanner to convert documents that are only in paper format into electronic files;
 - d. A printer or copier to create required paper copies such as chambers copies;
 - e. A word-processing program to create documents; and
 - f. A pdf reader and a pdf writer to convert word processing documents into pdf format, the only electronic format in which documents can be e-filed.

Date: 7/23/2016

Respectfully submitted,



Candace Louise Curtis
218 Landana Street
American Canyon CA 94503
925-759-9020
occurtis@sbcglobal.net

CANDACE L. CURTIS
218 Landana Street
American Canyon, CA 94503
925-759-9020
occurtis@sbcglobal.net

United States District Court
Southern District of Texas
FILED

JUL 25 2016

David J. Bradley, Clerk of Court

July 23, 2016
Ms. Cynthia Horace
Case Manager to Judge Kenneth M. Hoyt
United States District Clerk
P.O. Box 61010
Houston, TX 77208-1010

RE: Permission for Electronic Case Filing
Civil Action No. 4:12-cv-00592

Dear Ms. Horace:

I am a Pro se Plaintiff. I have Rule 11 and Rule 60 Motions for filing in the above-referenced case, which has been closed.

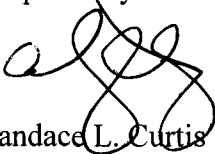
I have also filed a related case into this Court that is currently pending before Judge Bennett (4:16-cv-01969).

It would be impractical to file these motions on paper due to the large number of exhibits.

Electronic filing would be more cost effective, efficient, and would preserve the required pdf formatting making it more navigable for the Court.

Thank you for your attention to this matter.

Respectfully submitted,


Candace L. Curtis

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS
Plaintiff,

v

ANITA KAY BRUNSTING, et al
Defendants

§ Civil Action No. 4:12-cv-00592
§
§ [PROPOSED] ORDER GRANTING
§ MOTION FOR PERMISSION FOR
§ ELECTRONIC CASE FILING
§
§ DATE:
§ TIME:
§ COURTROOM:
§ JUDGE:

The Court has considered the Motion for Permission for Electronic Case Filing. Finding that good cause exists, the Motion is GRANTED.

IT IS SO ORDERED

DATED: _____

United States District Judge

ENTERED

July 29, 2016

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS, *et al*,

Plaintiffs,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

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CIVIL ACTION NO. 4:12-CV-592

ORDER

Pending before the Court is the plaintiff's motion for permission for electronic case filing (Dkt. No. 113). After having reviewed the plaintiff's motion and the applicable law, the Court determines that motion should be denied.

It is so ORDERED.

SIGNED on this 29th day of July, 2016.



Kenneth M. Hoyt
United States District Judge

United States District Court
Southern District of Texas
FILED

AUG 03 2016

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

David J. Bradley, Clerk of Court

CANDACE LOUISE CURTIS
Plaintiff,

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v

Civil Action No. 4:12-cv-00592

ANITA KAY BRUNSTING, et al
Defendants

**PLAINTIFF CANDACE LOUISE CURTIS’
MOTION FOR RELIEF FROM ORDER PURSUANT TO FED. R. CIV. P.
60(b)(3), FED. R. CIV. P. 60(b)(6) AND FED. R. CIV. P. 60(d)(3)**

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MOTION FOR RELIEF

1. Plaintiff Candace Louise Curtis (Curtis) respectfully moves this honorable Court, pursuant to Fed. R. Civ. P. 60(b)(3), Fed. R. Civ. P. 60(b)(6), and Fed. R. Civ. P. 60(d)(3), praying for relief from this Court’s order of July 22, 2014, approving Jason Ostrom’s Motion for leave to file an amended complaint and Order to Remand the above captioned matter to Harris County Probate Court No. 4¹.

¹ Document Nos. 107, 111 and 112 in this Court’s Record

2. This Motion relates to intentional misrepresentations made by Counsel before this Court, in effort to secure a remand to state court, as revealed by conduct in state court after that relief was granted.

I. GROUND FOR PETITION

3. The above captioned matter was remanded from this Court to the Harris County Probate Court pursuant to a stipulation between the parties, accepted and approved by this Honorable Court.² That stipulation involved Plaintiff amending her complaint to pollute diversity in order to facilitate a remand and, in return, Defendants agreed the federal injunction and all orders of this Court would remain in full force and effect as if there had been no remand. (Exhibit 1: E1-E4)

4. Counsel represented to this Court that the purpose for the remand was to afford complete relief to the parties. Conduct by Defendants, the attorneys, and the state Court manifest the exact opposite intentions. Once in the state probate Court, Defendants immediately ignored this Court's rulings and the injunction, as if the injunction had never been issued, and now act as if the matter had never been before this honorable Court at all.

5. Defendants perpetrated a fraud upon this Court and upon Petitioner, in that they had no intentions of honoring the remand agreement, but promised to do so for the purposes of evading this Court's judgments and orders, thereby depriving Plaintiff of a legitimate judicial forum.

²Harris County Probate Court No. 4, case: 412249, 412249-401, 412249-402 6/6/2014 order granting Plaintiff's motion to remand, signed May 15, 2014 PBT-2014-188311

II. JURISDICTION AND STATUTES OF LIMITATIONS

6. 28 U.S.C. §1447(d) does not prevent a district court from vacating a remand order that was obtained through fraud or misrepresentation.³ The circumstances in which an order may be vacated pursuant to Rule 60(b) are as reasonably applied to remand orders as to any other orders procured by fraud.

7. Vacatur in this case would not be adverse to the goals of §1447(d) and would preserve the integrity of federal judicial proceedings.

8. A federal Court has inherent jurisdiction to vindicate its dignity and authority and such power has been held to be organic, requiring neither statute nor rule for its invocation.

9. This Court specifically retained jurisdiction to enforce the remand agreement, as reflected in the remand order.

10. The twelve month statute of limitations applicable to F.R.C.P. Rule 60(b)(3) does not apply in this case, as this Court retained jurisdiction through the end of the controversy between these parties by stipulation, as reflected in the Remand Order.

11. Even without the Court's order for continuing jurisdiction there is no statute of limitations applicable to F.R.C.P. Rule 60(b)(6) and 60(d)(3) relief, as those statute sections follow the general law of voids.

12. Fraud vitiates everything it touches and a judgement or order procured by intentional deception is recognized by these rules as void ab initio.

³Barlow v. Colgate Palmolive Co. 772 F.3d 1001, 1010 (4th Cir. 2014) (en banc).

III. STANDARD OF REVIEW

13. Federal Rule of Civil Procedure 60(b) allows a party to seek relief from a final judgment for "(1) mistake, inadvertence, surprise, or excusable neglect . . . or (6) any other reason justifying relief from the operation of judgment."

14. Motions filed under subsection (1), (2) or (3) must be made "no more than a year after the entry of the judgment or order or the date of the proceeding" from which relief is sought, while those filed under subsection (6) must instead be made "within a reasonable time". (Fed. R. Civ. P. 60(c)(1))

15. The standard of review on orders granting or denying Rule 60(b) relief is abuse of discretion. For findings of fact the standard of review is clear error⁴ and for conclusions of law the standard for review is de novo.

16. Rule 60 motions should only be granted where (i) extraordinary circumstances exist and (ii) there is a showing that justice demands it.

17. Plaintiff is not a disgruntled litigant against whom adverse judgements have been entered. Plaintiff is a litigant whose motions cannot be answered by the Defendants or ruled against by the Court without reversal on appeal. Plaintiff is a litigant against whom the probate Court and the attorney officers of that Court have conspired against in effort to cheat justice and that is a matter of record.

18. A Motion under Rule 60(b)(6) brought within 120 days of obtaining proof of a fraud upon the federal Court is timely and the facts supporting this motion epitomize the very concept of extraordinary circumstances. Justice clearly demands vacatur as there is no other

⁴ Federal Rule of Civil Procedure 52(a)

remedy available to Plaintiff within the context of this lawsuit and equity will not suffer a right to go without remedy.

19. Plaintiff seeks an honest judicial forum in which to pursue her claim of right, nothing more and nothing less.

IV. NATURE AND STAGE OF THE PROCEEDINGS

20. Plaintiff Curtis filed a Pro se Petition in the United States District Court for the Southern District of Texas, Houston Division, on February 27, 2012, claiming breach of fiduciary, seeking disclosures and a full, true, complete accounting.

21. On March 6, 2012 Vacek & Freed staff attorney Bernard Mathews, appearing under the letterhead "Green and Mathews", filed a motion for an emergency order accompanied by a false affidavit signed and verified by Defendant Amy Brunsting. (Exhibit 18: E1249-E1251)

22. In reliance upon the material misrepresentations contained therein, on March 8, 2012, this Honorable Court dismissed Plaintiff Curtis' Pro se Petition sua sponte under the probate exception to federal diversity jurisdiction. Plaintiff Curtis filed a timely notice of appeal.

23. On April 2, 2012 Vacek & Freed filed the Will of Elmer Brunsting [#412248] and a purported Will for Nelva Brunsting [#412249] with the Harris County Clerk at the insistence of Carl Brunsting's attorney Bobbie Bayless.

24. On March 9, 2012 Carl Brunsting, individually and on behalf of the estate of Nelva Brunsting, filed a petition to take depositions before suit in the Harris County District Court.

25. On January 9, 2013 the Fifth Circuit Court of Appeals in a unanimous decision reversed and remanded to this Court.⁵ Plaintiff Curtis immediately filed for a protective order.

⁵ Candace Curtis v Anita Brunsting et al., 710 F.3d 406

26. On January 29, 2013 Carl Brunsting filed suit against trust attorney Candace Kunz-Freed and Vacek & Freed P.L.L.C. in the Harris County District Court, as Executor of the estate of Nelva Brunsting.

27. On April 9, 2013 this Honorable Court issued a protective order enjoining Defendants Amy and Anita Brunsting from spending trust funds or liquidating trust assets without the Court's approval. (Exhibit 2: E5-E9)

28. Also on April 9, 2013 Carl Brunsting filed suit against Amy, Anita and Carole Brunsting in Harris County Probate Court No. 4, individually (412249-401) and as executor of the estate of Nelva Brunsting (412249).

29. Carl Brunsting's attorney, Bobbie Bayless, filed estate claims in the Harris County District Court against Candace Freed and Vacek & Freed P.L.L.C. alleging conspiracies involving Anita, Carole and Amy Brunsting, and then filed suit against Anita, Carole and Amy Brunsting in the Harris County Probate Court alleging a conspiracy involving Candace Freed. Not only did Bayless file claims against co-conspirators in separate Courts, she named federal Plaintiff Curtis a nominal defendant in her probate Court complaint.

30. Hearing on Plaintiff Curtis' Application for Order to Show Cause in the federal Court was held on or about October 2, 2013, however, due to a medical emergency Plaintiff Curtis' assistant was hospitalized in a coma and Plaintiff was unable to obtain the briefing materials before the hearing. Plaintiff was attempting to compel Defendants to bring forth the archetype of an instrument referred to as the "Qualified Beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement", allegedly signed by Nelva Brunsting on 8/25/2010 (Hereinafter the 8/25/2010 QBD). (Exhibit 4: E11-E19)

31. This instrument is the subject of Defendants' pending no-evidence Motion for Partial Summary Judgment, which Defendants removed from calendar after Plaintiff Curtis filed answer with Motion and demand to produce evidence. Defendants continue to use the instrument to threaten the Plaintiffs while perpetually refusing to produce it and qualify the alleged instrument as evidence. The 8/25/2010 QBD instrument is of dubious origin and doubtful validity, but plays very prominently in Defendants' disingenuous posturing as hereinafter more fully appears.

32. At the hearing October 2, 2013 this Court expressed concern over Plaintiff's lack of preparation and directed Pro se Plaintiff Curtis to retain counsel so that the discovery process could proceed. Plaintiff Curtis had difficulty finding counsel within the Court's time frame and had the misfortune of retaining Jason Ostrom.

33. Upon appearing in the matter Mr. Ostrom conceived of an arrangement by which Defendants agreed to modification of Plaintiff's Petition to include her brother Carl Henry Brunsting, thus polluting diversity and facilitating a remand to the Harris County Probate Court.

34. In exchange, Defendants agreed to abide by the federal injunction and all orders of the federal Court and on that basis the Court approved the amended complaint and entered an order for remand to the Harris County Probate Court. (Exhibit 3: E10)

V. THE PROCEEDINGS ARE IN STASIS BY DESIGN

35. Curtis v Brunsting is a lawsuit related only to the Brunsting Trusts.

36. There is no docket control order and no trial date in place in the trust litigation or in any related matter pending in the state courts. (Exhibit 19: E1252-E1253)

37. The office of Executor for the estate is vacant and the probate of the estate is the only claim the probate Court has to jurisdiction over the Brunsting trust litigation.

38. Defendant co-conspirators, Attorneys Vacek & Freed, are sequestered in the District Court, where there is no plaintiff, and the probate Court has refused to join the suits.

39. The Defendants' attorneys and Plaintiff Brunsting's attorney have scheduled summary judgment hearings and un-scheduled those hearings, but Curtis cannot get a hearing set on dispositive motions in that Court.

40. The probate Court has clearly colluded with the lawyers to validate the 8/25/2010 QBD without an evidentiary hearing, to create delay, to avoid evidentiary hearings, to exacerbate Plaintiff's costs and to apply Hobbs Act pressure. There is a clear "stream of benefits" at play here.

41. There is no current or proper accounting and no balance sheet has ever been produced.

42. Other than an Order modifying the federal injunction, in the two years this case has been in Harris County Probate Court No. 4 there have been no evidentiary hearings and no orders or judgements have been entered on the record.

43. Rather than set dispositive motions for hearing on Plaintiff Curtis' request, Plaintiff was ordered to a second mediation, with Defendants who have established an intractable record of having no intentions of honoring any legal or moral obligations.

44. Neither the lawyers nor the probate Court will make a distinction between the trust and the estate.

45. Resolution of the litigation and distributions from the trust are being held hostage to the payment of attorneys' fees in direct defiance of this Court's express orders and the purposes for the trust.

46. Defendants absolutely refuse to deposit income into an appropriate account for the beneficiary as ordered by this Court's injunction and continue to flaunt the law in their effort to game the judicial process as hereinafter more fully appears.

VI. IN THE HARRIS COUNTY PROBATE COURT

47. Upon remand to the Harris County Probate Court, Defendants' Counsel filed a motion to modify the injunction to allow Defendants to pay the quarterly and annual taxes without the expense of petitioning the Court each time and a limited modification was granted relating only to payment of taxes and associated professional fees.

48. Jason Ostrom agreed to provide Plaintiff Curtis with a review of documents before they were filed, but did not communicate before, or even copy her after pleadings were filed. Plaintiff was forced to data mine to try to discover what was happening in the probate Court and received much of her information via email from Carl Brunsting.

49. The five Brunsting siblings then attended a mediation that ended with no prospect for resolution. Immediately thereafter, Defendants' attorneys with Mills Shirley filed a petition to be relieved as counsel of record, citing to non-specific conflicts of interest.

50. Then, without conferring and having never submitted a single invoice to Plaintiff Curtis, Jason Ostrom filed application for a distribution of \$25,000 from the trust to pay his attorney fees and Carole Brunsting's attorney, Darlene Payne Smith, objected.

51. Ostrom then filed a second motion for a distribution of \$45,000, after discussion with Curtis, and both Anita and Carole objected.

52. Anita's new counsel, Brad Featherston, argued that the trust was not liable to pay the attorney creditors of the beneficiary. (Exhibit 20: E1254-E1409) Anita attached a "version" of the alleged 8/25/2010 QBD and a copy of the 2005 Restatement.

53. Carole's objection contained as an exhibit, a "true and correct copy" of the 8/25/2010 QBD. Three distinctly different true and correct copies of the one alleged 8/25/2010 QBD are now in the record bearing different signature page 37's, as the attached exhibit shows. (Exhibit 4: E11-E19)

54. Mr. Ostrom was repeatedly advised that complete consolidation with Carl Brunsting was not authorized or proper because of a conflict of interest with Carl Brunsting's Counsel, Bobbie Bayless.

55. Curtis was also emphatic that her mother did not lack capacity but discovered in her data mining that the cases had been consolidated upon a verbal motion made at a previous hearing and, without notice to or consent from Plaintiff Curtis, against direct and adamant insistence from Plaintiff Curtis that her mother was not incompetent, Jason Ostrom filed an amended complaint in the probate Court raising question as to the competency of a very lucid Nelva Brunsting.

56. Plaintiff Curtis then discovered, after the fact, that Mr. Ostrom, in total and absolute disregard for his instructions, had moved in secret to re-plead, consolidate and had again compromised Plaintiff's claims.

57. Not only did Ostrom attempt to dissolve the distinction between the trust and the estate by using the estate heading in his "amended complaint", the changes made by Ostrom are the only basis for Defendants' attorneys and the probate Court to threaten Plaintiff Curtis with disinheritance, using violation of the no contest provisions in the alleged 8/25/2010 QBD (the forged extortion instrument⁶).

⁶ In violation of 18 U.S.C. §1951(b) and 18 U.S.C. §2 and Texas Penal Codes §§31.02 & 31.03

58. Plaintiff Curtis immediately discharged Mr. Ostrom and resumed personal control of the litigation, but more than substantial damage had already been done by moving the matter to a corrupt Harris County Probate Court, as hereinafter more fully appears.

VII. VACANCY IN THE OFFICE OF ADMINISTRATOR

59. At a brutal deposition before trial in the District Court, Carl Brunsting was unable to answer questions, clearly having failed to fully recover from the encephalitis illness and coma that created the Defendants' opportunity for all of the untoward conduct that spawned the causes for this litigation.

60. Carl thereafter resigned as executor on February 2, 2015, leaving the office vacant. The office remains vacant.

61. Defendants in the District Court, Vacek & Freed, immediately filed a motion for summary judgment citing Carl's disability as the equivalent of no evidence.

VIII. THE PENDING DISPOSITIVE MOTIONS

62. On June 26, 2015 Defendants' new attorneys in Probate Court No. 4 filed a No-Evidence Motion for Partial Summary Judgment claiming that there is no evidence that the 8/25/2010 QBD is invalid. (Exhibit 5: E20-E28)

63. On or about July 1, 2015 Defendants disseminated a CD containing illegally obtained wiretap recordings⁷ which were received by Plaintiff Curtis from Anita's counsel, Brad Featherston, via certified mail with signature required.

64. July 7, 2015 Carl Brunsting filed a Motion for Protective Order regarding the illegally obtained wiretap recordings. (Exhibit 8: E343-E393)

⁷ It should be noted that this conduct violates Texas Penal Code §16.02 and 18 U.S.C. §§1341, 2511 and constitutes predicate acts.

65. On July 9, 2015 Carl Brunsting filed a motion for partial summary judgment focusing on improper financial transactions, but did not respond to Defendants' no-evidence motion. (Exhibit 6: E29-E288)

66. On July 13, 2015 Attorneys for Plaintiff Carl Brunsting and the Defendants filed notices setting hearing on their dispositive motions for August 3, 2015. (Exhibit 10: E404-E405)

67. Also on July 13, 2015 Plaintiff Curtis filed an answer to Defendants' no-evidence motion, with a motion and demand to produce evidence, demanding Defendants produce the archetype of the alleged 8/25/2010 QBD and qualify it as evidence. Defendants cannot produce the forged 8/25/2010 QBD instrument and qualify it as evidence and have steadfastly refused to do so for more than four years. (Exhibits 4: E11-E19 and 11: E406-E452)

IX. THE FIRST COLLUSION

68. On July 22, 2015, while Plaintiff Curtis was in flight home to California, Carl Brunsting's counsel, Bobbie Bayless, arranged with Defendants' counsel to remove the summary judgment and demand to produce evidence motions from the August 3, 2015 calendar to hear an emergency motion for protective orders regarding the wiretap recordings.

69. The August 3, 2015 hearing thus became a hearing on the motion for a protective order to prevent further dissemination of the illegal wiretap recordings. (Exhibit 12: E453-E494)

70. On January 14, 2016 Temporary Administrator Gregory Lester filed a fabricated report to the court, and rather than confine himself to evaluating the merits of the estate's claims he took it upon himself to trespass on the individual litigation brought by Carl and Candace as beneficiaries of the Brunsting trusts. (Exhibit 9: E394-E403)

71. The “Report” attempts to legitimize all of Defendants’ misapplications of fiduciary, attempts to legitimize Defendants’ baseless claims, and relies heavily on the forged 8/25/2010 QBD, specifically referring to the “no contest clause” concluding that, if the Court ruled on the no contest clause Carl and Candace would “take nothing” and suggesting mediation to resolve the pending lawsuits.

72. In essence, the Gregory Lester report concludes that the estate’s claims have no merit. If true, the probate Court would have no claim to jurisdiction over the inter vivos trust litigation. In point of fact the report of Temporary Administrator Gregory Lester is fraudulent and cannot be supported under the law of the trust, the record of the various lawsuits, the common law, or the trust code.

73. On January 25, 2016 Plaintiff Curtis filed a motion for summary judgment (Exhibit 14: E497-E1187) and emailed a request for setting to Judge Comstock asking to have all the dispositive motions set for hearing. (Exhibit 15: E1188)

74. Curtis’ Motion also contains petitions for declaratory judgement regarding illicit instruments drafted by Candace Freed and used by Anita Brunsting to commit fraud.

75. As a necessary consideration to hearing of the declaratory judgment motions, Plaintiff Curtis also filed a separate motion to transfer the District Court case to probate Court No. 4, so that Defendant Candace Freed could defend her works and all of the accused co-conspirators would be in the same Court.

76. The Court set a hearing for March 9, 2016 to hear the transfer motion and for a status conference.

X. SCHEME AND ARTIFICE TO DEFRAUD

77. Remand to state Court May 2014.

78. September 2014 Mills Shirley withdrew as counsel for Amy and Anita Brunsting.

79. February 2, 2015 Carl Brunsting resigned as executor of the estate, leaving the office vacant.

80. Plaintiff Curtis terminated the services of Jason Ostrom March 24, 2015.

81. On July 21, 2015 a hearing was held regarding the vacancy of the office of executor. Defendant Amy Brunsting and Plaintiff Candace Curtis are the next listed successor executors, but to avoid argument the parties agreed to the appointment of one Greg Lester, previously unknown to Plaintiff and recommended by the court, as an “independent” temporary administrator for the limited purpose of evaluating the estate claims.

82. On July 22, 2015, while Curtis was inflight home to California, the hearings on the dispositive motions and Curtis’ Demand to Produce Evidence (Tex. Ev. Cd. §§1002, 1003) of the 8/25/2010 QBD were removed from calendar without notice to, or consent from, Plaintiff Curtis.

83. The August 3, 2015 hearing thus became a hearing on Carl Brunsting’s **emergency** motion for a protective order regarding illegal wiretap recordings that had been disseminated in July 2015. (Exhibit 12: E453-E494)

84. On September 1, 2015 Temporary Administrator Greg Lester filed an application to retain counsel to assist him with his duties to the estate.

85. Hearing was set on Gregory Lester’s Motion for September 10, 2015 and no transcript of that hearing has been made available. (Exhibit 13: E495-E496)

86. A March 9, 2016 status conference was scheduled on Curtis request to set the dispositive motions for hearing and on Curtis’ application to snatch the district Court case.