

NO. 412,249-401

CANDACE LOUISE CURTIS

Plaintiff,

V.

ANITA KAY BRUNSTING, ET AL

Defendants.

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IN PROBATE COURT

NUMBER FOUR (4) OF

HARRIS COUNTY, TEXAS

**CANDACE LOUISE CURTIS' RESPONSE TO
AMY RUTH BRUNSTING'S WRITTEN INTERROGATORIES AND
REQUEST FOR PRODUCTION**

TO: Co-Defendant, Amy Ruth Brunsting, by and through her attorney of record, Neal E. Spielman – Griffin & Matthews – 1155 Dairy Ashford, Suite 300, Houston, Texas 77079.

Plaintiff, Candace Louise Curtis, serves these responses to Amy Ruth Brunsting's Written Interrogatories and Request for Production in accordance with the Texas Rules of Civil Procedure.

Respectfully submitted,

BY: 
CANDACE LOUISE CURTIS
Plaintiff pro se
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218 Landana Street
American Canyon, California 94503
925.759.9020 – Phone

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been sent on this 13th day of April 2015, to the following via email and U.S. Mail:

Attorneys for Amy Ruth Brunsting:

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PLAINTIFF CURTIS' CLAIMS ARE A MATTER OF RECORD, AS ARE ALL OF THE SUPPORTING INSTRUMENTS.

Notice: The Second Amended Petition does not necessarily reflect the views of Plaintiff Curtis and are not valid as to Plaintiff Curtis where they contradict Plaintiff's original petition. Plaintiff will be filing a motion to correct former counsel's misrepresentations and misstatements in the record.

Interrogatory No. 1

Answer: Rik Munson

Interrogatory No. 2

Answer:

(a) Yes and no. One who aids and abets breach of fiduciary becomes a joint tortfeasor. Amy's official capacity as a non-trustee falls prey to the behind-the-scenes collaboration identifying her as a de facto co-trustee and a joint tortfeasor. Amy is shown throughout the email and other exhibits to have been an active participant. Although Anita appears to be the one who performed all of the acts, Amy none-the-less is joined with Anita Brunsting's acts as a matter of law. Unless Amy believes she has ground to interplead Anita, thus differentiating herself from the other participants, she is indistinguishable from Anita and Carole in these proceedings.

Answer:

(b) The Report of the Special Master appointed by the Federal Court is responsive to this request. Other available information that Defendants have provided is covered in the April 2012 take our word for it spreadsheets compiled by Defendants and in Defendants' possession. A review of Plaintiff's response to Defendants' objection to the Report of the Special Master is a matter of public record in the federal court suit, and was served on Amy and Anita's counsel of record, and is responsive to this request. All of the dates of improper conveyances have not been disclosed by Defendants nor have accounts been properly itemized in a statutorily satisfactory accounting and are, therefore, presently limited to the information provided to the Special Master, the Master's Report, Defendants' response to that report and Plaintiff's reply to those responses.

Answer:

(c) The Report of the Special Master appointed by the Federal Court is responsive to this request. Other available information that Defendants have provided is covered in the April 2012 take our word for it spreadsheets compiled by Defendants and in Defendants' possession. A review of Plaintiff's response to Defendants' objection to the Report of the Special Master is a matter of public record in the federal court suit, and was served on Amy and Anita's counsel of record, and is responsive to this request. All of the dates of improper conveyances have not been disclosed by Defendants nor have accounts been properly itemized in a statutorily satisfactory accounting and are, therefore, presently limited to the information provided to the Special Master, the Master's Report, Defendants' response to that report and Plaintiff's reply to those responses.

Answer:

(d) There is no parole evidence that Nelva Brunsting intended to change the trusts, had any knowledge of these papers' creation, or of any intention to sign such papers. The only basis for such conclusions are entirely ground upon the Defendants' claims, the questionable documents submitted by Defendants themselves, and the Notarial Seal of trust and estate attorney/notary Candace Kuntz Freed. Exhibits filed in the federal court on February 27, 2012, attached to an Affidavit supporting Curtis' complaint and identifying each exhibit in Candace Louise Curtis v Anita Brunsting et al, are responsive to this request. That Complaint, Affidavit and Exhibits were made a part of this Court's record on February 9, 2015.

The Report of the Special Master appointed by the Federal Court is also responsive to this request. Other available information that Defendants have provided is covered in the April 2012, take our word for it, spreadsheets compiled by Defendants and in Defendants' possession. A review of Plaintiff's response to Defendants' objection to the Report of the Special Master is a matter of public record in the federal court suit, and was served on Amy and Anita's counsel of record, and is responsive to this request. All of the dates of improper conveyances have not been disclosed by Defendants nor have accounts been properly itemized in a statutorily satisfactory accounting and are, therefore, presently limited to the information provided to the Special Master, the Master's Report, Defendants' response to that report and Plaintiff's reply to those responses.

Interrogatory No. 3

Answer:

Plaintiff Curtis is not the one that attempted to have Nelva declared incompetent. Nelva was never incompetent and was, in fact, an intelligent, educated, socially conscious individual, who was deceived and controlled by the Defendants, and who was not allowed to exercise her own will. The only thing Nelva had issues with was an occasional memory lapse. Email Exhibits filed in the federal court on February 27, 2012, with Plaintiff Curtis' Complaint and Affidavit, were made a part of this Court's record on February 9, 2015 and are responsive to this request. (see October, November 2010)

Interrogatory No. 4

ASKED AND ANSWERED SUPRA

Answer:

(a) Yes and no. One who aids and abets breach of fiduciary becomes a joint tortfeasor. Amy's official capacity as a non-trustee falls prey to the behind-the-scenes collaboration identifying her as a de facto co-trustee and a joint tortfeasor. Amy is shown throughout the email and other exhibits to have been an active participant. Although Anita appears to be the one who performed all of the acts, Amy none-the-less is joined with Anita Brunsting's acts as a matter of law. Unless Amy believes she has ground to interplead Anita, thus differentiating herself from the other participants, she is indistinguishable from Anita and Carole in these proceedings.

Answer:

(b) The Report of the Special Master appointed by the Federal Court is responsive to this request. Other available information that Defendants have provided is covered in the April 2012 take our word for it spreadsheets compiled by Defendants and in Defendants' possession. A review of Plaintiff's response to Defendants' objection to the Report of the Special Master is a matter of public record in the federal court suit and was served on Amy and Anita's counsel of record and is responsive to this request. All of the dates of improper conveyances have not been disclosed by Defendants nor have accounts been properly itemized in a statutorily satisfactory accounting and are, therefore, presently limited to the information provided to the Special Master, the Master's Report, Defendants' response to that report and Plaintiff's reply to those responses.

Answer:

(c) A full true and complete accounting has not been received from the Defendants. All throughout proceedings in the Federal Court, and now in the Probate Court, Defendants have refused to mention or account for known assets.

- i. In the Complaint filed by Curtis February 27, 2012 in the USDC and in each of the subsequent pleadings, Curtis has alleged Defendants failure to account for known assets. Such questions are difficult to answer without a truthful disclosure from the Defendants.
- ii. At the hearing on the Masters report the Master testified that he did not receive an accounting for EE bonds shown in the Bates stamped disclosures to exist. The letters from the US treasury in response to inquiries regarding those bonds shows they have not been cashed and identifying the procedure for causing those bonds to be reissued or replaced. As it regards damages, breach of fiduciary is an injury in and of itself, and the fact that Anita and Amy seek to evade accountability is the greatest damage to society and public policy as a whole.
- iii. However, the refusal to meet that requisite, the certifying of copies of original trust instruments and all amendments, would lead to criminal prosecution for forgery and securities fraud, as Defendants were made aware by Munson's Affidavit and Jurat attached to Plaintiffs' amended complaint in the Federal Court in April 2013.
- iv. Curtis was made aware of the EE bonds when she saw them in Carole's hands after the funeral and noticed they did not appear on any supposed accountings along with other known assets Defendants have a duty to account for.
- v. Plaintiff will be able to answer all of these questions with particularity when defendants provide a full, true and complete statutory accounting and certify all of the original trust instruments before the court, with certified copies to the US Treasury with application for the reissue of those bonds.

Answer:

(d) Asked and answered. Amy has failed to distinguish herself from Anita and is a joint tortfeasor. When Defendants certify a full true and complete statutory accounting, these questions will become more manageable.

Answer:

(e) Asked and answered. In the Pro se Complaint filed by Curtis February 27, 2012 in the United State District Court for the Southern District of Texas CIVIL ACTION NO. 4:12-cv-00592 made a part of this court's record February 9, 2015, and in the body of the federal record not certified before this court, counsel will find the affidavits and exhibits responsive to this inquiry.

Answer:

(f) Equity presumes self-benefitting actions of a trustee to be improper. Plaintiff does not have the burden of proof regarding challenged transactions. It is the Defendants that bear the burden of showing the challenged transactions were authorized by "the trust", and who bear the burden of identifying the particular provisions they rely upon. Plaintiff cannot be called upon to prove a negative. All of the transactions previously identified in the spreadsheets of April 5, 2012 and in the Report of the Special Master, from which Defendants benefitted, are responsive to this request.

Interrogatory No. 5

Answer:

(a) Yes and no. One who aids and abets breach of fiduciary becomes a joint tortfeasor. Amy's official capacity as a non-trustee falls prey to the behind-the-scenes collaboration identifying her as a de facto co-trustee and a joint tortfeasor. Amy is shown throughout the email and other exhibits to have been an active participant. Although Anita appears to be the one who performed all of the acts, Amy none-the-less is joined with Anita Brunsting's acts as a matter of law. Unless Amy believes she has ground to interplead Anita, thus differentiating herself from the other participants, she is indistinguishable from Anita and Carole in these proceedings.

Answer:

(b) Asked and answered. In the Pro se Complaint filed by Curtis February 27, 2012 in the United State District Court for the Southern District of Texas CIVIL ACTION NO. 4:12-cv-00592, made a part of this Court's record February 9, 2015, and in the body of the Federal Record not certified before this Court, counsel will find the Affidavits and Exhibits responsive to this inquiry. Amy's perjured Affidavit in the Federal Court comes to mind. Attempting to dump the trusts for Carl and Candace on Frost Bank comes to mind. Privilege logs come to mind. False instruments come to mind.

Answer:

(c) These are questions of fact for the finder of fact to determine. The theory before the Court is one of conspiracy in which Defendants, acting both individually and severally, wrested control from Nelva through various schemes of control and undue influence, including the falsification of instruments, which they allege Nelva signed and would like to believe are self-authenticating.

It was part of the conspiracy that Defendant(s) would and did breach fiduciary duties, aid and abet the breach of fiduciary duties, and betray confidences of the highest order. It was further a part of the conspiracy that Defendant(s) would and did violate certain Penal Code statutes by: (1) assisting and encouraging; (2) assisting and participating; and (3) concert of action in multiple acts, chargeable under Texas Penal Code, §32.43 (involving Commercial Bribery) §32.45 (Misapplication of Fiduciary in excess of \$200,000) §7.02(a) and general theft also chargeable under the Texas Penal Code. It was also a part of the conspiracy that Defendant(s) in varying roles would and did promote, conceal, and otherwise protect the purposes of the activity from civil remedy and possible criminal investigations or prosecutions. It was also a part of the conspiracy that Defendant(s) in varying roles would and did obstruct justice and otherwise protect the purposes of the activity from civil remedy and possible criminal investigations or prosecutions.

Plaintiff is still asking for instruments that give the lie to Defendants' claims, but has not received them as hereinafter more fully appears.

The email received by Plaintiff from Anita Brunsting on March 11, 2011, bragging about brow beating Nelva and applying undue pressure, referred to as Nelva "listens to reason". That email is part of the exhibits filed into the federal court on February 27, 2012, supported by Affidavit.

Amy's Affidavit filed into the Federal Court March 6, 2012, is either a violation of Title 18 U.S.C. §§1512(c)(2) and 1512(2), or there are individual asset trusts that have been set up for the benefit of the five heirs "as is the case for Candace". Without an accounting individual asset trusts could not be established. Without an accounting damages cannot be estimated.

All of the information obtained by Plaintiff Curtis, upon which she relies for her legal theories of right to relief, came from Defendants' disclosures in this case.

Interrogatory No. 6

Answer:

(a) Defendants manufactured a story they telephoned to Plaintiff, in tag team style, in order to break down communication between the victims Nelva, Carl, and Candace. They used that blown up horror story as a diversion from their acts of seizing control away from Nelva behind her back. They now posit the emotions and reactions their collective bonfire of lies produced in Plaintiff Curtis, in California, over wrongs they claimed were being committed against her brother Carl, using his wife of more than 36 years as their scapegoat.

Answer:

(b) They were playing rotating slush funds. They took money in secret and when they spent from the slush fund they replenished the illicit funds calling them reimbursements. They took money helter skelter and when drawn out to answer they made up stories. The April 2012 "take our word for it" accounting, the Masters report, the subsequent federal pleadings and exhibits are all responsive to this request. The absence of transaction records and receipts are res ipsa loquitur

per capita. Unless Amy believes she has ground to interplead Anita, thus differentiating herself from the conspiracy, she remains indistinguishable from Anita and Carole in these proceedings.

Interrogatory No. 7

Answer:

(a) Plaintiff responds specifically that the Report of Special Master, appointed by the Federal Court, is responsive to this inquiry as exemplified by Curtis' reply to Defendants' response to the Report, and includes all of the transactions from which Defendants benefitted, to the exclusion of Plaintiffs Curtis and Brunsting, and their mother Nelva, and all transactions not supported by third party transaction records as required, by the Texas property statutes.

Interrogatory No. 8

Answer:

This is apparently a correlative theory presented by Plaintiff Brunsting's counsel, but it is Plaintiff Curtis' belief that their Mother did "no such thing" just as she stated upon being informed of the QBD, and just as she wrote thereafter in a personal note to Plaintiff Curtis saying in regard to Defendants' claim of sole and absolute discretion "that not true" as exhibited in Curtis' original petition. Please see the exhibits filed with the original Federal Court petition February 27, 2012.

Interrogatory No. 9

Answer:

Use of the terms "absolute," "uncontrolled," "sole" and "exclusive" in granting discretion to a trustee, does not completely absolve the fiduciary from acting reasonably. It is an abuse of discretion for a trustee to fail to exercise judgment at all, no matter how broad the standard. Defendants have not followed the directives in their modification documents governing the exercise of their self-proclaimed discretion. That is at least a measurable standard clearly expressed and clearly ignored.

Then there is the 11/22/2011 U/A delegation. A trustee is under a duty not to delegate to others the doing of acts which the fiduciary can reasonably be required personally to perform. Included in this duty is the duty not to abdicate or delegate administration to a co-trustee if there are several trustees; each trustee is under a duty to participate in the administration of the trust and to use reasonable care to prevent a co-trustee from committing a breach of trust or to compel a co-trustee to redress a breach of trust.

All previous answers are incorporated with all other answers as stated.

Request for Production No. 1

Response:

Curtis' original petition and affidavit made it clear that "all of the information in this case is uniquely in the possession of Defendants". All of the documents requested are part of the existing record, and included in the Defendants' disclosures, including, but not limited to:

- a. The record of the United States District Court for the Southern District of Texas, Houston Division in Candace Louise Curtis v Amy and Anita Brunsting CIVIL ACTION NO. 4:12-cv-00592
- b. The Affidavit of Amy Brunsting filed in that action March 6, 2012
- c. Transcript and Defendants Exhibit 1 from the federal injunction hearing held April 9, 2013
- d. Opinion of the Fifth Circuit Court of Appeals in Candace Louise Curtis v Anita Brunsting, et al No. 12-20164 published 710 F.3rd 406 (Jan. 9, 2013)
- e. Bates stamped documents submitted by Defendants April 9, 2013, and submitted by Carl Brunsting as obtained from other sources, all of which should be in the possession of the Defendants
- f. All of the documents and records in Harris County Probate Court No. 4 in 412248 412,249; 412,249-402; 412,249-401