

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

**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. 4<sup>1</sup>.

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<sup>1</sup> 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.<sup>2</sup> 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.

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<sup>2</sup>Harris 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.<sup>3</sup> 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.

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<sup>3</sup>Barlow 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 error<sup>4</sup> 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

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<sup>4</sup> 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.<sup>5</sup> Plaintiff Curtis immediately filed for a protective order.

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<sup>5</sup> 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 instrument<sup>6</sup>).

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<sup>6</sup> 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 recordings<sup>7</sup> 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)

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<sup>7</sup> 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 in flight 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.

87. At the March 9, 2016 status/setting conference Attorney Neal Spielman makes numerous disingenuous statements in opposition to Curtis' request to set the pending motions for summary judgement, but then he says things that are as revealing as they are troubling. (emphasis added for easy reference):

**Transcript March 9, 2016**

88. Page 12 beginning at line 22 (Exhibit 16: E1200)

*MR. SPIELMAN : We all, collectively, the parties and their counsel at the time, we all agreed to Mr . Lester taking the role that he was taking. And Ms. Curtis, herself, I believe, on the record, spoke of having done her due diligence into every person that was suggested by any attorney that was in this room to serve in Mr. Lester's role, and it was Ms. Curtis' opinion that only Mr. Lester can serve in that role*

*We all, as attorneys or as pro se parties, agreed that what the function that was designated to Mr. Lester was important, was necessary, and that we were going to live by and abide by the report that he wrote.*

*The problem that I see right now, and one of the reasons I suspect why Mr. Mendel suggested that we go to mediation is in deference to and with respect for what Mr. Lester said in his report and what he seems to be trying to suggest to the parties as to what the future of this lawsuit might hold.*

*I think that what we're seeing now is an effort to backtrack from the direction that Mr. Lester tried to set us on and some of the conclusions or recommendations that he made as to what some of these claims, particularly the ones that Ms. Curtis is attempting to bring forward in summary judgment, are going to actually look like.*

*I think the effort to backtrack from what Mr. Lester was instructed to do/ordered to do and what he did, in retrospect, you have to wonder what was the point of even having done that if the parties, or a party, is now going to try to back away from the impact of what that was done?*

89. At Page 14 (E1203) beginning at Line 3 Spielman makes a revealing and disturbing statement indicating additional collusions:

*One of the reasons we thought that mediation, like Mr. Lester suggested that mediation might work, is that the right mediator, he talked to talked about the idea of using a former judge -I think we talked about that in the courtroom last time -that the right mediator might help to explain, to educate, to unentrench anybody -whether that be me, whether that be Mr. Mendel, whether that be Ms.*



Bayless, whether that be Ms. Brunsting, Ms. Curtis, whomever. I think Mr. Lester saw the wisdom in mediation. I think we see the wisdom in mediation. But the consternation or the concern at this point, again, is this issue that Ms. Curtis seems to be unwilling to appreciate, adapt, recognize, embrace what Mr. Lester concluded or recommended in his report; and if that's the case, then I wonder if, if spending the money that it takes to go to mediation makes sense.

Frankly, Judge, the most interesting thing that I heard Ms. Curtis say was on the issue of attorneys fees and that that doesn't matter to her; and that is exactly part of the point. I think you were in the courtroom, Judge, the last time when Carole Brunsting made a very impassioned plea or explanation to the Court about how Ms. Curtis' pro se status and her, her need to be a lawyer and her failure to appreciate what it costs, what the costs of this lawsuit are, is never going to lead to this being resolved. I lost my train of thought there for a second. I may have. But the point here, Judge, is there seems to be no accountability on Ms. Curtis' behalf for the amount of money that is being spent in this case. Parties have, in the past, suggested, oh, let's not worry about the attorneys fees because that will all even out at the end of the story when everybody decides to divide by five, the corpus of the trust, and the winning parties or the prevailing parties can everything can be adjusted through the division of that estate. But, Your Honor, if you look at what Mr. Lester recommended/suggested/reported in his report, there's now the very real possibility that there isn't going to be a divide-by-five scenario because of the no-contest clauses that are recognized as being properly drawn by the Vacek & Freed Law Firm. And if that happens, Judge, then the trust is now spending its own money from those people, whether it be three or four, that are still going to get a portion of the estate, a portion of the trust proceeds when this is all said and done.

I'm rambling just a bit only because it's such a circular discussion -is how do we get this case finished given given the backtracking from everybody's willingness to vest Mr. Lester with the authority to proceed/ and now the one person who doesn't like what he said, after she filed motions for summary judgment that are direct contradiction to the conclusions that he reached. The very constant of having to come down here and respond to those to those motions for summary judgment the amount of money that that will waste is insulting, is offensive to the parties.

I'd love to come up with a creative idea to create some accountability/ perhaps, if it comes in the form of a sanction or perhaps it comes in the form of some kind of bond being posted so that if it turns out that one of the parties who is blowing things up as it were and creating this increased attorneys fees no longer has an interest in the estate with which we can even that out by the end of the day. Perhaps if Ms. Curtis is ordered to post a bond against her claims or to protect against the ability --our ability to recover fees from her if, as and when she loses her case perhaps then we can move forward with additional hearings additional motions and so forth.

90. Page 17 (E1205) lines 1-13:

*Keep in mind, Judge, that it's not simply --it's not as simple as getting a date for Ms. Curtis' summary judgment motions. There's been no discovery, in terms of depositions done in this case, not the least of which will be depositions from, perhaps, even from the lawyers in the other district court case who drafted the documents that can explain what all went into those documents, what Nelva Brunsting's state of mind was at the time. There's no way to respond to those summary judgment motions right now without the full weight of the discovery process moving forward and all of the money that that's going to cost.*

91. These claims are in direct opposition to the claims Defendants made in their No-evidence Motion. In Defendants' June 25, 2015 No-Evidence Motion for Partial Summary Judgment at page 1 item I (E20):

*I. Summary of the Argument*

*This litigation started more than thirty-eight (38) months ago. Plaintiffs had sufficient time for discovery in this suit and the three (3) other actions related to the 8/25/10 QBD (defined below). Plaintiffs challenge the 8/25/10 QBD on the following grounds, for which there is no evidence:*

*foot note:*

*1 Those three other proceedings are: (1) No. 4:12-CV-00592; Candace Louise Curtis v. Anita Kay Brunsting; United States District Court for the Southern District of Texas, Houston Division; (2) CA No, 2012-14538; In re Carl Brunsting (202 Petition); 80TH Judicial District Court of Harris County, TX; and (3) CA No. 2013-05455; Carl Henry Brunsting v. Candace Freed & Vacek & Freed; 164TH Judicial District Court of Harris County, TX.*

92. However, the most disturbing thing in Mr. Spielman's diatribe were the references to dialogs at a previous hearing involving Mr. Lester, when there was no previous hearing involving Mr. Lester where these matters were properly before the Court.

*One of the reasons we thought that mediation, like Mr. Lester suggested that mediation might work, is that the right mediator, he talked to talked about the idea of using a former judge -I think we talked about that in the courtroom last time -that the right mediator might help to explain, to educate, to unentrench anybody -*

*... I think you were in the courtroom, Judge, the last time when Carole Brunsting made a very impassioned plea or explanation to the Court about how Ms. Curtis' pro se status and her, her need to be a lawyer and her failure to appreciate what it costs, what the costs of this lawsuit are, is never going to lead to this being resolved*

## **XI. THESE DISCUSSIONS WERE HIGHLY IMPROPER**

93. Plaintiff Curtis is an heir and an interested person but not a party to the estate litigation.

94. Candace Louise Curtis v Anita Brunsting et al., (Curtis v Brunsting) was filed in the federal Court fourteen months prior to the first estate claims and having survived dismissal under the Probate Exception to federal diversity jurisdiction, it is inarguably established that Curtis v Brunsting is not connected to the probate of the estate (Exhibit 17: E1243-E1248) and is not subject to probate administration.

95. The only hearing that involved Greg Lester prior to March 9, 2016 was the September 10, 2015 hearing on Greg Lester's September 1, 2015 application to retain counsel to assist him in his fiduciary duties to the estate.

96. The only matter properly before the court on September 10, 2015 was whether or not Mr. Lester should have the authority to retain Jill Willard Young to assist him in his administration obligations to the estate.

97. Neither individual Plaintiff Candace Curtis nor individual Plaintiff Carl Brunsting was in attendance September 10, 2015, as neither is party to the estate litigation and neither objected to Mr. Lester retaining Jill Young to assist with his fiduciary duty to evaluate the estate's claims. That was the only issue properly before the Court on September 10, 2015 and did not include the matters Mr. Spielman states were discussed and where there was apparently an agreement made to treat the Gregory Lester report as if it were a jury verdict before it was even written.

98. Plaintiff has been unsuccessful in attempts to obtain a transcript of this September 10, 2015 hearing.

99. The inescapable conclusion here is that there were improper discussions outside of the presence of the Plaintiffs who were prejudiced by those discussions, involving matters not properly before the Court, wherein there were agreements made between the Court, Jill Willard Young, Neal Spielman, Bradley Featherston, Stephen Mendel and Gregory Lester to produce a fictitious report. They all apparently agreed to follow the as of yet unwritten report as if it were factual, that the false report would be used to further the extortion plot, that mediation would be forced upon Plaintiffs, that the costs of litigation for Plaintiff Curtis would be exacerbated, that there would be extended delay and, that another crony had been hand selected to act first as mediator and then as arbiter. First to “unentrench” Plaintiff Curtis from her stand upon rights and reliance upon the rule of law in the face of this all too obvious public corruption conspiracy and second, to deprive Plaintiff of substantive due process and access to the Court.

100. Defendants continue to use the forged 8/25/2010 QBD (extortion instrument) to threaten Plaintiffs with disinheritance, going so far as to refer to the September 10, 2015 conspiracy for the proposition that the instrument has been held valid:

**Transcript of March 9, 2016 Page 15 (E1203) lines 16-21:**

*But, Your Honor, if you look at what Mr. Lester recommended/suggested/reported in his report, there's now the very real possibility that there isn't going to be a divide-by - five scenario because of the no - contest clauses that are recognized as being properly drawn by the Vacek & Freed Law Firm.*

**XII. FRAUD UPON PLAINTIFF AND THIS COURT**

101. After Defendants claimed there was no evidence the forged 8/25/2010 QBD was invalid, Defendants removed their no-evidence motion from calendar knowing they cannot answer Plaintiff Curtis’ demand to produce the thing, explain away the anomalies, and qualify it as evidence, and yet they continue to threaten Plaintiffs with the bogus instrument’s “no contest

clause” with the transparent collusion of involuntary Plaintiff Carl Brunsting’s Attorney and the probate Court.

102. The probate plan is thus, according to Mr. Spielman, to subject Plaintiffs to endless delay and expense until the Plaintiff victims agree to pay fee ransoms to the attorneys who are holding the beneficiaries’ property hostage.

103. Defendants have not willingly honored any agreements, not the trust agreement, not the remand agreement, and cannot be expected to honor any mediated settlement agreement.

104. Defendants knew when they agreed to honor the federal injunction and the Orders entered by this Court as a condition of the remand, that they had no intentions of honoring any legal or moral obligations. Defendants refuse to honor the federal injunction and the orders of this Court even after having promised to do so as a condition of the remand stipulation and Defendants’ own pleadings in the probate Court are conclusive evidence of the existence of that fact.

105. Defendants will not, because they cannot, bring forth the archetype of the 8/25/2010 QBD and qualify the thing as evidence. If they could answer Plaintiff Curtis’ Motion and Demand to Produce Evidence they certainly would have done so.

106. Instead, Defendants’ attorneys conspired with the Court to avoid evidentiary hearings knowing they cannot produce the forged 8/25/2010 QBD extortion instrument and qualify it as evidence, and continue to use it to threaten and intimidate Plaintiffs Curtis and Carl Brunsting.

107. Mr. Spielman confessed on March 9, 2016 that the attorneys conspired at the hearing on application to retain Jill Young, with the probate Court Judges, the Court’s crony administrator Gregory Lester, and Jill Young, entering into an illicit agreement to produce a

fictitious “report” and to subsequently treat the fiction as if it were the equivalent of a jury verdict, and this all occurred before the “Report” was even written.

108. Thus, after removing their no-evidence summary judgement motion from calendar knowing their precious 8/25/2010 QBD is a forgery and that they cannot produce the heinous thing and qualify it as evidence, Defendants’ attorneys none-the-less continued to use the no-contest clause ruse in the forged 8/25/2010 “extortion instrument”, to threaten and attempt to intimidate the Plaintiff victims, who they know full well are owed fiduciary obligations by these Defendants.

109. It is important to note that there are known trust assets that remain unaccounted for. For example, none of the quasi-accountings received from the Defendants reflect the accounts receivable for a \$100,000 loan Anita received from the trust in 1999.<sup>8</sup>

110. Moreover, an amendment to the 1996 trust dated April 30, 1999, disclosed by Vacek & Freed in the District Court lawsuit, specifically identifies the \$100,000 loan as an advance on Anita’s inheritance. That trust amendment was never disclosed by Anita Brunsting in the course of Curtis v Brunsting or the estate suits in the probate Court.

111. A covert letter to the Special Master dated July 15, 2015<sup>9</sup> claims Nelva wanted to continue a history of gifting by paying off Amy and Carole’s homes as “she and her husband did the same for Anita in approximately 2005” (Exhibit 21: E1410-E1412) when the public record shows the loan occurred July 1, 1999.

### **XIII. REQUEST FOR JUDICIAL NOTICE**

112. Plaintiff Curtis respectfully asks this Court to take Judicial Notice of her first amended complaint filed Pro se May 1, 2013. That amendment was rejected for filing because

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<sup>8</sup> Victoria County Clerk Official Records Instrument #199908618 dated July 1, 1999

<sup>9</sup> Case 4:12-cv-00592 Document 67-1 Filed in TXSD on 08/27/13

Plaintiff Curtis failed to document her efforts to obtain Defendants' consent for the amended complaint. Plaintiff at that time was asking to amend her complaint to bring the matter under federal question jurisdiction based upon evidence obtained after the initial filing. The Jurisdictional Statement in that pre-Ostrom amendment to Curtis' complaint reads as follows:<sup>10</sup>

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 Act (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.*

113. Attorney Jason Ostrom represented to this Court that the purpose for a remand was to afford complete relief to the parties. When Mr. Ostrom made those representations he was well acquainted with the Harris County Probate Court and its officers, and knew full well there would be no remedy flowing from that Court for anyone but attorneys and court cronies.

114. Ostrom's true motivation for remand was apparently to obstruct justice in pursuit of attorney fees, not to provide any form of relief to the parties.

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<sup>10</sup> Document No. 48 in this Court's Record

115. Every attorney who has been involved in this case has tried to get the Brunsting Trust removed from an honorable federal Court to Harris County's Probate Court. The reasons at this juncture are crystal clear and have nothing to do with the honest administration of justice.

#### **XIV. CONCLUSION**

116. Both Plaintiffs' and Defendants' attorneys' intentional misrepresentations before this honorable Court, that the purpose for a remand was to provide complete relief to the parties, unfairly and unnecessarily polluted diversity to procure the Remand Orders, and in so doing deprived Plaintiff Curtis of a legitimate judicial forum to which she was and is entitled in this case.

117. Everyone involved in this case except Plaintiff Curtis has taken advantage of Carl Brunsting's illness, the Defendants, the Defendants' attorneys, the District Court Defendants and the probate Court.

118. There have been no evidentiary hearings and no rulings have been entered on any substantive issues in the probate Court. The Defendants are paying exorbitant trust income taxes due to the refusal to deposit income into an appropriate account for the beneficiary, as this honorable Court's injunction commands.

119. The attorneys have docketed and un-docketed motions for summary judgment but Plaintiff Curtis cannot buy a hearing, or a scheduling order or a trial date, or an accounting, or respect for the federal injunction, nor respect for any of her rights, and there appears to be no remedy for the parties to be found at the hands of the Harris County Probate Court.

120. If there is such a magical document as this 8/25/2010 QBD, that trumps federal injunctions and the Orders of a federal Judge, renders remand agreements nugatory, removes fiduciary obligations, forecloses beneficial interests, taints the blood of innocent remaindermen,



amends what can only be amended by a court of competent jurisdiction and revokes what can only be revoked by a court of competent jurisdiction, the Defendants and their attorneys should be brought before an honorable Court where they will actually be compelled to produce the supernatural thing and qualify it as evidence.

121. Wherefore Plaintiff Curtis respectfully requests that the Court vacate the order granting filing of the amended complaint<sup>11</sup> for fraud upon Plaintiff Curtis and upon this honorable Court, in the interest of justice pursuant to Rules 60(b)(3), (b)(6) and (d)(3) of the Federal Rules of Civil Procedure, voiding the subsequent Remand Order<sup>12</sup> as a matter of right, and restoring this case to this honorable Court's docket.

122. Wherefore Plaintiff Curtis further prays the Court issue the attached proposed order or issue its own orders upon such terms as the Court deems most beneficial to the purposes of Equity and Justice and most beneficial to the public policy considerations in upholding the dignity and authority of this Honorable Court.

Plaintiff/Petitioner so moves,

Petitioner hereby verifies, under penalty of perjury pursuant to the laws of the United States of America and Federal Rules of Civil Procedure Rule 11, that the above statements based upon personal knowledge are true and correct, and as to those things asserted on information and belief, affiant believes those things to be true as well.


[Signatures on the following page]

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<sup>11</sup> Document No. 111 in this Courts record

<sup>12</sup> Document No. 112 in this Courts record

Respectfully submitted,



---

Candace Louise Curtis  
218 Landana Street  
American Canyon CA 94503  
925-759-9020  
occurtis@sbcglobal.net

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been sent on this 2<sup>ND</sup> day of July 2016, to the following via U.S.P.S. Priority Mail:

Attorneys for Anita Kay Brunsting

Stephen A. Mendel  
The Mendel Law Firm, L.P.  
1155 Dairy Ashford, Suite 104  
Houston, Texas 77079  
steve@mendellawfirm.com

Attorneys for Amy Ruth Brunsting:

Neal E. Spielman  
Griffin & Matthews  
1155 Dairy Ashford, Suite 300  
Houston, Texas 77079  
nspielman@grifmatlaw.com



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CANDACE L. CURTIS

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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§  
§  
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§

Civil Action No. 4:12-cv-00592

ORDER VACATING LEAVE TO FILE FIRST AMENDED PETITION

On this day, the Court considered Plaintiff's Petition for Vacatur of this Court's Order granting leave for Plaintiff to file a First Amended Petition. The Court, having considered the matter fully, is of the opinion and finds that Plaintiff's request to amend should have been denied. It is therefore, ORDERED that the Court's Order of 15th day May, 2014 granting leave for Plaintiff to file a First Amended Petition is hereby vacated.

It is so Ordered

SIGNED on this \_\_\_\_\_, 2016

Kenneth M. Hoyt United States District Judge

## EXHIBITS

EXHIBIT 1 – Motion for Leave to File First Amended Petition.....	E1-E4
EXHIBIT 2 – Memorandum and Order Preliminary Injunction.....	E5-E9
EXHIBIT 3 – Order Granting Motion for Leave to File First Amended Petition.....	E10
EXHIBIT 4 – QBD Signature Page 37 Anomalies.....	E11-E19
EXHIBIT 5 – Defendants’ Joint No-Evidence Motion.....	E20-E28
EXHIBIT 6 – Carl Brunsting’s Motion for Partial Summary Judgment.....	E29-E288
EXHIBIT 7 – April 9, 2013 Transcript.....	E289-E342
EXHIBIT 8 – Carl Brunsting’s Motion for Protective Order.....	E343-E393
EXHIBIT 9 – Report of Temporary Administrator.....	E394-E403
EXHIBIT 10 – Notice of Oral Hearing August 3, 2015.....	E404-E405
EXHIBIT 11 – Curtis’ Response and Motion to Produce Evidence.....	E406-E452
EXHIBIT 12 – August 3, 2015 Transcript.....	E453-E494
EXHIBIT 13 – Notice of Hearing September 10, 2015.....	E495-E496
EXHIBIT 14 – Curtis’ Motion for Partial Summary Judgment.....	E497-E1187
EXHIBIT 15 – Curtis’ Request for Hearing Date.....	E1188
EXHIBIT 16 – March 9, 2016 Transcript.....	E1189-E1242
EXHIBIT 17 – Fifth Circuit Opinion No. 12-20164.....	E1243-E1248
EXHIBIT 18 – Amy Brunsting Affidavit.....	E1249-E1251
EXHIBIT 19 – Agreed Docket Control Order 412,249-401.....	E1252-E1253
EXHIBIT 20 – Anita Brunsting’s Response to Motions for Distributions.....	E1253-E1409
EXHIBIT 21 – Defendants’ July 15, 2013 Letter to the Special Master.....	E1410-E1438

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 (9<sup>th</sup> 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 (2<sup>nd</sup> 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 (9<sup>th</sup> 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



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.<sup>1</sup> 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.

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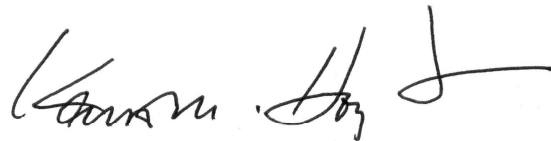
<sup>1</sup> It appears that Nelva Erleen Brunsting was the original Trustee and on January 12, 2005, she resigned and appointed Anita Brunsting as the sole Trustee.

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 19<sup>th</sup> 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  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

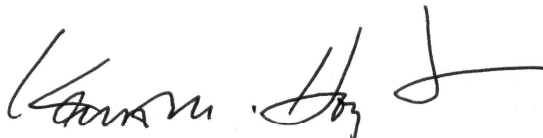
CANDACE LOUISE CURTIS, <i>et al</i> ,	§	
	§	
Plaintiffs,	§	
VS.	§	CIVIL ACTION NO. 4:12-CV-592
	§	
ANITA KAY BRUNSTING, <i>et al</i> ,	§	
	§	
Defendants.	§	

**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 15<sup>th</sup> day of May, 2014.



\_\_\_\_\_  
Kenneth M. Hoyt  
United States District Judge

**Signature preceded by CAN**

**This one only connects to Anita**

**P229**

Attached to Anita's 156 page objection filed December 5, 2014  
**Can with no Bates stamp** (received from Anita on December 21, 2011)

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**Both signatures are Above the line**

**This one connects to Carole, Freed & Amy**

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**P192**

In Carole's 133 page objection filed Feb. 17, 2015

**P7168**                      **V&F000389**                      **Curtis P-76**  
Vacek & freed production

**P12755**

Frost Bank document Production given to them by Amy

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**Both signatures are On the Line**

**This one connects to Freed and Anita**

**P443**

Obtained by Blackburn from Vacek & Freed

**P1015**

Copy of P-40\_p37 USCA5 was received from Anita Brunsting via email October 23, 2010

**P-40\_p37 USCA5 Case 4:12-cv-00592 Document 1-13 Filed in TXSD on 02127/12 Page 7 of 20**

Attached to Curtis original federal complaint. Exhibit was received from Anita Brunsting via email October 23, 2010

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.

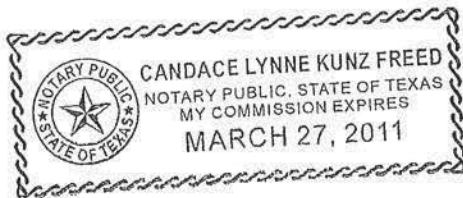
*Nelva E. Brunsting*  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

*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.

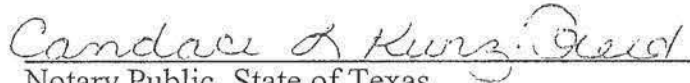
  
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Founder and Beneficiary

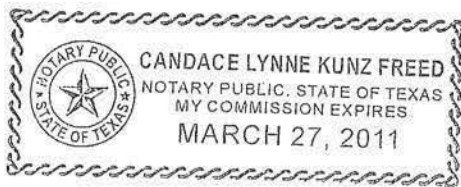
*ACCEPTED* and effective on August 25, 2010.

  
\_\_\_\_\_  
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



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*EXECUTED* and effective on August 25, 2010.

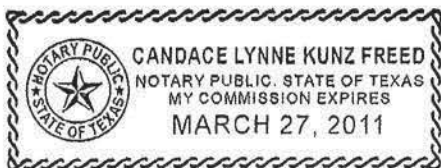
  
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NELVA E. BRUNSTING,  
Founder and Beneficiary

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COUNTY OF HARRIS

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Notary Public, State of Texas



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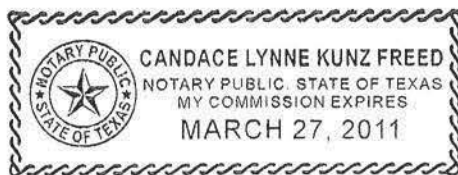
  
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NELVA E. BRUNSTING,  
Founder and Beneficiary

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\_\_\_\_\_  
NELVA E. BRUNSTING,  
Trustee

STATE OF TEXAS  
COUNTY OF HARRIS

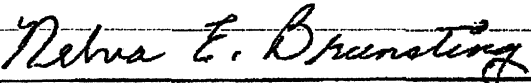
This instrument was acknowledged before me on August 25, 2010, by NELVA E. BRUNSTING, in the capacities stated therein.



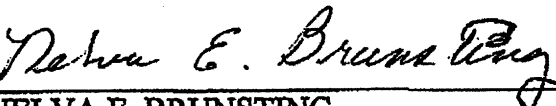
  
\_\_\_\_\_  
Notary Public, State of Texas

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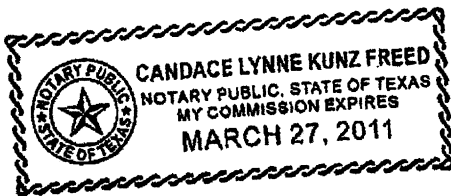
  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

**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

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*EXECUTED* and effective on August 25, 2010.

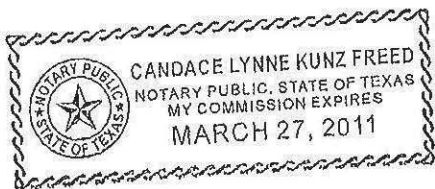
*Nelva E. Brunsting*  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

*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.

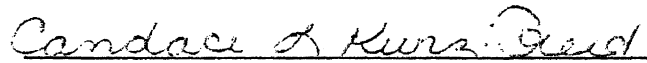
  
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NELVA E. BRUNSTING,  
Founder and Beneficiary

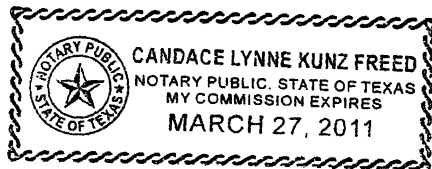
**ACCEPTED** and effective on August 25, 2010.

  
\_\_\_\_\_  
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



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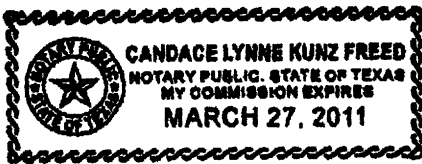
  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

**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

ESTATE OF	§	IN PROBATE COURT
	§	
NELVA E. BRUNSTING,	§	NUMBER FOUR (4) OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

---

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

**Anita & Amy Brunsting’s Joint  
No-Evidence Motion for Partial Summary Judgment**

Defendants, Anita Brunsting and Amy Brunsting (“Defendants”), file this joint no-evidence motion for partial summary judgment and would respectfully show the Court as follows:

**I. Summary of the Argument**

This litigation started more than thirty-eight (38) months ago. Plaintiffs had sufficient time for discovery in this suit and the three (3) other actions<sup>1</sup> related to the 8/25/10 QBD (defined below). Plaintiffs challenge the 8/25/10 QBD on the following grounds, for which there is no evidence:

1. Nelva’s signature on the 8/25/10 QBD was forged.
2. Nelva lacked capacity when she executed the 8/25/10 QBD.
3. Nelva was unduly influenced into executing the 8/25/10 QBD.
4. Nelva was fraudulently induced into executing the 8/25/10 QBD.
5. Nelva executed the 8/25/10 QBD under duress.

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<sup>1</sup> Those three other proceedings are: (1) No. 4:12-CV-00592; *Candace Louise Curtis v. Anita Kay Brunsting*; United States District Court for the Southern District of Texas, Houston Division; (2) CA No, 2012-14538; *In re Carl Brunsting* (202 Petition); 80<sup>TH</sup> Judicial District Court of Harris County, TX; and (3) CA No. 2013-05455; *Carl Henry Brunsting v. Candace Freed & Vacek & Freed*; 164<sup>TH</sup> Judicial District Court of Harris County, TX.



## **II. Background**

This is a family dispute among five (5) siblings of the Brunsting family: Carl, Candace, Carol, Anita, and Amy. The dispute involves a trust created by their parents: Elmer Brunsting (“Elmer”) and Nelva Brunsting (“Nelva”).

Elmer and Nelva created the Brunsting Family Living Trust on or about October 10, 1996. The trust was restated on January 12, 2005 (the "Family Trust"). Elmer and Nelva served as trustees of the Family Trust until 2008, when Elmer lost the ability to handle his financial affairs and Nelva served as trustee alone. In 2008, Nelva appointed Carl and Anita to serve as successor co-trustees.

Shortly after Elmer died in April 2009, in accordance with the Family Trust, successor trusts resulted: 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"). Nelva served as the trustee of both trusts, with Carl and Anita to serve as successor co-trustees.

In May 2010, Candace wrote, “[Nelva] has saved my house for me a few years in a row now by giving me the money to pay the property taxes. This time I told her she should take it out of my inheritance (that's what Daddy always said). She said no, she could help me.” Candace then continued, “[Nelva] always wants to know what I spend all my money on. Why I have no savings. Why I didn't plan better. [Nelva] treats me like such a FAILURE.” Apparently, Nelva thought Candace was a spendthrift and not good at handling her own financial affairs.

In or about July 2010, Carl was hospitalized for an extended period of time due to herpes encephalitis, an acute infection and inflammation of his brain. As a result, Carl’s mental capacity and cognitive abilities were severely compromised. Carl continues to suffer from residual symptoms, which is why his wife Drina was substituted into this case as his attorney-in-fact.

In accordance with the Family Trust, on August 25, 2010, Nelva executed a Qualified

Beneficiary Designation and Exercise of Testamentary Powers of Appointment (the "8/25/10 QBD"). In short, the document is an exercise of Nelva's testamentary powers of appointment as contemplated by the Family Trust. The document was notarized by Nelva's attorney, Ms. Freed.<sup>2</sup> The chief change that prompted plaintiffs' challenge to the 8/25/10 QBD is that the co-trustees for Carl's and Candace's interest under the trust changed from: (1) Anita and Carl; to (2) Anita and Amy. Apparently, the change in co-trustees from Anita and Carl to Anita and Amy offends Carl and Candace.

Carl and Candace ("Plaintiffs") brought several proceedings alleging every conceivable means to challenge the 8/25/10 QBD. Candace filed a case in Federal Court in February 2012. Carl originally filed a Rule 202 Petition in March 2012. In January 2013, Carl filed a lawsuit against Nelva's attorneys that drafted the 8/25/10 QBD. Carl filed this litigation in this Court in April 2013. Thus, Carl and Candace have had more than thirty-eight (38) months in four (4) separate proceedings to gather evidence regarding the 8/25/10 QBD.

### **III. Argument & Authorities**

This motion relates solely to plaintiffs challenges to the 8/25/10 QBD. It is important to put matters into perspective on plaintiffs' claims related to the 8/25/10 QBD. Ordinarily the laundry list of challenges a contestant makes to an instrument is when there is a disproportionate change in the distribution of property. Here, the 8/25/10 QBD does not affect the percentage of assets each child will receive in trust nor the distributions standards. For plaintiffs, the sole impact is the change in co-trustees from: (1) Anita and Carl; to (2) Anita and Amy.

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<sup>2</sup> The attorneys' name is Candace Lynne Kunz Freed. Ms. Freed is used to prevent confusion between Nelva's attorney, Candace Freed, and Nelva's daughter, Candace Curtis, since they share the same first name.

Plaintiffs' challenges to the 8/25/10 QBD center on the contention that Nelva would never have appointed Amy to serve in Carl's place as a co-trustee. However, plaintiffs ignore the fact that Carl suffered from herpes encephalitis in July 2010, which caused Carl's substantially diminished physical and mental capacity.

**A. No Evidence Nelva's Signature on the 8/25/10 QBD was Forged.**

Plaintiffs allege the 8/25/10 QBD was forged.

A document is forged if a person signs the document so that it purports to be the act of another who did not authorize the act.<sup>3</sup> The burden of proof rest on those seeking to set aside the instrument to show forgery.<sup>4</sup>

There is no competent summary judgment evidence to support that someone other than Nelva executed the 8/25/10 QBD. Accordingly, this no-evidence motion for summary judgment must be granted.

**B. No Evidence Nelva Lacked Capacity When Executing 8/25/10 QBD.**

Plaintiffs allege Nelva lacked capacity when executing the 8/25/10 QBD.

The law presumes that a trustor has sufficient mental capacity at the time of execution to understand her legal rights.<sup>5</sup> Therefore, the burden of proof rests on those seeking to set aside the instrument to show lack of mental capacity at the time of execution.<sup>6</sup>

Here, plaintiffs must provide competent summary judgment evidence Nelva lacked sufficient

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<sup>3</sup> TEXAS PATTERN JURY CHARGES: EXPRESS TRUSTS PJC 235.4 (2014); *See In re Estate of Flores*, 76 S.W.3d 624, 630 (Tex. App.—Corpus Christi 2002, no pet.).

<sup>4</sup> *In re Estate of Flores*, 76 S.W.3d 624, 630 (Tex. App.—Corpus Christi 2002, no pet.)

<sup>5</sup> *Walker v. Eason*, 643 S.W.2d 390, 391 (Tex. 1982); *Bradshaw v. Naumann*, 528 S.W.2d 869, 873 (Tex. Civ. App.—Austin 1975, writ dism'd); and TEX. PROP. CODE § 112.007.

<sup>6</sup> *Walker v. Eason*, 643 S.W.2d 390, 391 (Tex. 1982).

mind and memory to understand the nature and consequences of her acts and the business she was transacting when she executed the 8/25/10 QBD.<sup>7</sup> Plaintiffs can provide no such evidence. Accordingly, this no-evidence motion for summary judgment must be granted.

**C. No Evidence Nelva was Unduly Influenced to Sign the 8/25/10 QBD.**

Plaintiffs alleged Nelva's execution of the 8/25/10 QBD was procured by undue influence.

"Undue influence" means that—

1. an influence existed and was exerted, and
2. the influence undermined or overpowered the mind of the person executing the document at the time of its execution, and
3. the person would not have executed the document but for such influence.<sup>8</sup>

The burden of proving undue influence is upon the party contesting its execution.<sup>9</sup>

Here, there is no evidence that Anita and/or Amy exerted any influence, much less undue influence, to make themselves trustees of Carl's and Candance's share of the trust after Nelva's death.

There is no evidence that, prior to its execution, Nelva had discussions with Anita and/or Amy regarding the terms of the 8/25/10 QBD.

There is no evidence that Anita and/or Amy contacted Nelva's attorney, Ms. Freed, and prescribed the terms or even discussed the terms of the 8/25/10 QBD.

There is no evidence that Anita and/or Amy participated in the drafting of the 8/25/10 QBD.

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<sup>7</sup> See *Mandell & Wright v. Thomas*, 441 S.W.2d 841, 845 (Tex. 1969).

<sup>8</sup> TEXAS PATTERN JURY CHARGES: EXPRESS TRUSTS PJC 235.3 (2014); *Rothermel v. Duncan*, 369 S.W.2d 917, 922 (Tex. 1963).

<sup>9</sup> *Rothermel v. Duncan*, 369 S.W.2d 917, 922 (citing *Scott v. Townsend*, 166 S.W. 1138 (Tex. 1914)).

There is no evidence that Anita and/or Amy were present when Nelva executed the 8/25/10 QBD.

Assuming, without admitting, there was an influence, there is no evidence that Nelva was mentally or physically compromised in August 2010, such that her free will was susceptible to being overcome.

Accordingly, this no-evidence motion for summary judgment must be granted.

**D. No Evidence Nelva Executed the 8/25/10 QBD as a Result of Fraud.**

Plaintiffs allege that Nelva executed the 8/25/10 QBD as a result of fraud. This type of allegation is a species of undue influence.<sup>10</sup> Nevertheless, in an abundance of caution and in the interest of judicial economy, Anita and Amy will specifically address plaintiffs' fraud claims as a separate allegation.

Fraud occurred if—

1. a person made a material misrepresentation, and
2. the misrepresentation was made with knowledge of its falsity or made recklessly without any knowledge of the truth and as a positive assertion, and
3. the misrepresentation was made with the intention of inducing the trustor to sign the document, and
4. Trustor relied on the misrepresentation in signing the document.

“Misrepresentation” means:

A false statement of fact [or]

A promise of future performance made with an intent, at the time the promise was made, not to perform as promised [or]

A statement of opinion based on a false statement of fact [or]

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<sup>10</sup> TEXAS PATTERN JURY CHARGES: WILL CONTESTS PJC 230.6; *Curry v. Curry*, 270 S.W.2d 208 (Tex. 1954).

A statement of opinion that the maker knows to be false [or]

An expression of opinion that is false, made by one claiming or implying to have special knowledge of the subject matter of the opinion.

“Special knowledge” means knowledge or information superior to that possessed by Trustor and to which Trustor did not have equal access.<sup>11</sup>

The contestant claiming fraud has the burden of proof.<sup>12</sup>

There is no evidence that Anita and/or Amy made any representation to Nelva with the intention of inducing Nelva to sign the 8/25/10 QBD.

Assuming, without admitting, that Anita and/or Amy made a representation to Nelva with the intention of inducing Nelva to sign the 8/25/10 QBD, there is no evidence such representation was false.

Assuming, without admitting, that Anita and/or Amy made a false representation, there is no evidence Nelva relied on the misrepresentation in executing the 8/25/10 QBD.

Accordingly, this no-evidence motion for summary judgment must be granted.

#### **E. No Evidence Nelva Signed 8/25/10 QBD Under Duress.**

Plaintiffs alleged the 8/25/10 QBD is invalid because Nelva executed it under duress.

Duress is the mental, physical, or economic coercion of another, causing that party to act contrary to his free will and interest.<sup>13</sup>

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<sup>11</sup> TEXAS PATTERN JURY CHARGES: WILL CONTESTS PJC 230.6.

<sup>12</sup> TEXAS PATTERN JURY CHARGES: WILL CONTESTS PJC 230.6; *In re Estate of Graham*, 69 S.W.3d 598, 612 (Tex. App.—Corpus Christi 2001, no pet.).

<sup>13</sup> TEXAS PATTERN JURY CHARGES: CONTRACTS PJC 101.26; *Black Law Pipe Line Co. v. Union Construction Co.*, 538 S.W.2d 85 n.2 (Tex. 1976); *Brooks v. Taylor* 359 S.W.2d 539, 542 (Tex. Civ. App.—Amarillo 1962, writ ref’d n.r.e.); and *Housing Authority of City of Dallas v. Hubbell*, 325 S.W.2d 880, 905 (Tex. Civ. App. – Dallas 1959, writ ref’d n.r.e.).

The contestant claiming duress bears the burden of proof.<sup>14</sup>

As the Texas Pattern Jury Charge warns, duress is only reached if the alleged coercion can legally constitute duress.<sup>15</sup> “It is never duress to threaten to do that which a party has a legal right to do.”<sup>16</sup>

There is no evidence that Anita and/or Amy used mental coercion to cause Nelva to act contrary to her own free will and interest in executing the 8/25/10 QBD.

There is no evidence that Anita and/or Amy used physical coercion to cause Nelva to act contrary to her own free will and interest in executing the 8/25/10 QBD.

There is no evidence that Anita and/or Amy used economic coercion to cause Nelva to act contrary to her own free will and interest in executing the 8/25/10 QBD.

Accordingly, this no-evidence motion for summary judgment must be granted.

#### **IV. Prayer**

For these reasons, Defendants pray that their no-evidence motion for partial summary judgment be granted and that Defendants receive all other relief, general and special, legal and equitable, to which they or the trusts may be entitled.

[SIGNATURES ON FOLLOWING PAGE]

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<sup>14</sup> *Sudan v. Sudan*, 199 S.W.3d 291, 292 (Tex. 2006).

<sup>15</sup> TEXAS PATTERN JURY CHARGES: CONTRACTS PJC 101.26.

<sup>16</sup> *Ulmer v. Ulmer*, 162 S.W.2d 944, 947 (Tex. 1942).

Respectfully Submitted,

/s/ Brad Featherston

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Stephen A. Mendel (13930650)  
Bradley E. Featherston (24038892)  
The Mendel Law Firm, L.P.  
1155 Dairy Ashford, Suite 104  
Houston, Texas 77079  
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stephen@mendellawfirm.com  
brad@mendellawfirm.com

Counsel for Anita Kay Brunsting  
In Capacities at Issue

Respectfully Submitted,

/s/ Neal Spielman (w/permission /s/ BEF)

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Samuel S. Griffin, III (008473800)  
Neal Spielman (00794678)  
Griffin & Matthews  
1155 Dairy Ashford, Suite 300  
Houston, TX 77079  
Tel: 281-870-1124  
Fax: 281-870-1647  
sgriffin@grifmatlaw.com  
nspielman@grifmatlaw.com

Counsel for Amy Ruth Brunsting  
In Capacities at Issue

### **Certificate of Service**

I certify that a true and correct copy of the foregoing instrument was served on the following:

Candace Louis Curtis  
218 Landana Street  
American Canyon, CA 94503  
Tel: 925-759-9020

*Pro Se*

Bobbie G. Bayless  
2931 Ferndale  
Houston, Texas 77098  
O: 713-522-2224; F: 713-522-2218

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

Darlene Payne Smith  
1401 McKinney, 17TH Floor  
Houston, Texas 77010  
O: 713-752-8640; F: 713-425-7945

Attorney for Carol Ann Brunsting

via e-service or email on June 26, 2015.

/s/ Brad Featherston

---

Bradley E. Featherston



08004:6089:51026120

RV

**DATA-ENTRY  
PICK UP THIS DATE**

PROBATE COURT 4

FILED  
7/9/2015 6:11:24 PM  
Stan Stanart  
County Clerk  
Harris County

NO. 412.249-401

ESTATE OF	§	IN	PROBATE	COURT
NELVA E. BRUNSTING,	§	NUMBER	FOUR (4)	OF
DECEASED	§	HARRIS COUNTY,	T E X A S	

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,	T E X A S	

CARL HENRY BRUNSTING'S MOTION FOR PARTIAL SUMMARY JUDGMENT

TO THE HONORABLE PROBATE COURT:

COMES NOW Drina Brunsting as attorney-in-fact for Carl Henry Brunsting, individually (“Carl”), filing this Motion for Partial Summary Judgment, and in support thereof would show as follows:

I.

**Summary Judgment Issues**

This is a case involving, among other things, a dispute about changes purportedly made to a trust of which all of the parties are beneficiaries, as well as the administration of that trust and disbursements made from that trust after the parties’ mother resigned as trustee and Defendant, Anita Kay Brunsting (“Anita”),<sup>1</sup> took over the trustee duties. This Motion for Partial Summary Judgment seeks relief on two specific points at issue in this case.

1. Carl seeks a determination, as a matter of law, that the August 25, 2010 Qualified Beneficiary Designation is null and void because it violates the terms of the Brunsting Family Living Trust as restated on January 12, 2005 (the “Family Trust”) which prohibits amendments after the death of the first founder.<sup>2</sup> Elmer, the first founder to die, died in 2009. (Exhibit 4, p. P4347).
2. Carl also seeks a determination, as a matter of law, that disbursements in 2011 of Exxon Mobil stock and Chevron stock were improper distributions for which Anita, as the trustee making the disbursements is liable, and for which the beneficiaries who

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<sup>1</sup> The Brunsting family members, for simplification purposes only, will all be referred to herein by their first names.

<sup>2</sup> Because the Family Trust refers to settlors as founders, that terminology is being used in this motion.

received benefits from those distributions are also liable pursuant to Tex. Prop. Code §114.031, including through an offset of the applicable beneficiary's liability against that beneficiary's remaining interest in the trust estate.

## II.

### Summary Judgment Evidence

The following summary judgment evidence is presented in support of this motion:

1. The Restatement of The Brunsting Family Living Trust dated January 12, 2005 (P317-403)<sup>3</sup> (Exhibit 1)
2. The First Amendment to the Restatement to the Brunsting Family Living Trust dated September 6, 2007 (P444-445) (Exhibit 2)
3. The Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement dated August 25, 2010 (P407-443) (Exhibit 3)
4. Documents produced by Computershare in Carl's pre-suit discovery action filed on March 9, 2012<sup>4</sup> (P4308-4396) (Exhibit 4)
5. Schedule F from the summaries of transactions provided by Anita on March 27, 2012 (P12168-12170) (Exhibit 5)

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<sup>3</sup> The page number references are to the documents as numbered and previously produced by Carl in discovery in this case.

<sup>4</sup> This exhibit as filed has been redacted to remove or limit sensitive information. Such redactions were not made on the documents when produced.

6. Anita's Responses to Candace Louise Curtis' First Written Interrogatories  
(Exhibit 6)
7. Acceptance By Successor Trustee dated December 21, 2010 (p. P446)  
(Exhibit 7)

### III.

#### **8/25/10 Qualified Beneficiary Designation Is Void As a Matter of Law**

In 1996, Elmer and his wife Nelva E. Brunsting ("Nelva") created the Family Trust. In addition to the restated Family Trust dated January 12, 2005 (Exhibit 1), a further amendment was done on September 6, 2007 which changed the provision naming successor trustees (Exhibit 2). Carl and Amy had been named successor trustees in the Family Trust, with Candy named as a further potential successor co-trustee should either Carl or Amy be unable to serve (Exhibit 1, p. P239, Article IV, Section B). The 2007 amendment named Carl and Candy as successor trustees (Exhibit 2).

Article III of the Family Trust allowed it to be revoked or amended only so long as both founders were living. The Family Trust specified, however, that upon the death of the first founder, the Family Trust "shall not be subject to amendment, except by a court of competent jurisdiction." (Exhibit 1, P. P237, Article III, Section, B, first paragraph). The same section in Article III concerning amendments also addressed the issue of qualified beneficiary designations with the following explanation:

*"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.*” (emphasis added) (Exhibit 1, p. P237, Article III, Section B, second paragraph)

On April 1, 2009, Elmer Brunsting died, thus triggering the provision which stated that the trust had become irrevocable and could no longer be amended, including by way of a qualified beneficiary designation. Elmer’s death also triggered the division of the Family Trust’s assets into the Elmer H. Brunsting Decedent’s Trust (“Decedent’s Trust”) and the Nelva E. Brunsting Survivor’s Trust (“Survivor’s Trust”) (Exhibit 1, p. P257, Article VII, Section B).

In July 2010, when Carl became ill with encephalitis and was in no position to continue to moderate the contentious relationship between his sisters as he had done before, the Defendants took aggressive steps to take control of the Family Trust’s assets to the exclusion of Carl, and in some respects, to the exclusion of Carl’s other sibling, Candy. Those steps culminated in the August 25, 2010 Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement prepared by Nelva’s counsel.<sup>5</sup> Under that document, only Carl and Candy were stripped of rights they had been afforded under the Family Trust.

This was done despite the lack of ambiguity in Article III of the Family Trust. That Article provides that a qualified beneficiary designation is an amendment to the Family Trust and that no amendment could be made after Elmer died in 2009. Moreover, any confusion that might be caused

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<sup>5</sup> A separate action was brought against Vacek & Freed and Candace Freed in Cause No. 2013-05455; *Carl H. Brunsting, Independent Executor of the Estates of Elmer H. Brunsting and Nelva E. Brunsting v. Candace L. Kunz-Freed and Vacek & Freed, PLLC, f/k/a The Vacek Law Firm, PLLC*; In the 164<sup>th</sup> Judicial District Court of Harris County, Texas when that law firm refused to continue a tolling agreement until a resolution could be reached among the Brunsting siblings. That action can not continue to be prosecuted, however, until a successor personal representative is appointed to replace Carl. Some of the issues raised in this motion should make it clear why an action was brought against the attorneys who prepared an instrument in conflict with the provisions of the earlier instrument they, themselves had also prepared.

by the title of the document executed on August 25, 2010 which included both the term “qualified beneficiary designation” and “exercise of testamentary powers of appointment” would seem to be dispelled by consulting the definitions contained in Article XIII of the Family Trust. The definition provided for a power of appointment indicates that is simply another name for a qualified beneficiary designation. That definition is found in Article XIII which reads as follows:

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 acknowledgments 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. (Exhibit 1, p. P309, Article XIII, definition 10).

While that is really more of a recitation of the requirements than a definition, what it does make clear is that, under the terms of the Family Trust, a qualified beneficiary designation and a power of appointment are one and the same. Thus, regardless of whether it was called a qualified beneficiary designation, a power of appointment, or both, the Family Trust states that it is to be

considered an amendment to the trust.<sup>6</sup> As such it was prohibited by the Family Trust after the death of one of the founders. The 8/25/10 Qualified Beneficiary Designation was prepared after Elmer's death and is, therefore, void as a matter of law.

IV.

**Stock Transfers Were Improper as a Matter of Law**

Anita took over the role of trustee from her mother on December 21, 2010. (Exhibit 7). Once Anita took over as trustee, she used her new position of control to make distributions of substantial portions of Exxon Mobil and Chevron stock to herself, her children, her sisters, and one of her sister's children, and to the exclusion of her ill brother, Carl, who, after his mother, was the one most in need of assistance. Those transactions were as follows:

1. Anita transferred 1120 shares of Exxon Mobil stock to Amy from the Survivor's Trust on May 9, 2011 (Exhibit 4, p. P4310, 7<sup>th</sup> paragraph; p. P4385-4386)
2. Anita transferred 160 shares of Exxon Mobil stock to herself from the Survivor's Trust on June 13, 2011 (Exhibit 4, p. P4310, 8<sup>th</sup> paragraph, p. P4387-4388)

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<sup>6</sup> While Defendants may attempt to claim confusion because of the inclusion of language in Article VIII, Sections B and C suggesting the surviving founder would have some right to make powers of appointment (Exhibit 1, p. P262 and 264), those provisions, at best, conflict with, but do not negate, the provisions indicating such to be just another name for a qualified beneficiary designation which is not allowed after the first founder's death because it would be an attempted amendment to a trust which is no longer revocable. (Exhibit 1, p. P237, Section B). And should Defendants attempt to assert that there is some different status given to a power of appointment pursuant to the terms of the Family Trust, that is not specified anywhere, nor was any distinction preserved by the 8/25/10 Qualified Beneficiary Designation itself.

3. Anita transferred 135 shares of Chevron stock to herself from the Survivor's Trust on June 14, 2011 (Exhibit 5, p. P12169, bottom of page under "Anita became trustee Dec. 2011")<sup>7</sup>
4. Anita transferred 135 shares of Chevron stock to Amy's minor daughter, Ann Brunsting, from the Survivor's Trust on June 14, 2011 (Exhibit 5, p. P12170)
5. Anita transferred 135 shares of Chevron stock to Amy's minor son, Jack Brunsting, from the Survivor's Trust on June 14, 2011 (Exhibit 5, p. P12170)
6. Anita transferred 135 shares of Chevron stock to her own minor daughter, Katie Riley, from the Survivor's Trust on June 14, 2011 (Exhibit 5, p. P12170)
7. Anita transferred 135 shares of Chevron stock to her own son, Luke Riley, from the Survivor's Trust on June 14, 2011 (Exhibit 5, p. P12170)
8. Anita transferred 160 shares of Exxon Mobil stock to Candy from the Survivor's Trust on June 15, 2011 (Exhibit 4, p. P4310, 8<sup>th</sup> paragraph; p. P4387-4388)

---

<sup>7</sup> The proof of the transfers of Chevron stock must be taken from Anita's summaries provided on March 27, 2012 because Carl is aware of no transfer documents ever having been provided by Anita. Likewise, the documents concerning the Exxon Mobil stock transfers were not provided by Anita, but Carl had learned of those transfers from Candy and sought the records directly from Exxon Mobil's transfer agent through the pre-suit discovery action he filed on March 9, 2012. It was only after Anita received notice of that action that she provided her unsupported summary. The inadequacies of Anita's disclosures as a fiduciary, however, will be addressed at a later time.



9. Anita transferred 1325 shares of Exxon Mobil stock to Carole from the Decedent's Trust on June 15, 2011 (Exhibit 4, p. P4310, 3<sup>rd</sup> paragraph; p. P4362; p. P4369-4370)

None of these transfers were authorized by the provisions of the Family Trust. One reason they are unauthorized is that all of the shares of stock, other than those transferred to Carole, were transferred from the Survivor's Trust. Article VIII of the Family Trust requires the Survivor's Trust to be administered solely for the surviving founder's benefit.<sup>8</sup> That Article requires distributions, whether of income<sup>9</sup> or principal to be for the founder's benefit as may be necessary for her education, health, maintenance, and support. (Exhibit 1, p. P261-263, Article VIII, Section B and C). These disbursements were not to the surviving founder or for her benefit<sup>10</sup> and thus were not authorized by the Family Trust.

And even if the Family Trust had provided for distributions from the Survivor's Trust to someone other than the surviving founder, these were distributions of principal. Therefore, Anita, as trustee, was required to follow the specified standards for disbursements for the surviving

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<sup>8</sup> Once again, after the party vacancy has been cured, the issue of Vacek & Freed's role in the administration of the Family Trust is one which needs to be addressed in the case filed against that law firm, but it is clear that Vacek & Freed took on Anita's representation as trustee and that they also continued to represent Nelva until her death. In addition to the damages caused by these improper transfers, if the transfers are not reversed, the question of tax consequences raised by failing to use the Survivor's Trust only for Nelva's benefit will have to be explored.

<sup>9</sup> In addition to the lost value of the shares themselves, all shares were dividend-bearing shares during the period after they were transferred, and those amounts of income were also lost.

<sup>10</sup> In fact, there is a significant question concerning whether grandchildren would have been entitled, under any circumstances, to distributions from the Family Trust until the death of both founders. Article I, Section C limits descendants to the named children of Elmer and Nelva Brunsting and any children subsequently born to or adopted by Elmer and Nelva. (Exhibit 1, p. P234, last full paragraph).

founder's education, health, maintenance, or support. (Exhibit 1, p. P262-263). Instead, Anita has admitted in her responses to Candy's interrogatories that she did not take anything into consideration, including whether the distributions were necessary or advisable even to the recipients,<sup>11</sup> much less to the surviving founder. Instead, Anita indicated such transfers were "made at Nelva Brunsting's instruction."<sup>12</sup> (Exhibit 6, Responses to Interrogatory Numbers 3, 4, 5). That is not a basis under the terms of the Family Trust for these transfers, even if they had been otherwise authorized transfers. Thus, these transfers resulted from Anita's breach of her fiduciary duties<sup>13</sup> and were improper as a matter of law.

And although the disbursement of 1325 shares of Exxon Mobil stock to Carole came from the Decedent's Trust, the terms of the Family Trust as to administration of the Decedent's Trust were still not followed. All net income from the Decedent's Trust was to be paid to the surviving founder, and only limited amounts of principal could also be disbursed to the surviving founder without the imposition of the guidelines set forth in Article IX. (Exhibit 1, p. P268-269, Article IX). So, even

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<sup>11</sup> Leaving aside for the moment Nelva's health issues and her need for caregivers, as well as Carl's serious medical issues, Anita's summary reflects that none of these transfers were necessary. The June 14, 2011 transfers of Chevron stock to Amy's minor children were, according to Anita's own summary, a "gift for future car/college." (Exhibit 5, p. P12170). And the similar transfers to Anita's own children were described as "gift for college exp." (Exhibit 5, p. P12170). The gifts to Anita's children come on the heels of, or were made contemporaneously with, over \$37,000 in other disbursements to Anita for college expenses and automobiles for her children. (Exhibit 5, p. P12169).

<sup>12</sup>That seems unlikely since there was no history of such distributions while Nelva was trustee, and one would assume the distributions would have been made by Nelva before she resigned had she truly wanted them to be made. Nevertheless, even if the allegation that Nelva instructed that the distributions be made is accepted as true, that does not relieve Anita of her fiduciary obligations under the provisions of the Family Trust. There is nothing in the Family Trust authorizing Anita to make such distributions on Nelva's instruction.

<sup>13</sup> This is the case without even examining the self-dealing nature of a number, if not all, of the transfers.

if such a distribution had been authorized under certain standards, no attempt was even made to meet those standards because it was again done, without regard to the standards, but allegedly at Nelva's instruction. (Exhibit 6, Response to Interrogatory number 2). Moreover, there is further evidence that the transfer allegedly to "pay off/fix house" was not necessary, because Anita's summary indicates Carole had already been paid \$20,000 from the Family Trust on October 1, 2010 for either a loan or a gift to "fix house" (Exhibit 5, p. P12169).

First of all, the transfer of Exxon stock did not properly meet the guidelines for all distributions from the Decedent's Trust which required the trustee to "give primary consideration to the Surviving Founder's health, education, maintenance and support, and thereafter to our descendants health, education, maintenance and support." (Exhibit 1, p. P268, Article IX, Section B). And since this was, at best, a discretionary distribution, the following guidelines had to be met:

"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." (emphasis added) (Exhibit 1, p. P269, Article IX, Section C).

As stated, the beneficiary most in need of assistance, other than Nelva, was Carl but he received nothing. Since none of the transfers of stock met the standards required by the terms of the Family Trust, Anita, as the trustee making these distributions, is liable, as a matter of law, for all

such distributions, including the one to Carole from the Decedent's Trust. And pursuant to Tex. Prop. Code §114.031, the beneficiaries receiving the improper distributions are also responsible for the damages caused by the distributions once those damages are established. That section provides as follows:

- (a) A beneficiary is liable for loss to the trust if the beneficiary has:
  - (1) misappropriated or otherwise wrongfully dealt with the trust property;
  - (2) expressly consented to, participated in, or agreed with the trustee to be liable for a breach of trust committed by the trustee;
  - (3) failed to repay an advance or loan of trust funds;
  - (4) failed to repay a distribution or disbursement from the trust in excess of that to which the beneficiary is entitled; or
  - (5) breached a contract to pay money or deliver property to the trustee to be held by the trustee as part of the trust.
- (b) Unless the terms of the trust provide otherwise, the trustee is authorized to offset a liability of the beneficiary to the trust estate against the beneficiary's interest in the trust estate, regardless of a spendthrift provision in the trust.

V.

Conclusion

The Qualified Beneficiary Designation of 8/25/10 fails, as a matter of law, as an attempted amendment to the Family Trust after the death of one of the founders. The transfers by Anita of significant stock holdings to the detriment of Nelva and the exclusion of Carl notwithstanding his

life-threatening illness were not authorized by the terms of the Family Trust and, as a matter of law, create liability for Anita as trustee and for the beneficiaries who, at a minimum, have received distributions in excess of that to which they are allowed under the terms of the Family Trust.

WHEREFORE, PREMISES CONSIDERED, Carl requests that the Court grant his Motion for Partial Summary Judgment, and for such other and further relief to which Carl may be entitled.

Respectfully submitted,

BAYLESS & STOKES

By: /s/ Bobbie G. Bayless

*Bobbie G. Bayless*

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*Attorneys for Drina Brunsting, attorney-in-fact for Carl Henry Brunsting*

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing instrument was forwarded on the 9<sup>th</sup> day of July, 2015, as follows:

Bradley Featherston  
1155 Dairy Ashford, Suite 104  
Houston, Texas 77079  
*via U.S. First Class Mail*

Darlene Payne Smith  
Lori A. Walsh  
Crain, Caton & James, P.C.  
1401 McKinney, 17<sup>th</sup> Floor  
Houston, Texas 77010  
*via U.S. First Class Mail*

Stephen A. Mendel  
Neal Spielman  
1155 Dairy Ashford, Suite 300  
Houston, Texas 77079  
*via U.S. First Class Mail*

Candace Curtis, *Pro Se*  
218 Landana St.  
American Canyon, California 94503  
*via U.S. First Class Mail*

/s/ Bobbie G. Bayless  
BOBBIE G. BAYLESS

07:32:15:0009:0094

NO. 412.249-401

ESTATE OF § IN PROBATE COURT  
NELVA E. BRUNSTING, §  
DECEASED § NUMBER FOUR (4) OF  
§ HARRIS COUNTY, TEXAS

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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

AFFIDAVIT OF BOBBIE G. BAYLESS  
IN SUPPORT OF CARL HENRY BRUNSTING'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT

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THE STATE OF TEXAS    §  
                                  §  
COUNTY OF HARRIS    §

BEFORE ME, the undersigned official, on this day personally appeared BOBBIE G. BAYLESS, who is personally known to me, and first being duly sworn according to law, upon her oath deposed and said:

- A.    “My name is BOBBIE G. BAYLESS. I am over eighteen years of age, have never been convicted of a crime, and am fully competent to make this affidavit. I have personal knowledge of the statements contained herein, which are all true and correct.
- B.    I am an attorney with the law firm of Bayless & Stokes and the attorney representing Drina Brunsting as attorney-in-fact for Carl Henry Brunsting, individually (“Carl”) in this action.
- C.    In the course of my representation of Carl, I have obtained the following documents, true and correct copies of which are attached to Carl’s motion:
1.    The Restatement of The Brunsting Family Living Trust dated January 12, 2005 provided by Vacek & Freed (P317-403) (Exhibit 1)
  2.    The First Amendment to the Restatement to the Brunsting Family Living Trust dated September 6, 2007 provided by Vacek & Freed (P444-445) (Exhibit 2)
  3.    The Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement dated August 25, 2010 provided by Vacek & Freed (P407-443) (Exhibit 3)
  4.    Documents produced by Computershare in Carl’s pre-suit discovery action filed on March 9, 2012 (P4308-4396) (Exhibit 4)
  5.    Schedule F from the summaries of transactions provided by Anita’s counsel on March 27, 2012 (P12168-12170) (Exhibit 5)
  6.    Anita’s Responses to Candace Louise Curtis’ First Written Interrogatories in this proceeding (Exhibit 6)
  7.    Acceptance By Successor Trustee dated December 21, 2010 provided by Vacek & Freed (p. P446) (Exhibit 7)



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/s/ Bobbie G. Bayless  
BOBBIE G. BAYLESS

SWORN TO AND SUBSCRIBED before me on this the 9<sup>th</sup> day of July, 2015.

/s/ Shawn M. Teague  
Notary Public in and for the  
State of TEXAS  
Printed Name: Shawn M. Teague  
My Commission Expires: April 3, 2019

COPY

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# Exhibit 1

UNOFFICIAL

COPY

**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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# 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 ad 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

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during our lives, from either of us, or both, or from an exercise of a power of appointment by a trust beneficiary or otherwise.



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## 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

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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.

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## 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 Decedant 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:

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<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, 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.

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## 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

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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.

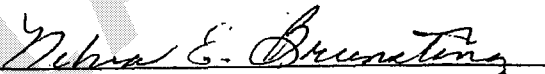
**Section S. Elective Deductions**

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



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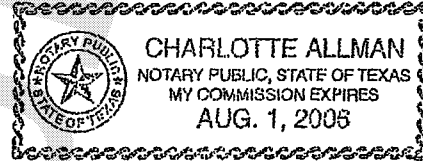
THE STATE OF TEXAS

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



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**Exhibit 2**

07132015:0609: P0186

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*  
ELMER H. BRUNSTING,  
Founder and Trustee

*Nelva E. Brunsting*  
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.

*Candace Lynne Kunz Freed*  
Notary Public, State of Texas

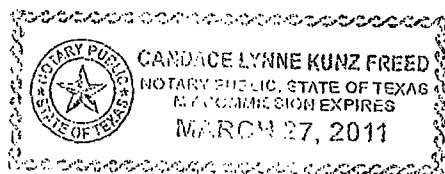


EXHIBIT "A"

**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.

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**Exhibit 3**

**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


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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.

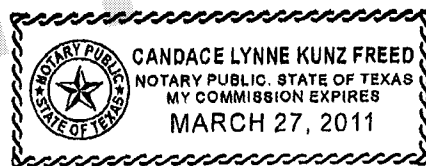
  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

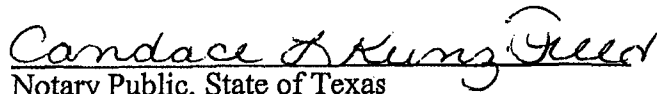
**ACCEPTED** and effective on August 25, 2010.

  
\_\_\_\_\_  
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

92204:6080:51026120

UNOFFICIAL COPY

**Exhibit 4**



**Computershare Investor Services**

250 Royall Street  
Canton Massachusetts 02021  
www.computershare.com

July 05, 2012

BOBBIE G BAYLESS  
ATTORNEY AT LAW  
BAYLESS & STOKES  
2931 FERNDALE  
HOUSTON TX 77096

Company Name: EXXON MOBIL CORPORATION / XOM  
Holder Account Number: [REDACTED] 2102  
Registration: Elmer H Brunsting Or Nelva E Brunsting TR Brunsting Fam Living Trust UA 10/10/96

Dear Ms. Bayless:

We are in receipt of your correspondence dated April 12, 2012 and June 22, 2012 regarding the matter of Carl Henry Brunsting, cause number 2012-14538.

Please note that Computershare contacted your firm on May 7, 2012 seeking clarification of your request from April. We did not receive any reply until your letter of June 22, 2012.

Below is a list of all ExxonMobil accounts held by Elmer Brunsting, Nelva Brunsting, or the Brunsting Family Trust. We have provided the account balances as of July 3, 2012. The closing price for ExxonMobil's common stock on that date was \$86.28 per share.

Account Number: [REDACTED] 566 (Historical File)  
Registration: ELMER H BRUNSTING  
Total Shares Held on July 3, 2012: 0 (Closed October 28, 1996)

Account Number: [REDACTED] 2102  
Registration: ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM LIVING TRUST UA 10/10/96  
Total Shares Held on July 3, 2012: 0 (Closed March 24, 2011)

Account Number: [REDACTED] 7769  
Registration: ANITA BRUNSTING TR UA 04/01/09 ELMER H BRUNSTING DECEDENT'S TRUST  
Total Shares Held on July 3, 2012: 587.204777

Account Number: [REDACTED] 7777  
Registration: ANITA BRUNSTING TR UA 04/01/09 NELVA BRUNSTING SURVIVOR'S TRUST  
Total Shares Held on July 3, 2012: 684.511319

P4308

2204:6080:51026120

Below is a list of additional accounts which received transfers from one of the accounts listed above.

Account Number: [REDACTED] 6387  
Registration: CANDACE CURTIS  
Total Shares Held on July 3, 2012: 24.981004

Account Number: [REDACTED] 9041  
Registration: AMY R BRUNSTING  
Total Shares Held on July 3, 2012: 104.058674

Account Number: [REDACTED] 6352  
Registration: ANITA BRUNSTING  
Total Shares Held on July 3, 2012: 164.036963

Account Number: [REDACTED] 6328  
Registration: CAROLE A BRUNSTING  
Total Shares Held on July 3, 2012: 1,325

**Account Number [REDACTED] 1566**

This account was first opened on February 17, 1984. At that time, 300 shares of ExxonMobil's common stock were transferred to Elmer Brunsting. On August 14, 1987, the company went through a 2-for-1 split, generating an additional 300 shares. Between September 10, 1992 and October 28, 1996, dividends from this account were reinvested. An additional 121.648 were purchased during that period.

The account was closed on October 28, 1996, when all shares (721.648) were transferred to the Brunsting Family Trust (See account number [REDACTED] 2102 below).

We have enclosed a certificate transcript and reinvestment statement covering the history of this account. Due to the age of this account, we no longer have any additional documentation. We were unable to determine the source of the original transfer in 1984 and we no longer have copies of the paperwork submitted in 1996. We have no record of the dividends paid prior to 1992 or any of the tax forms generated for this account.

**Account Number [REDACTED] 2102**

This account was first opened on October 28, 1996, when the 721.648 shares were transferred from the account listed above. We have enclosed copies of the statements covering the full history from 1996 until it was closed in 2011. The only transactions that took place during this time were dividend reinvestments and 2 stock splits. We have also enclosed copies of Form 1099-DIV for years 2005 through 2011. We no longer have copies of the tax forms generated prior to 2005.

On March 18, 2011, we received a letter from Anita Brunsting, along with transfer forms requesting that we transfer a portion of this account to the Elmer H Brunsting Decedent's Trust and transfer the remaining shares to the Nelva E Brunsting Survivor's Trust. On March 24, 2011, 1908.232008 were shares transferred to account number [REDACTED] 7769 and 2101.968469 shares were transferred to account number [REDACTED] 7777.

We have enclosed a copy of the transfer forms and the accompanying letter. The mailing address on the old account was updated at the same time. We have also enclosed a copy of a notice confirming the address change.

07192015:0809:0229

**Account Number [REDACTED] 7769**

This account was first opened on March 24, 2011, when the 1908.232008 shares were transferred from the account listed above. We have enclosed statements covering the history of the account from that date to the present. As the new account was not initially enrolled in the dividend reinvestment plan, the fractional shares (0.232008 shares) were immediately liquidated, generating a check in the amount of \$4.18.

Dividends were paid via direct deposit between June 10, 2011 and March 9, 2012. They were deposited into Bank of America account number [REDACTED] 1143 via routing number 111000025 based on instructions submitted through our website. We have enclosed a screen print of Computershare's internal records with the details of these payments, a notice confirming the direct deposit information, and a copy of Form 1099-DIV for 2011.

On June 13, 2011, we received transfer forms directing us to transfer 1,325 shares from this account to Carole Brunsting. The shares were transferred to account number [REDACTED] 6328 on June 15, 2011. We have enclosed a copy of the forms.

On March 3, 2012, the account was enrolled in dividend reinvestment through our website. We have enclosed a copy of a notice confirming this change. The June 11, 2012 dividend was reinvested, as indicated on the most recent statement.

**Account Number [REDACTED] 7777**

This account was first opened on March 24, 2011, when the 2101.968469 shares were transferred from account number [REDACTED] 2102. We have enclosed statements covering the history of the account from that date to the present.

All dividends on this account were reinvested. Form 1099-DIV is included on the year end statement for 2011. Direct deposit instructions were added to this account via our website on April 11, 2011. However, as the account was enrolled in the reinvestment plan, no dividends from this account were ever direct deposited. We have enclosed a copy of the notice confirming the direct deposit information.

On May 9, 2011, we received transfer forms directing us to transfer 1,120 shares from this account to Amy Brunsting. The shares were transferred to account number [REDACTED] 9041 on May 11, 2011. We have enclosed a copy of the forms.

On June 13, 2011, we received transfer forms directing us to transfer 160 shares from this account to Anita Brunsting and 160 shares to Candace Curtis. The shares were transferred to account numbers [REDACTED] 6352 and [REDACTED] 6387 respectively on June 15, 2011. We have enclosed a copy of the forms.

We have no record of any additional transactions or correspondence on these accounts or any additional accounts registered to Elmer Brunsting, Nelva Brunsting, or their trusts.

**Account Numbers [REDACTED] 6387, [REDACTED] 9041, [REDACTED] 6352, and [REDACTED] 6328**

As you requested documents reflecting the current ownership of shares formerly registered to the trust, we have enclosed a copy of the most recent statement for each of these accounts. If you need additional records from these accounts, please submit a new request clarifying what information or documents are to be provided.

05204:6080:51025120

Computershare assesses a fee of \$10.00 plus \$0.25 per page for records sent in response to this type of request. We kindly ask that you submit a check in the amount of \$24.25 made payable to "Computershare" and enclose a copy of this letter so we may accurately reference the original inquiry.

If you have any further questions, please contact us by phone at 800-252-1800. Representatives are available Monday through Friday, 8:30 AM to 5:00 PM Eastern Time.

Sincerely,



Norborth W McKearney  
Manager  
Computershare Shareholder Services

REF: BMV/UIB0001256900

Enclosures: Copy of Received Documents, Certificate Transcript, Statements, Forms 1099-DIV, Transfer Paperwork (4), Address Change Confirmation, Screen Print, Direct Deposit Confirmations (2), Dividend Reinvestment Confirmation

P4311

BOBBIE GRACE BAYLESS \*  
BOARD CERTIFIED CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION  
NATIONAL BOARD OF TRIAL ADVOCACY  
bayless@baylessstokes.com

**BAYLESS & STOKES**  
ATTORNEYS AT LAW  
2931 FERNDALE  
HOUSTON, TEXAS 77098  
Telephone: (713) 522-2224  
Telecopier: (713) 522-2218

\* DALIA BROWNING STOKES  
BOARD CERTIFIED ESTATE PLANNING & PROBATE LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION  
stokes@baylessstokes.com  
\*LICENSED IN TEXAS AND COLORADO

June 22, 2012

Sent via Federal Express

Computershare Investor Services, LLC  
Attn: Legal Department  
250 Royall Street  
Canton, MA 02021

Re: Cause No. 2012-14538; *In re: Carl Henry Brunsting*; In the 80<sup>th</sup> Judicial District  
Court of Harris County, Texas

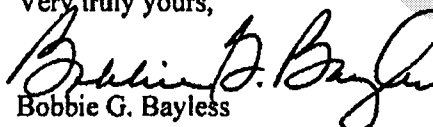
Dear Sirs:

On April 12, 2012, after speaking with Catherine Dixon in your department, I sent additional documents and information relating to a request for information in the above-referenced case concerning the history of some Exxon Mobil Corporation stock. I have heard nothing further since that letter. I have enclosed a copy of that earlier letter and the Court's Order requiring Computershare to provide the information requested, as well as another copy of Exhibit E from the verified petition which outlines the requested information.

As you can see, in my April 12, 2012 letter, I also provided social security numbers for the individuals who originally owned the stock, but at some point the stock was moved to trusts and thereafter, at least in part, out to other parties. So to the extent your delay in responding has been because of the trusts' ownership of the stock, I wanted to provide you with that additional information. Initially, the trust would have been referred to as "The Brunsting Family Living Trust," but after the first grantor of that trust died, the names of "The Nelva Brunsting Survivor's Trust" and the "Elmer Brunsting Decedent's Trust" would have been used. I am enclosing statements with holder account numbers which I have obtained from other sources in the case in hopes that it will speed up your search. I do not intend, however, for your search to be limited to these accounts because, as I said, I believe these shares have been held by or transferred to other parties as well.

It has been sometime since this request was made. I need these documents as soon as possible, so if you have any questions, please contact me upon your receipt of this letter.

Very truly yours,

  
Bobbie G. Bayless

BGB/st  
Enclosures  
cc: Carl Brunsting (via email)

P4312



07152015:0809: P0232

BOBBIE GRACE BAYLESS \*  
BOARD CERTIFIED CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION  
NATIONAL BOARD OF TRIAL ADVOCACY  
bayless@baylessstokes.com

**BAYLESS & STOKES**  
ATTORNEYS AT LAW  
2831 FERNDALE  
HOUSTON, TEXAS 77098  
Telephone: (713) 522-2224  
Telecopier: (713) 522-2218

\* DALIA BROWNING STOKES  
BOARD CERTIFIED ESTATE PLANNING & PROBATE LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION  
stokes@baylessstokes.com  
\*LICENSED IN TEXAS AND COLORADO

scf  
April 12, 2012

Sent via Federal Express

Computershare Investor Services, LLC  
Attn: Legal Department  
250 Royall Street  
Canton, MA 02021

Re: Cause No. 2012-14538; *In re: Carl Henry Brunsting*; In the 80<sup>th</sup> Judicial District  
Court of Harris County, Texas

Dear Sirs:

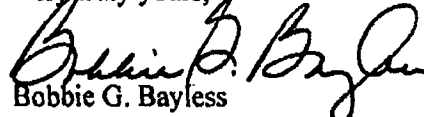
I spoke with Catherine Dixon this morning about the following documents which were previously filed with the court in the above-referenced matter:

1. Carl Henry Brunsting's Verified Petition to Take Depositions Before Suit; and
2. Notice to Computershare Investor Services of Hearing on Petition to Take Depositions Before Suit.

While these documents were previously sent via certified mail to Computershare Investor Services's registered agent in Texas, we had received no response. We have enclosed another copy of the documents so this can be addressed by your legal department as soon as possible. To simplify things, we have also enclosed an extra copy of Exhibit E to the Petition which outlines the documents we are asking Computershare, as transfer agent for Exxon Mobil Corporation, to provide. The social security number for Elmer Brunsting is [REDACTED] 8905. The social security number for Nelva Brunsting is [REDACTED] 4685.

Also enclosed is an Amended Notice of Hearing which resets the hearing in the matter for May 18, 2012.

Very truly yours,

  
Bobbie G. Bayless

BGB/st  
Enclosures

cc: Carl Brunsting (via email)

P4313

**Documents to be Produced by Computershare  
as transfer agent for Exxon Mobil Corporation**

1. All documents reflecting the acquisition of any Exxon Mobil Corporation stock by Elmer Brunsting, Nelva Brunsting, and/or The Brunsting Family Living Trust.
2. All documents reflecting any transfers of all or any portion of the stock described in number 1 above.
3. All documents reflecting any sale or other liquidation of all or any portion of the stock described in number 1 above.
4. All documents reflecting the current ownership of all or any portion of the stock described in number 1 above.
5. All communications, including emails, concerning the stock described in number 1 above or any transfers of all or any portion of the stock described in number 1 above.
6. All documents authorizing the transfer of all or any portion of the stock described in number 1 above.
7. All documents evidencing the payment of dividends on the stock described in number 1 above.

**EXHIBIT E**

**P4314**

# ExxonMobil

# Computershare +

Computershare  
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

010754



ELMER H BRUNSTING  
13630 PINEROCK  
HOUSTON TX 77079-5914

Holder Account Number

[REDACTED] 1566 IND

Ticker Symbol  
CUSIP

## Exxon Mobil Corporation - Certificate Transcript

COMMON STOCK as of 06 Jul 2012

Issue Date	Acquisition Date	Number of Shares	Certificate Number	Issuance Reason	Surrender Date	Surrender Reason	Covered/ Noncovered	Cost Basis (USD)
17 Feb 1984	17 Feb 1984	300.000000	00505201	Transfer	28 Oct 1996	Transfer	Noncovered	
14 Aug 1987	14 Aug 1987	300.000000	00201326		28 Oct 1996	Transfer	Noncovered	

PLEASE SEE REVERSE SIDE FOR IMPORTANT DISCLOSURES AND DEFINITIONS.

253UDR

XOM\_HIS

P4315

+

**COST BASIS DISCLOSURE**

IRS regulations require that Computershare, and other brokers/agents, provide additional information to you and to the IRS when you sell certain securities. All covered and noncovered information set forth in this document is for informational purposes. The information is based on data in our records as of the date of this mailing. Cost basis data may be subject to change based on events such as wash sales, splits and spinoffs. Computershare cannot confirm the accuracy or completeness of noncovered transactions. If cost basis data was not available, the information was left blank. Any sales fees incurred are added to the oldest lot's cost basis. You should review your records for accurate information regarding the subject transactions and consult your tax advisor with any questions concerning your tax reporting obligations.

**DEFINITIONS**

**Acquisition Date:** The date the shares are considered acquired for cost basis purposes. This may be the original date you acquired the shares or may be adjusted for events such as wash sales. There may be multiple dates related to a single transaction if shares were acquired at different times or prices.

**Certificate Number:** A unique number printed on each certificate and recorded on the company's records.

**Cost Basis:** The amount that you paid for the shares/units, adjusted for changes such as wash sales, splits and spinoffs.

**Covered:** A term the IRS uses to refer to securities that must have their cost basis information directly reported on IRS Form 1099-B when a sale occurs.

**CUSIP:** A unique number assigned by the securities industry for a particular security (Committee on Uniform Security Identification Procedures).

**Holder Account Number:** Your unique account number for the account where your share holdings and transactions have been recorded.

**Issuance Reason:** Describes why the certificate was issued. If blank, the reason is not known.

**Issue Date:** The date the certificate was recorded/issued on the company's records.

**Noncovered:** A term used to describe securities that are not considered covered by the IRS and will not have cost basis reported on IRS Form 1099-B. You are still required to report gain/loss details on your income tax return. You may obtain the necessary information by reviewing historical purchase data, as you would have before the new regulations. Please consult your tax advisor for proper guidance.

**Number of Shares:** The number of shares included in the certificate. There may be details below this first number if multiple "lots" are included in this certificate.

**Surrender Date:** The date you surrendered/deposited your certificate, if the certificate is no longer outstanding.

**Surrender Reason:** Explains why this certificate was surrendered by you. If blank, the reason is not known.

**Ticker Symbol:** The symbol used on the stock exchange where this stock is traded.

**Uncertified Account:** If indicated on the front of this form that your account is not tax-certified, please send a completed IRS Form W-9 (or W-8 for foreign accounts) to us. This will help avoid future required tax withholding on dividend payments and sales proceeds. Information is available on our website or by contacting us.

# ExxonMobil

# Computershare



Computershare Trust Company, N.A.

PO Box 43078

Providence, RI 02940-3078

Within USA, US territories &amp; Canada 800 252 1800

Outside USA, US territories &amp; Canada 781 575 2058

www.computershare.com/exxonmobil

001333



ELMER H BRUNSTING  
13630 PINEROCK  
HOUSTON TX 77079-5914

Holder Account Number

[REDACTED] 1566



SSN/TIN Certified  
Yes

Symbol  
XOM

001CS0003.dml mix:075233\_3612A00133A001520E

## 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: [REDACTED] 1566

### ACCOUNT SUMMARY

As of close of stock market on 04 May 2012

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	0.000000	0.000000	84.570000	0.00

### Transaction History

From: 01 Jan 1984

To: 04 May 2012

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
10 Sep 1992	Dividend Reinvestment	432.00			432.00	63.160000	6.840000	6.840000
10 Dec 1992	Dividend Reinvestment	436.92			436.92	59.927000	7.291000	14.131000
10 Mar 1993	Dividend Reinvestment	442.17			442.17	64.149000	6.893000	21.024000
10 Jun 1993	Dividend Reinvestment	447.14			447.14	65.946000	6.780000	27.804000
10 Sep 1993	Dividend Reinvestment	452.02			452.02	65.077000	6.946000	34.750000
10 Dec 1993	Dividend Reinvestment	457.02	Transaction Fee	0.18	457.02	62.528000	7.309000	42.059000
10 Mar 1994	Dividend Reinvestment	462.28	Transaction Fee	0.18	462.28	65.507000	7.057000	49.116000
10 Jun 1994	Dividend Reinvestment	467.36	Transaction Fee	0.19	467.36	61.520000	7.597800	56.713000
10 Sep 1994	Dividend Reinvestment	472.83	Transaction Fee	0.20	472.83	59.665000	7.925000	64.638000
10 Dec 1994	Dividend Reinvestment	498.48	Transaction Fee	0.21	498.48	60.539000	8.234000	72.872000
10 Mar 1995	Dividend Reinvestment	504.65	Transaction Fee	0.20	504.65	63.969000	7.889000	80.761000
10 Jun 1995	Dividend Reinvestment	510.57	Transaction Fee	0.18	510.57	70.975000	7.194000	87.955000
11 Sep 1995	Dividend Reinvestment	515.97	Transaction Fee	0.18	515.97	70.416000	7.327000	95.282000
11 Dec 1995	Dividend Reinvestment	521.46	Transaction Fee	0.16	521.46	80.033000	6.516000	101.798000
11 Mar 1996	Dividend Reinvestment	526.35	Transaction Fee	0.16	526.35	80.978000	6.500000	108.298000
10 Jun 1996	Dividend Reinvestment	559.58	Transaction Fee	0.17	559.58	84.740000	6.609000	114.901000
10 Sep 1996	Dividend Reinvestment	564.77	Transaction Fee	0.17	564.77	83.704000	6.747000	121.648000
28 Oct 1996	Book Or Plan Transfer						-121.648000	0.000000

00TPPA (Rev. 12/11)

### How to Read Your Statement

Please see reverse side for important information

**Stock Class Description** - A description of the stock class in which you hold shares, e.g. Common stock.

**Certificated Shares/Units Held by You** - A physical certificate was issued for these shares/units.

**Book/Book-Entry Shares** - Shares Computershare maintains for you in an electronic account; a stock certificate was not issued for these shares. All Direct Registration shares and investment plan ("Plan") shares are held in book-entry form.

**Direct Registration Book Shares/Units (DRS)** - Book-entry shares that are not part of the Plan.

**Investment Plan Book Shares/Units** - Book-entry shares that are part of either a dividend reinvestment plan (DRP) or direct stock purchase plan (DSPP).

**Total Shares/Units** - The sum of all certificated and book shares held in this account as of the date specified.

**Closing Price** - The closing market price as of the account summary date.

**Market Value** - The dollar value of the total shares held in this account as of the date specified.

**Deduction Description** - A description of any amounts withheld including transaction fees.

**Deduction Amount** - Dollar amounts deducted may include taxes and transaction fees (which fees shall include any brokerage commissions Computershare is required to pay).

**Net Amount** - The total amount transacted for you, equal to the transaction amount less any applicable deductions.

**Price Per Share/Unit** - The market price per share purchased or sold under the Plan for this transaction.

**Transaction Shares/Units** - The number of shares purchased or sold through the Plan for this transaction.

**Total Book Shares/Units** - The sum of all book-entry shares, including both DRS and investment plan shares, as of the date specified.

**SSN/TIN Certified** - If your account is not certified, as indicated by the word NO appearing under the SSN/TIN field in the top right section of this form, you must complete a Form W-9 (US resident) or Form W-8BEN (non-US resident) or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Either form is available through the "PRINTABLE FORMS" section of our website. Faxed forms are not acceptable. You may verify your tax status or obtain the necessary forms at the website listed above.

P4317

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IND

XOM  
193UDR**1 Transaction Request Form**

Please check or complete all applicable sections.

**1A Sell Shares**

OR

Sell all book-entry shares, including plan and DRS shares (if applicable), and terminate plan participation.

Sell this number of shares. Shares may be a combination of DRS and Plan shares.

**1C Deposit Certificate(s) into the Investment Plan****IMPORTANT:**  
You must submit the original unsigned certificate(s) with this form.

Deposit this number of shares into my reinvestment account.

**1B Withdraw from the Reinvestment Program**  
(DRS shares will receive future dividends in cash.)

OR

Reassign all of my whole shares to DRS, terminate my participation in the plan and send a check for any fractional shares.

Reassign this number of whole shares to DRS, and terminate my participation in the plan for these shares.

**1D Authorized Signature(s)\***

Signature 1 - Please keep signature within the box.

Signature(s) 2 - Please keep signature within the box.

Please detach this portion and mail it to: Computershare, PO Box 43078, Providence, RI 02940-3078

0713205:0809: P0237

**How to Request a Transaction**

You can manage your account online through Investor Centre at the website listed on the top right of the reverse side. Register today!

The IRS requires that we report the cost basis of certain shares acquired after January 1, 2011. If your shares were covered by the legislation and you have sold or transferred the shares and requested a specific cost basis calculation method, we have processed as requested. If you did not specify a cost basis calculation method, we have defaulted to the first in, first out (FIFO) method. Please visit our website or consult your tax advisor if you need additional information about cost basis.

1A. Use section 1A above to sell a portion of your plan shares, or to sell all plan shares and terminate your plan participation. Shares will be sold as promptly as practicable based on the terms of the plan. A proceeds check will be mailed to you, less any applicable taxes and fees. You can request electronic funds transfer for your sales proceeds by updating your bank details online through Investor Centre at the website listed on the reverse side. Upon written request, we will provide the name of the executing broker dealer associated with the transaction, and within a reasonable amount of time will disclose the source and amount of compensation received from third parties in connection with the transaction, if any.

**ALL SALE INSTRUCTIONS ARE FINAL AND CANNOT BE MODIFIED, STOPPED OR CANCELLED AFTER COMPUTERSHARE HAS RECEIVED THE REQUEST. PLEASE REFER TO THE PLAN PROSPECTUS/BROCHURE OR DRS BROCHURE REGARDING APPLICABLE FEES.**

To have the proceeds paid to someone other than the current registered holder, the shares must first be transferred to the other party. For assistance with a stock transfer please visit the "Help" section on our website or you may contact us by phone; both are listed on the reverse side.

1B. Use section 1B above to withdraw a portion or all of your shares from the plan. These shares will become Direct Registration System (DRS) shares and will be held electronically in your account in book-entry form by Computershare. We will mail you a check for the value of any fractional shares (if applicable). If your request is received near a record date, Computershare has the right to reinvest the dividend or pay you in cash. Future dividends for these shares will be paid in cash, unless you rejoin the plan.

1C. Use section 1C above to minimize risk of loss, theft or damage by depositing certificates. Computershare will deposit these shares into your plan account and hold them electronically in book-entry form. Send physical stock certificate(s) via registered mail or a courier service that provides a return receipt to: Computershare, 250 Royal Street, Canton, MA, 02021. Do not endorse the certificate(s) or complete the assignment section. You may want to insure the mailing for 3% of the stock's market value, which is the approximate cost to replace a certificate in the event that it is lost in transit.

1D. All registered holders must sign section 1D for the above instruction(s) to be completed. \*Sales requests for partnerships or corporations must include a Medallion Signature Guarantee or a certified copy of the corporate resolution/partnership agreement. A Medallion Signature Guarantee is a special stamp provided by a bank, broker or credit union (guarantor institutions) that indicates the individual(s) signing a form is (are) legally authorized to conduct the requested transaction. A notarized signature is not a substitute for a Medallion Signature Guarantee.

If you do not keep in contact with us or do not have any activity in your account for the time periods specified by state law, your property could become subject to state unclaimed property laws and transferred to the appropriate state.

**Privacy Notice**

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you in writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), Social Security number, bank account information, stock ownership information and other financial information. With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third-party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information. Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

Note: Assets are not deposits of Computershare and are not insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or any other federal or state agency.

00TPOA (Rev. 8/11)

P4318

**ExxonMobil****Computershare** +Computershare Trust Company, N.A.  
PO Box 43078

Providence, RI 02940-3078

Within USA, US territories &amp; Canada 800 252 1800

Outside USA, US territories &amp; Canada 781 575 2058

www.computershare.com/exxonmobil

Exxon Mobil Corporation is incorporated under the laws of the State of NJ.

001244

ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
C/O ANITA K BRUNSTING  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904

Holder Account Number

2102

SSNTIN Certified  
YesSymbol  
XOM

001CS0003.dcs3.mlx:075233\_3612/001244/001436

**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: 2102

**ACCOUNT SUMMARY**

As of close of stock market on 31 Dec 2004

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	3,522.422000	3,522.422000		

**Transaction History**

From: 01 Jan 1996

To: 31 Dec 2004

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
28 Oct 1996	Book Or Plan Transfer							721.648000
10 Dec 1996	Dividend Reinvestment	570.10	Comp Paid Fees	0.15	570.10	94.640000	6.024000	727.672000
10 Mar 1997	Dividend Reinvestment	574.86	Comp Paid Fees	0.14	574.86	100.855000	5.700000	733.372000
11 Apr 1997	Stock Split							733.372000
10 Jun 1997	Dividend Reinvestment	601.37	Comp Paid Fees	0.25	601.37	60.491000	9.941000	1,476.885000
10 Sep 1997	Dividend Reinvestment	605.44	Comp Paid Fees	0.24	605.44	64.063000	9.451000	1,488.136000
10 Dec 1997	Dividend Reinvestment	609.32	Comp Paid Fees	0.24	609.32	62.920000	9.694000	1,495.820000
10 Mar 1998	Dividend Reinvestment	613.29	Comp Paid Fees	0.24	613.29	63.134000	9.714000	1,505.534000
10 Jun 1998	Dividend Reinvestment	617.27	Comp Paid Fees	0.22	617.27	70.338000	8.776000	1,514.310000
10 Sep 1998	Dividend Reinvestment	620.87	Comp Paid Fees	0.24	620.87	65.712000	9.448000	1,523.758000
10 Dec 1998	Dividend Reinvestment	624.74	Comp Paid Fees	0.22	624.74	72.087000	8.666000	1,532.424000
10 Mar 1999	Dividend Reinvestment	628.29	Comp Paid Fees	0.23	628.29	68.630000	9.155000	1,541.579000
10 Jun 1999	Dividend Reinvestment	632.05	Comp Paid Fees	0.20	632.05	80.103000	7.890000	1,549.469000
10 Sep 1999	Dividend Reinvestment	635.28	Comp Paid Fees	0.20	635.28	79.900000	7.951000	1,557.420000
10 Dec 1999	Dividend Reinvestment	645.26	Comp Paid Fees	0.20	645.26	83.759000	8.181000	1,565.601000
10 Mar 2000	Dividend Reinvestment	648.86	Comp Paid Fees	0.22	648.86	76.740000	8.977000	1,574.578000
10 Jun 2000	Dividend Reinvestment	692.81	Comp Paid Fees	0.22	692.81	80.380000	8.621000	1,583.199000
11 Sep 2000	Dividend Reinvestment	696.61	Comp Paid Fees	0.21	696.61	83.141000	8.379000	1,591.578000
11 Dec 2000	Dividend Reinvestment	700.29	Comp Paid Fees	0.20	700.29	68.469000	7.916000	1,599.494000

00TPPA (Rev. 12/11)

**How to Read Your Statement**

Please see reverse side for important information.

**Stock Class Description** - A description of the stock class in which you hold shares, e.g. Common stock.**Certificated Shares/Units Held By You** - A physical certificate was issued for these shares/units.**Book/Book-Entry Shares** - Shares Computershare maintains for you in an electronic account; a stock certificate was not issued for these shares. All Direct Registration shares and Investment Plan ("Plan") shares are held in book-entry form.**Direct Registration Book Shares/Units (DRS)** - Book-entry shares that are not part of the Plan.**Investment Plan Book Shares/Units** - Book-entry shares that are part of either a dividend reinvestment plan (DRP) or direct stock purchase plan (DSPP).**Total Shares/Units** - The sum of all certificated and book shares held in this account as of the date specified.**Closing Price** - The closing market price as of the account summary date.**Market Value** - The dollar value of the total shares held in this account as of the date specified.**Deduction Description** - A description of any amounts withheld including transaction fees.**Deduction Amount** - Dollar amounts deducted may include taxes and transaction fees (which fees shall include any brokerage commissions Computershare is required to pay).**Net Amount** - The total amount transacted for you, equal to the transaction amount less any applicable deductions.**Price Per Share/Unit** - The market price per share purchased or sold under the Plan for this transaction.**Transaction Shares/Units** - The number of shares purchased or sold through the Plan for this transaction.**Total Book Shares/Units** - The sum of all book-entry shares, including both DRS and investment plan shares, as of the date specified.

SSNTIN Certified - If your account is not certified, as indicated by the word NO appearing under the SSNTIN title in the top right section of this form, you must complete a Form W-9 (US resident) or Form W-8BEN (non-US resident) or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Either form is available through the "PRINTABLE FORMS" section of our website. Faxed forms are not acceptable. You may certify your tax status or obtain the necessary forms at the website listed above.

P4319

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**ExxonMobil****Computershare** +

Computershare Trust Company, N.A.

PO Box 43078

Providence, RI 02940-3078

Within USA, US territories &amp; Canada 800 252 1800

Outside USA, US territories &amp; Canada 781 575 2058

www.computershare.com/exxonmobil

Exxon Mobil Corporation is incorporated under the laws of the State of NJ.

ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96

Holder Account Number

2102

SSN/TIN Certified  
YesSymbol  
XOM

001CS0003.doc1.mtx.075233\_36120012440014276

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: 2102

**Transaction History (cont.)**

From: 01 Jan 1996

To: 31 Dec 2004

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								
09 Mar 2001	Dividend Reinvestment	703.78	Comp Paid Fees	0.21	703.78	83.855000	8.383000	1,607.887000
11 Jun 2001	Dividend Reinvestment	707.47	Comp Paid Fees	0.20	707.47	89.824000	7.878000	1,615.763000
11 Jul 2001	Dividend Reinvestment	32.32	Comp Paid Fees	0.01	32.32	86.512000	0.374000	1,616.137000
18 Jul 2001	Stock Split						1,615.783000	3,231.900000
18 Jul 2001	Stock Dividend						0.374000	3,232.274000
10 Sep 2001	Dividend Reinvestment	743.42	Comp Paid Fees	0.45	743.42	40.865000	18.192000	3,250.466000
10 Dec 2001	Dividend Reinvestment	747.61	Comp Paid Fees	0.49	747.61	38.016000	19.666000	3,270.132000
11 Mar 2002	Dividend Reinvestment	752.13	Comp Paid Fees	0.44	752.13	42.803000	17.572000	3,287.704000
10 Jun 2002	Dividend Reinvestment	756.17	Comp Paid Fees	0.48	756.17	39.381000	19.211000	3,306.915000
10 Sep 2002	Dividend Reinvestment	760.59	Comp Paid Fees	0.56	760.59	33.853000	22.487000	3,329.392000
10 Dec 2002	Dividend Reinvestment	765.76	Comp Paid Fees	0.55	765.76	34.845000	21.976000	3,351.358000
10 Mar 2003	Dividend Reinvestment	770.81	Comp Paid Fees	0.56	770.81	34.524000	22.327000	3,373.685000
10 Jun 2003	Dividend Reinvestment	843.42	Comp Paid Fees	0.57	843.42	37.179000	22.685000	3,396.370000
10 Sep 2003	Dividend Reinvestment	849.09	Comp Paid Fees	0.56	849.09	38.140000	22.262000	3,418.632000
10 Dec 2003	Dividend Reinvestment	854.66	Comp Paid Fees	0.58	854.66	37.024000	23.094000	3,441.718000
10 Mar 2004	Dividend Reinvestment	860.43	Comp Paid Fees	0.51	860.43	42.252000	20.364000	3,462.080000
10 Jun 2004	Dividend Reinvestment	934.76	Comp Paid Fees	0.54	934.76	43.618000	21.431000	3,483.511000
10 Sep 2004	Dividend Reinvestment	940.55	Comp Paid Fees	0.50	940.55	47.071000	19.982000	3,503.493000
10 Dec 2004	Dividend Reinvestment	945.94	Comp Paid Fees	0.47	945.94	49.974000	18.929000	3,522.422000

00TPPA (Rev. 12/11)

**How to Read Your Statement**

Please see reverse side for important information.

**Stock Class Description** - A description of the stock class in which you hold shares, e.g. Common stock.**Certificated Shares/Units Held By You** - A physical certificate was issued for these shares/units.**Book/Book-Entry Shares** - Shares Computershare maintains for you in an electronic account; a stock certificate was not issued for these shares. All Direct Registration shares and investment plan ("Plan") shares are held in book-entry form.**Direct Registration Book Shares/Units (DRS)** - Book-entry shares that are not part of the Plan.**Investment Plan Book Shares/Units** - Book-entry shares that are part of either a dividend reinvestment plan (DRP) or direct stock purchase plan (DSPP).**Total Shares/Units** - The sum of all certificated and book shares held in this account as of the date specified.**Closing Price** - The closing market price as of the account summary date.**Market Value** - The dollar value of the total shares held in this account as of the date specified.**Deduction Description** - A description of any amounts withheld including transaction fees.**Deduction Amount** - Dollar amounts deducted may include taxes and transaction fees (which fees shall include any brokerage commissions Computershare is required to pay).**Net Amount** - The total amount transacted for you, equal to the transaction amount less any applicable deductions.**Price Per Share/Unit** - The market price per share purchased or sold under the Plan for this transaction.**Transaction Shares/Units** - The number of shares purchased or sold through the Plan for this transaction.**Total Book Shares/Units** - The sum of all book-entry shares, including both DRS and investment plan shares, as of the date specified.**Record Date** - The date on which you must have officially owned shares to receive the dividend.**Payment Date** - The date the dividend was payable.**Dividend Rate** - The dollar amount of the dividend paid per share or the rate of stock dividend or stock split.**Dividend Reinvestment Shares/Units** - Shares enrolled in dividend reinvestment.**Gross Dividend** - The dividend paid on the Plan's dividend reinvestment shares.**Net Dividend** - The total amount reinvested for you, equal to the gross dividend amount less any taxes withheld.

SSN/TIN Certified - If your account is not certified, as indicated by the word NO appearing under the SSN/TIN title in the top right section of this form, you must complete a Form W-9 (US resident) or Form W-8BEN (non-US resident) or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Either form is available through the "PRINTABLE FORMS" section of our website. Faxed forms are not acceptable. You may verify your tax status or obtain the necessary forms at the website listed above.

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SL1 FID

X O M  
214 U D R**1 Transaction Request Form**

Please check or complete all applicable sections.

**1A Sell Shares**

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OR

Sell all book-entry shares, including plan and DRS shares (if applicable), and terminate plan participation.

Sell this number of shares. Shares may be a combination of DRS and Plan shares. Sale requests submitted on this *Transaction Request Form* will be processed as a batch order. Please see instructions below for more information.

**1C Deposit Certificate(s) into the Investment Plan**

--	--	--	--	--	--	--	--	--	--

**IMPORTANT:** You must submit the original unsigned certificate(s) with this form.

Deposit this number of shares into my reinvestment account.

**1B Withdraw from the Reinvestment Program**  
(DRS shares will receive future dividends in cash.)

--	--	--	--	--	--	--	--	--	--

OR

Reassign all of my whole shares to DRS, terminate my participation in the plan and send a check for any fractional shares.

Reassign this number of whole shares to DRS, and terminate my participation in the plan for these shares.

**1D Authorized Signature(s)\***

Signature 1 - Please keep signature within the box.

--	--	--	--	--	--	--	--	--	--

Signature(s) 2 - Please keep signature within the box.

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Please detach this portion and mail it to: Computershare, PO Box 43078, Providence, RI 02940-3078

**How to Request a Transaction** (refer to the product brochure for additional details on the terms and conditions of the account under the plan or DRS sales facility)

You can manage your account online through Investor Centre at the website listed on the top right of the reverse side. Register today!

The IRS requires that we report the cost basis of certain shares acquired after January 1, 2011. If your shares were covered by the legislation and you have sold or transferred the shares and requested a specific cost basis calculation method, we have processed as requested. If you did not specify a cost basis calculation method, we have defaulted to the first in, first out (FIFO) method. Please visit our website or consult your tax advisor if you need additional information about cost basis.

1A. Use section 1A above to sell a portion of your plan shares, or to sell all plan shares and terminate your plan participation. Sale requests submitted on this *Transaction Request Form* will be treated as a batch order and generally processed no later than five business days after the date on which the form is received. A Market Order sale may be available for transactions submitted by telephone or through Investor Centre at [www.compuershare.com](http://www.compuershare.com). Please contact us at the phone number listed on the reverse side or refer to the brochure for the plan or DRS Sales Facility for more information concerning the types of orders available. Note: market orders and batch orders are subject to different fees. Please visit the website or contact us at the phone number listed on the reverse side for fee details. A proceeds check will be mailed to you, less any applicable taxes and fees. You can request electronic funds transfer for your sales proceeds by updating your bank details online through Investor Centre at the website listed on the reverse side. Upon written request, we will provide the name of the executing broker dealer associated with the transaction, and within a reasonable amount of time will disclose the source and amount of compensation received from third parties in connection with the transaction, if any.

ALL SALE INSTRUCTIONS ARE FINAL AND CANNOT BE MODIFIED, STOPPED OR CANCELLED AFTER COMPUTERSHARE HAS RECEIVED THE REQUEST.

To have the proceeds paid to someone other than the current registered holder, the shares must first be transferred to the other party. For assistance with a stock transfer please visit the "Help" section on our website or you may contact us by phone; both are listed on the reverse side.

1B. Use section 1B above to withdraw a portion or all of your shares from the plan. These shares will become Direct Registration System (DRS) shares and will be held electronically in your account in book-entry form by Computershare. We will mail you a check for the value of any fractional shares (if applicable). If your request is received near a record date, Computershare has the right to reinvest the dividend or pay you in cash. Future dividends for these shares will be paid in cash, unless you rejoin the plan.

1C. Use section 1C above to minimize risk of loss, theft or damage by depositing certificates. Computershare will deposit these shares into your plan account and hold them electronically in book-entry form. Send physical stock certificate(s) via registered mail or a courier service that provides a return receipt to: Computershare, 260 Royal Street, Canton, MA, 02021. Do not endorse the certificate(s) or complete the assignment section. You may want to insure the mailing for 3% of the stock's market value, which is the approximate cost to replace a certificate in the event that it is lost in transit.

1D. All registered holders must sign section 1D for the above instruction(s) to be completed. \*Sales requests for partnerships or corporations must include a Medallion Signature Guarantee or a copy of the corporate resolution/partnership agreement. A Medallion Signature Guarantee is a special stamp provided by a bank, broker or credit union (guarantor institutions) that indicates the individual(s) signing a form is legally authorized to conduct the requested transaction. A notarized signature is not a substitute for a Medallion Signature Guarantee.

2. Use section 2 below to make an optional investment through the plan. Detach the completed form and mail it, along with a check payable to Computershare, in the enclosed envelope. Please note the purchase limitations identified on the bottom left of the form.

If you do not keep in contact with us or do not have any activity in your account for the time periods specified by state law, your property could become subject to state unclaimed property laws and transferred to the appropriate state.

**Privacy Notice**

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you in writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), Social Security number, bank account information, stock ownership information and other financial information. With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third-party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information. Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

Note: Assets are not deposits of Computershare and are not insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or any other federal or state agency.

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**2 Purchase Additional Shares of Company Stock**

If you wish to make an optional cash purchase at this time, please make your check payable to Computershare.

Attached is a check in the amount of:

\$																			
----	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

- No third party checks, money orders or credit card payments will be accepted.
- Please write your holder account number and the company name on your check.
- This form should ONLY be used for Exxon Mobil Corporation.
- The enclosed contribution will ONLY be applied to the account referenced to the right.

The plan allows for a minimum amount of \$50 with a maximum amount of \$250,000 per year. Computershare will invest funds at least twice per week on Tuesdays and Thursdays. If either Tuesday or Thursday is not a stock market trading day ("trading day"), then funds will be invested on the next trading day.

Please detach this portion and mail it to the address provided on the right.

Holder Name: ELMER H BRUNSTING OR  
NELVA E BRUNSTING TR BRUNSTING  
FAM  
Holder Account Number

2102 FID



Computershare  
P.O. Box 6006  
Carol Stream, IL 60197-6006

P4322

00000000XOM SPP1 2102

**ExxonMobil**

c/o EQUISERVE TRUST COMPANY, N.A.  
P.O. BOX 43008  
PROVIDENCE, RI 02940-3008



CODE 11690 EG 145932 280714 33001031253471458 STAMORPDRS XAMT 634  
HY3300E1J131760.0001.280714

ELMER H BRUNSTING OR  
NELVA E BRUNSTING TR  
BRUNSTING FAM LIVING TRUST  
UA 10/10/96  
13630 PINEROCK  
HOUSTON, TX 77079-5914

## STATEMENT OF HOLDINGS

December 13, 2005

Page 1 of 4

To access and manage your account, you can contact us :

By Internet: [www.exxonmobil.equiserve.com](http://www.exxonmobil.equiserve.com)

By Telephone: 800-252-1800

By Mail: COMPUTERSHARE  
P.O. BOX 43008  
PROVIDENCE, RI 02940-3008

SAVE THIS STATEMENT FOR YOUR FINANCIAL RECORDS

How to read your statement..

### EXXON MOBIL CORPORATION

Issue ID 330010 Account Number 1230

#### Dividend Reinvestment Information

Issue Id	Security	Record Date	Payable Date	Shares Subject To Reinvestment	Rate	Fee Deducted	Tax Withheld	Net Dollars Reinvested
330010	COMMON	11/10/2005	12/09/2005	3,572.1690	0.290000	\$0.00	\$0.00	\$1,035.93

#### Account Activity as of 12/09/2005

#### Current Dividend Option: FULL REINVESTMENT

Date	Transaction Description	Net Dollars	Price Per Share	Transaction Shares	ID	Total Shares
01/01/2005	BEGINNING BALANCE					3,522.4220
03/10/2005	DIVIDEND PURCHASE	\$951.05	\$63.2060	15.0470		3,537.4690
06/10/2005	DIVIDEND PURCHASE	\$1,025.87	\$57.5440	17.8280		3,555.2970
09/09/2005	DIVIDEND PURCHASE	\$1,031.04	\$61.1110	16.8720		3,572.1690
12/09/2005	DIVIDEND PURCHASE	\$1,035.93	\$59.4590	17.4230		3,589.5920

Continued...

### EXXON MOBIL CORPORATION

### CASH INVESTMENT TRANSACTION FORM

Issue ID: 330010

Account Number: 1230

ELMER H BRUNSTING OR  
NELVA E BRUNSTING TR  
BRUNSTING FAM LIVING TRUST  
UA 10/10/96

**CASH INVESTMENTS ONLY:**  
Make check payable to Computershare  
(amount enclosed in U.S. dollars drawn  
on a U.S. bank). Do not send cash,  
third party checks or money orders.

Amount Enclosed

Minimum: \$50.00 Maximum: \$250,000.00

**IMPORTANT - ALL CASH  
INVESTMENTS MUST BE  
MAILED TO THIS ADDRESS.**  
Do not send certificates or other  
correspondence to this address.

COMPUTERSHARE  
P.O. BOX 219035  
KANSAS CITY, MO 64121-9035

P4323

0001



via EQUISERVE TRUST COMPANY, N.A.  
P.O. BOX 43008  
PROVIDENCE, RI 02940-3008

ELMER H BRUNSTING OR  
NELVA E BRUNSTING TR  
BRUNSTING FAM LIVING TRUST  
UA 10/10/96

## STATEMENT OF HOLDINGS

December 13, 2005

Page 3 of 4

To access and manage your account, you can contact us :

By Internet: [www.exxonmobil.equiserve.com](http://www.exxonmobil.equiserve.com)

By Telephone: 800-252-1800

By Mail: COMPUTERSHARE  
P.O. BOX 43008  
PROVIDENCE, RI 02940-3008

SAVE THIS STATEMENT FOR YOUR FINANCIAL RECORDS

[How to read your statement.](#)

**EXXON MOBIL CORPORATION**

Issue ID 330010 Account Number XXXX1230

### Total Holdings and Market Value as of 12/09/2005

Security	COMMON	Market Price Per Share	\$58.5000
Shares Held By You	0.0000	Market Value	\$209,991.13
Shares Held By Agent	3,589.5920		
Total Account Shares	3,589.5920		

### Year-To-Date Summary for 2005

Gross Dividends	\$4,043.89
Tax Withheld	\$0.00
Additional Income	\$1.69



P4324

# ExxonMobil

c/o COMPUTERSHARE  
P.O. BOX 43008  
PROVIDENCE, RI 02940-3008



**IMPORTANT TAX RETURN  
DOCUMENT ENCLOSED**

0019 12458 EC 372413 642663 1 1  
HYG300E1.115780.0001.642663 33001031253471458 100600V XMT 834

ELMER H BRUNSTING OR  
NELVA E BRUNSTING TR  
BRUNSTING FAM LIVING TRUST  
UA 10/10/96  
13630 PINEROCK  
HOUSTON, TX 77079-5914

### Instructions for Recipient

**Account Number.** May show an account or other unique number the payer assigned to distinguish your account.

**Box 1a.** Shows total ordinary dividends that are taxable. Include this amount on line 9a of Form 1040 or 1040A. Also, report it on Schedule B (Form 1040) or Schedule 1 (Form 1040A), if required.

The amount shown may be a distribution from an employee stock ownership plan (ESOP). Report it as a dividend on your Form 1040/1040A but treat it as a plan distribution, not as investment income, for any other purpose.

**Box 1b.** Shows the portion of the amount in box 1a that may be eligible for the 15% or 5% capital gains rates. See the Form 1040/1040A instructions for how to determine this amount. Report the eligible amount on line 9b, Form 1040 or 1040A.

**Box 2a.** Shows total capital gain distributions (long-term) from a regulated investment company or real estate investment trust. Report the amounts shown in box 2a on Schedule D (Form 1040), line 13. But, if no amount is shown in boxes 2c-2d and your only capital gains and losses are capital gain distributions, you may be able to report the amounts shown in box 2a on line 13 of Form 1040 (line 10 of Form 1040A) rather than Schedule D. See the Form 1040/1040A instructions.

**Box 2b.** Shows the portion of the amount in box 2a that is unrecaptured section 1250 gain from certain depreciable real property. Report this amount on the Unrecaptured Section 1250 Gain Worksheet-Line 19 in the Schedule D Instructions (Form 1040).

**Box 2c.** Shows the portion of the amount in box 2a that is section 1202 gain from certain small business stock that may be subject to a 50% exclusion. See the Schedule D (Form 1040) instructions.

**Box 2d.** Shows 28% rate gain from sales or exchanges of collectibles. If required, use this amount when completing the 28% Rate Gain Worksheet-Line 18 in the instructions for Schedule D (Form 1040).

**Box 3.** Shows the part of the distribution that is nontaxable because it is a return of your cost (or other basis). You must reduce your cost (or other basis) by this amount for figuring gain or loss when you sell your stock. But if you get back all your cost (or other basis), report future distributions as capital gains. See Pub. 550, Investment Income and Expenses.

**Box 4.** Shows backup withholding. For example, a payer must backup withhold on certain payments at a 28% rate if you did not give your taxpayer identification number to the payer. See Form W-9, Request for Taxpayer Identification Number and Certification, for information on backup withholding. Include this amount on your income tax return as tax withheld.

**Box 5.** Shows your share of expenses of a nonpublicly offered regulated investment company, generally a nonpublicly offered mutual fund. If you file Form 1040, you may deduct these expenses on the "Other expenses" line on Schedule A (Form 1040) subject to the 2% limit. This amount is included in box 1a.

**Box 6.** Shows the foreign tax you may be able to claim as a deduction or a credit on Form 1040. See the Form 1040 instructions.

**Boxes 8 and 9.** Shows cash and noncash liquidation distributions. **Nominee.** If this form includes amounts belonging to another person, you are considered a nominee recipient. You must file Form 1099-DIV with the IRS for each of the other owners to show their share of the income, and you must furnish a Form 1099-DIV to each. A husband or wife is not required to file a nominee return to show amounts owned by the other. See the 2005 General Instructions for Forms 1099, 1098, 5498, and W-2G.



PAYER'S name, street address, city, state, ZIP code and telephone no.

EXXON MOBIL CORPORATION  
c/o COMPUTERSHARE  
P.O. BOX 43008  
PROVIDENCE, RI 02940-3008  
800-252-1800

RECIPIENT'S name, street address, city, state, and ZIP code

ELMER H BRUNSTING OR  
NELVA E BRUNSTING TR  
BRUNSTING FAM LIVING TRUST  
UA 10/10/96  
13630 PINEROCK  
HOUSTON, TX 77079-5914

CORRECTED (if checked)

### Dividends and Distributions

1a Total ordinary dividends	1b Qualified dividends
\$ 4,045.58	\$ 4,045.58
2a Total capital gain distr.	2b Unrecap. Sec. 1250 gain
\$ 0.00	\$ 0.00
2c Section 1202 gain	2d Collectibles (28%) gain
\$ 0.00	\$ 0.00
3 Nondividend distributions	4 Federal income tax withheld
\$ 0.00	\$ 0.00
5 Investment expenses	6 Foreign tax paid
\$ 0.00	\$ 0.00
7 Foreign country or U.S. possession	8 Cash liquidation distributions
	\$ 0.00
9 Noncash liquidation distributions	PAYER'S Federal identification number
\$ 0.00	9005
RECIPIENT'S identification number	Account Number (see instructions)
8905	1230

OMB No. 1545-0110

**2005**  
Form 1099-DIV

**Copy B  
For Recipient**

This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you do not determine as not been reported.

Form 1099-DIV (keep for your records)

E1099T

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**ExxonMobil**

033426

**IMPORTANT TAX RETURN DOCUMENT ENCLOSED**

ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
13630 PINEROCK  
HOUSTON TX 77079-5914

**Computershare**

+

Computershare Trust Company, N.A.

250 Royal Street

Canton Massachusetts 02021

Within the US, Canada &amp; Puerto Rico 800 252 1800

Outside the US, Canada &amp; Puerto Rico 781 575 2058

www.computershare.com/exxonmobil

Holder Account Number

2102 FID

SSN/TIN Certified  
SymbolYes  
XOM

001CS0006\_RFS.DLTX.XOM.01128\_83640334360366424

**Exxon Mobil Corporation - Statement of Holdings**

If you want to make an optional cash purchase at this time, please make your check payable to Computershare. Please write your Holder Account Number and the Company name on the check or on your cover letter. Please send your check to: Computershare, P.O. Box 6006, Carol Stream, IL 60197-6006.

**Dividend Information**

Record Date	Payment Date	Class Description	Shares/Units Participating in Dividend Reinvestment	Dividend Rate (\$)	Gross Dividend (\$)	Taxes Withheld (\$)	Net Dividend (\$)
13 Nov 2006	11 Dec 2006	Common	3,645.057000	0.320000	1,166.42		1,166.42

**Transaction History** From: 01 Jan 2006 To: 11 Dec 2006

Date	Transaction Description	Transaction Amount (\$)	Deduction Amount (\$)	Deduction Type	Net Amount (\$)	Price Per Share/Unit (\$)	Total Transaction Shares/Units	Total Shares/Units Held
Plan Transactions Dspp - Common Stock								
01 Jan 2006	Balance Forward							3,589.592000
10 Mar 2006	Dividend Reinvestment	1,148.67	0.48	Comp Paid Fees	1,148.67	60.043000	19.131000	3,608.723000
09 Jun 2006	Dividend Reinvestment	1,154.79	0.48	Comp Paid Fees	1,154.79	60.103000	19.214000	3,627.937000
11 Sep 2006	Dividend Reinvestment	1,160.94	0.43	Comp Paid Fees	1,160.94	67.812000	17.120000	3,645.057000
11 Dec 2006	Dividend Reinvestment	1,166.42	0.38	Comp Paid Fees	1,166.42	76.781302	15.191459	3,660.248459

**Summary of Holdings** Date: 11 Dec 2006

Class Description	Certificated Shares/Units Held By You	Direct Registration/ Book Shares/Units	Dividend Reinvestment Shares/Units	Total Shares/Units	Closing Price Per Share/Unit (\$)	Value (\$)
Dspp - Common Stock	0.000000	0.000000	3,660.248459	3,660.248459	75.360000	275,836.32

43UDR

XOM

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**IMPORTANT TAX RETURN DOCUMENT ATTACHED**

Please see important PRIVACY NOTICE on reverse side of statement

00H5JA

**ExxonMobil**

PAYER'S name, street address, city, state, and ZIP code  
EXXON MOBIL CORPORATION  
C/O COMPUTERSHARE  
P.O. BOX 43010  
PROVIDENCE RI 02940-3010

RECIPIENT'S name, street address, city, state, ZIP code  
ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
13630 PINEROCK  
HOUSTON TX 77079-5914

 CORRECTED (if checked)**Dividends and Distributions**

OMB No. 1545-0110

1a Total ordinary dividends \$ 4632.59	1b Qualified dividends \$ 4632.59
3 Nondividend distributions \$	4 Federal income tax withheld \$
6 Foreign tax paid \$	7 Foreign country or U.S. possession \$
8 Cash Liquidation Distribution \$	PAYER'S Federal Identification number 0005
RECIPIENT'S Identification number 9905	Account number (see instructions) 2102

**2006**

Form 1099-DIV

**Copy B  
For Recipient**

Summary of reportable income (Amounts Paid and/or Reinvested do not reflect deductions for tax withheld, if any)	
Amount Paid By Check/EFT \$ 0	Amount Reinvested \$ 4630.82
Company Paid Fees \$ 1.77	Company Paid Service Charges \$
Discount on Reinvestment \$	

This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.

**P4326**

Form 1099-DIV (keep for your records)

Department of the Treasury - Internal Revenue Service

**A** Partial Withdrawal (continue participation in the Plan); ANDISSUE A CERTIFICATE  
FOR THIS NUMBER OF  
WHOLE SHARES

OR

\*SELL THIS  
NUMBER OF  
SHARES**B** Full Withdrawal (terminate participation in the Plan); ANDISSUE A CERTIFICATE FOR ALL FULL SHARES  
AND A CHECK FOR FRACTIONAL SHARES

OR

\*SELL ALL  
SHARES

If you have Direct Registration Shares (DRS) and you have requested to sell a specific amount of shares, the Direct Registration Shares will be sold prior to your Plan shares. If you selected for all of your shares to be sold, we will sell both your DRS and Plan shares.

**C** Deposit Certificate(s)PLEASE INDICATE THE NUMBER OF SHARES TO BE  
DEPOSITED INTO YOUR PLAN ACCOUNT.

Signature 1 - Please keep signature within the box.

Signature 2 - Please keep signature within the box.

Please detach this portion and mail to:  
Computershare  
PO Box 43078  
Providence RI 02940-3078

Please note: All registered holders must sign for your instructions to be completed.

\*For sales requests for Partnerships or Corporations, please have your signature(s) medallion guaranteed or provide us with a copy of the corporate resolution/partnership agreement. Computershare Trust Company, N.A., as agent, upon written request, will provide the name of the executing broker dealer associated with the transaction(s), and within a reasonable amount of time will disclose the source and amount of compensation received from third parties in connection with the transaction(s), if any.

ALL SALE INSTRUCTIONS ARE FINAL AND CANNOT BE MODIFIED, STOPPED OR CANCELLED AFTER COMPUTERSHARE HAS RECEIVED THE REQUEST. PLEASE REFER TO THE PLAN PROSPECTUS/BROCHURE REGARDING APPLICABLE FEES.

**I. Special Instructions**

If you wish to have sale proceeds sent electronically to your financial institution please confirm the correct wire instructions with your financial institution. The wire instructions should include the bank name, address, bank account name, bank account number, and the bank's nine digit fed wire routing number. A written request to sell along with this information should be provided to Computershare. For foreign wires, please include the swift code and the bank code. The written instructions should be signed by all shareholders with a Medallion Guarantee Stamp. Please note you can also sell your shares and choose to have the funds wired by visiting the website on the front of this form and accessing your Investor Centre account. A \$35.00 fee will be deducted from proceeds for a domestic wire and a \$50.00 fee will be deducted from proceeds for a foreign wire.

If you wish to have the proceeds sent via courier service, a \$20.00 fee will be deducted from your proceeds. Funds cannot be delivered to a P.O. Box or P.O. Zip codes.

If you want a certificate or check issued to someone other than the registered holder, you must include the name, address, date of birth and social security number of the person to whom the ownership is being transferred. Your signature(s) on the tear off section must be guaranteed by a member of a medallion signature program (bank or broker) approved by the Securities Transfer Association, Inc. A Notary public is not acceptable.

If you would like to write to us, please include your account number, daytime telephone number with area code, and the company name in your correspondence.

PLEASE KEEP THIS STATEMENT FOR COST BASIS AND TAX PURPOSES.

**II. Terms and Definitions**

Note: Some definitions outlined below may not pertain to your Investment Plan.

SSN/TIN Certified

If your account is not certified, you must complete a W-9 or W-8BEN tax form or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Faxed W-8BEN forms are not acceptable.

Record Date

The date that establishes ownership on our records to receive the dividend.

Payment Date

The date the dividend is payable.

Dividend Rate

The dollar amount of the dividend paid per share or the rate of stock dividend or stock split.

Price Per Share

The price per share purchased or sold under the plan.

Total Transaction Shares

The number of shares acquired or sold through the plan.

Deduction Amount

An aggregate sum of all fees charged.

Value

The dollar amount as of the date referenced of all shares that are held for this security in the account.

**III. Privacy Notice**

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you in writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), social security number, bank account information, stock ownership information and other financial information.

With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third-party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information.

Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

Assets are not deposits of Computershare and are not insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or any other federal or state agency.

00NKBA

**Instructions for Recipient**

Account Number: May show an account or other unique number the payer assigned to distinguish your account.

Box 1a: Shows total ordinary dividends that are taxable. Include this amount on line 9a of Form 1040 or 1040A. Also, report it on Schedule B (Form 1040) or Schedule 1 (Form 1040A), if required.

The amount shown may be a distribution from an employee stock ownership plan (ESOP). Report it as a dividend on your Form 1040/1040A, but treat it as a plan distribution, not as investment income, for any other purpose.

Box 1b: Shows the portion of the amount in box 1a that may be eligible for the 15% or 5% capital gains rates. See the Form 1040/1040A instructions for how to determine this amount. Report the eligible amount on line 9b, Form 1040 or 1040A.

Box 3: Shows the part of the distribution that is nontaxable because it is a return of your cost (or other basis). You must reduce your cost (or other basis) by this amount for figuring gain or loss when you sell your stock. But if you get back all your cost (or other basis), report future distributions as capital gains. See Pub. 550, Investment Income and Expenses.

Box 4: Shows backup withholding. For example, a payer must backup withhold on certain payments at the applicable rate if you did not give your taxpayer identification number to the payer. See Form W-9, Request for Taxpayer Identification Number and Certification, for information on backup withholding. Include this amount on your income tax return as tax withheld.

Box 5: Shows the foreign tax you may be able to claim as a deduction or a credit on Form 1040. See the Form 1040 instructions.

Box 8: Shows cash liquidation distributions.

Nominees: If this form includes amounts belonging to another person, you are considered a nominee recipient. You must file Form 1099-DIV with the IRS for each of the other owners to show their share of the income, and you must furnish a Form 1099-DIV to each. A husband or wife is not required to file a nominee return to show amounts owned by the other. See the 2006 General Instructions for Forms 1099, 1098, 5498, and W-2G.

P4327

07192015:0809: P0246

# ExxonMobil

# Computershare

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Computershare Trust Company, N.A.

250 Royall Street

Canton Massachusetts 02021

Within the US, Canada &amp; Puerto Rico 800 252 1800

Outside the US, Canada &amp; Puerto Rico 781 575 2058

www.computershare.com/exxonmobil

001542

**IMPORTANT TAX RETURN DOCUMENT ENCLOSED**

\*\*\*\*\*AUTO\*\*SCH 5-DIGIT 77079 00000006/000001542

ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
13630 PINEROCK  
HOUSTON TX 77079-5914

Holder Account Number

2102 FID

SSN/TIN Certified  
SymbolYes  
XOM

001CS0006\_RFS-DL-TX\_PG1-XOM.131322\_15368001542001542A

## Exxon Mobil Corporation - Statement of Holdings

If you want to make an optional cash purchase at this time, please make your check payable to Computershare. Please write your Holder Account Number and the Company name on the check or on your cover letter. Please send your check to: Computershare, P.O. Box 6006, Carol Stream, IL 60197-6006.

### Dividend Information

Holder Account Number: 2102

Record Date	Payment Date	Class Description	Shares/Units Participating In Dividend Reinvestment	Dividend Rate (\$)	Gross Dividend (\$)	Taxes Withheld (\$)	Net Dividend (\$)
09 Nov 2007	10 Dec 2007	Common	3,707.094361	0.350000	1,297.48		1,297.48

### Transaction History From: 01 Jan 2007 To: 10 Dec 2007

Date	Transaction Description	Transaction Amount (\$)	Deduction Amount (\$)	Deduction Type	Net Amount (\$)	Price Per Share/Unit (\$)	Total Transaction Shares/Units	Total Shares/Units Held
01 Jan 2007	Balance Forward							3,660.248459
09 Mar 2007	Dividend Reinvestment	1,171.28	0.41	Comp Paid Fees	1,171.28	70.917151	16.516174	3,676.764633
11 Jun 2007	Dividend Reinvestment	1,286.87	0.39	Comp Paid Fees	1,286.87	83.331627	15.442756	3,692.207389
10 Sep 2007	Dividend Reinvestment	1,282.27	0.37	Comp Paid Fees	1,292.27	86.805431	14.886972	3,707.094361
10 Dec 2007	Dividend Reinvestment	1,297.48	0.36	Comp Paid Fees	1,297.48	89.793867	14.449539	3,721.543900

### Summary of Holdings Date: 10 Dec 2007

Class Description	Certificated Shares/Units Held By You	Direct Registration/ Book Shares/Units	Dividend Reinvestment Shares/Units	Total Shares/Units	Closing Price Per Share/Unit (\$)	Value (\$)
DSPP - Common Stock	0.000000	0.000000	3,721.543900	3,721.543900	92.030000	342,493.69

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**IMPORTANT TAX RETURN DOCUMENT ATTACHED**

Please see important PRIVACY NOTICE on reverse side of statement

00HSJA

# ExxonMobil

PAYER'S name, street address, city, state, and ZIP code  
EXXON MOBIL CORPORATION  
C/O COMPUTERSHARE  
P.O. BOX 43010  
PROVIDENCE RI 02940-3010RECIPIENT'S name, street address, city, state, ZIP code  
ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
13630 PINEROCK  
HOUSTON TX 77079-5914

### Dividends and Distributions

OMB No. 1545-0110

<input type="checkbox"/> CORRECTED (if checked)	
1a Total ordinary dividends \$ 5049.43	1b Qualified dividends \$ 5049.43
3 Nondividend distributions \$	4 Federal income tax withheld \$
5 Foreign tax paid \$	7 Foreign country or U.S. possession Form 1099-DIV
6 Cash Liquidation Distribution \$	PAYER'S Federal Identification number 9905
RECIPIENT'S identification number 9905	Account number (see instructions) 2102

2007

Form 1099-DIV

Copy B  
For Recipient

Summary of reportable income (Amounts Paid and/or Reinvested do not reflect deductions for tax withheld, if any)	
Amount Paid By Check/EFT \$ 0	Amount Reinvested \$ 5047.90
Company Paid Fees \$ 1.53	Company Paid Service Charges \$ 0
Discount on Reinvestment \$ 0	

This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.

P4328

Form 1099-DIV (keep for your records)

Department of the Treasury - Internal Revenue Service

07192015:0809: P0247



**A Partial Withdrawal (continue participation in the Plan); AND**ISSUE A CERTIFICATE  
FOR THIS NUMBER OF  
WHOLE SHARES

01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00
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OR

\*SELL THIS  
NUMBER OF  
SHARES

01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00
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If you have Direct Registration Shares (DRS) and you have requested to sell a specific amount of shares, the Direct Registration Shares will be sold prior to your Plan shares. If you selected for all of your shares to be sold, we will sell both your DRS and Plan shares.

**B Full Withdrawal (terminate participation in the Plan); AND**ISSUE A CERTIFICATE FOR ALL FULL SHARES  
AND A CHECK FOR FRACTIONAL SHARES

OR

\*SELL ALL  
SHARES**C Deposit Certificate(s)**PLEASE INDICATE THE NUMBER OF SHARES TO BE  
DEPOSITED INTO YOUR PLAN ACCOUNT.

01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00
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Signature 1 - Please keep signature within the box.

Signature 2 - Please keep signature within the box.

Please detach this portion and mail to:  
Computershare  
PO Box 43078  
Providence RI 02940-3078

Please note: All registered holders must sign for your instructions to be completed.

\*For sales requests for Partnerships or Corporations, please have your signature(s) medallion guaranteed or provide us with a copy of the corporate resolution/partnership agreement. Computershare Trust Company, N.A., as agent, upon written request, will provide the name of the executing broker dealer associated with the transaction(s), and within a reasonable amount of time will disclose the source and amount of compensation received from third parties in connection with the transaction(s), if any.

ALL SALE INSTRUCTIONS ARE FINAL AND CANNOT BE MODIFIED, STOPPED OR CANCELLED AFTER COMPUTERSHARE HAS RECEIVED THE REQUEST. PLEASE REFER TO THE PLAN PROSPECTUS/BROCHURE REGARDING APPLICABLE FEES.

**i. Special Instructions**

If you wish to have sale proceeds sent electronically to your financial institution please confirm the correct wire instructions with your financial institution. The wire instructions should include the bank name, address, bank account name, bank account number, and the bank's nine digit fed wire routing number. A written request to sell along with this information should be provided to Computershare. For foreign wires, please include the swift code and the bank code. The written instructions should be signed by all shareholders with a Medallion Guarantee Stamp. Please note you can also sell your shares and choose to have the funds wired by visiting the website on the front of this form and accessing your Investor Centre account. A \$35.00 fee will be deducted from proceeds for a domestic wire and a \$50.00 fee will be deducted from proceeds for a foreign wire.

If you wish to have the proceeds sent via courier service, a \$20.00 fee will be deducted from your proceeds. Funds cannot be delivered to a P.O. Box or P.O. Zip codes.

If you want a certificate or check issued to someone other than the registered holder, you must include the name, address, date of birth and social security number of the person to whom the ownership is being transferred. Your signature(s) on the tear off section must be guaranteed by a member of a medallion signature program (bank or broker) approved by the Securities Transfer Association, Inc. A Notary public is not acceptable.

If you would like to write to us, please include your account number, daytime telephone number with area code, and the company name in your correspondence.

PLEASE KEEP THIS STATEMENT FOR COST BASIS AND TAX PURPOSES.

**ii. Terms and Definitions**

Note: Some definitions outlined below may not pertain to your Investment Plan.

SSN/TIN Certified

If your account is not certified, you must complete a W-9 or W-8BEN tax form or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Faxed W-8BEN forms are not acceptable.

Record Date

The date that establishes ownership on our records to receive the dividend.

Payment Date

The date the dividend is payable.

Dividend Rate

The dollar amount of the dividend paid per share or the rate of stock dividend or stock split.

Price Per Share

The price per share purchased or sold under the plan.

Total Transaction Shares

The number of shares acquired or sold through the plan.

Deduction Amount

An aggregate sum of all fees charged.

Value

The dollar amount as of the date referenced of all shares that are held for this security in the account.

**iii. Privacy Notice**

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you in writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), social security number, bank account information, stock ownership information and other financial information.

With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third-party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information.

Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

Assets are not deposits of Computershare and are not insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or any other federal or state agency.

CONKBA

**Instructions for Recipient**

Account Number: May show an account or other unique number the payer assigned to distinguish your account.

Box 1a: Shows total ordinary dividends that are taxable. Include this amount on line 9a of Form 1040 or 1040A. Also, report it on Schedule B (Form 1040) or Schedule 1 (Form 1040A), if required.

The amount shown may be a distribution from an employee stock ownership plan (ESOP). Report it as a dividend on your Form 1040/1040A, but treat it as a plan distribution, not as investment income, for any other purpose.

Box 1b: Shows the portion of the amount in box 1a that may be eligible for the 15% or 5% capital gains rates. See the Form 1040/1040A instructions for how to determine this amount. Report the eligible amount on line 9b, Form 1040 or 1040A.

Box 3: Shows the part of the distribution that is nontaxable because it is a return of your cost (or other basis). You must reduce your cost (or other basis) by this amount for figuring gain or loss when you sell your stock. But if you get back all your cost (or other basis), report future distributions as capital gains. See Pub. 550, Investment Income and Expenses.

Box 4: Shows backup withholding. For example, a payer must backup withhold on certain payments at the applicable rate if you did not give your taxpayer identification number to the payer. See Form W-9, Request for Taxpayer Identification Number and Certification, for information on backup withholding. Include this amount on your income tax return as tax withheld.

Box 6: Shows the foreign tax you may be able to claim as a deduction or a credit on Form 1040. See the Form 1040 instructions.

Box 8: Shows cash liquidation distributions.

Nominees: If this form includes amounts belonging to another person, you are considered a nominee recipient. You must file Form 1099-DIV with the IRS for each of the other owners to show their share of the income, and you must furnish a Form 1099-DIV to each. A husband or wife is not required to file a nominee return to show amounts owned by the other. See the 2007 General Instructions for Forms 1099, 1098, 5498, and W-2G.

P4329

# ExxonMobil

# Computershare

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Computershare Trust Company, N.A.

PO Box 43078

Providence, RI 02940-3078

Within the US, Canada &amp; Puerto Rico 800 252 1800

Outside the US, Canada &amp; Puerto Rico 781 575 2058

www.computershare.com/exxonmobil

Exxon Mobil Corporation is incorporated under the laws of the state of NJ.

**IMPORTANT TAX RETURN DOCUMENT ENCLOSED**

\*\*\*\*\*AUTO\*\*SCH 5-DIGIT 77079 0000080001987 001987

ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
13630 PINEROCK  
HOUSTON TX 77079-5914

Holder Account Number

2102

SSN/TIN Certified  
YesSymbol  
XOM

001C80006\_RP5.DLTX\_PG1.XOM.23030\_25784001987001987A

**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: 2102

If you want to make an optional cash purchase at this time, please make your check payable to Computershare. Please write your Holder Account Number and the Company name on the check or on your cover letter. Please send your check to: Computershare, P.O. Box 6006, Carol Stream, IL 60187-8006.

**ACCOUNT SUMMARY**

As of close of stock market on 10 Dec 2008

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	3,792.885209	3,792.885209	80.070000	303,696.32

**Dividend Reinvestment Activity**

As of record date

This section includes information only for shares/units for which dividends are reinvested.

Record Date	Payment Date	Dividend Rate (\$)	Stock Class Description	Dividend Reinvestment Shares/Units	Gross Dividend (\$)	Taxes Withheld (\$)	Net Dividend (\$)
12 Nov 2008	10 Dec 2008	0.400000	Common	3,773.427844	1,509.37		1,509.37

**Transaction History**

From: 01 Jan 2008

To: 10 Dec 2008

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
01 Jan 2008	Balance Forward							3,721.543900
10 Mar 2008	Dividend Reinvestment	1,302.54	Comp Paid Fees	0.38	1,302.54	85.884547	15.189707	3,736.713607
10 Jun 2008	Dividend Reinvestment	1,494.69	Comp Paid Fees	0.43	1,494.69	87.595979	17.063454	3,753.777061
10 Sep 2008	Dividend Reinvestment	1,501.51	Comp Paid Fees	0.49	1,501.51	76.409677	19.650783	3,773.427844
10 Dec 2008	Dividend Reinvestment	1,509.37	Comp Paid Fees	0.49	1,509.37	77.573197	19.457365	3,792.885209

**IMPORTANT TAX RETURN DOCUMENT ATTACHED**

COTPPA-TAX

Please see important PRIVACY NOTICE on reverse side of statement

# ExxonMobil

PAYER'S name, street address, city, state, and ZIP code  
EXXON MOBIL CORPORATION  
C/O COMPUTERSHARE  
P.O. BOX 43010  
PROVIDENCE RI 02940-3010

RECIPIENT'S name, street address, city, state, ZIP code  
ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
13630 PINEROCK  
HOUSTON TX 77079-5914

**Dividends and Distributions**

<input type="checkbox"/> CORRECTED (if checked)		OMB No. 1545-0110
1a Total ordinary dividends \$ 5808.90	1b Qualified dividends \$ 5809.90	<b>2008</b>
3 Nondividend distributions \$	4 Federal income tax withheld \$	
6 Foreign tax paid \$	7 Foreign country or U.S. possession \$	Form 1099-DIV
8 Cash Liquidation Distribution \$	PAYER'S Federal Identification number 99005	<b>Copy B For Recipient</b>
RECIPIENT'S identification number 8905	Account number (see instructions) 2102	

Summary of reportable income (Amounts Paid and/or Reinvested do not reflect deductions for tax withheld, if any)

Amount Paid By Check/EFT \$ 0	Amount Reinvested \$ 5808.11
Company Paid Fees \$ 1.79	Company Paid Service Charges \$ 0
Discount on Reinvestment \$ 0	

This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.

**P4330**

2102

RN1 FID

X O M  
2 1 4 U D R**1 Transaction Request Form**

Please check or complete all applicable sections.

**1A Sell Shares**


OR

Sell all book-entry shares, including plan and DRS shares (if applicable), and terminate plan participation.

Sell this number of shares. If you have DRS shares, the DRS shares will be sold prior to your plan shares. Sale requests submitted on this Transaction Request Form will be processed as a batch order. Please see instructions below for more information.

**1C Deposit Certificate(s) into the Investment Plan**


**IMPORTANT:**  
You must submit the original unsigned certificate(s) with this form.

Deposit this number of shares into my reinvestment account.

**1B Withdraw from the Reinvestment Program**  
(DRS shares will receive future dividends in cash.)

OR

Reassign all of my whole shares to DRS, terminate my participation in the plan and send a check for any fractional shares.

Reassign this number of whole shares to DRS, and terminate my participation in the plan for these shares.

**1D Authorized Signature(s)\***

Signature 1 - Please keep signature within the box.

Signature(s) 2 - Please keep signature within the box.

Please detach this portion and mail it to: Computershare, PO Box 43078, Providence, RI 02940-3078

**How to Request a Transaction** (refer to the prospectus/prochure for additional details on the terms and conditions of transactions under the Plan or DRS sales facility)

You can manage your account online through Investor Centre at the website listed on the top right of the reverse side. Register today!

- 1A.** Use section 1A above to sell a portion of your plan shares, or to sell all plan shares and terminate your plan participation. Sale requests submitted on this *Transaction Request Form* will be treated as a batch order and generally processed no later than five business days after the date on which the form is received. A Market Order sale may be available for transactions submitted by telephone or through Investor Centre at [www.computershare.com](http://www.computershare.com). Please contact us at the phone number listed on the reverse side or refer to the brochure for the plan or DRS Sales Facility for more information concerning the types of orders available. Note: market orders and batch orders are subject to different fees. Please visit the website or contact us at the phone number listed on the reverse side for fee details. A proceeds check will be mailed to you, less any applicable taxes and fees. You can request a wire payment by updating your bank details online through Investor Centre at the website listed on the reverse side, or by including a written note with your bank's name, branch location and routing number, and your bank account name and number. For non-US wires, also include the SWIFT (bank routing ID) and bank codes. The signature(s) on the note must be stamped with a Medallion Signature Guarantee. A Medallion Signature Guarantee is a special stamp provided by a bank, broker or credit union (guarantor institutions) that indicates the individual(s) signing a form is legally authorized to conduct the requested transaction. A notarized signature is not a substitute for a Medallion Signature Guarantee. You can also call us to find out the cost to have the check delivered to a street address via courier service.
- Upon written request, we will provide the name of the executing broker dealer associated with the transaction, and within a reasonable amount of time will disclose the source and amount of compensation received from third parties in connection with the transaction, if any.
- ALL SALE INSTRUCTIONS ARE FINAL AND CANNOT BE MODIFIED, STOPPED OR CANCELLED AFTER COMPUTERSHARE HAS RECEIVED THE REQUEST.**
- To have the proceeds paid to someone other than the current registered holder, the shares must first be transferred to the other party. Transfer instructions are available through the "Frequently Asked Questions" section of Investor Centre or by contacting us at the phone number listed on the reverse side.
- 1B.** Use section 1B above to withdraw a portion or all of your shares from the plan. These shares will become Direct Registration System (DRS) shares and will be held electronically in your account in book-entry form by Computershare. We will mail you a check for the value of any fractional shares (if applicable). If your request is received near a record date, Computershare has the right to reinvest the dividend or pay you in cash. Future dividends for these shares will be paid in cash, unless you rejoin the plan.
- 1C.** Use section 1C above to minimize risk of loss, theft or damage by depositing certificates. Computershare will deposit these shares into your plan account and hold them electronically in book-entry form. Send physical stock certificate(s) via registered mail or a courier service that provides a return receipt to: Computershare, 250 Royal Street, Canton, MA, 02021. Do not endorse the certificate(s) or complete the assignment section. You may want to insure the mailing for 3% of the stock's market value, which is the approximate cost to replace a certificate in the event that it is lost in transit.
- 1D.** All registered holders must sign section 1D for the above instruction(s) to be completed. \*Sales requests for partnerships or corporations must include a Medallion Signature Guarantee and a copy of the corporate resolution/partnership agreement. A Medallion Signature Guarantee is a special stamp provided by a bank, broker or credit union (guarantor institutions) that indicates the individual(s) signing a form is legally authorized to conduct the requested transaction. A notarized signature is not a substitute for a Medallion Signature Guarantee.

**Privacy Notice**

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you in writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), Social Security number, bank account information, stock ownership information and other financial information. With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third-party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information. Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

Note: Assets are not deposits of Computershare and are not insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or any other federal or state agency.

00HA2A-MOT

**Instructions for Recipient**

<b>Account Number:</b>	May show an account or other unique number the payer assigned to distinguish your account.		
<b>What's New?</b>	The 5% capital gains rate is reduced to zero after December 31, 2007. See box 1b.		
<b>Box 1a:</b>	Shows total ordinary dividends that are taxable. Include this amount on line 9a of Form 1040 or 1040A. Also, report it on Schedule B (Form 1040) or Schedule 1 (Form 1040A), if required.  The amount shown may be a distribution from an employee stock ownership plan (ESOP). Report it as a dividend on your Form 1040/1040A, but treat it as a plan distribution, not as investment income, for any other purpose.	<b>Box 4:</b>	Shows backup withholding. For example, a payer must backup withhold on certain payments at the applicable rate if you did not give your taxpayer identification number to the payer. See Form W-9, Request for Taxpayer Identification Number and Certification, for information on backup withholding. Include this amount on your income tax return as tax withheld.
<b>Box 1b:</b>	Shows the portion of the amount in box 1a that may be eligible for the 15% or 0% capital gains rates. See the Form 1040/1040A instructions for how to determine this amount. Report the eligible amount on line 9b, Form 1040 or 1040A.	<b>Box 5:</b>	Shows the foreign tax you may be able to claim as a deduction or a credit on Form 1040. See the Form 1040 instructions.
<b>Box 3:</b>	Shows the part of the distribution that is nontaxable because it is a return of your cost (or other basis). You must reduce your cost (or other basis) by this amount for figuring gain or loss when you sell your stock. But if you get back all your cost (or other basis), report future distributions as capital gains. See Pub. 550, Investment Income and Expenses.	<b>Box 7:</b>	This box should be left blank if a regulated investment company reported the foreign tax shown in box 5.
		<b>Box 8:</b>	Shows cash liquidation distributions.
		<b>Nominees.</b>	If this form includes amounts belonging to another person, you are considered a nominee recipient. You must file Form 1099-DIV with the IRS for each of the other owners to show their share of the income, you must furnish a Form 1099-DIV to each. A husband or wife is not required to file a nominee return to show amounts owned by the other. See the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.

P4331

07132015:0809: P0250

**ExxonMobil****Computershare** +

Computershare Trust Company, N.A.

PO Box 43078

Providence, RI 02940-3078

Within USA, US territories &amp; Canada 800 252 1800

Outside USA, US territories &amp; Canada 781 575 2058

www.computershare.com/exxonmobil

Exxon Mobil Corporation is incorporated under the laws of the State of NJ.

**IMPORTANT TAX RETURN DOCUMENT ENCLOSED**

\*\*\*\*\*AUTO\*\*SCH 5-DIGIT 77079 000010/0002392 002392

ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
13630 PINEROCK  
HOUSTON TX 77079-5914

Holder Account Number

2102

SSN/TIN Certified  
YesSymbol  
XOM

001CS006\_RFS.DL.TX\_PG1.XOM.194629\_32948.002392.002392

**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: 2102

If you want to make an optional cash purchase at this time, please make your check payable to Computershare. Please write your Holder Account Number and the Company name on the check or on your cover letter. Please send your check to: Computershare, P.O. Box 6006, Carol Stream, IL 60197-6006.

**ACCOUNT SUMMARY**

As of close of stock market on 10 Dec 2009

Stock Class	Certificated Shares/Units Held by You	Direct Registration Book Shares/Units	Investment Plans Book Shares/Units	Total Shares/Units	Closing Price	Market Value (\$)
DSPP - Common Stock	0.000000	0.000000	3,883.713924	3,883.713924	72.400000	281,186.89

**Dividend Reinvestment Activity**

As of record date

This section includes information only for shares/units for which dividends are reinvested.

Record Date	Payment Date	Dividend Rate (\$)	Stock Class Description	Dividend Reinvestment Shares/Units	Gross Dividend (\$)	Taxes Withheld (\$)	Net Dividend (\$)
12 Nov 2009	10 Dec 2009	0.420000	Common	3,861.777317	1,621.95		1,621.95

**Transaction History**

From: 01 Jan 2009

To: 10 Dec 2009

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							3,792.885208
10 Mar 2009	Dividend Reinvestment	1,517.15	Comp Paid Fees	0.59	1,517.15	64.343802	23.578806	3,616.464015
10 Jun 2009	Dividend Reinvestment	1,602.91	Comp Paid Fees	0.55	1,602.91	72.646344	22.064585	3,838.528580
10 Sep 2009	Dividend Reinvestment	1,612.18	Comp Paid Fees	0.58	1,612.18	69.344841	23.248737	3,861.777317
10 Dec 2009	Dividend Reinvestment	1,621.95	Comp Paid Fees	0.55	1,621.95	73.938054	21.936607	3,883.713924

**IMPORTANT TAX RETURN DOCUMENT ATTACHED**

Please see important PRIVACY NOTICE on reverse side of statement

00TPPA-TAX

**ExxonMobil**PAYER'S name, street address, city, state, and ZIP code  
EXXON MOBIL CORPORATION  
C/O COMPUTERSHARE  
P.O. BOX 43010  
PROVIDENCE RI 02940-3010RECIPIENT'S name, street address, city, state, ZIP code  
ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
13630 PINEROCK  
HOUSTON TX 77079-5914 CORRECTED (if checked)**Dividends and Distributions**

1a Total ordinary dividends \$ 6356.46	1b Qualified dividends \$ 6356.46	OMB No. 1545-0110
3 Nondividend distributions \$	4 Federal income tax withheld \$	<b>2009</b>
6 Foreign tax paid \$	7 Foreign country or U.S. possession \$	Form 1099-DIV
8 Cash Liquidation Distribution \$	PAYER'S Federal identification number 0005	<b>Copy B For Recipient</b>
RECIPIENT'S identification number 03905	Account number (see instructions) 2102	

Summary of reportable income (Amounts Paid and/or Reinvested do not reflect deductions for tax withheld, if any)

Amount Paid By Check/EFT \$ 0	Amount Reinvested \$ 6354.19
Company Paid Fees \$ 2.27	Company Paid Service Charges \$ 0
Discount on Reinvestment \$ 0	

This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.

**P4332**

Form 1099-DIV (keep for your records)

Department of the Treasury - Internal Revenue Service

07192015:0809:P025

2102

SL1 FID

XOM  
214UDR**1 Transaction Request Form**

Please check or complete all applicable sections.

**1A Sell Shares**

OR

Sell all book-entry shares, including plan and DRS shares (if applicable), and terminate plan participation.

Sell this number of shares. If you have DRS shares, the DRS shares will be sold prior to your plan shares. Sale requests submitted on this *Transaction Request Form* will be processed as a batch order. Please see instructions below for more information.

**1B Withdraw from the Reinvestment Program**  
(DRS shares will receive future dividends in cash.)

OR

Reassign all of my whole shares to DRS, terminate my participation in the plan and send a check for any fractional shares.

Reassign this number of whole shares to DRS, and terminate my participation in the plan for these shares.

**1C Deposit Certificate(s) into the Investment Plan**

**IMPORTANT:**  
You must submit the original unsigned certificate(s) with this form.

Deposit this number of shares into my reinvestment account.

**1D Authorized Signature(s)\***

Signature 1 - Please keep signature within the box.

Signature(s) 2 - Please keep signature within the box.

Please detach this portion and mail it to: Computershare, PO Box 43078, Providence, RI 02940-3078

**How to Request a Transaction** (refer to the prospectus/prochure for additional details on the terms and conditions of transactions under the plan or DRS sales facility)

You can manage your account online through Investor Centre at the website listed on the top right of the reverse side. Register today!

**1A.** Use section 1A above to sell a portion of your plan shares, or to sell all plan shares and terminate your plan participation. Sale requests submitted on this *Transaction Request Form* will be treated as a batch order and generally processed no later than five business days after the date on which the form is received. A Market Order sale may be available for transactions submitted by telephone or through Investor Centre at [www.compuershare.com](http://www.compuershare.com). Please contact us at the phone number listed on the reverse side or refer to the brochure for the plan or DRS Sales Facility for more information concerning the types of orders available. Note: market orders and batch orders are subject to different fees. Please visit the website or contact us at the phone number listed on the reverse side for fee details. A proceeds check will be mailed to you, less any applicable taxes and fees. You can request electronic funds transfer for your sales proceeds by updating your bank details online through Investor Centre at the website listed on the reverse side. Upon written request, we will provide the name of the executing broker dealer associated with the transaction, and within a reasonable amount of time will disclose the source and amount of compensation received from third parties in connection with the transaction, if any.

**ALL SALE INSTRUCTIONS ARE FINAL AND CANNOT BE MODIFIED, STOPPED OR CANCELLED AFTER COMPUTERSHARE HAS RECEIVED THE REQUEST.**

To have the proceeds paid to someone other than the current registered holder, the shares must first be transferred to the other party. Transfer instructions are available through the "Frequently Asked Questions" section of Investor Centre or by contacting us at the phone number listed on the reverse side.

**1B.** Use section 1B above to withdraw a portion or all of your shares from the plan. These shares will become Direct Registration System (DRS) shares and will be held electronically in your account in book-entry form by Computershare. We will mail you a check for the value of any fractional shares (if applicable). If your request is received near a record date, Computershare has the right to reinvest the dividend or pay you in cash. Future dividends for these shares will be paid in cash, unless you rejoin the plan.

**1C.** Use section 1C above to minimize risk of loss, theft or damage by depositing certificates. Computershare will deposit these shares into your plan account and hold them electronically in book-entry form. Send physical stock certificate(s) via registered mail or a courier service that provides a return receipt to: Computershare, 250 Royal Street, Canton, MA, 02021. Do not endorse the certificate(s) or complete the assignment section. You may want to insure the mailing for 3% of the stock's market value, which is the approximate cost to replace a certificate in the event that it is lost in transit.

**1D.** All registered holders must sign section 1D for the above instruction(s) to be completed. \*Sales requests for partnerships or corporations must include a Medallion Signature Guarantee or a copy of the corporate resolution/partnership agreement. A Medallion Signature Guarantee is a special stamp provided by a bank, broker or credit union (guarantor institutions) that indicates the individual(s) signing a form is legally authorized to conduct the requested transaction. A notarized signature is not a substitute for a Medallion Signature Guarantee.

**Privacy Notice**

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you in writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), Social Security number, bank account information, stock ownership information and other financial information. With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information. Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

Note: Assets are not deposits of Computershare and are not insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or any other federal or state agency.

00WA2A-MOT

**Instructions for Recipient**

Account Number: May show an account or other unique number the payer assigned to distinguish your account.

<p><b>Box 1a:</b> Shows total ordinary dividends that are taxable. Include this amount on line 9a of Form 1040 or 1040A. Also, report it on Schedule B (Form 1040) or Schedule 1 (Form 1040A), if required.</p> <p>The amount shown may be a distribution from an employee stock ownership plan (ESOP). Report it as a dividend on your Form 1040/1040A, but treat it as a plan distribution, not as investment income, for any other purpose.</p>	<p><b>Box 4:</b> Shows backup withholding. For example, a payer must backup withhold on certain payments at the applicable rate if you did not give your taxpayer identification number to the payer. See Form W-9, Request for Taxpayer Identification Number and Certification, for information on backup withholding. Include this amount on your income tax return as tax withheld.</p>
<p><b>Box 1b:</b> Shows the portion of the amount in box 1a that may be eligible for the 15% or 0% capital gains rates. See the Form 1040/1040A instructions for how to determine this amount. Report the eligible amount on line 9c, Form 1040 or 1040A.</p>	<p><b>Box 6:</b> Shows the foreign tax you may be able to claim as a deduction or a credit on Form 1040. See the Form 1040 instructions.</p>
<p><b>Box 3:</b> Shows the part of the distribution that is nontaxable because it is a return of your cost (or other basis). You must reduce your cost (or other basis) by this amount for figuring gain or loss when you sell your stock. But if you get back all your cost (or other basis), report future distributions as capital gains. See Pub. 550, Investment Income and Expenses.</p>	<p><b>Box 7:</b> This box should be left blank if a regulated investment company reported the foreign tax shown in box 6.</p> <p><b>Box 8:</b> Shows cash liquidation distributions.</p> <p><b>Nominee:</b> If this form includes amounts belonging to another person, you are considered a nominee recipient. You must file Form 1099-DIV with the IRS for each of the other owners to show their share of the income. You must furnish a Form 1099-DIV to each. A husband or wife is not required to file a nominee return to show amounts owned by the other. See the current tax year General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G.</p>

00RXHA-R

4333

25204:6080:5:029:20



2102

XOM  
214UDR**1 Transaction Request Form**

SL1 FID

Please check or complete all applicable sections.

**1A Sell Shares**


OR

Sell all book-entry shares, including plan and DRS shares (if applicable), and terminate plan participation.

Sell this number of shares. If you have DRS shares, the DRS shares will be sold prior to your plan shares. Sale requests submitted on this *Transaction Request Form* will be processed as a batch order. Please see instructions below for more information.

**1B Withdraw from the Reinvestment Program**  
(DRS shares will receive future dividends in cash.)

OR

Reassign all of my whole shares to DRS, terminate my participation in the plan and send a check for any fractional shares.

Reassign this number of whole shares to DRS, and terminate my participation in the plan for these shares.

**1C Deposit Certificate(s) into the Investment Plan**

**IMPORTANT:**  
You must submit the original unsigned certificate(s) with this form.

Deposit this number of shares into my reinvestment account.

**1D Authorized Signature(s)\***

Signature 1 - Please keep signature within the box.

Signature(s) 2 - Please keep signature within the box.

Please detach this portion and mail it to: Computershare, PO Box 43078, Providence, RI 02940-3078

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**ALL SALE INSTRUCTIONS ARE FINAL AND CANNOT BE MODIFIED, STOPPED OR CANCELLED AFTER COMPUTERSHARE HAS RECEIVED THE REQUEST.**

To have the proceeds paid to someone other than the current registered holder, the shares must first be transferred to the other party. Transfer instructions are available through the "Frequently Asked Questions" section of Investor Centre or by contacting us at the phone number listed on the reverse side.

1B. Use section 1B above to withdraw a portion or all of your shares from the plan. These shares will become Direct Registration System (DRS) shares and will be held electronically in your account in book-entry form by Computershare. We will mail you a check for the value of any fractional shares (if applicable). If your request is received near a record date, Computershare has the right to reinvest the dividend or pay you in cash. Future dividends for these shares will be paid in cash, unless you rejoin the plan.

1C. Use section 1C above to minimize risk of loss, theft or damage by depositing certificates. Computershare will deposit these shares into your plan account and hold them electronically in book-entry form. Send physical stock certificate(s) via registered mail or a courier service that provides a return receipt to: Computershare, 250 Royal Street, Canton, MA, 02021. Do not endorse the certificate(s) or complete the assignment section. You may want to insure the mailing for 3% of the stock's market value, which is the approximate cost to replace a certificate in the event that it is lost in transit.

1D. All registered holders must sign section 1D for the above instruction(s) to be completed. \*Sales requests for partnerships or corporations must include a Medallion Signature Guarantee or a copy of the corporate resolution/partnership agreement. A Medallion Signature Guarantee is a special stamp provided by a bank, broker or credit union (guarantor institutions) that indicates the individual(s) signing a form is legally authorized to conduct the requested transaction. A notarized signature is not a substitute for a Medallion Signature Guarantee.

**Privacy Notice**

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you in writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), Social Security number, bank account information, stock ownership information and other financial information. With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third-party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information. Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

Note: Assets are not deposits of Computershare and are not insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or any other federal or state agency.

00WA2A-MOT

**Instructions for Recipient**

**Recipient's Identification Number:** For your protection, this form may show only the last four digits of your taxpayer identification number. However, the issuer has reported your complete identification number to the IRS and, where applicable, to state and/or local governments.

**Account Number:** May show an account or other unique number the payer assigned to distinguish your account.

<b>Box 1a:</b>	Shows total ordinary dividends that are taxable. Include this amount on line 9a of Form 1040 or 1040A. Also, report it on Schedule B (Form 1040) or Schedule 1 (Form 1040A), if required.  The amount shown may be a distribution from an employee stock ownership plan (ESOP). Report it as a dividend on your Form 1040/1040A, but treat it as a plan distribution, not as investment income, for any other purpose.	<b>Box 4:</b>	Shows backup withholding. For example, a payer must backup withhold on certain payments at the applicable rate if you did not give your taxpayer identification number to the payer. See Form W-9, Request for Taxpayer Identification Number and Certification, for information on backup withholding. Include this amount on your income tax return as tax withheld.
<b>Box 1b:</b>	Shows the portion of the amount in box 1a that may be eligible for the 15% or 0% capital gains rates. See the Form 1040/1040A instructions for how to determine this amount. Report the eligible amount on line 9b, Form 1040 or 1040A.	<b>Box 6:</b>	Shows the foreign tax you may be able to claim as a deduction or a credit on Form 1040. See the Form 1040 instructions.
<b>Box 3:</b>	Shows the part of the distribution that is nontaxable because it is a return of your cost (or other basis). You must reduce your cost (or other basis) by this amount for figuring gain or loss when you sell your stock. But if you get back all your cost (or other basis), report future distributions as capital gains. See Pub. 550, Investment Income and Expenses.	<b>Box 7:</b>	This box should be left blank if a regulated investment company reported the foreign tax shown in box 6.
		<b>Box 8:</b>	Shows cash liquidation distributions.
		<b>Nominees:</b>	If this form includes amounts belonging to another person, you are considered a nominee recipient. You must file Form 1099-DIV with the IRS for each of the other owners to show their share of the income, and you must furnish a Form 1099-DIV to each. A husband or wife is not required to file a nominee return to show amounts owned by the other. See the current tax year General Instructions for Certain Information Returns.

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P4335

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**ExxonMobil****Computershare** +

Computershare Trust Company, N.A.

PO Box 43078

Providence, RI 02940-3078

Within USA, US territories &amp; Canada 800 252 1800

Outside USA, US territories &amp; Canada 781 575 2058

www.computershare.com/exxonmobil

Exxon Mobil Corporation is incorporated under the laws of the State of NJ.

001078



ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
C/O ANITA K BRUNSTING  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904

Holder Account Number

2102

SSNTIN Certified  
YesSymbol  
XOM

001CS0003LJSS.L.MDX\_3207001078/0010786

**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: 2102

**ACCOUNT SUMMARY**

As of close of stock market on 24 Mar 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	0.000000	0.000000	82.730000	0.00

**Transaction History**

From: 24 Mar 2011

To: 24 Mar 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							4,010.200477
24 Mar 2011	Transfer					-1,908.232008	-1,908.232008	2,101.968469
24 Mar 2011	Transfer					-2,101.968469	-2,101.968469	0.000000

00TPPA (Rev. 10/11)

**How to Read Your Statement**

**Stock Class Description** - A description of the stock class in which you hold shares, e.g. Common stock.

**Certificated Shares/Units Held By You** - A physical certificate was issued for these shares/units.

**Book/Book-Entry Shares** - Shares Computershare maintains for you in an electronic account; a stock certificate was not issued for these shares. All Direct Registration shares and Investment Plan ("Plan") shares are held in book-entry form.

**Direct Registration Book Shares/Units (DRS)** - Book-entry shares that are not part of the Plan.

**Investment Plan Book Shares/Units** - Book-entry shares that are part of either a dividend reinvestment plan (DRP) or direct stock purchase plan (DSPP).

**Total Shares/Units** - The sum of all certificated and book shares held in this account as of the date specified.

**Closing Price** - The closing market price as of the account summary date.

**Market Value** - The dollar value of the total shares held in this account as of the date specified.

**Deduction Description** - A description of any amounts withheld including transaction fees.

**Deduction Amount** - Dollar amounts deducted may include taxes and transaction fees (which fees shall include any brokerage commissions Computershare is required to pay).

**Net Amount** - The total amount transacted for you, equal to the transaction amount less any applicable deductions.

**Price Per Share/Unit** - The market price per share purchased or sold under the Plan for this transaction.

**Transaction Shares/Units** - The number of shares purchased or sold through the Plan for this transaction.

**Total Book Shares/Units** - The sum of all book-entry shares, including both DRS and Investment plan shares, as of the date specified.

SSNTIN Certified - If your account is not certified, as indicated by the word NO appearing under the SSNTIN title in the top right section of this form, you must complete a Form W-9 (US resident) or Form W-8BEN (non-US resident) or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Either form is available through the "DOWNLOADABLE FORMS" section of our website. Faxed forms are not acceptable.

P4336

55204:6080:51026120





# ExxonMobil

# Computershare

Computershare  
PO Box 43078

Providence, RI 02940-3078

Within USA, US territories &amp; Canada 800 252 1800

Outside USA, US territories &amp; Canada 781 575 2058

www.computershare.com/exxonmobil

**IMPORTANT TAX RETURN DOCUMENT ENCLOSED**

\*\*\*\*\*AUTO\*\*ALL FOR AADC 783 000122/0038663 038663

Recipient  
ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
C/O ANITA K BRUNSTING  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904Holder Account Number Co.ID  
2102 XOMRecipient's ID No. 8905  
Payer's Federal ID No. 9005\*Uncertified accounts are subject to withholding  
taxes on dividend payments and sales proceeds.

001CS0006\_RPS.D\_D\_PGI.XOM.171720\_38852/038663/038663A

07192015:0809:R0257

**Instructions for Recipients**

**Recipient's Identification Number:** For your protection, this form may show only the last four digits of your taxpayer identification number. However, the issuer has reported your complete identification number to the IRS and, where applicable, to state and/or local governments.

**Account Number:** May show an account or other unique number the payer assigned to distinguish your account.

**Box 1a:** Shows total ordinary dividends that are taxable. Include this amount on line 9a of Form 1040 or 1040A. Also, report it on Schedule B (Form 1040 or 1040A), if required. The amount shown may be dividends a corporation paid directly to you as a participant (or beneficiary of a participant) in an employee stock ownership plan (ESOP). Report it as a dividend on your Form 1040/1040A, but treat it as a plan distribution, not as investment income, for any other purpose.

**Box 1b:** Shows the portion of the amount in box 1a that may be eligible for the 15% or 0% capital gains rates. See the Form 1040/1040A instructions for how to determine this amount. Report the eligible amount on line 9b, Form 1040 or 1040A.

**Box 2a:** Shows total capital gain distributions from a regulated investment company or real estate investment trust. Report the amounts shown in box 2a on Schedule D (Form 1040), line 13.

But, if no amount is shown in boxes 2c-2d and your only capital gains and losses are capital gain distributions, you may be able to report the amounts shown in box 2a on line 13 of Form 1040 (line 10 of Form 1040A) rather than Schedule D. See the Form 1040/1040A instructions.

**Box 2b:** Shows the portion of the amount in box 2a that is unrecaptured section 1250 gain from certain depreciable real property. Report this amount on the Unrecaptured Section 1250 Gain Worksheet - Line 19 in the Schedule D instructions (Form 1040).

**Box 2c:** Shows the portion of the amount in box 2a that is section 1202 gain from certain small business stock that may be subject to a 50% exclusion and certain empowerment zone business stock that may be subject to a

60% exclusion. See the Schedule D (Form 1040) instructions.

**Box 2d:** Shows 28% rate gain from sales or exchanges of collectibles. If required, use this amount when completing the 28% Rate Gain Worksheet - Line 18 in the instructions for Schedule D (Form 1040).

**Box 3:** Shows the part of the distribution that is nontaxable because it is a return of your cost (or other basis). You must reduce your cost (or other basis) by this amount for figuring gain or loss when you sell your stock. But if you get back all your cost (or other basis), report future distributions as capital gains. See Pub. 550, Investment Income and Expenses.

**Box 4:** Shows backup withholding. For example, a payer must backup withhold on certain payments if you did not give your taxpayer identification number to the payer. See Form W-9, Request for Taxpayer Identification Number and Certification, for information on backup withholding. Include this amount on your income tax return as tax withheld.

**Box 5:** Shows your share of expenses of a nonpublicly offered regulated investment company, generally a nonpublicly offered mutual fund. If you file Form 1040, you may deduct these expenses on the "Other expenses" line on Schedule A (Form 1040) subject to the 2% limit. This amount is included in box 1a.

**Box 6:** Shows the foreign tax you may be able to claim as a deduction or a credit on Form 1040.

See the Form 1040 instructions.

**Box 7:** This box should be left blank if a regulated investment company reported the foreign tax shown in box 6.

**Box 8:** Shows cash liquidation distributions.

**Nominees:** If this form includes amounts belonging to another person, you are considered a nominee recipient. You must file Form 1099-DIV with the IRS for each of the other owners to show their share of the income, and you must furnish a Form 1099-DIV to each. A husband or wife is not required to file a nominee return to show amounts owned by the other. See the current tax year General Instructions for Certain Information Returns.

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**EXXON MOBIL CORPORATION**

PAYER'S Federal identification number: 8905

PAYER'S name, street address, city, state, and ZIP code  
EXXON MOBIL CORPORATION  
C/O COMPUTERSHARE  
P.O. BOX 43010  
PROVIDENCE RI 02940-3010

RECIPIENT'S identification number: 8905

Account number (see instructions): 2102

RECIPIENT'S name, street address, city, state, ZIP code  
ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
C/O ANITA K BRUNSTING  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904

Form 1099-DIV (keep for your records)

 CORRECTED (if checked) **Dividends and Distributions**

		OMB No. 1545-0110
1a Total ordinary dividends	1b Qualified dividends	2011
\$ 1755.92	\$ 1755.92	
2a Total capital gain distr.	2b Unrecap. Sec. 1250 gain	Form 1099-DIV
\$ 0.00	\$ 0.00	
2c Section 1202 gain	2d Collectibles (28%) gain	Copy B For Recipient
\$ 0.00	\$ 0.00	
3 Nondividend distributions	4 Federal income tax withheld	This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you do not report it as such.
\$ 0.00	\$ 0.00	
5 Investment expenses	6 Foreign tax paid	This information is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you do not report it as such.
\$ 0.00	\$	
7 Foreign country or U.S. possession	8 Cash liquidation distributions	This information is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you do not report it as such.
	\$ 0.00	

The reportable amounts above include the following additional income:

Company Paid Fees	Company Paid Service Charges
\$ 0.52	\$ 0.00
Discount on Reinvestment	
\$ 0.00	

Department of the Treasury - Internal Revenue Service

ANITA KAY BRUNSTING  
203 Bloomingdale Circle  
Victoria, Texas 77904  
(361) 576-5732

February 16, 2011

ExxonMobil  
Computershare  
P.O. Box 43078  
Providence, RI 02940-3078

Re: Change of Title on Stock Plan Account  
Account Name: Brunsting Family Living Trust  
Account Number: [REDACTED] 2102

To Whom It May Concern:

Nelva and Elmer Brunsting established a Revocable Living Trust and the above-referenced stock account is in the title of that Living Trust. Elmer Brunsting passed away on April 1, 2009 in Houston, Harris County, Texas. Mrs. Nelva Brunsting, the remaining Founder and Co-Trustee, continued to serve as the Trustee of the Trust. On December 21, 2010, Nelva Brunsting resigned as Trustee of the Living Trust. I, Anita Brunsting, am the current acting as Trustee of the Trust, as evidenced by the enclosed copies of the resignation and acceptance of same. Please transfer the stock shares in the above-referenced account into two new accounts titled as follows (and close the original account):

(1) Transfer exactly 1,908.232088 shares to a new account in the following name (If you cannot transfer fractional shares, round down to the nearest share value):

ANITA KAY 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.

An acceptable abbreviation for account titling is as follows:

ANITA KAY BRUNSTING, Tee of the ELMER H. BRUNSTING DECEDENT'S TR dtd 4/1/09, as est UTD 10/10/96.

(Tax I.D. No. of the Elmer H. Brunsting Decedent's Trust is [REDACTED] B100.)

(2) The balance of the shares, including any accrued but unpaid dividends, held in the above-referenced account, should be transferred to a new account in the trust name which appears below. The mailing address should remain as indicated above.

ANITA KAY BRUNSTING, Trustee, or the successor Trustees, of the NELVA E. BRUNSTING SURVIVOR'S TRUST dated April 1, 2009, as

P4339

established under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

**An acceptable abbreviation for account titling is as follows:**

**ANITA KAY BRUNSTING, Tee of the NELVA E. BRUNSTING SURVIVOR'S TR dtd 4/1/09, as est UTD 10/10/96.**

(Tax I.D. No. of the Nelva E. Brunsting Survivor's Trust is [REDACTED] 4685, the social security number of Nelva E. Brunsting.)

**Reinvest the future Survivor's Trust dividends. Mail the future Decedent's Trust dividends to me at the above address. Do not take any withholding on the Decedent's Trust dividend distribution.**

I have enclosed a copy of an executed and notarized Certificate of Trust verifying the essential terms of the trust document, a copy of the resignation and acceptance documents for the Trust, an original death certificate for Elmer Brunsting, and the necessary transfer forms including a W-9.

If you need additional information or have forms to be completed in order to make this change of title, please contact my attorneys, Susan S. Vacek or Candace L. Kunz-Freed, 14800 St. Mary's Lane, Suite 230, Houston, Texas 77079, (281) 531-5800.

Sincerely,

  
ANITA KAY BRUNSTING

Enclosures

P4340

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Computershare  
PO Box 43078  
Providence Rhode Island 02940-3078  
www.computershare.com/investor

ELMER H. BRUNSTING OR NELVA  
E. BRUNSTING TR BRUNSTING FAM LIVING TR U/A 10/10/96  
Name of Current Account Holder  
131630 PINEROCK  
Address  
HOUSTON TX 77079  
City, State, Zip

Current Holder Account Number

2102

Company Name

EXXON MOBIL

Transfer Request — See enclosed instructions

PLEASE PRINT CLEARLY

CURRENT HOLDER INFORMATION

Shares to be Transferred

PLEASE NOTE: Whole shares cannot be divided into fractional shares.

- 2  Transfer ALL Shares (all book-entry shares and any certificated shares submitted)  
If this box is checked, do not complete sections 3, 4 and 5.

1 Daytime Telephone Number

713-464-4391

PARTIAL TRANSFER:

3 DRS Book-Entry Shares (number of whole shares to transfer)

[Empty box for DRS Book-Entry Shares]

4 Certificated Shares (number of whole shares to transfer)

[Empty box for Certificated Shares]

IMPORTANT:  
Original certificate(s) must  
be submitted for your  
transfer to be executed.

5 Investment Plan Book-Entry Shares (number of whole and/or fractional shares to transfer, if applicable)

1908.232008

All transfer shares will be placed in book-entry  
form unless otherwise requested in writing.

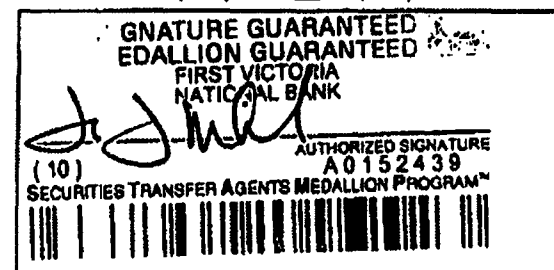
6 Authorized Signatures — This section must be signed and stamped for your transfer to be executed.

The undersigned does (do) hereby irrevocably constitute and appoint Computershare as attorney to transfer the said stock, as the case may be, on the books of said Company, with full power of substitution in the premises.

The signature(s) below on this Transfer Request form must correspond exactly with the name(s) as shown upon the face of the stock certificate or a Computershare-issued statement for book-entry shares, without alteration or enlargement or any change whatever. The below must be signed by all current registered holders, or a legally authorized representative with indication of his or her capacity next to the signature.

NOTE: Signature(s) must be stamped with a Medallion Signature Guarantee by a qualified financial institution, such as a commercial bank, savings bank, savings and loan, US stockbroker and security dealer, or credit union, that is participating in an approved Medallion Signature Guarantee Program. (A NOTARY SEAL IS NOT ACCEPTABLE)

Required ► Medallion Guarantee Stamp  
(Notary Seal is Not Acceptable)



Signature of All Current Holders or Legal Representatives

*Elmer H. Brunsting*

[Empty box for signature]

Date (mm / dd / yyyy)

03 / 10 / 2011

IMPORTANT ► You must complete both sides of this form for it to be valid.

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Transfer Request — See enclosed instructions

PLEASE PRINT CLEARLY

NEW HOLDER / RECIPIENT INFORMATION

\* Please complete for each new holder \* Use additional pages as necessary

7 Account Type (mark only one box with an "X"):

- Individual (complete A, B, C, G & H)   
  Custodial with Minor (complete A, B, C, D, G & H)   
  Transfer on Death (complete A, B, C, D, G & H)  
 Joint (complete A, B, C, D, G & H)   
  Estate (complete A, B, C, E, G & H)   
  Trustee/Trust (complete A-H)  
 Other (indicate type and complete A, B, C, D, G & H)

A New Holder's Existing Account Number (if applicable)

[Empty box]

B \*Social Security Number (SSN) or Employer Identification Number (EIN)

[Redacted] 3100 (do not use hyphens)  
 SSN  EIN

C Name (First, MI, Last) - Individual / Custodian / Trustee / Executor / Other

ANITA BRUNSTING TRUSTEE OF THE

D Name (First, MI, Last) - Joint Holder / Minor / Co-Trustee / TOD Beneficiary / Other (if applicable)

ELMER H. BRUNSTING DECEDENT'S TRUST

E Trust / Estate Name (if applicable)

DATED 04/01/2009

Trust / Estate Name - continued

[Empty box]

F Date of Trust (mm / dd / yyyy) (if applicable)

04/01/2009

G Address Number and Street Name / PO Box

203 BLOOMINGDALE CIRCLE

Apt. / Unit Number

H City

VICTORIA

State

TX

Zip Code

77904

8 \*Form W-9: This section must be signed by the NEW HOLDER/RECIPIENT, as shown above, whose SSN/EIN is entered in section 7B above.

Certification: Under penalties 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 a 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 the 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 New Holder

Anita Kay Brunsting TRUSTEE

Date (mm / dd / yyyy)

03/10/2011

07132015:0809: P0261

07192015:0809:0026

**AFFIDAVIT OF RESIDENCE**

To be completed for decedent transfers only.

Account Name: ELMER BRUNSTING Account Number: [REDACTED] 2102  
Name of Stock: NEVA BRUNSTING TR.  
EXXON MOBIL  
Deceased Holder's Taxpayer Identification or Social Security Number: [REDACTED] 8905

The undersigned, ADITA K. BRUNSTING, TRUSTEE  
residing at 203 BLOOMINGDALE CIRCLE VICTORIA TX 77904

being duly sworn, deposes and says that he/she is TRUSTEE  
Describe your status, i.e. Executor, Administrator, Survivor in Joint Tenancy, etc.  
(If a corporate fiduciary show title of affiant and name of corporation)

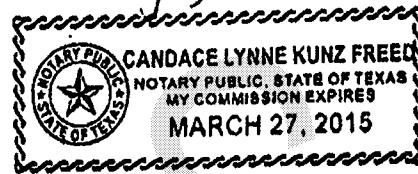
of (the estate of) THE BRUNSTING FAMILY LIVING TR & THE  
ELMER BRUNSTING DECENTS TR DTD 4/1/2009  
who died on 04/01/2009

that at the time of death the domicile (legal residence) of said decedent was at  
13030 PINEROCK HOUSTON TX 77079

and that (s)he resided in the State of TEXAS

for 44 years prior to death and was not a resident of any (other) state within the United States of America at time of death.

Signature: Adita Kay Brunsting, trustee



Sworn to before me, a notary public, this  
11<sup>th</sup> day of March, 20 11

AFFIX SEAL

Signature: Candace K. Kunz Freed  
(official administering oath)

Title: Attorney & Notary

My commission expires 3.27.2015

P4343

EQSAFF 12-04-07

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Computershare  
PO Box 43078  
Providence Rhode Island 02940-3078  
www.computershare.com/investor

ELMER H. BRUNSTING OR NELVA  
BRUNSTING, TR BRUNSTING FAMILY LIVING TR U/A 10/10/96

Name of Current Account Holder  
31630 PINEROCK  
Address  
HOUSTON TX 77079  
City, State, Zip

Current Holder Account Number

XXXXXXXXXXXX 2102

Company Name

EXXONMOBIL

Transfer Request — See enclosed instructions

PLEASE PRINT CLEARLY

CURRENT HOLDER INFORMATION

Shares to be Transferred

PLEASE NOTE: Whole shares cannot be divided into fractional shares.

- 2  Transfer ALL Shares (all book-entry shares and any certificated shares submitted)  
If this box is checked, do not complete sections 3, 4 and 5.

1 Daytime Telephone Number

713-464-4391

PARTIAL TRANSFER: Balance of Shares

- 3 DRS Book-Entry Shares (number of whole shares to transfer)

[Empty box for DRS Book-Entry Shares]

- 4 Certificated Shares (number of whole shares to transfer)

[Empty box for Certificated Shares]

IMPORTANT:  
Original certificate(s) must  
be submitted for your  
transfer to be executed.

- 5 Investment Plan Book-Entry Shares (number of whole and/or fractional shares to transfer, if applicable)

[Empty box for Investment Plan Book-Entry Shares]

All transferred shares will be placed in book-entry  
form unless otherwise noted in writing.

- 6 Authorized Signatures — This section must be signed and stamped for your transfer to be executed.

The undersigned does (do) hereby irrevocably constitute and appoint Computershare as attorney to transfer the said stock, as the case may be, on the books of said Company, with full power of substitution in the premises.

The signature(s) below on this Transfer Request form must correspond exactly with the name(s) as shown upon the face of the stock certificate or a Computershare-issued statement for book-entry shares, without alteration or enlargement or any change whatever. The below must be signed by all current registered holders, or a legally authorized representative with indication of his or her capacity next to the signature.

NOTE: Signature(s) must be stamped with a Medallion Signature Guarantee by a qualified financial institution, such as a commercial bank, savings bank, savings and loan, US stockbroker and security dealer, or credit union, that is participating in an approved Medallion Signature Guarantee Program. (A NOTARY SEAL IS NOT ACCEPTABLE)

Required ► Medallion Guarantee Stamp  
(Notary Seal is Not Acceptable)

SIGNATURE GUARANTEED  
MEDALLION GUARANTEED  
FIRST VICTORIA  
NATIONAL BANK  
[Signature]  
(10) AUTHORIZED SIGNATURE  
A0152439  
SECURITIES TRANSFER AGENTS MEDALLION PROGRAM™  
[Barcode]

Signature of All Current Holders or Legal Representatives

[Signature: Elmer H. Brunsting]

[Empty box for Signature]

Date (mm / dd / yyyy)

03 / 10 / 2011

IMPORTANT ► You must complete both sides of this form for it to be valid.

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+



Transfer Request — See enclosed instructions

PLEASE PRINT CLEARLY

NEW HOLDER / RECIPIENT INFORMATION

\* Please complete for each new holder \* Use additional pages as necessary

7 Account Type (mark only one box with an "X"):

- Individual (complete A, B, C, G & H)   
  Custodial with Minor (complete A, B, C, D, G & H)   
  Transfer on Death (complete A, B, C, D, G & H)  
 Joint (complete A, B, C, D, G & H)   
  Estate (complete A, B, C, E, G & H)   
  Trustee/Trust (complete A-H)  
 Other (indicate type and complete A, B, C, D, G & H) \_\_\_\_\_

A New Holder's Existing Account Number (if applicable)

[Empty box for Account Number]

B \*Social Security Number (SSN) or Employer Identification Number (EIN)

[Redacted] 4685 (do not use hyphens)  
 SSN  EIN

C Name (First, MI, Last) - Individual / Custodian / Trustee / Executor / Other

ANITA BRUNSTING TRUSTEE OF THE

D Name (First, MI, Last) - Joint Holder / Minor / Co-Trustee / TOD Beneficiary / Other (if applicable)

NELVA BRUNSTING SURVIVOR'S

E Trust / Estate Name (if applicable)

TRUST

Trust / Estate Name - continued

[Empty box for Trust Name continuation]

F Date of Trust (mm / dd / yyyy) (if applicable)

04 / 01 / 2009

G Address Number and Street Name / PO Box

203 BLOOMINGDALE CIRCLE

Apt. / Unit Number

H City

VICTORIA

State

TX

Zip Code

77904

8 \*Form W-9: This section must be signed by the NEW HOLDER/RECIPIENT, as shown above, whose SSN/EIN is entered in section 7B above.

Certification: Under penalties 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 a 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 the 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 New Holder

Anita Kay Brunsting TRUSTEE

Date (mm / dd / yyyy)

03 / 10 / 2011

**AFFIDAVIT OF RESIDENCE**

To be completed for decedent transfers only.

Account Name: ELMER BRUNSTING OR  
NEWA BRUNSTING TR Account Number: [REDACTED] 2102  
Name of Stock: Exxon MOBIL  
Deceased Holder's Taxpayer Identification or Social Security Number: [REDACTED] 8905

The undersigned, ANITA BRUNSTING, TRUSTEE  
residing at 203 BLOOMINGDALE CIRCLE VICTORIA TX 77904

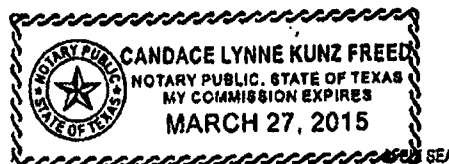
being duly sworn, deposes and says that he/she is TRUSTEE  
Describe your status, i.e. Executor, Administrator, Survivor in Joint Tenancy, etc.  
(If a corporate fiduciary show title of affiant and name of corporation)

of (the estate of) THE BRUNSTING FAMILY LIVING TR DTD 10/10/96 E  
ELMER BRUNSTING  
who died on 04/01/2009

that at the time of death the domicile (legal residence) of said decedent was at  
13630 PINEROCK HOUSTON TX 77079

and that (s)he resided in the State of TEXAS  
for 44 years prior to death and was not a resident of any (other) state within the United States of America at time of death.

Signature: Anita Kay Brunsting, trustee



Sworn to before me, a notary public, this  
11<sup>th</sup> day of March 20 11  
Signature: Candace Kunz Freed  
(official administering oath)  
Title: Attorney & Notary  
My commission expires 3.27.2015

P4346

STATE OF TEXAS  
CERTIFICATION OF VITAL RECORD

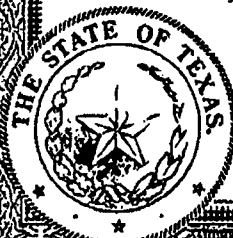
DEPARTMENT OF STATE HEALTH SERVICES  
VITAL STATISTICS UNIT

TEXAS DEPARTMENT OF STATE HEALTH SERVICES - VITAL STATISTICS  
STATE OF TEXAS CERTIFICATE OF DEATH STATE FILE NUMBER 142-09-043770

1. LEGAL NAME OF DECEASED (Include AKA's, if any) (Pre, Middle, Last) <b>ELMER H. BRUNSTING</b>		2. DATE OF DEATH (ACTUAL OR PRESUMED) <b>04/01/2009</b>	
3. SEX <b>MALE</b>	4. DATE OF BIRTH <b>09/29/1921</b>	5. AGE (Last Birthday) <b>87</b>	6. BIRTHPLACE (City & State or Foreign Country) <b>HULL, IA</b>
7. SOCIAL SECURITY NUMBER <b>8903</b>	8. MARITAL STATUS AT TIME OF DEATH <input checked="" type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced <input type="checkbox"/> Never Married <input type="checkbox"/> Unknown	9. SURVIVING SPOUSE'S NAME (If wife, give name prior to first marriage) <b>NELVA RENSINK</b>	
10a. RESIDENCE STREET ADDRESS <b>13630 PINEROCK</b>		10b. CITY OR TOWN <b>HOUSTON</b>	10c. ZIP CODE <b>77079</b>
11. FATHER'S NAME <b>LUKE BRUNSTING</b>		12. MOTHER'S NAME PRIOR TO FIRST MARRIAGE <b>GERTUDE RIKKERS</b>	
13. PLACE OF DEATH (CHECK ONLY ONE) IF DEATH OCCURRED IN A HOSPITAL: <input type="checkbox"/> Inpatient <input type="checkbox"/> ER/Outpatient <input type="checkbox"/> DCA <input type="checkbox"/> Hospice Facility <input type="checkbox"/> Nursing Home <input checked="" type="checkbox"/> Decedent's Home <input type="checkbox"/> Other (Specify) IF DEATH OCCURRED SOMEWHERE OTHER THAN A HOSPITAL:			
14. COUNTY OF DEATH <b>HARRIS</b>		15. CITY/TOWN, ZIP (IF OUTSIDE CITY LIMITS GIVE PRECINCT NO.) <b>HOUSTON, 77079</b>	16. FACILITY (NAME (if not institution, give street address)) <b>13630 PINEROCK</b>
17. INFORMANT'S NAME & RELATIONSHIP TO DECEASED <b>HARRIS</b>		18. MAILING ADDRESS OF INFORMANT (Street and Number, City, State, Zip Code) <b>13630 PINEROCK HOUSTON, TX 77079</b>	
19. METHOD OF DISPOSITION <input checked="" type="checkbox"/> Burial <input type="checkbox"/> Cremation <input type="checkbox"/> Donation <input type="checkbox"/> Entombment <input type="checkbox"/> Removal from state <input type="checkbox"/> Other (Specify)		20. SIGNATURE AND LICENSE NUMBER OF FUNERAL DIRECTOR OR PERSON ACTING AS SUCH <b>MARICELLA JIRON, BY ELECTRONIC SIGNATURE - 113482</b>	
21. PLACE OF DISPOSITION (Name of cemetery, crematory, other place) <b>MEMORIAL OAKS CEMETERY</b>		22. LOCATION (City/Town, and State) <b>HOUSTON, TX</b>	
23. NAME OF FUNERAL FACILITY <b>MEMORIAL OAKS FUNERAL HOME</b>		24. COMPLETE ADDRESS OF FUNERAL FACILITY (Street and Number, City, State, Zip Code) <b>13001 KATY FREEWAY, HOUSTON, TX 77079</b>	
25. CERTIFIER (Check only one) <input checked="" type="checkbox"/> Certifying physician-To the best of my knowledge, death occurred due to the cause(s) and manner stated. <input type="checkbox"/> Medical Examiner/Coroner of the Peace - On the basis of examination, and/or investigation, in my opinion, death occurred at the time, date and place, and due to the cause(s) and manner stated.			
27. SIGNATURE OF CERTIFIER <b>CYNTHIA ZINNER - BY ELECTRONIC SIGNATURE</b>		28. DATE CERTIFIED (MM/DD/YYYY) <b>04/10/2009</b>	29. LICENSE NUMBER <b>M2509</b>
31. PRINTED NAME, ADDRESS OF CERTIFIER (Street and Number, City, State, Zip Code) <b>CYNTHIA ZINNER 1880 SOUTH DAIRY ASHFORD STE # 330, HOUSTON, TX 77077</b>		30. TIME OF DEATH (Actual or presumed) <b>09:30 AM</b>	
32. PART I. ENTER THE TERMINAL EVENTS - DISEASE, INJURY, OR COMPLICATIONS - THAT DIRECTLY CAUSED THE DEATH. DO NOT ENTER ETIOLOGY. DO NOT ABBREVIATE. ENTER ONLY ONE CAUSE ON EACH.		33. Approximate Interval Onset to death <b>3 YEARS</b>	
34. IMMEDIATE CAUSE (Final disease or condition resulting in death) <b>a. DEMENTIA, LIKELY VASCULAR TYPE</b>		Due to (or as a consequence of):	
35. SEQUENTIALLY list conditions, if any, leading to the cause listed on line a. Enter the UNDERLYING CAUSE (disease or injury) that initiated the events resulting in death LAST.		Due to (or as a consequence of):	
36. PART II. ENTER OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH, BUT NOT RESULTING IN THE UNDERLYING CAUSE GIVEN IN PART I. <b>CHRONIC LYMPHOCYTOIC LEUKEMIA, CORONARY ARTERY DISEASE, REMOTE PROSTATE CANCER, HYPERLIPIDEMIA</b>		37. WAS AN AUTOPSY PERFORMED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
38. WOULD AUTOPSY FINDINGS AVAILABILITY COMPLETE THE CAUSE OF DEATH? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		39. MANNER OF DEATH <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Accident <input type="checkbox"/> Suicide <input type="checkbox"/> Homicide <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Could not be determined	
40. DATE OF INJURY (MM/DD/YYYY)		41. DID TOXICOLOGY CONTRIBUTE TO DEATH? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Probably <input type="checkbox"/> Unknown	42. IF FEMALE: <input type="checkbox"/> Not pregnant within past year <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Not pregnant, but pregnant within 42 days of death <input type="checkbox"/> Not pregnant, but pregnant 43 days to one year before death <input type="checkbox"/> Unknown if pregnant within the past year
43. TIME OF INJURY		44. IF TRANSPORTATION ACCIDENT, SPECIFY: <input type="checkbox"/> Driver/Operator <input type="checkbox"/> Passenger <input type="checkbox"/> Pedestrian <input type="checkbox"/> Other (Specify)	
45. INJURY AT WORK? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		46. PLACE OF INJURY (e.g. Decedent's home, construction site, restaurant, wooded area)	
47. LOCATION (Street and Number, City, State, Zip Code)			
48. COUNTY OF INJURY			
49. DESCRIBE HOW INJURY OCCURRED			
50. REGISTRAR FILE NO. <b>0206214</b>		51. DATE RECEIVED BY LOCAL REGISTRAR <b>04/28/2009</b>	
52. REGISTRAR - CITY OF HOUSTON, ELECTRONICALLY FILED			

M 0 0 5 2 4 4 4 7

TEXAS DEPARTMENT OF STATE HEALTH SERVICES - VITAL STATISTICS UNIT  
VS-112 REV 1/2008



EDR NUMBER 0000054400  
This is a true and correct reproduction of the original record as recorded in this office. Issued under authority of Section 191.051, Health and Safety Code.

ISSUED

APR 28 2009

*Geraldine R. Harris*  
GERALDINE R. HARRIS  
STATE REGISTRAR



ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

**Request for Taxpayer  
Identification Number and Certification**

Give form to the  
requester. Do not  
send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return) <b>ANITA KAY BRUNSTING, Trustee, of the ELMER H. BRUNSTING DECEDENT'S TRUST</b>	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ .....	
	<input checked="" type="checkbox"/> Other (see instructions) ▶ <b>Irrevocable Trust</b>	
	<input type="checkbox"/> Exempt payee	
Address (number, street, and apt. or suite no.) <b>203 Bloomingdale Circle</b>		Requester's name and address (optional)
City, state, and ZIP code <b>Victoria, Texas 77804</b>		
List account number(s) here (optional)		

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I Instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number : : : :
OR
Employer identification number : : : : : : : : : : : : : : : : <b>3100</b>

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the Instructions on page 4.

Sign Here Signature of U.S. person *Anita Kay Brunsting* Date ▶ 3/10/11

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

**Request for Taxpayer  
Identification Number and Certification**

Give form to the  
requester. Do not  
send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return) <b>ANITA KAY BRUNSTING, Trustee, of the NELVA E. BRUNSTING SURVIVOR'S TRUST</b>	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ .....	
	<input checked="" type="checkbox"/> Other (see instructions) ▶ <b>Revocable Trust</b> <input type="checkbox"/> Exempt payee	
	Address (number, street, and apt. or suite no.) <b>203 Bloomingdale Circle</b> City, state, and ZIP code <b>Victoria, Texas 77904</b>	
List account number(s) here (optional)		
Requester's name and address (optional)		

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number [REDACTED] 4685
or
Employer Identification number [REDACTED]

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

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Sign Here Signature of U.S. person *Anita Kay Brunsting* Date *3/11/11*

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

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- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

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- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

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The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

07192015-0001-P0269

**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.

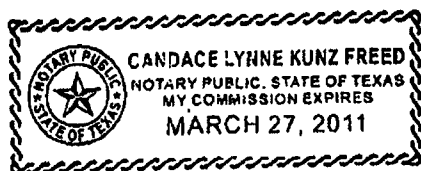
My resignation is effective immediately and I hereby appoint ANITA KAY BRUNSTING as the Trustee of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended, as well as the subtrusts known as the NELVA E. BRUNSTING SURVIVOR'S TRUST and the ELMER H. BRUNSTING DECEDENT'S TRUST.

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



P4350

07132015:0809: P0270


**ACCEPTANCE BY SUCCESSOR TRUSTEE**

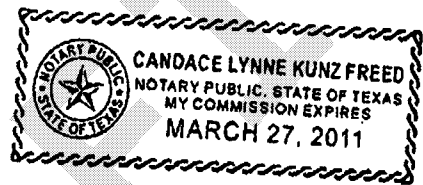
I, ANITA KAY BRUNSTING, hereby acknowledge my acceptance this day of the office and duties of Successor Trustee of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended, the NELVA E. BRUNSTING SURVIVOR'S TRUST and the ELMER H. BRUNSTING DECEDENT'S TRUST, after the resignation of the original 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



P4351

CERTIFICATE OF TRUST  
FOR THE  
ELMER H. BRUNSTING DECEDENT'S TRUST

The undersigned successor Trustee hereby certifies the following:

1. This Certificate of Trust refers to a joint revocable living trust agreement executed by ELMER HENRY BRUNSTING, also known as ELMER H. BRUNSTING, and NELVA ERLEEN BRUNSTING, also known as NELVA E. BRUNSTING, Founders and original Trustees. The full legal name of the subject trust was:

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. ELMER H. BRUNSTING died on April 1, 2009, without having changed his appointment of successor Trustee. Therefore, pursuant to Article IV, Section B, of the BRUNSTING FAMILY LIVING TRUST, the remaining original Trustee continues to serve alone.

3. The full legal name of the said trust was:

NELVA E. BRUNSTING, Trustee, or the successor Trustees,  
under the BRUNSTING FAMILY LIVING TRUST dated  
October 10, 1996, as amended.

4. The BRUNSTING FAMILY LIVING TRUST authorized the creation of the subsequent irrevocable trust known as the ELMER H. BRUNSTING DECEDENT'S TRUST.

5. NELVA E. BRUNSTING resigned as Trustee on December 21, 2010, after having changed her successor Trustee by that certain Appointment of Successor Trustee dated December 21, 2010. Therefore, the first successor Trustee, ANITA KAY BRUNSTING, shall serve as Trustee.

For purposes of asset allocation, transfer of property into the decedent's trust, holding title to assets, and conducting business for and on behalf of the trust, the full legal name of the decedent's trust shall now be known as:

ANITA KAY BRUNSTING, Trustee, of the ELMER H.  
BRUNSTING DECEDENT'S TRUST dated April 1, 2009, as

P4352



established under the BRUNSTING FAMILY LIVING TRUST  
dated October 10, 1996, as amended.

The tax identification number of the ELMER H. BRUNSTING DECEDENT'S  
TRUST is [REDACTED] 3100.

6. If ANITA KAY BRUNSTING fails or ceases to serve as Trustee by reason of death, disability or for any reason, then the following individuals will serve as Trustees in the following order:

First, AMY RUTH TSCHIRHART  
Second, THE FROST NATIONAL BANK

7. Upon the death or disability of NELVA E. BRUNSTING, 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.

8. The Trustee under the trust agreement is authorized to acquire, sell, convey, encumber, lease, borrow, manage and otherwise deal with interests in real and personal property in the trust name. All powers of the Trustee are fully set forth in Article XII of the trust agreement.
9. The trust has not been revoked and there have been no amendments limiting the powers of the Trustee over trust property.
10. 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 Trustee 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 certifies 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 December 21, 2010.

P4353

07192015 0800:0079

*Anita Kay Brunsting*

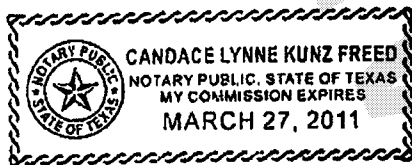
ANITA KAY BRUNSTING,  
Successor Trustee

STATE OF TEXAS  
COUNTY OF HARRIS

The foregoing Certificate of Trust was acknowledged before me on December 21,  
2010 at 1:45 p.m., by ANITA KAY BRUNSTING, as successor Trustee.

Witness my hand and official seal.

*Candace Lynne Kunz Freed*  
Notary Public, State of Texas



P4354

CERTIFICATE OF TRUST  
FOR THE  
NELVA E. BRUNSTING SURVIVOR'S TRUST

The undersigned successor Trustee hereby certifies the following:

1. This Certificate of Trust refers to a joint revocable living trust agreement executed by ELMER HENRY BRUNSTING, also known as ELMER H. BRUNSTING, and NELVA ERLEEN BRUNSTING, also known as NELVA E. BRUNSTING, Founders and original Trustees. The full legal name of the subject trust was:

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. ELMER H. BRUNSTING died on April 1, 2009, without having changed his appointment of successor Trustee. Therefore, pursuant to Article IV, Section B, of the BRUNSTING FAMILY LIVING TRUST, the remaining original Trustee continues to serve alone.
3. The full legal name of the said trust was:

NELVA E. BRUNSTING, Trustee, or the successor Trustees,  
under the BRUNSTING FAMILY LIVING TRUST dated  
October 10, 1996, as amended.

4. The BRUNSTING FAMILY LIVING TRUST authorized the creation of the subsequent revocable trust known as the NELVA E. BRUNSTING SURVIVOR'S TRUST.
5. NELVA E. BRUNSTING resigned as Trustee on December 21, 2010, after having changed her successor Trustee by that certain Appointment of Successor Trustee dated December 21, 2010. Therefore, the first successor Trustee, ANITA KAY BRUNSTING, shall serve as Trustee.

For purposes of asset allocation, transfer of property into the survivor's trust, holding title to assets, and conducting business for and on behalf of the trust, the full legal name of the survivor's trust shall now be known as:

ANITA KAY BRUNSTING, Trustee, of the NELVA E.  
BRUNSTING SURVIVOR'S TRUST dated April 1, 2009, as

P4355

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established under the BRUNSTING FAMILY LIVING TRUST  
dated October 10, 1996, as amended.

The tax identification number of the NELVA E. BRUNSTING SURVIVOR'S  
TRUST is [REDACTED] 4685.

6. If ANITA KAY BRUNSTING fails or ceases to serve as Trustee by reason of death, disability or for any reason, then the following individuals will serve as Trustees in the following order:

First, AMY RUTH TSCHIRHART  
Second, THE FROST NATIONAL BANK

7. Upon the death or disability of NELVA E. BRUNSTING, 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.

8. The Trustee under the trust agreement is authorized to acquire, sell, convey, encumber, lease, borrow, manage and otherwise deal with interests in real and personal property in the trust name. All powers of the Trustee are fully set forth in Article XII of the trust agreement.
9. The trust has not been revoked and there have been no amendments limiting the powers of the Trustee over trust property.
10. 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 Trustee 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 certifies 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 December 21, 2010.

P4356

ExxonMobil

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Providence, RI 02940-3078

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005791



ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
13630 PINEROCK  
HOUSTON TX 77079-5914

### CHANGE OF ADDRESS NOTICE

25 Mar 2011

Dear Holder:

Re: Company Name: Exxon Mobil Corporation

Account Number: C\*\*\*\*\*2102

Registration: ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM LIVING TRUST UA 10/10/96

Thank you for your recent request to update the address on the above referenced account.

Our records now reflect the following **new address** for this account:

ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
C/O ANITA K BRUNSTING  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904

Our records indicate your **previous address** was:

ELMER H BRUNSTING OR NELVA E BRUNSTING TR BRUNSTING FAM  
LIVING TRUST UA 10/10/96  
13630 PINEROCK  
HOUSTON TX 77079-5914

If this **new address is correct**, no further action is required.

If this **new address is incorrect**, please call us promptly at the number indicated above.

We are committed to providing you the best service our industry can offer, and appreciate the opportunity to be of service to you.

Sincerely,

Computershare

P4357

**ExxonMobil****Computershare**

+

Computershare Trust Company, N.A.  
 PO Box 43078  
 Providence, RI 02940-3078  
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 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.

001182



ANITA BRUNSTING TR UA 04/01/09 ELMER H BRUNSTING  
 DECEDENT'S TRUST  
 203 BLOOMINGDALE CIRCLE  
 VICTORIA TX 77904

Holder Account Number

7769



SSN/TIN Certified  
 Yes

Symbol  
 XOM

001CS000313SS.L.MEX\_3207001182/001182/G

**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: 7769

**ACCOUNT SUMMARY**

As of close of stock market on 24 Mar 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	1,908.000000	0.232008	1,908.232008	82.730000	157,868.03

**Transaction History**

From: 24 Mar 2011

To: 24 Mar 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
24 Mar 2011	Transfer					1,908.232008	1,908.232008	1,908.232008
24 Mar 2011	Certificate Issuance					-1,908.000000	-1,908.000000	0.232008

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**How to Read Your Statement**

Please see reverse side for important information

**Stock Class Description** - A description of the stock class in which you hold shares, e.g. Common stock.

**Certificated Shares/Units Held By You** - A physical certificate was issued for these shares/units.

**Book/Book-Entry Shares** - Shares Computershare maintains for you in an electronic account; a stock certificate was not issued for these shares. All Direct Registration shares and Investment Plan ("Plan") shares are held in book-entry form.

**Direct Registration Book Shares/Units (DRS)** - Book-entry shares that are not part of the Plan.

**Investment Plan Book Shares/Units** - Book-entry shares that are part of either a dividend reinvestment plan (DRP) or direct stock purchase plan (DSPP).

**Total Shares/Units** - The sum of all certificated and book shares held in this account as of the date specified.

**Closing Price** - The closing market price as of the account summary date.

**Market Value** - The dollar value of the total shares held in this account as of the date specified.

**Deduction Description** - A description of any amounts withheld including transaction fees.

**Deduction Amount** - Dollar amounts deducted may include taxes and transaction fees (which fees shall include any brokerage commissions Computershare is required to pay).

**Net Amount** - The total amount transacted for you, equal to the transaction amount less any applicable deductions.

**Price Per Share/Unit** - The market price per share purchased or sold under the Plan for this transaction.

**Transaction Shares/Units** - The number of shares purchased or sold through the Plan for this transaction.

**Total Book Shares/Units** - The sum of all book-entry shares, including both DRS and investment plan shares, as of the date specified.

SSN/TIN Certified - If your account is not certified, as indicated by the word NO appearing under the SSN/TIN title in the top right section of this form, you must complete a Form W-9 (US resident) or Form W-8BEN (non-US resident) or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Either form is available through the "DOWNLOADABLE FORMS" section of our website. Faxed forms are not acceptable.

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# ExxonMobil

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ANITA BRUNSTING TR UA 04/01/09 ELMER H BRUNSTING  
DECEDENT'S TRUST  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904

Holder Account Number

██████████ 7769



Company ID  
SSN/TIN Certified

XOM  
Yes

## Exxon Mobil Corporation - Direct Registration (DRS) Advice

### Transaction(s)

Date	Transaction Description	Total Shares/Units	CUSIP	Class Description
24 Mar 2011	Plan Certification	1,908.000000	30231G102	Common Stock

### Account Information: Date: 24 Mar 2011 (Excludes transactions pending settlement)

Current Dividend Reinvestment Balance	Current Direct Registration Balance	Total Shares/Units	Price Per Share	Value (\$)	CUSIP	Class Description
0.232008	1,908.000000	1,908.232008	82.730000	157,868.03	30231G102	Common Stock

### IMPORTANT INFORMATION — RETAIN FOR YOUR RECORDS.

This advice is your record of the share transaction in your account on the books of the Company as part of the Direct Registration System. This advice is neither a negotiable instrument nor a security, and delivery of it does not of itself confer any rights to the recipient. It should be kept with your important documents as a record of your ownership of these shares. No action on your part is required.

The IRS requires that we report the cost basis of certain shares acquired after January 1, 2011. If your shares were covered by the legislation and you have sold or transferred the shares and requested a specific cost basis calculation method, we have processed as requested. If you did not specify a cost basis calculation method, we have defaulted to the first in, first out (FIFO) method. Please visit our website or consult your tax advisor if you need additional information about cost basis.

Upon request, the Company will furnish to any shareholder, without charge, a full statement of the designations, rights (including rights under any Company's Rights Agreement, if any), preferences and limitations of the shares of each class and series authorized to be issued, and the authority of the Board of Directors to divide the shares into series and to determine and change rights, preferences and limitations of any class or series.

Assets are not deposits of Computershare and are not insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or any other federal or state agency.

If you do not keep in contact with us or do not have any activity in your account for the time periods specified by state law, your property could become subject to state unclaimed property laws and transferred to the appropriate state.

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### Privacy Notice

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you in writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), social security number, bank account information, stock ownership information and other financial information.

With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third-party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information.

Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

P4361

# ExxonMobil

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ANITA BRUNSTING TR UA 04/01/09 ELMER H BRUNSTING  
DECEDENT'S TRUST  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904

Holder Account Number

██████████7769



Company ID  
SSN/TIN Certified

XOM  
Yes

## Exxon Mobil Corporation - Direct Registration (DRS) Advice

### Transaction(s)

Date	Transaction Description	Total Shares/Units	CUSIP	Class Description
15 Jun 2011	Transfer	-1,325.000000	30231G102	Common Stock

### Account Information: Date: 15 Jun 2011 (Excludes transactions pending settlement)

Current Dividend Reinvestment Balance	Current Direct Registration Balance	Total Shares/Units	CUSIP	Class Description
0.000000	583.000000	583.000000	30231G102	Common Stock

### IMPORTANT INFORMATION — RETAIN FOR YOUR RECORDS.

This advice is your record of the share transaction in your account on the books of the Company as part of the Direct Registration System. This advice is neither a negotiable instrument nor a security, and delivery of it does not of itself confer any rights to the recipient. It should be kept with your important documents as a record of your ownership of these shares. No action on your part is required.

The IRS requires that we report the cost basis of certain shares acquired after January 1, 2011. If your shares were covered by the legislation and you have sold or transferred the shares and requested a specific cost basis calculation method, we have processed as requested. If you did not specify a cost basis calculation method, we have defaulted to the first in, first out (FIFO) method. Please visit our website or consult your tax advisor if you need additional information about cost basis.

Upon request, the Company will furnish to any shareholder, without charge, a full statement of the designations, rights (including rights under any Company's Rights Agreement, if any), preferences and limitations of the shares of each class and series authorized to be issued, and the authority of the Board of Directors to divide the shares into series and to determine and change rights, preferences and limitations of any class or series.

Assets are not deposits of Computershare and are not insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or any other federal or state agency.

If you do not keep in contact with us or do not have any activity in your account for the time periods specified by state law, your property could become subject to state unclaimed property laws and transferred to the appropriate state.



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## Privacy Notice

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you in writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), social security number, bank account information, stock ownership information and other financial information.

With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third-party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information.

Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

# ExxonMobil

# Computershare +

Computershare Trust Company, N.A.

PO Box 43078

Providence, RI 02940-3078

Within USA, US territories &amp; Canada 800 252 1800

Outside USA, US territories &amp; Canada 781 575 2058

www.computershare.com/exxonmobil

Exxon Mobil Corporation is incorporated under the laws of the State of NJ.

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ANITA BRUNSTING TR UA 04/01/09 ELMER H BRUNSTING  
 DECEDENT'S TRUST  
 203 BLOOMINGDALE CIRCLE  
 VICTORIA TX 77904

Holder Account Number

7769

SSN/TIN Certified  
YesSymbol  
XOM

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## 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: 7769

### ACCOUNT SUMMARY

As of close of stock market on 11 Jun 2012

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	583.000000	4.204777	587.204777	80.270000	47,134.93

### Dividend Reinvestment Activity

As of record date

This section includes information only for shares/units for which dividends are reinvested.

Record Date	Payment Date	Dividend Rate (\$)	Stock Class Description	Dividend Reinvestment Shares/Units	Gross Dividend (\$)	Taxes Withheld (\$)	Net Dividend (\$)
14 May 2012	11 Jun 2012	0.570000	Common	583.000000	332.31		332.31

### Transaction History

From: 01 Jan 2012

To: 11 Jun 2012

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
11 Jun 2012	Dividend Reinvestment	332.31	Comp Paid Fees	0.11	332.31	79.031547	4.204777	4.204777

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### How to Read Your Statement

Please see reverse side for important information.

**Stock Class Description** - A description of the stock class in which you hold shares, e.g. Common stock.

**Certificated Shares/Units Held By You** - A physical certificate was issued for these shares/units.

**Book/Book-Entry Shares** - Shares Computershare maintains for you in an electronic account; a stock certificate was not issued for these shares. All Direct Registration shares and investment plan ("Plan") shares are held in book-entry form.

**Direct Registration Book Shares/Units (DRS)** - Book-entry shares that are not part of the Plan.

**Investment Plan Book Shares/Units** - Book-entry shares that are part of either a dividend reinvestment plan (DRP) or direct stock purchase plan (DSPP).

**Total Shares/Units** - The sum of all certificated and book shares held in this account as of the date specified.

**Closing Price** - The closing market price as of the account summary date.

**Market Value** - The dollar value of the total shares held in this account as of the date specified.

**Deduction Description** - A description of any amounts withheld including transaction fees.

**Deduction Amount** - Dollar amounts deducted may include taxes and transaction fees (which fees shall include any brokerage commissions Computershare is required to pay).

**Net Amount** - The total amount transacted for you, equal to the transaction amount less any applicable deductions.

**Price Per Share/Unit** - The market price per share purchased or sold under the Plan for this transaction.

**Transaction Shares/Units** - The number of shares purchased or sold through the Plan for this transaction.

**Total Book Shares/Units** - The sum of all book-entry shares, including both DRS and investment plan shares, as of the date specified.

**Record Date** - The date on which you must have officially owned shares to receive the dividend.

**Payment Date** - The date the dividend was payable.

**Dividend Rate** - The dollar amount of the dividend paid per share or the rate of stock dividend or stock split.

**Dividend Reinvestment Shares/Units** - Shares enrolled in dividend reinvestment.

**Gross Dividend** - The dividend paid on the Plan's dividend reinvestment shares.

**Net Dividend** - The total amount reinvested for you, equal to the gross dividend amount less any taxes withheld.

**SSN/TIN Certified** - If your account is not certified, as indicated by the word NO appearing under the SSN/TIN title in the top right section of this form, you must complete a Form W-9 (US resident) or Form W-8BEN (non-US resident) or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Either form is available through the "PRINTABLE FORMS" section of our website. Faxed forms are not acceptable. You may certify your tax status or obtain the necessary forms at the website listed above.

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Screen dump for user: vigorito

Date: Thursday, 5th July 2012 17:53:29

COMPUTERSHARE SHAREHOLDER SERVICES INC  
EXXON MOBIL CORPORATION/XOM

Run/Sess/Date:1527/0000/07-05-2012  
Serv Provider/Code: CIS/REGEQ

\* SCRIP Enquiry - PAYMENTS-----Page 1

HID: ██████████7769 Type: FID TIN: \*\*\*\*\*3100 Key....: BRUNSTING ANITA \*PI\*  
N&A: ANITA BRUNSTING TR | UA 04/01/09 | ELMER H BRUNSTING DECEDENT'S TRUST, ... Post: 77904

#	Date	Meth	Reference	Net Amt	Status	Bse-Pd	Acct	Pay Type
01	06/11/12	Riv	20977305	332.31	Pres	06/11/12 USD USD	D1206	Dividend
02	03/09/12	Dir	00039188	274.01	Pres	03/09/12 USD USD	D1203	Dividend
03	12/09/11	Dir	00039770	274.01	Pres	12/09/11 USD USD	D1112	Dividend
04	09/09/11	Dir	00039892	274.01	Pres	09/09/11 USD USD	D1109	Dividend
05	06/10/11	Dir	00039733	896.76	Pres	06/10/11 USD USD	D1106	Dividend
06	03/29/11	Che	00121887	4.18	Pres	06/10/11 USD USD	SLE02	Trading

\*-----  
Action.....: 01\_\_\_\_\_ Locate....: \_\_\_\_\_  
<Esc> for valid actions; ">" , "<" , "+" , "\$" for extra, ,Dnn, Tnn, Pnn, Fnn  
Form: ENSDIS01 Slot: 4835 PID: 584D4247 Node: CSAPR4 Date: 05Jul2012 17:53

P4366

582041:6080:51026120

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000658



ANITA BRUNSTING TR UA 04/01/09 ELMER H BRUNSTING  
DECEDENT'S TRUST  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904

Account Number: [REDACTED] 769

Dear Holder:

We have received and processed your request to add bank payment instructions to your account. We are in the process of verifying the bank payment instructions with your financial institution. The new payment instructions should become effective within 15 days. All disbursements made by the company will then be directly paid to your bank account. You will also be able to direct us to use this bank account to receive payments at your discretion if you choose to sell your shares.

**Company Name:** Exxon Mobil Corporation

**Bank Name:** BANK OF AMERICA N A

**Bank Account (Last four Digits):** 1143

Please note, if the bank payment instructions are determined to be incorrect in the verification process, you will receive a notice that your request has been cancelled.

If you are a participant in a reinvestment plan, your reinvestment plan participation option will be honored in lieu of the above payment instructions. For example, if you have enrolled in full reinvestment, all dividends will be reinvested rather than paid to the above bank account. If you have enrolled in the cash payment option, all dividends will be paid in cash using the new bank payment instructions.

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# ExxonMobil

# Computershare

Computershare  
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Providence, RI 02940-3078

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Outside USA, US territories & Canada 781 575 2058

www.computershare.com/exxonmobil

**IMPORTANT TAX RETURN DOCUMENT ENCLOSED**

005814

Recipient  
ANITA BRUNSTING TR UA 04/01/09 ELMER H BRUNSTING  
DECEDENT'S TRUST  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904Holder Account Number Co.ID  
7769 XOMRecipient's ID No. 27-6453100  
Payer's Federal ID No. 13-5409005\*Uncertified accounts are subject to withholding  
taxes on dividend payments and sales proceeds.

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### Instructions for Recipients

**Recipient's Identification Number:** For your protection, this form may show only the last four digits of your taxpayer identification number. However, the issuer has reported your complete identification number to the IRS and, where applicable, to state and/or local governments.

**Account Number:** May show an account or other unique number the payer assigned to distinguish your account.

**Box 1a:** Shows total ordinary dividends that are taxable. Include this amount on line 9a of Form 1040 or 1040A. Also, report it on Schedule B (Form 1040 or 1040A), if required. The amount shown may be dividends a corporation paid directly to you as a participant (or beneficiary of a participant) in an employee stock ownership plan (ESOP). Report it as a dividend on your Form 1040/1040A, but treat it as a plan distribution, not as investment income, for any other purpose.

**Box 1b:** Shows the portion of the amount in box 1a that may be eligible for the 15% or 0% capital gains rates. See the Form 1040/1040A instructions for how to determine this amount. Report the eligible amount on line 9b, Form 1040 or 1040A.

**Box 2a:** Shows total capital gain distributions from a regulated investment company or real estate investment trust. Report the amounts shown in box 2a on Schedule D (Form 1040), line 13. But, if no amount is shown in boxes 2c-2d and your only capital gains and losses are capital gain distributions, you may be able to report the amounts shown in box 2a on line 13 of Form 1040 (line 10 of Form 1040A) rather than Schedule D. See the Form 1040/1040A instructions.

**Box 2b:** Shows the portion of the amount in box 2a that is unrecaptured section 1250 gain from certain depreciable real property. Report this amount on the Unrecaptured Section 1250 Gain Worksheet - Line 19 in the Schedule D instructions (Form 1040).

**Box 2c:** Shows the portion of the amount in box 2a that is section 1202 gain from certain small business stock that may be subject to a 50% exclusion and certain empowerment zone business stock that may be subject to a

60% exclusion. See the Schedule D (Form 1040) instructions.

**Box 2d:** Shows 28% rate gain from sales or exchanges of collectibles. If required, use this amount when completing the 28% Rate Gain Worksheet - Line 18 in the instructions for Schedule D (Form 1040).

**Box 3:** Shows the part of the distribution that is nontaxable because it is a return of your cost (or other basis). You must reduce your cost (or other basis) by this amount for figuring gain or loss when you sell your stock. But if you get back all your cost (or other basis), report future distributions as capital gains. See Pub. 550, Investment Income and Expenses.

**Box 4:** Shows backup withholding. For example, a payer must backup withhold on certain payments if you did not give your taxpayer identification number to the payer. See Form W-9, Request for Taxpayer Identification Number and Certification, for information on backup withholding. Include this amount on your income tax return as tax withheld.

**Box 5:** Shows your share of expenses of a nonpublicly offered regulated investment company, generally a nonpublicly offered mutual fund. If you file Form 1040, you may deduct these expenses on the "Other expenses" line on Schedule A (Form 1040) subject to the 2% limit. This amount is included in box 1a.

**Box 6:** Shows the foreign tax you may be able to claim as a deduction or a credit on Form 1040. See the Form 1040 instructions.

**Box 7:** This box should be left blank if a regulated investment company reported the foreign tax shown in box 6.

**Box 8:** Shows cash liquidation distributions.

**Nominees:** If this form includes amounts belonging to another person, you are considered a nominee recipient. You must file Form 1099-DIV with the IRS for each of the other owners to show their share of the income, and you must furnish a Form 1099-DIV to each. A husband or wife is not required to file a nominee return to show amounts owned by the other. See the current tax year General Instructions for Certain Information Returns.

188UDR

00RT0A (Rev. 10/11)

## EXXON MOBIL CORPORATION

PAYER'S Federal identification number: 9005  
PAYER'S name, street address, city, state, and ZIP code  
EXXON MOBIL CORPORATION  
C/O COMPUTERSHARE  
P.O. BOX 43010  
PROVIDENCE RI 02940-3010RECIPIENT'S identification number: 3100  
Account number (see instructions): 7769  
RECIPIENT'S name, street address, city, state, ZIP code  
ANITA BRUNSTING TR UA 04/01/09 ELMER H BRUNSTING  
DECEDENT'S TRUST  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904

Form 1099-DIV (keep for your records)

### Dividends and Distributions

<input type="checkbox"/> CORRECTED (if checked)	
1a Total ordinary dividends \$ 1444.78	1b Qualified dividends \$ 1444.78
2a Total capital gain distr. \$ 0.00	2b Unrecap. Sec. 1250 gain \$ 0.00
2c Section 1202 gain \$ 0.00	2d Collectibles (28%) gain \$ 0.00
3 Nondividend distributions \$ 0.00	4 Federal income tax withheld \$ 0.00
5 Investment expenses \$ 0.00	6 Foreign tax paid \$
7 Foreign country or U.S. possession	8 Cash liquidation distributions \$ 0.00

OMB No. 1545-0110

2011

Form 1099-DIV

**Copy B  
For Recipient**This is important tax information  
and is being furnished to the  
Internal Revenue Service. If you  
are required to file a return, a  
negligence penalty or other  
sanctions may be imposed on  
you if this income is taxable and  
you do not report it.  
P4568

The reportable amounts above include the following additional income:

Company Paid Fees \$ 0.00	Company Paid Service Charges \$ 0.00
Discount on Reinvestment \$ 0.00	

Department of the Treasury - Internal Revenue Service



# Computershare

Computershare  
P.O. Box 43078  
Providence, RI, 02940-3078



7769

ETRD1

XOM

## Transfer Request

### Current Account Information

Company Name	EXXON MOBIL CORPORATION	Holding	COMMON STOCK		
Holder Name	ANITA BRUNSTING TR UA 04/01/09 ELMER H BRUNSTING DECEDENT'S TRUST	Account Number	7769		
Address	203 BLOOMINGDALE CIRCLE VICTORIA TX 77904	Reason For Transfer	General Transfer	Type of Transfer	Partial Transfer
Shares to Transfer					
Book	1325				
Plan					
Certificate (s)		Note: You must send in original certificate(s) with enough shares to satisfy the transfer amount.			
Total	1325				

### Current Account Holder Signature(s)

Authorized Signatures This section must be signed and stamped for your transfer to be executed. Required - Medallion Guarantee Stamp (Notary Seal is NOT Acceptable)

The undersigned does (do) hereby irrevocably constitute and appoint Computershare as attorney to transfer the said stock, as the case may be, on the books of said Company, with full power of substitution in the premises.

The signature(s) below on this Transfer Request form must correspond exactly with the name(s) as shown upon the face of the stock certificate or a Computershare-issued statement for book-entry shares, without alteration or enlargement or any change whatsoever. The below must be signed by all current registered holders, or a legally authorized representative with indication of his or her capacity next to the signature.

Note: Signature(s) must be stamped with a Medallion Signature Guarantee by a qualified financial institution, such as a commercial bank, savings bank, savings and loan, US stockbroker and security dealer, or credit union that is participating in an approved Medallion Signature Guarantee program.  
(A NOTARY SEAL IS NOT ACCEPTABLE)

SIGNATURE GUARANTEE  
MEDALLION GUARANTEE  
FIRST VICTORIA NATIONAL BANK

*Just J. [Signature]*  
(15) AUTHORIZED SIGNATURE  
D 0152439

SECURITIES TRANSFER AGENTS MEDALLION PROGRAM™



Signature of All Current Holders or Legal Representatives	Date (mm/dd/yyyy)
<i>Anita Brunsting</i>	06/07/2011
_____	_____
_____	_____



P4369:3

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# Computershare

Computershare  
P.O. Box 43078  
Providence, RI, 02940-3078

## New Holder/Recipient Information

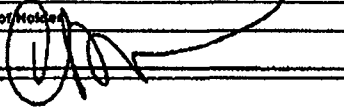
### Account 1

Account Type	Individual	Shares to Transfer	1325		
	Holder	SSN/EIN	[REDACTED]-6228		
First Name	Carole	Middle Initial	A		
Last Name	Brunsting				
Street Address	5822 Jason				
City	Houston	State	TX	Zip	77074

\*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)
	<del>06/08/2011</del> 06/08/2011 <sup>08</sup>

P4870

# ExxonMobil

# Computershare

+

Computershare  
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](http://www.computershare.com/exxonmobil)

000876



ANITA BRUNSTING TR UA 04/01/09 ELMER H BRUNSTING  
DECEDENT'S TRUST  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904

Account Number: [REDACTED] 7769

Dear Holder:

We have received and processed your request to enroll your account in the dividend reinvestment plan for Exxon Mobil Corporation.

In response to your request, your account has been enrolled with the following option: Full Dividend Reinvestment.

This change was made on 03 Mar 2012.

Please note, if your enrollment was received after the record date of any upcoming dividend, it will not be in effect for that dividend.

If you did not request this enrollment, please contact us at the number above during regular business hours.

### Privacy Notice

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you in writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), social security number, bank account information, stock ownership information and other financial information.

With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third-party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information.

Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

*This notice is provided on behalf of Computershare Trust Company, N.A.*



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**ExxonMobil****Computershare** +

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.

001163



ANITA BRUNSTING TR UA 04/01/09 NELVA BRUNSTING  
 SURVIVOR'S TRUST  
 203 BLOOMINGDALE CIRCLE  
 VICTORIA TX 77904

Holder Account Number

7777



SSN/TIN Certified  
 Yes

Symbol  
 XOM

001C50003.DSS.1.MIX\_32070011870011836

**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: 7777

**ACCOUNT SUMMARY**

As of close of stock market on 24 Mar 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	2,101.968469	2,101.968469	82.730000	173,895.85

**Transaction History**

From: 24 Mar 2011

To: 24 Mar 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
24 Mar 2011	Plan Transactions DSPP - Common Stock Balance Forward Transfer						2,101.968469	0.000000 2,101.968469

DOTPPA (Rev. 10/11)

**How to Read Your Statement**

Please see reverse side for important information.

**Stock Class Description** - A description of the stock class in which you hold shares, e.g. Common stock.

**Certificated Shares/Units Held By You** - A physical certificate was issued for these shares/units.

**Book/Book-Entry Shares** - Shares Computershare maintains for you in an electronic account; a stock certificate was not issued for these shares. All Direct Registration shares and investment plan ("Plan") shares are held in book-entry form.

**Direct Registration Book Shares/Units (DRS)** - Book-entry shares that are not part of the Plan.

**Investment Plan Book Shares/Units** - Book-entry shares that are part of either a dividend reinvestment plan (DRP) or direct stock purchase plan (DSPP).

**Total Shares/Units** - The sum of all certificated and book shares held in this account as of the date specified.

**Closing Price** - The closing market price as of the account summary date.

**Market Value** - The dollar value of the total shares held in this account as of the date specified.

**Deduction Description** - A description of any amounts withheld including transaction fees.

**Deduction Amount** - Dollar amounts deducted may include taxes and transaction fees (which fees shall include any brokerage commissions Computershare is required to pay).

**Net Amount** - The total amount transacted for you, equal to the transaction amount less any applicable deductions.

**Price Per Share/Unit** - The market price per share purchased or sold under the Plan for this transaction.

**Transaction Shares/Units** - The number of shares purchased or sold through the Plan for this transaction.

**Total Book Shares/Units** - The sum of all book-entry shares, including both DRS and investment plan shares, as of the date specified.

**SSN/TIN Certified** - If your account is not certified, as indicated by the word NO appearing under the SSN/TIN title in the top right section of this form, you must complete a Form W-9 (US resident) or Form W-BEN (non-US resident) or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Either form is available through the "DOWNLOADABLE FORMS" section of our website. Faxed forms are not acceptable.

P4372

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7777  
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214UDR**1 Transaction Request Form**

Please check or complete all applicable sections.

**1A Sell Shares**

01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60

OR

 Sell all book-entry shares, including plan and DRS shares (if applicable), and terminate plan participation.

Sell this number of shares.

Sale requests submitted on this *Transaction Request Form* will be processed as a batch order. Please see instructions below for more information.**1B Withdraw from the Reinvestment Program**  
(DRS shares will receive future dividends in cash.)

01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60

OR

 Reassign all of my whole shares to DRS, terminate my participation in the plan and send a check for any fractional shares.

Reassign this number of whole shares to DRS, and terminate my participation in the plan for these shares.

**1C Deposit Certificate(s) into the Investment Plan**

01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60

**IMPORTANT:**  
You must submit the original unsigned certificate(s) with this form.

Deposit this number of shares into my reinvestment account.

**1D Authorized Signature(s)\***

Signature 1 - Please keep signature within the box.

--

Signature(s) 2 - Please keep signature within the box.

--

Please detach this portion and mail it to: Computershare, PO Box 43078, Providence, RI 02940-3078

**How to Request a Transaction** (refer to the prospectus brochure for additional details on the terms and conditions of transactions under the plan or DRS sales facility)

You can manage your account online through Investor Centre at the website listed on the top right of the reverse side. Register today!

The IRS requires that we report the cost basis of certain shares acquired after January 1, 2011. If your shares were covered by the legislation and you have sold or transferred the shares and requested a specific cost basis calculation method, we have processed as requested. If you did not specify a cost basis calculation method, we have defaulted to the first in, first out (FIFO) method. Please visit our website or consult your tax advisor if you need additional information about cost basis.

1A. Use section 1A above to sell a portion of your plan shares, or to sell all plan shares and terminate your plan participation. Sale requests submitted on this *Transaction Request Form* will be treated as a batch order and generally processed no later than five business days after the date on which the form is received. A Market Order sale may be available for transactions submitted by telephone or through Investor Centre at [www.computershare.com](http://www.computershare.com). Please contact us at the phone number listed on the reverse side or refer to the brochure for the plan or DRS Sales Facility for more information concerning the types of orders available. Note: market orders and batch orders are subject to different fees. Please visit the website or contact us at the phone number listed on the reverse side for fee details. A proceeds check will be mailed to you, less any applicable taxes and fees. You can request electronic funds transfer for your sales proceeds by updating your bank details online through Investor Centre at the website listed on the reverse side. Upon written request, we will provide the name of the executing broker dealer associated with the transaction, and within a reasonable amount of time will disclose the source and amount of compensation received from third parties in connection with the transaction, if any.

**ALL SALE INSTRUCTIONS ARE FINAL AND CANNOT BE MODIFIED, STOPPED OR CANCELLED AFTER COMPUTERSHARE HAS RECEIVED THE REQUEST.**

To have the proceeds paid to someone other than the current registered holder, the shares must first be transferred to the other party. Transfer instructions are available through the "Frequently Asked Questions" section of Investor Centre or by contacting us at the phone number listed on the reverse side.

1B. Use section 1B above to withdraw a portion or all of your shares from the plan. These shares will become Direct Registration System (DRS) shares and will be held electronically in your account in book-entry form by Computershare. We will mail you a check for the value of any fractional shares (if applicable). If your request is received near a record date, Computershare has the right to reinvest the dividend or pay you in cash. Future dividends for these shares will be paid in cash, unless you rejoin the plan.

1C. Use section 1C above to minimize risk of loss, theft or damage by depositing certificates. Computershare will deposit these shares into your plan account and hold them electronically in book-entry form. Send physical stock certificate(s) via registered mail or a courier service that provides a return receipt to: Computershare, 260 Royal Street, Canton, MA, 02021. Do not endorse the certificate(s) or complete the assignment section. You may want to insure the mailing for 3% of the stock's market value, which is the approximate cost to replace a certificate in the event that it is lost in transit.

1D. All registered holders must sign section 1D for the above instruction(s) to be completed. \*Sales requests for partnerships or corporations must include a Medallion Signature Guarantee or a copy of the corporate resolution/partnership agreement. A Medallion Signature Guarantee is a special stamp provided by a bank, broker or credit union (guarantor institutions) that indicates the individual(s) signing a form is legally authorized to conduct the requested transaction. A notarized signature is not a substitute for a Medallion Signature Guarantee.

2. Use section 2 below to make an optional investment through the plan. Detach the completed form and mail it, along with a check payable to Computershare, in the enclosed envelope. Please note the purchase limitations identified on the bottom left of the form.

If you do not keep in contact with us or do not have any activity in your account for the time periods specified by state law, your property could become subject to state unclaimed property laws and transferred to the appropriate state.

**Privacy Notice**

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you in writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), Social Security number, bank account information, stock ownership information and other financial information. With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third-party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information. Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

Note: Assets are not deposits of Computershare and are not insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or any other federal or state agency.

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**2 Purchase Additional Shares of Company Stock**

If you wish to make an optional cash purchase at this time, please make your check payable to Computershare.

Attached is a check in the amount of:

\$	00	00	00	00	00	00	00	00	00	00	00	00	00	00	00	00	00	00	00
----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----

- No third party checks, money orders or credit card payments will be accepted.
- Please write your holder account number and the company name on your check.
- This form should ONLY be used for Exxon Mobil Corporation
- The enclosed contribution will ONLY be applied to the account referenced to the right.

The plan allows for a minimum amount of \$50 with a maximum amount of \$250,000 per year. Computershare will invest funds at least twice per week on Tuesdays and Thursdays. If either Tuesday or Thursday is not a stock market trading day ("trading day"), then funds will be invested on the next trading day.

Please detach this portion and mail it to the address provided on the right.

Holder Name: ANITA BRUNSTING TR UA  
04/01/09 NELVA BRUNSTING

Holder Account Number

7777 FID

Computershare  
P.O. Box 6006  
Carol Stream, IL 60197-6006

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**ExxonMobil****Computershare** +

Computershare Trust Company, N.A.

PO Box 43078

Providence, RI 02940-3078

Within USA, US territories &amp; Canada 800 252 1800

Outside USA, US territories &amp; Canada 781 575 2058

www.computershare.com/exxonmobil

Exxon Mobil Corporation is incorporated under the laws of the State of NJ.

000051

ANITA BRUNSTING TR UA 04/01/09 NELVA BRUNSTING  
SURVIVOR'S TRUST  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904

Holder Account Number

7777

SSN/TIN Certified  
YesSymbol  
XOM

001CS0003.EML.L.MIX\_32590000510000516

**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: 7777

**ACCOUNT SUMMARY**

As of close of stock market on 11 May 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	981.968469	981.968469	81.120000	79,657.28

**Transaction History**

From: 11 May 2011

To: 11 May 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							2,101.968469
11 May 2011	Transfer						-1,120.000000	981.968469

00TPPA (Rev. 10/11)

**How to Read Your Statement**

Please see reverse side for important information

**Stock Class Description** - A description of the stock class in which you hold shares, e.g. Common stock.**Certificated Shares/Units Held By You** - A physical certificate was issued for these shares/units.**Book/Book-Entry Shares** - Shares Computershare maintains for you in an electronic account; a stock certificate was not issued for these shares. All Direct Registration shares and investment plan ("Plan") shares are held in book-entry form.**Direct Registration Book Shares/Units (DRS)** - Book-entry shares that are not part of the Plan.**Investment Plan Book Shares/Units** - Book-entry shares that are part of either a dividend reinvestment plan (DRP) or direct stock purchase plan (DSPP).**Total Shares/Units** - The sum of all certificated and book shares held in this account as of the date specified.**Closing Price** - The closing market price as of the account summary date.**Market Value** - The dollar value of the total shares held in this account as of the date specified.**Deduction Description** - A description of any amounts withheld including transaction fees.**Deduction Amount** - Dollar amounts deducted may include taxes and transaction fees (which fees shall include any brokerage commissions Computershare is required to pay).**Net Amount** - The total amount transacted for you, equal to the transaction amount less any applicable deductions.**Price Per Share/Unit** - The market price per share purchased or sold under the Plan for this transaction.**Transaction Shares/Units** - The number of shares purchased or sold through the Plan for this transaction.**Total Book Shares/Units** - The sum of all book-entry shares, including both DRS and investment plan shares, as of the date specified.

SSN/TIN Certified - If your account is not certified, as indicated by the word NO appearing under the SSN/TIN title in the top right section of this form, you must complete a Form W-9 (US resident) or Form W-8BEN (non-US resident) or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Either form is available through the "DOWNLOADABLE FORMS" section of our website. Faxed forms are not acceptable.

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XOM  
214UDR**1 Transaction Request Form**

Please check or complete all applicable sections.

**1A Sell Shares**

01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60

OR

Sell all book-entry shares, including plan and DRS shares (if applicable), and terminate plan participation.

Sell this number of shares.

Sale requests submitted on this *Transaction Request Form* will be processed as a batch order. Please see instructions below for more information.**1B Withdraw from the Reinvestment Program**  
(DRS shares will receive future dividends in cash.)

01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60

OR

Reassign all of my whole shares to DRS, terminate my participation in the plan and send a check for any fractional shares.

Reassign this number of whole shares to DRS, and terminate my participation in the plan for these shares.

Please detach this portion and mail it to: Computershare, PO Box 43078, Providence, RI 02940-3078

**1C Deposit Certificate(s) into the Investment Plan**

01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60

**IMPORTANT:**  
You must submit the original unsigned certificate(s) with this form.

Deposit this number of shares into my reinvestment account.

**1D Authorized Signature(s)\***

Signature 1 - Please keep signature within the box.

Signature(s) 2 - Please keep signature within the box.

**How to Request a Transaction** (refer to the prospectus/brochure for additional details on the terms and conditions of transactions under the plan or DRS sales facility)

You can manage your account online through Investor Centre at the website listed on the top right of the reverse side. Register today!

The IRS requires that we report the cost basis of certain shares acquired after January 1, 2011. If your shares were covered by the legislation and you have sold or transferred the shares and requested a specific cost basis calculation method, we have processed as requested. If you did not specify a cost basis calculation method, we have defaulted to the first in, first out (FIFO) method. Please visit our website or consult your tax advisor if you need additional information about cost basis.

1A. Use section 1A above to sell a portion of your plan shares, or to sell all plan shares and terminate your plan participation. Sale requests submitted on this *Transaction Request Form* will be treated as a batch order and generally processed no later than five business days after the date on which the form is received. A Market Order sale may be available for transactions submitted by telephone or through Investor Centre at [www.computershare.com](http://www.computershare.com). Please contact us at the phone number listed on the reverse side or refer to the brochure for the plan or DRS Sales Facility for more information concerning the types of orders available. Note: market orders and batch orders are subject to different fees. Please visit the website or contact us at the phone number listed on the reverse side for fee details. A proceeds check will be mailed to you, less any applicable taxes and fees. You can request electronic funds transfer for your sales proceeds by updating your bank details online through Investor Centre at the website listed on the reverse side. Upon written request, we will provide the name of the executing broker dealer associated with the transaction, and within a reasonable amount of time will disclose the source and amount of compensation received from third parties in connection with the transaction, if any.

**ALL SALE INSTRUCTIONS ARE FINAL AND CANNOT BE MODIFIED, STOPPED OR CANCELLED AFTER COMPUTERSHARE HAS RECEIVED THE REQUEST.**

To have the proceeds paid to someone other than the current registered holder, the shares must first be transferred to the other party. Transfer instructions are available through the "Frequently Asked Questions" section of Investor Centre or by contacting us at the phone number listed on the reverse side.

1B. Use section 1B above to withdraw a portion or all of your shares from the plan. These shares will become Direct Registration System (DRS) shares and will be held electronically in your account in book-entry form by Computershare. We will mail you a check for the value of any fractional shares (if applicable). If your request is received near a record date, Computershare has the right to reinvest the dividend or pay you in cash. Future dividends for these shares will be paid in cash, unless you rejoin the plan.

1C. Use section 1C above to minimize risk of loss, theft or damage by depositing certificates. Computershare will deposit these shares into your plan account and hold them electronically in book-entry form. Send physical stock certificate(s) via registered mail or a courier service that provides a return receipt to: Computershare, 250 Royall Street, Canton, MA, 02021. Do not endorse the certificate(s) or complete the assignment section. You may want to insure the mailing for 3% of the stock's market value, which is the approximate cost to replace a certificate in the event that it is lost in transit.

1D. All registered holders must sign section 1D for the above instruction(s) to be completed. \*Sales requests for partnerships or corporations must include a Medallion Signature Guarantee or a copy of the corporate resolution/partnership agreement. A Medallion Signature Guarantee is a special stamp provided by a bank, broker or credit union (guarantor institutions) that indicates the individual(s) signing a form is legally authorized to conduct the requested transaction. A notarized signature is not a substitute for a Medallion Signature Guarantee.

2. Use section 2 below to make an optional investment through the plan. Detach the completed form and mail it, along with a check payable to Computershare, in the enclosed envelope. Please note the purchase limitations identified on the bottom left of the form.

If you do not keep in contact with us or do not have any activity in your account for the time periods specified by state law, your property could become subject to state unclaimed property laws and transferred to the appropriate state.

**Privacy Notice**

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you in writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), Social Security number, bank account information, stock ownership information and other financial information. With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third-party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information. Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

Note: Assets are not deposits of Computershare and are not insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or any other federal or state agency.

00WAZA-MOT (Rev. 1/11)

**2 Purchase Additional Shares of Company Stock**

If you wish to make an optional cash purchase at this time, please make your check payable to Computershare.

Attached is a check in the amount of:

\$	00	00	00	00	00	00	00	00	00	00	00	00	00	00	00	00	00	00	00
01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40

- No third party checks, money orders or credit card payments will be accepted.
- Please write your holder account number and the company name on your check.
- This form should ONLY be used for Exxon Mobil Corporation
- The enclosed contribution will ONLY be applied to the account referenced to the right.

The plan allows for a minimum amount of \$50 with a maximum amount of \$250,000 per year. Computershare will invest funds at least twice per week on Tuesdays and Thursdays. If either Tuesday or Thursday is not a stock market trading day ("trading day"), then funds will be invested on the next trading day.

Please detach this portion and mail it to the address provided on the right.

Holder Name: ANITA BRUNSTING TR UA  
04/01/09 NELVA BRUNSTING

Holder Account Number

7777 FID

Computershare  
P.O. Box 6006  
Carol Stream, IL 60197-6006

P4375

00000000XOM SPP1 7777

07132015:0809: P0294

**ExxonMobil****Computershare** +

Computershare Trust Company, N.A.

PO Box 43078

Providence, RI 02940-3078

Within USA, US territories &amp; Canada 800 252 1900

Outside USA, US territories &amp; Canada 781 575 2058

www.computershare.com/exxonmobil

Exxon Mobil Corporation is incorporated under the laws of the State of NJ.

**IMPORTANT TAX RETURN DOCUMENT ENCLOSED**

024050

ANITA BRUNSTING TR UA 04/01/09 NELVA BRUNSTING  
SURVIVOR'S TRUST  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904

Holder Account Number

7777

SSN/TIN Certified  
YesSymbol  
XOM

001CS0006\_RPS.EME.TX.XOM.172011\_38551024050029879

**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: 7777

If you want to make an optional cash purchase at this time, please make your check payable to Computershare. Please write your Holder Account Number and the Company name on the check or on your cover letter. Please send your check to: Computershare, P.O. Box 6006, Carol Stream, IL 60197-6006.

**ACCOUNT SUMMARY**

As of close of stock market on 09 Dec 2011

Stock Class	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	675.910671	675.910671	81.340000	54,978.57

**Dividend Reinvestment Activity**

As of record date

This section includes information only for shares/units for which dividends are reinvested.

Record Date	Payment Date	Dividend Rate (\$)	Stock Class Description	Dividend Reinvestment Shares/Units	Gross Dividend (\$)	Taxes Withheld (\$)	Net Dividend (\$)
10 Nov 2011	09 Dec 2011	0.470000	Common	671.987460	315.83		315.83

**Transaction History**

From: 01 Jan 2011

To: 09 Dec 2011

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

Date	Transaction Description	Transaction Amount (\$)	Deduction Description	Deduction Amount (\$)	Net Amount (\$)	Price Per Share/Unk (\$)	Transaction Shares/Units	Total Book Shares/Units
	Plan Transactions DSPP - Common Stock							
	Balance Forward							0.000000
24 Mar 2011	Transfer					2,101.968469		2,101.968469
11 May 2011	Transfer					-1,120.000000		981.968469
10 Jun 2011	Dividend Reinvestment	461.53	Comp Paid Fees	0.14	461.53	81.010632	5.697153	987.665622
15 Jun 2011	Transfer					-160.000000		827.665622
15 Jun 2011	Transfer					-160.000000		667.665622

**IMPORTANT TAX RETURN DOCUMENT ATTACHED**

007PPA-TAX (Rev. 10/11)

Please see Important PRIVACY NOTICE on reverse side of statement

**ExxonMobil**PAYER'S name, street address, city, state, and ZIP code  
EXXON MOBIL CORPORATION  
C/O COMPUTERSHARE  
P.O. BOX 43010  
PROVIDENCE RI 02940-3010RECIPIENT'S name, street address, city, state, ZIP code  
ANITA BRUNSTING TR UA 04/01/09 NELVA BRUNSTING  
SURVIVOR'S TRUST  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904 CORRECTED (if checked)**Dividends and Distributions**

1a Total ordinary dividends \$ 1091.51	1b Qualified dividends \$ 1091.51
3 Nondividend distributions \$	4 Federal income tax withheld \$
6 Foreign tax paid \$	7 Foreign country or U.S. possession
8 Cash Liquidation Distribution \$	PAYER'S Federal identification number 005
RECIPIENT'S identification number 4685	Account number (see instructions) 777

OMB No. 1545-0110

**2011**

Form 1099-DIV

**Copy B  
For Recipient**

Summary of reportable income (Amounts Paid and/or Reinvested do not reflect deductions for tax withheld, if any)

Amount Paid By Check/EFT \$ 0	Amount Reinvested \$ 1091.16
Company Paid Fees \$ 0.35	Company Paid Service Charges \$ 0
Discount on Reinvestment \$ 0	

This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.

**P4376**



7777

X O M  
2 1 4 U D R**1 Transaction Request Form**

SL1 FID

Please check or complete all applicable sections.

**1A Sell Shares**
       

OR

Sell all book-entry shares, including plan and DRS shares (if applicable), and terminate plan participation.

Sell this number of shares. Shares may be a combination of DRS and Plan shares.

Sale requests submitted on this *Transaction Request Form* will be processed as a batch order. Please see instructions below for more information.**1B Withdraw from the Reinvestment Program**  
(DRS shares will receive future dividends in cash.)
       

OR

Reassign all of my whole shares to DRS, terminate my participation in the plan and send a check for any fractional shares.

Reassign this number of whole shares to DRS, and terminate my participation in the plan for these shares.

**1C Deposit Certificate(s) into the Investment Plan**
       
**IMPORTANT:**  
You must submit the original unsigned certificate(s) with this form.

Deposit this number of shares into my reinvestment account.

**1D Authorized Signature(s)\***

Signature 1 - Please keep signature within the box.

Signature(s) 2 - Please keep signature within the box.

Please detach this portion and mail it to: Computershare, PO Box 43078, Providence, RI 02940-3078

**How to Request a Transaction**

You can manage your account online through Investor Centre at the website listed on the top right of the reverse side. Register today!

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- ALL SALE INSTRUCTIONS ARE FINAL AND CANNOT BE MODIFIED, STOPPED OR CANCELLED AFTER COMPUTERSHARE HAS RECEIVED THE REQUEST.**
- To have the proceeds paid to someone other than the current registered holder, the shares must first be transferred to the other party. For assistance with a stock transfer please visit the "Help" section on our website or you may contact us by phone; both are listed on the reverse side.
- 1B. Use section 1B above to withdraw a portion or all of your shares from the plan. These shares will become Direct Registration System (DRS) shares and will be held electronically in your account in book-entry form by Computershare. We will mail you a check for the value of any fractional shares (if applicable). If your request is received near a record date, Computershare has the right to reinvest the dividend or pay you in cash. Future dividends for these shares will be paid in cash, unless you rejoin the plan.
- 1C. Use section 1C above to minimize risk of loss, theft or damage by depositing certificates. Computershare will deposit these shares into your plan account and hold them electronically in book-entry form. Send physical stock certificate(s) via registered mail or a courier service that provides a return receipt to: Computershare, 250 Royal Street, Canton, MA, 02021. Do not endorse the certificate(s) or complete the assignment section. You may want to insure the mailing for 3% of the stock's market value, which is the approximate cost to replace a certificate in the event that it is lost in transit.
- 1D. All registered holders must sign section 1D for the above instruction(s) to be completed. \*Sales requests for partnerships or corporations must include a Medallion Signature Guarantee or a copy of the corporate resolution/partnership agreement. A Medallion Signature Guarantee is a special stamp provided by a bank, broker or credit union (guarantor institutions) that indicates the individual(s) signing a form is legally authorized to conduct the requested transaction. A notarized signature is not a substitute for a Medallion Signature Guarantee.

If you do not keep in contact with us or do not have any activity in your account for the time periods specified by state law, your property could become subject to state unclaimed property laws and transferred to the appropriate state.

**Privacy Notice**

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you by writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), Social Security number, bank account information, stock ownership information and other financial information. With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third-party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information. Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

Note: Assets are not deposits of Computershare and are not insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or any other federal or state agency.

00WA2A-MOT (Rev. 8/11)

**Instructions for Recipient**

**Recipient's Identification Number:** For your protection, this form may show only the last four digits of your taxpayer identification number. However, the issuer has reported your complete identification number to the IRS and, where applicable, to state and/or local governments.

**Account Number:** May show an account or other unique number the payer assigned to distinguish your account.

- |  |   |
|--|---|
| <p><b>Box 1a:</b> Shows total ordinary dividends that are taxable. Include this amount on line 9a of Form 1040 or 1040A. Also, report it on Schedule B (Form 1040 or 1040A), if required.</p> <p>The amount shown may be a distribution from an employee stock ownership plan (ESOP). Report it as a dividend on your Form 1040/1040A, but treat it as a plan distribution, not as investment income, for any other purpose.</p> | <p><b>Box 4:</b> Shows backup withholding. For example, a payer must backup withhold on certain payments if you did not give your taxpayer identification number to the payer. See Form W-9, Request for Taxpayer Identification Number and Certification, for information on backup withholding. Include this amount on your income tax return as tax withheld.</p>  |
| <p><b>Box 1b:</b> Shows the portion of the amount in box 1a that may be eligible for the 15% or 0% capital gains rates. See the Form 1040/1040A instructions for how to determine this amount. Report the eligible amount on line 9b, Form 1040 or 1040A.</p>  | <p><b>Box 6:</b> Shows the foreign tax you may be able to claim as a deduction or a credit on Form 1040. See the Form 1040 instructions.</p>  |
| <p><b>Box 3:</b> Shows the part of the distribution that is nontaxable because it is a return of your cost (or other basis). You must reduce your cost (or other basis) by this amount for figuring gain or loss when you sell your stock. But if you get back all your cost (or other basis), report future distributions as capital gains. See Pub. 550, Investment Income and Expenses.</p>                                   | <p><b>Box 7:</b> This box should be left blank if a regulated investment company reported the foreign tax shown in box 6.</p> <p><b>Box 8:</b> Shows cash liquidation distributions.</p>  |
|  | <p><b>Nominees:</b> If this form includes amounts belonging to another person, you are considered a nominee recipient. You must file Form 1099-DIV with the IRS for each of the other owners to show their share of the income, and you must furnish a Form 1099-DIV to each. A husband or wife is not required to file a nominee return to show amounts owned by the other. See the current tax year General Instructions for Certain Information Returns.</p> |

**ExxonMobil****Computershare** +

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.

ANITA BRUNSTING TR UA 04/01/09 NELVA BRUNSTING  
 SURVIVOR'S TRUST

Holder Account Number

██████████7777



SSN/TIN Certified  
 Yes

Symbol  
 XOM

001CS0006\_RPS.EML.TX.XOM.172021\_38851A0240500298804

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: ██████████7777

**Transaction History (cont.)**

From: 01 Jan 2011

To: 09 Dec 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								
09 Sep 2011	Dividend Reinvestment	313.80	Comp Paid Fees	0.11	313.69	72.608004	4.321838	671.987460
09 Dec 2011	Dividend Reinvestment	315.83	Comp Paid Fees	0.10	315.73	80.502937	3.923211	675.910671

00TPPA (Rev. 12/11)

**How to Read Your Statement**

Please see reverse side for important information

**Stock Class Description** – A description of the stock class in which you hold shares, e.g. Common stock.

**Certificated Shares/Units Held By You** – A physical certificate was issued for these shares/units.

**Book/Book-Entry Shares** – Shares Computershare maintains for you in an electronic account; a stock certificate was not issued for these shares. All Direct Registration shares and investment plan ("Plan") shares are held in book-entry form.

**Direct Registration Book Shares/Units (DRS)** – Book-entry shares that are not part of the Plan.

**Investment Plan Book Shares/Units** – Book-entry shares that are part of either a dividend reinvestment plan (DRP) or direct stock purchase plan (DSPP).

**Total Shares/Units** – The sum of all certificated and book shares held in this account as of the date specified.

**Closing Price** – The closing market price as of the account summary date.

**Market Value** – The dollar value of the total shares held in this account as of the date specified.

**Deduction Description** – A description of any amounts withheld including transaction fees.

**Deduction Amount** – Dollar amounts deducted may include taxes and transaction fees (which fees shall include any brokerage commissions Computershare is required to pay).

**Net Amount** – The total amount transacted for you, equal to the transaction amount less any applicable deductions.

**Price Per Share/Unit** – The market price per share purchased or sold under the Plan for this transaction.

**Transaction Shares/Units** – The number of shares purchased or sold through the Plan for this transaction.

**Total Book Shares/Units** – The sum of all book-entry shares, including both DRS and investment plan shares, as of the date specified.

**Record Date** – The date on which you must have officially owned shares to receive the dividend.

**Payment Date** – The date the dividend was payable.

**Dividend Rate** – The dollar amount of the dividend paid per share or the rate of stock dividend or stock split.

**Dividend Reinvestment Shares/Units** – Shares enrolled in dividend reinvestment.

**Gross Dividend** – The dividend paid on the Plan's dividend reinvestment shares.

**Net Dividend** – The total amount reinvested for you, equal to the gross dividend amount less any taxes withheld.

**SSN/TIN Certified** – If your account is not certified, as indicated by the word NO appearing under the SSN/TIN title in the top right section of this form, you must complete a Form W-9 (US resident) or Form W-8BEN (non-US resident) or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Either form is available through the "PRINTABLE FORMS" section of our website. Faxed forms are not acceptable. You may certify your tax status or obtain the necessary forms at the website listed above.

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7777

SL1 FID

**1 Transaction Request Form**

Please check or complete all applicable sections.

**1A Sell Shares**

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OR

Sell all book-entry shares, including plan and DRS shares (if applicable), and terminate plan participation.

Sell this number of shares. Shares may be a combination of DRS and Plan shares. Sale requests submitted on this *Transaction Request Form* will be processed as a batch order. Please see instructions below for more information.

**1C Deposit Certificate(s) into the Investment Plan**

--	--	--	--	--	--	--	--	--	--

**IMPORTANT:**  
You must submit the original unsigned certificate(s) with this form.

Deposit this number of shares into my reinvestment account.

**1B Withdraw from the Reinvestment Program**

(DRS shares will receive future dividends in cash.)

--	--	--	--	--	--	--	--	--	--

OR

Reassign all of my whole shares to DRS, terminate my participation in the plan and send a check for any fractional shares.

Reassign this number of whole shares to DRS, and terminate my participation in the plan for these shares.

**1D Authorized Signature(s)\***

Signature 1 - Please keep signature within the box.

--

Signature(s) 2 - Please keep signature within the box.

--

Please detach this portion and mail it to: Computershare, PO Box 43078, Providence, RI 02940-3078

**How to Request a Transaction** (refer to the prospectus for terms and conditions of transactions under the plan or DRS sales facility)

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If you do not keep in contact with us or do not have any activity in your account for the time periods specified by state law, your property could become subject to state unclaimed property laws and transferred to the appropriate state.

**Privacy Notice**

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you in writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), Social Security number, bank account information, stock ownership information and other financial information. With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third-party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information. Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

Note: Assets are not deposits of Computershare and are not insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or any other federal or state agency.

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 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.

031683



ANITA BRUNSTING TR UA 04/01/09 NELVA BRUNSTING  
 SURVIVOR'S TRUST  
 203 BLOOMINGDALE CIRCLE  
 VICTORIA TX 77904

Holder Account Number

██████████7777

SSN/TIN Certified  
YesSymbol  
XOM

001CS0006\_rpt.FinL.XOM.080806\_39590031683031695A

**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: ██████████7777

**ACCOUNT SUMMARY**

As of close of stock market on 09 Mar 2012

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	679.609732	679.609732	84.300000	57,291.10

**Dividend Reinvestment Activity**

As of record date

This section includes information only for shares/units for which dividends are reinvested.

Record Date	Payment Date	Dividend Rate (\$)	Stock Class Description	Dividend Reinvestment Shares/Units	Gross Dividend (\$)	Taxes Withheld (\$)	Net Dividend (\$)
10 Feb 2012	09 Mar 2012	0.470000	Common	675.910671	317.68		317.68

**Transaction History**

From: 01 Jan 2012

To: 09 Mar 2012

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							675.910671
09 Mar 2012	Dividend Reinvestment	317.68	Comp Paid Fees	0.09	317.68	65.681244	3.699061	679.609732

00TPPA (Rev. 12/11)

**How to Read Your Statement**

Please see reverse side for important information

**Stock Class Description** - A description of the stock class in which you hold shares, e.g. Common stock.

**Certificated Shares/Units Held By You** - A physical certificate was issued for these shares/units.

**Book/Book-Entry Shares** - Shares Computershare maintains for you in an electronic account; a stock certificate was not issued for these shares. All Direct Registration shares and investment plan ("Plan") shares are held in book-entry form.

**Direct Registration Book Shares/Units (DRS)** - Book-entry shares that are not part of the Plan.

**Investment Plan Book Shares/Units** - Book-entry shares that are part of either a dividend reinvestment plan (DRP) or direct stock purchase plan (DSPP).

**Total Shares/Units** - The sum of all certificated and book shares held in this account as of the date specified.

**Closing Price** - The closing market price as of the account summary date.

**Market Value** - The dollar value of the total shares held in this account as of the date specified.

**Deduction Description** - A description of any amounts withheld including transaction fees.

**Deduction Amount** - Dollar amounts deducted may include taxes and transaction fees (which fees shall include any brokerage commissions Computershare is required to pay).

**Net Amount** - The total amount transacted for you, equal to the transaction amount less any applicable deductions.

**Price Per Share/Unit** - The market price per share purchased or sold under the Plan for this transaction.

**Transaction Shares/Units** - The number of shares purchased or sold through the Plan for this transaction.

**Total Book Shares/Units** - The sum of all book-entry shares, including both DRS and investment plan shares, as of the date specified.

**Record Date** - The date on which you must have officially owned shares to receive the dividend.

**Payment Date** - The date the dividend was payable.

**Dividend Rate** - The dollar amount of the dividend paid per share or the rate of stock dividend or stock split.

**Dividend Reinvestment Shares/Units** - Shares enrolled in dividend reinvestment.

**Gross Dividend** - The dividend paid on the Plan's dividend reinvestment shares.

**Net Dividend** - The total amount reinvested for you, equal to the gross dividend amount less any taxes withheld.

**SSN/TIN Certified** - If your account is not certified, as indicated by the word NO appearing under the SSN/TIN title in the top right section of this form, you must complete a Form W-9 (US resident) or Form W-8BEN (non-US resident) or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Either form is available through the "PRINTABLE FORMS" section of our website. Faxed forms are not acceptable. You may certify your tax status or obtain the necessary forms at the website listed above.

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031439



ANITA BRUNSTING TR UA 04/01/09 NELVA BRUNSTING  
 SURVIVOR'S TRUST  
 203 BLOOMINGDALE CIRCLE  
 VICTORIA TX 77904

Holder Account Number

7777



SSN/TIN Certified  
 Yes

Symbol  
 XOM

001CS0006\_rpt.Earl..XOM.105024\_02310031439/0321176

**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: 7777

**ACCOUNT SUMMARY**

As of close of stock market on 11 Jun 2012

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	684.511319	684.511319	80.270000	54,945.72

**Dividend Reinvestment Activity**

As of record date

This section includes information only for shares/units for which dividends are reinvested.

Record Date	Payment Date	Dividend Rate (\$)	Stock Class Description	Dividend Reinvestment Shares/Units	Gross Dividend (\$)	Taxes Withheld (\$)	Net Dividend (\$)
14 May 2012	11 Jun 2012	0.570000	Common	679.609732	387.38		387.38

**Transaction History**

From: 01 Jan 2012

To: 11 Jun 2012

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							675.910671
09 Mar 2012	Dividend Reinvestment	317.68	Comp Paid Fees	0.09	317.68	85.881244	3.699081	679.609732
11 Jun 2012	Dividend Reinvestment	387.38	Comp Paid Fees	0.12	387.38	79.031547	4.901587	684.511319

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**How to Read Your Statement**

Please see reverse side for important information.

**Stock Class Description** - A description of the stock class in which you hold shares, e.g. Common stock.

**Certificated Shares/Units Held By You** - A physical certificate was issued for these shares/units.

**Book/Book-Entry Shares** - Shares Computershare maintains for you in an electronic account; a stock certificate was not issued for these shares. All Direct Registration shares and investment plan ("Plan") shares are held in book-entry form.

**Direct Registration Book Shares/Units (DRS)** - Book-entry shares that are not part of the Plan.

**Investment Plan Book Shares/Units** - Book-entry shares that are part of either a dividend reinvestment plan (DRP) or direct stock purchase plan (DSPP).

**Total Shares/Units** - The sum of all certificated and book shares held in this account as of the date specified.

**Closing Price** - The closing market price as of the account summary date.

**Market Value** - The dollar value of the total shares held in this account as of the date specified.

**Deduction Description** - A description of any amounts withheld including transaction fees.

**Deduction Amount** - Dollar amounts deducted may include taxes and transaction fees (which fees shall include any brokerage commissions Computershare is required to pay).

**Net Amount** - The total amount transacted for you, equal to the transaction amount less any applicable deductions.

**Price Per Share/Unit** - The market price per share purchased or sold under the Plan for this transaction.

**Transaction Shares/Units** - The number of shares purchased or sold through the Plan for this transaction.

**Total Book Shares/Units** - The sum of all book-entry shares, including both DRS and investment plan shares, as of the date specified.

**Record Date** - The date on which you must have officially owned shares to receive the dividend.

**Payment Date** - The date the dividend was payable.

**Dividend Rate** - The dollar amount of the dividend paid per share or the rate of stock dividend or stock split.

**Dividend Reinvestment Shares/Units** - Shares enrolled in dividend reinvestment.

**Gross Dividend** - The dividend paid on the Plan's dividend reinvestment shares.

**Net Dividend** - The total amount reinvested for you, equal to the gross dividend amount less any taxes withheld.

**SSN/TIN Certified** - If your account is not certified, as indicated by the word NO appearing under the SSN/TIN title in the top right section of this form, you must complete a Form W-9 (US resident) or Form W-8BEN (non-US resident) or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Either form is available through the "PRINTABLE FORMS" section of our website. Faxed forms are not acceptable. You may certify your tax status or obtain the necessary forms at the website listed above.

R4382

07192015:0809:PO90



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07192015:0909:51026120

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ANITA BRUNSTING TR UA 04/01/09 NELVA BRUNSTING  
SURVIVOR'S TRUST  
203 BLOOMINGDALE CIRCLE  
VICTORIA TX 77904

Account Number: [REDACTED] 7777

Dear Holder:

We have received and processed your request to add bank payment instructions to your account. We are in the process of verifying the bank payment instructions with your financial institution. The new payment instructions should become effective within 15 days. All disbursements made by the company will then be directly paid to your bank account. You will also be able to direct us to use this bank account to receive payments at your discretion if you choose to sell your shares.

**Company Name:** Exxon Mobil Corporation

**Bank Name:** BANK OF AMERICA N A

**Bank Account (Last four Digits):** 1143

Please note, if the bank payment instructions are determined to be incorrect in the verification process, you will receive a notice that your request has been cancelled.

If you are a participant in a reinvestment plan, your reinvestment plan participation option will be honored in lieu of the above payment instructions. For example, if you have enrolled in full reinvestment, all dividends will be reinvested rather than paid to the above bank account. If you have enrolled in the cash payment option, all dividends will be paid in cash using the new bank payment instructions.

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**Computershare**

Computershare  
P.O. Box 43078  
Providence, RI, 02940-3078



██████████ 7777

ETRD1

XOM

**Transfer Request**

**Current Account Information**

<b>Company Name</b>	EXXON MOBIL CORPORATION	<b>Holding</b>	COMMON STOCK		
<b>Holder Name</b>	ANITA BRUNSTING TR UA 04/01/09 NELVA BRUNSTING SURVIVOR'S TRUST	<b>Account Number</b>	██████████ 7777		
<b>Address</b>	203 BLOOMINGDALE CIRCLE VICTORIA TX 77904	<b>Reason For Transfer</b>	General Transfer	Type of Transfer	Partial Transfer
<b>Shares to Transfer</b>					
<b>Book</b>					
<b>Plan</b>	1120				
<b>Certificate (s)</b>		Note: You must send in original certificate(s) with enough shares to satisfy the transfer amount.			
<b>Total</b>	1.120				

**Current Account Holder Signature(s)**

<b>Authorized Signatures</b>	This section must be signed and stamped for your transfer to be executed.	<b>Required - Medallion Guarantee Stamp (Notary Seal is Not Acceptable)</b>
------------------------------	---	---

The undersigned does (do) hereby irrevocably constitute and appoint Computershare as attorney to transfer the said stock, as the case may be, on the books of said Company, with full power of substitution in the premises.

The signature(s) below on this Transfer Request form must correspond exactly with the name(s) as shown upon the face of the stock certificate or a Computershare-issued statement for book-entry shares, without alteration or enlargement or any change whatsoever. The below must be signed by all current registered holders, or a legally authorized representative with indication of his or her capacity next to the signature.

Note: Signature(s) must be stamped with a Medallion Signature Guarantee by a qualified financial institution, such as a commercial bank, savings bank, savings and loan, US stockbroker and security dealer, or credit union that is participating in an approved Medallion Signature Guarantee program.  
(A NOTARY SEAL IS NOT ACCEPTABLE)

(15)	AUTHORIZED SIGNATURE
SECURITIES TRANSFER AGENTS MEDALLION PROGRAM™	

<b>Signature of All Current Holders or Legal Representatives</b>	<b>Date (mm/dd/yyyy)</b>
<i>Anita Brunsting</i>	04/25/2011
_____	_____
_____	_____



P4385  
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# Computershare

Computershare  
P.O. Box 43078  
Providence, RI, 02940-3078


## New Holder/Recipient Information

Account 1					
Account Type	Individual	Shares to Transfer	1120		
	Holder	SSN/EIN	[REDACTED] 5947		
First Name	Amy	Middle Initial	R		
Last Name	Brunsting				
Street Address	2582 Country Ledge Dr.				
City	New Braunfels	State	TX	Zip	78132-4109

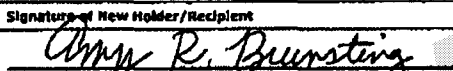
\*Form W-9: This section must be signed by the NEW HOLDER/RECIPIENT, as shown above, whose SSN/EIN is entered above.

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)
	04/25/2011

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)
	05/02/2011

P4386

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**Computershare**

Computershare  
P.O. Box 43078  
Providence, RI, 02940-3078



██████████7777

ETRD1

XOM

**Transfer Request**

**Current Account Information**

Company Name	EXXON MOBIL CORPORATION	Holding	COMMON STOCK		
Holder Name	ANITA BRUNSTING TR UA 04/01/09 NELVA BRUNSTING SURVIVOR'S TRUST	Account Number	██████████7777		
Address	203 BLOOMINGDALE CIRCLE VICTORIA TX 77904	Reason For Transfer	General Transfer	Type of Transfer	Partial Transfer

**Shares to Transfer**

Book			
Plan	320		
Certificate(s)		Note: You must send in original certificate(s) with enough shares to satisfy the transfer amount.	
Total	320		

**Current Account Holder Signature(s)**

Authorized Signatures	This section must be signed and stamped for your transfer to be executed.	Required > Medallion Guarantee Stamp (Notary Seal is Not Acceptable)
-----------------------	---	--

The undersigned does (do) hereby irrevocably constitute and appoint Computershare as attorney to transfer the said stock, as the case may be, on the books of said Company, with full power of substitution in the premises.

The signature(s) below on this Transfer Request form must correspond exactly with the name(s) as shown upon the face of the stock certificate or a Computershare-issued statement for book-entry shares, without alteration or enlargement or any change whatsoever. The below must be signed by all current registered holders, or a legally authorized representative with indication of his or her capacity next to the signature.

Note: Signature(s) must be stamped with a Medallion Signature Guarantee by a qualified financial institution, such as a commercial bank, savings bank, savings and loan, US stockbroker and security dealer, or credit union that is participating in an approved Medallion Signature Guarantee program.  
(A NOTARY SEAL IS NOT ACCEPTABLE)

**SIGNATURE GUARANTEE**  
**MEDALLION GUARANTEE**  
FIRST VICTORIA NATIONAL BANK

*Janet J. [Signature]*

AUTHORIZED SIGNATURE  
00152439

SECURITIES TRANSFER AGENTS MEDALLION PROGRAM™

Signature of All Current Holders or Legal Representatives	Date (mm/dd/yyyy)
<i>Anita Brunsting</i>	06/07/2011
_____	_____
_____	_____



# 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	[REDACTED] 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 DR5 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	[REDACTED] 6240		
First Name	Candace	Middle Initial			
Last Name	Curtis				
Street Address	1215 Uffinian 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>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 DR5 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>Curtis</i>	06/08/2011

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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.

\*\*\*\*\*AUTO\*\*SCH 3-DIGIT 945 000481/0169855 1,89855



CANDACE CURTIS  
1215 ULFINIAN WAY  
MARTINEZ CA 94553

Holder Account Number

6387

SSN/ITIN Certified  
YesSymbol  
XOM

001CS0006\_rpt\_DL\_PO1.XOM.105024\_40233/07855/1698556

**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: 6387

**ACCOUNT SUMMARY**

As of close of stock market on 11 Jun 2012

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	24.981004	24.981004	80.270000	2,005.23

**Dividend Reinvestment Activity**

As of record date

This section includes information only for shares/units for which dividends are reinvested.

Record Date	Payment Date	Dividend Rate (\$)	Stock Class Description	Dividend Reinvestment Shares/Units	Gross Dividend (\$)	Taxes Withheld (\$)	Net Dividend (\$)
14 May 2012	11 Jun 2012	0.570000	Common	24.802088	14.14		14.14

**Transaction History**

From: 01 Jan 2012

To: 11 Jun 2012

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							88.667134
10 Jan 2012	Sale	3,862.35	Transaction Fee	65.40	3,796.95	85.830000	-45.000000	41.667134
24 Jan 2012	Sale	1,478.15	Transaction Fee	62.04	1,416.11	86.950000	-17.000000	24.667134
09 Mar 2012	Dividend Reinvestment	11.59			11.59	85.881244	0.134954	24.802088
11 Jun 2012	Dividend Reinvestment	14.14			14.14	79.031547	0.178916	24.981004

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**How to Read Your Statement**

Please see reverse side for important information.

**Stock Class Description** - A description of the stock class in which you hold shares, e.g. Common stock.

**Certificated Shares/Units Held By You** - A physical certificate was issued for these shares/units.

**Book/Book-Entry Shares** - Shares Computershare maintains for you in an electronic account; a stock certificate was not issued for these shares. All Direct Registration shares and investment plan ("Plan") shares are held in book-entry form.

**Direct Registration Book Shares/Units (DRS)** - Book-entry shares that are not part of the Plan.

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**Total Shares/Units** - The sum of all certificated and book shares held in this account as of the date specified.

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**Deduction Description** - A description of any amounts withheld including transaction fees.

**Deduction Amount** - Dollar amounts deducted may include taxes and transaction fees (which fees shall include any brokerage commissions Computershare is required to pay).

**Net Amount** - The total amount transacted for you, equal to the transaction amount less any applicable deductions.

**Price Per Share/Unit** - The market price per share purchased or sold under the Plan for this transaction.

**Transaction Shares/Units** - The number of shares purchased or sold through the Plan for this transaction.

**Total Book Shares/Units** - The sum of all book-entry shares, including both DRS and investment plan shares, as of the date specified.

**Record Date** - The date on which you must have officially owned shares to receive the dividend.

**Payment Date** - The date the dividend was payable.

**Dividend Rate** - The dollar amount of the dividend paid per share or the rate of stock dividend or stock split.

**Dividend Reinvestment Shares/Units** - Shares enrolled in dividend reinvestment.

**Gross Dividend** - The dividend paid on the Plan's dividend reinvestment shares.

**Net Dividend** - The total amount reinvested for you, equal to the gross dividend amount less any taxes withheld.

**SSN/ITIN Certified** - If your account is not certified, as indicated by the word NO appearing under the SSN/ITIN title in the top right section of this form, you must complete a Form W-9 (US resident) or Form W-8BEN (non-US resident) or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Either form is available through the "PRINTABLE FORMS" section of our website. Faxed forms are not acceptable. You may certify your tax status or obtain the necessary forms at the website listed above.

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**ExxonMobil****Computershare** +Computershare Trust Company, N.A.  
PO Box 43078Providence, 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.

\*\*\*\*\*AUTO\*\*3-DIGIT 781 000272/0105978 105978

AMY R BRUNSTING  
2582 COUNTRY LEDGE DR  
NEW BRAUNFELS TX 78132-4109

Holder Account Number

9041

SSN/TIN Certified  
YesSymbol  
XOM

001C50006\_rpt.DI\_PG1.XOM.105024\_40233/105978/105978/

**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: 9041

**ACCOUNT SUMMARY**

As of close of stock market on 11 Jun 2012

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	104.058674	104.058674	60.270000	8,352.79

**Dividend Reinvestment Activity**

As of record date

This section includes information only for shares/units for which dividends are reinvested.

Record Date	Payment Date	Dividend Rate (\$)	Stock Class Description	Dividend Reinvestment Shares/Units	Gross Dividend (\$)	Taxes Withheld (\$)	Net Dividend (\$)
14 May 2012	11 Jun 2012	0.570000	Common	103.313528	58.89		58.89

**Transaction History**

From: 01 Jan 2012

To: 11 Jun 2012

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
	Balance Forward							102.751241
09 Mar 2012	Dividend Reinvestment	48.29	Comp Paid Fees	0.01	48.29	65.881244	0.562288	103.313529
11 Jun 2012	Dividend Reinvestment	58.89	Comp Paid Fees	0.02	58.89	79.031547	0.745145	104.058674

DOTPPA (Rev. 12/11)

**How to Read Your Statement**

Please see reverse side for important information.

**Stock Class Description** - A description of the stock class in which you hold shares, e.g. Common stock.**Certificated Shares/Units Held By You** - A physical certificate was issued for these shares/units.**Book/Book-Entry Shares** - Shares Computershare maintains for you in an electronic account; a stock certificate was not issued for these shares. All Direct Registration shares and investment plan ("Plan") shares are held in book-entry form.**Direct Registration Book Shares/Units (DRS)** - Book-entry shares that are not part of the Plan.**Investment Plan Book Shares/Units** - Book-entry shares that are part of either a dividend reinvestment plan (DRP) or direct stock purchase plan (DSPP).**Total Shares/Units** - The sum of all certificated and book shares held in this account as of the date specified.**Closing Price** - The closing market price as of the account summary date.**Market Value** - The dollar value of the total shares held in this account as of the date specified.**Deduction Description** - A description of any amounts withheld including transaction fees. Deduction Amount - Dollar amounts deducted may include taxes and transaction fees (which fees shall include any brokerage commissions Computershare is required to pay).**Net Amount** - The total amount transacted for you, equal to the transaction amount less any applicable deductions.**Price Per Share/Unit** - The market price per share purchased or sold under the Plan for this transaction.**Transaction Shares/Units** - The number of shares purchased or sold through the Plan for this transaction.**Total Book Shares/Units** - The sum of all book-entry shares, including both DRS and investment plan shares, as of the date specified.**Record Date** - The date on which you must have officially owned shares to receive the dividend.**Payment Date** - The date the dividend was payable.**Dividend Rate** - The dollar amount of the dividend paid per share or the rate of stock dividend or stock split.**Dividend Reinvestment Shares/Units** - Shares enrolled in dividend reinvestment.**Gross Dividend** - The dividend paid on the Plan's dividend reinvestment shares.**Net Dividend** - The total amount reinvested for you, equal to the gross dividend amount less any taxes withheld.**SSN/TIN Certified** - If your account is not certified, as indicated by the word NO appearing under SSN/TIN title in the top right section of this form, you must complete a Form W-9 (US resident) or Form W-8BEN (non-US resident) or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Either form is available through the "PRINTABLE FORMS" section of our website. Faxed forms are not acceptable. You may verify your tax status or obtain the necessary forms at the website listed above.

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# ExxonMobil

# Computershare

+

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Providence, RI 02940-3078

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Outside USA, US territories &amp; Canada 781 575 2058

www.computershare.com/exxonmobil

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031624


 ANITA BRUNSTING  
 203 BLOOMINGDALE CIR  
 VICTORIA TX 77904

Holder Account Number

6352


 SSN/TIN Certified  
 Yes

 Symbol  
 XOM

001CS0006\_rptExt.XOM.105024\_402310316240323131

## 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: 6352

### ACCOUNT SUMMARY

As of close of stock market on 11 Jun 2012

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	164.036963	164.036963	80.270000	13,167.25

### Dividend Reinvestment Activity

As of record date

This section includes information only for shares/units for which dividends are reinvested.

Record Date	Payment Date	Dividend Rate (\$)	Stock Class Description	Dividend Reinvestment Shares/Units	Gross Dividend (\$)	Taxes Withheld (\$)	Net Dividend (\$)
14 May 2012	11 Jun 2012	0.570000	Common	162.862369	92.83		92.83

### Transaction History

From: 01 Jan 2012

To: 11 Jun 2012

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							161.975912
09 Mar 2012	Dividend Reinvestment	76.13	Comp Paid Fees	0.02	76.13	85.881244	0.886457	162.862369
11 Jun 2012	Dividend Reinvestment	92.83	Comp Paid Fees	0.03	92.83	79.031547	1.174594	164.036963

00TPPA (Rev. 12/11)

### How to Read Your Statement

Please see reverse side for important information.

**Stock Class Description** - A description of the stock class in which you hold shares, e.g. Common stock.

**Certificated Shares/Units Held By You** - A physical certificate was issued for these shares/units.

**Book/Book-Entry Shares** - Shares Computershare maintains for you in an electronic account; a stock certificate was not issued for these shares. All Direct Registration shares and investment plan ("Plan") shares are held in book-entry form.

**Direct Registration Book Shares/Units (DRS)** - Book-entry shares that are not part of the Plan.

**Investment Plan Book Shares/Units** - Book-entry shares that are part of either a dividend reinvestment plan (DRP) or direct stock purchase plan (DSPP).

**Total Shares/Units** - The sum of all certificated and book shares held in this account as of the date specified.

**Closing Price** - The closing market price as of the account summary date.

**Market Value** - The dollar value of the total shares held in this account as of the date specified.

**Deduction Description** - A description of any amounts withheld including transaction fees.

**Deduction Amount** - Dollar amounts deducted may include taxes and transaction fees (which fees shall include any brokerage commissions Computershare is required to pay).

**Net Amount** - The total amount transacted for you, equal to the transaction amount less any applicable deductions.

**Price Per Share/Unit** - The market price per share purchased or sold under the Plan for this transaction.

**Transaction Shares/Units** - The number of shares purchased or sold through the Plan for this transaction.

**Total Book Shares/Units** - The sum of all book-entry shares, including both DRS and investment plan shares, as of the date specified.

**Record Date** - The date on which you must have officially owned shares to receive the dividend.

**Payment Date** - The date the dividend was payable.

**Dividend Rate** - The dollar amount of the dividend paid per share or the rate of stock dividend or stock split.

**Dividend Reinvestment Shares/Units** - Shares enrolled in dividend reinvestment.

**Gross Dividend** - The dividend paid on the Plan's dividend reinvestment shares.

**Net Dividend** - The total amount reinvested for you, equal to the gross dividend amount less any taxes withheld.

**SSN/TIN Certified** - If your account is not certified, as indicated by the word NO appearing under the SSN/TIN title in the top right section of this form, you must complete a Form W-9 (US resident) or Form W-8BEN (non-US resident) or taxes will be withheld from any dividends or sales proceeds per Internal Revenue Service requirements. Either form is available through the "PRINTABLE FORMS" section of our website. Faxed forms are not acceptable. You may certify your tax status or obtain the necessary forms at the website listed above.

P4393

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# ExxonMobil

# Computershare

Computershare Trust Company, N.A.  
PO Box 43078

Providence, RI 02940-3078

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www.computershare.com/exxonmobil

Exxon Mobil Corporation is incorporated under the laws of the State of NJ.

007564



CAROLE A BRUNSTING  
5822 JASON  
HOUSTON TX 77074

Holder Account Number  
██████████6328



Company ID  
SSN/TIN Certified

XOM  
Yes

07192015:0809:P0314

## Exxon Mobil Corporation - Direct Registration (DRS) Advice

### Transaction(s)

Date	Transaction Description	Total Shares/Units	CUSIP	Class Description
15 Jun 2011	Transfer	1,325.000000	30231G102	Common Stock

### Account Information: Date: 15 Jun 2011 (Excludes transactions pending settlement)

Current Dividend Reinvestment Balance	Current Direct Registration Balance	Total Shares/Units	CUSIP	Class Description
0.000000	1,325.000000	1,325.000000	30231G102	Common Stock

#### IMPORTANT INFORMATION — RETAIN FOR YOUR RECORDS.

This advice is your record of the share transaction in your account on the books of the Company as part of the Direct Registration System. This advice is neither a negotiable instrument nor a security, and delivery of it does not of itself confer any rights to the recipient. It should be kept with your important documents as a record of your ownership of these shares. No action on your part is required.

The IRS requires that we report the cost basis of certain shares acquired after January 1, 2011. If your shares were covered by the legislation and you have sold or transferred the shares and requested a specific cost basis calculation method, we have processed as requested. If you did not specify a cost basis calculation method, we have defaulted to the first in, first out (FIFO) method. Please visit our website or consult your tax advisor if you need additional information about cost basis.

Upon request, the Company will furnish to any shareholder, without charge, a full statement of the designations, rights (including rights under any Company's Rights Agreement, if any), preferences and limitations of the shares of each class and series authorized to be issued, and the authority of the Board of Directors to divide the shares into series and to determine and change rights, preferences and limitations of any class or series.

Assets are not deposits of Computershare and are not insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or any other federal or state agency.

If you do not keep in contact with us or do not have any activity in your account for the time periods specified by state law, your property could become subject to state unclaimed property laws and transferred to the appropriate state.

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XOM

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### Privacy Notice

At Computershare, we take privacy seriously. In the course of providing services to you in connection with employee stock purchase plans, dividend reinvestment plans, direct stock purchase plans and/or direct registration services, we receive nonpublic, personal information about you. We receive this information through transactions we perform for you, from enrollment forms, automatic debit forms, and through other communications with you in writing, electronically, and by telephone. We may also receive information about you by virtue of your transaction with affiliates of Computershare or other parties. This information may include your name, address (residential and mailing), social security number, bank account information, stock ownership information and other financial information.

With respect both to current and former customers, Computershare does not share nonpublic personal information with any non-affiliated third-party except as necessary to process a transaction, service your account or as required or permitted by law. Our affiliates and outside service providers with whom we share information are legally bound not to disclose the information in any manner, unless required or permitted by law or other governmental process. We strive to restrict access to your personal information to those employees who need to know the information to provide our services to you. Computershare maintains physical, electronic and procedural safeguards to protect your personal information.

Computershare realizes that you entrust us with confidential personal and financial information and we take that trust very seriously.

P4396

07132015:0809: P0316

**Exhibit 5**

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Date	Gift	Stock price	amount	Person	purpose
<b>Mom/Dad were trustees</b>					
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	
1/20/2006	chk# 5143		\$ 200.00	Amy Brunsting	college fund
2/11/2002	chk# 3526		\$ 200.00	Amy Brunsting	college fund
12/31/2002	chk# 3911		\$ 200.00	Amy Brunsting	college fund
[REDACTED]					
10/2/2009					
[REDACTED]					
2/8/2010	chk# 6518		\$ 5,000.00	Anita Brunsting	graduation gift to me for finishing my doctorate
6/24/2009	chk# 6278		\$ 1,000.00	Anita Brunsting	college fund
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
[REDACTED]					
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
[REDACTED]					
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	

Schedule F

P12168

Date	Gift	Stock price	amount	Person	purpose
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)
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
10/2/2009					
<b>Anita became trustee Dec. 2011</b>					
5/11/2011	1120 shares Exxon Survivors trust	\$ 81.12	90854.4	Amy Brunsting	to pay off house
	<b>Total Amy Brunsting</b>		\$ 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
	<b>Total Anita Brunsting</b>		\$ 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

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Date	Gift	Stock price	amount	Person	purpose
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	Ann Brunsting UGMA (grandchild)	gift for future car/college exp
6/14/2011	135 shares chevron Survivors trust	\$ 100.60	\$ 13,581.00	Jack Brunsting UGMA (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

P12170



07132015:0809:PO320

COPY

**Exhibit 6**

UNOFFICIAL

07132015:0809:PO321

NO. 412,249-401

ESTATE OF

NELVA E. BRUNSTING,

DECEASED

§  
§  
§  
§  
§

IN PROBATE COURT

NUMBER FOUR (4) OF

HARRIS COUNTY, TEXAS

---

CARL HENRY BRUNSTING, et al

v.

ANITA KAY BRUNSTING, et al

§  
§  
§  
§

**Anita Kay Brunsting's Response to  
Candace Louise Curtis'  
First Written Interrogatories**

Anita Kay Brunsting serves her response to Candace Louise Curtis' first written interrogatories.

Respectfully submitted,

/s/ Brad Featherston

---

Stephen A. Mendel (13930650)  
Bradley E. Featherston (24038892)  
The Mendel Law Firm, L.P.  
1155 Dairy Ashford, Suite 104  
Houston, Texas 77079  
Tel: 281-759-3213  
Fax: 281-759-3214  
stephen@mendellawfirm.com  
brad@mendellawfirm.com

Counsel for Anita Kay Brunsting  
In Capacities at Issue

## Certificate of Service

I certify that a true and correct copy of the foregoing instrument was served on the following:

Candace Louis Curtis  
218 Landana Street  
American Canyon, CA 94503  
Tel: 925-759-9020

*Pro Se*

Bobbie G. Bayless  
2931 Ferndale  
Houston, Texas 77098  
O: 713-522-2224; F: 713-522-2218

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

Darlene Payne Smith  
1401 McKinney, 17TH Floor  
Houston, Texas 77010  
O: 713-752-8640; F: 713-425-7945

Attorney for Carole Ann Brunsting

Neal Spielman  
Griffin & Matthews  
1155 Dairy Ashford, Suite 300  
Houston, TX 77079  
O: 281-870-1124; F: 281-870-1647

Attorney for Amy Brunsting

via email on June 4, 2015.

/s/ Brad Featherston

---

Bradley E. Featherston

## Response to Written Interrogatories<sup>1</sup>

---

Anita Brunsting objects to Candace's interrogatories and request for production made pursuant to "fiduciary obligations." Interrogatories and request for production are exclusive to the Texas Rules of Civil Procedure and are not contemplated by the trust instruments nor any other applicable law. To the extent Candace's interrogatories and request for production are made pursuant to fiduciary obligations under the trust instruments then, pursuant to the trust, the Trustee requires that Candace pay the additional costs incurred to respond to such requests before the Trustee is required to comply with such request.

---

1. In your exercise of discretion, which of the Founders' ten intended purposes and what aspects of the HEMS standard were factored into your determination to oppose a distribution to beneficiary Candace from her personal asset trust, and upon what set of facts did your determination rely? If you did not use any of the ten expressed purposes or the HEMS standard, what standard did you use, if any?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Subject to and without waiving the foregoing objections, see Anita's response to Candace's request for distributions that was filed with the Court and which documents speak for themselves.

2. In 2011, which of the ten intended purposes, if any, and what aspects of the HEMS standard did you apply to your exercise of discretion in transferring Exxon Stock to Carole, and upon what set of facts did your exercise of discretion rely? If you did not use any of the ten expressed purposes or the HEMS standard, what standard did you use, if any?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Subject to and without waiving the foregoing objections, such transfer was made at Nelva Brunsting's instruction.

3. In 2011, which of the ten intended purposes, if any, and what aspects of the HEMS standard did you apply to your exercise of discretion in transferring Exxon Stock to Candace, and upon what set of facts did your exercise of discretion rely? If you did not use any of the ten expressed purposes or the HEMS standard, what standard did you use, if any?

---

<sup>1</sup> Candace's Interrogatories were renumbered for the convenience of the parties and the Court.

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Subject to and without waiving the foregoing objections, such transfer was made at Nelva Brunsting's instruction.

4. In 2011, which of the ten intended purposes, if any, and what aspects of the HEMS standard did you apply to your exercise of discretion in transferring Exxon Stock to Amy, and upon what set of facts did your exercise of discretion rely? If you did not use any of the ten expressed purposes or the HEMS standard, what standard did you use, if any?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Subject to and without waiving the foregoing objections, such transfer was made at Nelva Brunsting's instruction.

5. Which of the ten intended purposes, if any, and what aspects of the HEMS standard did you apply to your exercise of discretion in not transferring Exxon Stock to Carl, and upon what set of facts did your exercise of discretion rely? If you did not use any of the ten expressed purposes or the HEMS standard, what standard did you use, if any?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, presumably the inquiry relates to the time period Nelva Brunsting was alive and Nelva Brunsting did not instruct an Exxon Stock transfer to Carl.

6. What are, and how did the trustees interpret, the particular distribution standards contained in "the trust"?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, the distribution standards are as set forth in the trust instruments, which were interpreted as written.

7. What is/was the trustee's process for making discretionary distribution decisions?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, the process is as set forth in the trust instruments.

8. What does the trustee require when asked to consider other resources and establish the beneficiary's standard of living?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. The trustee requires what the trust instruments provide.

9. Does the trust require a beneficiary to waive their right of privacy as a condition of receiving a beneficial interest? If so, under which provision of what instrument(s)?

RESPONSE: Defendant objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, the trust instruments speak for themselves.

10. Does the trustee work with distribution advisors? If so, who and when? If not, why not?

RESPONSE: The trustee has not worked with distribution advisors. No distributions have been made since the Nelva's death due to the litigation filed by Candace and Carl.

11. When and how did the acting trustees inform the beneficiaries of their beneficial interests?

RESPONSE: Defendant objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, prior to defendant's appointment as trustee, on or about October 23, 2010, Candace was informed of her beneficial interest via email. Shortly after Nelva's death in November 2011, the trustees and their counsel were in the process handling the trust affairs incident to Nelva's death. The trustees and

their counsel provided trust documents and assets lists via email and/or mail in December 2011 and thereafter to beneficiaries.

12. What types of distributions would the trustees like a beneficiary to receive?

RESPONSE: Defendant objects to this interrogatory as unintelligible. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, defendant would like a beneficiary to receive distributions in accordance with the trust instruments.

13. For what purposes can the beneficiary request a distribution from the trust?

RESPONSE: Defendant objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, the beneficiary can request a distribution for the purposes contained in the trust instruments.

14. When would the trustees like distributions to be made and in what priority?

RESPONSE: Defendant objects to this interrogatory as unintelligible. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, Subject to, and without waiving the foregoing objections, defendant would like a beneficiary to receive distributions in accordance with the trust instruments.

15. What circumstances should or should not exist prior to a distribution from "the trust"?

RESPONSE: Defendant objects to this interrogatory as unintelligible. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, currently, with respect to Candace, the Court must resolve Candace's claims and allegations in the pending lawsuit and, in particular, Candace's allegation that the no contest provisions in the trust instruments are unenforceable, prior to a distribution.

16. Who should be involved in the decision making process?

RESPONSE: Defendant objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, currently, the Court and the parties to the litigation should be involved in the decision making process.

17. What factors does the decision-maker measure in determining the beneficiary's need for a distribution?

RESPONSE: Defendant objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, currently, the Court would consider the factors set forth in the trusts.

18. Describe the steps you have taken to honor the provisions of Article X, Section B (1)(a)(i) of the Brunsting Family Trust?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. The referenced section was superseded by Nelva and therefore, is inapplicable.

19. Describe the steps you have taken to honor the provisions at Page 6 Item C of the August 25, 2010 QBD regarding PERSONAL ASSET TRUST PROVISIONS, as those provisions relate to the personal asset trusts for each of the five Brunsting beneficiaries?

RESPONSE: After Nelva's death, defendant began the process of collecting assets, informing trust beneficiaries, and working the attorneys specifically referenced in such section to implement the terms of the trust instruments. The trustees and their counsel provided trust documents and assets lists via email and/or mail in December 2011 and thereafter to beneficiaries. Candace then brought litigation.

20. A copy of the 8/25/2010 QBD was included in the October 23, 2010 email attachments. How did you come to be in possession of the 8/25/2010 QBD on October 23, 2010 when Nelva was the only then serving trustee?



RESPONSE: Nelva provided defendant such instrument.

21. What was your forthright explanation to Nelva regarding the changes that you planned for her to make to the trust and what were the exact changes that you intended to be made?<sup>2</sup>

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and is a compound question. Defendant never planned to make any changes to the trust for Carl. It was defendant's understanding that Nelva planned to make changes to the trust. There was a concern by Nelva, defendant, and defendant's siblings that Carl's future well-being may not be met by Drina, and that Drina may take steps to reach Carl's share of trust assets. Nelva never signed the changes into effect.

22. Where are the documents you referred to that you intended for Nelva to sign?<sup>3</sup>

RESPONSE: To defendant's knowledge they were never signed. Defendant does not know what happened to such documents.

23. What was the date of your prior inquiry and why was the inquiry made more than one year after you were noticed of the existence of those EE Bonds?

RESPONSE: Candace and Carl consistently and repeatedly accused Carol of stealing bonds that were alleged to be in the name of Nelva or Elmer. Defendant did not see a record of the bonds being in the name of the trusts. In late 2014, Carol informed defendant that she could request a record of the outstanding bonds, which was done in mid to late 2014.

24. What claim(s), if any, were you asking to be processed?

RESPONSE: None.

25. Did you subsequently submit the properly completed forms? If no, why not? If yes, what were the results and where are the transaction records?

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<sup>2</sup> This is a question about a March 8, 2011 email from Anita.

<sup>3</sup> This is a question about a March 8, 2011 email from Anita.

RESPONSE: No, because Candace would not agree to the disposition of the bonds and the legal fees to seek court approval to cash the bonds in light of Candace's failure to agree made the transaction cost prohibitive.

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Defendant objects to the balance of the interrogatories as exceeding the limits of permissible discovery under the Texas Rules of Civil Procedure. Defendant further objects to the balance of the interrogatories because Candace has not paid Candace pay the additional costs incurred to respond to such requests before the Trustee is required to comply with such request.

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Intention 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,

(a) The decedent's trust has received farm income every year, which has not been distributed since 2012. Consequently the decedent's trust owed hefty income taxes each year. Why have those taxes not been reduced by distributions of farm income to personal asset trusts for the five beneficiaries? What advice have you been given regarding income taxes paid by the trusts, if any?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(b) When considering funding for Mother's day-to-day needs prior to the establishment of the Rights of Survivorship account in the name of Carole Brunsting and Nelva Brunsting, what criteria did you use when you liquidated assets in the Edward Jones account? Was avoidance of capital gains tax a factor? If not, why not?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

5. Trustee Manual: The Bates stamped documents included in Plaintiff's document production P6-P155, "MyTrustee Manual". Chapter 2, P19-P22 is titled "BEFORE GETTING STARTED: A FEW IMPORTANT "DO'S AND DON'TS".

(a) Please review pages 2-1 through 2-4 of My Trustee Handbook and answer the following questions with specificity:

i. Which of the eight "Do's" have you done?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

ii. Which of the eight "Do's" have you not done?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

iii. Which of the nine "Do Not's" have you done?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

iv. Which of the nine "Do Not's" have you not done?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

6. Instruments are alleged to have been signed by Nelva Brunsting on August 25, 2010.

(a) Were you involved in the preparatory discussions? If yes, please explain the circumstances leading up to the creation of the instruments.

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(b) Were you personally present when those documents were signed? If yes, please identify the location where they were signed and provide the names and contact information for everyone who was personally present when those instruments were signed.

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

7. Instruments are alleged to have been signed by Nelva Brunsting on December 21, 2010.

(a) Were you involved in the preparatory discussions? If yes, please explain the circumstances leading up to the creation of the instruments.

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(b) Were you personally present when those documents were signed? If yes, please identify the location where they were signed and provide the names and contact information for everyone who was personally present when those instruments were signed.

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

8. Please refer to the RESPONSE OF DEFENDANTS TO REPORT OF MASTER, filed

August 27, 2013, and answer the following:

Regarding trustee compensation,

(a) At the point in time when you paid your personal credit card debts from trust assets, were you aware that paying personal debt obligations directly out of trust accounts can be considered self-dealing or co-mingling, whether you were entitled to trustee compensation or not? If not, why not?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(b) Appendix A, Section 1. states that Vacek & Freed determined the percentage amount of your fee to be 2% of the trust value of \$2,291,300, or \$45,826.00. What date was the fee calculation determined? What trust was the value based upon? What trust assets and their corresponding values were used in the calculation? Why was this calculated on an annual basis, rather than monthly or quarterly, since the value of the trust diminished every single month? What provision(s) in the trust set forth the standard for calculating this rate of compensation?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

9. Please refer to George Vie's July 15, 2013 letter to the Master and Attachment 1 to these interrogatories when considering the following questions. Note that Attachment 1 is a summary of your Schedule F, plus distributions to beneficiaries from the Edward Jones account during the 10-year period covered by the schedule, and the distribution you received in 2005 to pay off your house.

Your letter states that:

"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." Attachment 1 demonstrates that during the 10-year period of the schedule, approximately 46% of the distributions went to Candy, Carole, Carl, Kevan and Andy, with the balance of approximately 54% going to you, Amy and your respective children. Nothing was noted to have been received by Marta during the 10-year period.

(a) Please state with specificity the dates and amounts of all gifts given to the older beneficiaries and the source of the information in support of these alleged transactions, as claimed by you in your July 15, 2013 letter of influence addressed to the Special Master.

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in

the Texas Rules of Civil Procedure.

(b) Our Dad died April 1, 2009. The only noted transactions labeled as gifts to Kevan and Andy Curtis are dated October 2, 2009. Please state with specificity the dates and amounts of all other alleged gifts given to Kevan, Andy, or Marta between 2001 and April 1, 2009, the source of the information in support of these transactions, and the reason why these transactions were not listed on any schedules.

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(d) In general the July 15, 2013 letter to the Master attempts to provide excuses for the sudden acceleration of dissipation of mass quantities of trust assets while our Mother was still alive. These take-my-word-for it assertions have not been supported by Generally Accepted Accounting Principles (GAAP) in any disclosures. The recap of distributions, or gifts if you want to call them that, reflected on Attachment 1, clearly shows an inequity. What was the distribution standard applied to those transactions? What effect did these transactions have on the value of the trust assets, trust tax liabilities, and the personal tax liabilities of the recipients? What were the facts upon which discretion was exercised in each of these transactions?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(e) In your July 15, 2013 letter to the Master you claim "Defendants are individuals, not financial professionals." It is presumed you knew of this fiscal incompetence before accepting the appointment to a fiduciary office. Did you hire financial professionals to assist you in meeting the obligations commensurate with your fiduciary duties? If yes, who, when, and what did they do? If not, why not?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(f) In a letter dated May 22, 2012, Edward Jones states "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." It goes on to ask you to "Please review the enclosed pages, which list your account information. If the information is correct, you do not need to return this letter." This information contains the following:

Net Worth (must exclude value of primary residence): \$1,700,000

Annual Income: \$64,000

Prior Investment Experience: (4) Extensive Experience

Risk Profile: (3) Moderate

Current Occupation: Homemaker

Did you return the letter? If not, why not? When did you provide this information to Edward Jones originally?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

10. The following questions refer to information contained in the 2011 Form 1040 for Nelva E Brunsting, prepared by Kroese & Kroese P.C., signed by you as fiduciary "Under penalties of perjury".

(a) Line 15a IRA distributions = \$58,792 / 15b Taxable amount = \$58,792. On February 24, 2010, Mother executed a Change of Beneficiary Designations for IRA Account at Edward Jones, designating the five of us as "beneficiaries in equal shares". A previous List of Beneficiaries under Edward Jones letterhead, dated July 23, 2009, stated the same designation. On May 23, 2011, an electronic transfer was made from the IRA account number 609-91956-1-9, to the B of A account ending in 1143, in the amount of \$54,000.

i. Were you aware of Mother's beneficiary designation for her IRA? If yes, why did you fail to follow it? If no, how could you not be?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

ii. Did you know this transaction would cause a tax liability for Mother?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(b) Schedule A Medical and Dental expenses are listed as \$118,893.

i. Many of the caregiver payments contained reimbursements for meals and incidental expenses purchased on behalf of our Mother. Were these reimbursements included in the caregiver costs? If so, what is the total for these reimbursements? Did the preparer know these reimbursements were included? If so, please provide support of the preparer's knowledge.

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

ii. IRS Publication 926 Household Employer's Tax Guide sets forth the rules for employment taxes. You were required to withhold and pay social security and Medicare taxes on the wages. As the employer you can choose to pay this yourself and not withhold it. Did you

withhold social security and Medicare from the caregivers paychecks? If no, why not? Did you pay 13.3% of gross wages on behalf of the caregivers to the IRS? If no, why not? Did you issue a W-2 to each caregiver? If no, why not?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(c) Did you seek the advice of a professional in connection with employing caregivers and related employment taxes? Did you seek the advice of a professional regarding what medical and dental expenses are deductible? If so, who did you consult with and what did they tell you?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

11. Numerous distributions have been made and some requests for distribution have been declined or opposed by you based upon your exercise of discretion.

(a) To what extent, if any, did Amy participate in your discretionary decisions?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(b) To what extent, if any, did Carole participate in your discretionary decisions?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(c) To what extent, if any, did Candace participate in your discretionary decisions?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(d) To what extent, if any, did Carl participate in your discretionary decisions?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(e) To what extent, if any, did Candace Freed participate in your discretionary decisions?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

\* \* \* \* \*

07192015:009:PO95

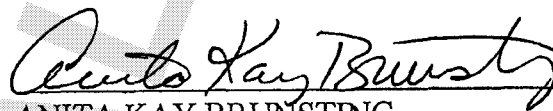
**Exhibit 7**



07132015:0809: P0336

### ACCEPTANCE BY SUCCESSOR TRUSTEE

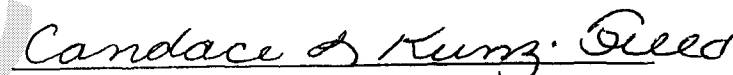
I, ANITA KAY BRUNSTING, hereby acknowledge my acceptance this day of the office and duties of Successor Trustee of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended, the NELVA E. BRUNSTING SURVIVOR'S TRUST and the ELMER H. BRUNSTING DECEDENT'S TRUST, after the resignation of the original Trustee, NELVA E. BRUNSTING.

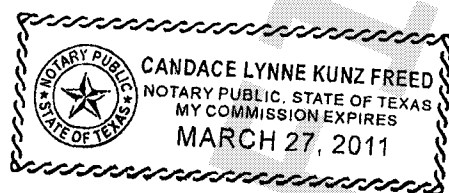


ANITA KAY BRUNSTING

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



07132015:0809:PO337

NO. 412.249-401

ESTATE OF § IN PROBATE COURT  
NELVA E. BRUNSTING, § NUMBER FOUR (4) OF  
DECEASED § HARRIS COUNTY, TEXAS

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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

ORDER GRANTING CARL HENRY BRUNSTING'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT

Having considered Carl Henry Brunsting's Motion for Partial Summary Judgment, any response thereto, the summary judgment evidence, and the law, the Court is of the opinion that the Motion should be GRANTED.

It is therefore ORDERED that the Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement dated August 25, 2010 is void as a matter of law.

It is further ORDERED that the following transfers made by Anita Brunsting as trustee were unauthorized as a matter of law and constitute breaches of her fiduciary obligations as trustee:

1. 1120 shares of Exxon Mobil stock transferred to Amy from the Survivor's Trust on May 9, 2011;
2. 160 shares of Exxon Mobil stock Anita transferred to herself from the Survivor's Trust on June 13, 2011;
3. 135 shares of Chevron stock Anita transferred to herself from the Survivor's Trust on June 14, 2011;
4. 135 shares of Chevron stock transferred to Amy's minor daughter, Ann Brunsting, from the Survivor's Trust on June 14, 2011;
5. 135 shares of Chevron stock transferred to Amy's minor son, Jack Brunsting, from the Survivor's Trust on June 14, 2011;
6. 135 shares of Chevron stock transferred to Anita's minor daughter, Katie Riley, from the Survivor's Trust on June 14, 2011;
7. 135 shares of Chevron stock transferred to Anita's son, Luke Riley, from the Survivor's Trust on June 14, 2011;

8. 160 shares of Exxon Mobil stock transferred to Candy from the Survivor's Trust on June 15, 2011; and
9. 1325 shares of Exxon Mobil stock transferred to Carole from the Decedent's Trust on June 15, 2011.

It is further ORDERED that, pursuant to Tex. Prop. Code §114.031, the parties receiving the transfers identified in the previous paragraph are also liable for the resulting loss to the trusts caused by such transfers, and such loss shall be offset against their remaining interest in the trusts.

It is further ORDERED that all other issues remaining to be determined in the case, including the amount of damages caused by the improper stock transfers, will be the subject of further proceedings and orders.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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JUDGE PRESIDING

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CANDACE LOUISE CURTIS \* Civil No. H-12-592  
\*  
VERSUS \* Houston, Texas  
\* April 9, 2013  
ANITA KAY BRUNSTING, et al \* 9:50 a.m.

TRO HEARING  
BEFORE THE HONORABLE KENNETH M. HOYT  
UNITED STATES DISTRICT JUDGE

For the Plaintiff:

Ms. Candace Louise Curtis  
Pro Se  
1215 Ulfonian Way  
Martinez, California 94553

For the Defendants:

Mr. George William Vie, III  
Mills Shirley LLP  
1021 Main Street  
Suite 1950  
Houston, Texas 77002

Court Reporter:

Fred Warner  
Official Court Reporter  
515 Rusk Ave.  
Houston, Texas 77002

Proceedings recorded by mechanical stenography, produced by  
computer aided transcription.

1 THE COURT: Good morning. Please be seated.

2 All right. This is Cause No. 2012-592, Candace  
3 Louise Curtis versus Anita K. Brunsting and others.

4 So let me have an announcement. Is Ms. Curtis  
5 in the courtroom?

6 MS. CURTIS: Yes, Your Honor.

7 THE COURT: All right. And who is representing the  
8 defendants in the case?

9 MR. VIE: George Vie, Your Honor, for the  
10 defendants.

11 THE COURT: And I gather we have several parties  
12 present, correct?

13 MR. VIE: Yes, Your Honor.

14 THE COURT: Are these your clients or --

15 MR. VIE: Yes, Your Honor. Both the defendants are  
16 present.

17 THE COURT: Both defendants.

18 And who are the defendants other than -- I just  
19 show Anita Kay and Amy Ruth. I am sorry. I apologize. You  
20 are representing both?

21 MR. VIE: Yes, Your Honor.

22 THE COURT: Okay. Very good.

23 This is Ms. Curtis' application for a temporary  
24 restraining order. As you might recall, this case was  
25 initially dismissed by the Court with the understanding that,

1 or under the understanding that it could not proceed in  
2 federal court but must proceed in state court.

3           The circuit court disagreed with me, and it's  
4 back; and now we are charged to proceed forward in this case.

5           So what I would like to do is, first of all,  
6 have Ms. Curtis stand and give me a kind of a factual setting  
7 background for what it is that she is seeking, then tell me  
8 what she is seeking and see what testimony, if any, we need  
9 in order to accomplish that.

10           So why don't you go ahead take the floor, Ms.  
11 Curtis, and tell us how this got started and where we are  
12 today.

13           MS. CURTIS: This got started by my parents, Elmer  
14 and Nelva Brunsting, putting together a Brunsting family  
15 living trust in 1996 dividing their estate among the five  
16 children beneficiaries.

17           THE COURT: And I see there are the only three  
18 children represented. Are there other children that are not  
19 included?

20           MS. CURTIS: Yes, sir. My sister Carole and my  
21 brother Carl.

22           THE COURT: Okay. C-a-r-o-l?

23           MS. CURTIS: C-a-r-o-l-e and Carl, C-a-r-l.

24           THE COURT: Well, that C went a long way.

25           MS. CURTIS: C, C, C and then A, A.

1 THE COURT: Went a long way in the family, didn't  
2 it?

3 MS. CURTIS: Yes.

4 THE COURT: Go ahead please.

5 MS. CURTIS: So, my father passed away in 2009 in  
6 April and --

7 THE COURT: And would you tell us his name for the  
8 record.

9 MS. CURTIS: Elmer H. Brunsting.

10 THE COURT: All right.

11 MS. CURTIS: And in July of 2010 my brother Carl  
12 became stricken with encephalitis. And it's a very serious  
13 disease. He was in the hospital for several months, part of  
14 that time in a coma. And my brother was originally appointed  
15 the executor of my parent's estate.

16 THE COURT: Your brother would be Carl?

17 MS. CURTIS: Carl. And also a successor/co-trustee  
18 of the Brunsting Family Living Trust and any resulting  
19 trusts.

20 In approximately 2007, my mother sent an e-mail  
21 to me and asked me if I would mind becoming co-trustee with  
22 my brother Carl because my sister Amy was unstable; and she  
23 was wondering if I would mind coming to Houston whenever  
24 necessary to take care of these things. And I agreed. And  
25 that was the last I heard of it.



1                    Since that time I have received a document,  
2 which is the last, first and only amendment that my father  
3 and mother both signed to the family living trust appointing  
4 Carl and Candace as successor/co-trustees.

5                    THE COURT: Okay. So as it stands now, it is Carl  
6 and Candace who would be the co-trustees of the trust?

7                    MS. CURTIS: Yes, Your Honor, yes.

8                    And after my brother became ill, my youngest  
9 sister Anita took the opportunity to begin seize control of  
10 the trust. She immediately, within three weeks after he  
11 became ill --

12                   THE COURT: When did this happen?

13                   MS. CURTIS: In July of 2010.

14                   THE COURT: 2010. He became apparently  
15 incapacitated or unable to?

16                   MS. CURTIS: Yes. He was in a coma for several  
17 weeks.

18                   THE COURT: Is he still in a coma?

19                   MS. CURTIS: No. He's back at home and doing very  
20 well.

21                   THE COURT: Okay. Very good. Go ahead.

22                   MS. CURTIS: And has been.

23                   THE COURT: I will be asking questions of him.

24                   MS. CURTIS: And so, because of things that are just  
25 simply judgmental and ugly, my sister began to try to wrest

1 control of the trust so that my brother could not have  
2 anything whatsoever to do with it. She took his name off the  
3 safe deposit box which, according to my father's handwritten  
4 letter from 1999, contained all of the information about the  
5 family trust, and then some papers were caused to be drawn  
6 up. One was a qualified beneficiary designation.

7 THE COURT: I'm sorry. Was a what?

8 MS. CURTIS: A qualified beneficiary designation.

9 THE COURT: All right.

10 MS. CURTIS: And several other papers were drawn up  
11 on August 25th, 2010.

12 There was no notice given to any of the  
13 beneficiaries about this qualified beneficiary designation  
14 that was to be prepared and signed. And the only way that I  
15 found out about it was to ask my sister Anita for copies of  
16 trust documents for me to review for a phone conference that  
17 had been called by the trust attorneys that was supposed to  
18 include my mother and all of her children. My brother Carl  
19 was never notified of this phone conference.

20 THE COURT: Was he at the time still in a coma or  
21 incapacitated?

22 MS. CURTIS: No, sir. He was not in a coma, but he  
23 was still in the hospital.

24 THE COURT: Okay.

25 MS. CURTIS: And my mother also was not in on the

1 phone call.

2                   So we had the conference call, and they were  
3 definitely absent; and the conference call apparently was  
4 called to discuss proposed changes to the trust, when in fact  
5 the changes had already been made; and as it boiled down to  
6 the end and various parties hung up, they were going to try  
7 to have my mother declared incompetent because she said that  
8 she did not sign the qualified beneficiary designation and  
9 that in fact what the qualified beneficiary designation said  
10 was not true.

11               THE COURT: Let me ask you a question before we go  
12 forward. What was the purpose -- what did the beneficiaries  
13 receive and how were funds, as you understand it, disbursed  
14 from the trust prior to this August 25th 2010. How was the  
15 trust to be administered?

16               MS. CURTIS: The trust was to be divided into five  
17 personal asset trusts; and I believe that each personal asset  
18 trust would have a trustee, but I do not think it was the  
19 beneficiary.

20               THE COURT: Was that to recognize the five children?

21               MS. CURTIS: Yes.

22               THE COURT: How was your mother to benefit from  
23 this? Was she to get some proceeds out of the funds?

24               MS. CURTIS: My mother was to benefit from all of  
25 the trusts until she passed way.

1 THE COURT: Okay. And then these five trusts  
2 would --

3 MS. CURTIS: Whatever was remaining would be divided  
4 five equal ways.

5 THE COURT: Surely.

6 And then your mother died when?

7 MS. CURTIS: 11-11-11.

8 THE COURT: Oh, is that right?

9 And at that time your father was already  
10 deceased?

11 MS. CURTIS: Yes, Your Honor.

12 THE COURT: So this telephone conference occurred  
13 sometime in August of 2010, just about 14 months prior to her  
14 death?

15 MS. CURTIS: It was in October --

16 THE COURT: October.

17 MS. CURTIS: -- of 2010.

18 THE COURT: About 12 months then, 12 or 13 months  
19 prior to her death.

20 And so go ahead and pick up there.

21 MS. CURTIS: So, anyway, after the phone conference  
22 there was really nothing I could do about anything as far as  
23 I could tell; and so, things were relatively quiet until in  
24 approximately March of 2011 my sister Anita called and said,  
25 "oh, we found some Exxon stock that wasn't in the trust; and

1 so, some of it will be gifted, and then the rest of it, the  
2 trust attorneys are going to figure out how to get it into  
3 the trust."

4                   And so I received 160 shares of that stock.  
5 And I was in conversation with sister Carole and was told  
6 that she had received some, but she didn't know how much it  
7 was because she hasn't opened the envelope.

8                   THE COURT: Was it your understanding that the 160  
9 shares that you received would have been your one-fifth  
10 share? Is that the way it was to be --

11                   MS. CURTIS: That's kind of the way I thought about  
12 it. Not necessarily my one-fifth share, but that each of us  
13 should receive a like amount.

14                   THE COURT: Sure.

15                   All right. Go ahead.

16                   MS. CURTIS: Unbeknownst to me, my sister Carole  
17 received 1,300 plus shares and my sister Amy received over  
18 1,000 shares.

19                   I received 160, Anita received 160; but Anita,  
20 as power of attorney beneficiary and trustee, having taken  
21 over from my mother in December of 2010, was conflicted and  
22 not allowed to accept gifts. So she excused it many months  
23 after the fact as being a loan, but she's also not allowed to  
24 take loans from --

25                   THE COURT: So was she the person doing the

1 disbursing of these shares?

2 MS. CURTIS: Yes, Your Honor, she was.

3 THE COURT: And she disbursed them in the manner, as  
4 you understand it, the way you just described it, giving a  
5 couple thousand shares to two of your sisters together?

6 MS. CURTIS: Uh-huh.

7 THE COURT: I said "together" meaning added  
8 together, and then 160 to you. And what happened, if  
9 anything, to do with Carl's share?

10 MS. CURTIS: He got nothing.

11 THE COURT: All right. Okay. Go ahead.

12 MS. CURTIS: So my brother has filed a lawsuit in --

13 THE COURT: Probate court?

14 MS. CURTIS: -- state court and also in probate.

15 It's not a lawsuit, but he has filed from probate as  
16 defendant executor. And he has gotten pages and pages and  
17 pages of information from my sisters in another lawsuit that  
18 it was a pre-suit request for depositions to get information  
19 in case they were going to file suit.

20 And they got pages and pages and boxes of  
21 information that was not shared with me until March 28th just  
22 recently, and this paper here was in some of the documents  
23 that they shared with me.

24 THE COURT: What is the title of it?

25 MS. CURTIS: This is a computer share. It's a.



1 THE COURT: Well, let me ask you before you go  
2 further. What did you understand to be the access in the  
3 trust or the total trust as opposed to the individual five  
4 trusts, let's say? What did you understand the gross assets  
5 to be? Is that what you set forth in your petition as being  
6 the assets.

7 In 2010, you show -- I don't know if you have  
8 your petition there with you, but you showed in 2010 there  
9 was Chevron/Texaco, Exxon/Mobil, Edward Jones and a total of  
10 \$554,000 more or less in the -- I gather is this in the  
11 decedent's account.

12 MS. CURTIS: Actually, this is my Request For  
13 Injunction.

14 THE COURT: Yes, page 3.

15 MS. CURTIS: Those are just the net changes.

16 THE COURT: These are what you're calling losses  
17 then?

18 MS. CURTIS: Yes.

19 THE COURT: So what is the total of the estate? How  
20 many? Several million dollars?

21 MS. CURTIS: The farm itself is close to \$3 million,  
22 and everything else when my father passed away was about a  
23 million-and-a-half.

24 THE COURT: So, it's increased in value to about --

25 MS. CURTIS: By virtue of the farm.



1 THE COURT: F-a-r-m, farm?

2 MS. CURTIS: Yes, family farm in Iowa.

3 THE COURT: That was sold?

4 MS. CURTIS: No, it was not.

5 THE COURT: What's on the farm that's increasing  
6 these prices? What are they harvesting?

7 MS. CURTIS: Corn and soybean.

8 THE COURT: Is that for profit or just simply --

9 MS. CURTIS: To my understanding we have a lease  
10 with the farmer.

11 THE COURT: Okay. And so lease itself pays a  
12 certain amount of money annually or however.

13 MS. CURTIS: Yes.

14 THE COURT: Those assets or that money goes into the  
15 estate?

16 MS. CURTIS: I believe so.

17 THE COURT: And that accounts for some of the  
18 increase, as you understand them?

19 MS. CURTIS: Yes.

20 THE COURT: All right. So at this point in time,  
21 "this point in time" being 2012, there has been a total of  
22 338 or 339,000 in assets removed from the estate, and there  
23 is still approximately, as far as you know, three-plus  
24 million dollars in the estate?

25 MS. CURTIS: Yes, Your Honor.

1 THE COURT: Now, I want to try to close this out  
2 just a little bit by asking you: After you received these  
3 documents, I gather -- and when you weren't receiving them,  
4 obviously, because I recall you filed a suit, and one of the  
5 issues was getting your hands on these documents, and you  
6 were not able to get those documents until recently, as I  
7 understand it?

8 MS. CURTIS: The first time I received any  
9 information was in April of 2012, yes.

10 THE COURT: Okay.

11 And since you received those documents, has the  
12 fact that you received those documents confirmed what you  
13 believe to be improper practices on the part of your, I  
14 gather, on the part of your sister Anita?

15 MS. CURTIS: Yes, Your Honor.

16 THE COURT: Is she handling this alone?

17 MS. CURTIS: To my knowledge she is.

18 THE COURT: All right. So it's between her and  
19 however her lawyers are handling this that you are concerned  
20 about?

21 MS. CURTIS: I assume.

22 THE COURT: And your brother has a ongoing suit  
23 presently ongoing?

24 MS. CURTIS: Yes, Your Honor.

25 THE COURT: And what is the status as you understand

1 of that suit, as to how long has it been pending and what is  
2 status of that suit?

3 MS. CURTIS: I'm not exactly sure of the dates of  
4 how long it's been pending. I think since sometime in  
5 February of 2013.

6 THE COURT: Okay. So several months, but not very  
7 long.

8 MS. CURTIS: Right.

9 THE COURT: And is he able to get up and about?

10 MS. CURTIS: Yes.

11 THE COURT: Where is he now?

12 MS. CURTIS: At home, I would assume.

13 THE COURT: And have you communicated with him  
14 regarding what his approach is?

15 MS. CURTIS: Yes, Your Honor. I have.

16 THE COURT: And, of course, you have not joined his  
17 lawsuit?

18 MS. CURTIS: No, I have not.

19 THE COURT: And he has not joined in your lawsuit?

20 MS. CURTIS: No, he has not.

21 THE COURT: Does he have an attorney?

22 MS. CURTIS: Yes, Your Honor, he has.

23 THE COURT: Okay. I gather you now know that some  
24 state court, some county court or probate court, someone did  
25 something, I gather, to give Anita some authority that you

1 did not know she had. Is that what you have come to the  
2 knowledge of?

3 MS. CURTIS: I have come into the knowledge that the  
4 purported successor/co-trustees are in fact imposters because  
5 the documents that made them successor/co-trustees have  
6 digital alterations on them; they have anomalies on the  
7 signature pages. I have two different signature pages for  
8 the qualified beneficiary designation that were sent to me on  
9 two different occasions.

10 THE COURT: Now, whose signatures would be necessary  
11 from your perspective to permit her to go forward? This  
12 qualified beneficiary designee, this was supposed to be Anita  
13 now?

14 MS. CURTIS: It was supposed to divide the estate  
15 into five different personal asset trusts. Carole, Amy and  
16 Anita were going to be trustees.

17 THE COURT: This was a part of you-all's discussion  
18 on the telephone conference as to how this was supposed to  
19 work?

20 MS. CURTIS: Well, I wanted to know how it would put  
21 into place in the first place because I never received any  
22 notice that this was being contemplated.

23 THE COURT: Okay.

24 MS. CURTIS: And come to find out months after the  
25 papers were allegedly signed by my mother, my personal asset

1 trust and my brother Carl's were put under the control of Amy  
2 and Anita.

3 THE COURT: On what authority or what basis.

4 MS. CURTIS: I don't know. I don't know.

5 THE COURT: Okay.

6 And what happens then or what is happening to  
7 those assets?

8 MS. CURTIS: They're spending them.

9 THE COURT: Okay. She, Anita, has authority and can  
10 spend those proceeds --

11 MS. CURTIS: Yes, Your Honor.

12 THE COURT: -- based upon what? Is she considering  
13 herself the qualified beneficiary designee or something?

14 MS. CURTIS: She is considering herself a  
15 successor/co-trustee.

16 THE COURT: Successor/co-trustee.

17 MS. CURTIS: In place of my mother. She did most of  
18 the theft while my mother was still alive when she was acting  
19 with my mothers power of attorney. My mother supposedly  
20 resigned as trustee on December 21st, 2010, and my sister  
21 accepted successor/trustee. And my sister's also a  
22 beneficiary, so she's got a conflict of interest there.

23 THE COURT: So since 2010 you are not aware of, I  
24 gather you're saying you're not aware of the division of the  
25 estate at least designating your portion as being your full

1 one-fifth of the estate?

2 MS. CURTIS: I have never received a notice.

3 THE COURT: You are not aware that that has been  
4 done. In other words, you don't know that that has been  
5 done?

6 MS. CURTIS: No, I do not.

7 THE COURT: And you're not in charge of that, those  
8 assets?

9 MS. CURTIS: That's correct.

10 THE COURT: And so here's my question: What is it  
11 that you're seeking by this lawsuit?

12 MS. CURTIS: I am seeking that my sister and those  
13 who have received unfair distributions to return the money.

14 THE COURT: Okay.

15 MS. CURTIS: I would like them to pay back all of  
16 the interest that was lost on the securities that were cashed  
17 in during that 15 months and spent, diverted to other things.

18 THE COURT: All right.

19 MS. CURTIS: And I would like it to be divided five  
20 ways and for the five beneficiaries to go their separate  
21 ways.

22 THE COURT: And what have you been told, if  
23 anything, even today, if anything, that has prevented this  
24 from happening?

25 MS. CURTIS: I have been told nothing.

1 THE COURT: And you've talked with their counsel,  
2 have you not?

3 MS. CURTIS: Yes, I have.

4 THE COURT: And did you ask him about these  
5 questions or did you put these questions to him?

6 MS. CURTIS: No, I did not.

7 THE COURT: What were you asking? What was the  
8 nature of what you all were trying to accomplish as far as  
9 this injunction is concerned?

10 MS. CURTIS: We were trying to come up with a reason  
11 why we would not go forward with the injunction hearing. And  
12 I had five or six other alternative ways of resolving this.  
13 And he left the room to speak to his clients, and they would  
14 not agree to them.

15 THE COURT: What are you seeking now? What are  
16 those ways that you are seeking, and what is it that you want  
17 to happen here today?

18 MS. CURTIS: I wanted to have an independent trustee  
19 appointed.

20 THE COURT: All right. And that was refused.

21 Okay. What else?

22 MS. CURTIS: I wanted to know who, if any, special  
23 co-trustee was appointed as per this qualified beneficiary  
24 designation.

25 THE COURT: I'm sorry. Say that again.

1 MS. CURTIS: There was provision in the qualified  
2 beneficiary designation for a special co-trustee or a trust  
3 protector; and so, I suggested that maybe the trust protector  
4 take it over as the trustee.

5 THE COURT: All right. Okay.

6 MS. CURTIS: And the other reason was just similar  
7 to that. The Court could appoint an independent trustee who  
8 the defendants would have to obtain approval for any of their  
9 actions.

10 The Court could enjoin the trustees from acting  
11 without approval of the Court or express written approval  
12 from all five beneficiaries.

13 The Court could enjoin trustee from acting  
14 unless and until they can show they're in possession of  
15 authentic documents by submitting the documents purportedly  
16 signed on August 25, 2010 and December 21st, 2010 for a  
17 forensic analysis because the copies that we have have all  
18 been digitally altered and the signatures are fake.

19 THE COURT: Okay.

20 MS. CURTIS: I also asked originally if I could  
21 please know the identification and contact information for  
22 the trust protector, and I was told that the provisions for  
23 the trust protector were at section such and such in the  
24 qualified beneficiary designation, but I didn't get a  
25 straight answer.



1 THE COURT: So there is a document called "qualified  
2 beneficiary designation"?

3 MS. CURTIS: Yes, Your Honor.

4 THE COURT: And you do or do not have a copy of  
5 that?

6 MS. CURTIS: I do have a copy of it but not with me.

7 THE COURT: And you have been told that in -- when  
8 were you told this, today? When were you told where this  
9 provision about the special protector or co-trustee protector  
10 was located?

11 MS. CURTIS: In early 2012.

12 THE COURT: And you were told where to find it?

13 MS. CURTIS: I was told where to find the  
14 provisions, but I asked for the identity.

15 THE COURT: Okay. The identity of that person has  
16 not been given to you?

17 MS. CURTIS: That is correct, or if there even is.

18 THE COURT: If there is such a person.

19 All right. So that's what you're seeking in  
20 terms of your request for benefit -- for the injunction  
21 today; is that correct?

22 MS. CURTIS: Yes, Your Honor. I'm seeking that we  
23 stop the bleeding until we can get to the bottom of it.

24 THE COURT: Have you received any funds from the  
25 trust since 2010? I'm talking about since the death of your

1 mother.

2 MS. CURTIS: No, Your Honor. I have not.

3 THE COURT: You have made it known to -- have you  
4 communicated with your sister -- that's Anita, I believe --  
5 about that?

6 MS. CURTIS: I am not allowed to speak to Anita --

7 THE COURT: Why not?

8 MS. CURTIS: Except through her attorneys.

9 THE COURT: Well, that's untrue. That's your  
10 sister.

11 MS. CURTIS: Well, that's the way I feel about it,  
12 but I'm told I'm not allowed to speak to them, and they won't  
13 talk to me.

14 THE COURT: Who told you this? Who told you this,  
15 that you can't contact her?

16 MS. CURTIS: I inferred that from --

17 THE COURT: Did she tell you that, is what I am  
18 asking?

19 MS. CURTIS: No. She didn't tell me that because  
20 she hasn't spoken to me.

21 THE COURT: Well, have you tried to speak to her?

22 MS. CURTIS: Yes, Your Honor, I have.

23 THE COURT: What happens when you try to speak to  
24 her?

25 MS. CURTIS: I call. She doesn't answer. I leave a

1 voice mail, she doesn't call me back.

2 The same thing happened with my other sister  
3 Amy. I called and left a voice mail. She did not return my  
4 call. This was more than a year ago.

5 THE COURT: So they refuse to speak to you about  
6 this is what you are saying?

7 MS. CURTIS: Yes, Your Honor.

8 THE COURT: Go ahead and have a seat. Thank you.  
9 Counsel.

10 MR. VIE: Yes, Your Honor.

11 THE COURT: Why can't you come to some  
12 accommodation?

13 MR. VIE: Here's the situation. I just want to give  
14 you a little bit of background so that you understand in  
15 terms of the exhibits I put before you.

16 THE COURT: I don't have any exhibits yet. Well,  
17 some paper put up here.

18 Oh, the list. I see.

19 MR. VIEW: Yes, sir.

20 THE COURT: I haven't read these.

21 MR. VIE: Just to provide some assistance in  
22 answering your question, Your Honor. Exhibit 1 is a 60-or-so  
23 page document. That is the family trust document.

24 THE COURT: All right.

25 MR. VIE: And on page 1 of the document it says that

1 her father and mother had created a trust, it's an  
2 irrevocable trustee, and that the initial trustee shall be  
3 Anita Kay. So, Anita is the trustee under this document.

4 Because you heard a lot about this qualified  
5 beneficiary designation.

6 THE COURT: No. I heard about the co-trustees.

7 MR. VIE: So I wanted the Court to understand that  
8 this document --

9 THE COURT: Let me ask so we don't go down a rabbit  
10 trail. Was there a point in time when Carl was the  
11 co-trustee?

12 MR. VIE: I'm sorry?

13 THE COURT: Was there a time when Carl, the brother,  
14 was the co-trustee?

15 MR. VIE: I don't know if that -- I don't know with  
16 respect to this document if that's correct or not.

17 I understand that at one point there was a  
18 communication from the mother where she considered other  
19 family members serving in her role. But the documents that I  
20 have given you, the second exhibit that I have given you is  
21 where with respect to the mother's living trust while she was  
22 alive, she decided to have Anita appointed as her successor  
23 trustee instead, and then they created this certificate of  
24 trust.

25 THE COURT: That would have been relative to the

1 entirety of the irrevocable trust or was it simply her  
2 portion of the assets?

3 MR. VIE: It was with respect to the living trust  
4 that was created when she --

5 THE COURT: No, no, no. Here's what I am saying.  
6 The father is now deceased.

7 MR. VIE: Yes.

8 THE COURT: His wife entered into a irrevocable  
9 trust, and either he leaves all of you that in the trust to  
10 her benefit or his share goes into some other, goes into a  
11 trust for the children at that point.

12 So what happened?

13 MR. VIE: The father and mother created the  
14 irrevocable trust, which I have identified as Exhibit 1.

15 THE COURT: Okay.

16 MR. VIE: When the father died, his assets went into  
17 this living trust where their mother had assets to the  
18 living -- there was a sub trust created, a successor trust  
19 and a decedent's trust. The mother had that.

20 THE COURT: So she has all of the assets at that  
21 point?

22 MR. VIE: Yes. And the mother was able to make  
23 gifts and did make gifts to a number of the family members.  
24 So when the plaintiff was referencing the \$13,000 gift that  
25 she received and the others, these were gifts that her mother

1 while alive had directed. And my client Anita, as the  
2 successor trustee under this appointment, Exhibit 2, would  
3 make those transactions occur. But these were gifts from the  
4 mother.

5                   And then the mother dies, and this irrevocable  
6 trust --

7                   THE COURT: And did the mother die, according to  
8 what Ms. Curtis is saying, in December more or less, I guess?

9                   MR. VIE: November of 2010, Your Honor.

10                  THE COURT: November of 2010, okay.

11                  MS. CURTIS: 2011.

12                  THE COURT: 2011.

13                  MR. VIE: 11-11-2011.

14                  THE COURT: Right.

15                  MR. VIE: After that point, then Anita as trustee  
16 prepares a schedule of the estate, the context of the mother,  
17 and that money was going into the family trust; and that's  
18 one of the exhibits that she's attached.

19                  THE COURT: Well, wait a minute. What money is  
20 going into the family trust? Because now this trust, the  
21 trust that exists that is handling all this is the mother's  
22 living trust, right?

23                  MR. VIE: No, Your Honor. When she died, the living  
24 trust no longer exists.

25                  THE COURT: Oh, obviously.

1                   But before that, all of the assets were going  
2 into the living trust for the mother.

3                   MR. VIE: Right.

4                   THE COURT: And now the mother dies in November of  
5 2011, and then what happens?

6                   MR. VIE: Then we have the family trust, and there  
7 is created again a sub trust of a survivor's trust and the  
8 decedent's trust.

9                   THE COURT: And the family trust now reverts back to  
10 the irrevocable trust?

11                  MR. VIE: Yes, Your Honor.

12                  THE COURT: And in the irrevocable trust or in that  
13 trust there is a provision that says how those, how that  
14 trust is to be divided into five distinct trusts for the  
15 children?

16                  MR. VIE: My understanding is that there is a  
17 document under this complicated plan by which each of the  
18 individual beneficiaries, the five children, the four  
19 daughters and the son, they would have these asset trusts.  
20 Those trusts have not been created.

21                  THE COURT: Well, I am asking whether or not as a  
22 part of the -- as to your understanding, you have read it, is  
23 that a part of what the family trust required as far as you  
24 know? You said there's a document like it's some separate  
25 thing.

1 MR. VIE: Well, there's a -- I understand, Your  
2 Honor.

3 It's a rather long document. I understand and  
4 agree we are that the conclusion of this trust now at this  
5 point is to divide the assets to the five beneficiaries, and  
6 then each of their assets go into these asset trusts.

7 THE COURT: Separate and distinct from each other  
8 and for the benefit of each of the designated beneficiaries.

9 MR. VIE: Yes.

10 And as the plaintiff suggested, I believe the  
11 situation is that her trust, for example, she is not a  
12 trustee. One of her siblings is the trustee.

13 THE COURT: Even after it's divided off and given to  
14 her?

15 MR. VIE: Yes. And in these asset trusts, other  
16 members --

17 THE COURT: So someone who has a trust, like Anita  
18 herself, would have her own separate and distinct assets?

19 MR. VIE: Yes, sir.

20 THE COURT: And she'd be in charge of her own  
21 assets?

22 MR. VIE: No, no. There would be -- somebody else  
23 would be the trustee.

24 THE COURT: Of all of these five trusts?

25 MR. VIE: Yes -- no, of each.



1 THE COURT: Who is "someone else?" I mean --

2 MR. VIE: Well, for example, Carl's could be Anita  
3 and Amy's could be Carole.

4 THE COURT: But the documents say how this happened,  
5 though.

6 MR. VIE: These trusts have not been created yet.  
7 There has been no distribution.

8 THE COURT: I understand that. You are telling me  
9 that, but I am trying to find out whether or not the creation  
10 of these trusts require these beneficiaries to have someone  
11 else in charge of their money.

12 MR. VIE: That is my understanding. And she can  
13 correct me if I am wrong, and my clients can correct me as  
14 the trustees if I'm wrong.

15 THE COURT: So Anita -- somebody would be in charge  
16 of Anita's?

17 MR. VIE: Yes. That's right.

18 THE COURT: And then somebody else would be -- and  
19 Anita would be in charge of somebody else's?

20 MR. VIE: That's my understanding.

21 THE COURT: And these kids -- and they're not kids  
22 anymore, but these five siblings would be at each other's  
23 throats for the rest of their lives because --

24 MR. VIE: No. They'd each have their own --

25 THE COURT: Well, no. They got them, but they're

1 not in charge of it, is what I understand.

2 MR. VIE: All right.

3 THE COURT: That's what I am trying to say. In  
4 other words, I'd have to call my sister to get my money.

5 MR. VIE: What I know about the asset revocable --  
6 the asset trust is they have not been created yet.

7 As the Court heard, there are two lawsuits.  
8 There is this lawsuit and there is her brother's lawsuit. We  
9 are not parties to her brother's lawsuit. Her brother's  
10 lawsuit is brought in his capacity as the executor of his  
11 father's and mother's estates. It's in Harris County  
12 District Court. We're not parties to it.

13 THE COURT: Well that would be either the product of  
14 a will being probated --

15 MR. VIE: Yes, sir.

16 THE COURT: -- or it would be the product of an  
17 intestate proceeding. Which is it?

18 MR. VIE: The will has been probated.

19 THE COURT: So there is a will probate separate and  
20 apart from the trust?

21 MR. VIE: Yes, Your Honor.

22 THE COURT: And how does that overlay on the trust  
23 since all of the assets are in the trust?

24 MR. VIE: Well, I don't know that it overlays; but  
25 what I am trying to suggest to the Court is: One, since the

1 mother died, there has been no distributions to anyone,  
2 not --

3 THE COURT: I get that. I am trying to figure  
4 out --

5 MR. VIE: Since you haven't seen the distribution, I  
6 wanted the Court to understand that no one has.

7 THE COURT: But somebody got some money out of it or  
8 there has been a loss in value to the trust itself.

9 MR. VIE: She says that the stock that was invested  
10 with the brokerage houses may have lost money, is one of the  
11 things that she suggested in her motion.

12 THE COURT: Right.

13 MR. VIE: My point was to suggest that there has  
14 been no distributions since the mother died from the trust  
15 that Anita is the trustee for to anyone.

16 THE COURT: And you said the one that Anita is in  
17 charge of. What is Anita in charge of?

18 MR. VIE: Exhibit 1.

19 THE COURT: Okay. The entirety?

20 MR. VIE: Yes, sir.

21 THE COURT: That's what I am trying to get to.

22 MR. VIE: Yes.

23 THE COURT: Okay.

24 MR. VIE: And it's unlikely there will be any  
25 distributions until both this suit is resolved and her

1 brother's suit that he brought.

2 THE COURT: Well, this suit might resolve it.

3 That's not their concern.

4 But what I am trying to find out is whether or  
5 not in the -- the question I was trying to get back was in  
6 the Carl's suit, I guess in probate court, whether or not  
7 that suit, which did not come up in the responses in the way  
8 that I understood it, whether or not that suit that impact  
9 whether or not this Court should be proceeding with this  
10 trust.

11 MR. VIE: No, Your Honor.

12 THE COURT: So it's separate and apart since the  
13 probate's completed.

14 MR. VIE: The probate has been filed. The suit is  
15 brought by him in his capacity as executor.

16 THE COURT: Is he without bond and independent?

17 MS. CURTIS: Yes.

18 MR. VIE: He's an independent executor. He is  
19 bringing the suit against the attorneys.

20 THE COURT: So he doesn't need to do anything else  
21 other than file it and do this accounting and all of that and  
22 then do whatever the will tells him to do.

23 MR. VIE: The litigation that he has brought is  
24 against the attorneys that created these trusts.

25 THE COURT: That's not even -- that's separate and

1 distinct from this lawsuit.

2 MR. VIE: Okay.

3 THE COURT: And it's separate and distinct from the  
4 estates because that's a malpractice lawsuit.

5 MR. VIE: Yes, sir.

6 THE COURT: Okay. So I am not concerned about that  
7 at all.

8 I was trying to make sure when he brought his  
9 suit, he was not simply arguing that somehow Anita had  
10 finagled her way into this position and she had squandered  
11 certain assets and then we've got these parallel lawsuits.

12 MR. VIE: I understand, Your Honor. And that was my  
13 point as well was to let you know that we are not parties to  
14 that litigation, it's not a claim in that litigation as the  
15 claims are --

16 THE COURT: And neither is the plaintiff here a  
17 party to that litigation.

18 MR. VIE: That is correct, Your Honor.

19 THE COURT: Okay.

20 So, the only suit that's pending dealing with  
21 the assets of these parent's estate is this lawsuit.

22 MR. VIE: Yes, Your Honor.

23 THE COURT: All right.

24 So what the plaintiff is saying on page 3 of  
25 her petition having to do with the December dates of 10, 12

1 and so on and what she considered to be "losses of the  
2 estate" are losses that I gather are decreases in assets that  
3 would be attributable to movement in the market.

4 MR. VIE: That is the specific. And, Your Honor,  
5 you are referring to the complaint or to the motion that has  
6 been filed for temporary relief?

7 THE COURT: I'm looking at the motion right now.  
8 That should be Instrument No. 35.

9 MR. VIE: Yes. With respect to that, there is an  
10 argument being made there that there has been a loss and it  
11 is the result of the investment of the securities.

12 THE COURT: You made a comment earlier that until  
13 the other lawsuit and this lawsuit is resolved. That lawsuit  
14 has nothing at all to do with the resolution of this estate.

15 MR. VIE: Well, I --

16 THE COURT: I'm telling you that.

17 MR. VIE: Okay.

18 THE COURT: There is nothing that should -- there is  
19 nothing going on in Carl's suit that prevents these parties  
20 from following what they have been instructed to follow in  
21 the trust document.

22 MR. VIE: Okay. I understand if that's the  
23 Court's direction.

24 THE COURT: Is there something that I am missing?

25 MR. VIE: Not that I am aware of, Your Honor.

1 THE COURT: That's a malpractice suit. And they  
2 get some money out of it, either he gets it or maybe he  
3 distributes it among his brothers and sisters, but it doesn't  
4 have anything to do with the distribution of this estate.

5 MR. VIE: My understanding -- the reason that I  
6 understood the case to be differently is that I understood  
7 that the purpose of the litigation that he had brought in  
8 state court was claiming that the attorneys who created these  
9 trusts had done so improperly so that we were in a situation  
10 in which we are here before this Court, and the Court is  
11 suggesting we should wind this thing up and distribute to all  
12 the beneficiaries.

13 THE COURT: It's going to be wound up. It's going  
14 to be wound up in this court.

15 Here's what I'm suggesting. I am suggesting  
16 that this will not become a feast and famine, feast for the  
17 lawyers and famine for the beneficiaries in this Court where  
18 we are sitting around churning the time out and the parties  
19 are charging out of that lawsuit, defense of that lawsuit,  
20 which you are not doing, apparently, unless -- are you the  
21 lawyer that created the trust?

22 MR. VIE: No, Your Honor.

23 THE COURT: So that's a separate law firm.

24 MR. VIE: Yes, Your Honor.

25 THE COURT: Yeah. So there is no reason for you to

1 be or your firm to be involved in the expenditure of that, of  
2 monies out of that lawsuit.

3 MR. VIE: And we aren't, Your Honor.

4 THE COURT: And there is no reason for Ms. Curtis to  
5 be concerned about spending money out of her assets for that  
6 lawsuit.

7 MR. VIE: Understand.

8 THE COURT: So, you can distribute what you got  
9 whether you get some more or not. It doesn't require -- this  
10 is not a probate where you got to gather everything together  
11 because everything is together.

12 MR. VIE: Okay.

13 THE COURT: The entire estate is together.

14 MR. VIE: Yes, Your Honor.

15 THE COURT: And if there is a lawsuit, and it's  
16 questionable whether or not Curtis has a lawsuit or not  
17 because he wasn't the creator and the payor for that creation  
18 of that trust.

19 So, the point I am making is, obviously he had  
20 no contractual relationship with the firm, and it's going to  
21 be seriously flawed -- seriously difficult for him to sue for  
22 malpractice when he wasn't -- when there is no  
23 attorney/client relationship.

24 MR. VIE: Understood, Your Honor.

25 THE COURT: So, the point I'm getting to here is



1 under this trust that is situated here, what my plaintiff,  
2 Ms. Curtis, I believe is saying is that she is, these assets  
3 are not being distributed, and she's of the opinion that  
4 there is something untoward going on, whether that's true or  
5 not.

6 MR. VIE: Yes, Your Honor.

7 THE COURT: And that there is no reason why she  
8 should be standing out in the field trying to get information  
9 about this trust and the distribution of these assets when  
10 she is equally entitled to any and all information just like  
11 Anita or anybody else.

12 MR. VIE: I understand that.

13 THE COURT: So, what is it then that prevents these  
14 parties from right now settling this suit?

15 MR. VIE: From settling it?

16 THE COURT: Yes. All they got to do is distribute  
17 the assets.

18 MR. VIE: Two things, Your Honor. And it's just my  
19 observation, because obviously the Court does not have to  
20 agree with me.

21 THE COURT: Sure.

22 MR. VIE: I provided the underlying documents that  
23 support the schedule that the plaintiff has attached to this  
24 motion for temporary relief. I have given her yesterday, in  
25 response to her request for production, some 5,000 pages.

1                   She has told me that she wants to examine  
2 those, all of those underlying documents, stock transfers,  
3 checks and everything else.

4                   You have heard from the plaintiff that she  
5 believes this very instrument is false.

6                   THE COURT: "This very instrument" meaning the  
7 family trust?

8                   MR. VIE: Family trust. That it's a forgery or that  
9 documents have been forged.

10                   And I have offered, in response to the request  
11 for production, to make the originals, which I understand the  
12 trust attorney, those attorneys in the other lawsuit, to make  
13 those available for inspection and copying so that she can  
14 see them and satisfy herself that the underlying trust is in  
15 fact a legal and appropriate trust.

16                   THE COURT: Okay.

17                   MR. VIE: So that was one of the --

18                   THE COURT: And that the signatures have not been  
19 forged or at least they're original signatures.

20                   MR. VIE: Yes. In other words, one problem of  
21 trying to settle the disposition of the trust today is that  
22 the plaintiff disputes the accuracy of the accounting and the  
23 accuracy and legitimacy of the trust.

24                   THE COURT: Right.

25                   MR. VIE: And so, that was one issue.

1           The second issue, respectfully, is that I  
2 understood that given that the Harris County litigation  
3 contested the accuracy and validity of the trust, that again  
4 there was a risk of inconsistent positions if we were to  
5 treat the trust as valid and fund this while they litigated  
6 over in Harris County.

7           THE COURT: They don't have jurisdiction over there.  
8 I do. That's what the circuit court has told me. And that's  
9 the part that you said I might disagree; and you're right, I  
10 do.

11           I would not sit here and wait on somebody  
12 Harris County to figure out whether or not they have  
13 jurisdiction over an issue, which they do, but they don't  
14 have jurisdiction of the assets.

15           MR. VIE: I wasn't thinking as much of the  
16 jurisdiction, Your Honor, as I was thinking of the risk of  
17 inconsistent judgments. In other words --

18           THE COURT: Not if I get it resolved, there won't be  
19 any inconsistent to resolve.

20           If they get it resolved, then it probably won't  
21 be inconsistent because I'm obligated and then obliged to  
22 follow at least theoretically the findings of any court of  
23 competent jurisdiction.

24           MR. VIE: Yes, Your Honor.

25           And the third issue, which I don't think would

1 give the Court pause but is something I thought of, is the  
2 fact that all the beneficiaries are not parties to this  
3 litigation.

4 THE COURT: That won't bother me at all because I do  
5 have authority and jurisdiction over the person who you tell  
6 me has the duty and the responsibility to act.

7 MR. VIEW: So those are my --

8 THE COURT: That's it.

9 So, I want this resolved within 90 days. And  
10 if I have to appoint a trustee or somebody to handle this  
11 and get it done, I'll do it. It will cost the estate. And  
12 if I find that there has been mischief, it is going to cost  
13 individuals. And that will be a separate and distinct  
14 hearing.

15 So what I am telling the parties, and I am  
16 saying to you and to all those who have ears to hear, that  
17 this matter is going to get resolved. It's not going to turn  
18 into one of these long, drawn-out episodes like the ones we  
19 see on TV that go on for years where lawyers make money and  
20 people walk away broke.

21 MR. VIE: Yes, Your Honor.

22 THE COURT: Who is doing the accounting in this  
23 process? Has anybody put their arms around the assets and  
24 made any accounting at all?

25 MR. VIE: There is a CPA in Iowa that prepares the

1 tax returns each and every year for the estate, and we are  
2 getting --

3 THE COURT: How they get in Iowa? Is that where the  
4 family was from originally?

5 MR. VIE: The parents, yes, Your Honor. And the  
6 farm, as you heard, is in Iowa.

7 THE COURT: Okay.

8 MR. VIEW: And so, there is a CPA who has been  
9 involved throughout this period and files the trust income  
10 tax returns, and he is available.

11 MS. CURTIS: I object to that.

12 THE COURT: Hold on.

13 Go ahead.

14 MR. VIE: I think I have answered the Court's  
15 question.

16 THE COURT: Yes.

17 MR. VIEW: And would have the most, would have the  
18 best familiarity beyond --

19 THE COURT: How much money does he generally charge  
20 for his annual -- I guess he does his annual filings of  
21 reports. Is this something that's pretty cursory or --

22 MR. VIEW: I'm sorry. And there is a distinction.  
23 The documents that are attached as the schedule in that  
24 accounting that are attached to the motion that has been  
25 filed for injunctive relief, temporary schedules.

1 THE COURT: Those were prepared?

2 MR. VIE: By the defendant, by Anita in her capacity  
3 as trustee.

4 THE COURT: Okay.

5 MR. VIEW: I was responding to the Court's question  
6 in terms of who's the best person that could get their hands  
7 around it and that type of thing.

8 The CPA in Iowa obviously has to know all of  
9 the information available to the trust so that he can file  
10 the tax returns. He also pays and makes sure that the  
11 profits --

12 THE COURT: Then that might not be a good thing for  
13 me because I don't have jurisdiction over him.

14 MR. VIE: Okay.

15 THE COURT: But what I wanted to know was whether or  
16 not there was a person here locally, since I believe the  
17 defendants are here locally. They don't have a local CPA who  
18 is in charge of the estate.

19 MR. VIE: That's correct, Your Honor.

20 THE COURT: That would be Anita herself.

21 And then as far as the tax returns and all that  
22 annually which goes on, whether you got money or not, that  
23 would be done by the accountant in --

24 MR. VIE: Sioux City, Iowa.

25 THE COURT: Yeah, in Iowa.

1                   And excuse me. What were you about to say?  
2 You disagree with what, Ms. Curtis?

3                   MS. CURTIS: I disagree with allowing Rick Rickers,  
4 who is --

5                   THE COURT: Is that the attorney?

6                   MS. CURTIS: -- our cousin. He's the accountant in  
7 Iowa.

8                   THE COURT: He's your cousin?

9                   MS. CURTIS: He's our cousin.

10                  THE COURT: Okay.

11                  MS. CURTIS: He is also apparently the manager of  
12 the farm, and he began to file the tax returns --

13                  THE COURT: I've already said probably enough to  
14 give you some pause, to allay those concerns. But these are  
15 other reasons why he should not be doing accounting. He has  
16 a conflict of interest.

17                  MS. CURTIS: One reason why he should not be doing  
18 the accounting is because I have reason to believe that the  
19 farm lease, taking it away from the buyers, who were my  
20 father's very close friends, was notarized with a signature  
21 that was not my father's. I have not been able to look at  
22 that yet. I only have emails that purport that, but I would  
23 like to get copies of those.

24                  THE COURT: Let me address a couple of things.

25                               First of all, when we don't have information,

1 we can imagine a lot of things that may or may not be true,  
2 Okay?

3 MS. CURTIS: Yes.

4 THE COURT: That could be. I mean, all kind of  
5 thoughts and ideas go through our head when they don't have  
6 the information.

7 Here's what this Court cannot do. This Court  
8 cannot chase after each of your concerns. You have got  
9 enough money, you can hire anybody you want to do any kind of  
10 investigation you want done.

11 What I intend to do based upon the mandate from  
12 the circuit court is to try to address the concerns that you  
13 have. And they just can't be accusations, and I don't have  
14 any interest -- when I say I don't have any interest, I have  
15 an interest in outcomes, but I don't have an interest in the  
16 case so that I'm supposed to be doing things that would  
17 accomplish something for you except upon your filed  
18 documents. It's in your best interest, and I think I talked  
19 to you on the phone conference --

20 MR. VIE: Yes.

21 THE COURT: -- with both of you on the phone as  
22 well, that really this is not a matter that you should be  
23 trying to handle yourself. You should hire an attorney to do  
24 it for you, or at least part of it for you.

25 Now, I believe that it's in the Court's best



1 interest to preserve the assets of the estate and to bring to  
2 a point a going-forward process that this Court appoint  
3 someone to do an accounting of the assets and then make that  
4 accounting to the Court.

5           Now, you don't have to agree with me, but it's  
6 going to be an accounting of what the assets are. Whether  
7 something has been taken or mismanaged or mishandled is not  
8 going to be a part -- that's not the kind of accounting  
9 that's going to go on here.

10           What is, and that is what's invested, where  
11 it's invested and how it's invested is going to be the  
12 Court's concern. Once that accounting is in place, the  
13 question is whether or not the Court is going to be required  
14 or whether or not Ms. Brunsting will go forward in her  
15 capacity or not.

16           If she fails, then the Court will direct or put  
17 someone else in that position to do that, to move into this  
18 area or division so that the assets can be distributed or  
19 whatever beneficiaries. That's where I am in this case, and  
20 that's where the circuit court I believe has me. So I think  
21 it's in all of our best interest to appreciate this process.

22           In light of that, the Court is of the opinion  
23 that there are no expenditures that should be made unless  
24 they're made upon the approval of the Court. So, in other  
25 words, if Mr., up in Utah --

1 MR. VIEW: Iowa.

2 MS. CURTIS: Rickers in Iowa.

3 THE COURT: Mr. Rickers needs to pay the farmer. We  
4 used to call those sharecroppers sort of. It's a kind of a  
5 sharecropper thing where someone comes in farms the land and  
6 you get a percentage of it. If Mr. Rickers and the  
7 sharecroppers and others need to pay out bills and things,  
8 they should be petitioning the Court for that. That's where  
9 we are now.

10 We're at a point where I'm going to have to  
11 take charge in order to make sure that what I am doing has  
12 sanctity and has, well, trust going forward. What I am going  
13 to do is simply to try to make sure that the parties are all  
14 going to have equal standing and footing in this process. So  
15 that's part of what I am going to do. I'm going to enter an  
16 injunction in that regard.

17 Now, anybody who claims they want to bill the  
18 estate for something, whether it's lawyers or not, I am  
19 concerned about whether or not your bill should be paid by  
20 the estate because of this circumstance.

21 MR. VIE: I understand.

22 THE COURT: If the parties are going to agree, if  
23 the parties are going to come together and agree that your  
24 fee should be paid, then we should then move to a situation  
25 where we have a mediator in place or a designee in place who

1 will then make sure that if Ms. Curtis needs counsel, she can  
2 get that. That equally would be paid out of the estate.

3           It would not include Curtis because I am not  
4 going to be involved in the litigation of whether or not this  
5 is a good trust or not. I'm going to presume that it's a  
6 good trust, and I am going to go forward from there. If  
7 Curtis proves otherwise, he can get that money from the  
8 lawyers, and that would be certainly to his advantage or  
9 benefit.

10           MS. CURTIS: Are you talking about my brother Carl?

11           THE COURT: Yes. I said Curtis. I meant Carl. I  
12 apologize. You can see I'm struggling here.

13           MS. CURTIS: Too many C's.

14           MR. VIE: For the record, is it 90 days, Your Honor?

15           THE COURT: Yeah. I said we should try to wrap this  
16 up in 90 days, but I believe that if I appoint -- and you can  
17 suggest someone. I don't know if you know someone. Just  
18 give me a couple names. If not, I will designate someone to  
19 do this and enter an order to that effect.

20           It may be that because of the lack of trust  
21 that it may not need to be, unless both of you are  
22 designating somebody that you can agree upon, it may be  
23 better for me to have some person independent of the sides  
24 unless you all can agree upon the person or firm that should  
25 take care of this business.

1 MR. VIE: So we will get together and try to arrive  
2 at an agreed CPA that could provide the accounting the Court  
3 requests.

4 THE COURT: Sure. And we have a lot of them here in  
5 Houston just like we got -- I don't know anybody in  
6 California, but I want somebody I have got some jurisdiction  
7 over.

8 MR. VIEW: So if we're unable to do so we'll notify  
9 the Court we were unable to reach an agreement?

10 THE COURT: Sure. And you need to do that by the  
11 end of the week.

12 MR. VIEW: Yes, Your Honor.

13 THE COURT: You are going to be here what, today?

14 MS. CURTIS: I leave at 4:00 o'clock.

15 THE COURT: 4:00 o'clock today. Well, then you need  
16 to talk fast and see if you all can agree. Maybe you should  
17 talk over lunch. That way you can kind of size each other  
18 up. Eating together sometimes brings out good things.

19 And so, if you will do that by the end of the  
20 week, I will then prepare an order entering a temporary  
21 retraining order against the expenditure of any funds.  
22 Notice will be not just to you but to you in terms of Anita  
23 because I think she holds the purse in this situation. If  
24 there is any money to be paid to anybody up in Utah or  
25 anyplace else, she would be person who would authorize it or

1 do it.

2                   The accountant isn't do it, as I understand it,  
3 right?

4           MR. VIE: No. He is just preparing the necessary  
5 documents.

6           THE COURT: Right. So the purse strings here in  
7 Houston, she can certainly prepare through you whatever  
8 documents are necessary for parties to be paid.

9           MR. VIEW: Yes, Your Honor.

10          THE COURT: And then hopefully that report can get  
11 done in 30 or 40 days, and then we can have a hearing. If  
12 there is some dispute about summary areas of the report, we  
13 can have a hearing about that. If there is a memorandum or  
14 recommendation as relates to how to go forward with this  
15 "asset trust," that is the distribution, we can do that.

16                   If the parties can reach an accommodation as to  
17 how those assets ought to be dealt with, how silent a trust  
18 and they all sign off on it, we can do that. It's just a  
19 matter of how you want to do it. The trust is not going to  
20 control unless you want it to control at this point.

21           MR. VIE: Yes, Your Honor.

22          THE COURT: Under the circumstances, it seems to me  
23 there's going to be a continuous bickering and mistrust.

24                   Anything else?

25           MS. CURTIS: No, Your Honor.

1 MR. VIEW: No, Your Honor.

2 THE COURT: Let me have Ms. Anita Brunsting come  
3 forward.

4 Good morning. Did you drop something on your  
5 foot?

6 MS. BRUNSTING: I broke my foot.

7 THE COURT: Raise your right hand.

8 Do you solemnly swear or affirm that any  
9 testimony you will give in this case will be the truth, the  
10 whole truth, nothing but the truth so help you God?

11 MS. BRUNSTING: I swear.

12 THE COURT: You've heard the discussion here in the  
13 courtroom, have you not?

14 MS. BRUNSTING: (Indicating in the affirmative.)

15 THE COURT: And I know that you have got counsel,  
16 and you can speak with him about the implications and  
17 concerns that the Court has about making sure that the assets  
18 are accounted for. And you certainly can work through him on  
19 any matters that you need to address to the Court. And, of  
20 course, counsel understands that he is to communicate both  
21 with the Court and with Ms. Curtis on any matters that he is  
22 presenting to the Court.

23 Is there any question about anything I have  
24 said -- I don't mean disagreement because you can certainly  
25 disagree with me about anything -- but is there any question

1 that you might have about anything I've said that you need me  
2 to answer, or certainly you have your attorney present.

3 MS. BRUNSTING: I need the trust account to pay.  
4 I've got the forms from the CPA. Can I move forward on that?

5 THE COURT: I think you should probably file a short  
6 motion and simply serve a copy of it on opposing counsel, Ms.  
7 Curtis, and forward it with a short order to me, and that  
8 wouldn't be a problem. This should be based upon the tax  
9 forms.

10 MR. VIE: Yes, sir.

11 And in terms of notice to the Court -- I'm  
12 sorry, not notice to the Court, the Court directing notice,  
13 do I notify the other beneficiaries?

14 THE COURT: Absolutely.

15 MR. VIE: Okay.

16 THE COURT: Even though they're not a party, they  
17 are beneficiaries and we should keep them in the loop.

18 MR. VIEW: I just wanted to bring that up.

19 THE COURT: Yeah. Should be in the loop because it  
20 doesn't make sense for us to have to go back and pull them  
21 forward a month.

22 MR. VIE: I will prepare appropriate submissions for  
23 payments that I would like. If the Court will approve it,  
24 then the trustee will make the payments.

25 THE COURT: Are these to be paid on or before April

1 15th or is there another cycle?

2 MS. BRUNSTING: No, by April 15th.

3 THE COURT: All right. So either they will get to  
4 me on Thursday or whatever, and I'll sign off on them, on the  
5 motion and the order, and that shouldn't be a problem.

6 You are not going to have to liquidate any  
7 assets to deal with that, are you?

8 MS. BRUNSTING: No. We have a checking account with  
9 enough that I can pay it.

10 THE COURT: Right.

11 MS. BRUNSTING: What about any incoming? The farm  
12 is rented, so we get a check twice a year.

13 THE COURT: Your function and role is to make those  
14 deposits as they come in.

15 MS. BRUNSTING: So I can continue to deposit them?

16 THE COURT: Continue depositing. All I am trying to  
17 do is control the outgo. What comes in as an expense is what  
18 counsel needs to see, and they have a proper and appropriate  
19 motion.

20 And if these things come in -- if this is a  
21 once a month kind of sit down and write out the bills kind of  
22 thing, then that's the way he should probably handle it. At  
23 some point just sit down and you prepare a list of things  
24 that you need to have done and certainly provide the forms or  
25 whatever you need.



1 MR. VIE: Yes, Your Honor.

2 MS. BRUNSTING: Okay.

3 THE COURT: All right. Thank you very much.

4 All right, counsel. That's all I have. And  
5 I'll prepare an order and get it out perhaps by tomorrow  
6 afternoon. There should not and in my opinion will not need  
7 to be a bond posted. These are parties of equal status as it  
8 relates to the assets, so no bond is going to be required.

9 I think, Ms. Curtis, you need to follow my  
10 advice. At some point consider getting an attorney, someone  
11 you trust to work with you, all right.

12 Okay. Thank you very much.

13 MR. VIE: Thank you, Your Honor.

14

15 (Conclusion of Proceedings)

16

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## CERTIFICATION

1  
2  
3  
4  
5 I, Fred Warner, Official Court Reporter for the  
6 United States District Court for the Southern District of  
7 Texas, Houston Division, do hereby certify that the foregoing  
8 pages 1 through 53 are a true and correct transcript of the  
9 proceedings had in the above-styled and numbered cause before  
10 the Honorable KENNETH M. HOYT, United States District Judge,  
11 on the 9th day of April, 2013.

12 WITNESS MY OFFICIAL HAND at my office in Houston,  
13 Harris County, Texas on this the 5th day of August, A.D.,  
14 2013.

15  
16  
17  
18  
19 \_\_\_\_\_  
20 Fred Warner, CSR  
21 Official Court Reporter  
22  
23  
24  
25

RV

**DATA-ENTRY  
PICK UP THIS DATE**

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7/20/2015 3:36:36 PM  
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Harris County

NO. 412.249-401

PROBATE COURT 4

*No service Requested*

ESTATE OF § IN PROBATE COURT  
 NELVA E. BRUNSTING, § NUMBER FOUR (4) OF  
 DECEASED § 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

CARL HENRY BRUNSTING'S MOTION FOR PROTECTIVE ORDER

TO THE HONORABLE JUDGE OF SAID COURT:

07222015:0819:10134

UNOFFICIAL COPY

COMES NOW Drina Brunsting, as attorney-in-fact for Carl Henry Brunsting, individually, filing this Motion for Protective Order with regard to improper audio and video recordings produced by Anita Brunsting (“Anita”), as well as additional recordings obviously still in the possession of Anita, Amy Brunsting (“Amy”), Carole Brunsting (“Carole”), and third parties to whom the recordings have been disclosed. In support of this motion, Carl would show as follows:

1. When Anita became trustee, Carl was excluded from distributions from his parents’ trusts. In fact, Carl’s entire family was even excluded from discussions concerning the trusts. But both Carole<sup>1</sup> and Candy told Carl and Drina about what appeared to be improper actions that had been taken. So, on March 9, 2012, before Carl ever filed this action, he requested information pursuant to Tex. R. Civ. P. 202.

2. One thing which had been revealed to Carl was the placement of a GPS tracking device on his wife Drina’s car without her knowledge by an investigator hired to follow her. Carl suspected that recordings had also been made of conversations between one or more of the Defendants and either Carl or Drina, so copies of recordings were also requested in 2012. In light of the GPS tracking device placed on Drina’s car, perhaps it should not be—but it still is—a surprise to learn just how far the recordings went. The recordings, at least the ones which have only recently been produced, included recordings of telephone conversations made without the consent of *either* party to the conversation.

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<sup>1</sup> At various times, Carole has taken different positions on whether there was wrongdoing and by whom. It is pretty obvious what causes Carole’s changes of heart. Despite complaining about Anita’s efforts to gain control over the trusts, Carole made video recordings from Carl’s hospital room in late May, 2011 and sent them to Anita and Amy. It can not be a coincidence that on June 15, 2011, Carole received a transfer from Anita of 1325 shares of Exxon Mobil stock. Likewise, it can not be a coincidence that Carole stopped complaining about Anita. This stock transfer, among others, is the subject of Carl’s Motion for Partial Summary Judgment.

3. In addition to emails between the Brunsting family members, included among the items Carl sought from Anita, Amy, and Carole in March, 2012 were:

- All audio or video recordings of meetings, conversations, telephone messages, or other communications with Elmer, Nelva, or any of the Brunsting Descendants<sup>2</sup> concerning Brunsting Issues,
- All audio or video recordings of Nelva's execution of any documents.
- All audio or video recordings of evaluations of Nelva's capacity,
- All other audio or video recordings of any Brunsting family member, and
- All investigations made of any Brunsting family member, including any surveillance logs or reports.

4. When Carl made his Rule 202 filing, Anita and Amy hired an attorney, Bernard Mathews, who obtained a continuance of the hearing on Carl's Rule 202 requests by providing Anita's unsupported summary of trust activity and agreeing to provide, on a voluntary basis, what was being sought. Mr. Mathew's email dated April 11, 2012 about obtaining the information sought is attached as Exhibit 1. Mr. Mathews indicated in discussions with Carl's counsel that everything in his clients' possession which had been requested would be turned over. Six days later Mr. Mathews was fired. Attached as Exhibit 2 is the email by which Carl's counsel was notified there would be a change of counsel.

5. Thereafter, when Anita and Amy retained Mills, Shirley LLP as their new counsel, the Rule 202 hearing was again continued as to Anita and Amy, at their new counsel's request, so

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<sup>2</sup> "Brunsting Descendants" was defined in the document to include Candace, Carole, Carl, Amy, Anita, and the children and grandchildren, if any, of Candace, Carole, Carl, Amy, and Anita.

that information could continue to be gathered. The issue of Carole providing information was not delayed further, however, and an order requiring Carole to provide her information was signed on May 18, 2012.

6. While some documents were ultimately provided by Anita, Amy, and Carole, including a number of boxes made available for review at Mills, Shirley's offices in Galveston, very few emails were produced and no one produced any recordings or investigator's reports. Amazingly, on September 9, 2014 even though actively trying to negotiate a settlement in the case, Mills, Shirley suddenly sought to withdraw from its representation of Anita and Amy claiming that "a conflict had arisen between the parties and the attorneys." The Mills, Shirley withdrawal was allowed on September 18, 2014. At that point, there had still been a lack of production of emails, recordings and investigator's reports.<sup>3</sup>

7. Anita's current counsel entered his appearance in this matter on November 14, 2014, and Amy's current counsel entered his appearance on December 8, 2014. Through no less than 9 supplemental productions made since Mr. Featherston took over as Anita's counsel, no recordings or investigator's reports had been provided, but emails addressing points Anita wanted to address began to show up as attachments to certain filings (See Anita's Objections to Candace Curtis' Application for Personal Representative filed on March 9, 2015, to which six emails previously unproduced by Anita were attached to obviously cast Candy in a very derogatory light).

8. Then on July 1, 2015, Carl's counsel received an envelope by certified mail from Anita's counsel which enclosed a CD containing supplemental production which had apparently

---

<sup>3</sup> The Defendants continue to just ignore the investigator issues even though there can be no question there was an investigator. Attached hereto as Exhibit 4 are emails exchanged among Anita, Amy, Carole, and Candy about the investigator, including one dated Tuesday, March 15, 2011 in which an investigator's report is said to be expected by the end of that week. (Exhibit 4, page P14675)

been disclosed, at a minimum, to everyone else in the case. For various reasons, including the July 4 holiday, Carl's counsel was unable to adequately review all the information on the disk when it first arrived. Once the materials had been reviewed, however, it was obvious that the disk contained illegally obtained recordings.

9. The disk received by Carl's counsel on July 1, 2015 contained items which were numbered 5814 to 5840. Included among those items were the following four audio recordings, at least three, and most likely all, of which were made without the consent of either party to the conversations:

- (1) a 43 second phone conversation between Carl and his mother which, according to the file properties, was both created and modified on February 27, 2015<sup>4</sup> (Brunsting 5836.wav);
- (2) a phone conversation lasting 6 minutes and 44 seconds between Carl and Drina which, according to the file properties, was both created and modified on February 27, 2015 (Brunsting 5837.wav);
- (3) a telephone conversation lasting 19 minutes and 18 seconds between Carl and Drina which, according to the file properties, was both created and modified on April 22, 2011 (Brunsting 5838.wav); and

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<sup>4</sup> Nelva Brunsting died on November 11, 2011, so this could not have been just a copy of the original recording. The larger question raised by the dates on the audio files, however, is why they were not produced long ago. Who recorded them, where have they been, and to whom have they been given? Is this perhaps why Mills, Shirley suddenly had to withdraw? It seems unlikely that there can be a reasonable excuse for why these recordings, all made in 2011 and dealt with by someone again in February of this year, were not produced until July. That is particularly puzzling when on March 11, 2015 Anita filed a Motion to Compel complaining that Carl had not been specific enough about his damage disclosures and had not turned over all of his attorney's fee invoices.

- (4) a telephone conversation lasting 8 minutes and 53 seconds between Carl and Drina which, according to the file properties, was both created and modified on March 21, 2011 (Brunsting 5839.wav).

10. The audio recordings<sup>5</sup> provide a basis for liability to both Carl and Drina pursuant to the Texas Civil Wire Tap Act found at Tex. Civ. Prac. & Rem. Code, Title 123.<sup>6</sup> That Act prohibits, among other things, the interception of a conversation transmitted over telephone wires without the consent of at least one of the parties to the conversation, as well as the further disclosure and the use of such intercepted transmissions. Neither Carl nor Drina consented to the recordings or even knew about them. The same is undoubtedly true of the recording of the short conversation Carl had with his mother. These recordings were made improperly, disclosed improperly, presumably have been already used improperly, and are obviously intended to be used improperly in this litigation.

11. Although they have clearly been edited, nothing on these recordings suggests they were somehow found on an answering machine tape at Nelva's house as Anita's counsel claimed to be the case in discussions with Carl's counsel about these recordings. There is nothing on the recordings indicating the involvement of an answering machine. There is nothing on the recordings indicating an answering machine either picked up or ended the call. There is no answering machine message alerting anyone to a recording device. In fact, there is also nothing on the recordings themselves indicating the date on which they were recorded. The other flaw with the answering machine explanation is that when Drina called Carl at his mother's house, an answering machine never answered—a person always did. The timing of the earliest recording together with emails from

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<sup>5</sup> It seems highly unlikely, of course, that these are the only recordings made or that those that have been produced are anything but edited versions of the original recordings.

<sup>6</sup> The recording, disclosure, and use of these recordings are also felony violations of Section 16.02 of the Texas Penal Code and 18 U.S.C. §2511.



that time period make the real explanation for the recordings clear, but very problematic for Defendants.

12. These appear to have been made through a well-orchestrated plan between Anita, Amy, and Carole. Emails reflect discussions among the Brunsting sisters shortly after Carl became ill—both before and after Anita was even trustee—discussing ways to prevent Carl’s access to trust disbursements. (See Exhibit 5). Originally, Candy was also involved in the plan until the explanations she was being given for what was happening stopped making sense.<sup>7</sup>

13. Carl spent some time at his mother’s house in December, 2010 when Drina suffered a herniated disc in her back trying to lift him. Carl’s recovery suffered so badly while he was staying at his mother’s house that Drina was forced to end that arrangement. By that time, the experience of trying to deal with Carl’s sisters had been bad enough that Drina stopped even trying to communicate with them, and Carl only called his mother. Then in early March, 2011, there are emails concerning APS complaints,<sup>8</sup> investigators, possible guardianship proceedings, and arrangements for a possible divorce between Carl and Drina so that Drina would not be Carl’s natural guardian.<sup>9</sup> (See Exhibit 6).

14. In March, Carole also did her part to insure both that recordings could be made of Carl and Drina’s conversations without their knowledge and that Drina could be followed by the

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<sup>7</sup> Thus, the only emails which have been shared with Carl are those exchanged before Candy was excluded from her sisters’ scheme.

<sup>8</sup> The attempt to create problems for Drina with APS had already been frustrated when their APS complaint against Drina was dismissed because, unlike what had occurred when Carl was at his mother’s house, Drina was following medical advice in her care of Carl. (Exhibit 6, p. P14664).

<sup>9</sup> There were also discussions about how to exclude Carl and Drina’s daughter, Marta, as a potential guardian. Even though Marta had made her concern for her father clear (See Exhibit 7), she was characterized by Anita as having “expressed no interest in taking care of her father” (Exhibit 5, p. P14677).

investigator. On the evening of March 10, 2011, Carole went to Carl and Drina's home and approached Drina about having Carl spend time at his mother's home again—allegedly to give Drina a break as Carl's sole caregiver and to give Carl somewhere to go when Drina had to work or had to deal with her elderly father who lived in Beaumont. Drina naively believed Carole's concern to be sincere and agreed to allow Carl to spend some time at his mother's house again.

15. So, in March, 2011 the investigator had already been engaged, and on March 17, 2011, Faustino Vaquera purchased one ICD-OX312 Sony digital voice recorder at Best Buy and a 4200223 3' 1/8" M-M Patch Cable from Radio Shack. Vaquera was reimbursed for the purchase when he included it on his time sheet dated March 18, 2011. The time sheet with the attached receipts is attached hereto as Exhibit 3. That digital voice recorder is capable of voice activation and has 2 GB built-in memory which can be expanded to 16 GB. The earliest recording, based on the properties for the files produced was made at least by March 21, 2011, right after Carole made sure recordings of calls between Drina and Carl could be intercepted by getting Carl back to his mother's house.

16. The CD recently produced by Anita's counsel also included various emails which have suddenly appeared out of some unknown location despite having been requested since March, 2012, including four emails from Carole to Amy and Anita between May 23, 2011 and May 25, 2011 which had attachments containing videos taken by Carole of Carl in his hospital bed after he had an adverse reaction to a medication which was itself life threatening and put him in intensive care at St. Luke's Hospital from May 22, 2011 through May 31, 2011.<sup>10</sup> (Brunsting 5822-5825).

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<sup>10</sup> While Carl was at Mentis Rehabilitation, Drina observed a sudden and severe decline in Carl's condition and had him transferred to the St. Luke's emergency room where he was admitted to ICU because of an altered mental status due to medications.

17. Even a sister's concern would not justify these recordings, but there is no way to confuse these incredible invasions of Carl's privacy as acts of a loving and concerned sister. These occurred while Carl was too ill to resist them and when no one was around to prevent them. After making the recordings on her Android, Carole sent them to herself and to Anita and Amy.<sup>11</sup> Candy was again excluded, as one of Carole's emails even confirms. Like the illegal phone recordings, Carl did not consent to these video recordings and even in his incredibly ill state, it was clear he was very uncomfortable with them. Also like the illegal phone recordings, these had never been provided to Carl despite his request for any video recordings in 2012. The properties on the files containing the emails indicate the files were all modified on March 18, 2015. It is inexcusable that these were ever made and that they have disclosed to others while being withheld from Carl since May, 2011, but where have they been since March 18, 2015?<sup>12</sup>

18. This Court must stop Carl's victimization at the hands of the Defendants, particularly those purportedly exercising fiduciary obligations to him. Carl requests that sworn affidavits be provided by Anita, Amy, and Carole specifying the date of every recording made within the categories requested, the party making the recording, the means of recording, the current location of all original recordings and all copies of all recordings, all parties to whom the contents of recordings have been disclosed, and all uses which have been made of the recordings. Carl also requests that all original recordings and all copies of those recordings be turned over to Carl's

---

<sup>11</sup> The recordings appear to have been made by Carole and distributed to Anita and Amy between May 23, 2011 and May 25, 2011. Carole received her transfer of 1325 shares of Exxon Mobile stock from Anita, acting as trustee, on June 15, 2011.

<sup>12</sup> And there has still been no production of the investigator's reports. Yet, as already stated, while withholding this and more, Anita filed a motion to compel Carl to do a better job of responding to requests for disclosure and to provide all of his information on the attorney's fees he had incurred, something which no one else in this case has been required to do.

counsel. Carl also requests that all copies which have been disclosed to any third parties, including the other counsel in this case, be retrieved and included in those materials turned over to Carl's counsel. Carl also requests that the identity of all investigators hired to follow Carl or Drina be provided, and that all investigator's reports be turned over. Carl also requests that Anita, Amy, and Carole be required to provide sworn testimony of their compliance and that they be prevented from using such recordings for any purpose, including in this proceeding.

WHEREFORE, PREMISES CONSIDERED, Carl Brunsting asks for the relief sought herein and for such other and further relief to which he may be entitled.

Respectfully submitted,

BAYLESS & STOKES

By: /s/ Bobbie G. Bayless

*Bobbie G. Bayless*  
State Bar No. 01940600  
2931 Ferndale  
Houston, Texas 77098  
Telephone: (713) 522-2224  
Telecopier: (713) 522-2218  
[bayless@baylessstokes.com](mailto:bayless@baylessstokes.com)

*Attorneys for Drina Brunsting, attorney-in-  
fact for Carl Henry Brunsting*

**CERTIFICATE OF CONFERENCE**

Attempts to resolve these issues have thus far been unsuccessful. Discussions are continuing and the motion will be withdrawn if they are resolved.

/s/ Bobbie G. Bayless  
BOBBIE G. BAYLESS

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing instrument was forwarded on the 20<sup>th</sup> day of July, 2015, as follows:

Bradley Featherston  
1155 Dairy Ashford, Suite 104  
Houston, Texas 77079  
*via Telecopier*

Darlene Payne Smith  
Lori A. Walsh  
Crain, Caton & James, P.C.  
1401 McKinney, 17<sup>th</sup> Floor  
Houston, Texas 77010  
*via Telecopier*

Stephen A. Mendel  
Neal Spielman  
1155 Dairy Ashford, Suite 300  
Houston, Texas 77079  
*via Telecopier*

Candace Curtis, *Pro Se*  
218 Landana St.  
American Canyon, California 94503  
*via Email*

/s/ Bobbie G. Bayless  
BOBBIE G. BAYLESS

07222015:0819:P0145

# Exhibit 1

UNOFFICIAL COPY

**BaylessStokes E-Mail**

---

**From:** "Bernard Mathews" <texlawyer@gmail.com>  
**To:** "Bobbie Bayless" <bayless@baylessstokes.com>  
**Sent:** Wednesday, April 11, 2012 2:27 PM  
**Subject:** Producing available documents  
Bobbie,

I am having my client go through your 30 page list to let me know what she has, what never existed, what may exist in someone else's control, etc.

To make my response to you easier, can you send me this list (documents to be produced by Anita Brunsting) in Wordperfect or Microsoft Word format?

I am also advised your client was sent a copy of the trust, and the qualified beneficiary designation. as well as an initial asset list in Excel format. Were these provided to you?

Chip Mathews

--

Bernard Lilse Mathews, III  
Attorney at Law  
Green & Mathews, LLP  
14550 Torrey Chase Blvd., Suite 245  
Houston, Texas 77014

(281) 580-8100  
(281) 580-8104 (fax)

e-mail: [texlawyer@gmail.com](mailto:texlawyer@gmail.com)

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0722015:0819:PO147

**Exhibit 2**

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**BaylessStokes E-Mail**

---

**From:** "Bernard Mathews" <texlawyer@gmail.com>  
**To:** "Bobbie Bayless" <bayless@baylessstokes.com>  
**Cc:** "Anita Brunsting" <akbrunsting@suddenlink.net>; "Amy Brunsting" <at.home3@yahoo.com>  
**Sent:** Tuesday, April 17, 2012 12:31 PM  
**Subject:** Brunsting matter  
Bobbie,

I have been advised that Anita Brunsting and Amy Brunsting are retaining new counsel. Thank you for your courtesies in this matter.

Chip Mathews

--  
Bernard Lilse Mathews, III  
Attorney at Law  
Green & Mathews, LLP  
14550 Torrey Chase Blvd., Suite 245  
Houston, Texas 77014

(281) 580-8100  
(281) 580-8104 (fax)

e-mail: [texlawyer@gmail.com](mailto:texlawyer@gmail.com)

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0722015:0813:PO149

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**Exhibit 3**



07222015:0918:PO15

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Val #: 0422-1046-6045-3089

0216 003 2499 03/17/11 18:22 00005044

1792142 ICDPX312 59.99  
ICDPX312 DIGITAL VOICE RECORD  
ITEM TAX 4.95  
6094193 RZ SILVER 0.00 M  
REWARD ZONE PREMIER SILVER  
MEMBER ID 0329918420

SUBTOTAL 59.99  
SALES TAX AMOUNT 4.95  
TOTAL 64.94

XXXXXXXXXXXX0307 DEBIT 64.94  
FAUSTINO VAQUERA JR  
APPROVAL 132943  
REFERENCE NUMBER: 0216003

ALEX,  
THANKS FOR SHOPPING AT BEST BUY TODAY!  
YOUR REWARD ZONE BALANCE AS OF 03/08/11  
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Congratulations! As an added benefit of  
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products up to 45 days from purchase date.

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Subtotal 8.39  
Tax 8.25 0.69  
Total 9.08  
Credit Card 9.08  
Change Due 0.00

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Trans 12887148  
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The card holder identified hereon may apply the total  
amount shown on this receipt to the appropriate account  
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0722015:0813:P0152

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**Exhibit 4**

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0722015:0819:PM:59

**From:** Amy Tschirhart  
**To:** Candy Curtis  
**Subject:** Phone number  
**Date:** Saturday, January 08, 2011 7:34:13 PM

---

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

P14660

07222015:0613:P0154

From: Carole Brunsting  
To: Amy; Anita; Candace Curtis  
Subject: Re: PI  
Date: Thursday, February 03, 2011 3:57:21 PM

---

I drove by their house today on the way home and their plants were covered.

--- On **Thu, 2/3/11, Candace Curtis <occurtis@sbcglobal.net>** wrote:

From: Candace Curtis <occurtis@sbcglobal.net>  
Subject: PI  
To: "Amy" <at.home3@yahoo.com>, "Anita" <akbrunsting@suddenlink.net>, "Carole Brunsting" <cbrunsting@sbcglobal.net>  
Date: Thursday, February 3, 2011, 9:56 AM

I think we should hire a PI to "find" Carl. If he's at home, he's got to come out sooner or later. If he's in a facility, Drina will have to come out to visit him sooner or later. The problem is, no one knows when these comings and goings will occur and it could cost a lot of money to find out. It's entirely possible that Drina has put him in a facility that is covered by insurance. This makes sense because there have been no requests for money and Carl hasn't called anyone but Mother since he left her house. In any event we have to find out what is going on. If he's in a rehabilitation facility we can celebrate, but she could have stuck him in a nursing home, where none of his needs will be addressed and they will keep him doped up all the time.

The more legwork we do, the cheaper the PI will be. Any ideas on how to find out when his therapy appointments are? If the PI can film him leaving the house and entering the facility we would be able to assess his physical condition and possibly his mental state. If he's in a facility somewhere the PI would have to catch her leaving the house on her way to visit him and if she leaves she could also be going shopping, etc. I would be willing to call rehab facilities if necessary.

I don't want to let too much more time lapse before we find out.

P14665

0722015:0913:10155

**From:** Anita Brunsting  
**To:** "Candace Curtis"; "Amy"; "Carole Brunsting"  
**Subject:** RE: Conference Call Info  
**Date:** Tuesday, March 15, 2011 3:45:57 PM

---

I'm pretty open all week.

**From:** Candace Curtis [mailto:occurtis@sbcglobal.net]  
**Sent:** Tuesday, March 15, 2011 3:10 PM  
**To:** Amy; Anita; Carole Brunsting  
**Subject:** Conference Call Info

I have a conference call account here at work that I am allowed to use for personal business. We can schedule a time to talk and catch up on what's happening. This saves numerous text messages, phone calls, and emails.

Call 1-866-212-0875 and when it asks you for the "participant" pass code enter 132003#

Maybe we can try it towards the end of the week or on the weekend, after someone gets an activity report from the PI.

Love you guys,

C

P14675



07222015:0913:PO155

**From:** Carole Brunsting  
**To:** Anita Brunsting; Amy Tschirhart; Candace Curtis  
**Subject:** Re: guardianship assessment form  
**Date:** Friday, March 18, 2011 8:40:41 AM

---

They are there right now according to the PI. And Michael took him on Wednesday.

--- On **Fri, 3/18/11, Candace Curtis <occurtis@sbcglobal.net>** wrote:

**From:** Candace Curtis <occurtis@sbcglobal.net>  
**Subject:** Re: guardianship assessment form  
**To:** "Anita Brunsting" <akbrunsting@suddenlink.net>, "Carole Brunsting" <cbrunsting@sbcglobal.net>, "Amy Tschirhart" <at.home3@yahoo.com>  
**Date:** Friday, March 18, 2011, 10:33 AM

Do you know if he went to therapy at all this week?

---

**From:** Anita Brunsting <akbrunsting@suddenlink.net>  
**To:** Candace Curtis <occurtis@sbcglobal.net>; Carole Brunsting <cbrunsting@sbcglobal.net>; Amy Tschirhart <at.home3@yahoo.com>  
**Sent:** Fri, March 18, 2011 8:26:05 AM  
**Subject:** RE: guardianship assessment form

we're continuing the pi over the weekend or unless it looks like she's headed toward Beaumont - will also use him through next week. \$750 is for the lawyer's (Cole) initial consult not a dr. If she divorces him then someone needs to sue for guardianship - Marta would be considered next in line by the law, but if she doesn't sue for it then I don't think she'd be considered. If Drina gets him to sign divorce papers that give him any less than 50% of their assets then a guardian can countersue her to recover those.

---

**From:** Candace Curtis [mailto:occurtis@sbcglobal.net]  
**Sent:** Friday, March 18, 2011 10:20 AM  
**To:** Anita Brunsting; Carole Brunsting; Amy Tschirhart  
**Subject:** Re: guardianship assessment form

\$750 an hour FOR WHAT? The woman is abusing him and negligent in his care. Have they been out even one time this week? Last I heard, Monday and Tuesday there was no activity other than a visit from Marta. APS said that once they confirmed she was following doctor's orders, they closed the case. If the instructions were 3 times a week and he hasn't been, or only goes once or twice, SHE IS NEGLIGENT, and they better reopen it or start a new one. Let me know if you want me to call.

Any doctor who has seen Carl would most likely say NO to all of the questions. I would, just based on past phone conversations with Carl.

What if Drina files for divorce? Would that be abandonment? Would the trust even be an issue if SHE divorces him?

If I could have anything I wanted for Carl, I would have him assessed by the neuropsychologists at the place I found in Houston. I don't know if he could handle long periods of testing, but he has got to get some cognitive brain function back OR HE WILL NEVER EVEN BECOME CLOSE TO WHOLE AGAIN. It's a good sign that his

P14679

07222015:0019:PO157

behavior has improved, but is it because she beats him with a stick and mentally assaults him to get him to act right?

Maybe guardianship is the wrong approach. Maybe we should go after Drina and have her declared incompetent to care for him, or criminally negligent for not obtaining proper rehabilitation. There has to be a reason why she doesn't want her husband of almost 30 years to recover.

Let me know if he will be staying at Mother's again over the weekend. If so, we might want to extend the PI over the weekend so we can see what the hell she does. The more "evidence" we can amass, the better.

Love you guys,

C

---

From: Anita Brunsting <akbrunsting@suddenlink.net>  
To: Carole Brunsting <cbrunsting@sbcglobal.net>; Candace Curtis <occurtis@sbcglobal.net>; Amy Tschlrhart <at.home3@yahoo.com>  
Sent: Thu, March 17, 2011 2:18:05 PM  
Subject: guardianship assessment form

Just thought you'd find this interesting, this is the form that we'd have to have a physician use to assess Carl and possible a MHMR psychologist as well. I just thought it would give you an idea as to what they're looking for - Carl definitely fits the bill -

Just fyi, you may have already known this.

Anita

P14680

07222015:0613: P015B

**Exhibit 5**

UNOFFICIAL COPY

0722015:0819:PO158

From: Carole Brunsting  
To: Anita Brunsting; Amy Tschirhart; occurtis@sbcglobal.net  
Subject: Re: Carl's medical bills  
Date: Tuesday, August 17, 2010 7:37:48 PM

<http://www.nytimes.com/2009/03/14/health/14patient.html>

Another good article about negotiating down the bill. Drina needs to treat this as if the trust money does not factor in. It should be months before she sits down to make even one payment.

--- On **Tue, 8/17/10, Carole Brunsting <cbrunsting@sbcglobal.net>** wrote:

From: Carole Brunsting <cbrunsting@sbcglobal.net>  
Subject: Re: Carl's medical bills  
To: "Anita Brunsting" <akbrunsting@suddenlink.net>, "Amy Tschirhart" <at.home3@yahoo.com>, occurtis@sbcglobal.net  
Date: Tuesday, August 17, 2010, 9:24 PM

<http://www.creditcards.com/credit-card-news/medical-bill-payment-tips-1266.php>

Here is another good article. Why can't she follow this and set up a payment plan and then Mother can help with the monthly payments rather than yank thousands out of the account. I don't think Drina has done any of the steps this article talks about. She should tell the hospital that they cannot pay since Carl is not working and don't even mention the trust.

--- On **Tue, 8/17/10, Carole Brunsting <cbrunsting@sbcglobal.net>** wrote:

From: Carole Brunsting <cbrunsting@sbcglobal.net>  
Subject: Carl's medical bills  
To: "Anita Brunsting" <akbrunsting@suddenlink.net>, "Amy Tschirhart" <at.home3@yahoo.com>, occurtis@sbcglobal.net  
Date: Tuesday, August 17, 2010, 9:08 PM

<http://www.hcvadvocate.org/hepatitis/hepC/GMYHI.html>

According to this Drina may have already reached her out of pocket and may be paying to much already.

This is a good article.

P14251

07222015:0013:PO160

**From:** Amy Tschirhart  
**To:** Anita Brunsting; Candy Curtis; Carole Brunsting  
**Subject:** Re: CPA's advice  
**Date:** Wednesday, August 18, 2010 1:48:01 PM

---

Hi,  
I just talked to Drina. She is tired of hearing advice (even if it is helpful and right). Basically she's just overwhelmed right now. Her nerves are raw and anything any of us say to her right now is just going to set her off. I suggest just leaving her alone for a little while. The bills aren't going to go away and she will eventually have to deal with them. She may be more receptive to listening then or she might figure out the solution on her own.

Amy

--- On **Wed, 8/18/10**, Carole Brunsting <[cbrunsting@sbcglobal.net](mailto:cbrunsting@sbcglobal.net)> wrote:

**From:** Carole Brunsting <[cbrunsting@sbcglobal.net](mailto:cbrunsting@sbcglobal.net)>  
**Subject:** Re: CPA's advice  
**To:** "Anita Brunsting" <[akbrunsting@suddenlink.net](mailto:akbrunsting@suddenlink.net)>, "Candy Curtis" <[occurtis@sbcglobal.net](mailto:occurtis@sbcglobal.net)>, "Amy Tschirhart" <[at.home3@yahoo.com](mailto:at.home3@yahoo.com)>  
**Date:** Wednesday, August 18, 2010, 1:36 PM

That is exactly what the articles I sent last night said. Your credit score is only affected "IF" you stop making payments in the event you have a payment plan set up. Also, it said that she needs to negotiate discounted rates based on their financial statements and leave the trust out of it. Like Candy said, don't even mention the trust. From everything I have read, she can either get some of this written off OR get it discounted and set up a payment plan. If she and Carl cannot make ends meet in the future, then they consider a loan against his inheritance.

I am finding that with GOOGLE, you don't really need doctors or CPA's because all the diagnostic information is online along with accounting advice.

Knowing I am being petty with this statement, why is her father's advice correct and mother is not a straight shooter. Mother was shocked because she did not think the time was right to pay bills, but could not convey that message to Drina.

I grow tired of always being "wrong" in the eyes of Carl and Drina. Again, being petty but then I am just petty. So there.

--- On **Wed, 8/18/10**, Amy Tschirhart <[at.home3@yahoo.com](mailto:at.home3@yahoo.com)> wrote:

**From:** Amy Tschirhart <[at.home3@yahoo.com](mailto:at.home3@yahoo.com)>  
**Subject:** CPA's advice  
**To:** "Anita Brunsting" <[akbrunsting@suddenlink.net](mailto:akbrunsting@suddenlink.net)>, "Carole Brunsting" <[cbrunsting@sbcglobal.net](mailto:cbrunsting@sbcglobal.net)>, "Candy Curtis" <[occurtis@sbcglobal.net](mailto:occurtis@sbcglobal.net)>

P14252

07222015:0913:PO161

Date: Wednesday, August 18, 2010, 2:57 PM

Hi,

I talked to the CPA who does my taxes today and asked her what she would recommend. She told me that Drina should talk to an attorney who specializes in debt created by medical bills. Medical bill debt is treated differently than other debt. I did a quick check on the internet and there are several in Houston.

She said that creditors cannot touch Drina's house or cars. She also recommended not paying any of the medical bills right now. She said to wait until the dust settles, then talk with each company about a payment plan, possibly as little as \$10 a month. She told me that in all likelihood, they would eventually write off her debt as a loss. She said Drina should definitely not touch any retirement or inheritance, or borrow anything against them.

I called Drina today and told her what Darlene said. She said her father had been telling her the same things. I tried to emphasize that she should not be paying any bills right now, but I don't know if she really understood why. She is overly concerned with her credit score rating. Darlene said that is not that important because they own their house and cars and are not as reliant on credit compared to younger people.

Anyhow, I know that Drina is in a hard spot right now, but I honestly think that keeping her from accessing **any** of Carl's inheritance would be in her best interest. It would be a waste to spend it on medical bills and they will need the money in the future. I don't think that is going to sit well with Drina because she's going to see it as us being tight-fisted with the money. I strongly suggest that if any of us talk to her, we do it as nicely as we can. Acknowledge that the debt is so huge it is unpayable in her lifetime. Encourage her to seek a professional to find the best way to deal with it. Remind her that we want the best for her and Carl in their future and that we are thinking of their best interests.

Love,  
Amy

P14253

0722015:0919:PO162

**From:** Carole Brunsting  
**To:** Candace Curtis  
**Subject:** Re: CPA's advice  
**Date:** Wednesday, August 18, 2010 2:18:39 PM

---

Your so funny! ☺

--- On **Wed, 8/18/10, Candace Curtis <occurtis@sbcglobal.net>** wrote:

**From:** Candace Curtis <occurtis@sbcglobal.net>  
**Subject:** Re: CPA's advice  
**To:** "Anita Brunsting" <akbrunsting@suddenlink.net>, "Carole Brunsting" <Cbrunsting@sbcglobal.net>, "Amy Tschirhart" <at.home3@yahoo.com>  
**Date:** Wednesday, August 18, 2010, 3:49 PM

Just as I said in my email. I also said DO NOT consult an attorney. It's throwing good money away because you have just received free advice and passed it along to her. So, that's what you told her, that's what I told her, and that's what her Dad told her. Is she going to ignore all of us? Drina needs to get her shit together now or she'll be sorry. Carl can come and live with us when she runs off.

--- On **Wed, 8/18/10, Amy Tschirhart <at.home3@yahoo.com>** wrote:

**From:** Amy Tschirhart <at.home3@yahoo.com>  
**Subject:** CPA's advice  
**To:** "Anita Brunsting" <akbrunsting@suddenlink.net>, "Carole Brunsting" <Cbrunsting@sbcglobal.net>, "Candy Curtis" <occurtis@sbcglobal.net>  
**Date:** Wednesday, August 18, 2010, 12:57 PM

Hi,

I talked to the CPA who does my taxes today and asked her what she would recommend. She told me that Drina should talk to an attorney who specializes in debt created by medical bills. Medical bill debt is treated differently than other debt. I did a quick check on the Internet and there are several in Houston.

She said that creditors cannot touch Drina's house or cars. She also recommended not paying any of the medical bills right now. She said to wait until the dust settles, then talk with each company about a payment plan, possibly as little as \$10 a month. She told me that in all likelihood, they would eventually write off her debt as a loss. She said Drina should definitely not touch any retirement or inheritance, or borrow anything against them.

I called Drina today and told her what Darlene said. She said her father had been telling her the same things. I tried to emphasize that she should not be paying any bills right now, but I don't know if she

P14254

07222015:0613:PO169

really understood why. She is overly concerned with her credit score rating. Darlene said that is not that important because they own their house and cars and are not as reliant on credit compared to younger people.

Anyhow, I know that Drina is in a hard spot right now, but I honestly think that keeping her from accessing **any** of Carl's inheritance would be in her best interest. It would be a waste to spend it on medical bills and they will need the money in the future. I don't think that is going to sit well with Drina because she's going to see it as us being tight-fisted with the money. I strongly suggest that if any of us talk to her, we do it as nicely as we can. Acknowledge that the debt is so huge it is unpayable in her lifetime. Encourage her to seek a professional to find the best way to deal with it. Remind her that we want the best for her and Carl in their future and that we are thinking of their best interests.

Love,  
Amy

UNOFFICIAL COPY

P14255



07222015:0915:P0164

**From:** Anita Brunsting  
**To:** "Candace Curtis"  
**Subject:** RE: CPA's advice  
**Date:** Wednesday, August 18, 2010 8:00:01 PM

---

You couldn't invent a better helpless, narcissistic, stupidly rude character than her. I guess this is why they say "truth is stranger than fiction" I've already been inventing scenarios inside my head that I think she'd be capable of. Maybe we can write a novel about this and make a million dollars when we sell the movie rights :-)

Love, Anita

---

**From:** Candace Curtis [mailto:occurtis@sbcglobal.net]  
**Sent:** Wednesday, August 18, 2010 5:39 PM  
**To:** Anita Brunsting  
**Subject:** RE: CPA's advice

My ears are burning already. LOL If she gets pissed off it will just confirm my opinion that she's a stupid twit who only cares about herself. I know I read too much fiction, but I can imagine her keeping Carl in diapers so she doesn't have to wipe his butt.

Love you lots,

Candy

--- On **Wed, 8/18/10, Anita Brunsting <akbrunsting@suddenlink.net>** wrote:

**From:** Anita Brunsting <akbrunsting@suddenlink.net>  
**Subject:** RE: CPA's advice  
**To:** "Candace Curtis" <occurtis@sbcglobal.net>  
**Date:** Wednesday, August 18, 2010, 2:48 PM

I agree w/ everything you said. I also like your e-mail to Drina - I hope it really pisses her off.

---

**From:** Candace Curtis [mailto:occurtis@sbcglobal.net]  
**Sent:** Wednesday, August 18, 2010 4:20 PM  
**To:** Amy Tschirhart; Anita; Carole Brunsting  
**Subject:** Re: CPA's advice

Drina needs to get a grip. She's overwhelmed with what??? Advice??? We're all saying the same thing. That hole in the sand is just getting deeper. She needs to face reality right now. She should be overjoyed at any little progress from Carl. That joy should mutate into action to secure their future. Her nerves are raw because she refuses to face reality. The four of us have worked our entire lives. We're all single and have had to rebuild our lives and change our values in numerous ways. I don't know about you guys but there have been times when I just wanted to crawl into bed, curl up into fetal position, and sleep forever. If it's not one thing it's another. These times have only made me stronger. I have not been

P14256

07222015:08:18:2010

subjected to any calls from Drina trying to get money from Mother for medical bills. She needs to humble herself a little and tell the truth. I still would not have any sympathy for her, but it would make it easier for me to accept yours.

--- On **Wed, 8/18/10, Amy Tschirhart <at.home3@yahoo.com>** wrote:

From: Amy Tschirhart <at.home3@yahoo.com>  
Subject: Re: CPA's advice  
To: "Anita Brunsting" <akbrunsting@suddenlink.net>, "Candy Curtis" <occurtis@sbcglobal.net>, "Carole Brunsting" <cbrunsting@sbcglobal.net>  
Date: Wednesday, August 18, 2010, 1:47 PM

Hi,  
I just talked to Drina. She is tired of hearing advice (even if it is helpful and right). Basically she's just overwhelmed right now. Her nerves are raw and anything any of us say to her right now is just going to set her off. I suggest just leaving her alone for a little while. The bills aren't going to go away and she will eventually have to deal with them. She may be more receptive to listening then or she might figure out the solution on her own.

Amy

--- On **Wed, 8/18/10, Carole Brunsting <cbrunsting@sbcglobal.net>** wrote:

From: Carole Brunsting <cbrunsting@sbcglobal.net>  
Subject: Re: CPA's advice  
To: "Anita Brunsting" <akbrunsting@suddenlink.net>, "Candy Curtis" <occurtis@sbcglobal.net>, "Amy Tschirhart" <at.home3@yahoo.com>  
Date: Wednesday, August 18, 2010, 1:36 PM

That is exactly what the articles I sent last night said. Your credit score is only affected "IF" you stop making payments in the event you have a payment plan set up. Also, it said that she needs to negotiate discounted rates based on their financial statements and leave the trust out of it. Like Candy said, don't even mention the trust. From everything I have read, she can either get some of this written off OR get it discounted and set up a payment plan. If she and Carl cannot make ends meet in the future, then they consider a loan against his inheritance.

I am finding that with GOOGLE, you don't really need doctors or CPA's because all the diagnostic information is online along with accounting advice.

P14257

07222015:0913: P0166

Knowing I am being petty with this statement, why is her father's advice correct and mother is not a straight shooter. Mother was shocked because she did not think the time was right to pay bills, but could not convey that message to Drina.

I grow tired of always being "wrong" in the eyes of Carl and Drina. Again, being petty but then I am just petty. So there.

--- On **Wed, 8/18/10, Amy Tschirhart**  
<at.home3@yahoo.com> wrote:

From: Amy Tschirhart <at.home3@yahoo.com>  
Subject: CPA's advice  
To: "Anita Brunsting" <akbrunsting@suddenlink.net>,  
"Carole Brunsting" <Cbrunsting@sbcglobal.net>,  
"Candy Curtis" <occurtis@sbcglobal.net>  
Date: Wednesday, August 18, 2010, 2:57 PM

Hi,

I talked to the CPA who does my taxes today and asked her what she would recommend. She told me that Drina should talk to an attorney who specializes in debt created by medical bills. Medical bill debt is treated differently than other debt. I did a quick check on the Internet and there are several in Houston.

She said that creditors cannot touch Drina's house or cars. She also recommended not paying any of the medical bills right now. She said to wait until the dust settles, then talk with each company about a payment plan, possibly as little as \$10 a month. She told me that in all likelihood, they would eventually write off her debt as a loss. She said Drina should definitely not touch any retirement or inheritance, or borrow anything against them.

I called Drina today and told her what Darlene said. She said her father had been telling her the same things. I tried to emphasize that she should not be paying any bills right now, but I don't know if she really understood why. She is overly concerned with her credit score rating. Darlene said that is not that important because they own their house and cars and are not as reliant on credit compared to younger people.

Anyhow, I know that Drina is in a hard spot right now, but I honestly think that keeping her from accessing **any** of Carl's inheritance would be in her best interest. It would be a waste to spend it on medical bills and they will need the money in the future. I don't think

P14258

0722015:0013:PO167

that is going to sit well with Drina because she's going to see it as us being tight-fisted with the money. I strongly suggest that if any of us talk to her, we do it as nicely as we can. Acknowledge that the debt is so huge it is unpayable in her lifetime. Encourage her to seek a professional to find the best way to deal with it. Remind her that we want the best for her and Carl in their future and that we are thinking of their best interests.

Love,  
Amy

UNOFFICIAL COPY

P14259

0722015:09:19:168

**From:** Amy Tschirhart  
**To:** Candy Curtis  
**Subject:** Info  
**Date:** Friday, March 04, 2011 7:47:04 PM

---

Hi Candy,  
I spoke with Anita about talking to Drina. She is going to work on getting me some numbers so I know what amount is available for Carl. We want to ask Drina to provide us with some documentation of their finances before we decide on what amount she could have on an annual basis. Could you help us make a list of what we need to ask her for?

I was doing some rough calculations. Carl is 53 right now. If he lives to be 85, that is 32 years. If he inherits \$300,000, he could receive \$1386 per month assuming that the account earned an average of 4% per year. That is no where near what Drina is expecting to get.

Call me if you have any questions or comments. Thanks.  
Love, Amy

P14668

07222015:0019:P0169

**From:** Amy Tschirhart  
**To:** Candy Curtis; Carole Brunsting  
**Subject:** Number crunching  
**Date:** Friday, March 04, 2011 8:06:02 PM

---

Hi Candy and Carole,  
We are trying to determine the amount of money that Carl can withdraw from the trust. It's hard to determine this since there are so many variables - we don't know how much Mom is going to need for her care, we can't predict the future value of assets, etc. I did some rough number crunching, just so we'd have some place to start. I sent these numbers to Anita and I thought you might have some input about them as well.

If we assume that Carl inherits \$300,000, he lives to be 85 (32 more years), and the account earns an average of 4% interest over the lifetime of the fund, Carl could withdraw \$1386 per month and have enough money to last.

If it were possible for him to inherit \$500,000, he could withdraw \$2310 per month for the rest of his life.

Just to put things in perspective, to receive the \$4000 per month that Drina says they need, he would have to inherit \$865,600, which is not possible. I know if I try to explain this to Drina it will be like talking to a brick wall. It will never be possible to give her the amounts that she wants.

Amy

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P14669

07222015:0919:PO170

**From:** Amy Tschirhart  
**To:** "Candace Curtis"; "Carole Brunsting"; Anita Brunsting  
**Subject:** RE: New Development  
**Date:** Tuesday, March 08, 2011 9:47:30 PM

---

I think we need to send two separate letters. One to Drina telling her she can't come in to Mom's house or contact her by phone or email, and the other to Carl regarding money from the trust. The letters deal with different issues and should be directed to the specific person.

I'm trying to think of some verbage for Carl's letter. This is all I have so far:  
"If you would like to borrow money against your inheritance to pay for your living expenses and medical care, you may borrow up to \$13,000 per year. To receive the funds, submit bills you would like paid from the trust funds to Anita. She will pay them up to the amount of \$13,000 per year. Please sign the enclosed document indicating that you understand the amount you borrow will be deducted from any possible inheritance you may be awarded in the future."

--- On Tue, 3/8/11, Anita Brunsting <akbrunsting@suddenlink.net> wrote:

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

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?

P14670

07222015:0919:2017

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:** Candace Curtis [mailto:occurtis@sbcglobal.net]  
**Sent:** Tuesday, March 08, 2011 5:31 PM  
**To:** Amy; Anita; Carole Brunsting  
**Subject:** New Development

Hi All --

I'm sure you've heard by now about today's incident. I received a TM from Tino who said Carl and Drina went over to Mother's today and that I should call Robert, so I did. As we were talking he kept remembering things that had been said. I told him to write that stuff down because it was all important and all of us need to know what was said.

The time has come to deliver the news to Carl and Drina. Please put your heads together and quickly calculate what CARL would receive monthly for the next 30 years. Since you cannot be sure they receive the information if you email it, and you cannot reason with the moron on the phone, certified mail return receipt requested is the best way to send the information. Put in your correspondence that the first check will be sent on such-and-such date. You can offer to automatically put the \$\$\$ into their account each month.

It's that simple. Once that is done we can all wash our hands of it and just wait and see how it plays out.

I know we would all like to have some visitation and/or phone privileges, but, frankly, the only condition should be that they have to stay away from Mother. I suspect she might actually run off when she realizes that she will have to make some major changes. She probably tells Carl that she WILL

P14671



07222015:0813:PO172

leave if he can't get his money, causing extreme duress and mental stress. The bitch told Mother that Carl worries about the money all of the time, day and night. I still don't think he has regained much cognitive reasoning, so whatever he worries about and says must come from her. We can continue to hope that one day Carl will recover some of his brain power. Maybe he'll wake up one morning and she'll say something hateful about his family and that will be it. Bye, Bye Drina.

I understand Mother has actually gone without her oxygen bottle attached for a couple of hours here and there. Robert said she was a little upset after the visit. This breaks my heart. She said something to Robert about never having children. It is unfair to Mother to even allow Drina in her home. If there's a next time Robert or Tino should make her wait in the car.

After you have written the letter to Carl (I wouldn't even put Drina's name on it), one, two, or all of you should meet at Mother's to show her the letter before Carl and Drina have a chance to start harassing her over the contents of the letter. It's really not an option for Carl to submit bills to be paid and Mother has spent enough of her own money on his care already. Just give him his monthly stipend and let them worry about how they are going to live within their means. It is what it is.

Call me with your thoughts. ...

Love you all,

C

P14672

0722015:0919: P0179

**Exhibit 6**

UNOFFICIAL COPY

07222015:0813: P0174

From: Carole Brunsting  
To: Candace Curtis  
Subject: Re: APS  
Date: Thursday, January 20, 2011 7:10:10 PM

---

Carl called Mother tonight, but you probably already know that.

--- On Thu, 1/20/11, Candace Curtis <occurtis@sbcglobal.net> wrote:

From: Candace Curtis <occurtis@sbcglobal.net>  
Subject: APS  
To: fvaquera@hotmail.com, r.cantu1970@gmail.com, "Amy"  
<at.home3@yahoo.com>, "Anita" <akbrunsting@suddenlink.net>, "Carole  
Brunsting" <cbrunsting@sbcglobal.net>  
Date: Thursday, January 20, 2011, 10:38 AM

All --

I called Tuy at APS just now. I asked him to go to Carl's house and see with his own eyes that Carl is okay and not cowering in a corner with a dirty diaper. He was unaware that Carl had gone home last Friday, although I called him last Friday and told him. He keeps reiterating that he has talked with everyone and does not see any sign of medical neglect. I explained that another concern is that he is being abused in other ways, since no one has heard from him in almost a week. He has agreed to go to their house, although he would not give me a date certain. I'm going to call him again towards the middle of next week. If he has not gone over, and we still have not had any type of contact from Carl or Drina, I will escalate this to the next level and speak to Tuy's supervisor.

Later,

C

P14664

07222015:0819:40175

**From:** Carole Brunsting  
**To:** Amy; Anita; Candace Curtis  
**Subject:** Re: Newest Developments  
**Date:** Thursday, March 10, 2011 1:40:44 PM

---

After I get off work I am going to pick up Tino and go over to Carl's and see if I can get him out of there.

--- On Thu, 3/10/11, Candace Curtis <occurtis@sbcglobal.net> wrote:

From: Candace Curtis <occurtis@sbcglobal.net>  
Subject: Newest Developments  
To: "Amy" <at.home3@yahoo.com>, "Anita" <akbrunsting@suddenlink.net>, "Carole Brunsting" <cbrunsting@sbcglobal.net>  
Date: Thursday, March 10, 2011, 1:04 PM

All --

Please let me know if and when you want me to do something. I will call APS if you think it is appropriate. I guess we're all just waiting to see what happens. In some ways it might have been good to have the PI there when they leave the house to go to the doctor. If she's beating him and screeching at him all the way to the car, etc. we would have it on film to support our case. Maybe we can work this out to finally take over as Carl's guardian(s). Then, if she walks, we can get them divorced due to abandonment and she is out of the picture entirely. If he has enough brain function to call Mother a second time and ask for Marta's number, the light bulbs may be starting to come on in his head. My heart is breaking for him all over again.

P14673

07222015:0913:PO176

**From:** Anita Brunsting  
**To:** "Amy Tschirhart"  
**Cc:** "Carole Brunsting"; "Candace Curtis"  
**Subject:** RE: Attorneys  
**Date:** Thursday, March 17, 2011 8:58:52 AM

---

Talked to Warren Cole's firm ; am waiting on a call back from Burgower and Bosker (the one Vacek gave me).

Cole's rates: initial consult: \$750, hourly rate \$500. He's been practicing for over 35 years. I talked to an associate and after I explained our situation, she said very confidently that he's seen everything and that this case would not be unusual to him. She even started rambling off some procedures that we'd probably have to start w/ - so I felt pretty good about this one - just don't know about the costs.

I've looked all of them up on the Internet, Bosker's only been practicing a little over 10 years, and he's not board cert in anything, so not sure about him - though his firm is family law.

Burgower looks good; she's been practicing since 1985 - family law; teaches at South Texas College of Law ; but I'm waiting on a call back.

---

**From:** Amy Tschirhart [mailto:at.home3@yahoo.com]  
**Sent:** Wednesday, March 16, 2011 4:24 PM  
**To:** Anita Brunsting  
**Subject:** Attorneys

Hi Anita,  
Here are the two names my attorney gave me. Both are certified Family Law Specialists.  
Warren Cole 713-275-4444  
Wendy Burgower 713-529-3982

Ken suggested calling Warren first. Is Carol going to contact the attorney or do you want me to? If I do it, I need to know when Carol is available to meet with him. I also would like a list of question from everyone so I can cover all the bases. If you or Carol contacts the attorney, please tell them that Ken Brazle (pronounced Brazz-ul) referred us to him.  
Thanks,  
Amy

P14676

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From: Anita Brunsting  
To: "Amy Tschirhart"; "Carole Brunsting"; "Candace Curtis"  
Subject: more on attys and guardianship  
Date: Thursday, March 17, 2011 2:13:29 PM

---

<http://www.texasguardianship.org/guardianship.html>

The link above is a good source of info if you haven't seen it yet.

I talked w/ Bret Bosker and he said we needed someone w/ experience in Probate Code, because Probate Court is where guardianship will be argued/decided. I gave him the 2 names of the attys Amy gave and he said they're both excellent (and expensive), but he said he was not sure as to their experience w/ guardianships/probate, but he said we could talk to them about that. He was also going to see if he could find me the name of an atty w/ direct probate experience. So it looks like we have to do 2 steps, 1st get guardianship and 2nd do the divorce if it comes to that. Unfortunately, if you read the website, the spouse is considered 1st in line for guardianship which is why it could be messy to sue for guardianship while they're still married. However, if she plans on divorcing him, then next of kin would be in line and that would be Marta - I think we could talk her out of it as she has expressed no interest in taking care of her father - so after Marta, it would be one of us.

I did tell him that everyone says getting guardianship is expensive, and I asked him "how much is considered expensive" \$50,000 or a million? He said he couldn't answer that, but that the atty we went with should be able to give us an idea.

Still waiting to hear back from Cole and Burgower.

Anita

P14677

07222015:0813:PO178

From: Carole Brunsting  
To: Anita Brunsting; Amy Tschirhart; Candace Curtis  
Subject: Re: atty for guardianship  
Date: Friday, March 18, 2011 11:58:47 AM

I think that Drina has always projected her own family issues onto ours. She was completely distanced from her own family until a year ago when her brother passed away and now she talks about the relationship with her dad like they have been close forever which has not been the case.

She must have had some very bad things happen to her in her childhood and slowly but surely she twisted Carl's mind to go along with everything she did and said. I think you are right that this will have to play itself out to see what she does. She has been waiting for the day she and Carl get the "big" trust payout and then it will be see you later chumps!

--- On **Fri, 3/18/11**, Candace Curtis <[occurtis@sbcglobal.net](mailto:occurtis@sbcglobal.net)> wrote:

From: Candace Curtis <[occurtis@sbcglobal.net](mailto:occurtis@sbcglobal.net)>  
Subject: Re: atty for guardianship  
To: "Anita Brunsting" <[akbrunsting@suddenlink.net](mailto:akbrunsting@suddenlink.net)>, "Carole Brunsting" <[cbrunsting@sbcglobal.net](mailto:cbrunsting@sbcglobal.net)>, "Amy Tschirhart" <[at.home3@yahoo.com](mailto:at.home3@yahoo.com)>  
Date: Friday, March 18, 2011, 1:49 PM

The Brunsting family has never been very demonstrative of their love for one another, but I chalk that up to being Dutch. What I cannot seem to wrap my arms around is the extreme coldness of Drina and Marta. They have always been limp when hugged and hugging is one of the best things in the world. One power hug and all my cares fly out the window. I believe it must be a genetic brain chemical imbalance in Drina's family. She has spent her life with Carl trying to distance HIM from his family and turn him into a cold fish like her. How did she ever get pregnant in the first place? Maybe we should try to get some DNA from Marta and Carl and do a paternity test. Wouldn't it be something if he wasn't her father?????????  
LOL

Frankly, as long as the trust is safe, we should probably just let nature take its course and sooner or later we will get Carl out of their clutches and into ours. He might be pissed off for awhile, but I have some small faith that once he can reason better he will see that we only seek what is best for him in the long run BECAUSE WE LOVE HIM. Once he is able to reason and be reasoned with, and has regained some control of his life, if he chooses to go back to his moron wife and their moron spawn, I will mourn him as if he were dead. Until such time I will assume that, somehow, at some point in his recovery, he will realize how miserable the bitch has made his life. He might see that all she has ever cared about is money and how to avoid having to go out and earn some.

If asked, Carl would probably say no to coming out here to live with us, even though it might be the very best thing for him. He should never feel like he has been "dumped" on anyone. I think he would have a lot more stimulation out here. He does love the Bay Area and after a short time he might gain some real incentive to

P14681

0722205:09:19:27

get well.

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**From:** Anita Brunsting <akbrunsting@suddenlink.net>  
**To:** Carole Brunsting <cbrunsting@sbcglobal.net>; Candace Curtis <occurtis@sbcglobal.net>; Amy Tschirhart <at.home3@yahoo.com>  
**Sent:** Fri, March 18, 2011 8:59:24 AM  
**Subject:** atty for guardianship

Ok, I think I may have found an atty who could handle the guardianship issue. She was recommended to me by the Burgower firm that Amy's lawyer had given her - the Burgower firm does not do guardianship cases. This atty's name is Ellen Yarrell; her offices are in the Galleria area; she charges an initial consult fee of \$350 for 1 hr of her time, and probably requires a retainer of \$2000. Her paralegal (Elizabeth) said that she's handled cases like this before (where an impaired person has been divorced by their spouse). I asked about the expense and she said that Yarrell could give us a better idea after the consult and it depends on whether the guardianship would be contested (so that depends on whether we fight Drina now, or wait to see if she'll divorce him and then we're facing Marta (if she pursues it)). I got the feeling that "expensive" meant more like \$50,000 not \$1 million.

I thought of another plus on our side if Drina divorces him - Drina will probably expect him to come live w/ mother - so if he's w/ us and not his daughter that lends more credence to our side for guardianship (possession is 9/10's of the law?).

I also talked to mom last night and told her what was going on. I asked her if she was ok w/ using her money to pay for Carl's legal fees and of course she said yes.

P14682



07222015:0819:10180

**From:** Carole Brunsting  
**To:** Amy; Anita; Candace Curtis  
**Subject:** Re: Mentis  
**Date:** Wednesday, April 27, 2011 7:24:00 PM

Drina confirmed that Carl is supposed to be going there on May 11th or 12th. Shamika took him to the driving range yesterday and he hit a bucket of balls and seemed to enjoy it. Tino and I may take him golfing on Friday. Carl is still not sleeping more than a few hours each night so maybe this place can fix that for him.

--- On **Wed, 4/27/11, Candace Curtis <occurtis@sbcglobal.net>** wrote:

**From:** Candace Curtis <occurtis@sbcglobal.net>  
**Subject:** Mentis  
**To:** "Amy" <at.home3@yahoo.com>, "Anita" <akbrunsting@suddenlink.net>, "Carole Brunsting" <cbrunsting@sbcglobal.net>  
**Date:** Wednesday, April 27, 2011, 1:14 PM

All --

I just finished reading the Mentis information on their website. WHAT A WONDERFUL PLACE. Reading about it brought tears to my eyes. This is the type of facility we have all been pushing for since Carl got out of TIRR. Carole, you even suggested that this is where TIRR recommended Carl go when he left there. If this is true, Drina did not and is NOT following orders. If that moron had hooked up with these people from the get go, she wouldn't be experiencing the meltdowns and Carl might be halfway to good as new. It would have saved the tremendous amount of money spent on caregivers. Once he is released from Mentis he most likely would be able to go home and live on his own, with or without the moron. He still has his family as support, despite all the water under the bridge today.

Please, please, please let me know if there is anything I can do to help get him in there. I will contact APS again if you can give me any new facts to report. If Carl could be evaluated by a real neuropsychiatrist and not the moron's own shrink, I believe the Mentis (or similar) recommendation would be reiterated and then, if she failed to follow doctor's orders AGAIN, we would have our evidence for APS.

Review of the previous APS fiasco leads me to believe that Drina was following doctor's orders of the doctors SHE chose for Carl - none of which were appropriate for his situation. He should have his own personal neurologist/psychiatrist who would have been seeing him regularly, in or out of a facility. With the moron sailing the ship Carl has been denied even basic medical care.

Amy and I talked about me kidnapping Carl and bringing him home with me. As silly as this sounds, it is still an option. I am sure there are equitable facilities here in California. The difficulty would be getting the insurance information out of the moron and keeping me out of prison. The moron is the one who should be in prison - seriously. If the homeless woman who used her friend's address to put her child in a good school gets 20 years in prison and a \$1,000 fine, it will be a travesty of justice. I have no doubt this will happen, so how is it that the moron can get away with real

P14686

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crimes against her husband, that may ultimately cause his demise, and not have to answer for it in court?

C

P14687

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COPY

**Exhibit 7**

UNOFFICIAL

07222015:0013: P0183

**From:** Marta Brunsting <sweetpalge2083@yahoo.com>  
**To:** Candace Curtis <ccurtis@erscorp.us>  
**Sent:** Thu, January 13, 2011 3:01:30 PM  
**Subject:** Re: Your Dad

Dad has seen several doctors the past couple months, including the Chief of Neurology and Chief of Rehab at St. Luke's hospital. The Chief of Rehab has written an order for him to attend outpatient therapy. Mom is following up on that now and he will go as soon as insurance approves it. He is gaining weight, sleeping better and his anti-depressant seems to be helping his outlook on things. He also has an appointment to see a psychiatrist that was recommended by both of the doctors at St. Luke's.

His condition is very complex and changes constantly. This has been the worst 6 months of our lives and we are mourning a living man who was our father and husband. He has improved, but this has been and continues to be a slow and very painful process.

There is no simple solution to this. He claims while at his stay at TIRR, (which is supposed to be one of the best rehab hospitals in the country), that he was abused by the night staff. Of course, they denied any mistreatment that and we had no actual proof. While at TIRR, he got hooked on prescription medications, didn't sleep at night and had hospital aquired infections one right after the other.

He will not be staying with your mother any longer. He is coming home and HIS FAMILY will figure out what next steps we need to take to get him better.

I find it hard to believe that any of you actually care about his welfare. All this family knows how to do is gossip, back-stab and conspire against one another. It is all completely sick and dysfunctional. Someone called Adult Protective Services on my mother and I don't doubt that it was one of your sisters. Anita called CPS on Amy years ago because she felt she was an unfit mother. If it were not for my dad telling Anita that she had made a terrible mistake, Amy might not have her kids. To my knowledge, Amy is not even aware of this.

You have not been down here for any of his recovery.

You have not spent endless hours with him in ICU and the hospital.

You have not witnessed the change in his mental & physical state as well as his personality.

P14661

No one wants him back more than my mom and I.

I am not answering any more emails or phone calls. This is harassment.

--- On Wed, 1/12/11, Candace Curtis <[ccurtis@erscorp.us](mailto:ccurtis@erscorp.us)> wrote:

From: Candace Curtis <[ccurtis@erscorp.us](mailto:ccurtis@erscorp.us)>  
Subject: Your Dad  
To: [sweetpaige2083@yahoo.com](mailto:sweetpaige2083@yahoo.com)  
Date: Wednesday, January 12, 2011, 5:25 PM

Dear Marta, Happy New Year! I hope you, Ryan and your beautiful daughter are doing well. All of the California clan are looking forward to a great 2011. Being so far away from the situation with Carl has its advantages and disadvantages. I only know what people tell me and what I can gather from the brief, infrequent, phone conversations I have with Carl. I am sick to death by what I have been hearing since Carl was stricken with encephalitis MORE THAN 6 MONTHS AGO. My concern stems from the fact that Carl is not receiving the care and rehabilitation he needs to get his life back. He is floundering, literally and figuratively, and NO ONE seems to have the time, energy, or wherewithal to make the next phase of rehabilitation happen. Carl cannot do it alone, even if he wants to, which apparently he doesn't. Consequently, he needs to be in a facility, RIGHT NOW. The longer he goes without a neuropsychological evaluation and proactive rehabilitation and therapy, the harder it will be for him to recover his brain function. I care very deeply about my only brother and find that I can no longer just stand by and wait for someone to move forward in getting him the help he so desperately needs. Unfortunately, without a court order, my hands are tied. In my very narrow view, it appears that the rest of the family, including your Mother, cares only about money and how others live their lives. I WANT MY BROTHER BACK. I WANT YOU TO HAVE YOUR FATHER BACK. I WANT HALEY TO BE ABLE TO ENJOY HER GRANDPA. I WANT YOUR MOTHER TO HAVE HER HUSBAND BACK. I WANT YOU TO HELP ME MAKE IT HAPPEN. PLEASE. I know you are busy with work, home, and family. I've been there and done that - twice. I'm only asking for your support in my efforts to get Carl on track to recovery. Carl's future and well-being is ALL that matters to me and I will do whatever it takes to get him back! XOXO, Aunt Candy  
Candace L. Curtis  
Project Administrator  
ERS Corp  
1600 Riviera Avenue, Suite 310  
Walnut Creek, CA 94596  
TEL: (925) 938-1600 x 100  
CELL: (925) 759-9020  
FAX: (925) 938-1610  
[ccurtis@erscorp.us](mailto:ccurtis@erscorp.us)

P14662

IN THE ESTATE OF	§	PROBATE COURT
NELVA E. BRUNSTING	§	NUMBER FOUR (4)
DECEASED	§	HARRIS COUNTY, TEXAS

**REPORT OF TEMPORARY ADMINISTRATOR PENDING CONTEST**

On July 24, 2015 an Order of this Court, signed by Judge Christine Butts on July 23, 2015, was filed in the above styled and numbered case. In this Order the Court stated that Greg Lester was appointed Temporary Administrator Pending Contest of this estate. The Court directed that Greg Lester will report to the Court regarding the merits of the claims in this case on or before the expiration of this Order. The Order will expire on or about January 20, 2016, which is 180 days after the date that the Order was signed.

**BACKGROUND**

**The Brunsting Family**

Nelva and Elmer Brunsting were married and had five (5) children: Candace Louise Curtis (“ Candace”), Carol Ann Brunsting (“ Carol”), Carl Henry Brunsting (“Carl”), Amy Ruth Tschirhart (“Amy”) and Anita Kay Riley (“Anita”).

**The Brunsting Family Living Trust**

Elmer Brunsting and Nelva Brunsting ( herein referred to as “Settlors”) created the Brunsting Family Living Trust (the “Trust”) on October 10, 1996. The Trust was subsequently restated in its entirety on January 12, 2005. A copy of the Restatement of the Brunsting Family Living Trust (“Restatement”) is attached hereto as the first exhibit.

The Trust could be amended during the lifetime of the original Settlers. However, once a Settlor dies, the Trust could not be amended except by court order.

Each Settlor could provide for a different disposition of their share of the Trust by executing a qualified beneficiary designation for that person’s share alone.

## **Trustees of the Brunsting Family Living Trust**

The initial trustees of the Trust were Elmer Brunsting and Nelva Brunsting. The Restatement provided that if both original Co-Trustees failed or ceased to serve, then Carl Henry Brunsting and Amy Ruth Tschirhart would serve as Co-Trustees.

Each original Trustee has the right to appoint successor trustees to serve in the event the original Trustee ceases to serve by death, disability, or for any reason, and may specify any conditions on the succession and service as may be permitted by law. The Restatement also provided that the original Trustees may each remove any trustee they have individually named as their respective successor.

On September 6, 2007, a First Amendment to the Restatement to the Brunsting Family Living Trust was executed by Settlers which changed the succession of successor trustees, a copy of which is attached hereto as the second exhibit. This document appointed Carl Henry Brunsting and Candace Louise Curtis as successor co-trustees if both original Trustees fail or cease to serve. If either Carl Henry Brunsting or Candace Louise Curtis should fail or cease to serve, then the remaining successor trustee would serve alone. If neither successor co-trustee is able or willing to serve, then The Frost National Bank shall serve as the sole successor trustee. The First Amendment effectively removed Amy Ruth Tschirhart as the successor co-trustee and substituted Candace Louise Curtis in her place and stead.

Elmer Brunsting died on April 1, 2009, and after her husband's death, Nelva Brunsting served alone as the original trustee.

On December 21, 2010, Nelva Brunsting exercised her right to designate a successor trustee. Nelva Brunsting executed an Appointment of Successor Trustee, a copy of which is attached hereto as the third exhibit. The Appointment of Successor Trustee stated that if Nelva Brunsting resigned as Trustee, then Anita Kay Brunsting would serve as successor trustee, Amy Ruth Tschirhart would serve as the second successor, and The Frost National Bank as the third successor. If Nelva Brunsting fails or ceases to serve as trustee because of her death or disability, then Anita Kay Brunsting and Amy Ruth Tschirhart would serve as successor co-trustees.

On the same date, on December 21, 2010, Nelva Brunsting also exercised her right to resign as Trustee. Specifically, Nelva Brunsting resigned as Trustee of the Trust, the Nelva Brunsting Survivor's Trust and Elmer Brunsting's Decedent's Trust and appointed Anita Kay Brunsting as trustee of the aforementioned Trusts.

## **Split of Brunsting Family Living Trust into the Survivor's Trust and the Decedent's Trust**

After Elmer Brunsting's death on April 1, 2009, the Trust split into two trusts—the Nelva Brunsting Survivor's Trust (the "Survivor's Trust") and the Elmer Brunsting Decedent's Trust

(the “Decedent’s Trust”). Nelva Brunsting, as the original Trustee, served as Trustee over both the Survivor’s and Decedent’s Trusts.

There is no power of appointment related to the Trust which was exercised by Elmer Brunsting prior to his death on April 1, 2009.

Pursuant to the Restatement, the beneficiary of the Survivor’s Trust, Nelva Brunsting, had an unlimited and unrestricted general power of appointment over the entire principal and any accrued but undistributed income of the Survivor’s Trust. This general power of appointment was very broad, and granted the survivor the power to appoint the Survivor’s Trust to anyone, outright or in trust, in equal or unequal proportions.

The Decedent’s Trust would terminate at the surviving Settlor’s death or on the death of Nelva Brunsting. Pursuant to the Restatement, the survivor had a limited testamentary power of appointment to appoint the undistributed principal and income to the descendants of the Settlers only. While Nelva Brunsting (as the surviving Settlor) was restricted to only appointing the assets to her descendants, the assets of the Decedent’s Trust could be appointed by Nelva Brunsting (as the surviving Settlor) to her descendants in any proportion and on terms and conditions as the survivor elects.

#### **Nelva Brunsting’s June 15, 2010 Qualified Beneficiary Designation and Exercise of Power of Appointment**

On June 15, 2010, Nelva Brunsting executed a Qualified Beneficiary Designation and Exercise of Power of Appointment under Living Trust Agreement, a copy of which is attached hereto as the fourth exhibit. This document exercised Nelva Brunsting’s general power of appointment over the Survivor’s Trust and her limited power of appointment over the Decedent’s Trust.

Specifically, Nelva Brunsting’s exercise appointed the Survivor’s Trust and Decedent’s Trust to be distributed equally among Nelva and Elmer Brunsting’s five (5) children: Candace Louise Curtis, Carol Ann Brunsting, Carl Henry Brunsting, Amy Ruth Tschirhart and Anita Kay Riley. This document also expressed Nelva Brunsting’s intent that upon the death of Nelva Brunsting, any funds advanced to Nelva Brunsting’s descendants would be deducted from that particular descendant’s share of assets received from the Survivor’s Trust and Decedent’s Trust.

#### **Nelva Brunsting’s August 25, 2010 Qualified Beneficiary Designation and Exercise of Power of Appointment**

On August 25, 2010, Nelva Brunsting executed a Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement, a copy of which is attached hereto as the fifth exhibit. This document appears to have superseded the June 15,



## 2010 Qualified Beneficiary Designation and Exercise of Power of Appointment under Living Trust Agreement.

In this document, Nelva Brunsting exercised her general power of appointment over the Survivor's Trust and her limited power of appointment over the Decedent's Trust. The document stated that the Trustee would pay the balance of both the Survivor's and Decedent's Trust equally to each of her five (5) children: Candace Louise Curtis, Carol Ann Brunsting, Carl Henry Brunsting, Amy Ruth Tschirhart and Anita Kay Riley, and such assets would be held in a separate Personal Asset Trust for the benefit of each of her children. With the exception of Carl and Candace, each descendant would be the trustee of their own Personal Asset Trust. Specifically, Amy Ruth Tschirhart, Anita Kay Brunsting and Carol Ann Brunsting would each be the trustee of their own Personal Asset Trust. Anita Kay Riley and Amy Ruth Tschirhart were appointed the co-trustees of the Personal Asset Trust for Carl Henry Brunsting and the Personal Asset Trust for Candace Louise Curtis. The document also detailed the administrative provisions relating to the Personal Asset Trusts for Nelva and Elmer Brunsting's descendants.

The major change that resulted from the August 25, 2010 Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement was that Carl Henry Brunsting and Candace Louis Curtis could not elect to be the individual trustee of their own Personal Asset Trusts. The August 25, 2010 document also provided different administrative provisions for the trusts created for the descendants than those provided under Article X of the Restatement.

Notably, the August 25, 2010 Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement contained a no contest clause which provided a lengthy list of prohibited actions that would fall under such no contest clause. The no contest clause provided that any beneficiary who took such prohibited actions would forfeit their share and be treated as if they predeceased Nelva and Elmer Brunsting.

### **The Death of Nelva Brunsting**

Nelva Brunsting died on November 11, 2011, and the Survivor's Trust and Decedent's Trust terminated and were to pass to the Personal Asset Trusts for Candace Louise Curtis, Carol Ann Brunsting, Carl Henry Brunsting, Amy Ruth Tschirhart and Anita Kay Riley. As detailed above, these Personal Asset Trusts were created pursuant to Nelva Brunsting's August 25, 2010 Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement.

## CLAIMS

### The Probate Court Claims Filed by Carl Henry Brunsting and Candace Louise Curtis

Carl Henry Brunsting and Candace Louise Curtis have filed claims against Anita Kay Brunsting, Amy Ruth Brunsting (previously Tschirhart) and Carole Ann Brunsting in the Estate of Nelva E. Brunsting, Deceased, pending in Harris County Probate Court Number Four (4) under Cause Number 412,249 (hereinafter referred to as the “Probate Court Claims”).

Carl Henry Brunsting and Candace Louise Curtis’ Probate Court Claims are twofold. First, individual tort claims have been asserted against Anita Kay Brunsting, Amy Ruth Brunsting (previously Tschirhart) and Carole Ann Brunsting for actions taken either in their fiduciary capacity or purported actions taken which have harmed Carl and Candace. The second category of Carl and Candace’s Probate Court Claims relate to requests for declaratory relief in construing the Brunsting Family Living Trust.

The Probate Court Claims that include individual tort claims against Anita Kay Brunsting, Amy Ruth Brunsting and Carole Ann Brunsting contain multiple questions of fact, which are within the province of the jury. Specifically, Carl Henry Brunsting asserted the following tort claims:

1. Breach of fiduciary duty
2. Conversion
3. Tortious interference with inheritance rights
4. Constructive Trust over Trust assets
5. Fraud, specifically, misrepresentation of facts to Decedent (it is questionable whether Carl and Candace have standing to pursue these claims)
6. Civil Conspiracy
7. Demand for accounting of the Trusts and non-probate accounts
8. Liability of Anita Kay Brunsting, Amy Ruth Brunsting and Carole Ann Brunsting under Texas Property Code § 114.031
9. Removal of Trustees
10. Request for Receivership

The Probate Court Claims asserted by Candace Louise Curtis are as follows:

1. Breach of fiduciary duty
2. Fraud resulting from misrepresentation of material facts to Candace
3. Constructive fraud
4. Money had and received
5. Conversion
6. Tortious interference with inheritance rights
7. Unjust enrichment

8. Civil Conspiracy
9. Demand for accounting of the Trusts and non-probate accounts

As a result of the above Probate Court Claims containing questions of fact within the province of the jury, the Temporary Administrator has refrained from evaluating such claims.

The questions of law presented in both Carl Henry Brunsting and Candace Louise Curtis' requests for declaratory relief contained in the Probate Court Claims are as follows:

1. Was Nelva Brunsting's December 21, 2010 Resignation of Original Trustee and Appointment of Successor Trustee valid?
2. Were the June 15, 2010 and August 25, 2010 Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement an inappropriate alteration of the terms of the Trust?
3. Did the June 15, 2010 Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement appoint all of the Trust property?
4. Did the August 25, 2010 Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement revoke the June 15, 2010 Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement?
5. Is the August 25, 2010 Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement effective?
6. Do the pleadings filed by Carl and Candace violate the No Contest Clause and is the No Contest Clause void as against public policy?

Based on the powers granted to Nelva Brunsting in the Restatement, Nelva Brunsting appears to have appropriately exercised her right to resign as the original Trustee of the Trust on December 21, 2010, and appointed the successor trustee, Anita Kay Brunsting.

While the Restatement provided that the Trust could not be amended after the death of Nelva or Elmer Brunsting, this did not preclude Nelva Brunsting from exercising her general and limited power of appointments over the Survivor's Trust and Decedent's Trust. Specifically, it appears that Nelva Brunsting appropriately exercised her general power of appointment over the Survivor's Trust and her limited power of appointment over Decedent's Trust by appointing the assets to her five (5) children in trust by and through the August 25, 2010 Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement. The August 25, 2010 document appears to have superseded and replaced the June 15, 2010 Qualified Beneficiary

Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement. The Restatement granted Nelva Brunsting the power to appoint such assets in trust and place terms and conditions upon such assets as she desired, including her choice to designate trustees of the Personal Asset Trust of Carl Henry Brunsting and Candace Louise Curtis.

### **NO CONTEST CLAUSE PROVISIONS**

Any claim by Carl Henry Brunsting and Candace Louise Curtis that Nelva Brunsting lacked capacity and/or was subject to undue influence when she executed the August 25, 2010 Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement are questions of fact that are within the province of the jury. However, the no contest clauses in the Qualified Beneficiary Designation and in the Restatement must be considered.

Section “A.” of “MISCELLANEOUS PROVISIONS” of the Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement is a no contest clause that would disinherit any person who, among other things, makes the claims stated above. The provisions of this no contest clause include language that the no contest clause applies even if a court finds that the judicial proceedings in question originated in good faith and with probable cause. This Court will have to rule on the validity of this provision.

Article XI, Section C., of the Restatement is also a no contest provision. The provisions of this no contest clause are similar in result to those stated above in the Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement. Therefore, a successful claim that Nelva Brunsting lacked capacity would still be subject to the no contest provisions of the Restatement. In this event the Court would have to rule on the validity of this provision of the Restatement. In both documents the provision is well written.

A decision by the Court upholding either no contest provision might resolve all other issues.

### **The Lawsuit of Carl Henry Brunsting in the District Court Proceeding**

Carl Henry Brunsting, in his capacity as Independent Executor of the Estates of Elmer H. Brunsting and Nelva E. Brunsting, filed claims against Defendants Candace L. Kunz-Freed, Vacek & Freed, PLLC f/k/a The Vacek Law Firm, PLLC (collectively the “Defendants”). These claims of Carl Henry Brunsting were filed in the 164<sup>th</sup> District Court of Harris County, Texas (hereinafter referred to as the “District Court Claims”).

Carl Henry Brunsting asserted the following District Court Claims against Defendants in his live pleading, Plaintiff’s Third Amended Petition:

1. Negligence
2. Negligent misrepresentation
3. Breach of fiduciary duty
4. Aiding and abetting

5. Fraud
6. Conspiracy
7. Deceptive Trade Practices Act (“DTPA”) violations

Carl Henry Brunsting also pled tolling, fraudulent concealment and the discovery rule. Carl Henry Brunsting sought damages of actual damages, forfeiture of fees, treble damages and punitive damages, in addition to his attorney’s fees.

Carl Henry Brunsting’s District Court Claims center around the changes Nelva Brunsting made by and through the June 15, 2010 Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement and the August 25, 2010 Qualified Beneficiary Designation and Exercise of Testamentary Power of Appointment under Living Trust Agreement.

In response to Plaintiff’s District Court Claims, Defendants filed a Motion for Traditional and No–Evidence Summary Judgment on the following bases:

1. Carl Henry Brunsting improperly fractured his legal malpractice claims against Defendants;
2. Carl Henry Brunsting’s DTPA claim is barred by the professional services exemption; and
3. Carl Henry Brunsting’s negligent misrepresentation claim and DTPA claim fail because Carl Henry Brunsting admits he is not aware of any misrepresentations made by Defendants.

Defendants also moved for a No-Evidence Summary Judgment on the basis that Carl Henry Brunsting has no evidence supporting one or more of the elements on the claims he has asserted.

A Notice of Vacancy of Party and Motion to Abate Proceeding was filed by counsel for Carl Henry Brunsting. Carl Henry Brunsting has filed a resignation as executor of the aforementioned estates. Until a successor executor is appointed, there is no plaintiff to pursue the action against Defendants and no plaintiff to respond to Defendants’ summary judgment motions. The issue of who will serve as the successor executor of the Estate of Nelva E. Brunsting and the Estate of Elmer Brunsting must be resolved prior to resolving the claims against Defendants.

A Motion to transfer the district court matter to the probate court where both estates are pending has also been filed, but not yet ruled upon.

### **DAMAGES**

Actual damages, of course, are disputed. However, the actual distributions from the Trust after Nelva resigned until shortly after she died seemed to be reasonably well documented. Previously an independent investigation resulted in a listing of the payments made from the trust.

This **REPORT OF MASTER** that was prepared in the case filed in the Southern District of Texas federal court case has the details of the Trust's income, expenses and distributions of stock. A copy of this report is attached hereto as the sixth exhibit.

From this and from changes in the assets of the trust during the period in question the damages can be determined and are basically in three categories.

#### Transfers of Stock

2,765 shares of Exxon Mobil stock were transferred as follows:

	1, 120	Amy
	160	Anita
	160	Candace
	<u>1, 325</u>	Carol
TOTAL	2,765	

675 shares of Chevron stock were transferred as follows:

	135	Anita
	135	Amy's daughter
	135	Amy's son
	135	Anita's daughter
	<u>135</u>	Anita's son
TOTAL	675	

It is easy to see that these distributions of stock were not evenly distributed to the five siblings. I have been told that the distributions were in fact early distributions of the recipients share from their future trusts. This could be resolved by giving those siblings that did not receive an equal amount at the time of the distributions an equivalent amount of money to settle the dispute. Of course the issue is further complicated by the fact that the value of the two stocks has changed since the time of the distributions. The proper way to determine the amount to be distributed might be to use the value of the stock on the date of the original distributions or the value on the date that money is paid to the damage sibling, whichever is greater.

#### Payments To/For Family

Approximately \$108,000 were paid to or for the benefit of Amy, Anita and Carol or disputed expenses including approximately \$41,000 of trustees' fees and approximately \$36,000 of legal fees.

#### Payments To Carol for Nelva's Care

Approximately \$160,000 was paid to Carol during the period in question. I was told that Carol was the primary sibling responsible for Nelva's care.

## **SUMMARY OF DAMAGES**

It seems unwise to have made the stock distributions. However, this can be resolved by equalizing the distributions to all the siblings. The issue of trustees' fees can be resolved by comparing the fees to those that are considered as reasonable fees in similar circumstances. The legal fees are obviously justified and will surely increase. The amounts paid to Carol can be examined but should be liberally considered as attributed to Nelva's care and maintenance.

## **CONCLUSIONS**

All of the legal actions taken by Nelva were within her authority under the broad provisions of the Restatement. Unless Nelva is found to have been incompetent at the time that her legal actions were taken all of the changes made in these documents apply in these proceedings.

If Nelva was incompetent at the time that she took these legal actions then a successor trustee would have been appointed under the terms of the Restatement. No claim of her being incompetent was made at that time.

Furthermore, if Nelva had been incompetent the plaintiff in the District Court case would likely have to show that the defendants knew that she was incompetent. For this and other reasons the case should be moved to the Probate Court.

There are damages for the unequal distribution of the shares of Exxon Mobil and Chevron stock. There may be damages for some of the expenditures for trustees' fees and for payments to Carol. These matters should be resolved by agreement. This may require mediation. The considerable legal fees involved in a trial far outweigh the expenses of a mediation and any compromises made by the parties at the mediation.

## **RECOMMENDATIONS**

1. Remove the District Court case to the Probate Court. It is important that there not be different results for the same or similar issues that are in the cases currently in the Probate Court.
2. Require mediation. Point out the huge savings that will result from a mediation versus a trial. Possibly, inform the parties that the Court will rule on the no contest clause first if the matter is not settled in the mediation. Since this ruling could go either way both sides would have considerable incentive to settle. A ruling in favor of the no contest clause would essentially make the matters moot and the plaintiffs would take nothing and lose their inheritance.

DATA-ENTRY  
PICK UP THIS DATE

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7/23/2015 3:31:56 PM  
Stan Stanart  
County Clerk  
Harris County

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

NOTICE OF ORAL HEARING

07242015:1411:PO056



07242015:1411: P0057

PLEASE TAKE NOTICE that a hearing on Carl Henry Brunsting's Motion for Protective Order has been set in the above-referenced matter on August 3, 2015 at 11:00 a.m. in Harris County Probate Court Number Four (4).

Respectfully submitted,

BAYLESS & STOKES

By: /s/ Bobbie G. Bayless

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*Attorneys for Drina Brunsting, attorney-in-fact for Carl Henry Brunsting*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing instrument was forwarded on the 23<sup>rd</sup> day of July, 2015, as follows:

Bradley Featherston  
1155 Dairy Ashford, Suite 104  
Houston, Texas 77079  
*via Telecopier*

Darlene Payne Smith  
Lori A. Walsh  
Crain, Caton & James, P.C.  
1401 McKinney, 17<sup>th</sup> Floor  
Houston, Texas 77010  
*via Telecopier*

Stephen A. Mendel  
Neal Spielman  
1155 Dairy Ashford, Suite 300  
Houston, Texas 77079  
*via Telecopier*

Candace Curtis, *Pro Se*  
218 Landana St.  
American Canyon, California 94503  
*via Email*

/s/ Bobbie G. Bayless  
BOBBIE G. BAYLESS

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

**PLAINTIFF CURTIS’ RESPONSE TO DEFENDANTS’ NO-EVIDENCE MOTION FOR PARTIAL SUMMARY JUDGMENT AND MOTION AND DEMAND TO PRODUCE EVIDENCE PURSUANT TO EVIDENCE CODES §§1002, 1003**

TO THE HONORABLE PROBATE COURT:

Plaintiff Candace Louise Curtis (Curtis) brings her response to the No-Evidence Motion for Partial Summary Judgment filed jointly by Defendants Anita Brunsting and Amy Brunsting, and will respectfully show that more than a scintilla of evidence exists as to a genuine issue of material fact relating to the existence, authenticity, and validity of an instrument referred to as the 8/25/10 QBD, as hereinafter more fully appears.

**TRUST CHRONOLOGY**

In 1996 Elmer Brunsting and his wife Nelva Brunsting created The Brunsting Family Living Trust for their benefit and for the benefit of their 5 children (The Trust).

In 2005 Elmer and Nelva restated their trust, completely replacing the original 1996 trust (Restatement).

In 2007 the first and only Amendment to “The Trust” was signed by both Elmer and Nelva, and replaced Amy with Candace as successor co-trustee with Carl (Amendment).

Allegedly, an Appointment of Successor Trustees was executed July 1, 2008 appointing Anita as successor co-trustee with Carl. (7/1/08 AST)

The Brunsting Family Living Trust became irrevocable at the death of Elmer Brunsting on April 1, 2009, pursuant to Article III (B) of the Restatement, and could only be amended by a court of competent jurisdiction.

Upon the death of Elmer on April 1, 2009, The Elmer H. Brunsting Decedent's Trust (DT) was created as an irrevocable trust pursuant to Article III (B) and Article VII (A) of the Restatement, and could only be amended by a court of competent jurisdiction.

Also upon the death of Elmer on April 1, 2009, the Nelva E. Brunsting Survivor's Trust (ST) was created. The ST was revocable and amendable, pursuant to Article III Section (B) and Article VII Section (B)(1) of the Restatement.

On June 15, 2010, a "Qualified Beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement", was introduced (6/15/10 QBD).

On August 25, 2010, a "Qualified Beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement", was introduced (8/25/10 QBD).

Upon the death of Nelva, all of the aforementioned Trusts were to terminate, resulting in the creation of five equal (5) Personal Asset Trusts (PAT), one for each beneficiary.

**OBJECTION NO. 1 ASSUMING FACTS - BEST EVIDENCE REQUIRED  
MOTION PURSUANT TO EVIDENCE CODES §§1002, 1003**

There are legitimate questions regarding the existence and authenticity of the 8/25/2010 QBD instrument, as hereinafter more fully appears. Plaintiff Curtis objects to Defendants assuming facts not in evidence, and objects to Defendants' improper attempts at shifting the burden of bringing forth evidence onto Plaintiff(s).

Plaintiff Curtis further objects to the introduction of alleged copies and, therefore, pursuant to Evidence Code §§1002 & 1003, Plaintiff demands Defendants produce only the 8/25/2010 QBD actually signed by Nelva Brunsting, and herein moves the Court for an order that only the original instrument with the wet signed signature page be allowed in evidence on the following ground.

**The Allegation of No-Evidence**

Defendants' "Joint No-Evidence Motion for Partial Summary Judgment" alleges five (5) blanket no-evidence claims, without reference to a particular petition brought by a particular claimant. Defendants are clearly using the petition brought by Carl Brunsting as Executor of the Estate of Nelva Brunsting, and not the petition brought by Plaintiff Curtis, and do not distinguish although the petitions are plainly distinguishable. Defendants' no-evidence claims are:

1. Nelva's signature on the 8/25/10 QBD was forged.
2. Nelva lacked capacity when she executed the 8/25/10 QBD.
3. Nelva was unduly influenced into executing the 8/25/10 QBD.
4. Nelva was fraudulently induced into executing the 8/25/10 QBD.
5. Nelva executed the 8/25/10 QBD under duress.

Inherent in the first assertion is the notion that Nelva did not sign the 8/25/2010 instrument, while the subsequent assertions are based upon a presumption that Nelva Brunsting did sign the 8/25/2010 instrument, but that the signature was somehow obtained improperly.

Plaintiff Curtis has two pending petitions for declaratory judgement. Only one petition refers to the 8/25/2010 QBD, and it raises ground upon which the 8/25/2010 QBD fails that are not addressed in Defendants' joint motion and, thus, are beyond the scope of this response. However, based upon the five specific no evidence challenges presented, it necessarily follows that the rudimentary division in these 5 contentions is but twofold:

1. Nelva did not sign the 8/25/2010 instrument
2. Nelva signed the 8/25/2010 instrument

If one chooses to believe that Nelva did not sign the instrument, the questions begin with how did the likeness of Nelva's signature and Freed's signature and notary stamp find their way to these papers?<sup>1</sup> A plethora of further inquiries would necessarily follow.

If, on the other hand, one chooses to believe that Nelva did sign the instrument, the subdivisions of inquiry are again twofold:

1. Nelva signed the 8/25/2010 instrument knowledgeably and intentionally
2. Nelva signed the 8/25/2010 instrument, but did so under some form of duress, deception, mistake, or diminished capacity.

Defendants seek to shift the burden onto Plaintiff(s) to prematurely prove the secondary aspects related to the "assumed fact" that Nelva signed the instrument, while at the same time Defendants' motion is quick to say:

*"There is no evidence that Anita and/or Amy were present when Nelva executed the 8/25/10 QBD."*

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<sup>1</sup> The term "these" is plural and was purposely selected as will be shown.

There is also no evidence in the record that suggests Plaintiff Curtis or Plaintiff Brunsting were present when Nelva allegedly executed the 8/25/10 QBD. There is no evidence that Defendant Carole Brunsting was present when Nelva executed the 8/25/10 QBD.

### **Did Nelva Sign the 8/25/2010 Instrument with Knowledge and Intent?**

Defendants insist the 8/25/2010 QBD is valid, but admit they have no personal knowledge of its creation or execution, so what exactly do we know?

Emails attached to Plaintiff's federal petition and affidavit show Plaintiff telling Defendant Carole Brunsting she spoke to their Mother on the phone the day after the October 25, 2010 phone conference<sup>2</sup>, and asked about this August 25, 2010 QBD and what it purports, and that Nelva insisted she did no such thing. Nelva followed that conversation with a hand written note regarding Amy and Anita's claims of being co-trustees for the Plaintiffs' Personal Asset Trusts saying "not true". (Exhibit A)<sup>3</sup>

Nelva's hand written notecard states:

*"So I heard you were concerned that any money you receive after I 'leave this mortal coil' will be put in a trust and Anita would have to deal it out.*

*This not true. You'll will get whatever share is yours. If you don't know how to manage money by now it's too late."*

### **Substantial Evidence is Already Before the Court**

The Record clearly shows 3 distinctly different "true and correct copies" of the 8/25/2010 QBD, all bearing the likeness of a Nelva signature, a Candace Freed signature and the image of Freed's notary seal, but the three "true and correct copies" do not share the same image of Nelva's signature.

1. In Anita's 156 page objection filed December 5, 2014 the QBD appears at pdf pages 96 through 132 with signature page 37 at p132 bearing bates stamp P229. (Exhibit B\_1)
2. In Carole's 133 page objection filed Feb. 17, 2015 the QBD appears at pdf pages 97 through 133 with signature page 37 appearing at p133 bearing Bates stamp P192. (Exhibit B\_2)

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<sup>2</sup> Affidavit attached to Curtis original federal complaint Exhibit P-8 filed with this court 02102015:1527:P0074

<sup>3</sup> This exhibit was attached to the petition filed in the federal court on February 27, 2012 as Plaintiff Exhibit 16 made a part of the record of this court Feb. 9, 2015 at pages 66 & 67 in Document #BT-2015-45555

3. Curtis original federal court complaint, affidavit and exhibits were made a part of the probate court record on February 9, 2015. In the 601 page pdf document the August 25, 2010 “Qualified Beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement” (QBD) appears at pdf pages 552 through 588 with signature page 37 at p588. (Exhibit B\_3)

Plaintiff Curtis obtained Candace Freed’s notary logs for August 25, 2010 (Exhibit C). These pages show a notary log book that does not conform to Tex. Gov’t Code §406.014.

Based upon the obvious inability of the Defendants to agree as to what “version” of this mysterious 8/25/2010 QBD is the one “true and correct” version, and given that none of them claim personal knowledge of its creation or signing, and given that the notary logs are unusual and no certifiable copy of an “original” 8/25/2010 QBD has been introduced into evidence, certainly there are genuine questions raised as to a material fact regarding the instrument.

It would necessarily follow that questions surrounding the existence of the instrument would precede ancillary inquiries into the validity of the instrument’s authenticity, precede questions addressing the improper purposes the instrument attempts to accomplish, precede inquiries into the opacities created from the instrument’s attempted amalgamation of incompatible powers, and precede any discussion of the instrument’s attempt to improperly merge incompatible trusts.

### **Defendants’ Background Statement**

Defendants’ Motion seeks to mischaracterize the breach of fiduciary and conspiracy to steal the family inheritance suits as merely a “family dispute”. These suits are more properly characterized under the civil law and the laws of equity as fiduciary relationship actions. The questions surrounding Defendants’ actions would also seem to invoke Texas Penal Code considerations, and the fact that Plaintiffs and Defendants are siblings is a secondary premise, having no immediate evidentiary value.

Defendants’ Motion relates the first background part as:

*“Elmer and Nelva created the Brunsting Family Living Trust on or about October 10, 1996. The trust was restated on January 12, 2005 (the "Family Trust") Elmer and Nelva served as trustees of the Family Trust until 2008, when Elmer lost the ability to handle his financial affairs and Nelva served as trustee alone. In 2008, Nelva appointed Carl and Anita to serve as successor co-trustees”*

Defendants are asking the Court to assume facts that are not in evidence and consistently skip from the 2005 restatement to some other place in time. In this instance they skip to the alleged July 1, 2008 appointment (Exhibit D), never once having mentioned the 2007 Amendment. (Exhibit E)

### **The July 1, 2008 Appointment of Successor Trustees**

Defendants' Motion claims:

*"This litigation started more than thirty-eight (38) months ago. Plaintiffs had sufficient time for discovery in this suit and the three (3) other actions related to the 8/25/10 QBD".*

The disclosure CD received from the Defendants at the federal injunction hearing April 9, 2013 (more than a year after the federal suit was filed) contained Bates #'s BRUNSTING000001 - BRUNSTING 004922. Defendants claimed they had disclosed and accounted for everything, while Plaintiff continued to allege that known assets of the trust remained unaccounted for, and that true and correct copies of all trust documents in Defendants' possession had not yet been disclosed.

Normally 38 months would be more than ample time for litigants to exchange disclosures and discovery. Despite the fact that Anita's June 4, 2015 interrogatory replies claim it had already been disclosed, it was not until June 25, 2015, the day before Defendants' no-evidence motion was filed, that the Defendants finally responded to Plaintiff's continued requests for disclosure of the alleged 2008 appointment instrument. Defendants even rely on the instrument to assert at page 2 of their Motion:

*"In 2008, Nelva appointed Carl and Anita to serve as successor co-trustees."*

The claim that Nelva appointed Anita to serve as successor co-trustee with Carl in 2008 is a fact question in dispute, as under the terms of the 2005 Restatement Nelva held no such power. Nelva's power to remove trustees was limited to those she had individually selected. (See Article IV Page 4-2 (Bates P240) Attached as Exhibit F).

### **De jure, De facto, or Usurper?**

In the 2007 Amendment Amy was removed as a successor co-trustee with Carl and replaced by Candace. If Carl or Candace failed to serve the alternate was to be Frost Bank.

Prior to making that change Nelva emailed Candace asking if she would be willing to serve as co-trustee with Carl stating that she thought Candace had a better relationship with her siblings. (Exhibit G)

The 2007 Amendment was the first and only amendment to the trust signed by both Elmer and Nelva Brunsting. After the incapacitation or death of one of the founders, the trust could only be amended by a court of competent jurisdiction. The July 1, 2008 instrument was only signed by Nelva, clearly indicates that Elmer was incompetent, and therefore is invalid.

The trustees for the irrevocable decedent's trust at the death of Elmer Brunsting would be those named by both Elmer and Nelva in the 2007 Amendment to the family Trust, and prior to Elmer's death there were no individual trustee appointments to be changed by Nelva alone.

This sound legal reasoning also applies to the invalidity of the alleged appointments dated August 25, 2010 and December 21, 2010, and the certificates of trust based thereon.

Defendants are not now and have never been de jure trustees for the irrevocable family or Decedent's Trust and defendant's motion disingenuously seeks to avoid any such deliberations.

### **Objection No. 2 Defendants' Motion is Disingenuous**

Defendants improperly use their motion to advance irrelevant allegories. In Defendants' motion at page 3 they claim Plaintiff(s)' Petition(s) for Declaratory Judgment are ground in petty emotions:

*"The chief change that prompted plaintiffs' challenge to the 8/25/10 QBD is that the co-trustees for Carl's and Candace's interest under the trust changed from: (1) Anita and Carl; to (2) Anita and Amy. Apparently, the change in co-trustees from Anita and Carl to Anita and Amy offends Carl and Candace"*

Defendants continue by contending that the focus of their Motion is very narrow and specific:

#### *III. Argument & Authorities*

*"This motion relates solely to plaintiffs challenges to the 8/25/10 QBD"*

Defendants make this claim while simultaneously using their Motion to advance a false thesis, to suggest false conclusions, to assume facts, to falsely claim honorable intentions, and to make numerous assertions about other matters already settled in plaintiff's favor or remaining in dispute, as if those matters were settled and established in defendant's favor.



Defendants' go on to downplay the significance of their Trojan horse as negligible:

*"For plaintiffs, the sole impact is the change in co-trustees from:  
(1) Anita and Carl; to (2) Anita and Amy"*

The evidence will, in fact, show the alleged change was from Carl and Candace to Anita and Amy, that the alleged change was improper and that the intended impact on Plaintiff(s) is the one stated in Anita's December 5, 2014 "Response to Candace's Motion for Distribution of Trust Funds".

On page 1 at item 4 Anita says:

*"4. If the Court finds the in terrorem clause is enforceable, then Candace and Carl have no right to any distribution from the trust".*

In recent interrogatories and requests for fiduciary disclosures returned by Amy Brunsting June 25, 2015, Curtis asks a series of questions regarding the fiduciaries' distribution standards. The questions were taken directly from the Northern Trust Company web site informational area. Defendant's response to the inquiry they renumbered as 15 is telling:

*"15. What circumstances should or should not exist prior to a distribution from "the trust"?"*

*RESPONSE: Defendant objects to this interrogatory as unintelligible. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (i.e., before Nelva's death or after Nelva's death) and is, therefore, vague.*

*Subject to and without waiving the foregoing objections, currently, with respect to Candace, the Court must resolve Candace's claims and allegations in the pending lawsuit and, in particular, Candace's allegation that the no contest provisions in the trust instruments are unenforceable, prior to a distribution"*

Is it trustees burdened with the fiduciary duties of loyalty and utmost good faith owed to beneficiaries Carl and Candace who are making these claims, or is it conflicted co-beneficiaries who seek to stifle inquiry into illicit conduct? The answer should be obvious.

The manifest impact of this alleged successor trustee "change" is alterations to the trust that could not be done under terms of the trust; actions prohibited by law and by the trust that have been performed and acts required by the terms of the trust that have not been performed and the negative impact of this "change" on the trust has been absolute economic devastation.

### **Objection No. 3 Defendants' Motion is Vague and Productive Only of Confusion**

Plaintiff Candace Louise Curtis objects to Defendants Amy and Anita Brunsting's Joint Motion for No-Evidence Partial Summary Judgment, on the ground that the Motion is vague and misleading.

Relevant to Defendants' Motion, two separate lawsuits were brought by two different plaintiffs, in two different courts, 14 months apart, with separate and distinct claims, notwithstanding the fact that both Plaintiffs' claims involve the same parties, acts and events, or that there are other related lawsuits involving additional defendants and claims.

Defendants' Motion makes numerous assertions while failing to distinguish between the plaintiffs, the lawsuits, or the pleadings, attempting to create some sort of egocentric mélange. This same amalgamation methodology of ambiguity is a fundamental defect of the 8/25/2010 QBD addressed in Curtis' Petition for Declaratory Judgment, but not mentioned in Defendants' Motion at all.

Plaintiffs are siblings not Siamese twins. The records and pleadings in one lawsuit cannot be juxtaposed as if they were the records and pleadings in the other. Using the term "plaintiffs" as a reference, without distinguishing the particular plaintiff, the particular case, or citing to the specific pleadings to which Defendants Amy and Anita Brunsting jointly refer, has created nothing but opacities.

### **The Proper Party, Case and Declaratory Judgment Distinctions**

Plaintiff Carl Henry Brunsting filed suit against Amy, Anita and Carole Brunsting in the Harris County Probate Court, individually and as Executor for the estates of Nelva and Elmer Brunsting, seeking declaratory judgment and accounting, on the same day a hearing was held on Curtis' application for injunction in the federal court, April 9, 2013.

Plaintiff Candace Louise Curtis filed suit against Amy and Anita for breach of fiduciary, in the United States District Court for the Southern District of Texas on February 27, 2012, not raising any issues relating to the 8/25/10 QBD.

Plaintiff Curtis' pleadings in the federal court did not seek declaratory judgement until May 9, 2014, when she filed her first amended petition. Under the federal rules a plaintiff can only amend a complaint with leave of the Court, and only on an application showing the assent of opposing counsel, or a statement detailing efforts to obtain the assent of the parties and

expressing the reasons for plaintiff's inability to do so. This is all in the public record and Plaintiff Curtis would respectfully ask the Court to take Judicial Notice of the Federal Record.<sup>4</sup>

The amendment to Curtis' federal complaint was part of a stipulation approved by Defendants' counsel, as stated in the application for the Court's leave to amend. The stipulation involved a number of concessions and conditions exemplified by: 1) an application for leave to amend; 2) the Amended Complaint; and 3) Plaintiff's Motion for Remand to this Court.

The stipulation for remand involved amending the complaint to: 1) add necessary Party Carole Brunsting; 2) add involuntary Plaintiff Carl Brunsting, thus polluting the diversity required by 28 USC §1332; and 3) the addition of declaratory judgment claims. The remand also included keeping the federal injunction in full force and effect as a condition of the remand.

The petitions for declaratory judgment added by Curtis' first amended petition do not mirror the petitions for declaratory judgment brought by Carl Brunsting.

#### **SUMMARY OF PLAINTIFF'S RESPONSE TO DEFENDANTS' NO-EVIDENCE MOTION FOR PARTIAL SUMMARY JUDGMENT**

Defendants seek to trivialize several lawsuits involving conspiracy to steal the family inheritance, fraud, breach of fiduciary, co-mingling, self-dealing, and other secreted acts, as if such claims represent challenges to a single document and, more absurdly, a sibling rivalry motivated by petty emotions.

*“Carl and Candace (“Plaintiffs”) brought several proceedings alleging every conceivable means to challenge the 8/25/10 QBD”*

This statement of the record is a gross exaggeration. The 8/25/10 QBD is the object of two separate and distinct petitions for declaratory judgment, brought at dissimilar stages of separate proceedings by diverse plaintiffs.

The several lawsuits were by no means brought specifically to challenge the 8/25/10 QBD, as it is but a small piece in a much larger fraud mosaic.

---

<sup>4</sup> 4:12-cv-00592 Candace Louise Curtis v. Anita Kay Brunsting et al Case remanded to Harris County Probate Court No. 4. Kenneth M. Hoyt, presiding, Date filed: 02/27/2012, Date terminated: 05/15/2014, Date of last filing: 05/15/2014

## **LEX NON COGIT AD IMPOSSIBILIA**

The respondent is not required to marshal its proof and need only point out evidence that raises a genuine fact question on the challenged elements.”<sup>5</sup>

The absence of a reliable instrument in evidence forecloses Defendants’ no-evidence challenge as improperly seeking to shift the burden of bringing forth evidence onto Plaintiff(s), who cannot be called upon to prove the non-existence of the asserted fact of its existence.

Plaintiff has shown substantially more than the marginal amount of evidence required to defeat Defendants’ Motion. The burden of bringing forth evidence to establish the existence and validity of an 8/25/2010 QBD rests squarely upon these Defendants, who are the only proponents of the existence, validity and applicability of the instrument.

## **CONCLUSION**

If one of the three exhibits of the 8/25/2010 QBD is a true and correct copy of an original wet signed document, what are the other two exhibits true and correct copies of?

If Nelva knowingly and willfully executed the 8/25/2010 QBD, why does she say in regard to what it purports “this not true”?

Why does the content of Candace Freed’s Notary Log not conform to the requirements of Tex. Gov’t Code §406.014, and why does it contain such unusual line/page anomalies?

If the 8/25/2010 QBD is benign, and merely changes trustee appointments as Defendants claim, why do they cling to it so dearly despite admitting no personal knowledge of its creation or execution?

Unless and until such an instrument can be physically produced and qualified as evidence with declaration as to the full chain of custody, the inquiries into whether Nelva signed the instrument and under what conditions are as moot as discussions of the applicability of the alleged instrument’s content.

Plaintiff Candace Louise Curtis herein affirms, under penalty of perjury pursuant to the laws of Texas that the foregoing statements are true and correct and based upon personal knowledge.

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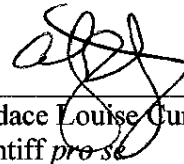
<sup>5</sup> TEX. R. CIV. P. 166a(i)

Furthermore, references to the record and the attached Exhibits are true and correct references and representations of the things to which they speak.

Plaintiff Candace Louise Curtis has herein presented sufficient evidence in response to Defendants' Motion for No-Evidence Partial Summary Judgment to raise a genuine issue of a material fact. The Court should properly deny Defendants' Motion for the numerous reasons shown, and Plaintiff so moves the Court.

Plaintiff seeks the above judicial remedy and prays for an order for Defendants to pay all costs associated with hearings on their Motion, including Plaintiff's transportation, lodging, meals and legal costs.

Respectfully submitted,



---

Candace Louise Curtis  
Plaintiff *pro se*  
218 Landana Street  
American Canyon CA 94503  
Tel: 925-759-9020  
[ocurtis@sbcglobal.net](mailto:ocurtis@sbcglobal.net)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been sent on this 13<sup>th</sup> day of July 2015, to the following via e-service or email:

Bradley E. Featherston  
The Mendel Law Firm, L.P.  
1155 Dairy Ashford, Suite 104  
Houston, Texas 77079  
[brad@meddellawfirm.com](mailto:brad@meddellawfirm.com)

Attorney for Anita Kay Brunsting

Neal E. Spielman  
Griffin & Matthews  
1155 Dairy Ashford, Suite 300  
Houston, Texas 77079  
[nspielman@grifmatlaw.com](mailto:nspielman@grifmatlaw.com)

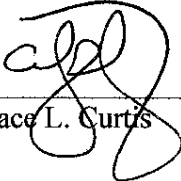
Attorney for Amy Ruth Brunsting

Bobbie G. Bayless  
Bayless & Stokes  
2931 Ferndale  
Houston, Texas 77098  
bayless@baylessstokes.com

Attorney for Drina Brunsting,  
Attorney in Fact for Carl Henry Brunsting

Darlene Payne Smith  
Crain, Caton & James  
Five Houston Center  
1401 McKinney, 17<sup>th</sup> Floor  
Houston, Texas 77010  
dsmith@craincaton.com

Attorney for Carole Ann Brunsting

  
Candace L. Curtis

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

**ORDER DENYING DEFENDANTS' JOINT NO-EVIDENCE  
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Having considered Plaintiff Candace Louise Curtis' Response to Defendants' Joint No-Evidence Motion for Partial Summary Judgment the Court is of the opinion that plaintiff has met her burden and Defendants' No-Evidence Motion should properly be DENIED.

It is so ordered;

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
JUDGE PRESIDING

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

**ORDER GRANTING PLAINTIFF’S MOTION TO PRODUCE EVIDENCE PURSUANT TO EVIDENCE CODE §§1002, 1003**

Having considered Plaintiff Candace Louise Curtis’ Motion and Demand to Produce Evidence pursuant to Evidence Code §§1002, 1003, the Court finds just cause to question the efficacy of copies of trust instruments and that the Plaintiff’s Evidence Code Motion should be GRANTED.

Defendants will not be allowed to introduce copies of trust instruments alleged to have been signed by Nelva Brunsting after the death of Elmer Brunsting on April 1, 2009 except by stipulation between the parties or the approval of the Court and must produce only the original instruments.

It is so ordered;

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
JUDGE PRESIDING



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

**ORDER DENYING DEFENDANTS' JOINT NO-EVIDENCE  
MOTION FOR PARTIAL SUMMARY JUDGMENT AND  
GRANTING PLAINTIFF'S MOTION AND DEMAND TO PRODUCE EVIDENCE  
PURSUANT TO EVIDENCE CODE §§1002, 1003**

Having considered Plaintiff Candace Louise Curtis' Response to Defendants' No-Evidence Motion for Partial Summary Judgment and her Motion and Demand to Produce Evidence Pursuant to Evidence Code §§1002, 1003, the Court is of the opinion that plaintiff has met her burden and the Defendants' No-Evidence Motion should be DENIED.

The Court further finds just cause to question the efficacy of copies of trust instruments and that the Plaintiff's Evidence code §§1002, 1003 Motion should be GRANTED. Defendants will not be allowed to introduce any alleged copies of trust instruments alleged to have been signed by Nelva Brunsting after the death of Elmer Brunsting on April 1, 2009 and must produce only the original wet signed instruments.

It is so ordered;

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
JUDGE PRESIDING

**EXHIBIT**

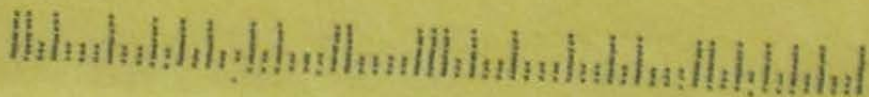
**A**

Nelva Brunsting  
13630 Pineroak Ln.  
Houston, TX 77069

HOUSTON TX 77069  
MAY 10 PM 2 T



Candy Curtiss,  
1215 Uginian Way  
Martinez, CA  
94553



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Hi:

Sunday

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

So I heard you were concerned that any money you receive after I leave the marital coil will be put in a trust and Anita would have to deal it out.

That's not true. You'll still get whatever share is yours. If you don't know how to manage money

by now it's too late.

I'm on alyqur quite a bit of the time now. Even sleep with it. The hum of the motor is rather soothing.

Had about 50 or so trickles this evening. Jim took care of taking the goodness out.

Our weather is still gorgeous but so very dry. Glad Jim met a farmer. I see farmers are doing better. In catching the grasshopper. Looks like your guys are winning.

Aren't those cards pretty? Could get them for me.  
(over)

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

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

Hallmark  
STATIONERY

CNT3025

© HALLMARK LICENSING, INC.  
MADE IN U.S.A.

Hallmark.com

I can't  
even read  
my own  
writing!

Bye now, Love, Mother

**EXHIBIT**

**B**

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.

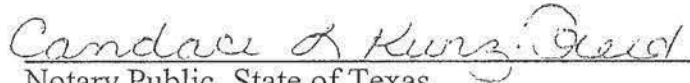
  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

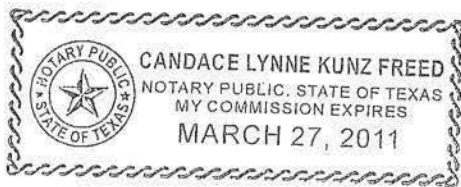
*ACCEPTED* and effective on August 25, 2010.

  
\_\_\_\_\_  
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



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.

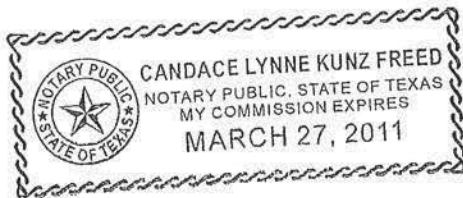
*Nelva E. Brunsting*  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

*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.

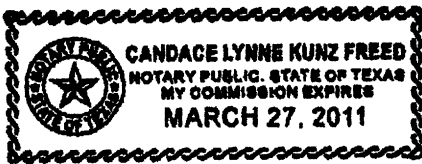
  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

**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

# EXHIBIT C

## 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](mailto: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

	Notarization Date/Time	Document Date	Type of Notarization	Name of Signer	Signer's Signature	Signer's Address and Telephone Number
161	11/22/10	11/22/10		Shelley Crates	X Shelley Crates	14311 Islandwoods Dr, Houston, TX 77095
162	11/24/10	11/24/10		Floy Stockdick	X Floy Stockdick	4011 Franz Katy, TX 77423
163	11/24/10	11/24/10		Roseanne Lopez	X Roseanne Lopez	6005 Franz Katy, TX 77427
164	12/1/10	12/1/10		Dr. C.V. Beghtol	X C.V. Beghtol	11434 Valley Spring Houston TX 77043
165	12/9/10	12/9/10		M. Chan	X M. Chan	21326 Rosehollow Houston/Katy, TX 77458
166	12/14/10	12/14/10		Irene Kovar	X Irene Kovar	
167	12/21/10	12/21/10		Nelva Brunsting	X Nelva E. Brunsting	13630 Pinerock Houston TX 77079
168	12/21/10	12/21/10		Anita Brunsting	X Anita Brunsting	203 Bloomingdale Cir Victoria, TX 77904
169	12/21/10	12/21/10		Herbert C. McKee	X Herbert C. McKee	8010 Neff St. Houston, Texas
170	12/29/10	12/29/10		Kyung Jacobs	X Kyung Jacobs	8326 Ash Garden Ct. Houston, TX 77083
171	12/30/10	12/30/10		J.W. Burns	X J.W. Burns	10806 Inwood Hod. TX 77042
172	1/03/11	1/03/11		Kyung Jacobs	X Kyung Jacobs	8326 Ash Garden Ct. Houston, TX 77083
173	1/26/11	1/26/11		John Sutherland	X John Sutherland	415 Coachman Lane Hou TX 77024
174	1/26/11	1/26/11		Ellen Sutherland Baddi	X Ellen Sutherland Baddi	Podere Binacco 58020 Scarlino (GR) Italy
175	1/26/11	1/26/11		Karen Lee Cook	X Karen Lee Cook	3210 Deer Trail Bryan, TX 77807
176	2/9/11	2/9/11		M. Chan	X M. Chan	21326 Rosehollow Ln Katy, TX 77450

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	
			Top of Thumbprint	Bottom of Thumbprint
Personal Knowledge	HIPAA → PAT TRUSTEES DESIGNATION OF SUCCESSOR TEE Cert. of Tr.	\$ 0	161	162
Personal Knowledge	Qualified Benef. Design.	\$	163	164
Personal Knowledge	Appt. of Succ Trustees Qualified Benef. Designation	\$	165	166
Personal Knowledge	Funding Pkg. COTS(ST)DT, LT (3) Med POA, HIPAA, QBD, APPT SUCC TEE GUARD'S and AC KNOWL.	\$	167	168
Personal Knowledge	Amended Affidavit/Oath.	\$	169	170
Personal Knowledge	Appt. of Succ Tee Resignation documents.	\$	171	172
Personal Knowledge	COT's (3) Acceptance as <sup>Succ</sup> Trustee	\$	173	174
Personal Knowledge		\$	175	176
Personal Knowledge	Beneficiary form for Chase IRA	\$		
Personal Knowledge	Birth Certificate Correction	\$		
P.K		\$		
Personal Knowledge	Farmers Insurance Claim Trustee Stmt for LT	\$		
Personal Knowledge	Resignation of Tee Med POA	\$		
Personal Knowledge	Accept of Succ Co Tee COT, Delegation of Auth	\$		
Personal Knowledge	Accept of Succ Co Tee COT	\$		
Personal Knowledge	Funding (PMZ) Med POA; COT's (3) Deed HS, Deed other, Assign PIP.	\$		

	Notarization Date/Time	Document Date	Type of Notarization	Name of Signer	Signer's Signature	Signer's Address and Telephone Number
129	7/22/10	7/22/10	in office	Robert Holmes	X Robert Holmes	13218 Verbena Houston TX 77083
130	7/23/10	7/23/10	in office	Nancy Karistareux	X Nancy J. Karistareux	1873 Birchwood Dr. Okemos, MI 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 Brecky 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 Delacro	X Phyllis Himburg Delacro	
141	8/25/10			Nelva Brunsting	X Nelva E. Brunsting	13630 Piping Rock Houston TX 77079
142	8/26/10			Betty Jean Barney	X Betty Jean Barney	8915 Opelika Houston TX 77080
143	9/8/10			Mark R. Yarbrough	X Mark R. Yarbrough	4101 Monterey Lakes Blvd #1221 Austin TX 78749
144	9/8/10			Jeffrey S. Yarbrough	X Jeffrey S. Yarbrough Jr	2617 Piping Rock Tr. Austin TX 78748

<b>Type of Identification</b> <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	<b>Description of Document, Additional Information, or Comments</b>	<b>Fee</b>	<b>Signer's Right Thumbprint</b>	
Personal Knowledge	Merrill Lynch DT Merrill Lynch ST	\$	129	130
		\$	Top of Thumbprint	Top of Thumbprint
Personal Knowledge	COT for Noyes Fut	\$	131	132
Personal Knowledge	COT for Noyes FLT	\$	Top of Thumbprint	Top of Thumbprint
Personal Knowledge	COT for Noyes Family living trust	\$	133	134
<del>COTS(3)</del> Personal Knowledge	COTS(3) Funding Bks.	\$	Top of Thumbprint	Top of Thumbprint
" "	Funding forms	\$ —	135	136
Personal Knowledge	Funding Bk.	\$	Top of Thumbprint	Top of Thumbprint
		\$	137	138
		\$	Top of Thumbprint	Top of Thumbprint
		\$	139	140
		\$	Top of Thumbprint	Top of Thumbprint
P.K.		\$	141	142
Personal Knowledge	QBD, COTS(3) MEDPOA, DGPOA, APPT SUCC TEE DEED	\$	Top of Thumbprint	Top of Thumbprint
Personal Knowledge	SS4 COTS Aff of Her Mtr. Vehicle (a)	\$	143	144
Personal Knowledge	SS4 Aff. Heirship for Mtr. Veh(a)	\$	Top of Thumbprint	Top of Thumbprint

**EXHIBIT**

**D**



7/1/08

Appt of Succ. Trustees

APPOINTMENT OF SUCCESSOR TRUSTEES

WHEREAS, NELVA ERLIEN BRUNSTING, also known as 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 is no longer able to manage his financial affairs, as is evidenced by the physicians' letters attached. Therefore, pursuant to Article IV, Section B, of the Brunsting Family Living Trust Agreement, the remaining original Trustee, NELVA E. BRUNSTING, continues to serve alone.

WHEREAS, the said NELVA E. BRUNSTING is desirous of 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, 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:

CARL HENRY BRUNSTING and ANITA KAY BRUNSTING

CARL HENRY BRUNSTING and ANITA KAY BRUNSTING 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 CANDACE LOUISE CURTIS shall serve as sole successor Trustee. In the event CANDACE LOUISE CURTIS is unable or unwilling to serve, then THE FROST NATIONAL BANK shall serve as sole 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 "Incompetency" 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 Brunsting Family Living Trust dated October 10, 1996, as amended.

All other provisions contained in the Brunsting Family Living Trust 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 July 1, 2008.

  
NELVA E. BRUNSTING,  
Founder and Original Trustee

THE STATE OF TEXAS  
COUNTY OF HARRIS

This instrument was acknowledged before me on July 1, 2008 NELVA E. BRUNSTING, as Founder and Original Trustee.

  
Candace Lynne Kune Freed  
Notary Public, State of Texas



2/24/10

Cent of Trust

**CERTIFICATE OF TRUST**

The undersigned Founder hereby certifies the following:

- 1. This Certificate of Trust refers to a joint revocable living trust agreement executed by ELMER HENRY BRUNSTING, also known as ELMER H. BRUNSTING, and NELVA ERLEEN BRUNSTING, also known as NELVA E. BRUNSTING, Founders and original Trustees. The full legal name of the subject trust was:

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. ELMER H. BRUNSTING, died on April 1, 2009. Therefore, pursuant to Article IV, Section B, of the Brunsting Family Living Trust Agreement, the remaining original Trustee, NELVA E. BRUNSTING, continues to serve alone.
- 3. For purposes of asset allocation, transfer of property into the trust, holding title to assets, and conducting business for and on behalf of the trust, the full legal name of the said trust shall now be known as:

NELVA E. BRUNSTING, Trustee, or the successor Trustees,  
under the BRUNSTING FAMILY LIVING TRUST dated  
October 10, 1996, as amended.

The tax identification number of the BRUNSTING FAMILY LIVING TRUST is 481-30-4685.

- 4. Pursuant to that certain Appointment of Successor Trustees dated July 1, 2008, if the remaining original Trustee fails or ceases to serve as Trustee by reason of death, disability or for any reason, then the following individuals will serve as successor Co-Trustees:

CARL HENRY BRUNSTING and ANITA KAY BRUNSTING

CARL HENRY BRUNSTING and ANITA KAY BRUNSTING 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 CANDACE LOUISE CURTIS shall serve as sole successor Trustee. In the event CANDACE LOUISE CURTIS is unable or unwilling to serve, then THE FROST NATIONAL BANK shall serve as sole successor Trustee.

5. The Trustee under the trust agreement is authorized to acquire, sell, convey, encumber, lease, borrow, manage and otherwise deal with interests in real and personal property in the trust name. All powers of the Trustee are fully set forth in Article XII of the trust agreement.
6. The trust has not been revoked and there have been no amendments limiting the powers of the Trustee over trust property.
7. 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.

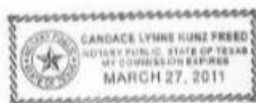
The undersigned certifies that the statements in this Certificate of Trust are true and correct and that it was executed in the County of Harris, in the State of Texas, on February 24, 2010.

  
NELVA E. BRUNSTING,  
Founder and Trustee

STATE OF TEXAS  
COUNTY OF HARRIS

The foregoing Certificate of Trust was acknowledged before me on February 24, 2010, by NELVA E. BRUNSTING, as Founder and Trustee.

Witness my hand and official seal.



  
Notary Public, State of Texas

2/24/10

EMB Dec Trust - Cert of Trust

**CERTIFICATE OF TRUST  
FOR THE  
ELMER H. BRUNSTING DECEDENT'S TRUST**

The undersigned Founder hereby certifies the following:

1. This Certificate of Trust refers to a joint revocable living trust agreement executed by ELMER HENRY BRUNSTING, also known as ELMER H. BRUNSTING, and NELVA ERLIEN BRUNSTING, also known as NELVA E. BRUNSTING, Founders and original Trustees. The full legal name of the original trust was:

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. ELMER H. BRUNSTING died on April 1, 2009. Therefore, pursuant to Article IV, Section B, of the Brunsting Family Living Trust agreement, the remaining original Trustee, NELVA E. BRUNSTING, continues to serve alone.
3. The BRUNSTING FAMILY LIVING TRUST authorized the creation of the subsequent irrevocable trust known as the ELMER H. BRUNSTING DECEDENT'S TRUST. For purposes of asset allocation, transfer of property into the Decedent's Trust, holding title to assets, and conducting business for and on behalf of the trust, the full legal name of the Decedent's Trust shall now be known as:

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 tax identification number of the ELMER H. BRUNSTING DECEDENT'S TRUST is 27-6453100. The Trust is irrevocable and no longer qualifies as a grantor trust.

An acceptable abbreviation for account titling is as follows:

NELVA E. BRUNSTING, Tee of the ELMER H. BRUNSTING  
DECEDENT'S TR dtd 4/1/09, as est UTD 10/10/96.

4. Pursuant to that certain Appointment of Successor Trustees dated July 1, 2008, if the said NELVA E. BRUNSTING, the surviving original Trustee, fails or ceases to serve as Trustee by reason of death, disability or for any reason, then the following individuals will serve as successor Co-Trustees:

CARL HENRY BRUNSTING and ANITA KAY BRUNSTING

BRUNSTING005812



CARL HENRY BRUNSTING and ANITA KAY BRUNSTING 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 CANDACE LOUISE CURTIS shall serve as sole successor Trustee. In the event CANDACE LOUISE CURTIS is unable or unwilling to serve, then THE FROST NATIONAL BANK shall serve as sole successor Trustee.

5. The Trustee under the trust agreement is authorized to acquire, sell, convey, encumber, lease, borrow, manage and otherwise deal with interests in real and personal property in the trust name. All powers of the Trustee are fully set forth in Article XII of the trust agreement.
6. The trust has not been revoked and there have been no amendments limiting the powers of the Trustee over trust property.
7. 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 power 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 certifies 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 February 24, 2010.

  
NELVA E. BRUNSTING,  
Founder and Trustee

THE STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

The foregoing Certificate of Trust was acknowledged before me on February 24, 2010, by NELVA E. BRUNSTING as Founder and Trustee.

Witness my hand and official seal.

  
Notary Public, State of Texas



**EXHIBIT**

**E**

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 Brunsting 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.

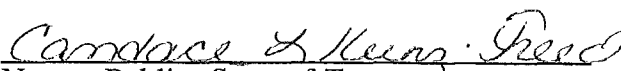
WITNESS OUR HANDS this the 6th day of September, 2007.

  
\_\_\_\_\_  
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.

  
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Notary Public, State of Texas

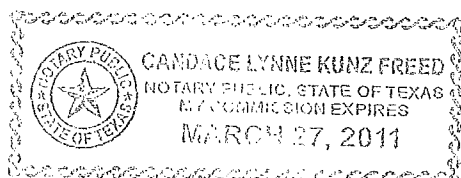


EXHIBIT "A"

**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.

**EXHIBIT**

**F**

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:

**EXHIBIT**

**G**

**From:** [Nelva Brunsting](#)  
**To:** [Candy Curtis](#)  
**Date:** Saturday, July 28, 2007 7:16:21 AM

---

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 be paid for your traveling expenses. I think you have a better relationship with your siblings than she. Let me know.



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**TRIAL COURT NO. 412,249-401**

IN THE MATTER OF : THE PROBATE COURT OF  
THE ESTATE OF  
  
: HARRIS COUNTY, T E X A S  
  
NELVA E. BRUNSTING, : PROBATE COURT NO. 4  
DECEASED  
- \* - \* - \* - \* - \* - \* - \* - \* - \* - \* - \* - \* -

**COURT REPORTER'S RECORD**

**MOTION FOR PROTECTIVE ORDER**

**VOLUME 1 OF 1 VOLUMES**

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MORNING SESSION  
August 3, 2015

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**TRIAL COURT NO. 412,249-401**

IN THE MATTER OF : IN THE PROBATE COURT OF  
THE ESTATE OF

: HARRIS COUNTY, T E X A S

NELVA E. BRUNSTING, : PROBATE COURT NO. 4  
DECEASED

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BE IT REMEMBERED THAT UPON THIS,  
the 3rd day of August, 2015, the above entitled and  
numbered cause came on for Hearing on Carol  
Brunsting's Motion for Protective Order before the  
HONORABLE CHRISTINE BUTTS, Judge of Probate Court  
No. 4 of Harris County, Texas; and all parties  
appearing in person and/or by counsel, all preliminary  
matters having been disposed, and proceedings had, the  
following was heard, viz.:



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**REPORTED BY:**

Judith J. Kulhanek, CSR #598  
Deputy Official Court Reporter  
Harris County Probate Court No. 4  
P. O. Box 1633  
Waller, TX 77484  
(713) 681-6071  
(713) 515-0221 (c)

## MORNING SESSION

1  
2 August 3, 2015

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4 THE COURT: We are here in Cause  
5 No. 412,249-401, the Estate of Nelva E. Brunsting,  
6 Deceased.

7 We're here on Carl Henry Brunsting's  
8 motion for protective order. And present are -- my  
9 docket sheet says Neal Spielman for Amy Brunsting --

10 MR. SPIELMAN: Yes, Your Honor.

11 THE COURT: And Brad Featherston for  
12 Anita Brunsting-Riley.

13 MR. FEATHERSTON: Present, Your Honor.

14 THE COURT: And then Stephen Mendel --

15 MR. FEATHERSTON: He's with my firm,  
16 Your Honor.

17 THE COURT: Okay. I'm sorry. He is  
18 not present.

19 And Bobbie Bayless is here for Carl  
20 Brunsting and also for Drina Brunsting.

21 MS. BAYLESS: Yes, Your Honor.

22 THE COURT: Candace Curtis is pro se,  
23 and I don't see her in the courtroom.

24 And then --

25 MS. BEDUZE: Kathleen Beduze for Carole

1 Brunsting, Darlene Smith left.

2 THE COURT: Kathleen Beduze is here for  
3 beneficiary, Carole Brunsting who is here?

4 MS. BEDUZE: Correct. And we joined in  
5 the response.

6 THE COURT: Thank you.

7 MS. BEDUZE: We jointly filed that.

8 THE COURT: Okay.

9 MR. SPIELMAN: Response?

10 THE COURT: I haven't found -- we don't  
11 have a response.

12 MR. SPIELMAN: Well, that would  
13 probably be my problem, Judge.

14 My office filed it on Friday afternoon.  
15 At the very least, I have confirmation pages that it  
16 went to the attorneys.

17 THE COURT: Okay. Did Ms. Bayless --  
18 did you receive a copy of the response?

19 MS. BAYLESS: I did. I didn't ever  
20 receive any notification it was filed, but I did  
21 receive a fax.

22 MR. SPIELMAN: I can step out while you  
23 guys get going and call my office and see if we have  
24 the confirmation.

25 THE COURT: Well, we can check if it

1 has been filed.

2 (SHORT DELAY IN PROCEEDINGS.)

3 MR. SPIELMAN: Judge, I don't know --  
4 we have an envelope number, and I can tell you the  
5 envelope number was 6316359, and it was I guess put  
6 into the system, whatever the proper terminology is,  
7 at 4:08 p.m. on 7/31/15 which would be last Friday,  
8 and it says that it is submitted is the terminology  
9 there.

10 THE COURT: So --

11 MR. SPIELMAN: Yeah, but, I mean, I  
12 think hopefully the most important part for the  
13 purposes of our hearing, with all due respect to the  
14 Court, but the attorneys at least all have it. So  
15 nobody on this side of the Bench at least is surprised  
16 by it.

17 THE COURT: Okay. All right.

18 Ms. Bayless?

19 MS. BAYLESS: Your Honor, we're here on  
20 a -- what my motion was termed a motion for protective  
21 order. It actually goes beyond the issues of  
22 pre-trial discovery.

23 And you will see from the defendant's  
24 response they kind of deal with it as just a typical  
25 motion for protective order involving pre-trial

1 discovery issues.

2           As to background, which is set forth in  
3 my motion, but basically is that back in 2012, the  
4 plaintiff didn't have very much information on what  
5 had occurred -- we did a pre-suit discovery action --  
6 asked for recordings, both video and audio, got  
7 nothing.

8           The defendants in this case have gone  
9 through several counsel. They said they were going to  
10 produce everything, and that person was fired. I  
11 don't know what happened, I'm not sure. But since  
12 Mr. Spielman and Mr. Featherston have been in there,  
13 there have been several supplemental responses.

14           And then suddenly on July 1st, I get  
15 this envelope in the mail that had what is obviously  
16 recordings that my clients did not know about or  
17 consent to, and audio recordings obviously made while  
18 Carl was at his mother's home and had telephone  
19 conversations with his wife and video recordings from  
20 Carl's ICU hospital room.

21           I tried to communicate -- I don't think  
22 I had a conversation with anybody but Mr. Featherston  
23 in fairness -- but I tried to -- because he's the  
24 person who produced them. I called him up and tried  
25 to get an explanation from him for why these weren't



1 illegal recordings, and what we were going to do about  
2 that, and stressed that -- he I think sort of had the  
3 impression, well, Drina is mad about this. And I  
4 tried to explain to him this was a big deal to  
5 everyone concerned, including me.

6 We were going to continue to talk about  
7 it. He wanted to see the motion for protective order  
8 before he wanted to -- me to discuss any up front.

9 So I said, well -- we had -- at that  
10 time, we didn't yet have our third-party administrator  
11 and our temporary administrator, and so I just felt  
12 the need to get it on file.

13 Subsequently, what he did say to me in  
14 that conversation that is set forth in their response  
15 is that these came from an answering machine. I do  
16 not want to go into the substance of the conversations  
17 for the very reason that they are, in my view, illegal  
18 wiretap conversations, but they are not from an  
19 answering machine.

20 There is no answering machine answering  
21 these recordings. They are clearly edited in some  
22 instances because they stop in the middle of a  
23 sentence. There is no dating on -- other than looking  
24 at the property of the recordings that were sent to  
25 me, which in and of itself is interesting, because

1 these recordings occurred back in March of 2011. The  
2 video recordings occurred in May of 2011.

3 And so clearly were edited in February  
4 of this year. We were down here having hearings in  
5 February of this year about this temporary  
6 administration issue.

7 The other interesting thing is that I  
8 believe they were mailed to me on the same day that  
9 the defendants filed their no evidence motion for  
10 summary judgment suggesting that there had been plenty  
11 of time for discovery on that period since 2012, I  
12 think a total of 38 months, when these documents were  
13 sent to me the same day they filed that motion.

14 You know, under normal circumstances,  
15 that would be a long time for discovery. But it takes  
16 two to tango, as they say, and these documents had not  
17 been previously provided.

18 Now, when I talked to Mr. Featherston,  
19 I think Mr. Featherston called me, I guess Thursday,  
20 about an extension on discovery responses, requests  
21 for production, that are due today from the  
22 defendants.

23 And when I got these recordings -- just  
24 so you understand the background there -- when I got  
25 these recordings, I got them on July 1st in the mail,

1 then there's the July 4th holiday, I really didn't  
2 even look at what I got, frankly, until after that.

3           But I knew that there was a discovery  
4 deadline, and I knew there were recordings in there,  
5 so obviously, they -- I guess they would say they were  
6 responding to the pre-suit discovery which, frankly, I  
7 think is proper, but it should have been done back in  
8 the pre-suit discovery.

9           So I didn't want there to be a question  
10 about whether they were supposed to be providing  
11 things in this litigation. And we had a discovery  
12 cutoff at that time for, again, a docket control  
13 order, which required me to send out discovery  
14 responses that day before I really even knew what was  
15 going on.

16           And so here is what they were, but I  
17 knew I had to get those documents out or I would be  
18 hearing, well, you haven't even requested anything in  
19 this case, so that's why you didn't get them.

20           The obvious reason I got them is  
21 because they intended to use them in these  
22 proceedings, and they know they wouldn't be able to do  
23 that if they didn't provide them in some fashion.

24           So when Mr. Featherston talked -- we  
25 said we would talk again. He called me about an

1 extension on those requests because they didn't know  
2 what the Court would want to have happen, since I  
3 filed this motion for protective order indicating that  
4 I didn't want anybody else to receive these  
5 recordings.

6           And I gave Mr. Featherston, when we  
7 talked the first time, the cite from the civil wiretap  
8 statute and for the Penal Code provision. So they  
9 filed a response that says they don't know what the  
10 authority is for this, but we talked about that.

11           I told him that I was not inclined to  
12 agree to any kind of an extension on these things.  
13 And they've had them since March of 2011, and now  
14 we're getting dribbles.

15           And, by the way, during that same  
16 period of time, there would have been recordings, I  
17 understand, between Candace -- from Candace Curtis and  
18 her mother about all of these issues that are at issue  
19 in this. You know, those probably would not have had  
20 any more consent than the ones I'm here about. But  
21 the point is, they have been very selective about what  
22 they provided.

23           Clearly, the recording equipment was  
24 purchased by the caregiver. The receipt is in the  
25 production I believe attached to the motion, and he

1 got reimbursed. I mean, it is just so clear what was  
2 going on.

3           So Mr. Featherston and I talked, and he  
4 said that he wanted to put this -- the responses off  
5 two weeks so that the Court could make a determination  
6 on this.

7           I mean, recognizing that there could be  
8 some suggestion, there always seems to be a suggestion  
9 that I have not done something I'm supposed to do to  
10 make something happen, so -- or I have done something  
11 incorrectly procedurally, whatever.

12           So I sent an e-mail to all the counsel  
13 in the case, and said I don't want there to be any  
14 confusion that notwithstanding my request for  
15 production, that is a request that those items be  
16 produced to me and me only.

17           While normal practice may be that you  
18 send it to everybody in the case, these recordings are  
19 not to be sent to everybody in the case. And if you  
20 do it, I cite it again, the Penal Code Section, you do  
21 it at your own peril.

22           So I get a response on Friday afternoon  
23 from all the defendants, and their position now --  
24 they still believe the answering machine-thing -- and  
25 their position is that Carl consented to these

1 conversations.

2           The Court will note that I attached to  
3 my motion for protective order e-mails of the same  
4 time period where these defendants are planning and  
5 plotting ways to obtain a guardianship over Carl, so  
6 there is no way that he consented.

7           And he was quite ill at the time and  
8 there is no question about that.

9           The recordings done in May of 2011, the  
10 video recordings, are in an ICU room at St. Luke's,  
11 and he was definitely in an altered mental state,  
12 because of medications he was receiving.

13           But you can't -- you can't say, okay,  
14 Carl -- they even say in their response that Carl  
15 hooked up this equipment.

16           Well, I mean, there is no way. I  
17 couldn't even hook up that equipment. It is digital  
18 equipment that requires menus and submenus to program.  
19 The model that the caregiver purchased -- as indicated  
20 on the receipt, I've got the manual for it here --  
21 there is no way that a person that was needing a  
22 guardianship, as these people have admitted from their  
23 e-mails, would be able to do that.

24           And there is no -- the position in  
25 their response is this: We have to prove a negative,

1 that we have to prove there was not consent.

2 Well, if they say there is consent,  
3 that is an affirmative defense and the burden of proof  
4 is on them to show that. And in light of their own  
5 e-mails, I don't see how they are going to do that,  
6 but the burden is not on me to negate this stuff. The  
7 burden is on them to show that there was a consent.

8 So the other -- I mean, it always seems  
9 to go this way. I try to work these things out, and  
10 it's just the case where nothing gets worked out, and  
11 I think that's unfortunate for everyone.

12 But what I filed this morning, because  
13 they don't seem to understand that these statutes both  
14 say on their face that you're entitled to injunctive  
15 relief to prevent the further disclosure and use of  
16 these illegal recordings.

17 So they say in response they don't know  
18 what my authority is for this relief that I'm  
19 requesting. So I was not planning on filing it this  
20 morning, but I did file the third supplemental  
21 petition which alleges these causes of action and  
22 seeks the injunctive relief that those causes of  
23 action allow you.

24 And, you know, as usual, had we  
25 received all the information and disclosures in the

1 pre-suit discovery action, been able to deal with  
2 those issues and work those out, maybe we would have  
3 never been in this court. And maybe the lawyers in a  
4 district court would have never been sued if they had  
5 agreed to continue the tolling agreement until we  
6 worked this dispute out.

7           Nothing I suggest seems to work and --  
8 maybe that's me. I'm not -- been called out at any  
9 direction other than I've been ineffective in  
10 resolving disputes in this case. And I have thought  
11 surely this was one in which, perhaps, Amy, Anita and  
12 Carole did not realize what they were doing. They are  
13 not lawyers. Maybe they didn't know you were not  
14 supposed to tape people's private conversations  
15 without their permission.

16           And that surely when the lawyers, even  
17 though they probably should not have even been given  
18 the information according to the stuff I read about  
19 it, that surely we would be able to resolve it.

20           Instead, I've now had to file a  
21 supplemental petition just in order to protect my  
22 client's rights on this incredibly offensive issue.

23           THE COURT: You also mention in the  
24 protective order the report from --

25           MS. BAYLESS: Yes, right. I mean,



1 there are e-mails. Again, I attached to the motion  
2 where they are talking about the -- what happened,  
3 both -- the reason we know much of anything is because  
4 Candy at one time thought everybody was trying to  
5 protect Carl.

6 When she figured out that was not what  
7 was happening, we suddenly got a boatload of e-mails  
8 which covered the gamut.

9 And her ex-husband -- I guess it's an  
10 ex-husband -- anyway, somebody she knows, had been  
11 asked for the name of an investigator. And she knew  
12 that a GPS tracking device without Drina's consent had  
13 been placed on her car.

14 There are e-mails in here talking about  
15 reports from the investigator. We have asked for that  
16 again since 2012. We have not received anything.

17 THE COURT: Do you claim that those  
18 reports still fall into the same category as the  
19 recording devices? In other words, were those reports  
20 obtained illegally with information at some stages of  
21 those reports?

22 MS. BAYLESS: It's really impossible to  
23 know without seeing the report, but I think they  
24 certainly contain information using the GPS tracking  
25 device.

1                   THE COURT: Wouldn't you need for those  
2 reports to be produced in a motion to compel as  
3 opposed to a motion for protective order?

4                   MS. BAYLESS: Yes. Again, this is part  
5 of why I did the new request for production in this  
6 case, because I felt if I filed a motion to compel, I  
7 would hear what she tried to compel. There has not  
8 been a request in this case. Even though since 2012,  
9 Anita has been acting to some extent under that  
10 initial request by supplementing these bank records,  
11 occasionally; and the tax returns, we've asked for  
12 them; stuff like that.

13                   But, still, I didn't think I was in a  
14 position yet to seek a motion to compel, but the  
15 responses are due today.

16                   THE COURT: Okay. Well, I think what  
17 we'll do is table the issue with regard to the  
18 investigator report. I just don't think that a  
19 decision on that with regard to a protective order is  
20 ripe yet. I don't think that -- we don't have what we  
21 don't so -- but on the recordings, I think that is a  
22 different story. So we'll address them, the  
23 recordings, today.

24                   MS. BAYLESS: Okay.

25                   THE COURT: Mr. Spielman or --

1                   MR. FEATHERSTON: Briefly, Your Honor.

2                   THE COURT: Okay.

3                   MR. FEATHERSTON: When Bobbie called, I  
4 said what do you want? And really, at the end of the  
5 day, that's kind of how I am: What do you want?

6                   And so the relief that she is seeking  
7 here I think are three things that we've outlined in  
8 our response.

9                   The first one looks like it is some  
10 sworn testimony from all of our clients, from Anita,  
11 Amy and Carole. And to me, that is best accomplished  
12 by deposition.

13                   Depositions haven't got off the ground  
14 yet in this particular case because it always seems  
15 like there is some procedural impairment, one or the  
16 other.

17                   We have Greg Lester now, and it looks  
18 like now we're in a position where depositions can  
19 move forward. The impediment there might be whether  
20 or not Mr. Lester thinks the claims are even worthy of  
21 him sitting through depositions or participating in  
22 those depositions.

23                   So that is kind of the first thing she  
24 is looking for, and that's why I have criticisms of  
25 what's -- you know, this is nothing like I have ever

1 seen in a motion for protective order.

2           A motion for protective order  
3 ordinarily is someone serves discovery, and the other  
4 party says, no, I find that discovery offensive, and  
5 so I need protection from the Court.

6           Here, someone may be served discovery,  
7 and the documents are being produced in the course of  
8 the litigation.

9           And so, that's kind of the point is  
10 under the Rules of Procedure when someone propounds  
11 discovery to me or if I think I have discovery that is  
12 responsive -- admittedly, Your Honor, I don't even pay  
13 attention to the people -- I ask for it specifically or  
14 not. If I get stuff, I produce it. And, you know, I  
15 do that with good reason.

16           And so a long story short here, but  
17 when I produce it, I have to produce it under the  
18 Rules of Procedure. It has to go to all other  
19 counsel, and that's what I have done.

20           To the extent that there are -- so  
21 walking through what she wants, No. 1: These  
22 affidavits, I have never seen anywhere you can compel  
23 somebody to create an affidavit. That's something  
24 that should be done by deposition, and she will have a  
25 full and fair opportunity to depose these clients at

1 some point, and it should be sooner rather than later.

2           So that kind of takes care of the first  
3 issue of, you know, tell me what you want. Let's go  
4 from there.

5           The next issue I think that she's  
6 asking for is that all the recordings and everything  
7 be collected and given solely to her. And presumably,  
8 I can understand why she wants that.

9           These recordings, Your Honor -- and I  
10 don't think you have had the opportunity to hear  
11 them -- you can tell they come from an answering  
12 machine. "Hello, hello, hello." That's the type of  
13 recordings -- how these recordings start off.

14           And my understanding is that the  
15 decedent had her answering machine set to pick up at  
16 number -- on the second ring. And so these might have  
17 been recorded -- might have been caught by the  
18 answering machine to another recording device, and  
19 then on to someone's I-phone and then on to someone's  
20 computer and transferred like digital files often do,  
21 transferred from one component to the next, to the  
22 next, to the next, to the next, and on down the line.

23           But my understanding is that all of  
24 these come from an answering machine.

25           And so the relief that she's seeking

1 here is, I want you to record -- I want you to  
2 download all this evidence so you can give it solely  
3 to me, and I will be the sole arbiter of whether or  
4 not this is something that should be admissible or  
5 not. And that's just not the way it works.

6 I think the Court has to hear these  
7 recordings. And if the Court finds based on the  
8 recordings that, okay, these recordings appear like  
9 there is some huge conspiracy in some recording  
10 equipment where you illegally wiretap and all this  
11 other -- all these other allegations, then the Court  
12 is in a position to make that decision.

13 But without hearing the recordings or  
14 without developing the evidence, right now all we've  
15 got is allegations.

16 I don't have any affidavits from Drina  
17 saying I didn't consent to that recording. I didn't  
18 hear any answering machine when I called on that  
19 particular day. I don't have any affidavits from Carl  
20 whose capacity seems to come in and out, depending  
21 upon when it is convenient for them.

22 And I don't have any affidavits from  
23 Carl saying, no, you know, if we were going through a  
24 divorce at that time, but at that time, no, that's --  
25 you know, I didn't consent to those recordings,

1 because it makes perfect sense.

2 I don't know if you've ever dealt with  
3 any divorce clients. They record the heck out of each  
4 other immediately when they are going through a  
5 divorce. That's typically what -- the first thing  
6 lawyers say is tape record your conversations with  
7 your soon-to-be ex.

8 And so I don't have any -- there is no  
9 evidence before the Court that Carl didn't consent.  
10 And this idea of, well, Carl didn't have capacity,  
11 she's berating him on several of these recordings  
12 claiming you've got capacity.

13 You're chewing on your shirt because  
14 that's what you've got; is that right?

15 MS. BAYLESS: Your Honor, I'm going to  
16 object to him going into the substance of these  
17 recordings. I mean, if the Court wants to do  
18 something to make a determination about their  
19 illegality, that's one thing; but he is disclosing,  
20 again, the contents of illegal recordings.

21 THE COURT: And I think that's  
22 defendants arguing at this point, so let's --

23 MR. FEATHERSTON: Fair enough,  
24 Your Honor.

25 Well, then, the issue ultimately turns

1 down to this: Who makes the decision regarding  
2 whether these are illegal recordings or not, Bobbie or  
3 the Court? And I think the Court is in a much better  
4 position than Bobbie is.

5           And so this idea of let's gather up all  
6 the recordings and give them to Bobbie, that doesn't  
7 work for me. Let's gather them up and submit them for  
8 in-camera inspections, that is fine. Doing an agreed  
9 protective order like -- and that's what I have  
10 proposed in the past is -- I could see if these are  
11 being posted on Facebook or posted on some blog or  
12 sent out there to the general public, but for purposes  
13 of this litigation and that's, to my knowledge, the  
14 only way these have been used, and that's the only way  
15 I have used them is disclosing them in this  
16 litigation.

17           If they want to do some agreed  
18 protective order -- I have done several of them in  
19 trade secret cases where you basically come in and  
20 it's like, look, you don't file this with the Court,  
21 you don't do a transcript and file it for public  
22 record. If it is these particular recordings that are  
23 going to be filed with the Court, that is okay. We  
24 can submit them for in-camera inspection. I'm okay  
25 with that.



1           Doing a joint agreed protective order  
2 where, look, guys, the stuff we're disclosing in this  
3 particular case, we all think it's privileged and  
4 confidential and we don't think it should be disclosed  
5 anywhere else, that's what I proposed.

6           We intended to attach it as to  
7 exhibits, but it wasn't. We have got several copies  
8 of that. But doing a joint agreed protective order in  
9 this particular case that says, look, what happens in  
10 the courtroom stays in the courtroom with respect to  
11 these things, and they're not going to be hearing our  
12 grievances or recordings or things anywhere else, I'm  
13 okay with that.

14           So -- but just giving them to Bobbie  
15 and, okay, saying how do clients react, I have never  
16 seen anyone even ask for that type of relief, and I  
17 don't think it is anything that is contemplated under  
18 any of these statutes. I certainly have not seen  
19 anything under any of these statutes that says that's  
20 the relief that she's entitled to.

21           I think there was one other thing that  
22 she was asking for other than that they all be -- oh,  
23 the last thing she is asking for is for you to make a  
24 ruling on the evidence. It's a rule that this  
25 evidence is inadmissible.

1           And so I don't think the Court is in  
2 any position as we sit here today with the lack of  
3 evidence actually before the Court to make an  
4 evidentiary ruling.

5           And so, you know, to me, I think we can  
6 get maybe two-thirds of the way here with just a --  
7 with continuing discovery in this case and doing a  
8 joint agreed protective order that says we're not  
9 sending it out to the rest of the world.

10           But for purposes of this case, if you  
11 want to submit it to the Court, don't file it as a  
12 public record, submit it in-camera, things of that  
13 nature. Mark it "confidential". Have Bobbie -- if I  
14 produce something and she thinks it's confidential,  
15 mark it "confidential." Send that in the letter. We  
16 can create a running list. It makes much more sense  
17 than what's being asked for and the relief that's  
18 being asked for in this particular motion.

19           I've just never seen it before. I  
20 don't see any rules. I don't see any authority.

21           THE COURT: Well, I think that -- I  
22 think that that proposal makes a lot of sense to me.  
23 No. 1, requiring an affidavit, I think you would be  
24 better off proposing that because requiring the  
25 affidavit to me is awfully one-sided. I think that

1 the interaction would be beneficial for you and for,  
2 you know, the person being deposed or the affiant.

3 MS. BAYLESS: The key, Your Honor, is  
4 that there would be some type of sworn presentation to  
5 how this was done, when it was done, who did it, that  
6 kind of says all of it.

7 THE COURT: Well, I think the  
8 deposition would be better suited for that.

9 And then on the -- as far as the  
10 illegality of these recordings, I think that that has  
11 to be explored before you launch into collecting all  
12 of this and delivering it, because I'm not convinced  
13 that it is illegally obtained, and I'm not convinced  
14 either way.

15 I think that if you guys could hold the  
16 issue in abeyance until depositions can be taken and  
17 more evidences is gathered, and then perhaps we have a  
18 hearing or perhaps these recordings are submitted  
19 in-camera, I think that's a better way to go about  
20 this as opposed to, essentially, you know, ruling  
21 today that they are inadmissible, that they were  
22 illegally obtained, and then require the defendants to  
23 offer an affidavit. Because I think that the  
24 affidavit he receives, you know, may not satisfy, you  
25 know, what you're trying to do.

1           So I think that giving the deposition,  
2 we can dig a little deeper and you can get a little  
3 more clarification. So I like the idea of a joint  
4 agreed protective order.

5           MS. BAYLESS: Well, the problem is --  
6 Judge, the problem is, I'm not comfortable consenting  
7 on my client's behalf or having my clients consent  
8 that these can be disclosed any further than they  
9 already have been.

10           I mean, I think if I'm right -- and I  
11 understand that the Court doesn't want to  
12 pre-determine that -- but if I'm right, there have  
13 already been problems in that they have been disclosed  
14 to other parties. And to say, oh, I agree that can  
15 keep going on while we sort through this --

16           THE COURT: No, I think -- I wouldn't  
17 envision that. I mean, I would envision that these  
18 recordings would be protected. I mean, that's why I  
19 imagine it would be called a joint agreed protective  
20 order, because it would protect that from further  
21 dissemination. Am I right?

22           MR. FEATHERSTON: I think the  
23 discrepancy -- and let me just connect the dots -- I  
24 think what she's saying is I can't produce it to Amy  
25 and Carole. And Carole can't produce items to Anita

1 and Amy. And so that's what I think Bobbie is really  
2 arguing for is she doesn't want us to be able to talk  
3 amongst ourselves -- or she doesn't want us to be able  
4 to exchange those among ourselves. She wants them to  
5 go solely to her and -- is that a fair statement?

6 MS. BAYLESS: Well, I think there are  
7 two kinds of recordings here. There are the  
8 recordings where that's already happened, and it is a  
9 little bit harder to put that horse back in the barn.  
10 And, frankly, they probably all have what they each  
11 have, but I don't know. And I don't want somebody  
12 to -- on down the road say, well, of course, we  
13 exchanged those things because you -- that was part of  
14 our agreed protective order.

15 So to the extent that's already been  
16 done and those recordings have been sent and these  
17 people have them, that is just something they are  
18 going to have to deal with.

19 To the extent there are other  
20 recordings -- and, see, this applies literally to the  
21 deposition. I don't know who has gotten what from  
22 whom at what time. And so to say, well, yeah, you  
23 know, spread those all around now. They will be  
24 saying, well, that was done during the protective  
25 order period and that kind of thing.

1           So that's why I'm saying if there are  
2 other recordings -- and I have asked for all of the  
3 recordings and the original media that they were  
4 recorded on so we can see what has been done without  
5 the editing -- then I'm saying those should not be  
6 disseminated even to the other parties in this case  
7 until this issue is addressed.

8           THE COURT: You know, I think I agree  
9 with that, and so I think that makes sense. So if the  
10 recordings have already been disseminated among the  
11 defendants, you know, before today, there is no way  
12 to, as you say, put that horse back in the barn. But  
13 in the future, until there is a determination as to  
14 the legality of those recordings, I don't think that  
15 they should be disseminated among the attorneys.

16           MR. FEATHERSTON: So, Your Honor, I  
17 guess the issue I have with that is how do I know?

18           THE COURT: Right.

19           MR. FEATHERSTON: I mean, basically,  
20 what your ruling is is now I'm in jeopardy for all  
21 recordings, because now like -- how do I say, you  
22 know, hey, Neal, do you have this recording or -- you  
23 know, that's where there is a disconnect.

24           There is no way for me to be able to --  
25 because then when I disclose -- I mean, you're going

1 to find out whether or not someone has a recording.  
2 Have you heard this particular recording? I mean,  
3 that seems like a dangerous ground to me.

4           And so I think the ability to sit here  
5 and, you know, exchange within this group, I think  
6 that's okay. I mean, I don't know that any other  
7 lawyer is going to be out there disclosing anywhere  
8 else because the lawyers are subject to the joint  
9 protective order as well.

10           And so I don't see the harm while  
11 you're in litigation -- and there's a bunch of, you  
12 know, litigation privileges that are associated with  
13 it, I'd have to go back to my office and find some of  
14 them, but I'm sure I could -- I don't know how I could  
15 find out has this been disclosed on your side or not.

16           And it certainly puts us at a  
17 disadvantage. I mean, it just -- that doesn't seem  
18 like a workable solution.

19           Essentially, what your ruling would be  
20 is, any recordings you got, you need to, one, assume  
21 that they are illegal; and two, not produce them to  
22 anybody else. And I can't do that.

23           I mean, there is no showing that these  
24 are illegal. And if I feel like there is one that is  
25 illegal, then maybe at that point I will, you know,

1 tread more carefully.

2 But at this point, I think I need to be  
3 able to communicate effectively with the other defense  
4 counsel, as well as the plaintiff's counsel and the  
5 pro se plaintiff we have in this case, and produce  
6 those documents or risk, you know, not being able to  
7 use what the Court finds later that, oh, no, it's not  
8 illegal, these are okay.

9 Now, all the other defendants are at a  
10 disadvantage just because maybe my client keeps better  
11 records than theirs do.

12 THE COURT: Well, and that makes sense  
13 to me, you know, so --

14 MS. BAYLESS: Well, all he has to do,  
15 Your Honor, is not give them to anyone else. We know  
16 what he sent around to everybody else, and frankly,  
17 Ms. Curtis turned those copies over to me because she  
18 was not comfortable even having them.

19 THE COURT: But I guess what he is  
20 saying is going forward if he receives something, then  
21 he's not able to really supplement his discovery  
22 either.

23 MS. BAYLESS: Well, when are we really  
24 going to try this case? I mean, we don't even get --  
25 the temporary administrator has six months to look at



1 it. I am not suggesting that he's going to miss a  
2 deadline or something if we deal with this issue.

3           And in the interim, he doesn't  
4 disseminate these recordings, whatever he may get, it  
5 would be fine with me. And if he doesn't, he can  
6 possibly not disseminate them to me, either. I mean,  
7 I have not had them for 38 months. I got them a month  
8 ago so, you know, that's not hard. I don't see that  
9 it is hard at all.

10           He's already sent around these. We  
11 know that he sent those around. If he is saying that  
12 he's been busily, since he got my motion, sending them  
13 to everybody that he could so that they would already  
14 be out there, then I guess we will have to sort that  
15 out.

16           But if it is a question of he is not  
17 supposed to give them to any other third parties until  
18 a determination is made about this, then I don't see  
19 what's hard about that, that isn't putting him at any  
20 kind of a disadvantage.

21           It is not suggesting what can or cannot  
22 be admitted in trial because we're not near a trial.  
23 We're not -- I mean, I know we have a docket control  
24 order, which no longer has much meaning or anything.  
25 We're supposed to be here today on a deadline on

1 summary judgment, so we are not.

2                   So it seems like a simple matter to  
3 say, okay, I've got to put the brakes on anybody else  
4 receiving these recordings until we get to the bottom  
5 of the nature of the recordings.

6                   MS. BEDUZE: Your Honor, I just want to  
7 make sure I'm understanding.

8                   It is my understanding that these  
9 recordings have not been disseminated to any third  
10 party. They have been disseminated to counsel and --  
11 but to these five individuals and their respective  
12 clients.

13                   THE COURT: Right.

14                   MS. BEDUZE: So any suggestion to  
15 otherwise, I would take issue with.

16                   And we do not believe -- it would be  
17 very perfect for us to try to agree to a protective  
18 order that protects the dissemination of the  
19 recordings that have already been exchanged, produced,  
20 pursuant to part of discovery, and any additional  
21 recordings that may come to light that, you know,  
22 through the act of discovery.

23                   And, I mean, in order to conduct the  
24 discovery, in order to take different depositions,  
25 which Ms. Bayless is wanting to take certain

1 depositions in lieu of the affidavit that she was  
2 originally requesting in front of you today, these  
3 recordings will need to be produced so that everyone  
4 can know and properly prepare for those depositions in  
5 which the recordings will be -- the information and  
6 the details of the recordings will be further delved  
7 into.

8           And so that end, my client, before  
9 retaining Crain, Caton & James, she did, in fact, give  
10 her deposition. And it is my understanding she  
11 responded as a pro se individual to over 300  
12 production requests.

13           So the fact that discovery has not gone  
14 forward, and the fact that information has not been  
15 given freely, that's false with respect to my client,  
16 Carole, in that she has responded to that discovery,  
17 and we have supplemented when we have information.

18           But, again, Carole is only in this  
19 lawsuit as the beneficiary of the trust. She is not a  
20 trustee. And so, you know, it is the role of all the  
21 parties, no matter which side they're on, is to freely  
22 exchange information. And to hinder -- and I believe  
23 that stopping the recordings from being exchanged by  
24 all parties would hinder the ability to move  
25 forward -- to move this case forward.

1 I know they were down here two weeks  
2 ago, and I believe getting Mr. Lester appointed will  
3 further move this case forward. But in order to deal  
4 with things, we need to have a free exchange of  
5 information.

6 THE COURT: Okay. I have a meeting at  
7 12:15, so I've got to get going. And I apologize, I  
8 should have said that earlier.

9 But let's work on an agreed protective  
10 order. I think it is difficult to restrain only the  
11 dissemination of these recordings among the attorneys.

12 And future recordings that have not  
13 already been disseminated, it might be a good idea for  
14 the attorneys just to have a hearing on it and get a  
15 determination whether or not it should be disseminated  
16 at that point. I don't know how many recordings there  
17 are, but --

18 MS. BAYLESS: I don't either.

19 THE COURT: What's that?

20 MS. BAYLESS: I don't know either.

21 Let me just say, Judge, I'm not going  
22 to enter into an agreed order that says those  
23 recordings can be disclosed to anyone. I just don't  
24 think I can do that.

25 THE COURT: Well, when you say third

1 parties, you're referring to anyone but the attorney  
2 who is in the suit as a legal attorney. I mean, third  
3 parties mean other than the defendants' attorneys and  
4 defendants?

5 MS. BAYLESS: Other defendants'  
6 attorneys in this case and other defendants, yes,  
7 that's what I mean. I don't mean other than those. I  
8 mean, those who are --

9 THE COURT: I'm just trying to clarify  
10 because Ms. Beduze said, you know, she took issue with  
11 the suggestion that these videos and recordings were  
12 being disseminated to third parties. I think that  
13 there was a missed communication about those third  
14 parties --

15 MS. BEDUZE: Correct. I will use the  
16 term "third parties" to be, you know, outside of the  
17 individuals involved in the lawsuit.

18 MS. BAYLESS: You know, I have  
19 absolutely no idea.

20 THE COURT: Well, let's work on a  
21 draft. Can we get the draft of a joint agreed  
22 protective order started, and see if you guys can come  
23 up with some sort of an agreement?

24 Otherwise, I mean, is there something I  
25 can rule on right now? I mean, is there something you

1 want guidance for other than this issue of how to deal  
2 with these recordings, because I don't have the answer  
3 to that. I don't know if there are even -- we could  
4 be displacing our findings cause all of the recordings  
5 have been produced, I don't know.

6 MS. BAYLESS: I think that's unlikely,  
7 Your Honor. But the problem -- here is the problem.  
8 While we explore these issues in depositions or  
9 however we explore them, if there is no constraint on  
10 their providing these documents -- of these recordings  
11 to other people, whether it is Carole sending her  
12 video recordings to Anita and Amy as she already did,  
13 and that's -- and so if Anita produced them, Carole  
14 didn't. She says Carole has provided all this  
15 discovery. Carole didn't provide those.

16 So unless there is some kind of  
17 constraint that there is to be no disclosure other  
18 than if -- other than Mr. Featherston talked about, he  
19 might be able to get a list of whom they have been  
20 provided to and when and that kind of thing. But  
21 without knowing, there may be -- the size of this  
22 recorder, there could be hundreds of hours of  
23 recordings.

24 And so without knowing what there is,  
25 without having the original means, without knowing any

1 of that, and until we know that, there is nothing  
2 preventing them from passing this around everywhere.

3           They obviously are not concerned about  
4 the statutes that prohibit it. And so unless this  
5 Court directs that those are not to go anywhere until  
6 we make a determination, and we establish a time  
7 period to make that determination, I just -- I  
8 cannot --

9           THE COURT: Okay. I think this is  
10 what -- this is my solution, I think, the best that we  
11 can come up with, sign a temporary order on it until  
12 an agreed protective order can be entered.

13           MS. BAYLESS: And the temporary order  
14 will --

15           THE COURT: It will expire at some  
16 point, and then we'll have a hearing when it expires,  
17 you know, the sooner the expiration date of the  
18 protective order or the date that a joint agreed  
19 protective order is entered. Does that make sense?

20           MS. BAYLESS: And the terms of this  
21 temporary order will be what?

22           THE COURT: I don't know that. I would  
23 have to go work on it. And then I'm assuming you guys  
24 can review and comment, and then I would enter it.  
25 And then, hopefully, you can come up with an agreed

1 order that would be better suited for the case. But  
2 until then, that's the only solution I can think of.

3 MR. SPIELMAN: Judge, if I may, I think  
4 whether it's in the temporary order or whether it's  
5 something that we can work on after that point, it can  
6 be maybe a stair step.

7 But I think what counsel has been  
8 saying about the need for the attorneys to be able to  
9 exchange so that, in theory, we can prepare our  
10 clients for, one, we can make sure that there are not  
11 any other recordings other than those that have  
12 already been exchanged. We need that part.

13 And then, two, I think what I heard a  
14 little bit of if -- if the concern is that, well, did  
15 Carl consent? Well, was Carl competent? That could  
16 be the second stage of people that need to hear these  
17 recordings.

18 I don't know how you determine his  
19 competency back then, but perhaps it is a professional  
20 who can hear the recordings and make some kind of  
21 determination.

22 I'm not saying that's the direction  
23 this goes, but it seems if the excuse -- if the  
24 defense is going to be that Carl was incompetent, and  
25 therefore, could not consent, we cannot have our hands



1 tied behind our back with regard to who can assist in  
2 either -- in evaluating that --

3           THE COURT: Okay. Well, that may be  
4 appropriate for the agreed protective order, so -- but  
5 as far as my temporary order is concerned, I'm not  
6 going to make it that complicated. So I don't -- I  
7 really don't know what I'm going to do at this point,  
8 but I'm going -- I will draft something up and you  
9 guys can comment on it. I don't want to mess things  
10 up for you, but I do think that it is appropriate to  
11 protect the dissemination of this information in the  
12 meantime so that we can get the issue resolved.

13           MS. BEDUZE: And, Your Honor, if you  
14 would -- I do believe we have a copy if you would like  
15 to see or hear the recordings that is --

16           THE COURT: Not yet.

17           I've got to go. I'm already late.

18           ( CONCLUSION OF PROCEEDINGS. )

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1 STATE OF TEXAS ::

2 COUNTY OF HARRIS ::

3 I, JUDITH J. KULHANEK, Deputy  
4 Official Court Reporter in and for Probate Court No. 4  
5 of Harris County, Texas, do hereby certify that the  
6 foregoing contains a true and correct transcription of  
7 all portions of evidence and other proceedings  
8 requested by counsel for the parties to be included in  
9 this volume of the Court Reporter's Record in the  
10 above-styled and numbered cause, all of which occurred  
11 in open court or in chambers and were reported by me.

12 I further certify that this Court  
13 Reporter's Record does not include any exhibits as  
14 none were offered and/or admitted.

15 I further certify that the cost  
16 for the preparation of this Court Reporter's Record is  
17 \$ 260.00, paid by plaintiff, CARL BRUNSTING.

18 WITNESS MY OFFICIAL HAND on this,  
19 the 18th day of August, 2015.

20

21

22 /s/ JUDITH J. KULHANEK  
23 JUDITH J. KULHANEK, CSR #598  
Deputy Official Court Reporter

24 MY COMMISSION EXPIRES:  
25 DECEMBER 31, 2016

**DATA ENTRY**  
**PICK UP THIS DATE**

NO. 412,249

PROBATE COURT 4

ESTATE OF § IN THE PROBATE COURT  
NELVA E. BRUNSTING, §  
DECEASED § NUMBER FOUR (4) OF  
§ HARRIS COUNTY, TEXAS  
§

**NOTICE OF HEARING**

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE BE NOTIFIED that the hearing on Greg Lester's, Temporary Administrator Pending Contest of the Estate of Nelva E. Brunsting, Deceased, Application for Authority to Retain Counsel – MacIntyre, McCulloch, Stanfield & Young, LLP for the above entitled cause has been set for **Thursday, September 10, 2015, at 2:00 p.m.** in the Probate Court Number Four

(4) of Harris County, Texas:

Respectfully submitted,

MacINTYRE, McCULLOCH, STANFIELD  
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ATTORNEYS FOR GREG LESTER,  
TEMPORARY ADMINISTRATOR PENDING  
CONTEST

UNOFFICIAL COPY

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument was sent by e-mail, e-serve, facsimile, and/or United States certified mail, return receipt requested, on this the 4<sup>th</sup> day of September, 2015, to the following parties:

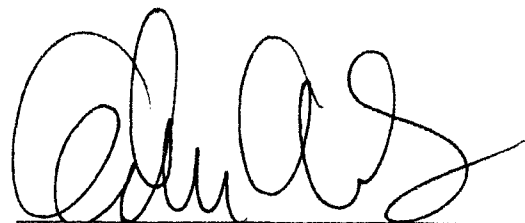
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*Pro Se*



JILL W. YOUNG  
ADRIANNE A. GRAVES

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' VERIFIED MOTION FOR PARTIAL SUMMARY JUDGMENT WITH CONCURRENT PETITIONS FOR DECLARATORY JUDGMENT**

TO THE HONORABLE PROBATE COURT:

COMES NOW Candace Louise Curtis filing this Verified Motion for Partial Summary Judgment with Concurrent Petitions for Declaratory Judgment and in support thereof would respectfully show as follows:

**I.**

**Summary and Declaratory Judgment Issues**

This is a case involving numerous breaches of fiduciary duties by persons occupying the offices of trustee under questionable authority who, while exercising the powers of the office to perform improper transactions in a biased and self-serving manner, have affirmatively performed none of the duties required under the terms of the trust instruments, have affirmatively performed none of the duties required by Texas property statutes, and have affirmatively performed none of the duties required by the Texas common law.

Notwithstanding Defendants' selective disclosures over these past five years and their continuing obfuscation, there has been more than adequate time for both honest and complete fiduciary disclosures and for pretrial discovery. The requisite evidentiary support for these motions is contained within the Court's record. The evidence is clear, positive, uncontradicted, and of such nature it cannot rationally be disbelieved; there is no legitimate controversy as to any material fact; and Plaintiff is entitled to judgment as a matter of law on the issues expressly set out in this motion.

This motion for partial summary judgment seeks relief on four specific breaches of fiduciary duties at issue in the matters before the Court. Additionally, a de son tort claim and

petitions for declaratory judgments relate to the validity, efficacy and interpretation of instruments and the proper standing of parties.

The claims for breach of fiduciary relate only to the period of time between the death of our Mother Nelva Brunsting on November 11, 2011 and the filing of this motion. The several petitions for declaratory judgment relate to instruments authored after the incapacity and/or demise of Elmer Brunsting.

Plaintiff asks the Court to interpret the several claims for breach of fiduciary and the several petitions for declaratory judgment considering the totality of the circumstances in Toto with the records of the several proceedings.

## II.

### Summary Judgment

Pursuant to Texas Rule of Civil Procedure 166(a):

*A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the adverse party has appeared or answered, move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to amount of damages.*

*The judgment sought shall be rendered forthwith if (i) the deposition transcripts, interrogatory answers, and other discovery responses referenced or set forth in the motion or response, and (ii) the pleadings, admissions, affidavits, stipulations of the parties, and authenticated or certified public records, if any, on file at the time of the hearing, or filed thereafter and before judgment with permission of the court, show that, except as to the amount of damages, there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law on the issues expressly set out in the motion or in an answer or any other response.*

In *Branult v. Bigham*, 493 S.W.2d 576 (Tex. App. -- Waco [10th Dist], 1973) the court held that:

*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. . . i. to ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; ii. to direct the . . . trustees to do or abstain from doing any particular act in their fiduciary capacity; or iii. to determine any question arising in the administration of the trust . . . including the construction of . . . other writings.*

### III.

#### **Burden of Proof**

The burden of proof is on the fiduciary to show that he has fully performed his duties, and the means for such proof is full disclosure and a sufficient and proper accounting.

*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).*

In Frethey v. Durant, 48 N.Y.S. 839 (N.Y.A.D. 1 Dept. 1897), it was held that:

*when a fiduciary relation is shown to exist, and property or property interests have been entrusted to an agent or trustee, the burden is thrown upon such agent entrusted to render an account, and to show that all his trust duties have been fully performed, and the manner in which they have been performed. It is assumed that the agent or trustee has means of knowing, and does know, what the principal or cestui que trust cannot know, and is bound to reveal the entire truth.*

### IV.

#### **Beneficiaries Have Express Statutory Standing to Seek Declaratory Judgments**

Texas Civil Practice and Remedies Code §37.005:

*Sec. 37.005. DECLARATIONS RELATING TO TRUST OR ESTATE*

*A person interested as or through an executor or administrator, including an independent executor or administrator, a trustee, guardian, other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust in the administration of a trust or of the estate of a decedent, an infant, mentally incapacitated person, or insolvent may have a declaration of rights or legal relations in respect to the trust or estate:*

- (1) to ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others;*
- (2) to direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity;*
- (3) to determine any question arising in the administration of the trust or estate, including questions of construction of wills and other writings; or*
- (4) to determine rights or legal relations of an independent executor or independent administrator regarding fiduciary fees and the settling of accounts*

### V.

#### **Summary of the Motion**

As the record will show, Defendants Anita and Amy Brunsting claim to be co-trustees for the entire Brunsting family of trusts. Anita claims to have become sole trustee for the entire Brunsting family of trusts via Nelva's resignation and trustee appointment on December 21, 2010. Plaintiffs Carl Brunsting and Candace Curtis are co-beneficiaries of the Brunsting family of trusts along with Defendants Amy, Anita, and Carole Brunsting. (see Exhibit 1 and Defendants' pleadings)

A fiduciary relationship exists as a matter of law. Amy and Anita owed and continue to owe fiduciary duties to Carl Brunsting and Candace Curtis. Anita and Amy have breached the fiduciary duties owed to all of the beneficiaries, and Plaintiffs have suffered and continue to suffer egregious injury and are entitled to remedy as a matter of law, as hereinafter more fully appears.

## VI.

### **Breach of Fiduciary Claims**

1. Abuse of Discretion: Failure to create individual trust shares or fund personal asset trusts
2. Duty of Competence: Failure to account for known trust assets - EE Bonds
3. Duty to Account: Failure to render full, true, complete, and timely accountings
4. Breach of affirmative fiduciary duty of full disclosure.

## VII.

### **Summary of Petitions for Declaratory Judgments**

Plaintiff seeks the following declaratory judgments as supported hereinafter.

That:

1. the July 1, 2008 appointment of successor co-trustees is invalid<sup>1</sup>
2. the August 25, 2010 appointment of successor co-trustees is invalid as to the Family and Decedent's irrevocable trusts<sup>2</sup>
3. the December 21, 2010 appointment of successor trustees is invalid as to the Family and Decedent's irrevocable trusts<sup>3</sup>
4. the December 21, 2010 resignation instrument is invalid as to the Family and Decedent's irrevocable trusts<sup>4</sup>

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<sup>1</sup> Exhibit 11-a

<sup>2</sup> Exhibit 11-b

<sup>3</sup> Exhibit 11-d

<sup>4</sup> Exhibit 11-c



5. the 2005 restatement as amended in 2007 is the current law of the trust
6. Plaintiffs Carl Brunsting and Candace Curtis are the de jure trustees for the Family and Decedent's irrevocable trusts; and
7. Defendants Amy and Anita Brunsting are trustees de son tort, liable for any breaches of fiduciary committed by them while occupying the office of trustee for the Family and Decedent's irrevocable trusts; and
8. If Defendants cannot verify original appointment instruments before the Court Plaintiff asks for a declaratory judgment that Carl Brunsting and Candace Curtis are also the de jure trustees for the Nelva E. Brunsting Survivor's Trust.

### **VIII.**

#### **History of "The Trust" and the Significance of Trust Events**

In 1996 Elmer Brunsting and his wife Nelva Brunsting created the original Brunsting Family Living Trust<sup>5</sup> for their benefit and for the benefit of their 5 children (Original trust Exhibit 6).

That trust instrument named Founders Elmer and Nelva as the initial co-trustees, but in the event that both of them should cease to serve the successor trustee designation was listed:

- a. First Anita
- b. Second Carl and
- c. Third Amy

The original trust lay dormant until January 2, 2005 when it was restated in its entirety (2005 Restatement Exhibit 7). The successor co-trustees after the 2005 Restatement were:

- a. Carl Henry Brunsting and Amy Ruth Tschirhart<sup>6</sup>
- b. Alternate Candace Louise Curtis

The significant fact is that Elmer and Nelva jointly removed Anita entirely as a successor trustee in 2005. It must be presumed that Elmer and Nelva had a reason for removing Anita.

The Brunsting Family Living Trust was amended by both Elmer and Nelva for the first and only time in 2007 (Exhibit 8), and after that amendment the named successor co-trustees were:

- a. Carl Henry Brunsting and Candace Louise Curtis

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<sup>5</sup> Bates Brunsting001517

<sup>6</sup> Bates P326 obtained by Blackburn

b. Alternate Frost Bank

The significant facts here are that Elmer and Nelva jointly removed Amy as a successor co-trustee and they did not put Anita or Carole on as an alternate, but instead named Frost Bank.

It is also significant to note that this was the last A/B trust instrument signed by both Elmer and Nelva Brunsting and is inarguably the current law of “the trusts”.

**TRUST VITIATIONS**

Elmer Brunsting became incapacitated and was apparently declared by two doctors to be incompetent in June of 2008. Surfacing after more than three years of litigation and demands for production is a document referred to in other instruments as an appointment of successor trustees dated July 1, 2008.

July 1, 2008 Appointment of Successor Trustees

The only copy of this instrument thus far known, recently surfaced at pages 135-139 of a 143 page pdf document labeled “supplemental production” received from Anita Brunsting on June 25, 2015, a copy of which is attached as Exhibit 11-a.

The quality of this copy is not only unacceptable but the instrument is invalid on its face, as under Article IV Section D of the restatement Nelva could only remove trustees she had individually appointed.

2005 Restatement Article IV Section D

*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.*

Elmer had already been declared incompetent in June and was unable to sign trust amendments. His incompetence is mentioned in the July 1, 2008 instrument which was signed by Nelva alone. Because Elmer was incompetent and not deceased, there was no survivor’s trust to change trustee appointments for, and since the successor co-trustees for the family trust had been selected by Elmer and Nelva jointly, the successor co-trustees for the family trust could not be changed by Nelva alone under the terms of Article IV (D) of the restatement.

Thus, when Elmer passed on April 1, 2009 the successor co-trustees for the irrevocable Family and Decedent’s trusts could only be those named in the 2007 Amendment -- Carl and Candace, with Frost Bank as the alternate.

As Carl Brunsting was the first successor co-trustee in every instrument, nothing really changed after Elmer's death with the exception of the names of trust assets as to ownership interests. Assets were either transferred to a Decedent's Trust or a Survivor's Trust using various certificates of trust, but no individualized indentures for either trust were ever formally expressed. This is the first place where ambiguity finds fertile ground.

August 25, 2010 Qualified Beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement

On July 3, 2010 Carl Brunsting fell ill with encephalitis. Candace Freed's notes dated July 30, 2010 reveal that her instructions to change the trustee designations and dispositive provisions of the trusts came from previously removed successor trustee Anita Brunsting and not client Nelva Brunsting at all. (Exhibit 12)

The note says Anita's instructions were to make her and previously removed successor co-trustee Amy Brunsting successor co-trustees, with Frost Bank as the alternate. The notes also say to put Carl's inheritance under Amy and Anita's control. What Anita had requested and Freed drew up is exactly what Elmer and Nelva Brunsting intended to prevent with the 2005 Restatement and the 2007 Amendment, which are the last A/B trust agreement instruments signed by both.

The instructions from Anita to Freed find their way into an instrument expressed as a "Qualified Beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement" allegedly signed by Nelva Brunsting on August 25, 2010. However, Plaintiff finds no exhibits in the disclosures that would indicate the source of the instructions to also place her inheritance expectancy under the trusteeship of Amy and Anita Brunsting. Nelva Brunsting herself said that's not true. (Exhibit 13)

Exhibit 10 is a collection of various Bates stamped exhibits of the alleged August 25, 2010 QBD. Of note is the fact that there are three versions of the signature page. Attached to Anita's 156 page objection to the Court's approval of a distribution, filed December 5, 2014, is the version bearing Bates Stamp P229. This is also the version Plaintiff Curtis received by mail. One can easily see the CAN preceding the alleged signature of Nelva Brunsting.

The next version bearing Bates stamps P192, P7168, V&F000389, P-76 and P12755 show both signatures floating way above the lines. This version appears in Carole's 133 page objection to Plaintiff's application for distribution filed Feb.17, 2015. This version also appears

in a business records affidavit from Frost Bank (Exhibit 9) as having been attached to an email received from Amy Brunsting in December 2011.

The third version (P443) was obtained for Carl Brunsting by attorney Blackburn from Anita. P443 and P1015 match the version attached to Curtis' original federal complaint (as Exhibit P-40), identified in her attached affidavit as having been received from Anita Brunsting via email October 23, 2010.

### **REMOVAL OF NELVA BRUNSTING BY FORCE**

Nelva and Carl were excluded from a phone conference called by Candace Freed (Exhibit 5-a)<sup>7</sup> and held on 10/25/2010. After that conference Curtis had a phone conversation with Nelva regarding the alleged 8/25/2010 QBD. Carole later emailed Curtis about overhearing Nelva on the phone to Freed, telling Freed to change it back and that she wasn't going to follow the changes Freed had made to the trust (Exhibit 5-b). Subsequent to the phone conversation referred to in Carole's email, apparently Candace Freed requested that Nelva be evaluated for competency. Candace Freed later wrote a follow up email on November 17, 2010 explaining her reasons for subjecting Nelva to a competency evaluation. (Exhibit 14)

Defendant's, having failed in their attempt to have a very lucid Nelva Brunsting declared incompetent, and after disfiguring the Family, Decedent's, and Survivor's trusts with their 8/25/2010 QBD, still not being satisfied that the scheme to steal their siblings' inheritance expectancies was fool proof, Anita, Amy, Carole and Candace Freed converged on Nelva in her own home on December 21, 2010, leaving Nelva no place to retreat. (Exhibit 25)

Nelva is alleged to have voluntarily signed resignation papers prepared by Candace Freed that improperly gave Anita total control over the assets of the entire Brunsting family of trusts, but those changes could not be made under the law of the trust. Under Article III of the 2005 Restatement as lawfully amended in 2007, the family trust became irrevocable at the death of Elmer Brunsting April 1, 2009, but could also not be changed after Elmer's incompetency certification of June 2008, as it was an A/B trust requiring both Founders' agreement to effect any changes.

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<sup>7</sup> Plaintiff Curtis original petition filed in the federal court on February 27, 2012 was made a part of this Court's record Feb. 9, 2015 Document No. PBT-2015-47608

## IX.

### The Claims

Each of the following claims for breach of fiduciary relates to the period of time between the death of Nelva Brunsting and the filing of this motion. All of the Articles, exhibits and claims herein stated, and the attached Memorandum of Points and Authorities are hereby incorporated by reference as if restated in every other Article and Claim.

Claim 1. Abuse of Discretion: Failure to Create Individual Trust Shares or Fund Personal Asset Trusts

Article X of the 2005 Restatement of the family trust requires the trustees to distribute the trust res into five Trust Shares for the five beneficiaries, to be created upon the death of the second Founder. (Exhibit 7)

The 8/25/2010 Qualified Beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement that Defendant's cling to, but have not produced, requires the trustees to establish five personal asset trusts upon the death of the second Founder.

Nelva Brunsting, the second Founder, died November 11, 2011. It does not matter which instrument was to be followed, the trustees are in breach for failure to act and failure to seek judicial guidance in either circumstance, which is a clear case of abuse of discretion.

The injunctive order issued by the federal court April 9, 2013 not only enjoins Defendants from spending trust funds without prior court approval but, in fact, also compels Defendants to deposit income into an appropriate account for the beneficiary.

*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.*

On June 25, 2015 Amy responded to Curtis' 1st interrogatories (Exhibit 22) and in her answers she blames Carl and Candace for bringing litigation as the cause for her inability to meet her fiduciary obligations.

Answering interrogatory 1 Amy states: (emphasis added)

*The Personal Asset Trusts have not been established. This is a result of the various lawsuits that have been filed by Carl and Candace, as well as the injunction previously requested by Candace and Carl. If, as and when formed,*

*they will be formed according to the applicable trust documents and with the assistance of the appropriate professionals, as determined by the co-trustees*

Amy further claims in interrogatory No.2:

*Upon becoming co-trustee, my intent was to follow my mother's wishes as expressed in the documents drafted for her by her attorneys, at her request. Subsequently, the various lawsuits that have been filed by Carl and Candace, as well as the injunction previously requested by Candace and Carl have prejudiced my ability to do so.*

According to Anita Brunsting's June 4, 2015 answer No. 18 to Curtis' interrogatories regarding the irrevocable trust provisions for establishing personal asset trusts, Anita says Nelva "superseded" the irrevocable A/B trust agreement. (Exhibit 23) (Emphasis added)

*18. Describe the steps you have taken to honor the provisions of Article X, Section B(1)(a)(i) of the Brunsting Family Trust?*

*RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (i.e., before Nelva's death or after Nelva's death) and is, therefore, vague. The referenced section was superseded by Nelva and therefore, is inapplicable.*

In Amy's Verified Answer to Plaintiff Carl Brunsting's Petition for Declaratory Judgment<sup>8</sup>, for Accounting, for Damages, for Imposition of a Constructive Trust, and for Injunctive Relief, filed May 13, 2013, Amy seeks to take refuge in the fact the personal asset trusts have not been "created" where she states:

*AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART is not liable as Trustee of the Carl Henry Brunsting Personal Asset Trust and the Amy Ruth Brunsting Asset Trust because such trusts have not been created and therefore do not contain any trust property.*

In Anita Brunsting's June 4, 2015 answer to Curtis' 1st written interrogatories (Exhibit 23) in response to number 19, Anita blames "the litigation" for failure to fund the personal asset trusts: (Emphasis added)

*19. Describe the steps you have taken to honor the provisions at Page 6 Item C of the August 25, 2010 QBD regarding PERSONAL ASSET TRUST PROVISIONS, as those provisions relate to the personal asset trusts for each of the five Brunsting beneficiaries?*

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<sup>8</sup> Filed with this Court 5/13/2013 BT-2013-154977

*RESPONSE: After Nelva's death, defendant began the process of collecting assets, informing trust beneficiaries, and working the attorneys specifically referenced in such section to implement the terms of the trust instruments. The trustees and their counsel provided trust documents and assets lists via email and/or mail in December 2011 and thereafter to beneficiaries. **Candace then brought litigation.***

The 2005 Restatement and the 2007 Amendment were the last A/B trust agreements signed by both Elmer and Nelva Brunsting. Limitations on the Founder's ability to amend or revoke "the trust" were provided in Article III Section B (Exhibit 7) which reads as follows: (*emphasis added*)

*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.***

Thus, any instruments claiming to have amended the irrevocable Family trust after the incapacity of Elmer Brunsting and any instruments claiming to amend the irrevocable Decedent's trust after Elmer's death are invalid on their face, and those would include the proclaimed changes in successor co-trustees as hereinafter more fully appears.

Pursuant to Article X of the 2005 Restatement, which Nelva had no power to supersede, the trustees were to establish five trust shares for the five beneficiaries at the death of the surviving founder.<sup>9</sup>

*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:*

<i>Beneficiary</i>	<i>Share</i>
<i>CANDACE LOUISE CURTIS</i>	<i>1/5</i>
<i>CAROL ANN BRUNSTING</i>	<i>1/5</i>
<i>CARL HENRY BRUNSTING</i>	<i>1/5</i>
<i>AMY RUTH TSCHIRHART</i>	<i>1/5</i>

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<sup>9</sup> Exhibit 7 Article X page 10-1

There is no legal authority to support the notion that a suit brought by a beneficiary against a trustee for breach of fiduciary, or that animosity between the trustee and a beneficiary in any way relieves the trustee of performing the fiduciary duties the trustee owes to the beneficiary.

Nelva Brunsting died November 11, 2011. Article X of the 2005 restatement requires establishment of five trust shares at the death of the second Founder. The 8/25/2010 QBD requires distribution to 5 personal asset trusts at the death of the second Founder. Therefore, it matters not what instrument is relied upon, the trustees are in breach for failure to exercise discretion in either circumstance.

The federal Court found the trust required establishment of individual trust accounts and that the trustees had failed to fund the trust accounts. The injunction commands Defendants to deposit income into an appropriate account for the beneficiary and yet no income has been deposited appropriately into an account for any beneficiary. Defendants cannot blame the injunction for refusing to do what it commands!

There is no legal nexus between litigation and Defendants' proclaimed inability to act and no known legal authority exists to support such claims. Defendants have offered no valid defense as to why separate trust shares or personal asset trusts, have not been "set up", as Amy's March 6, 2012 affidavit claims. (Exhibit 1)

Defendants have offered no valid defense as to why separate trust shares have not been created, as required under the terms of the 2005 Restatement, or as to why personal asset trusts have not been "set up" as required under the terms of the 8/25/2010 QBD and as required under the terms of the federal injunction.

It should be judiciously noted here that the willful violation of a federal Court injunction is not merely a civil contempt but also a federal crime under Title 18.<sup>10</sup> If Defendants were uncertain what instruments to follow they had a constructive trustee duty to petition for judicial guidance, which they also failed to seek.

Claim 2. Duty of Competence: Failure to Account for, Protect and Maintain Trust Assets - EE Bonds

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<sup>10</sup> 18 U.S.C. § 402 : US Code - Section 402: Contempt's constituting crimes



Defendants owe Plaintiff a duty to take possession of and protect trust assets. Defendants have known of the existence of U.S. Treasury EE Bonds held in the name of the family trust and have refused or otherwise failed to take possession, protect or account for the known EE Bonds.

Plaintiff Curtis sought an accounting for the EE Bonds in her initial complaint on February 27, 2012 (28 months after Anita claims to have become trustee). (Exhibit 5)

Fourteen months after Plaintiff Curtis' initial filing the federal Court issued an injunction to prevent wasting of the assets and a special Master was appointed to prepare an accounting of the income and disbursements of the trust from the date Anita Brunsting claims to have become sole trustee through May 31, 2013.

The Special Master appointed by the federal Court issued his report July 31, 2013 and the Defendants filed a response and an objection. On August 13, 2013 Curtis filed her response to Report of Master<sup>11</sup> and demanded at items 4 and 5 that Defendants account for U.S. Treasury EE Bonds held in the name of the trust.

A hearing was held September 3, 2013. While testifying the Special Master expressed questions as to the whereabouts of said bonds. (Exhibit 18)

Ten months later, still having no information about the EE Bonds, other than the Defendants' own production of April 2013, Plaintiff Curtis sent a letter of inquiry to the U.S. Treasury and subsequently received a response regarding the EE Bonds. (Exhibit 21)

December 14, 2014, Brad Featherston apparently emailed Plaintiff Curtis' prior counsel Jason Ostrom, and Carl Brunsting's counsel Bobbie Bayless asking for permission to "cash the bonds and deposit the money". (Exhibit 20)

Anita's June 4, 2015 answer to Curtis' interrogatories claims trustee failure to account for EE bonds is Plaintiffs' fault: (Exhibit 23) (Emphasis added)

*23. What was the date of your prior inquiry and why was the inquiry made more than one year after you were noticed of the existence of those EE Bonds?*

*RESPONSE: Candace and Carl consistently and repeatedly accused Carol of stealing bonds that were alleged to be in the name of Nelva or Elmer. **Defendant did not see a record of the bonds being in the name of the trusts.** In late 2014, Carol informed defendant that she could request a record of the outstanding bonds, which was done in mid to late 2014.*

*24. What claim(s), if any, were you asking to be processed?*

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<sup>11</sup> See Exhibit 17

*RESPONSE: None.*

*25. Did you subsequently submit the properly completed forms? If no, why not? If yes, what were the results and where are the transaction records?*

*RESPONSE: No, because Candace would not agree to the disposition of the bonds and the legal fees to seek court approval to cash the bonds in light of Candace's failure to agree made the transaction cost prohibitive.*

Defendants blame Carl and Candace for their refusal to account for the EE Bonds, but there is no legal nexus between alleged accusations that Carole stole the bonds and Defendants' fiduciary duty to account for the bonds. There is no legal authority to support the notion that a fiduciary's duty to account is somehow dependent upon a beneficiary's permission to cash bonds, and there is no rational connection between requesting the reissue of EE bonds and a beneficiary's permission to cash bonds. Defendants' posture is not a legal defense to failure to account.

Anita's response to Plaintiff Curtis' interrogatories claims that she did not know about EE bonds in the name of the trust<sup>12</sup> when 1) they are identified in Defendants' own disclosures<sup>13</sup> 2) Plaintiff Curtis specifically demanded Defendants account for the bonds in her August 13, 2013 Response to the Report of Master<sup>14</sup> 3) Plaintiff Curtis' original federal complaint mentions the EE bonds<sup>15</sup>, and 4) the Special Master mentioned his curiosity as to the whereabouts of the unaccounted for EE bonds while testifying at the hearing on the Masters report September 3, 2013.<sup>16</sup>

The refusal to secure and preserve known trust assets by certifying authenticated copies of trust documents to the US Treasury in order to cause the reissue of the US Treasury EE series bonds is not a mistake, inadvertence or excusable neglect.

Claim 3. Breach of Fiduciary Duty to Account: Failure to Render Full, True, Complete, and Timely Accounting

Beginning with Anita's acceptance of the appointment of successor trustee, (Exhibit 11-e) when Nelva allegedly resigned on December 21, 2010, semi-annual accountings to Nelva were thus required on the summer and winter solstice, June 22<sup>nd</sup> and December 21<sup>st</sup> of each year.

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<sup>12</sup> Exhibit 23

<sup>13</sup> Exhibit 19

<sup>14</sup> Exhibit 17

<sup>15</sup> See This Courts record 02102015:1527:P0082

<sup>16</sup> Exhibit 18

Amy Brunsting claims to have become a successor co-trustee with Anita when Nelva died on November 11, 2011. (Exhibit 1) (Amy Affidavit) No accounting was rendered December 21, 2011. Amy's Affidavit claims they have done the best that they can in the short time since Mother's death, but if accountings had been timely and properly prepared for Nelva by Anita, then it would have been a simple exercise to update them with the December bank and brokerage information. Current bank and brokerage statements continue to be withheld as of this writing.

The first quasi-accounting in the form of spreadsheets<sup>17</sup> was received on April 5, 2012 in response to a December 2011 demand for a statutory accounting. The only other accounting was performed by the Special master and no formal statutory accounting has ever been performed or submitted to all of the beneficiaries.

Based upon Defendants' previous reference to the federal injunction as "questionable" and having received inadequate "accounting" information, Plaintiff Curtis has again become profoundly concerned about the economic health of "the trust" and did send demand for statutory accounting June 15, 2015. (Exhibit 24) The statutory time has long since run and no accounting has been rendered.

#### Claim 4. Breach of Affirmative Fiduciary Duty of Full Disclosure

Defendants have no legal defense for their refusal to honor the affirmative fiduciary duty of full disclosure and transparency. As can easily be seen from Plaintiff Curtis' original federal complaint and Affidavit, the lawsuits were brought to compel the performance of fiduciary obligations, primarily those of accounting and disclosure.

At this late juncture Defendants' only defense to their abject failure to perform any fiduciary duties, is to assert that Carl and Candace are no longer beneficiaries because they brought litigation to compel fiduciary accounting and disclosures. This is yet another defense effort to remove loyalty and accountability, the very essence of the fiduciary relationship itself.

### **X.**

#### **Conclusion – The Emperor Wears No Clothes**

Historiographically, we have obfuscation and subterfuge and what appears to be elder abuse; de-facto trustees assuming the office; troublesome disposition of trust assets; an absence of competent book keeping; failures to disclose and account; questionable documents; improper

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<sup>17</sup> Exhibit 2

changes to irrevocable trusts; stalking; illegal wiretapping; and an absolute and complete absence of any fiduciary duties fulfilled without judicial compulsion.

Defendants cannot blame their failures to act on litigation brought to compel honoring of fiduciary obligations. The injunctions applied for and issued to prevent further misapplication of assets and to compel the honoring of fiduciary obligations, are not an excuse for failure to act.

Defendants have stated no valid legal defense and their excuses are nothing but confessions. Taken together, mere 'incompetence' cannot explain the synchronicity of events.

Defendants' pleadings and answers to interrogatories confess what their intentions have been all along. The plot was to steal Carl and Candace's inheritance expectancies and then to declare their victims "disinherited" should they object, just as Candace suspected in her email to Carole in October of 2010, and just as Defendants stated in their answers to Plaintiff's interrogatories and objections as exhibited herewith.

Anita, Amy and Carole kept their consorted acts secreted, refused to answer, and waited for Carl and Candace to seek judicial remedy to spring their disinheritance trap. In other words, the 8/25/2010 QBD was intended to eliminate accountability and the duty of loyalty, which no Court has ever even attempted, as that would dissolve the fiduciary relationship itself, an improper act, which is exactly what Defendants appear to have intended from the onset.

Defendants' plot was also clearly depicted in the Affidavit attached to Plaintiff Curtis' original federal complaint, filed February 27, 2012, now a part of this Court's record.<sup>18</sup> (Emphasis added)

*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.<sup>19</sup>*

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<sup>18</sup> Plaintiff Curtis original petition filed in the federal court on February 27, 2012 and made a part of this Court's record Feb. 9, 2015 Document No. PBT-2015-47608

<sup>19</sup> See Exhibit 13

Observe Amy's recent answers to interrogatories. (Exhibit 22 p.13 emphasis added)

*(k) What factors does the decision-maker measure in determining the beneficiary's need for a distribution?*<sup>20</sup>

*Answer:*

*"Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. It is multifarious, consisting of more than one discrete subpart. It seeks to require the Respondent to interpret legal documents and render legal conclusions. **Additionally it is premature in the sense that Carl and Candace may no longer be beneficiaries as a result of the lawsuits they have filed.***

Curtis' original federal complaint and affidavit contains email threads between Carole Brunsting and Candace Curtis in October of 2010, that make it clear Anita and Amy were both browbeating Nelva and not allowing her control over her own estate.

Note the reference to Amy and Anita's disinheritance plot at page 4 of 4 of the following email thread (Exhibit 5-d):

*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.*

The threat of using an in terrorem clause against Carl and Candace for bringing litigation to construe a trust instrument, direct the trustees to do or abstain from doing any particular act in their fiduciary capacity, determine any question arising in the administration of the trust, including the construction of writings, is apparently the only response Defendants can muster.

Such threats are inconsequential. A cestui que right to declaration as to the validity and interpretation of instruments and to compel the trustee to do or abstain from doing any particular act, is a statutory and common law right belonging to the cestui que that prevails over any terms of a trust to the contrary.<sup>21</sup>

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<sup>20</sup> It should be noted here that this question was selected from the Northern Trust Company web site section advising the beneficiary on what questions to ask the trustee.

<sup>21</sup> Texas Property Code §115.001 vis-à-vis Property Code §111.0035; Branult v. Bigham, 493 S.W.2d 576; Texas Civil Practice and Remedies Code §37.005

The exercise of a cestui que right to hold the trustee accountable cannot be diminished, let alone perverted into violation of an in terrorem clause.

By claiming beneficiaries Carl and Candace are disinherited for violating an in terrorem clause, Defendants seek to remove Plaintiffs' standing to demand accountings, distributions, or disclosures, or to hold the impostor trustees to honor any of the fiduciary duties of the office.

It should be noted that disinheritance threats in Defendants' objections to distributions, and in their responses to interrogatories, were made in anticipation of the joint no-evidence motion for partial summary judgment subsequently filed by Defendants' Amy and Anita that they later removed from calendar. Defendants Anita and Amy Brunsting filed a joint motion in an effort to validate their 8/25/2010 QBD, collectively claiming personal knowledge of its validity. It should be noted that when confronted individually they have each disavowed any personal knowledge of its alleged signing.

Plaintiff would love to discuss the content of the 8/25/2010 QBD instrument and have tried every conceivable means to get the Defendants to qualify the thing as evidence so that we would have something to talk about, but has been continually frustrated in that effort.

Plaintiff Curtis' response to Defendants' no-evidence motion also included a counter motion under Texas Evidence Codes §§1002, 1003. That motion remains pending and is incorporated by reference, along with Carl Henry Brunsting's Motion for Partial Summary Judgment, as if fully restated herein.

The problem of the mysterious QBD would be resolved by the party claiming the existence of the QBD simply certifying the archetype of the instrument before the Court with a declaration as to the chain of custody. However, if Defendants could do that why would they not have certified trust instruments to the US Treasury to cause the reissue of the EE Bonds?

The eight Bates stamped copies (Exhibit 10) of the three 8/25/2010 QBD signature page versions connect all three Defendants with Candace Freed and that is no coincidence either. The fact that Nelva herself said in her own hand that it was not true (Exhibit 13) does not seem to affect Defendants' position of "we say Nelva instructed"<sup>22</sup>. Even if Defendants could produce the original and explain away the divergent copies of the original, it remains utterly worthless, collapsing under the weight of its own improprieties.

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<sup>22</sup> Exhibits 22 & 23

Amy and Anita's answers to Curtis' interrogatories<sup>23</sup> claim the trust instruments speak plainly for themselves, but nowhere does one find Nelva's alleged power to "supersede" the irrevocable trusts, or the "Nelva instructed" provisions.

Anita Brunsting was removed as a successor trustee by both Elmer and Nelva Brunsting with the 2005 Restatement (Exhibit 7), and Amy Brunsting was removed as a successor co-trustee by both Elmer and Nelva Brunsting with the 2007 Amendment.

All three of Anita Brunsting's claims of returning to successor trustee status are colorable and none more colorable than the December 21, 2010 resignation and appointment documents, whereby Anita claims to have become trustee over all of the family trusts.

Nelva, individually, held no power to remove the trustees for the Decedent's or Family trusts and, thus, neither Anita nor Amy Brunsting ever returned to the status of a trustee after their removal by both Elmer and Nelva acting jointly.

In her own words Anita admits to browbeating Nelva and withholding trust information. Anita imposed her own will as if she were the new Founder, reminding Nelva Brunsting that she was no longer trustee and no longer had access to the trust. (Exhibit 5-e)

## **XI.**

### **Prayers for Relief**

For the reasons presented and supported by competent evidence within the record, Plaintiff prays that her several motions for partial summary judgment be granted, that Plaintiffs' petitions for declaratory judgment be answered, and that Plaintiff and the several trusts receive all other general, special, legal and equitable relief to which Plaintiff and the trusts may be entitled.

Plaintiff asks the Court for findings of fact and conclusions of law, order and ruling, that Defendants Amy and Anita Brunsting are de son tort Trustees liable for breaches of fiduciary obligations occurring after the demise of Nelva Brunsting including but not limited to those specifically enumerated herein:

1. Failure to Distribute Assets to Trust Shares or Fund Personal Asset Trusts or otherwise distribute the trust property interests amongst the beneficiaries (abuse of discretion)
2. Failure to account for known trust assets, to wit U.S. Treasury EE Bonds
3. Failure to render full, true, complete, and timely accounting

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<sup>23</sup> (Exhibits 22, 23)

4. Breach of the ongoing duty of full disclosure

Plaintiff further asks the Court for findings of fact and conclusions of law along with declaratory judgment that:

1. The July 1, 2008 appointment of successor trustees is invalid;
2. The August 25, 2010 appointment of successor co-trustees is invalid as to the Family and Decedent's irrevocable trusts;
3. The December 21, 2010 resignation and appointment of successor trustees instruments are invalid as to the Family and Decedent's irrevocable trusts;
4. The 2005 restatement as amended in 2007 is the current law of the trust;
5. Plaintiffs Carl Brunsting and Candace Curtis are the de jure trustees for the Family and Decedent's irrevocable trusts; and
6. If Defendants cannot Verify original appointment instruments before the Court, Plaintiff asks for a declaration that Carl Brunsting and Candace Curtis be declared the de jure trustees for the Nelva E. Brunsting Survivor's Trust as well;
7. Defendants Amy and Anita Brunsting be compelled to specific performance in that they be ordered to verify the original trust instruments before the Court and submit certified copies to the United States Treasury for the reissue of U.S. Treasury EE Bonds;
8. Plaintiff asks that Defendants Amy and Anita Brunsting be removed from acting as trustees for the Family, Decedent's and Survivor's trusts, as appropriate;
9. Plaintiff asks that Carl Brunsting and Candace Curtis be declared de jure trustees as appropriate;
10. Plaintiff asks that Amy and Anita Brunsting be ordered to surrender all original trust documents, records of accounts, receipts and all other trust assets to de jure trustees Candace Curtis and Carl Brunsting forthwith; and
11. Plaintiff asks that Defendants are ordered to pay all costs for these motions and hearings and to award Plaintiff all other general, special, legal and equitable relief to which Plaintiff and/or the trusts may be entitled.

Plaintiff so moves this Honorable Court.

Respectfully submitted,

By: /s/ Candace L. Curtis

CANDACE L. CURTIS  
218 Landana Street  
American Canyon, CA 94503  
(925) 759-9020  
occurtis@sbcglobal.net

CALIFORNIA JURAT ATTACHED



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' VERIFICATION**

TO THE HONORABLE PROBATE COURT AND TO ALL PARTIES:

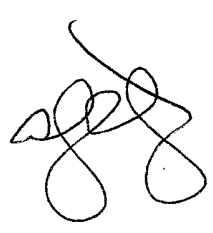
Candace Louise Curtis is a competent fact witness beyond the age of majority having personal knowledge of the matters before the Court and does bear witness under penalty of perjury by the attached California Jurat, and does solemnly swear that the facts presented in Plaintiff Curtis' Motion for Partial Summary Judgment and Concurrent Petitions for Declaratory Judgment are true and correct representations of the record before the Court and that the law presented to the Court in the Memorandum of Points and Authorities in Support of Plaintiff Curtis' Motion for Partial Summary Judgment with Concurrent Petitions for Declaratory Judgment represent the current condition of the relevant law.

Respectfully submitted,

By: /s/ Candace L. Curtis

1/25/2016

CANDACE L. CURTIS  
218 Landana Street  
American Canyon, CA 94503  
(925) 759-9020  
occurtis@sbcglobal.net



# JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

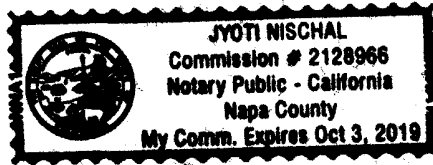
State of California

County of NAPA

Subscribed and sworn to (or affirmed) before me on this 25 day of JAN,  
2016 by CANDACE LOUISE CURTIS

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

Jyoti Nischal  
Signature (Seal)



## OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

Signature Verification  
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 1 Document Date 01/25/2016

Additional information

## INSTRUCTIONS

The wording of all Jurats completed in California after January 1, 2015 must be in the form as set forth within this Jurat. There are no exceptions. If a Jurat to be completed does not follow this form, the notary must correct the verbiage by using a jurat stamp containing the correct wording or attaching a separate jurat form such as this one which does contain the proper wording. In addition, the notary must require an oath or affirmation from the document signer regarding the truthfulness of the contents of the document. The document must be signed AFTER the oath or affirmation. If the document was previously signed, it must be re-signed in front of the notary public during the jurat process.

- State and county information must be the state and county where the document signer(s) personally appeared before the notary public.
- Date of notarization must be the date the signer(s) personally appeared which must also be the same date the jurat process is completed.
- Print the name(s) of the document signer(s) who personally appear at the time of notarization.
- Signature of the notary public must match the signature on file with the office of the county clerk.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different jurat form.
  - ❖ Additional information is not required but could help to ensure this jurat is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
- Securely attach this document to the signed document with a staple.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing instrument was forwarded on the 26th day of January 2016, to the following via email:

Attorneys for Anita Kay Brunsting

Bradley E. Featherston  
The Mendel Law Firm, L.P.  
1155 Dairy Ashford, Suite 104  
Houston, Texas 77079  
[brad@meddellawfirm.com](mailto:brad@meddellawfirm.com)

Attorneys for Amy Ruth Brunsting:

Neal E. Spielman  
Griffin & Matthews  
1155 Dairy Ashford, Suite 300  
Houston, Texas 77079  
[nspielman@grifmatlaw.com](mailto:nspielman@grifmatlaw.com)

Attorneys for Drina Brunsting as attorney-in-fact for Carl Henry Brunsting:

Bobbie G. Bayless  
Bayless & Stokes  
2931 Ferndale  
Houston, Texas 77098  
[bayless@baylessstokes.com](mailto:bayless@baylessstokes.com)

Attorneys for Carole Ann Brunsting

Darlene Payne Smith  
Crain, Caton & James  
Five Houston Center  
1401 McKinney, 17<sup>th</sup> Floor  
Houston, Texas 77010  
[dsmith@craincaton.com](mailto:dsmith@craincaton.com)

/s/ Candace L. Curtis  
CANDACE L. CURTIS

# Exhibit 1

Affidavit filed in the federal court by Defendant Amy Brunsting March 6, 2012

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.

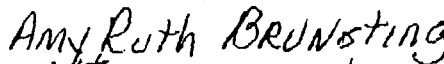
7. As further evidence of the fair value of the proposed sale, I attach the Harris County Appraisal District tax appraisal, showing the taxable value of the property to be approximately \$270,000.

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 6<sup>th</sup> 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

# Exhibit 2

April 5, 2012 spreadsheets A-J



<b>ELMER BRUNSTING DECEDENT'S TRUST ASSET LIST</b>				
<b>OWNER</b>	<b>ASSET CATEGORY</b>	<b>DEC 2010 VALUES</b>	<b>MARCH 2012 VALUES</b>	<b>MARCH 2012 COMMENTS</b>
	<b>REAL PROPERTY</b>			
	141 Acres, Iowa, Sioux County, (valued at estimated \$10,000/acre per Rich Ridders)	\$ 1,410,000.00	\$ 2,157,300.00	appraised value as of 2/7/2012, \$15,300/acre
	<b>SUBTOTAL</b>	\$ 1,410,000.00	\$ 2,157,300.00	
	<b>INVESTMENT ACCOUNTS</b>			
	Edward Jones Acct: #653-13579;	\$ 267,302.58	\$ 250,048.26	as of 2/24/2012
	<b>SUBTOTAL</b>	\$ 267,302.58	\$ 250,048.26	
	<b>DRIP ACCOUNTS</b>			
	Chevron Acct# 125175509293; 595.4547 shares @ \$106.78/share; tranferred to Anita Brunsting Trustee, 3/25/11	\$ 63,582.65	\$64,698.63	614.1303 Shares @ \$ 105.35/share; value as of 3/22/2012
	Chevron Acct#: ELMERH--BRDT--0100; 612 shares @ 106.78/share, 3/25/11; never transferred to Anita Brunsting as Trustee, remained as Nelva Brunsting Trustee	\$ 65,349.36	\$ 64,474.20	612 Shares @ \$105.35/share; value as of 3/22/2012
	ExxonMobil Acct#C0009467769, Shares 1908 @ \$82.73/share; value as of 3/24/11 when transferred to Anita Brunsting Trustee.	157,848.84	\$ 50,394.52	583 Shares @ \$86.44/share; value as of 3/16/2012
	<b>SUBTOTAL</b>	\$ 286,780.85	\$179,567.35	
	<b>CASH ACCOUNTS</b>			
	Bank of America Ckg acct#586027563536	\$ -	\$ 41,667.77	Established after mother's death. Includes deposit from farm rent profit bonus at end of 2011 of \$13,902.51 and first half of 2012 rent of \$26,437.50
	<b>NOTES RECEIVABLE</b>			

**Schedule A**

	\$20,000 note from Candy Curtis dated 6/15/2010	\$ (20,000.00)	\$ (20,000.00)	
	<b>SUBTOTAL</b>	\$ -	\$ (20,000.00)	
	<b>MISCELLANEOUS</b>			
	Rental income from Iowa farm - mom deposited check in her personal checking acct as beneficiary of decedent's trust	\$ (15,510.00)	\$ 13,902.51	Bonus from profit on 2011 crops - deposited into decedent's trust checking acct 1/11/12
			\$ 26,437.50	First half of 2012 rent - deposited into decedent's trust checking acct 3/5/12
	<b>TOTAL</b>	\$ 1,964,083.43	\$2,586,915.61	

<b>NELVA BRUNSTING SURVIVOR'S TRUST ASSET LIST</b>				
<b>OWNER</b>	<b>ASSET CATEGORY</b>	<b>DEC 2010 VALUES</b>	<b>MARCH 2012 VALUES</b>	<b>MARCH 2012 COMMENTS</b>
	<b>REAL PROPERTY</b>			
	HS-Lt 31 Blk 4 Wilchester West Sec 1, 13630 Pinerock Ln., Houston, Harris County, Texas (value on tax role)	\$ 270,000.00	\$ -	House Sold- CLOSING DATE 3/12/11
	<b>SUBTOTAL</b>	\$ 270,000.00	\$ -	
	<b>INVESTMENT ACCOUNTS</b>			
	Edward Jones Acct: #653-13555-1-6	\$ 191,205.00	\$ 1.05	
	<b>SUBTOTAL</b>	\$ 191,205.00	\$ 1.05	
	<b>DRIP ACCOUNTS</b>			
	Chevron Acct# 124921356678; 706.0888 shares @ \$106.78/share; transferred to Anita Brunsting Trustee, 3/25/11	\$ 75,396.16	\$ 19,012.88	172.4055 Shares @ \$ 110.28/share; value as of 3/16/2012
	Deere & Co. Acct#806578316055 - as of 2/1/2011; 9.5807 shares @ \$92.96/share; never transferred to my name as trustee	\$ 890.62	\$ 719.40	9.7125 Shares @ \$74.07/share; value as of 11/2/2011
	ExxonMobil Acct#C0009467777, Shares 2101.968469 @ \$82.73/share; value as of 3/24/11 when transferred to Anita Brunsting Trustee.	173,895.85	\$ 72,256.12	835.910671 Shares @ \$86.44/share; value as of 3/16/2012
	MetLife Acct#124921356678, Share 95.00 @ \$45.05/share	\$ 4,279.75	\$ 3,685.05	95.00 Shares @ \$38.79/share, value as of 3/19/2012
	<b>SUBTOTAL</b>	\$ 254,462.38	\$ 95,673.45	
	<b>CASH ACCOUNTS</b>			
	Bank of America Ckg acct#586027563523	\$ -	\$ 446,235.69	Established after mother's death. Includes deposit from proceeds of sale of house: \$433,129.32
	Bank of America Ckg acct#0085190001143	\$ 5,215.37	\$ 1,471.75	
	Blue Bonnet Credit Union Sav? Acct#13332	\$ 10.91	\$ 10.91	
	Bank of America Ckg acct#586021229546 (joint acct w/ Carole set up to pay bills for and by Nelva Brunsting, value at start date 12/31/10)	\$ 25.00	\$ -	

## Schedule B

**NELVA BRUNSTING SURVIVOR'S TRUST ASSET LIST**

OWNER	ASSET CATEGORY	DEC 2010 VALUES	MARCH 2012 VALUES	MARCH 2012 COMMENTS
	<b>SUBTOTAL</b>	\$ 5,251.28	\$ 1,482.66	
	<b>NOTES RECEIVABLE</b>			
	Anita Brunsting, 160 Exxon Shares already removed from total shares above	\$ -	\$ 13,830.40	160 Shares @ \$86.44/share, value as of 3/16/2012
	Anita Brunsting, 135 Chevron Shares already removed from total shares above	\$ -	\$ 14,887.80	135 Shares @ \$110.28/share, value as of 3/16/2012
	<b>SUBTOTAL</b>	\$ -	\$ 28,718.20	
	<b>MISCELLANEOUS</b>			
	Household and Personal Goods	\$ 5,000.00	\$ -	
	Jewelry	\$ 853.00	\$ 853.00	
	Coins	\$ 690.00	\$ 690.00	
	2002 Buick LeSabre, VIN# 1G4HR54K3YU229418	\$ 5,500.00	\$ 5,500.00	title never transferred to trust
	<b>SUBTOTAL</b>	\$ 12,043.00	\$ 7,043.00	
	<b>IRA/401K</b>			
	Edward Jones, Acct# 609-91956-1-9, as of 1/1/2011	\$ 54,367.51	\$ 199.20	
	<b>TOTAL</b>	\$ 787,329.17	\$ 133,117.56	

<b>BRUNSTING FAMILY IRREV TRUST - LIFE INSURANCE</b>				
<b>OWNER</b>	<b>ASSET CATEGORY</b>	<b>DEC 2011 VALUES</b>	<b>MARCH 2012 VALUES</b>	<b>MARCH 2012 COMMENTS</b>
	<b>CASH ACCOUNTS</b>			
	Bank of America Acct#008519206643 - life insurance premium drawn from this acct.; as of 12/6/2011	\$ 970.96	\$ -	acct closed; remaining balance of \$142.85 deposited into Survivor's Trust Checking on 3/8/3012
	Lincoln Financial Group	\$ -	\$ -	-balance 1/17/12;\$250440.00 payout to each beneficiary of \$50,088; additional interest paid 1/31/12; \$154.40; remaining balance of \$166.86 sent by check to Anita Brunsting Trustee in March 2012; deposited into Survivor's Trust Checking on 3/13/2012

FINAL		NELVA BRUNSTING SURVIVOR'S TRUST (ST) ASSET LIST		3/30/12
OWNER on 11/11/2011	ASSET CATEGORY			11/11/11 VALUES unless indicated otherwise
	<b>REAL PROPERTY</b>			
ST (Survivor's Trust)	HS-Lt 31 Blk 4 Wilchester West Sec 1, 13630 Pinerock Ln., Houston, Harris County, Texas (Value at right is what it went on the market for) Appraised value was \$410,000.00; actual sale price is fair market value; (Value net after sale: \$433,129.32)		✓	\$ 469,000.00
	<b>SUBTOTAL</b>	\$		469,000.00
	<b>INVESTMENT ACCOUNTS</b>			
ST	Edward Jones Acct #653-13555-1-6			\$ 1.05
	<b>SUBTOTAL</b>	\$		1.05
	<b>DRIP ACCOUNTS</b>			
ST	Chevron Acct #124921356678 36.8438 Shares @\$107.0650/share value on date of death (basis)		✓	\$ 3,944.68
LT (ST)	Deere & Co. Acct#806578316055 (Value at right reflects value on W's date of death) Basis: \$75.35/share with 9.7125 shares owned as of 8/1/2011 Reinvested shares		✓	\$ 731.84
ST	ExxonMobil Acct #C0009467777; Shares 671.987460 @\$79.79/share on date of death and new basis)		✓	\$ 53,617.88
ST	MetLife Acct #124921356678 95.00 shares @33.01/share basis		✓	\$ 3,135.95

**Key:**

H - Husband  
W - Wife  
LT - Living Trust

SP - Separate Property  
CP - Community Property  
PRO - Probate

JT - Joint  
ROS - Rights of Survivorship  
JTROS - Joint with Rights of Survivorship

**Schedule D**

	<b>SUBTOTAL</b>	\$ 61,430.35	
	<b>CASH ACCOUNTS</b>		
ST	Bank of America Ckg Acct #008519001143, accrued int of \$.00	✓	\$ 7,535.14
W	Blue Bonnet Credit Union Sav? Acct #13332, accrued int of \$.00 (as of 2/29/12 stmt); Note: Bluebonnet Acct #5805 was a credit card acct	✓	\$ 10.91
W or Carol ROS	Bank of America Acct# 586021229546 (account set up to pay bills for and by W); Value at right was closing value of the account	✓	\$ 1,479.67
	<b>SUBTOTAL</b>	\$ 9,025.72	
	<b>MISCELLANEOUS</b>		
ST	Household and Personal Goods	✓	\$ 5,000.00
ST	Jewelry including Gold Watch and other Miscellaneous pieces (see attached itemized list); per Co-Tee based on similar assets	✓	\$ 853.00
H & W JT	2000 Buick LeSabre, VIN #1G4HR54K3YU229418 (Value per Co-Trustee via email 11/27/2011)	✓	\$ 5,500.00
W (ST)	IRS - Overpayment of Taxes for Tax Year 2010	✓	\$ 6,215.87
ST	Miscellaneous Coins	✓	\$ 690.00
	<b>SUBTOTAL</b>	\$ 18,258.87	
	<b>IRA/401K</b>		
W	Edward Jones, Acct #609-91956-1-9, ? is bene (shows portfolio summary, value as of 12/31/2011)	✓	\$ 245.52
	<b>SUBTOTAL</b>	\$ 245.52	

Key: H - Husband  
W - Wife  
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PRO - Probate

JT - Joint  
ROS - Rights of Survivorship  
JTROS - Joint with Rights of Survivorship

<b>GRAND TOTAL</b>			\$ 557,961.51

**ILIT IRREVOCABLE TRUST OWNING LIFE INSURANCE**

	<b>LIFE INSURANCE</b>		
Brunsting IRREV Trust	\$250,000.00, ILIT, Policy #JP4432833, 5 kids are trust benes (claim has been made; actual payout as follows: \$250,440.00 (\$440 was death claim interest on the policy which is considered income to the trust earned after date of death)		\$ 250,000.00
<b>Grand TOTAL IRREV TRUST ASSETS</b>		\$ 250,000.00	

<b>ELMER BRUNSTING DECEDENT'S TRUST (DT) ASSET LIST</b>			3/30/12
<b>OWNER</b>	<b>ASSET CATEGORY</b>		<b>11/11/11 VALUES of</b>
	<b>REAL PROPERTY</b>		
DT (Decedent's Trust)	143+ Acres, Iowa, Sioux County, Iowa (valued at \$1,294,617.50 on H's Date of death); Value based on Appraisal at @\$15,300/acre	✓	\$ 2,190,000.00
	<b>SUBTOTAL</b>	\$ 2,190,000.00	
	<b>INVESTMENT ACCOUNTS</b>		
DT	Edward Jones Acct #653-13579 (Value as of W's DOD at right. Basis was set as of H's DOD); confirmed acct number through Doug Williams' office	✓	\$ 236,588.20
	<b>SUBTOTAL</b>	\$ 236,588.20	

Key: H - Husband      SP - Separate Property      JT - Joint  
W - Wife            CP - Community Property      ROS - Rights of Survivorship  
LT - Living Trust    PRO - Probate                    JTROS - Joint with Rights of Survivorship



<b>DRIP ACCOUNTS</b>			
DT	Chevron Acct #125175509293 (Basis \$67.27/share was on H's Date of death); Value at right estimated as of W's Date of death 612.00 shares at \$107.0650/share.	✓	\$ 65,523.78
DT	Chevron Acct#125175509293 (Basis \$67.27/share was on H's Date of death); Value at right estimated as of W's Date of death 604.961 shares at \$107.0650/share	✓	\$ 64,770.15
DT	ExxonMobil Acct #C0009467769 (basis \$67.99/share basis on H's DOD) Value at right reflects estimated value on the date of W's date of death for 583 Shares (as of June 2011 and March 2012)	✓	\$ 46,517.57
	<b>SUBTOTAL</b>		\$ 176,811.50
<b>MISCELLANEOUS</b>			
DT	Rental income from Iowa farm -Normally rec'd payments 10/2011 (\$15,510.00/6 = \$2,585.00/mo) and next payment due 03/2012; Amount at right shown as liability (advance payment received but not yet earned as of date of W's passing)		\$ (10,340.00)
	<b>SUBTOTAL</b>		\$ (10,340.00)
<b>GRAND TOTAL</b>	<b>DECEDENT'S TRUST ASSETS</b>		\$ 2,593,059.70

ST(LT)W	TOTAL 11/11/2011	\$557,961.51
DT(H)	TOTAL 11/11/2011	\$2,593,059.70
ILIT	TOTAL VALUE LIFE INSURANCE TRUST (income \$440.00)	\$250,000.00
	<b>TOTAL 11/11/2011 ASSETS</b>	<b>\$3,401,021.21</b>

**Key:**

H - Husband  
W - Wife  
LT - Living Trust

SP - Separate Property  
CP - Community Property  
PRO - Probate

JT - Joint  
ROS - Rights of Survivorship  
JTROS - Joint with Rights of Survivorship

Bank of America Acct ending in :1143							
12/23/2010 through 3/9/2012							
Date	Num	Description	Memo	Category	Tag	Clr	Amount
BALANCE 12/22/2010							8,459.61
12/23/2010	EFT	City Of Houston Bill Payment		Utilities:Water		c	-52.74
12/23/2010	EFT	External Transfer Fee - 3 Day -		Bank Charge		c	-3.00
12/24/2010	6848	Randall's		Groceries		c	-60.51
12/24/2010	6849	Amy Tschirhart	xmas	Gifts Given		c	-200.00
12/27/2010	6845	Silvana		Hair		c	-25.00
12/30/2010	6850	Void					0.00
12/30/2010	6851	Tino	carl	Medical:In Home			-1,245.00
12/30/2010	6852	Michael Brooks		Medical:In Home		c	-855.00
12/30/2010		Check Order00099 DES:FEE ID:U016		Bank Charge		c	-27.00
12/31/2010	DEP	Minnesota Life DES: Annuity ID:0		Income:Annuity		c	91.78
12/31/2010	DEP	Deposit		Invest Inc		c	70.30
12/31/2010	DEP	Benefits DES:PENSION ID:36301198		Income		c	594.41
12/31/2010		Tx Tlr Cash Withdrawal From Chk				c	-25.00
12/31/2010		Tx Tlr Transfer To Chk 9546 Bank				c	-25.00
1/3/2011	6847	Medical Aids		Medical:Supplies		c	-32.48
1/3/2011	DEP	Us Treasury 310 DES:SOC Sec ID:2		Income		c	1,780.00
1/3/2011	EFT	Online Banking Transfer To Carole/mom		Carole/mom		c	-2,466.20
1/4/2011	6853	Robert Cantu		Medical:In Home		c	-736.00
1/5/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	10,000.00
1/5/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	10,000.00
1/5/2011	EFT	State Farm	PPD	Insurance		c	-299.93
1/5/2011	EFT	Comcast		Utilities:Cable TV		c	-64.04
1/6/2011		Online Banking Transfer To Carole/mom		Carole/mom		c	-2,500.00
1/13/2011	EFT	Check Order00099 DES:FEE ID:U016		Misc:Check Order		c	-15.00
1/19/2011	EFT	Amy Tschirhart		Gifts Given		c	-6,000.00
1/20/2011	EFT	External Transfer Fee - 3 Day -		Bank Charge		c	-3.00
1/20/2011	EFT	Online Banking Transfer To Carole/mom		Carole/mom		c	-5,000.00
1/21/2011	EFT	City Of Houston DES:WATER Bill I		Utilities:Water		c	-80.94
1/21/2011	EFT	Stream Energy-tx Bill Payment		Utilities:Gas & Electric		c	-134.05
1/25/2011	7001	United States Treasury		Tax:Fed		c	-2,840.00
1/25/2011	7003	Vacek		Legal Fees		c	-880.15
1/25/2011	7005	Entex		Utilities:Gas & Electric		c	-130.42
1/26/2011	7004	Leo Vasquez Tax Assessor Collector		Tax:Property		c	-1,112.87
1/27/2011	EFT	Online Banking Transfer To Carole/mom		Carole/mom		c	-3,500.00

## Schedule E

Bank of America Acct ending in :1143								
12/23/2010 through 3/9/2012								
Date	Num	Description	Memo	Category	Tag	Clr	Amount	
1/27/2011	EFT	Comcast		Utilities:Cable TV		c	-59.77	
1/27/2011	EFT	A&t Bill (SBC-AR,Ks,Mo,Ok,TX) B		Utilities:Telephone		c	-68.68	
1/31/2011	DEP	Benefits DES:PENSION ID:02700488		Income		c	600.71	
2/1/2011	7002	State Of Iowa Treasurer		Tax:State		c	-330.00	
2/1/2011	DEP	Minnesota Life DES: Annuity ID:0		Income:Annuity		c	91.78	
2/2/2011	EFT	State Farm	PPD	Insurance		c	-299.93	
2/7/2011		Online Banking Transfer To Carole/mom		Carole/mom		c	-700.00	
2/8/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	340.83	
2/9/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	25,000.00	
2/10/2011	EFT	Online Banking Transfer To Carole/mom		Carole/mom		c	-10,000.00	
2/10/2011	EFT	Online Banking Transfer To Life Ins Acct		Insurance:Life		c	-7,200.00	
2/18/2011	EFT	Stream Energy-tx Bill Payment		Utilities:Gas & Electric		c	-106.89	
2/25/2011	EFT	Comcast		Utilities:Cable TV		c	-67.65	
2/28/2011	DEP	Benefits DES:PENSION ID:05500518		Income		c	600.71	
2/28/2011	EFT	A&t Bill (SBC-AR,Ks,Mo,Ok,TX) B		Utilities:Telephone		c	-76.39	
3/1/2011	DEP	Minnesota Life DES: Annuity ID:0		Income:Annuity		c	91.78	
3/1/2011	EFT	Bank Of America Credit Card Bill		Household		c	-282.47	
3/1/2011	EFT	City Of Houston DES:WATER Bill I		Utilities:Water		c	-52.74	
3/2/2011	EFT	State Farm	PPD	Insurance		c	-299.93	
3/7/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	219.69	
3/15/2011	EFT	Stream Energy-tx Bill Payment		Utilities:Gas & Electric		c	-100.71	
3/15/2011	EFT	A&t Bill (SBC-AR,Ks,Mo,Ok,TX) B		Utilities:Telephone		c	-70.42	
3/17/2011	7006	Vacek		Legal Fees		c	-340.00	
3/20/2011	7007	Amy Brunsting		Reimbursement		c	-40.00	
3/23/2011	EFT	Comcast		Utilities:Cable TV		c	-63.71	
3/31/2011	DEP	Benefits DES:PENSION ID:08800208		Income		c	600.71	
4/1/2011	DEP	Minnesota Life DES: Annuity ID:0		Income:Annuity		c	91.78	
4/1/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	787.00	
4/1/2011	EFT	Bank Of America Credit Card Bill		Household		c	-38.00	
4/4/2011	EFT	City Of Houston DES:WATER Bill I		Utilities:Water		c	-90.34	
4/4/2011	EFT	State Farm	PPD	Insurance		c	-301.36	
4/7/2011	EFT	Candy Curtis		Gifts Given		c	-3,000.00	
4/8/2011	EFT	County Treasurer DES:TAX ID: 971	farm	Tax:Property		c	-1,387.40	
4/11/2011	EFT	Online Banking Transfer To Carole/mom		Carole/mom		c	-3,000.00	
4/11/2011	EFT	Online Banking Transfer To Carole/mom		Carole/mom		c	-3,000.00	
4/12/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	5,343.22	

Bank of America Acct ending in :1143								
12/23/2010 through 3/9/2012								
Date	Num	Description	Memo	Category	Tag	Clr	Amount	
4/15/2011	7008	Void					0.00	
4/15/2011	7009	Void					0.00	
4/15/2011	7010	United States Treasury	Decedents trust 2010 tax	Tax:Fed		c	-7,095.00	
4/15/2011	7011	United States Treasury	Decedents trust 2011 tax qtr est	Tax:Fed		c	-1,780.00	
4/15/2011	7012	United States Treasury	Surv Trust 2011 tax qtr est	Tax:Fed		c	-3,095.00	
4/15/2011	7013	United States Treasury	Surv Trust 2010 tax	Tax:Fed		c	-3,620.00	
4/15/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	13,791.21	
4/18/2011	EFT	Stream Energy-tx Bill Payment		Utilities:Gas & Electric		c	-93.99	
4/20/2011	EFT	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	1,253.84	
4/21/2011	EFT	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	15,206.69	
4/25/2011	EFT	Online Banking Transfer To Carole/mom		Carole/mom		c	-7,500.00	
4/26/2011	EFT	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	3,538.51	
4/26/2011	EFT	A&t Bill (SBC-AR,Ks,Mo,Ok,TX) B		Utilities:Telephone		c	-176.85	
4/26/2011	EFT	Comcast		Utilities:Cable TV		c	-63.71	
4/28/2011	EFT	Comcast		Utilities:Cable TV		c	-63.71	
4/29/2011	DEP	Benefits DES:PENSION ID:11700518		Income		c	600.71	
4/29/2011	DEP	Minnesota Life DES: Annuity ID:0		Income:Annuity		c	91.78	
5/2/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	282.71	
5/2/2011	EFT	Bank Of America Credit Card Bill		Credit Card		c	-2,967.61	
5/3/2011	EFT	State Farm	PPD	Insurance		c	-300.62	
5/9/2011	EFT	A&t DES:PAYMENT ID:787780565AUS		Utilities:Telephone		c	-177.21	
5/10/2011	7014	TDECU	Luke Truck	Gifts Given		c	-5,443.22	
5/11/2011	EFT	City Of Houston DES:WATER Bill I		Utilities:Water		c	-99.74	
5/16/2011	EFT	Online Banking Transfer To Carole/mom		Carole/mom		c	-4,000.00	
5/19/2011	EFT	Stream Energy-tx Bill Payment		Utilities:Gas & Electric		c	-174.61	
5/24/2011		Online Banking Transfer To Carole/mom		Carole/mom		c	-2,000.00	
5/24/2011		Online Banking Transfer To Carole/mom		Carole/mom		c	-5,000.00	
5/24/2011		Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	54,000.00	
5/26/2011	EFT	Comcast		Utilities:Cable TV		c	-11.52	
5/27/2011	7016	The Victoria Col DES:TNET Ach Ck	Luke college	Education		c	-461.00	
5/27/2011	EFT	A&t Bill (SBC-AR,Ks,Mo,Ok,TX) B		Utilities:Telephone		c	-95.73	
5/27/2011	EFT	Bluebonnet Credit Union	w/ medical	Household		c	-1,864.49	
5/31/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	208.00	
5/31/2011	DEP	Benefits DES:PENSION ID:14600508		Income		c	600.71	
5/31/2011	EFT	Comcast		Utilities:Cable TV		c	-11.52	
6/1/2011	DEP	Minnesota Life DES: Annuity ID:0		Income:Annuity		c	91.78	

Bank of America Acct ending in :1143								
12/23/2010 through 3/9/2012								
Date	Num	Description	Memo	Category	Tag	Clr	Amount	
6/2/2011	7015	Vacek		Legal Fees		c	-575.59	
6/2/2011	EFT	Bank Of America Credit Card Bill		Credit Card		c	-6,355.65	
6/2/2011	EFT	Iowa 529 Ach DES:CONTRIB ID:0000	kt college	Gifts Given		c	-500.00	
6/2/2011	EFT	State Farm	PPD	Insurance		c	-300.62	
6/2/2011	EFT	Online Banking Transfer To Carole/mom		Carole/mom		c	-8,500.00	
6/3/2011	EFT	Am-honda DES:PMT ID:000001032223	for katie	Gifts Given		c	-5,750.51	
6/6/2011	EFT	Chase DES:EPAY ID:1125968648 Ind		Credit Card		c	-2,358.75	
6/8/2011	EFT	Online Banking Transfer To Carole/mom		Carole/mom		c	-2,000.00	
6/8/2011	TXFR	Candy Curtis		Gifts Given		c	-2,000.00	
6/9/2011	7017	Kroese & Kroese	mom	Tax Preparation		c	-561.93	
6/9/2011	7018	Kroese & Kroese	decedents trust	Tax Preparation		c	-1,123.87	
6/9/2011	7019	Wilchester West Fund		Tax:Other		c	-327.00	
6/9/2011	7020	United States Treasury	Surv Trust 2010 tax qtrly	Tax:Fed		c	-3,620.00	
6/9/2011	7021	Treasurer State Of Iowa		Tax:State		c	-47.00	
6/9/2011	7022	United States Treasury	Dec Trust 2010 tax qtrly	Tax:Fed		c	-1,780.00	
6/9/2011	DEP	Deposit		Invest Inc		c	4.18	
6/9/2011	EFT	A&t DES:PAYMENT ID:787780565AUS		Utilities:Telephone		c	-154.09	
6/9/2011	EFT	City Of Houston DES:WATER Bill I		Utilities:Water		c	-130.35	
6/10/2011	DEP	Exxon		Invest Inc		c	896.76	
6/13/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	51,060.56	
6/13/2011	TXFR	Amy Tschirhart	supplies to fix house	Reimbursement		c	-100.00	
6/14/2011	EFT	External Transfer Fee - 3 Day -		Bank Charge		c	-3.00	
6/17/2011	EFT	Stream Energy-tx Bill Payment		Utilities:Gas & Electric		c	-217.04	
6/22/2011	7710	Electchk 7710 Bcf - 14411 We 06/		Utilities:Water		c	-314.57	
6/27/2011	EFT	Bank Of America Credit Card Bill		Credit Card		c	-2,364.34	
6/28/2011	EFT	A&t Bill (SBC-AR,Ks,Mo,Ok,TX) B		Utilities:Telephone		c	-86.12	
6/28/2011	EFT	Comcast		Utilities:Cable TV		c	-52.20	
6/30/2011	DEP	Benefits DES:PENSION ID:17900218		Income		c	600.71	
7/1/2011	DEP	Minnesota Life DES: Annuity ID:0		Income:Annuity		c	91.78	
7/1/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	704.00	
7/5/2011	EFT	State Farm	PPD	Insurance		c	-300.62	
7/5/2011	EFT	Online Banking Transfer To Carole/mom		Carole/mom		c	-10,000.00	
7/6/2011	7024	Medical Chest Associates		Medical:Doctor		c	-4.12	
7/6/2011	EFT	Chase DES:EPAY ID:1142870017 Ind		Credit Card		c	-2,976.35	
7/7/2011	7023	Duke Medical Equipment		Medical:Supplies		c	-7.62	
7/11/2011	EFT	City Of Houston DES:WATER Bill I		Utilities:Water		c	-282.51	

Bank of America Acct ending in :1143								
12/23/2010 through 3/9/2012								
Date	Num	Description	Memo	Category	Tag	Clr	Amount	
7/11/2011	EFT	A&t DES:PAYMENT ID:787780565AUS		Utilities:Telephone		c	-224.42	
7/15/2011	EFT	Bank Of America Credit Card Bill		Credit Card		c	-7,242.83	
7/18/2011	EFT	Bluebonnet Credit Union	w medical	Household		c	-175.47	
7/18/2011	EFT	Stream Energy-tx Bill Payment		Utilities:Gas & Electric		c	-166.12	
7/18/2011	EFT	Chase DES:EPAY ID:1154305808 Ind		Credit Card		c	-1,998.19	
7/20/2011	EFT	Safebox Fee		Bank Charge		c	-8.00	
7/26/2011	EFT	Amy Tschirhart	supplies to fix house	Reimbursement		c	-100.00	
7/27/2011	EFT	A&t Bill (SBC-AR,Ks,Mo,Ok,TX) B		Utilities:Telephone		c	-82.16	
7/27/2011	EFT	External Transfer Fee - 3 Day -		Bank Charge		c	-3.00	
7/28/2011	EFT	Comcast		Utilities:Cable TV		c	-63.72	
7/29/2011	DEP	Benefits DES:PENSION ID:20800528		Income		c	600.71	
8/1/2011	DEP	Minnesota Life DES: Annuity ID:0		Income:Annuity		c	91.78	
8/1/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	253.00	
8/1/2011		Online Banking Transfer To Carole/mom		Carole/mom		c	-10,000.00	
8/2/2011	EFT	State Farm		Insurance		c	-300.62	
8/5/2011	7025	Vacek	retainer	Legal Fees		c	-1,000.00	
8/8/2011	EFT	City Of Houston DES:WATER Bill I		Utilities:Water		c	-277.78	
8/10/2011	EFT	A&t DES:PAYMENT ID:787780565AUS		Utilities:Telephone		c	-170.89	
8/16/2011	EFT	Bluebonnet Credit Union	with medical	Household		c	-1,172.08	
8/17/2011	EFT	Stream Energy-tx Bill Payment		Utilities:Gas & Electric		c	-308.10	
8/24/2011	TXFR	Candy Curtis		Gifts Given			-2,000.00	
8/26/2011	EFT	Utsa Admissions	Luke college	Education		c	-575.00	
8/26/2011	EFT	AT&T	PAYMENT	Utilities:Telephone		c	-84.47	
8/29/2011	EFT	Comcast		Utilities:Cable TV		c	-63.72	
8/29/2011	EFT	Online Banking Transfer To Carole/mom		Carole/mom		c	-10,000.00	
8/31/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	199.00	
8/31/2011	DEP	Benefits DES:PENSION ID:23900168		Income		c	600.71	
9/1/2011	DEP	Minnesota Life DES: Annuity ID:0		Income:Annuity		c	91.78	
9/1/2011	EFT	Bank Of America Credit Card Bill		Credit Card		c	-3,256.32	
9/2/2011	EFT	State Farm	PPD	Insurance		c	-290.04	
9/5/2011	7026	Treasurer State Of Iowa	mom	Tax:State		c	-230.00	
9/5/2011	7027	United States Treasury	Sept mom's trust pmt	Tax:Fed		c	-2,100.00	
9/5/2011	7028	United States Treasury	Sept dad's trust pmt	Tax:Fed		c	-1,780.00	
9/5/2011	7029	Kroese & Kroese	farm lease	Tax Preparation		c	-203.06	
9/6/2011	EFT	Chase DES:EPAY ID:1172082054 Ind		Credit Card		c	-999.04	
9/8/2011	EFT	City Of Houston DES:WATER Bill I		Utilities:Water		c	-265.10	

Bank of America Acct ending in :1143								
12/23/2010 through 3/9/2012								
Date	Num	Description	Memo	Category	Tag	Clr	Amount	
9/9/2011	DEP	Exxon		Invest Inc		c	274.01	
9/12/2011	EFT	A&t DES:PAYMENT ID:787780565AUS		Utilities:Telephone		c	-168.71	
9/16/2011	EFT	Stream Energy-tx Bill Payment		Utilities:Gas & Electric		c	-344.55	
9/19/2011	EFT	Bluebonnet Credit Union	w/ medical	Household		c	-790.04	
9/23/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	10,000.00	
9/23/2011	EFT	Bank Of America Credit Card Bill		Credit Card		c	-4,767.36	
9/26/2011	EFT	A&t Bill (SBC-AR,Ks,Mo,Ok,TX) B		Utilities:Telephone		c	-84.47	
9/26/2011		Online Banking Transfer To Carole/mom		Carole/mom		c	-5,000.00	
9/28/2011	EFT	Comcast		Utilities:Cable TV		c	-63.72	
9/29/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	721.00	
9/30/2011	DEP	Minnesota Life DES: Annuity ID:0		Income:Annuity		c	91.78	
9/30/2011	DEP	Benefits DES:PENSION ID:27022468		Income		c	600.71	
10/4/2011	EFT	County Treasurer DES:TAX ID: 119	farm	Tax:Property		c	-1,598.40	
10/4/2011	EFT	State Farm	PPD	Insurance		c	-290.04	
10/4/2011	EFT	Chase DES:EPAY ID:1193123150 Ind		Credit Card		c	-2,390.35	
10/11/2011	EFT	A&t DES:PAYMENT ID:787780565AUS		Utilities:Telephone		c	-184.35	
10/12/2011		7030 DeKoster & DeKoster	farm contract	Legal Fees		c	-100.00	
10/12/2011	EFT	City Of Houston DES:WATER Bill I		Utilities:Water		c	-227.06	
10/14/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	15,000.00	
10/17/2011	EFT	Stream Energy-tx Bill Payment		Utilities:Gas & Electric		c	-217.43	
10/18/2011	EFT	Bluebonnet Credit Union	w/ medical	Household		c	-687.84	
10/19/2011	EFT	Chase DES:EPAY ID:1205559052 Ind		Credit Card		c	-2,033.30	
10/20/2011		7031 Kroese & Kroese		Tax Preparation		c	-700.00	
10/21/2011		7032 Vehs Band Boosters	Kt band	Gifts Given		c	-280.00	
10/26/2011	EFT	Candy Curtis		Gifts Given		c	-2,000.00	
10/27/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	30,000.00	
10/28/2011	EFT	Comcast		Utilities:Cable TV		c	-63.71	
10/31/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	231.00	
10/31/2011	DEP	Benefits DES:PENSION ID:29923478		Income		c	600.71	
11/1/2011	DEP	Minnesota Life DES: Annuity ID:0		Income:Annuity		c	91.78	
11/1/2011	TXFR	Luke Riley		Education		c	-2,000.00	
11/2/2011	EFT	State Farm	PPD	Insurance		c	-290.04	
11/3/2011	EFT	Bank Of America Credit Card Bill		Credit Card		c	-102.52	
11/7/2011	EFT	Wire TYPE:WIRE Out DATE:111107 T	to anita for future trust exp	Legal Fees	redeposited into new Surv Trust acct	c	-10,000.00	

Bank of America Acct ending in :1143								
12/23/2010 through 3/9/2012								
Date	Num	Description	Memo	Category	Tag	Clr	Amount	
11/7/2011	EFT	Wire TYPE:WIRE Out DATE:111107 T	to amy for future trust exp	Legal Fees	redeposited into new Surv Trust acct	c	-10,000.00	
11/7/2011	EFT	Amy Tschirhart	for supplies to fix house	Reimbursement		c	-1,000.00	
11/7/2011	EFT	Bank Of America Credit Card Bill		Credit Card		c	-323.88	
11/7/2011	EFT	Wire Transfer Fee		Bank Charge		c	-25.00	
11/7/2011	EFT	Wire Transfer Fee		Bank Charge		c	-25.00	
11/8/2011	EFT	A&t Bill (SBC-AR,Ks,Mo,Ok,TX) B		Utilities:Telephone		c	-84.44	
11/8/2011	EFT	External Transfer Fee - 3 Day -		Bank Charge		c	-3.00	
11/8/2011	EFT	Chase DES:EPAY ID:1218615408 Ind		Credit Card		c	-3,274.51	
11/9/2011	DEP	Deposit		Invest Inc		c	30.40	
11/9/2011	DEP	Safe Deposit Box Rent Refund Fde		Bank Charge		c	82.00	
11/9/2011		Tx Tlr Payment To Sdb 2575 Banki		Bank Charge		c	-25.00	
11/10/2011	EFT	Candy Curtis		Gifts Given		c	-2,000.00	
11/10/2011	EFT	City Of Houston DES:WATER Bill I		Utilities:Water		c	-201.70	
11/10/2011	EFT	A&t DES:PAYMENT ID:787780565AUS		Utilities:Telephone		c	-168.24	
11/10/2011	EFT	Online Banking Transfer To Carole/mom		Carole/mom		c	-5,000.00	
11/12/2011	7033	Memorial Oaks		Funeral		c	-1,595.00	
11/12/2011	7034	Void					0.00	
11/14/2011	7035	Memorial Oaks		Funeral		c	-1,511.29	
11/14/2011	EFT	Safebox Fee		Bank Charge		c	-135.00	
11/15/2011	7036	Memorial Oaks	organist	Funeral		c	-150.00	
11/15/2011	7037	Bob Johnson	pastor	Funeral		c	-300.00	
11/15/2011	EFT	Stream Energy-tx Bill Payment		Utilities:Gas & Electric		c	-160.68	
11/21/2011	DEP	Wire TYPE:WIRE In DATE: 111121 T		Invest Inc		c	25,112.57	
11/21/2011	EFT	Wire Transfer Fee		Bank Charge		c	-12.00	
11/22/2011	7040	Nelva E Brunsting Survivors Trust	to open new trust acct	Cash		c	-500.00	
11/23/2011	EFT	Entex	PPD	Utilities:Gas & Electric		c	-65.66	
11/23/2011	EFT	Spring Brnch Isd DES:CHECKPAYMT		Tax:Other		c	-227.24	
11/25/2011	EFT	Online Banking Transfer To Nelva E Brunsting Surv Trust	to start fund new trust acct	Cash		c	-25,000.00	
11/29/2011	EFT	Comcast		Utilities:Cable TV		c	-63.71	
11/29/2011	EFT	Bluebonnet Credit Union	includes medical	Household		c	-1,165.23	
11/30/2011	DEP	Benefits DES:PENSION ID:32923368		Income		c	600.71	
12/2/2011	EFT	State Farm	PPD	Insurance		c	-290.04	
12/5/2011	DEP	Edward Jones DES:INVESTMENT ID:0		Invest Inc		c	179.00	
12/6/2011	7041	Justin Alexander	for kt - reimburse	Medical	reimbursed to Surv trust acct Mar 2012	c	-40.00	





Date	Gift	Stock price	amount	Person	purpose
<b>Mom/Dad were trustees</b>					
12/21/2010	trxfr		\$ 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	trxfr		\$ 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	
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	
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	trxfr		\$ 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	

## Schedule F

Date	Gift	Stock price	amount	Person	purpose
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)
	<b>Total Carl Brunsting</b>		<b>\$ 78,899.61</b>		
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
	<b>Total Carole Brunsting</b>		<b>\$ 45,850.00</b>		
10/2/2009	chk# 6358		\$ 1,000.00	Kevan Curtis	
<b>Anita became trustee Dec. 2011</b>					
5/11/2011	1120 shares Exxon Survivors trust	\$ 81.12	90854.4	Amy Brunsting	to pay off house
	<b>Total Amy Brunsting</b>		<b>\$ 90,854.40</b>		
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
	<b>Total Anita Brunsting</b>		<b>\$ 37,360.33</b>		
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

Date	Gift	Stock price	amount	Person	purpose
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	Ann Brunsting UGMA (grandchild)	gift for future car/college exp
6/14/2011	135 shares chevron Survivors trust	\$ 100.60	\$ 13,581.00	Jack Brunsting UGMA (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

## Carl's Medical Support Bills

Date	Check #	Payee	Amount
7/13/2010	6726	Tino	\$ 1,339.50
7/14/2010	6727	Robert	\$ 60.00
7/15/2010	6729	Shimeka	\$ 180.00
7/21/2010	6588	Tino	\$ 1,581.00
7/27/2010	6393	Tino	\$ 450.00
7/27/2010	6394	Robert	\$ 327.00
7/29/2010	6595	Shimeka	\$ 375.00
8/3/2010	6597	Tino	\$ 654.00
8/9/2010	6607	Tino	\$ 972.00
8/15/2010	6611	MHS Physicians (Carl)	\$ 1,565.70
8/15/2010	6614	Tino	\$ 45.00
8/23/2010	6623	Tino	\$ 45.00
10/4/2010	6690	Carl	\$25,000.00
10/18/2010	6741	Robert	\$ 255.00
10/22/2010	6747	Robert	\$ 170.00
10/26/2010	6749	Robert	\$ 105.00
11/1/2010	6764	Robert	\$ 510.00
11/4/2010	6769	Michael Brooks	\$ 237.00
11/5/2010	6771	Robert	\$ 309.00
11/8/2010	6777	Robert	\$ 330.00
11/10/2010	6781	Michael Brooks	\$ 300.00
11/12/2010	6784	Robert	\$ 285.00
11/15/2010	6793	Robert	\$ 270.00
11/17/2010	6795	Michael Brooks	\$ 240.00
11/16/2010	6799	Robert	\$ 295.00
11/24/2010	6806	Michael Brooks	\$ 255.00
11/24/2010	6809	Robert	\$ 345.00
11/26/2010	6810	Michael Brooks	\$ 270.00
12/1/2010	6817	Michael Brooks	\$ 420.00
12/1/2010	6818	Tino	\$ 849.38
12/3/2010	6819	Robert	\$ 135.00
12/5/2010	6820	Robert	\$ 855.00
12/5/2010	6821	Antonio	\$ 135.00
12/7/2010	6826	Michael Brooks	\$ 300.00

**Schedule G**

**Carl's Medical Support Bills**

Date	Check #	Payee	Amount	
12/8/2010	6828	Michael Brooks	\$ 150.00	
12/8/2010	6831	Shimeka	\$ 416.00	half
12/13/2010	6832	Robert	\$ 382.31	half
12/14/2010	6836	Michael Brooks	\$ 525.00	
12/15/2010	6840	Tino	\$ 435.00	half
12/17/2010	6843	Tino	\$ 412.50	half
12/16/2010	6844	Michael Brooks	\$ 375.00	
12/19/2010	6846	Robert	\$ 469.92	2/3
12/24/2010	pd carole	robert, tino, michael	\$ 1,151.70	2/3
12/30/2010	6851	Tino	\$ 821.70	2/3
12/28/2010	6852	Michael Brooks	\$ 564.30	2/3
1/1/2011		Robert	\$ 435.60	2/3
1/2-1/9/2011		robert, tino, michael	\$ 1,296.00	
			\$ 46,899.61	
		any additional days	\$216.00/day	

Card/Expense	Closing Date	Amount Charged Against Trust	2%annual value of trust/ month	Balance Remaining	Date
			\$ 4,166.00	\$ 4,166.00	Jan-11
			\$ 4,166.00	\$ 8,332.00	Feb-11
			\$ 4,166.00	\$ 12,498.00	Mar-11
			\$ 4,166.00	\$ 16,664.00	Apr-11
Visa	5/5/2011	\$ 3,327.30	\$ 4,166.00	\$ 17,502.70	May-11
Luke college	5/27/2011	\$ 461.00		\$ 17,041.70	
Katie College	6/2/2011	\$ 500.00	\$ 4,166.00	\$ 20,707.70	Jun-11
Visa	6/6/2011	\$ 2,634.34		\$ 18,073.36	
MC	6/6/2011	\$ 2,358.75		\$ 15,714.61	
MC	7/6/2011	\$ 2,976.35	\$ 4,166.00	\$ 16,904.26	Jul-11
Visa	7/7/2011	\$ 7,242.83		\$ 9,661.43	
MC	7/18/2011	\$ 1,998.19		\$ 7,663.24	
Visa	8/5/2011	\$ 3,199.02	\$ 4,166.00	\$ 8,630.22	Aug-11
Luke college	8/26/2011	\$ 575.00		\$ 8,055.22	
MC	9/6/2011	\$ 999.04	\$ 4,166.00	\$ 11,222.18	Sep-11
Visa	9/7/2011	\$ 4,767.36		\$ 6,454.82	
MC	10/4/2011	\$ 2,390.35	\$ 4,166.00	\$ 8,230.47	Oct-11
Visa	10/6/2011	\$ 102.52		\$ 8,127.95	
MC	10/19/2011	\$ 2,033.30		\$ 6,094.65	
Luke college	11/1/2011	\$ 2,000.00	\$ 4,166.00	\$ 8,260.65	Nov-11
Visa	11/5/2011	\$ 230.22		\$ 8,030.43	
MC	11/8/2011	\$ 3,274.51		\$ 4,755.92	
<b>Total</b>		<b>\$ 41,070.08</b>	<b>\$ 45,826.00</b>		

## Schedule H

Brunsting Family Survivor's and Decedent's Assets

Asset	# shares	price/share *	Amount*
Chevron/Texaco-decedent	614.1303	107.84	\$66,227.81
Chevron/Texaco-survivor	172.4055	107.84	\$18,592.21
Chevron - Decedent	612	107.84	\$65,998.08
ExxonMobil-Decedent	583	87.16	\$50,814.28
ExxonMobil-survivor	835.910671	87.16	\$72,857.97
MetLife - Survivor	95	38.31	\$3,639.45
Survivor's Trust Edward Jones			\$1.05
Decedent's Trust Edward Jones			\$250,506.13
Survivor's Trust Checking			\$446,235.69
Decedent's Trust Checking			\$41,667.77
Surv Trust Checking (prior to mom's death)			\$1,471.75
Misc. Coins			\$690.00
Gold Watches/misc jewelry			\$853.00
<b>Total Liquid Assets</b>			<b>\$1,019,555.19</b>
Farm (acres)	141	15300	\$2,157,300.00
House			
Total Trust			\$3,176,855.19

\*values as of 3/26/2012

Includes deposit of \$433,129.32 from sale of house

Includes deposit of first 1/2 of farm rent for 2012: \$26437.50 and Chevron Dividend: \$495.72

Some automated payments for house utilities were set up on this acct - it is being left open until final water bill has been paid (April 2012)

appraised value/acre

final sale profit \$433,129.32 - reflected in balance in survivors trust checking acct

**Schedule I**



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
12/11/2011	Vacek	Legal	\$ 4,500.00
12/11/2011	US Treasury	tax payment for Decedent Trust	\$ 1,780.00
12/12/2011	Wilchester West Fund	subdivision dues	\$ 359.00
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
12/21/2011	USPS	Trust Docs	\$ 1.28
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
12/28/2011	Herb Jamison	house appraisal	\$ 450.00
12/29/2011	Shell - Victoria	Transportation	\$ 44.51
12/29/2011	Amy Brunsting	tires for mom's car/house repairs/transportation	\$ 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
1/20/2012	Stream Energy	electricity for mom's house	\$ 59.96
1/31/2012	ATT	phone/internet for mom's house	\$ 86.00
2/2/2012	Visa	Credit Card Payment for moving supplies, meals and gas (unhide rows to see)	\$ 269.84
2/11/2012	Memorial Hermann	mom's medical	\$ 41.72
2/14/2012	ATT	phone/internet for mom's house	\$ 72.16
2/17/2012	Stream Energy	electricity for mom's house	\$ 19.10
2/29/2012	Durapier	deposit to level mom's house	\$ 500.00
3/2/2012	Amy Brunsting	moving expenses on mom's house	\$ 844.35
3/6/2012	Carole Brunsting	reimbursement for paying Durapier & paying Tino \$780 to oversee project (6	\$25,655.00
3/11/2012	Kroese & Kroese	appraisal of farm and consult w/ Iowa atty	\$ 2,175.00
3/15/2012	Centerpoint Energy	natl gas for house	\$ 158.09
3/16/2012	Return Check Fee	Met Life dividend check returned (checking into why)	\$ 12.00
3/21/2012	Postage	to mail tax info for Surv and Deced Trust to Rich Ridders CPA	\$ 14.80
3/26/2012	Stream Energy	electricity for mom's house	\$ 39.19
	<b>Total</b>		<b>\$40,481.84</b>

**Liabilities**

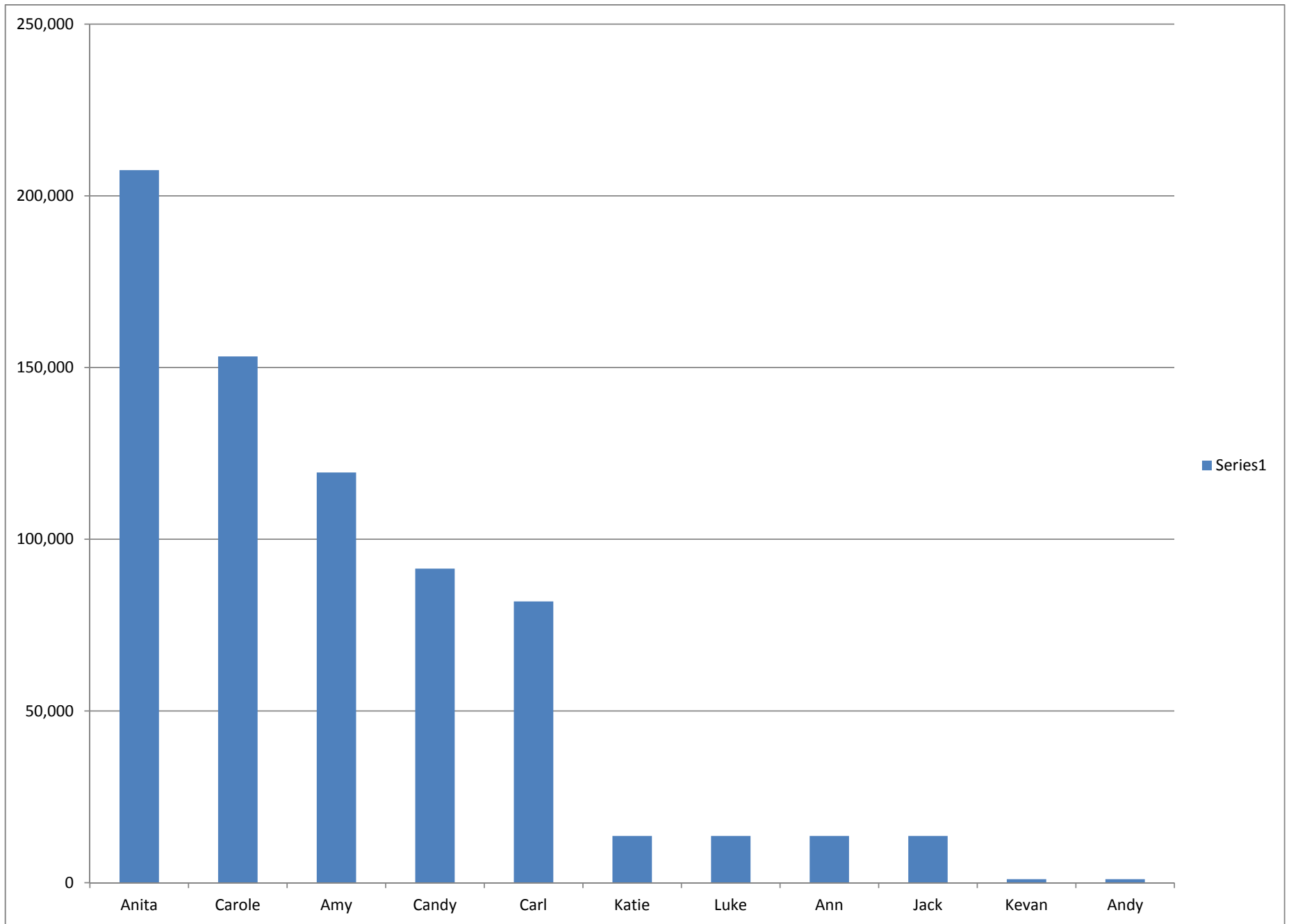
- Farm Taxes
- Remaining medical bills
- Decedent & Survivor Trust tax prep
- Trustee Expenses

**Schedule J**

# Exhibit 3

Financial graphs and charts compiled with the numbers provided by defendants

		%	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010		2011	
Anita	207,480	29.23%		200	200		100,000	3,900	13,500	2,000	4,250	5,000	4.18%	78,430	21.94%
Carole	153,225	21.59%		6,500	1,000		4,800	5,350	600	250	2,500	28,000	23.40%	104,225	29.16%
Amy	119,454	16.83%		400				200	12,000	1,000	2,000	7,000	5.85%	96,854	27.10%
Candy	91,436	12.88%	20,000						600	7,000	7,500	32,750	27.37%	23,586	6.60%
Carl	81,900	11.54%	2,000		20,000		10,000	3,000				46,900	39.20%		
Katie	13,581	1.91%												13,581	3.80%
Luke	13,581	1.91%												13,581	3.80%
Ann	13,581	1.91%												13,581	3.80%
Jack	13,581	1.91%												13,581	3.80%
Kevan	1,000	0.14%									1,000				
Andy	1,000	0.14%									1,000				
	709,819		22,000	7,100	21,200		114,800	12,450	26,700	10,250	18,250	119,650		357,419	
			3.10%	1.00%	2.99%		16.17%	1.75%	3.76%	1.44%	2.57%	16.86%		50.35%	



# Exhibit 4

Amy Verified Answer to Carl Brunsting complaint filed May 13, 2013

05142013:0809:P0042

*M*

**PROBATE COURT 4**

**CAUSE NO. 412,249-401**

<b>ESTATE OF</b>	§	<b>IN PROBATE COURT</b>
<b>NELVA E. BRUNSTING,</b>	§	<b>NUMBER FOUR (4) OF</b>
<b>DECEASED</b>	§	<b>HARRIS COUNTY, TEXAS</b>

---

<b>CARL HENRY BRUNSTING,</b>	§	<b>IN PROBATE COURT</b>
<b>Individually and as Independent Executor of</b>	§	
<b>the Estates of Elmer H. Brunsting and Nelva</b>	§	
<b>E. Brunsting</b>	§	

v.

	§	<b>NUMBER FOUR (4) OF</b>
--	---	---------------------------

<b>ANITA KAY BRUNSTING f/k/a ANITA</b>	§	
<b>KAY RILEY, Individually, as Attorney-in-</b>	§	
<b>Fact for Nelva E. Brunsting, and as Successor</b>	§	
<b>Trustee of the Brunsting Family Living Trust,</b>	§	
<b>the Elmer H. Brunsting Decedent's Trust, the</b>	§	
<b>Nelva E. Brunsting Survivor's Trust, the Carl</b>	§	
<b>Henry Brunsting Personal Asset Trust, and</b>	§	
<b>the Anita Kay Brunsting Personal Asset</b>	§	
<b>Trust;</b>	§	

<b>AMY RUTH BRUNSTING f/k/a AMY RUTH</b>	§	
<b>TSCHIRHART, Individually and as Successor</b>	§	
<b>Trustee of the Brunsting Family Living Trust,</b>	§	
<b>the Elmer H. Brunsting Decedent's Trust, the</b>	§	
<b>Nelva E. Brunsting Survivor's Trust, the Carl</b>	§	
<b>Henry Brunsting Personal Asset Trust, and</b>	§	
<b>the Amy Ruth Tschirhart Personal Asset</b>	§	
<b>Trust;</b>	§	

<b>CAROLE ANN BRUNSTING, Individually</b>	§	
<b>and as Trustee of the Carole Ann Brunsting</b>	§	
<b>Personal Asset Trust; and as nominal</b>	§	
<b>Defendant only;</b>	§	
<b>CANDACE LOUISE CURTIS</b>	§	<b>HARRIS COUNTY, TEXAS</b>

**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'S ORIGINAL ANSWER TO PLAINTIFF'S 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:

*Stan Starnett*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

**2013 MAY 13 PM 7:01**

**FILED**

AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART, Individually, as Attorney-in-Fact for Nelva E. Brunsting, 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 Anita Kay Brunsting Personal Asset Trust, in the above-styled and numbered cause files her Original Answer to Plaintiff's Original Petition and shows as follows:

**GENERAL DENIAL**

1. AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART, Individually, as Attorney-in-Fact for Nelva E. Brunsting, 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 Anita Kay Brunsting Personal Asset Trust, asserts a General Denial and respectfully requests that the Court require CARL HENRY BRUNSTING, Individually and as Independent Executor of the Estates of Elmer H. Brunsting and Nelva E. Brunsting, to prove his claims, charges, and allegations by clear and convincing evidence as required by the Constitution and Laws of the State of Texas.
2. AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART, Individually, as Attorney-in-Fact for Nelva E. Brunsting, 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 Anita Kay Brunsting Personal Asset Trust, respectfully reserves the right to file an amended Answer in this proceeding in the manner authorized by the Texas Rules of Civil Procedure.

**VERIFIED DENIAL**

3. AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART is not liable as Trustee of the Carl Henry Brunsting Personal Asset Trust and the Amy Ruth Brunsting Personal Asset Trust because such trusts have not been created and therefore do not contain any trust property.

**AFFIRMATIVE DEFENSES**

4. AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART denies that all conditions precedent to a right of recovery have been satisfied.
5. AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART would show that any claim for declaratory relief is without merit as the claim is subsumed within the other claims of Plaintiff. Alternatively, AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART asserts her right to recovery of reasonable attorney's fees under the provisions of Chapter 37, Texas Civil Practice and Remedies Code.
6. AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART specifically denies and affirmatively asserts that Plaintiff's claim of conspiracy is not an independent tort or cause of action as a matter of law, and is not a basis for an award of actual or exemplary damages.
7. Plaintiff's claims are barred, or AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART's actions are excused, by the equitable or legal doctrines of affirmation, waiver, estoppel, laches, ratification (express or implied) and acceptance of benefits.
8. AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART pleads 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.
9. AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART pleads the doctrine of comparative responsibility as provided in Chapter 33 of the TEX. CIV. PRAC. & REM. CODE, and its application to any tort claim (intentional or otherwise) of the Plaintiff that may be alleged against her, including the present claims of conversion and negligence.
10. Any allegedly wrongful acts or omissions of AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART, if and to the extent such acts and omissions occurred, were legally excused or justified.




05142013:0809:P0045

Plaintiff is not entitled to punitive damages, and any and all excessive amounts of such damages sought violate Chapter 41 of the Texas Civil Practice and Remedies Code, the Texas Constitution and the United States Constitution, all of which set limits on the award of punitive damages. AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART's 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.

THEREFORE, AMY RUTH BRUNSTING F/K/A AMY RUTH TSCHIRHART, Individually, as Attorney-in-Fact for Nelva E. Brunsting, 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 Anita Kay Brunsting Personal Asset Trust, asks that after final hearing of this matter, Plaintiff take nothing against her, that she recover her reasonable attorney's fees and costs, and for such other and further relief to which she may be entitled.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By:   
George W. Vie III  
State Bar No. 20579310  
Maureen Kuzik McCutchen  
State Bar No. 00784427  
2228 Mechanic, Ste 400  
P.O. Box 1943  
Galveston, Texas 77553-1943  
(409) 763-2341  
Facsimile: (409) 763-2879  
mmccutchen@millsshirley.com

*Attorneys for Amy Ruth Brunsting*

#### CERTIFICATE OF SERVICE

By my signature above, I hereby certify that a true and correct copy of this document has been sent in the appropriate manner to all known counsel of record on this the 10th day of May, 2013.

***Via Certified Mail/RRR***  
***#7009 2250 0004 1808 2299***  
Ms. Bobbie Bayless  
Bayless & Stokes  
2931 Ferndale  
Houston, TX 77098

***Via Certified Mail/RRR***  
***#7009 2250 0004 1808 2305***  
Ms. Darlene Payne Smith  
Crain, Caton & James, P.C.  
1401 McKinney, 17th Floor  
Houston, TX 77010

# Exhibit 5a

**Notice** of filing of Plaintiff Curtis original federal Petition filed in the federal court on February 27, 2012 and made a part of this Court's record Feb. 9, 2015  
Document No. PBT-2015-47608

Emails Summer Peoples re 10/25/2010 phone conference (Candace Curtis Original Affidavit Exhibit 8 PDF pgs. 53-56)

**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**

UNOFFICIAL COPY

02102015:1527:P0066

Toll Free: 1.800.229.3002

Facsimile: 281.531.5885

E-mail: [summer@vacek.com](mailto:summer@vacek.com)

IRS CIRCULAR 230 DISCLOSURE: Tax advice contained in this communication (including any attachments) is neither intended nor written to be used, and cannot be used, to avoid penalties under the Internal Revenue Code or to promote, market, or recommend to anyone a transaction or matter addressed in this communication.

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---

**From:** Carole Brunsting [mailto:[cbrunsting@sbcglobal.net](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](mailto:Summer@vacek.com)> wrote:

**From:** Summer Peoples <[Summer@vacek.com](mailto:Summer@vacek.com)>  
**Subject:** Brunsting Trust  
**To:** [occurtis@sbcglobal.net](mailto:occurtis@sbcglobal.net), "Anita Brunsting" <[akbrunsting@suddenlink.net](mailto:akbrunsting@suddenlink.net)>, [cbrunsting@sbcglobal.net](mailto:cbrunsting@sbcglobal.net), [at.home3@yahoo.com](mailto:at.home3@yahoo.com)  
**Cc:** "Candace Freed" <[candace@vacek.com](mailto: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):

# Exhibit 5b

**Notice** of filing of Plaintiff Curtis original federal Petition filed in the federal court on February 27, 2012 and made a part of this Court's record Feb. 9, 2015  
Document No. PBT-2015-47608

October 28 2010 Carole email about overhearing Nelva on Phone with Freed telling Freed to "Change it back" and that she was not going to follow the changes Freed had made.

---

**From:** Carole Brunsting <cbrunsting@sbcglobal.net>  
**Sent:** Thursday, October 28, 2010 9:00 AM  
**To:** Candace Curtis  
**Subject:** Re: One more

Candy,

The more I think about this the whole key is Carl. When I was listening to Mother's call with Candace, Mother told Candace that Carl was trustee, not Anita and was not following the changes Candane was telling her she had made to have Carl removed.. Legally, I wonder if what Candace did was right without consulting Carl or his power of attorney since Carl has always been present at all meetings.

--- On **Thu, 10/28/10, Candace Curtis <occurtis@sbcglobal.net>** wrote:

From: Candace Curtis <occurtis@sbcglobal.net>  
Subject: Re: One more  
To: "Carole Brunsting" <cbrunsting@sbcglobal.net>  
Date: Thursday, October 28, 2010, 10:34 AM

Candace DOES know she fucked up. That's why she had such a nasty attitude towards both you and I. Anita is smug and Amy plays dumb.

I hope Carl goes home today! If he does I hope the sun is shining. 10 minutes smiling into the sunshine + coffee + the Beatles = a sharper, happy Carl. I have a strong feeling that he will recover in leaps and bounds ALL ON HIS OWN, with support from his wife and family. The fact that Daddy is looking over us gives me strength. I can feel him stronger than ever before.

My suggestion is that when Dr. White finds Mother competent the following should happen:

1. You need to complete your time-line to demonstrate that due to various factors (badgering, low oxygen, Carl's illness, her illness, pneumonia, general stress and worry due to all of this), Mother was incompetent and under extreme duress when she signed everything she signed, particularly the Power of Attorney. We can compose a letter to Candace for Mother to sign, demanding that she wants to have papers drawn up to revoke anything she agreed to between the first of July and now.
2. As Mother gathers strength over the next few weeks she will go to her MD Anderson appointments, etc. and move towards treatment and recovery. I want to stress nutrition, adequate good sleep, and stress-free living.
3. In the meantime she can sell what she needs to, to pay for Robert or Tino or whoever Drina needs to assist her with Carl (if she even needs someone - Carl may recover a lot in a few weeks at home). The cost will be minimal compared to the \$100k shithead got to buy her house.

Going forward, Mother will have to tell Candace IN WRITING what she wants done with the trust. You can help her compose the letters. There can be no question when it's in writing. You can assist Mother in reviewing the paperwork before she signs (at home - at her leisure), to make sure all her wishes have been incorporated. This should never be done under the pressure and duress she was subjected to. Mother can take as much time as she needs to read and understand that everything will be as she wants it to be.

The fair and equitable solution in my mind is:

Make all five of us successor co-trustees and require a majority to make any change whatsoever. Then, if Mother steps down there will be no shenanigans. Everything will be transparent and we'll all know everything everyone else knows. That way when Anita wants to sell the farm, or move away from Edward Jones, she can put it up for a vote among us. All five of us are intelligent people and none of us can honestly say we have NEVER made a wrong choice in our lives. This way Mother will be at peace to live out her life, and she will die knowing that she has not pitted one against the other, or given control of one over the other, or played favorites, or been bullied into doing something she didn't really want to do, or would not have done in the first place.

Now this may go AGAINST the norm, or what Candace and her ilk would recommend, but fuck them. They are attorneys who get paid to do what their clients want them to do and they love having to draw up documents. Fees, fees, fees, \$\$\$\$\$\$\$\$\$\$\$\$\$

If Anita succeeds in her agenda and becomes trustee, we should have her competency tested just to show her what it feels like. If everything stays the way it is right now, that's the first thing I'm going to do when the day comes that she's in charge of me. Na, Na, Na, Na, Na, Na.

Love you,

C

---

**From:** Carole Brunsting <cbrunsting@sbcglobal.net>  
**To:** occurtis@sbcglobal.net  
**Sent:** Wed, October 27, 2010 9:32:06 PM  
**Subject:** One more

And do not overlook an exploration of the family's motives in requesting a competency evaluation, she cautioned. Do family members have reason for wanting their oddly behaving relative to be declared incompetent?

This is from an article about not rushing to declare an elderly person incompetent. Mother passes the smell test and I have to make sure Tino does not let her out of the house without her clothes being ironed and SEE!!! MOTHER MADE THE APPOINTMENT TO GET HER HAIR DONE!!! CANDY THAT IS IT!!! MOTHER DOES CARE ABOUT HER APPEARANCE!! She will not go out without her makeup on and I have to get her a nail file all the time. Mother also called Edward Jones on her own and sold \$10K so she would have enough money to live on.

She was temporarily incompetent when she was too low on oxygen and if they made her walk to Candace's office I know for a fact her levels were too low because Dr. White joked about it. Tino did not take her so she had to walk from the parking lot to the office. She did not understand what she was signing because she was too short of breath and I can prove that. Candane has to know she F\*\*\*ed up.

--- On **Wed, 10/27/10**, **Carole Brunsting** <cbrunsting@sbcglobal.net> wrote:

From: Carole Brunsting <cbrunsting@sbcglobal.net>  
Subject: Found this  
To: occurtis@sbcglobal.net



Date: Wednesday, October 27, 2010, 10:38 PM

There are any number of situations that may cause you to question the competency of a family member to make sound life decisions, such as when:

- An elderly person suddenly changes a will or trust in a manner that is significantly different from all previous wills or trusts, which could result in will litigation if not appropriately handled during the elder's life.
- A family member has suspicion that the elderly person is being unduly influenced by others

Anita is unduly influencing Mother and now Amy has piled on. Mother never would have made these changes on her own. This was all done by the hand of Anita who put herself in charge of everything.

02102015:1527:P0074

**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:

**P-8**

02102015:1527:P0075

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.

02102015:1527:P0076

--- 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:

Print

02102015:1527:P0077

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.

UNOFFICIAL

02102015:1527:P0074

**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.

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**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.

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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:

**P-8**

02102015:1527:P0075

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.

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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.

02102015:1527:P0076

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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:



Print

02102015:1527:P0077

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.

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# Exhibit 5c

**Notice** of filing of Plaintiff Curtis original federal Petition filed in the federal court on February 27, 2012 and made a part of this Court's record Feb. 9, 2015  
Document No. PBT-2015-47608

Carole's October emails about Mother kept avoiding signing papers (see original complaint exhibits)

02102015:1527:P0074

**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:

**P-8**

02102015:1527:P0075

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 too 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.

# Exhibit 5-d

**Notice** of filing of Plaintiff Curtis original federal Petition filed in the federal court on February 27, 2012 and made a part of this Court's record Feb. 9, 2015  
Document No. PBT-2015-47608

Candy and Carole emails October 26, 2010 "Amy and Anita arc trying to take over and will probably do anything and everything they can to cut the rest of us out."

02102015:1527:P0076

--- 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.

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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.

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# Exhibit 5-e

**Notice** of filing of Plaintiff Curtis original federal Petition filed in the federal court on February 27, 2012 and made a part of this Court's record Feb. 9, 2015  
Document No. PBT-2015-47608

Anita's March 9 2011 email see Candace Curtis Original Affidavit Exhibit 9  
p.51 Anita's March 9 2011 email see Candace Curtis Original Affidavit Exhibit 9  
pg.57



Print

Case 4:12-cv-00592 Document 1-1 Filed in TXSD on 02/18/2012 Page 9 of 30 launch?partner=sbc

02/10/2015: 1527: P0078

**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 <cbunsting@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**

# Exhibit 6

The Original 1996 Brunsting Family Living Trust

**THE  
BRUNSTING FAMILY  
LIVING 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: (713) 531-5800

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**Article II           Transfers of Assets to Our Trust**

**Article III          Our Right to Amend or Revoke This Trust**

**Article IV          Our Trustees**

## *Distributions From Our Trust*

**Article V            Insurance Policies and Retirement Plans**

**Article VI          For So Long As We Both Shall Live**

**Article VII        Upon the Death of One of Us**

**Article VIII       Administration of the Survivor's Trust**

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**Article XI         Protection of Beneficial Interests**

**Article XII        Our Trustees' Powers and Authority**

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# **THE BRUNSTING FAMILY LIVING TRUST**

## **Article I**

### **The Founding of Our Family Living 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. 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 or entities will serve as Trustee in the following order:

First, ANITA KAY RILEY

Second, CARL HENRY BRUNSTING

Third, AMY RUTH TSCHIRHART

A successor 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 or disability. 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 \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
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.

## **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.



## **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.

## **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.

##### **a. 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.

##### **b. 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.

##### **c. 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. 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 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 Decedent 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 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:

<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.

## **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 provided 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.



## **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 the inspection or audit by 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 of 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 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, 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 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.

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 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: October 10, 1996

\_\_\_\_\_  
ELMER H. BRUNSTING, Founder

NELVA E. BRUNSTING, Founder

ELMER H. BRUNSTING, Trustee

NELVA E. BRUNSTING, Trustee

THE STATE OF TEXAS

COUNTY OF HARRIS

On October 10, 1996, 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

# Exhibit 7

The 2005 Restatement of the Family Trust



**THE RESTATEMENT OF  
THE BRUNSTING FAMILY  
LIVING TRUST**

*Prepared By*

Albert E. Vacek, Jr.

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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

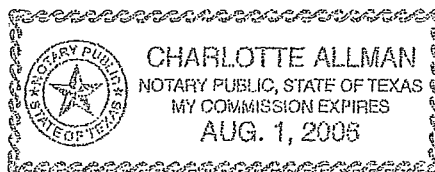
COUNTY OF HARRIS

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



# Exhibit 8

The 2007 Amendment to the Brunsting Family Trust



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 Brunsting 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.

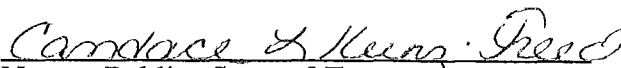
WITNESS OUR HANDS this the 6th day of September, 2007.

  
\_\_\_\_\_  
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

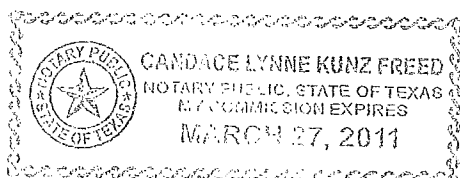


EXHIBIT "A"

**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.

# Exhibit 9

Affidavit from Frost Bank re; Amy trying to pawn Carl & Candace inheritances off to frost to avoid accountability

Gene Witter/CFBI  
03/29/2012 11:02 AM

To "Bobbie Bayless" <bayless@baylessstokes.com>  
cc  
bcc  
Subject Discovery Affidavit-Brunsting pre-litigation discovery

Dear Bobbie,

I am having this delivered to you today.

Gene Witter  
Senior Vice President & Trust Officer  
The Frost National Bank  
P. O. Box 2845  
Houston, Texas 77252  
Phone: 713/388-7852 FAX: 713/388-7808

**P12717**

From: Debbie Castillo on 01/24/2012 09:13 AM  
To: Wayne Baker/CFBI@CFBI  
cc:

**While You Were Out**

Contact:  
Amy Brunsting  
of:

Phone: 830-625-8352      FAX:

Telephoned       Will Return  
 Please Call       Left Package  
 Will Call Again       Please See Me  
 Returned Call       Urgent  
 Was In

Thursday  
@  
9 am

**Message:**

Getting ready to set up two managed trusts and needs more information. The trusts will be for her deceased parents - Elmer and Nelva Brunsting.

Amy Ruth Schirhart  
Country Lodge Dr.  
New Braunfels, TX

50?

\*  
\*  
200 - 500



Amy Brunsting  
<at.home3@yahoo.com>

01/24/2012 10:17 AM

Please respond to  
Amy Brunsting  
<at.home3@yahoo.com>

To "wbaker@frostbank.com" <wbaker@frostbank.com>

cc Anita Brunsting <akbrunsting@suddenlink.net>

bcc

Subject Conference call on Thursday am

Wayne,

Thank you for clearing your schedule to speak with my sister and me about the management of the trust accounts for my brother Carl and my sister Candy. I've attached a copy of the trust documents. Please let me know if you need any other information. The trust documents were prepared by Candace Freed at Vasak and Freed.

My sister who is co-trustee is Anita Brunsting. Her phone number is 361-550-7132. My cell phone number is 830-822-2388. As per our conversation, the conference call is scheduled for 9 am on Thursday, Jan. 26.

Regards,  
Amy Brunsting



Beneficiary Designation.pdf

NO. 2012-14538

IN RE: CARL HENRY BRUNSTING

§  
§  
§  
§  
§

IN THE DISTRICT COURT OF  
HARRIS COUNTY, TEXAS  
80<sup>th</sup> JUDICIAL DISTRICT

**BUSINESS RECORDS AFFIDAVIT  
OF THE FROST NATIONAL BANK**

THE STATE OF TEXAS §  
COUNTY OF HARRIS §  
§

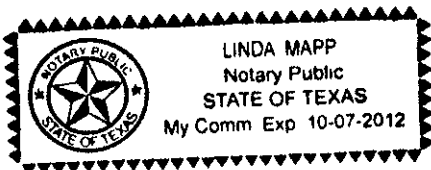
BEFORE ME, the undersigned authority, personally appeared GENE WITTER, who, being duly sworn, deposed as follows:

My name is Gene Witter. I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

I am a Senior Vice President & Trust Officer at The Frost National Bank (the "Bank") and in that position, I am a custodian of records for the Bank. Attached hereto are records from the Bank's files which have been marked with page numbers 1 through 39. These pages of records have been kept by the Bank in the regular course of business, and it was the regular course of business of the Bank for an employee or representative of the Bank with knowledge of the act or event recorded to make the record or to transmit information thereof to be included in such record; and the record was made at the time or reasonably soon thereafter. The records attached hereto are exact duplicates of the originals found in the Bank's files.

Gene Witter  
AFFIANT

SUBSCRIBED AND SWORN TO before me, on this 29<sup>th</sup> day of March, 2012, to certify which witness my hand and seal of office.



Notary Public, in and for the  
State of TEXAS Linda Mapp  
Printed Name: Linda Mapp

My Commission Expires: 10/7/2012

**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.

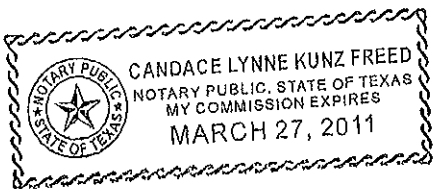
*Nelva E. Brunsting*  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

*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

# Exhibit 10

Collection of bates stamped copies of the three signature versions of the alleged 8/25/2010 QBD

**Signature preceded by CAN**

**This one only connects to Anita**

**P229**

Attached to Anita's 156 page objection filed December 5, 2014  
**Can with no Bates stamp** (received from Anita on December 21, 2011)

---

**Both signatures are Above the line**

**This one connects to Carole, Freed & Amy**

**P192**

In Carole's 133 page objection filed Feb. 17, 2015

**P7168**                      **V&F000389**                      **Curtis P-76**  
Vacek & freed production

**P12755**

Frost Bank document Production given to them by Amy

---

**Both signatures are On the Line**

**This one connects to Freed and Anita**

**P443**

Obtained by Blackburn from Vacek & Freed

**P1015**

Copy of P-40\_p37 USCA5 was received from Anita Brunsting via email October 23, 2010

**P-40\_p37 USCA5 Case 4:12-cv-00592 Document 1-13 Filed in TXSD on 02127/12 Page 7 of 20**

Attached to Curtis original federal complaint. Exhibit was received from Anita Brunsting via email October 23, 2010

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.

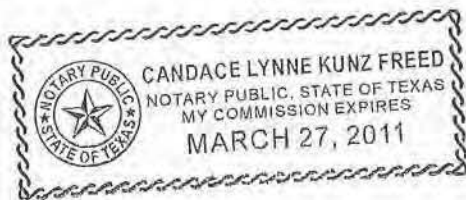
Nelva E. Brunsting  
NELVA E. BRUNSTING,  
Founder and Beneficiary

**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.

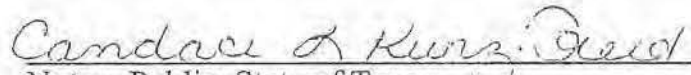
  
NELVA E. BRUNSTING,  
Founder and Beneficiary

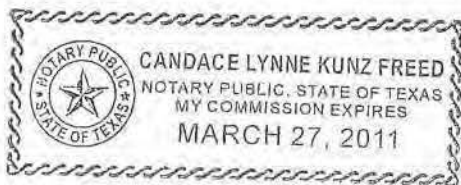
*ACCEPTED* and effective on August 25, 2010.

  
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





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.

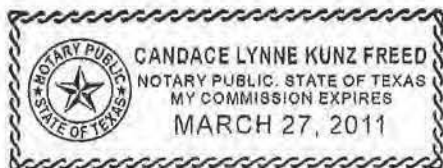
  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

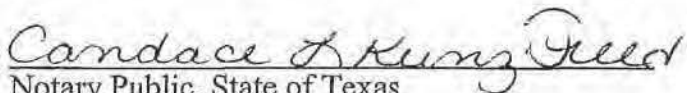
*ACCEPTED* and effective on August 25, 2010.

  
\_\_\_\_\_  
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

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.

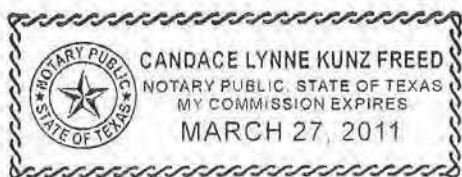
*Nelva E. Brunsting*  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

*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.

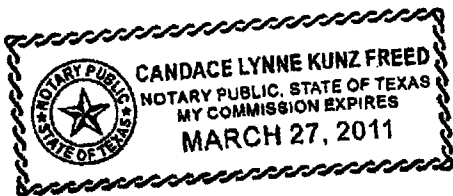
*Nelva E. Brunsting*  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

**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.

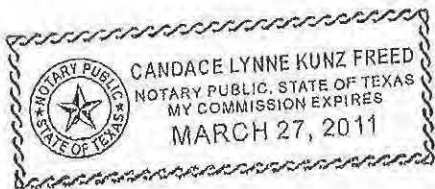
*Nelva E. Brunsting*  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

*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.

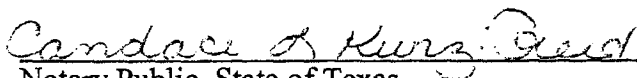
  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

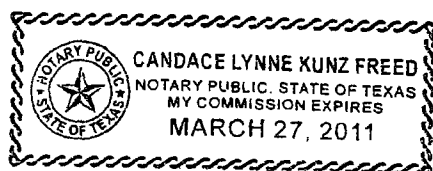
**ACCEPTED** and effective on August 25, 2010.

  
\_\_\_\_\_  
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



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.

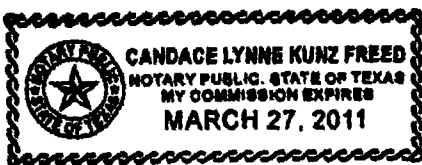
  
\_\_\_\_\_  
NELVA E. BRUNSTING,  
Founder and Beneficiary

**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

# Exhibit 11a

July 1, 2008 Appointment of successor trustees pdf pages 135-139

7/1/08

Appt of Succ. Trustees

APPOINTMENT OF SUCCESSOR TRUSTEES

WHEREAS, NELVA ERLEEN BRUNSTING, also known as 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 is no longer able to manage his financial affairs, as is evidenced by the physicians' letters attached. Therefore, pursuant to Article IV, Section B, of the Brunsting Family Living Trust Agreement, the remaining original Trustee, NELVA E. BRUNSTING, continues to serve alone.

WHEREAS, the said NELVA E. BRUNSTING is desirous of 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:

CARL HENRY BRUNSTING and ANITA KAY BRUNSTING

CARL HENRY BRUNSTING and ANITA KAY BRUNSTING 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 CANDACE LOUISE CURTIS shall serve as sole successor Trustee. In the event CANDACE LOUISE CURTIS is unable or unwilling to serve, then THE FROST NATIONAL BANK shall serve as sole 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.

BRUNSTING005805



**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 Brunsting Family Living Trust dated October 10, 1996, as amended.

All other provisions contained in the Brunsting Family Living Trust 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.

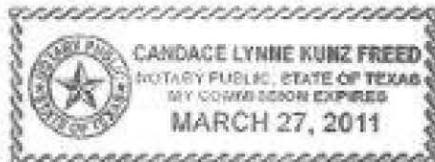
WITNESS MY HAND on July 1, 2008.

  
NELVA E. BRUNSTING,  
Founder and Original Trustee

THE STATE OF TEXAS  
COUNTY OF HARRIS

This instrument was acknowledged before me on July 1, 2008 NELVA E. BRUNSTING, as Founder and Original Trustee.

  
Notary Public, State of Texas



2/24/10

Cert of Trust

**CERTIFICATE OF TRUST**

The undersigned Founder hereby certifies the following:

- 1. This Certificate of Trust refers to a joint revocable living trust agreement executed by ELMER HENRY BRUNSTING, also known as ELMER H. BRUNSTING, and NELVA ERLEEN BRUNSTING, also known as NELVA E. BRUNSTING, Founders and original Trustees. The full legal name of the subject trust was:

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. ELMER H. BRUNSTING, died on April 1, 2009. Therefore, pursuant to Article IV, Section B, of the Brunsting Family Living Trust Agreement, the remaining original Trustee, NELVA E. BRUNSTING, continues to serve alone.

- 3. For purposes of asset allocation, transfer of property into the trust, holding title to assets, and conducting business for and on behalf of the trust, the full legal name of the said trust shall now be known as:

NELVA E. BRUNSTING, Trustee, or the successor Trustees, under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended.

The tax identification number of the BRUNSTING FAMILY LIVING TRUST is 481-30-4685.

- 4. Pursuant to that certain Appointment of Successor Trustees dated July 1, 2008, if the remaining original Trustee fails or ceases to serve as Trustee by reason of death, disability or for any reason, then the following individuals will serve as successor Co-Trustees:

CARL HENRY BRUNSTING and ANITA KAY BRUNSTING

CARL HENRY BRUNSTING and ANITA KAY BRUNSTING 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 CANDACE LOUISE CURTIS shall serve as sole successor Trustee. In the event CANDACE LOUISE CURTIS is unable or unwilling to serve, then THE FROST NATIONAL BANK shall serve as sole successor Trustee.

5. The Trustee under the trust agreement is authorized to acquire, sell, convey, encumber, lease, borrow, manage and otherwise deal with interests in real and personal property in the trust name. All powers of the Trustee are fully set forth in Article XII of the trust agreement.
6. The trust has not been revoked and there have been no amendments limiting the powers of the Trustee over trust property.
7. 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.

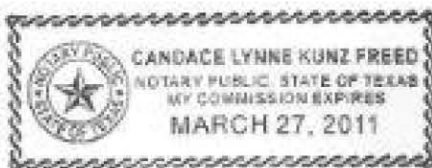
The undersigned certifies that the statements in this Certificate of Trust are true and correct and that it was executed in the County of Harris, in the State of Texas, on February 24, 2010.

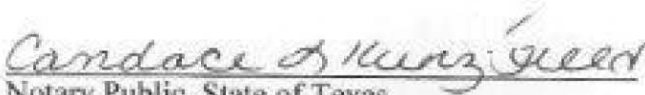
  
NELVA E. BRUNSTING,  
Founder and Trustee

STATE OF TEXAS  
COUNTY OF HARRIS

The foregoing Certificate of Trust was acknowledged before me on February 24, 2010, by NELVA E. BRUNSTING, as Founder and Trustee.

Witness my hand and official seal.



  
Notary Public, State of Texas

2/24/10

ELHB Dec Trust - Cert of Trust

CERTIFICATE OF TRUST  
FOR THE  
ELMER H. BRUNSTING DECEDENT'S TRUST

The undersigned Founder hereby certifies the following:

1. This Certificate of Trust refers to a joint revocable living trust agreement executed by ELMER HENRY BRUNSTING, also known as ELMER H. BRUNSTING, and NELVA ERLEEN BRUNSTING, also known as NELVA E. BRUNSTING, Founders and original Trustees. The full legal name of the original trust was:

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. ELMER H. BRUNSTING died on April 1, 2009. Therefore, pursuant to Article IV, Section B, of the Brunsting Family Living Trust agreement, the remaining original Trustee, NELVA E. BRUNSTING, continues to serve alone.
3. The BRUNSTING FAMILY LIVING TRUST authorized the creation of the subsequent irrevocable trust known as the ELMER H. BRUNSTING DECEDENT'S TRUST. For purposes of asset allocation, transfer of property into the Decedent's Trust, holding title to assets, and conducting business for and on behalf of the trust, the full legal name of the Decedent's Trust shall now be known as:

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 tax identification number of the ELMER H. BRUNSTING DECEDENT'S TRUST is 27-6453100. The Trust is irrevocable and no longer qualifies as a grantor trust.

An acceptable abbreviation for account titling is as follows:

NELVA E. BRUNSTING, Tee of the ELMER H. BRUNSTING  
DECEDENT'S TR dtd 4/1/09, as est UTD 10/10/96.

4. Pursuant to that certain Appointment of Successor Trustees dated July 1, 2008, if the said NELVA E. BRUNSTING, the surviving original Trustee, fails or ceases to serve as Trustee by reason of death, disability or for any reason, then the following individuals will serve as successor Co-Trustees:

CARL HENRY BRUNSTING and ANITA KAY BRUNSTING

BRUNSTING005812

CARL HENRY BRUNSTING and ANITA KAY BRUNSTING 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 CANDACE LOUISE CURTIS shall serve as sole successor Trustee. In the event CANDACE LOUISE CURTIS is unable or unwilling to serve, then THE FROST NATIONAL BANK shall serve as sole successor Trustee.

5. The Trustee under the trust agreement is authorized to acquire, sell, convey, encumber, lease, borrow, manage and otherwise deal with interests in real and personal property in the trust name. All powers of the Trustee are fully set forth in Article XII of the trust agreement.
6. The trust has not been revoked and there have been no amendments limiting the powers of the Trustee over trust property.
7. 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 power 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 certifies 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 February 24, 2010.

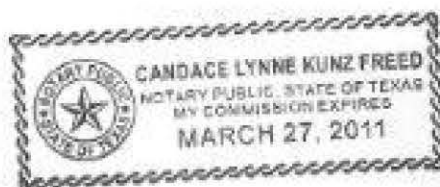
  
NELVA E. BRUNSTING,  
Founder and Trustee

THE STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

The foregoing Certificate of Trust was acknowledged before me on February 24, 2010, by NELVA E. BRUNSTING as Founder and Trustee.

Witness my hand and official seal.

  
Notary Public, State of Texas





# Exhibit 11b

August 25, 2010 Appointment of successor trustees

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.

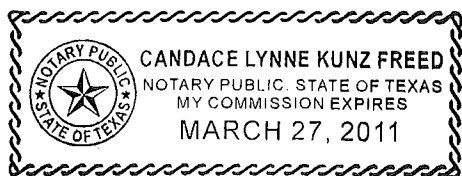
In the event the Trust Agreement does not provide for an Independent Trustee as set forth in the above paragraph, such an Independent Trustee shall be elected by a majority vote of the then current adult income beneficiaries of the trust (or by the legal guardians of all minor or disabled current income 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 Lynne Kunz Freed  
Notary Public, State of Texas

# Exhibit 11c

Nelva's alleged 12/21/2010 Resignation

**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.

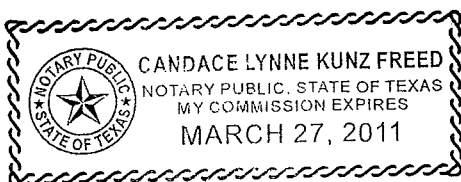
My resignation is effective immediately and I hereby appoint ANITA KAY BRUNSTING as the Trustee of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended, as well as the subtrusts known as the NELVA E. BRUNSTING SURVIVOR'S TRUST and the ELMER H. BRUNSTING DECEDENT'S TRUST.

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





# Exhibit 11d

12/21/2010 Appointment of Successor Trustees

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.

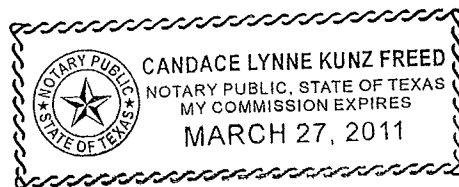
WITNESS MY HAND on December 21, 2010.

  
\_\_\_\_\_  
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



# Exhibit 11e

Anita December 21, 2010 acceptance of appointment



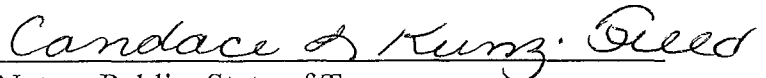
**ACCEPTANCE BY SUCCESSOR TRUSTEE**

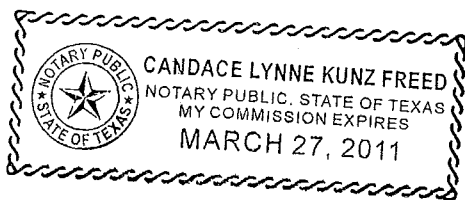
I, ANITA KAY BRUNSTING, hereby acknowledge my acceptance this day of the office and duties of Successor Trustee of the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996, as amended, the NELVA E. BRUNSTING SURVIVOR'S TRUST and the ELMER H. BRUNSTING DECEDENT'S TRUST, after the resignation of the original 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



# Exhibit 12

Candace Freed memo: Anita instructing Candace to “change the trust”  
and make her trustee with Amy followed by Frost Bank 7-30-2010

# PM TRUST REVIEW MEETING

Signing Date & Time	
Wed. Aug. 4 <sup>th</sup>	
2:pm	
Fee:	_____
Paid:	_____ Mail: _____

Client Name: Brunsting, Nelva

Date: 07/30/10 Estate Size: 2 mil±

IRA: Husband - N/A Wife - \_\_\_\_\_

Current Address/Phone: 13630 Pinelock Hwy TX 77079

Date of Trust/Restatement: \_\_\_\_\_ Previous Amendments? Yes

Subtrust Funding Done previously? Yes. DT & ST.

AMENDMENT:  QBD(PAT)  Other  Instr Ltr  HCPOA

ApptSUCCTee/HIPAA  EXTPOA  COT  POA  DIR

Anita Kay Riley & Army Ruth... Co-tees  
or Successor of them. Then Trust

Distribution Change (QBD):

PAT QBD

### IF PAT QBD then:

Each beneficiary Trustee of Own Trust:  yes  no

except for Carl, Anita & Armie as Co-tees for Carl  
(except they have it to name, Carl as owner)  
Distribution of PAT: need to Lowr Succ Tee

Same as LT except need language  
about the last amend (QBD) less early distr.



**FUNDING:**

Real Estate \_\_\_\_\_

Which property has NO MORTGAGE? \_\_\_\_\_

\_\_\_\_ Recording HS Deed

\_\_\_\_ Apply for HS Exemption

Tax-deferred Assets \_\_\_\_\_

\_\_\_\_ Bank & Brokerage Accounts

\_\_\_\_ Safe Deposit Box

\_\_\_\_ Life Insurance

\_\_\_\_ Stocks and Bonds

\_\_\_\_ Oil & Gas Interests

\_\_\_\_ Motor Vehicles

\_\_\_\_ Credit Union Accounts

\_\_\_\_ Sole Proprietorship Assets

\_\_\_\_ Partnership Interests

\_\_\_\_ Promissory Notes & Mortgages

\_\_\_\_ CDs

\_\_\_\_ Annuities

Additional Documents: \_\_\_\_\_

**NOTES:**

Needs new DFPOA order

Anita

Carol

Amy

Any Name Changes for children? \_\_\_\_\_ Any children Predecease? No.

If Yes, who: \_\_\_\_\_

**FEES:**

QUOTED: \$ \_\_\_\_\_ (Plus Expenses)

AMOUNT REC'D: None DATE: \_\_\_\_\_

BALANCE DUE: \_\_\_\_\_

DOCUBANK? \_\_\_\_\_

Cost for QBD 1200.

Hipaa Pkg 250 - med POA  
D, F, P, O, A: 150.-  
Appl. of Succ TEE  
New Card.

Courtesy discount \$150.-

Cy

Anita - called  
Carol has encephlytes  
amendments to trust

Anita + Aimee as Co.tees

change list under ME

Carol  
Anita  
Aimee

financial P.O.A

Anita  
Carol  
Aimee

Amend to trust / PAT's w/ Aimee  
to correct Supp Needs to. Anita  
to be  
Co.tees.  
Sp needs?

# Exhibit 13

1. Nelva hand written Note: see Candace Curtis (Original Affidavit Exhibit 16) See Exhibit 5 PDF p. 255 this filing

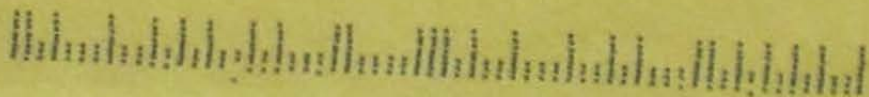


Nelva Brunsting  
13630 Pinerock Ln.  
Houston, TX 77069

HOUSTON TX 77069  
MAY 10 PM 2 T



Candy Curtiss,  
1215 Virginia Way  
Martinez, CA  
94553



72

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Wes:

Sunday

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

So I heard you were concerned that any money you receive after I leave the marital coil will be put in a trust and Anita would have to deal it out.

That's not true. You'll still get whatever share is yours. If you don't know how to manage money

by now it's too late. I'm on alydun quite a bit of the time now. Even sleep with it. The hum of the motor is rather soothing.

Had about 50 or so trickles this evening. Jim took care of taking the gards out.

Our weather is still gorgeous but so very dry. Glad Jim met a farmer. I see farmers are doing better. In watching the Grass Series. Looks like your guys are winning.

Aren't those cards pretty? Could get them for me.  
(over)

Some day I'm going to  
get a lap desk. I guess  
I'm too lazy to sit at the  
desk. I usually write while  
watching TV at home.

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

Hallmark  
STATIONERY

CNT3025

© HALLMARK LICENSING, INC.  
MADE IN U.S.A.

Hallmark.com

I can't  
even read  
my own  
writing!

Bye now, Love, Mother

# Exhibit 14

Candace Freed Nov 17 2010 email regarding the reason Freed demanded Nelva be subjected to an incompetency evaluation

**Subject:** Fw: Nelva Brunsting  
**From:** Candace Curtis <occurtis@sbcglobal.net>  
**Date:** 3/11/2015 6:24 PM  
**To:** Rik Munson <blowintough@att.net>

On Wednesday, November 17, 2010 2:38 PM, Candace Freed <candace@vacek.com> wrote:

Amy and Family, Thank you for the update on your mom, Nelva Brunsting. The purpose of the conference call and the suggestion that Ms. Brunsting be evaluated was based solely on conversations that I had with Ms. Brunsting and to let you all know that I had concerns based on those conversations. If she has been evaluated by her physician and you as a family are comfortable with his or her diagnosis, then you have addressed the concerns that I had. I appreciate your letting me know the opinion of the doctor. I hope your mom is doing well and she continues to improve.

Please let me know if I can be any further assistance.

Very truly Yours,

*Candace L. Kunz-Freed*  
*Attorney at Law*

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

---

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

---

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# Exhibit 15

Transcript: Injunction Hearing April 9, 2013 in the federal Court

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CANDACE LOUISE CURTIS \* Civil No. H-12-592  
\*  
VERSUS \* Houston, Texas  
\* April 9, 2013  
ANITA KAY BRUNSTING, et al \* 9:50 a.m.

TRO HEARING  
BEFORE THE HONORABLE KENNETH M. HOYT  
UNITED STATES DISTRICT JUDGE

For the Plaintiff:

Ms. Candace Louise Curtis  
Pro Se  
1215 Ulfonian Way  
Martinez, California 94553

For the Defendants:

Mr. George William Vie, III  
Mills Shirley LLP  
1021 Main Street  
Suite 1950  
Houston, Texas 77002

Court Reporter:

Fred Warner  
Official Court Reporter  
515 Rusk Ave.  
Houston, Texas 77002

Proceedings recorded by mechanical stenography, produced by  
computer aided transcription.

1 THE COURT: Good morning. Please be seated.

2 All right. This is Cause No. 2012-592, Candace  
3 Louise Curtis versus Anita K. Brunsting and others.

4 So let me have an announcement. Is Ms. Curtis  
5 in the courtroom?

6 MS. CURTIS: Yes, Your Honor.

7 THE COURT: All right. And who is representing the  
8 defendants in the case?

9 MR. VIE: George Vie, Your Honor, for the  
10 defendants.

11 THE COURT: And I gather we have several parties  
12 present, correct?

13 MR. VIE: Yes, Your Honor.

14 THE COURT: Are these your clients or --

15 MR. VIE: Yes, Your Honor. Both the defendants are  
16 present.

17 THE COURT: Both defendants.

18 And who are the defendants other than -- I just  
19 show Anita Kay and Amy Ruth. I am sorry. I apologize. You  
20 are representing both?

21 MR. VIE: Yes, Your Honor.

22 THE COURT: Okay. Very good.

23 This is Ms. Curtis' application for a temporary  
24 restraining order. As you might recall, this case was  
25 initially dismissed by the Court with the understanding that,



1 or under the understanding that it could not proceed in  
2 federal court but must proceed in state court.

3           The circuit court disagreed with me, and it's  
4 back; and now we are charged to proceed forward in this case.

5           So what I would like to do is, first of all,  
6 have Ms. Curtis stand and give me a kind of a factual setting  
7 background for what it is that she is seeking, then tell me  
8 what she is seeking and see what testimony, if any, we need  
9 in order to accomplish that.

10           So why don't you go ahead take the floor, Ms.  
11 Curtis, and tell us how this got started and where we are  
12 today.

13           MS. CURTIS: This got started by my parents, Elmer  
14 and Nelva Brunsting, putting together a Brunsting family  
15 living trust in 1996 dividing their estate among the five  
16 children beneficiaries.

17           THE COURT: And I see there are the only three  
18 children represented. Are there other children that are not  
19 included?

20           MS. CURTIS: Yes, sir. My sister Carole and my  
21 brother Carl.

22           THE COURT: Okay. C-a-r-o-l?

23           MS. CURTIS: C-a-r-o-l-e and Carl, C-a-r-l.

24           THE COURT: Well, that C went a long way.

25           MS. CURTIS: C, C, C and then A, A.

1 THE COURT: Went a long way in the family, didn't  
2 it?

3 MS. CURTIS: Yes.

4 THE COURT: Go ahead please.

5 MS. CURTIS: So, my father passed away in 2009 in  
6 April and --

7 THE COURT: And would you tell us his name for the  
8 record.

9 MS. CURTIS: Elmer H. Brunsting.

10 THE COURT: All right.

11 MS. CURTIS: And in July of 2010 my brother Carl  
12 became stricken with encephalitis. And it's a very serious  
13 disease. He was in the hospital for several months, part of  
14 that time in a coma. And my brother was originally appointed  
15 the executor of my parent's estate.

16 THE COURT: Your brother would be Carl?

17 MS. CURTIS: Carl. And also a successor/co-trustee  
18 of the Brunsting Family Living Trust and any resulting  
19 trusts.

20 In approximately 2007, my mother sent an e-mail  
21 to me and asked me if I would mind becoming co-trustee with  
22 my brother Carl because my sister Amy was unstable; and she  
23 was wondering if I would mind coming to Houston whenever  
24 necessary to take care of these things. And I agreed. And  
25 that was the last I heard of it.

1                   Since that time I have received a document,  
2 which is the last, first and only amendment that my father  
3 and mother both signed to the family living trust appointing  
4 Carl and Candace as successor/co-trustees.

5                   THE COURT: Okay. So as it stands now, it is Carl  
6 and Candace who would be the co-trustees of the trust?

7                   MS. CURTIS: Yes, Your Honor, yes.

8                   And after my brother became ill, my youngest  
9 sister Anita took the opportunity to begin seize control of  
10 the trust. She immediately, within three weeks after he  
11 became ill --

12                  THE COURT: When did this happen?

13                  MS. CURTIS: In July of 2010.

14                  THE COURT: 2010. He became apparently  
15 incapacitated or unable to?

16                  MS. CURTIS: Yes. He was in a coma for several  
17 weeks.

18                  THE COURT: Is he still in a coma?

19                  MS. CURTIS: No. He's back at home and doing very  
20 well.

21                  THE COURT: Okay. Very good. Go ahead.

22                  MS. CURTIS: And has been.

23                  THE COURT: I will be asking questions of him.

24                  MS. CURTIS: And so, because of things that are just  
25 simply judgmental and ugly, my sister began to try to wrest

1 control of the trust so that my brother could not have  
2 anything whatsoever to do with it. She took his name off the  
3 safe deposit box which, according to my father's handwritten  
4 letter from 1999, contained all of the information about the  
5 family trust, and then some papers were caused to be drawn  
6 up. One was a qualified beneficiary designation.

7 THE COURT: I'm sorry. Was a what?

8 MS. CURTIS: A qualified beneficiary designation.

9 THE COURT: All right.

10 MS. CURTIS: And several other papers were drawn up  
11 on August 25th, 2010.

12 There was no notice given to any of the  
13 beneficiaries about this qualified beneficiary designation  
14 that was to be prepared and signed. And the only way that I  
15 found out about it was to ask my sister Anita for copies of  
16 trust documents for me to review for a phone conference that  
17 had been called by the trust attorneys that was supposed to  
18 include my mother and all of her children. My brother Carl  
19 was never notified of this phone conference.

20 THE COURT: Was he at the time still in a coma or  
21 incapacitated?

22 MS. CURTIS: No, sir. He was not in a coma, but he  
23 was still in the hospital.

24 THE COURT: Okay.

25 MS. CURTIS: And my mother also was not in on the

1 phone call.

2                   So we had the conference call, and they were  
3 definitely absent; and the conference call apparently was  
4 called to discuss proposed changes to the trust, when in fact  
5 the changes had already been made; and as it boiled down to  
6 the end and various parties hung up, they were going to try  
7 to have my mother declared incompetent because she said that  
8 she did not sign the qualified beneficiary designation and  
9 that in fact what the qualified beneficiary designation said  
10 was not true.

11               THE COURT: Let me ask you a question before we go  
12 forward. What was the purpose -- what did the beneficiaries  
13 receive and how were funds, as you understand it, disbursed  
14 from the trust prior to this August 25th 2010. How was the  
15 trust to be administered?

16               MS. CURTIS: The trust was to be divided into five  
17 personal asset trusts; and I believe that each personal asset  
18 trust would have a trustee, but I do not think it was the  
19 beneficiary.

20               THE COURT: Was that to recognize the five children?

21               MS. CURTIS: Yes.

22               THE COURT: How was your mother to benefit from  
23 this? Was she to get some proceeds out of the funds?

24               MS. CURTIS: My mother was to benefit from all of  
25 the trusts until she passed way.

1 THE COURT: Okay. And then these five trusts  
2 would --

3 MS. CURTIS: Whatever was remaining would be divided  
4 five equal ways.

5 THE COURT: Surely.

6 And then your mother died when?

7 MS. CURTIS: 11-11-11.

8 THE COURT: Oh, is that right?

9 And at that time your father was already  
10 deceased?

11 MS. CURTIS: Yes, Your Honor.

12 THE COURT: So this telephone conference occurred  
13 sometime in August of 2010, just about 14 months prior to her  
14 death?

15 MS. CURTIS: It was in October --

16 THE COURT: October.

17 MS. CURTIS: -- of 2010.

18 THE COURT: About 12 months then, 12 or 13 months  
19 prior to her death.

20 And so go ahead and pick up there.

21 MS. CURTIS: So, anyway, after the phone conference  
22 there was really nothing I could do about anything as far as  
23 I could tell; and so, things were relatively quiet until in  
24 approximately March of 2011 my sister Anita called and said,  
25 "oh, we found some Exxon stock that wasn't in the trust; and

1 so, some of it will be gifted, and then the rest of it, the  
2 trust attorneys are going to figure out how to get it into  
3 the trust."

4                   And so I received 160 shares of that stock.  
5 And I was in conversation with sister Carole and was told  
6 that she had received some, but she didn't know how much it  
7 was because she hasn't opened the envelope.

8                   THE COURT: Was it your understanding that the 160  
9 shares that you received would have been your one-fifth  
10 share? Is that the way it was to be --

11                   MS. CURTIS: That's kind of the way I thought about  
12 it. Not necessarily my one-fifth share, but that each of us  
13 should receive a like amount.

14                   THE COURT: Sure.

15                   All right. Go ahead.

16                   MS. CURTIS: Unbeknownst to me, my sister Carole  
17 received 1,300 plus shares and my sister Amy received over  
18 1,000 shares.

19                   I received 160, Anita received 160; but Anita,  
20 as power of attorney beneficiary and trustee, having taken  
21 over from my mother in December of 2010, was conflicted and  
22 not allowed to accept gifts. So she excused it many months  
23 after the fact as being a loan, but she's also not allowed to  
24 take loans from --

25                   THE COURT: So was she the person doing the

1 disbursing of these shares?

2 MS. CURTIS: Yes, Your Honor, she was.

3 THE COURT: And she disbursed them in the manner, as  
4 you understand it, the way you just described it, giving a  
5 couple thousand shares to two of your sisters together?

6 MS. CURTIS: Uh-huh.

7 THE COURT: I said "together" meaning added  
8 together, and then 160 to you. And what happened, if  
9 anything, to do with Carl's share?

10 MS. CURTIS: He got nothing.

11 THE COURT: All right. Okay. Go ahead.

12 MS. CURTIS: So my brother has filed a lawsuit in --

13 THE COURT: Probate court?

14 MS. CURTIS: -- state court and also in probate.

15 It's not a lawsuit, but he has filed from probate as  
16 defendant executor. And he has gotten pages and pages and  
17 pages of information from my sisters in another lawsuit that  
18 it was a pre-suit request for depositions to get information  
19 in case they were going to file suit.

20 And they got pages and pages and boxes of  
21 information that was not shared with me until March 28th just  
22 recently, and this paper here was in some of the documents  
23 that they shared with me.

24 THE COURT: What is the title of it?

25 MS. CURTIS: This is a computer share. It's a.





1 THE COURT: Well, let me ask you before you go  
2 further. What did you understand to be the access in the  
3 trust or the total trust as opposed to the individual five  
4 trusts, let's say? What did you understand the gross assets  
5 to be? Is that what you set forth in your petition as being  
6 the assets.

7 In 2010, you show -- I don't know if you have  
8 your petition there with you, but you showed in 2010 there  
9 was Chevron/Texaco, Exxon/Mobil, Edward Jones and a total of  
10 \$554,000 more or less in the -- I gather is this in the  
11 decedent's account.

12 MS. CURTIS: Actually, this is my Request For  
13 Injunction.

14 THE COURT: Yes, page 3.

15 MS. CURTIS: Those are just the net changes.

16 THE COURT: These are what you're calling losses  
17 then?

18 MS. CURTIS: Yes.

19 THE COURT: So what is the total of the estate? How  
20 many? Several million dollars?

21 MS. CURTIS: The farm itself is close to \$3 million,  
22 and everything else when my father passed away was about a  
23 million-and-a-half.

24 THE COURT: So, it's increased in value to about --

25 MS. CURTIS: By virtue of the farm.

1 THE COURT: F-a-r-m, farm?

2 MS. CURTIS: Yes, family farm in Iowa.

3 THE COURT: That was sold?

4 MS. CURTIS: No, it was not.

5 THE COURT: What's on the farm that's increasing  
6 these prices? What are they harvesting?

7 MS. CURTIS: Corn and soybean.

8 THE COURT: Is that for profit or just simply --

9 MS. CURTIS: To my understanding we have a lease  
10 with the farmer.

11 THE COURT: Okay. And so lease itself pays a  
12 certain amount of money annually or however.

13 MS. CURTIS: Yes.

14 THE COURT: Those assets or that money goes into the  
15 estate?

16 MS. CURTIS: I believe so.

17 THE COURT: And that accounts for some of the  
18 increase, as you understand them?

19 MS. CURTIS: Yes.

20 THE COURT: All right. So at this point in time,  
21 "this point in time" being 2012, there has been a total of  
22 338 or 339,000 in assets removed from the estate, and there  
23 is still approximately, as far as you know, three-plus  
24 million dollars in the estate?

25 MS. CURTIS: Yes, Your Honor.

1 THE COURT: Now, I want to try to close this out  
2 just a little bit by asking you: After you received these  
3 documents, I gather -- and when you weren't receiving them,  
4 obviously, because I recall you filed a suit, and one of the  
5 issues was getting your hands on these documents, and you  
6 were not able to get those documents until recently, as I  
7 understand it?

8 MS. CURTIS: The first time I received any  
9 information was in April of 2012, yes.

10 THE COURT: Okay.

11 And since you received those documents, has the  
12 fact that you received those documents confirmed what you  
13 believe to be improper practices on the part of your, I  
14 gather, on the part of your sister Anita?

15 MS. CURTIS: Yes, Your Honor.

16 THE COURT: Is she handling this alone?

17 MS. CURTIS: To my knowledge she is.

18 THE COURT: All right. So it's between her and  
19 however her lawyers are handling this that you are concerned  
20 about?

21 MS. CURTIS: I assume.

22 THE COURT: And your brother has a ongoing suit  
23 presently ongoing?

24 MS. CURTIS: Yes, Your Honor.

25 THE COURT: And what is the status as you understand

1 of that suit, as to how long has it been pending and what is  
2 status of that suit?

3 MS. CURTIS: I'm not exactly sure of the dates of  
4 how long it's been pending. I think since sometime in  
5 February of 2013.

6 THE COURT: Okay. So several months, but not very  
7 long.

8 MS. CURTIS: Right.

9 THE COURT: And is he able to get up and about?

10 MS. CURTIS: Yes.

11 THE COURT: Where is he now?

12 MS. CURTIS: At home, I would assume.

13 THE COURT: And have you communicated with him  
14 regarding what his approach is?

15 MS. CURTIS: Yes, Your Honor. I have.

16 THE COURT: And, of course, you have not joined his  
17 lawsuit?

18 MS. CURTIS: No, I have not.

19 THE COURT: And he has not joined in your lawsuit?

20 MS. CURTIS: No, he has not.

21 THE COURT: Does he have an attorney?

22 MS. CURTIS: Yes, Your Honor, he has.

23 THE COURT: Okay. I gather you now know that some  
24 state court, some county court or probate court, someone did  
25 something, I gather, to give Anita some authority that you

1 did not know she had. Is that what you have come to the  
2 knowledge of?

3 MS. CURTIS: I have come into the knowledge that the  
4 purported successor/co-trustees are in fact imposters because  
5 the documents that made them successor/co-trustees have  
6 digital alterations on them; they have anomalies on the  
7 signature pages. I have two different signature pages for  
8 the qualified beneficiary designation that were sent to me on  
9 two different occasions.

10 THE COURT: Now, whose signatures would be necessary  
11 from your perspective to permit her to go forward? This  
12 qualified beneficiary designee, this was supposed to be Anita  
13 now?

14 MS. CURTIS: It was supposed to divide the estate  
15 into five different personal asset trusts. Carole, Amy and  
16 Anita were going to be trustees.

17 THE COURT: This was a part of you-all's discussion  
18 on the telephone conference as to how this was supposed to  
19 work?

20 MS. CURTIS: Well, I wanted to know how it would put  
21 into place in the first place because I never received any  
22 notice that this was being contemplated.

23 THE COURT: Okay.

24 MS. CURTIS: And come to find out months after the  
25 papers were allegedly signed by my mother, my personal asset

1 trust and my brother Carl's were put under the control of Amy  
2 and Anita.

3 THE COURT: On what authority or what basis.

4 MS. CURTIS: I don't know. I don't know.

5 THE COURT: Okay.

6 And what happens then or what is happening to  
7 those assets?

8 MS. CURTIS: They're spending them.

9 THE COURT: Okay. She, Anita, has authority and can  
10 spend those proceeds --

11 MS. CURTIS: Yes, Your Honor.

12 THE COURT: -- based upon what? Is she considering  
13 herself the qualified beneficiary designee or something?

14 MS. CURTIS: She is considering herself a  
15 successor/co-trustee.

16 THE COURT: Successor/co-trustee.

17 MS. CURTIS: In place of my mother. She did most of  
18 the theft while my mother was still alive when she was acting  
19 with my mothers power of attorney. My mother supposedly  
20 resigned as trustee on December 21st, 2010, and my sister  
21 accepted successor/trustee. And my sister's also a  
22 beneficiary, so she's got a conflict of interest there.

23 THE COURT: So since 2010 you are not aware of, I  
24 gather you're saying you're not aware of the division of the  
25 estate at least designating your portion as being your full

1 one-fifth of the estate?

2 MS. CURTIS: I have never received a notice.

3 THE COURT: You are not aware that that has been  
4 done. In other words, you don't know that that has been  
5 done?

6 MS. CURTIS: No, I do not.

7 THE COURT: And you're not in charge of that, those  
8 assets?

9 MS. CURTIS: That's correct.

10 THE COURT: And so here's my question: What is it  
11 that you're seeking by this lawsuit?

12 MS. CURTIS: I am seeking that my sister and those  
13 who have received unfair distributions to return the money.

14 THE COURT: Okay.

15 MS. CURTIS: I would like them to pay back all of  
16 the interest that was lost on the securities that were cashed  
17 in during that 15 months and spent, diverted to other things.

18 THE COURT: All right.

19 MS. CURTIS: And I would like it to be divided five  
20 ways and for the five beneficiaries to go their separate  
21 ways.

22 THE COURT: And what have you been told, if  
23 anything, even today, if anything, that has prevented this  
24 from happening?

25 MS. CURTIS: I have been told nothing.



1 THE COURT: And you've talked with their counsel,  
2 have you not?

3 MS. CURTIS: Yes, I have.

4 THE COURT: And did you ask him about these  
5 questions or did you put these questions to him?

6 MS. CURTIS: No, I did not.

7 THE COURT: What were you asking? What was the  
8 nature of what you all were trying to accomplish as far as  
9 this injunction is concerned?

10 MS. CURTIS: We were trying to come up with a reason  
11 why we would not go forward with the injunction hearing. And  
12 I had five or six other alternative ways of resolving this.  
13 And he left the room to speak to his clients, and they would  
14 not agree to them.

15 THE COURT: What are you seeking now? What are  
16 those ways that you are seeking, and what is it that you want  
17 to happen here today?

18 MS. CURTIS: I wanted to have an independent trustee  
19 appointed.

20 THE COURT: All right. And that was refused.

21 Okay. What else?

22 MS. CURTIS: I wanted to know who, if any, special  
23 co-trustee was appointed as per this qualified beneficiary  
24 designation.

25 THE COURT: I'm sorry. Say that again.

1 MS. CURTIS: There was provision in the qualified  
2 beneficiary designation for a special co-trustee or a trust  
3 protector; and so, I suggested that maybe the trust protector  
4 take it over as the trustee.

5 THE COURT: All right. Okay.

6 MS. CURTIS: And the other reason was just similar  
7 to that. The Court could appoint an independent trustee who  
8 the defendants would have to obtain approval for any of their  
9 actions.

10 The Court could enjoin the trustees from acting  
11 without approval of the Court or express written approval  
12 from all five beneficiaries.

13 The Court could enjoin trustee from acting  
14 unless and until they can show they're in possession of  
15 authentic documents by submitting the documents purportedly  
16 signed on August 25, 2010 and December 21st, 2010 for a  
17 forensic analysis because the copies that we have have all  
18 been digitally altered and the signatures are fake.

19 THE COURT: Okay.

20 MS. CURTIS: I also asked originally if I could  
21 please know the identification and contact information for  
22 the trust protector, and I was told that the provisions for  
23 the trust protector were at section such and such in the  
24 qualified beneficiary designation, but I didn't get a  
25 straight answer.

1 THE COURT: So there is a document called "qualified  
2 beneficiary designation"?

3 MS. CURTIS: Yes, Your Honor.

4 THE COURT: And you do or do not have a copy of  
5 that?

6 MS. CURTIS: I do have a copy of it but not with me.

7 THE COURT: And you have been told that in -- when  
8 were you told this, today? When were you told where this  
9 provision about the special protector or co-trustee protector  
10 was located?

11 MS. CURTIS: In early 2012.

12 THE COURT: And you were told where to find it?

13 MS. CURTIS: I was told where to find the  
14 provisions, but I asked for the identity.

15 THE COURT: Okay. The identity of that person has  
16 not been given to you?

17 MS. CURTIS: That is correct, or if there even is.

18 THE COURT: If there is such a person.

19 All right. So that's what you're seeking in  
20 terms of your request for benefit -- for the injunction  
21 today; is that correct?

22 MS. CURTIS: Yes, Your Honor. I'm seeking that we  
23 stop the bleeding until we can get to the bottom of it.

24 THE COURT: Have you received any funds from the  
25 trust since 2010? I'm talking about since the death of your

1 mother.

2 MS. CURTIS: No, Your Honor. I have not.

3 THE COURT: You have made it known to -- have you  
4 communicated with your sister -- that's Anita, I believe --  
5 about that?

6 MS. CURTIS: I am not allowed to speak to Anita --

7 THE COURT: Why not?

8 MS. CURTIS: Except through her attorneys.

9 THE COURT: Well, that's untrue. That's your  
10 sister.

11 MS. CURTIS: Well, that's the way I feel about it,  
12 but I'm told I'm not allowed to speak to them, and they won't  
13 talk to me.

14 THE COURT: Who told you this? Who told you this,  
15 that you can't contact her?

16 MS. CURTIS: I inferred that from --

17 THE COURT: Did she tell you that, is what I am  
18 asking?

19 MS. CURTIS: No. She didn't tell me that because  
20 she hasn't spoken to me.

21 THE COURT: Well, have you tried to speak to her?

22 MS. CURTIS: Yes, Your Honor, I have.

23 THE COURT: What happens when you try to speak to  
24 her?

25 MS. CURTIS: I call. She doesn't answer. I leave a

1 voice mail, she doesn't call me back.

2 The same thing happened with my other sister  
3 Amy. I called and left a voice mail. She did not return my  
4 call. This was more than a year ago.

5 THE COURT: So they refuse to speak to you about  
6 this is what you are saying?

7 MS. CURTIS: Yes, Your Honor.

8 THE COURT: Go ahead and have a seat. Thank you.  
9 Counsel.

10 MR. VIE: Yes, Your Honor.

11 THE COURT: Why can't you come to some  
12 accommodation?

13 MR. VIE: Here's the situation. I just want to give  
14 you a little bit of background so that you understand in  
15 terms of the exhibits I put before you.

16 THE COURT: I don't have any exhibits yet. Well,  
17 some paper put up here.

18 Oh, the list. I see.

19 MR. VIEW: Yes, sir.

20 THE COURT: I haven't read these.

21 MR. VIE: Just to provide some assistance in  
22 answering your question, Your Honor. Exhibit 1 is a 60-or-so  
23 page document. That is the family trust document.

24 THE COURT: All right.

25 MR. VIE: And on page 1 of the document it says that

1 her father and mother had created a trust, it's an  
2 irrevocable trustee, and that the initial trustee shall be  
3 Anita Kay. So, Anita is the trustee under this document.

4 Because you heard a lot about this qualified  
5 beneficiary designation.

6 THE COURT: No. I heard about the co-trustees.

7 MR. VIE: So I wanted the Court to understand that  
8 this document --

9 THE COURT: Let me ask so we don't go down a rabbit  
10 trail. Was there a point in time when Carl was the  
11 co-trustee?

12 MR. VIE: I'm sorry?

13 THE COURT: Was there a time when Carl, the brother,  
14 was the co-trustee?

15 MR. VIE: I don't know if that -- I don't know with  
16 respect to this document if that's correct or not.

17 I understand that at one point there was a  
18 communication from the mother where she considered other  
19 family members serving in her role. But the documents that I  
20 have given you, the second exhibit that I have given you is  
21 where with respect to the mother's living trust while she was  
22 alive, she decided to have Anita appointed as her successor  
23 trustee instead, and then they created this certificate of  
24 trust.

25 THE COURT: That would have been relative to the

1 entirety of the irrevocable trust or was it simply her  
2 portion of the assets?

3 MR. VIE: It was with respect to the living trust  
4 that was created when she --

5 THE COURT: No, no, no. Here's what I am saying.  
6 The father is now deceased.

7 MR. VIE: Yes.

8 THE COURT: His wife entered into a irrevocable  
9 trust, and either he leaves all of you that in the trust to  
10 her benefit or his share goes into some other, goes into a  
11 trust for the children at that point.

12 So what happened?

13 MR. VIE: The father and mother created the  
14 irrevocable trust, which I have identified as Exhibit 1.

15 THE COURT: Okay.

16 MR. VIE: When the father died, his assets went into  
17 this living trust where their mother had assets to the  
18 living -- there was a sub trust created, a successor trust  
19 and a decedent's trust. The mother had that.

20 THE COURT: So she has all of the assets at that  
21 point?

22 MR. VIE: Yes. And the mother was able to make  
23 gifts and did make gifts to a number of the family members.  
24 So when the plaintiff was referencing the \$13,000 gift that  
25 she received and the others, these were gifts that her mother

1 while alive had directed. And my client Anita, as the  
2 successor trustee under this appointment, Exhibit 2, would  
3 make those transactions occur. But these were gifts from the  
4 mother.

5                   And then the mother dies, and this irrevocable  
6 trust --

7                   THE COURT: And did the mother die, according to  
8 what Ms. Curtis is saying, in December more or less, I guess?

9                   MR. VIE: November of 2010, Your Honor.

10                  THE COURT: November of 2010, okay.

11                  MS. CURTIS: 2011.

12                  THE COURT: 2011.

13                  MR. VIE: 11-11-2011.

14                  THE COURT: Right.

15                  MR. VIE: After that point, then Anita as trustee  
16 prepares a schedule of the estate, the context of the mother,  
17 and that money was going into the family trust; and that's  
18 one of the exhibits that she's attached.

19                  THE COURT: Well, wait a minute. What money is  
20 going into the family trust? Because now this trust, the  
21 trust that exists that is handling all this is the mother's  
22 living trust, right?

23                  MR. VIE: No, Your Honor. When she died, the living  
24 trust no longer exists.

25                  THE COURT: Oh, obviously.



1                   But before that, all of the assets were going  
2 into the living trust for the mother.

3                   MR. VIE: Right.

4                   THE COURT: And now the mother dies in November of  
5 2011, and then what happens?

6                   MR. VIE: Then we have the family trust, and there  
7 is created again a sub trust of a survivor's trust and the  
8 decedent's trust.

9                   THE COURT: And the family trust now reverts back to  
10 the irrevocable trust?

11                  MR. VIE: Yes, Your Honor.

12                  THE COURT: And in the irrevocable trust or in that  
13 trust there is a provision that says how those, how that  
14 trust is to be divided into five distinct trusts for the  
15 children?

16                  MR. VIE: My understanding is that there is a  
17 document under this complicated plan by which each of the  
18 individual beneficiaries, the five children, the four  
19 daughters and the son, they would have these asset trusts.  
20 Those trusts have not been created.

21                  THE COURT: Well, I am asking whether or not as a  
22 part of the -- as to your understanding, you have read it, is  
23 that a part of what the family trust required as far as you  
24 know? You said there's a document like it's some separate  
25 thing.

1 MR. VIE: Well, there's a -- I understand, Your  
2 Honor.

3 It's a rather long document. I understand and  
4 agree we are that the conclusion of this trust now at this  
5 point is to divide the assets to the five beneficiaries, and  
6 then each of their assets go into these asset trusts.

7 THE COURT: Separate and distinct from each other  
8 and for the benefit of each of the designated beneficiaries.

9 MR. VIE: Yes.

10 And as the plaintiff suggested, I believe the  
11 situation is that her trust, for example, she is not a  
12 trustee. One of her siblings is the trustee.

13 THE COURT: Even after it's divided off and given to  
14 her?

15 MR. VIE: Yes. And in these asset trusts, other  
16 members --

17 THE COURT: So someone who has a trust, like Anita  
18 herself, would have her own separate and distinct assets?

19 MR. VIE: Yes, sir.

20 THE COURT: And she'd be in charge of her own  
21 assets?

22 MR. VIE: No, no. There would be -- somebody else  
23 would be the trustee.

24 THE COURT: Of all of these five trusts?

25 MR. VIE: Yes -- no, of each.

1 THE COURT: Who is "someone else?" I mean --

2 MR. VIE: Well, for example, Carl's could be Anita  
3 and Amy's could be Carole.

4 THE COURT: But the documents say how this happened,  
5 though.

6 MR. VIE: These trusts have not been created yet.  
7 There has been no distribution.

8 THE COURT: I understand that. You are telling me  
9 that, but I am trying to find out whether or not the creation  
10 of these trusts require these beneficiaries to have someone  
11 else in charge of their money.

12 MR. VIE: That is my understanding. And she can  
13 correct me if I am wrong, and my clients can correct me as  
14 the trustees if I'm wrong.

15 THE COURT: So Anita -- somebody would be in charge  
16 of Anita's?

17 MR. VIE: Yes. That's right.

18 THE COURT: And then somebody else would be -- and  
19 Anita would be in charge of somebody else's?

20 MR. VIE: That's my understanding.

21 THE COURT: And these kids -- and they're not kids  
22 anymore, but these five siblings would be at each other's  
23 throats for the rest of their lives because --

24 MR. VIE: No. They'd each have their own --

25 THE COURT: Well, no. They got them, but they're

1 not in charge of it, is what I understand.

2 MR. VIE: All right.

3 THE COURT: That's what I am trying to say. In  
4 other words, I'd have to call my sister to get my money.

5 MR. VIE: What I know about the asset revocable --  
6 the asset trust is they have not been created yet.

7 As the Court heard, there are two lawsuits.  
8 There is this lawsuit and there is her brother's lawsuit. We  
9 are not parties to her brother's lawsuit. Her brother's  
10 lawsuit is brought in his capacity as the executor of his  
11 father's and mother's estates. It's in Harris County  
12 District Court. We're not parties to it.

13 THE COURT: Well that would be either the product of  
14 a will being probated --

15 MR. VIE: Yes, sir.

16 THE COURT: -- or it would be the product of an  
17 intestate proceeding. Which is it?

18 MR. VIE: The will has been probated.

19 THE COURT: So there is a will probate separate and  
20 apart from the trust?

21 MR. VIE: Yes, Your Honor.

22 THE COURT: And how does that overlay on the trust  
23 since all of the assets are in the trust?

24 MR. VIE: Well, I don't know that it overlays; but  
25 what I am trying to suggest to the Court is: One, since the

1 mother died, there has been no distributions to anyone,  
2 not --

3 THE COURT: I get that. I am trying to figure  
4 out --

5 MR. VIE: Since you haven't seen the distribution, I  
6 wanted the Court to understand that no one has.

7 THE COURT: But somebody got some money out of it or  
8 there has been a loss in value to the trust itself.

9 MR. VIE: She says that the stock that was invested  
10 with the brokerage houses may have lost money, is one of the  
11 things that she suggested in her motion.

12 THE COURT: Right.

13 MR. VIE: My point was to suggest that there has  
14 been no distributions since the mother died from the trust  
15 that Anita is the trustee for to anyone.

16 THE COURT: And you said the one that Anita is in  
17 charge of. What is Anita in charge of?

18 MR. VIE: Exhibit 1.

19 THE COURT: Okay. The entirety?

20 MR. VIE: Yes, sir.

21 THE COURT: That's what I am trying to get to.

22 MR. VIE: Yes.

23 THE COURT: Okay.

24 MR. VIE: And it's unlikely there will be any  
25 distributions until both this suit is resolved and her

1 brother's suit that he brought.

2 THE COURT: Well, this suit might resolve it.

3 That's not their concern.

4 But what I am trying to find out is whether or  
5 not in the -- the question I was trying to get back was in  
6 the Carl's suit, I guess in probate court, whether or not  
7 that suit, which did not come up in the responses in the way  
8 that I understood it, whether or not that suit that impact  
9 whether or not this Court should be proceeding with this  
10 trust.

11 MR. VIE: No, Your Honor.

12 THE COURT: So it's separate and apart since the  
13 probate's completed.

14 MR. VIE: The probate has been filed. The suit is  
15 brought by him in his capacity as executor.

16 THE COURT: Is he without bond and independent?

17 MS. CURTIS: Yes.

18 MR. VIE: He's an independent executor. He is  
19 bringing the suit against the attorneys.

20 THE COURT: So he doesn't need to do anything else  
21 other than file it and do this accounting and all of that and  
22 then do whatever the will tells him to do.

23 MR. VIE: The litigation that he has brought is  
24 against the attorneys that created these trusts.

25 THE COURT: That's not even -- that's separate and

1 distinct from this lawsuit.

2 MR. VIE: Okay.

3 THE COURT: And it's separate and distinct from the  
4 estates because that's a malpractice lawsuit.

5 MR. VIE: Yes, sir.

6 THE COURT: Okay. So I am not concerned about that  
7 at all.

8 I was trying to make sure when he brought his  
9 suit, he was not simply arguing that somehow Anita had  
10 finagled her way into this position and she had squandered  
11 certain assets and then we've got these parallel lawsuits.

12 MR. VIE: I understand, Your Honor. And that was my  
13 point as well was to let you know that we are not parties to  
14 that litigation, it's not a claim in that litigation as the  
15 claims are --

16 THE COURT: And neither is the plaintiff here a  
17 party to that litigation.

18 MR. VIE: That is correct, Your Honor.

19 THE COURT: Okay.

20 So, the only suit that's pending dealing with  
21 the assets of these parent's estate is this lawsuit.

22 MR. VIE: Yes, Your Honor.

23 THE COURT: All right.

24 So what the plaintiff is saying on page 3 of  
25 her petition having to do with the December dates of 10, 12

1 and so on and what she considered to be "losses of the  
2 estate" are losses that I gather are decreases in assets that  
3 would be attributable to movement in the market.

4 MR. VIE: That is the specific. And, Your Honor,  
5 you are referring to the complaint or to the motion that has  
6 been filed for temporary relief?

7 THE COURT: I'm looking at the motion right now.  
8 That should be Instrument No. 35.

9 MR. VIE: Yes. With respect to that, there is an  
10 argument being made there that there has been a loss and it  
11 is the result of the investment of the securities.

12 THE COURT: You made a comment earlier that until  
13 the other lawsuit and this lawsuit is resolved. That lawsuit  
14 has nothing at all to do with the resolution of this estate.

15 MR. VIE: Well, I --

16 THE COURT: I'm telling you that.

17 MR. VIE: Okay.

18 THE COURT: There is nothing that should -- there is  
19 nothing going on in Carl's suit that prevents these parties  
20 from following what they have been instructed to follow in  
21 the trust document.

22 MR. VIE: Okay. I understand if that's the  
23 Court's direction.

24 THE COURT: Is there something that I am missing?

25 MR. VIE: Not that I am aware of, Your Honor.



1 THE COURT: That's a malpractice suit. And they  
2 get some money out of it, either he gets it or maybe he  
3 distributes it among his brothers and sisters, but it doesn't  
4 have anything to do with the distribution of this estate.

5 MR. VIE: My understanding -- the reason that I  
6 understood the case to be differently is that I understood  
7 that the purpose of the litigation that he had brought in  
8 state court was claiming that the attorneys who created these  
9 trusts had done so improperly so that we were in a situation  
10 in which we are here before this Court, and the Court is  
11 suggesting we should wind this thing up and distribute to all  
12 the beneficiaries.

13 THE COURT: It's going to be wound up. It's going  
14 to be wound up in this court.

15 Here's what I'm suggesting. I am suggesting  
16 that this will not become a feast and famine, feast for the  
17 lawyers and famine for the beneficiaries in this Court where  
18 we are sitting around churning the time out and the parties  
19 are charging out of that lawsuit, defense of that lawsuit,  
20 which you are not doing, apparently, unless -- are you the  
21 lawyer that created the trust?

22 MR. VIE: No, Your Honor.

23 THE COURT: So that's a separate law firm.

24 MR. VIE: Yes, Your Honor.

25 THE COURT: Yeah. So there is no reason for you to

1 be or your firm to be involved in the expenditure of that, of  
2 monies out of that lawsuit.

3 MR. VIE: And we aren't, Your Honor.

4 THE COURT: And there is no reason for Ms. Curtis to  
5 be concerned about spending money out of her assets for that  
6 lawsuit.

7 MR. VIE: Understand.

8 THE COURT: So, you can distribute what you got  
9 whether you get some more or not. It doesn't require -- this  
10 is not a probate where you got to gather everything together  
11 because everything is together.

12 MR. VIE: Okay.

13 THE COURT: The entire estate is together.

14 MR. VIE: Yes, Your Honor.

15 THE COURT: And if there is a lawsuit, and it's  
16 questionable whether or not Curtis has a lawsuit or not  
17 because he wasn't the creator and the payor for that creation  
18 of that trust.

19 So, the point I am making is, obviously he had  
20 no contractual relationship with the firm, and it's going to  
21 be seriously flawed -- seriously difficult for him to sue for  
22 malpractice when he wasn't -- when there is no  
23 attorney/client relationship.

24 MR. VIE: Understood, Your Honor.

25 THE COURT: So, the point I'm getting to here is

1 under this trust that is situated here, what my plaintiff,  
2 Ms. Curtis, I believe is saying is that she is, these assets  
3 are not being distributed, and she's of the opinion that  
4 there is something untoward going on, whether that's true or  
5 not.

6 MR. VIE: Yes, Your Honor.

7 THE COURT: And that there is no reason why she  
8 should be standing out in the field trying to get information  
9 about this trust and the distribution of these assets when  
10 she is equally entitled to any and all information just like  
11 Anita or anybody else.

12 MR. VIE: I understand that.

13 THE COURT: So, what is it then that prevents these  
14 parties from right now settling this suit?

15 MR. VIE: From settling it?

16 THE COURT: Yes. All they got to do is distribute  
17 the assets.

18 MR. VIE: Two things, Your Honor. And it's just my  
19 observation, because obviously the Court does not have to  
20 agree with me.

21 THE COURT: Sure.

22 MR. VIE: I provided the underlying documents that  
23 support the schedule that the plaintiff has attached to this  
24 motion for temporary relief. I have given her yesterday, in  
25 response to her request for production, some 5,000 pages.

1                   She has told me that she wants to examine  
2 those, all of those underlying documents, stock transfers,  
3 checks and everything else.

4                   You have heard from the plaintiff that she  
5 believes this very instrument is false.

6                   THE COURT: "This very instrument" meaning the  
7 family trust?

8                   MR. VIE: Family trust. That it's a forgery or that  
9 documents have been forged.

10                   And I have offered, in response to the request  
11 for production, to make the originals, which I understand the  
12 trust attorney, those attorneys in the other lawsuit, to make  
13 those available for inspection and copying so that she can  
14 see them and satisfy herself that the underlying trust is in  
15 fact a legal and appropriate trust.

16                   THE COURT: Okay.

17                   MR. VIE: So that was one of the --

18                   THE COURT: And that the signatures have not been  
19 forged or at least they're original signatures.

20                   MR. VIE: Yes. In other words, one problem of  
21 trying to settle the disposition of the trust today is that  
22 the plaintiff disputes the accuracy of the accounting and the  
23 accuracy and legitimacy of the trust.

24                   THE COURT: Right.

25                   MR. VIE: And so, that was one issue.

1           The second issue, respectfully, is that I  
2 understood that given that the Harris County litigation  
3 contested the accuracy and validity of the trust, that again  
4 there was a risk of inconsistent positions if we were to  
5 treat the trust as valid and fund this while they litigated  
6 over in Harris County.

7           THE COURT: They don't have jurisdiction over there.  
8 I do. That's what the circuit court has told me. And that's  
9 the part that you said I might disagree; and you're right, I  
10 do.

11           I would not sit here and wait on somebody  
12 Harris County to figure out whether or not they have  
13 jurisdiction over an issue, which they do, but they don't  
14 have jurisdiction of the assets.

15           MR. VIE: I wasn't thinking as much of the  
16 jurisdiction, Your Honor, as I was thinking of the risk of  
17 inconsistent judgments. In other words --

18           THE COURT: Not if I get it resolved, there won't be  
19 any inconsistent to resolve.

20           If they get it resolved, then it probably won't  
21 be inconsistent because I'm obligated and then obliged to  
22 follow at least theoretically the findings of any court of  
23 competent jurisdiction.

24           MR. VIE: Yes, Your Honor.

25           And the third issue, which I don't think would

1 give the Court pause but is something I thought of, is the  
2 fact that all the beneficiaries are not parties to this  
3 litigation.

4 THE COURT: That won't bother me at all because I do  
5 have authority and jurisdiction over the person who you tell  
6 me has the duty and the responsibility to act.

7 MR. VIEW: So those are my --

8 THE COURT: That's it.

9 So, I want this resolved within 90 days. And  
10 if I have to appoint a trustee or somebody to handle this  
11 and get it done, I'll do it. It will cost the estate. And  
12 if I find that there has been mischief, it is going to cost  
13 individuals. And that will be a separate and distinct  
14 hearing.

15 So what I am telling the parties, and I am  
16 saying to you and to all those who have ears to hear, that  
17 this matter is going to get resolved. It's not going to turn  
18 into one of these long, drawn-out episodes like the ones we  
19 see on TV that go on for years where lawyers make money and  
20 people walk away broke.

21 MR. VIE: Yes, Your Honor.

22 THE COURT: Who is doing the accounting in this  
23 process? Has anybody put their arms around the assets and  
24 made any accounting at all?

25 MR. VIE: There is a CPA in Iowa that prepares the

1 tax returns each and every year for the estate, and we are  
2 getting --

3 THE COURT: How they get in Iowa? Is that where the  
4 family was from originally?

5 MR. VIE: The parents, yes, Your Honor. And the  
6 farm, as you heard, is in Iowa.

7 THE COURT: Okay.

8 MR. VIEW: And so, there is a CPA who has been  
9 involved throughout this period and files the trust income  
10 tax returns, and he is available.

11 MS. CURTIS: I object to that.

12 THE COURT: Hold on.

13 Go ahead.

14 MR. VIE: I think I have answered the Court's  
15 question.

16 THE COURT: Yes.

17 MR. VIEW: And would have the most, would have the  
18 best familiarity beyond --

19 THE COURT: How much money does he generally charge  
20 for his annual -- I guess he does his annual filings of  
21 reports. Is this something that's pretty cursory or --

22 MR. VIEW: I'm sorry. And there is a distinction.  
23 The documents that are attached as the schedule in that  
24 accounting that are attached to the motion that has been  
25 filed for injunctive relief, temporary schedules.

1 THE COURT: Those were prepared?

2 MR. VIE: By the defendant, by Anita in her capacity  
3 as trustee.

4 THE COURT: Okay.

5 MR. VIEW: I was responding to the Court's question  
6 in terms of who's the best person that could get their hands  
7 around it and that type of thing.

8 The CPA in Iowa obviously has to know all of  
9 the information available to the trust so that he can file  
10 the tax returns. He also pays and makes sure that the  
11 profits --

12 THE COURT: Then that might not be a good thing for  
13 me because I don't have jurisdiction over him.

14 MR. VIE: Okay.

15 THE COURT: But what I wanted to know was whether or  
16 not there was a person here locally, since I believe the  
17 defendants are here locally. They don't have a local CPA who  
18 is in charge of the estate.

19 MR. VIE: That's correct, Your Honor.

20 THE COURT: That would be Anita herself.

21 And then as far as the tax returns and all that  
22 annually which goes on, whether you got money or not, that  
23 would be done by the accountant in --

24 MR. VIE: Sioux City, Iowa.

25 THE COURT: Yeah, in Iowa.



1                   And excuse me. What were you about to say?  
2 You disagree with what, Ms. Curtis?

3                   MS. CURTIS: I disagree with allowing Rick Rickers,  
4 who is --

5                   THE COURT: Is that the attorney?

6                   MS. CURTIS: -- our cousin. He's the accountant in  
7 Iowa.

8                   THE COURT: He's your cousin?

9                   MS. CURTIS: He's our cousin.

10                  THE COURT: Okay.

11                  MS. CURTIS: He is also apparently the manager of  
12 the farm, and he began to file the tax returns --

13                  THE COURT: I've already said probably enough to  
14 give you some pause, to allay those concerns. But these are  
15 other reasons why he should not be doing accounting. He has  
16 a conflict of interest.

17                  MS. CURTIS: One reason why he should not be doing  
18 the accounting is because I have reason to believe that the  
19 farm lease, taking it away from the buyers, who were my  
20 father's very close friends, was notarized with a signature  
21 that was not my father's. I have not been able to look at  
22 that yet. I only have emails that purport that, but I would  
23 like to get copies of those.

24                  THE COURT: Let me address a couple of things.

25                               First of all, when we don't have information,

1 we can imagine a lot of things that may or may not be true,  
2 Okay?

3 MS. CURTIS: Yes.

4 THE COURT: That could be. I mean, all kind of  
5 thoughts and ideas go through our head when they don't have  
6 the information.

7 Here's what this Court cannot do. This Court  
8 cannot chase after each of your concerns. You have got  
9 enough money, you can hire anybody you want to do any kind of  
10 investigation you want done.

11 What I intend to do based upon the mandate from  
12 the circuit court is to try to address the concerns that you  
13 have. And they just can't be accusations, and I don't have  
14 any interest -- when I say I don't have any interest, I have  
15 an interest in outcomes, but I don't have an interest in the  
16 case so that I'm supposed to be doing things that would  
17 accomplish something for you except upon your filed  
18 documents. It's in your best interest, and I think I talked  
19 to you on the phone conference --

20 MR. VIE: Yes.

21 THE COURT: -- with both of you on the phone as  
22 well, that really this is not a matter that you should be  
23 trying to handle yourself. You should hire an attorney to do  
24 it for you, or at least part of it for you.

25 Now, I believe that it's in the Court's best

1 interest to preserve the assets of the estate and to bring to  
2 a point a going-forward process that this Court appoint  
3 someone to do an accounting of the assets and then make that  
4 accounting to the Court.

5           Now, you don't have to agree with me, but it's  
6 going to be an accounting of what the assets are. Whether  
7 something has been taken or mismanaged or mishandled is not  
8 going to be a part -- that's not the kind of accounting  
9 that's going to go on here.

10           What is, and that is what's invested, where  
11 it's invested and how it's invested is going to be the  
12 Court's concern. Once that accounting is in place, the  
13 question is whether or not the Court is going to be required  
14 or whether or not Ms. Brunsting will go forward in her  
15 capacity or not.

16           If she fails, then the Court will direct or put  
17 someone else in that position to do that, to move into this  
18 area or division so that the assets can be distributed or  
19 whatever beneficiaries. That's where I am in this case, and  
20 that's where the circuit court I believe has me. So I think  
21 it's in all of our best interest to appreciate this process.

22           In light of that, the Court is of the opinion  
23 that there are no expenditures that should be made unless  
24 they're made upon the approval of the Court. So, in other  
25 words, if Mr., up in Utah --

1 MR. VIEW: Iowa.

2 MS. CURTIS: Rickers in Iowa.

3 THE COURT: Mr. Rickers needs to pay the farmer. We  
4 used to call those sharecroppers sort of. It's a kind of a  
5 sharecropper thing where someone comes in farms the land and  
6 you get a percentage of it. If Mr. Rickers and the  
7 sharecroppers and others need to pay out bills and things,  
8 they should be petitioning the Court for that. That's where  
9 we are now.

10 We're at a point where I'm going to have to  
11 take charge in order to make sure that what I am doing has  
12 sanctity and has, well, trust going forward. What I am going  
13 to do is simply to try to make sure that the parties are all  
14 going to have equal standing and footing in this process. So  
15 that's part of what I am going to do. I'm going to enter an  
16 injunction in that regard.

17 Now, anybody who claims they want to bill the  
18 estate for something, whether it's lawyers or not, I am  
19 concerned about whether or not your bill should be paid by  
20 the estate because of this circumstance.

21 MR. VIE: I understand.

22 THE COURT: If the parties are going to agree, if  
23 the parties are going to come together and agree that your  
24 fee should be paid, then we should then move to a situation  
25 where we have a mediator in place or a designee in place who

1 will then make sure that if Ms. Curtis needs counsel, she can  
2 get that. That equally would be paid out of the estate.

3           It would not include Curtis because I am not  
4 going to be involved in the litigation of whether or not this  
5 is a good trust or not. I'm going to presume that it's a  
6 good trust, and I am going to go forward from there. If  
7 Curtis proves otherwise, he can get that money from the  
8 lawyers, and that would be certainly to his advantage or  
9 benefit.

10           MS. CURTIS: Are you talking about my brother Carl?

11           THE COURT: Yes. I said Curtis. I meant Carl. I  
12 apologize. You can see I'm struggling here.

13           MS. CURTIS: Too many C's.

14           MR. VIE: For the record, is it 90 days, Your Honor?

15           THE COURT: Yeah. I said we should try to wrap this  
16 up in 90 days, but I believe that if I appoint -- and you can  
17 suggest someone. I don't know if you know someone. Just  
18 give me a couple names. If not, I will designate someone to  
19 do this and enter an order to that effect.

20           It may be that because of the lack of trust  
21 that it may not need to be, unless both of you are  
22 designating somebody that you can agree upon, it may be  
23 better for me to have some person independent of the sides  
24 unless you all can agree upon the person or firm that should  
25 take care of this business.

1 MR. VIE: So we will get together and try to arrive  
2 at an agreed CPA that could provide the accounting the Court  
3 requests.

4 THE COURT: Sure. And we have a lot of them here in  
5 Houston just like we got -- I don't know anybody in  
6 California, but I want somebody I have got some jurisdiction  
7 over.

8 MR. VIEW: So if we're unable to do so we'll notify  
9 the Court we were unable to reach an agreement?

10 THE COURT: Sure. And you need to do that by the  
11 end of the week.

12 MR. VIEW: Yes, Your Honor.

13 THE COURT: You are going to be here what, today?

14 MS. CURTIS: I leave at 4:00 o'clock.

15 THE COURT: 4:00 o'clock today. Well, then you need  
16 to talk fast and see if you all can agree. Maybe you should  
17 talk over lunch. That way you can kind of size each other  
18 up. Eating together sometimes brings out good things.

19 And so, if you will do that by the end of the  
20 week, I will then prepare an order entering a temporary  
21 retraining order against the expenditure of any funds.  
22 Notice will be not just to you but to you in terms of Anita  
23 because I think she holds the purse in this situation. If  
24 there is any money to be paid to anybody up in Utah or  
25 anyplace else, she would be person who would authorize it or

1 do it.

2                   The accountant isn't do it, as I understand it,  
3 right?

4           MR. VIE: No. He is just preparing the necessary  
5 documents.

6           THE COURT: Right. So the purse strings here in  
7 Houston, she can certainly prepare through you whatever  
8 documents are necessary for parties to be paid.

9           MR. VIEW: Yes, Your Honor.

10          THE COURT: And then hopefully that report can get  
11 done in 30 or 40 days, and then we can have a hearing. If  
12 there is some dispute about summary areas of the report, we  
13 can have a hearing about that. If there is a memorandum or  
14 recommendation as relates to how to go forward with this  
15 "asset trust," that is the distribution, we can do that.

16                   If the parties can reach an accommodation as to  
17 how those assets ought to be dealt with, how silent a trust  
18 and they all sign off on it, we can do that. It's just a  
19 matter of how you want to do it. The trust is not going to  
20 control unless you want it to control at this point.

21          MR. VIE: Yes, Your Honor.

22          THE COURT: Under the circumstances, it seems to me  
23 there's going to be a continuous bickering and mistrust.

24                   Anything else?

25          MS. CURTIS: No, Your Honor.

1 MR. VIEW: No, Your Honor.

2 THE COURT: Let me have Ms. Anita Brunsting come  
3 forward.

4 Good morning. Did you drop something on your  
5 foot?

6 MS. BRUNSTING: I broke my foot.

7 THE COURT: Raise your right hand.

8 Do you solemnly swear or affirm that any  
9 testimony you will give in this case will be the truth, the  
10 whole truth, nothing but the truth so help you God?

11 MS. BRUNSTING: I swear.

12 THE COURT: You've heard the discussion here in the  
13 courtroom, have you not?

14 MS. BRUNSTING: (Indicating in the affirmative.)

15 THE COURT: And I know that you have got counsel,  
16 and you can speak with him about the implications and  
17 concerns that the Court has about making sure that the assets  
18 are accounted for. And you certainly can work through him on  
19 any matters that you need to address to the Court. And, of  
20 course, counsel understands that he is to communicate both  
21 with the Court and with Ms. Curtis on any matters that he is  
22 presenting to the Court.

23 Is there any question about anything I have  
24 said -- I don't mean disagreement because you can certainly  
25 disagree with me about anything -- but is there any question



1 that you might have about anything I've said that you need me  
2 to answer, or certainly you have your attorney present.

3 MS. BRUNSTING: I need the trust account to pay.  
4 I've got the forms from the CPA. Can I move forward on that?

5 THE COURT: I think you should probably file a short  
6 motion and simply serve a copy of it on opposing counsel, Ms.  
7 Curtis, and forward it with a short order to me, and that  
8 wouldn't be a problem. This should be based upon the tax  
9 forms.

10 MR. VIE: Yes, sir.

11 And in terms of notice to the Court -- I'm  
12 sorry, not notice to the Court, the Court directing notice,  
13 do I notify the other beneficiaries?

14 THE COURT: Absolutely.

15 MR. VIE: Okay.

16 THE COURT: Even though they're not a party, they  
17 are beneficiaries and we should keep them in the loop.

18 MR. VIEW: I just wanted to bring that up.

19 THE COURT: Yeah. Should be in the loop because it  
20 doesn't make sense for us to have to go back and pull them  
21 forward a month.

22 MR. VIE: I will prepare appropriate submissions for  
23 payments that I would like. If the Court will approve it,  
24 then the trustee will make the payments.

25 THE COURT: Are these to be paid on or before April

1 15th or is there another cycle?

2 MS. BRUNSTING: No, by April 15th.

3 THE COURT: All right. So either they will get to  
4 me on Thursday or whatever, and I'll sign off on them, on the  
5 motion and the order, and that shouldn't be a problem.

6 You are not going to have to liquidate any  
7 assets to deal with that, are you?

8 MS. BRUNSTING: No. We have a checking account with  
9 enough that I can pay it.

10 THE COURT: Right.

11 MS. BRUNSTING: What about any incoming? The farm  
12 is rented, so we get a check twice a year.

13 THE COURT: Your function and role is to make those  
14 deposits as they come in.

15 MS. BRUNSTING: So I can continue to deposit them?

16 THE COURT: Continue depositing. All I am trying to  
17 do is control the outgo. What comes in as an expense is what  
18 counsel needs to see, and they have a proper and appropriate  
19 motion.

20 And if these things come in -- if this is a  
21 once a month kind of sit down and write out the bills kind of  
22 thing, then that's the way he should probably handle it. At  
23 some point just sit down and you prepare a list of things  
24 that you need to have done and certainly provide the forms or  
25 whatever you need.

1 MR. VIE: Yes, Your Honor.

2 MS. BRUNSTING: Okay.

3 THE COURT: All right. Thank you very much.

4 All right, counsel. That's all I have. And  
5 I'll prepare an order and get it out perhaps by tomorrow  
6 afternoon. There should not and in my opinion will not need  
7 to be a bond posted. These are parties of equal status as it  
8 relates to the assets, so no bond is going to be required.

9 I think, Ms. Curtis, you need to follow my  
10 advice. At some point consider getting an attorney, someone  
11 you trust to work with you, all right.

12 Okay. Thank you very much.

13 MR. VIE: Thank you, Your Honor.

14

15 (Conclusion of Proceedings)

16

17

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## CERTIFICATION

1  
2  
3  
4  
5 I, Fred Warner, Official Court Reporter for the  
6 United States District Court for the Southern District of  
7 Texas, Houston Division, do hereby certify that the foregoing  
8 pages 1 through 53 are a true and correct transcript of the  
9 proceedings had in the above-styled and numbered cause before  
10 the Honorable KENNETH M. HOYT, United States District Judge,  
11 on the 9th day of April, 2013.

12 WITNESS MY OFFICIAL HAND at my office in Houston,  
13 Harris County, Texas on this the 5th day of August, A.D.,  
14 2013.

15  
16  
17  
18  
19 \_\_\_\_\_  
20 Fred Warner, CSR  
21 Official Court Reporter  
22  
23  
24  
25

# Exhibit 16

Notice of Filing of Injunction and Report of Master

PROBATE COURT 4

CAUSE NO. 412,249-402

IN RE: ESTATE OF § IN THE PROBATE COURT  
NELVA E. BRUNSTING, §  
DECEASED § NUMBER FOUR (4) OF  
§ HARRIS COUNTY, TEXAS  
§

NOTICE OF FILING OF INJUNCTION AND REPORT OF MASTER

TO THE HONORABLE PROBATE COURT:

COMES NOW, Plaintiff, Candace Louis Curtis, and files certified copies of an Injunction and Report of Master and would show the Court as follows:

1.

Plaintiff originally filed her Original Petition in the United States District Court for the Southern District of Texas, Houston Division, under Civil Action No. 4:12-CV-592. On April 19, 2013, the United States District Court entered a Memorandum and Order Preliminary Injunction in which it found that Anita Kay Brunsting and Amy Ruth Brunsting as Trustees had failed to act in accordance with the duties required by the Trust and enjoined them from disbursing any funds from any Trust accounts without prior permission of the court. *See Ex. A, Memorandum and Order Preliminary Injunction.* In that same order, the court determined to appoint an independent firm or account 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. *See Ex A, Memorandum and Order Preliminary Injunction.* Ultimately court appointed CPA William G. West filed his Report of Master dated July 31, 2013. *See Ex. B, Report of Master.*

2.

On May 15, 2014, the United States District Court entered an order transferring Civil Action 4:12-CV-00592 into Harris County Probate Court Number Four, Cause Number 412,249. *See Ex.*

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02112015:1339:P0002

02102015:0938:P0135

02112015:1339:P0003

C, Remand Order. That Order Granting Remand specifically provided that all ordered rendered by the United States District Court would carry the same force and effect the remand that they would have had if a remand had not been ordered. *See* Ex. C, Remand Order. This Court accepted the United States District Court Order of Remand June 3, 2014. *See* Order of Transfer, Court's file. As such, this Court has accepted the Injunction entered by the United States District Court.

3.

Plaintiff now files Exhibits A and B to make them part of the Court's record, having already been accepted via the May 15, 2014 and June 3, 2014 Remand and Transfer Orders.

WHEREFORE, PREMISES CONSIDERED, Plaintiff Candace Curtis respectfully prays for such further relief to which she may show herself justly entitled.

Respectfully submitted,

ostrommorris, PLLC

BY: 

JASON B. OSTROM  
(TBA #24027710)

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6363 Woodway, Suite 300

Houston, Texas 77057

713.863.8891

713.863.1051 (Facsimile)

Attorneys for Plaintiff

02102015:0898:P0136

02112015:1339:P0004

CERTIFICATE OF SERVICE

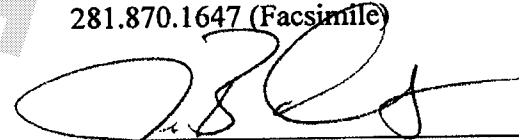
I hereby certify that a true and correct copy of the foregoing instrument was served in accordance with Texas Rule of Civil Procedure 21a on the following on the 6<sup>th</sup> day of February, 2015:

Ms. Bobbie Bayless  
2931 Ferndale  
Houston, Texas 77098  
713.522.2224  
713.522.2218 (Facsimile)

Mr. Bradley Featherston  
1155 Dairy Ashford Street, Suite 104  
Houston, Texas 77079  
281.759.3213  
281.759.3214 (Facsimile)

Ms. Darlene Payne Smith  
1401 McKinney, 17<sup>th</sup> Floor  
Houston, Texas 77010  
713.752.8640  
713.425.7945 (Facsimile)

Mr. Neal Spielman  
1155 Dairy Ashford, Suite 300  
Houston, Texas 77079  
281.870.1124  
281.870.1647 (Facsimile)



Jason B. Ostrom/  
Nicole Sain Thornton

COPY

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02112015:1339:P0005

02102015:0839:P0137

# Exhibit A

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

TRUE COPY I CERTIFY  
ATTEST:

DAVID J. BRADLEY, Clerk of Court  
By M. Flores  
Clerk

CANDACE LOUISE CURTIS,

Plaintiff,

VS.

ANITA KAY BRUNSTING, *et al*,

Defendants.

§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 4:12-CV-592

**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

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02112015:1339:P0006

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.<sup>1</sup> 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.

---

<sup>1</sup> 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 19<sup>th</sup> day of April, 2013.



Kenneth M. Hoyt  
United States District Judge

02112015:1339:PO010

02102015:0938:PO142

02112015:1339:P0011

02102015:0030:P0143

# Exhibit B

UNOFFICIAL COPY

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

TRUE COPY I CERTIFY  
ATTEST:  
DAVID J. BRADLEY, Clerk of Court  
By M. Flores  
County Clerk

IN RE:

CANDACE LOUISE CURTIS  
Plaintiff

VS.

ANITA KAY BRUNSTING, et al,  
Defendants

§  
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§

CIVIL ACTION NO. 4:12-CV-592

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

02112015:1339:P0012

02102015:0839:P0144



**REPORT OF ACCOUNTING OF INCOME/RECEIPTS AND  
EXPENSES/DISTRIBUTIONS OF THE BRUNSTING FAMILY LIVING TRUST**

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VI. Stock Distributed/Dividend Reinvestment Account Information.....	7
VII. Comments on Certain Accounts .....	9
VIII. Summation .....	10

**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

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UNOFFICIAL COPY

**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

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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 1<sup>st</sup> 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 5<sup>th</sup> Vie sent additional records to West (and pdf copies of same on CD). After review of these records received on July 5<sup>th</sup>, 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

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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

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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.

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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 31<sup>st</sup> day of July, 2013.

William G. West

*William G. West*

12345 Jones Rd., Suite 120  
Houston, TX 77070

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# EXHIBIT 1

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**Statement of Income/Receipts & Expenses/Disbursements**

December 21, 2010 through May 31, 2013

<b>Income/Receipts</b>	
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
<b>Total Investment Income</b>	<b>216,605.71</b>
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
<b>Total Income/Receipts</b>	<b>830,169.35</b>
<b>Expenses/Disbursements</b>	
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
<b>Total Medical Expenses</b>	<b>121,867.06</b>
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
<b>Total Payments to Credit Cards</b>	<b>26,029.95</b>

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**Statement of Income/Receipts & Expenses/Disbursements**

December 21, 2010 through May 31, 2013

<b>Personal Care</b>	798.14
<b>Pet Care</b>	
<b>Pet Food and Supplies</b>	69.68
<b>Veterinary Expenses</b>	1,976.24
<b>Total Pet Care</b>	<u>2,045.92</u>
<b>Postage</b>	78.15
<b>Professional Fees</b>	7,563.86
<b>Repairs and Maintenance</b>	783.31
<b>Supplies</b>	29.83
<b>Taxes</b>	
<b>Taxes - Federal</b>	53,416.00
<b>Taxes - Property</b>	9,811.99
<b>Taxes - State</b>	4,793.00
<b>Total Taxes</b>	<u>68,020.99</u>
<b>Telephone Expense</b>	4,519.17
<b>Utilities</b>	
<b>Cable TV</b>	776.41
<b>Electricity</b>	2,259.90
<b>Gas</b>	942.66
<b>Water</b>	2,537.22
<b>Total Utilities</b>	<u>6,516.19</u>
<b>Total Expenses/Disbursements</b>	<u>418,844.23</u>
<b>Net of Income/Receipts &amp; Expenses/Disbursements</b>	411,325.12
<b>Less Stock Distributed to Family Members</b>	
<b>Value of Stock Transferred Out</b>	<u>298,976.80</u>
<b>Net of Income/Receipts &amp; Expenses/Disbursements Less Value of Stock Distributed</b>	<u><u>\$112,348.32</u></u>

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# EXHIBIT 2



**Brunsting Family Living Trust  
Detail of Accounts**

12/21/2010-05/31/2013

Type	Date	Num	Name	Memo	Class	Amount	Balance
<b>Ordinary Income/Expense</b>							
<b>Income</b>							
<b>Farm/Rental Income</b>							
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	28,437.50	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	28,437.50	127,790.41
<b>Total Farm/Rental Income</b>						<b>127,790.41</b>	<b>127,790.41</b>
<b>Investment Income</b>							
<b>Dividend Income</b>							
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 CI F1		Elmer	112.43	866.75
General Journal	12/27/2010	EJ20101213	Dividend on Pioneer Fund CI Y		Elmer	62.73	929.48
General Journal	12/28/2010	EJ20101214	Dividend on New World Fund CI F1		Elmer	77.32	1,006.80
General Journal	12/30/2010	EJ20101215	Dividend on Oppnmr Crnd Stral Ttl Rtn CI Y		Elmer	200.56	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 CI		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	EJ20110201	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	83.83	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 Yield Fd		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 CI 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 CI 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 CI Y		Elmer	55.34	3,812.63
General Journal	3/28/2011	EJ20110309	Dividends From Thornburg Invlt Value Fd		Elmer	4.67	3,817.30
General Journal	3/29/2011	EJ20110310	Dividends from Dodge & Cox Income Fund		Elmer	273.80	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	27.84	5,045.51
General Journal	5/2/2011	EJ20110501	Dividends on T Rowe Price New Income Fund		Elmer	72.37	5,117.88
General Journal	6/1/2011	EJ20110601	Dividends on JPMorgan Core Bond Fund		Elmer	75.94	5,193.82
General Journal	6/1/2011	EJ20110601	Dividends on JPMorgan High Yield Fund		Elmer	33.56	5,227.38
General Journal	6/1/2011	EJ20110601	Dividends on Oppenheimer Intl Bond Fund		Elmer	26.54	5,253.92
General Journal	6/1/2011	EJ20110601	Dividends on T Rowe Price New Income Fund		Elmer	66.95	5,320.87
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	647.75	6,329.95
General Journal	6/10/2011	EJ20110622	Dividend Reinvestment on CVX Stk 9415		Elmer	481.45	6,791.40
General Journal	6/13/2011	EJ20110602	Dividends on Investment Co of America CI F1		Elmer	81.34	6,872.74
General Journal	6/23/2011	EJ20110603	Dividends on Columbia Mid Cap Value Fd CI 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	71.88	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	8/1/2011	EJ20110801	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	EJ20110138	Exxon Invest Inc		Survivor	274.01	8,487.74

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Type	Date	Num	Name	Memo	Class	Amount	Balance
General Journal	8/9/2011	EJ20110921		Dividend Reinvestment of XOM Stk 7777	Survivor	313.80	8,801.54
General Journal	8/9/2011	EJ20110921		Dividend Reinvestment of Chevron Stk	Nelva	28.50	8,830.04
General Journal	8/9/2011	EJ20110921		Dividend Reinvestment of Chevron Stk 9415	Elmer	465.04	9,295.08
General Journal	8/19/2011	EJ20110904		Dividends on Investment Co of America Cl F1	Elmer	63.95	9,379.03
General Journal	8/23/2011	EJ20110908		Dividend on Pioneer Fund Cl Y	Elmer	78.19	9,457.22
General Journal	8/27/2011	EJ20110907		Dividends on Columbia Mid Cap Value Fd Cl Z	Elmer	14.76	9,471.98
General Journal	8/28/2011	EJ20110909		Dividends on Dodge & Cox Income Fund	Elmer	188.06	9,658.04
General Journal	8/29/2011	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	28.18	9,842.98
General Journal	10/3/2011	EJ20111001		Dividends on Pimco Tot Ret Fd IV Inst Cl	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 Cl	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	315.63	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	116.36	13,418.06
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 Cl	Elmer	37.79	14,003.47
General Journal	2/1/2012	EJ20120201		Dividends on JPMorgan High Yield Select Cl	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 Cl	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 Cl	Elmer	36.71	14,181.85
General Journal	3/1/2012	EJ20120301		Dividends on JP Morgan High Yield Select Cl	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 Cl	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	27.38	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	317.88	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	3/28/2012	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	33.89	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 Dodge & 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	51.85	18,604.51
General Journal	7/3/2012	EJ20120702		Dividends on Loomis Sayles Inv Grade Bd	Elmer	26.87	18,631.38
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	33.08	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	EJ20120906		Dividends on Columbia Mid Cap Value	Elmer	40.07	20,613.87
General Journal	9/26/2012	EJ20120906		Dividends on Dodge & Cox Income	Elmer	124.82	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	17.83	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	106.20	24,520.06
General Journal	12/21/2012	EJ20121211		Dividends on Capital World Bond	Elmer	31.58	24,551.62
General Journal	12/24/2012	EJ20121212		Dividends on Investment Co of America	Elmer	137.47	24,689.09
General Journal	12/24/2012	EJ20121212		Dividends on Loomis Sayles Inv Grade Bd	Elmer	75.83	24,764.92
General Journal	12/27/2012	EJ20121213		Dividends on New World	Elmer	110.57	24,875.49
General Journal	12/28/2012	EJ20121214		Dividends on Oppenheimer Rising Divid Fd Y	Elmer	43.70	24,919.19
General Journal	12/28/2012	EJ20121214		Dividends on Pimco Total Return IV	Elmer	65.59	24,984.78
General Journal	12/31/2012	EJ20121215		Dividends on Oppenheimer Intl Bd	Elmer	15.74	25,000.52
General Journal	1/2/2013	EJ20130101		Dividends on ING Global Real Estate	Elmer	201.20	25,201.72

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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	38.97	25,241.89
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	9.88	25,584.96
General Journal	3/1/2013	EJ20130301		Dividends on T Rowe Price New Income	Elmer	37.08	25,622.01
General Journal	3/4/2013	EJ20130302		Dividends on Loomis Sayles Inv Grade Bd	Elmer	27.81	25,649.82
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 6281	Elmer	336.88	25,988.22
General Journal	3/11/2013	EJ20130321		Dividend Reimbursement on XOM Stk 3301	Neiva	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
<b>Interest Income</b>							
General Journal	12/27/2010	EJ 20101202		Interest on VK Bid Amer Bonds	Survivor	67.90	67.90
General Journal	12/27/2010	EJ 20101202		Interest on Invsco Bid 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 Bid Amer Bonds	Survivor	67.90	184.53
General Journal	1/25/2011	EJ 20110103		Interest on VK Bid 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 Bid Amer Bonds Incm	Survivor	68.04	328.58
General Journal	2/25/2011	EJ 20110205		Interest on Invsco Bid Amer Bonds Incm	Survivor	50.80	379.48
General Journal	3/15/2011	EJ 20110301		Interest on GMAC Smartnotes	Survivor	317.25	696.73
General Journal	3/15/2011	EJ 20110301		Interest on Toyota Motor Cr Corp	Survivor	25.00	721.73
General Journal	3/21/2011	EJ 20110302		Interest on VK Bid Amer Bonds Incm	Survivor	67.90	789.63
General Journal	3/25/2011	EJ 20110303		Interest on Invsco Bid Amer Bds Incm	Survivor	51.00	840.63
General Journal	3/25/2011	EJ 20110303		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 Intermotes	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 Bid Amer Bonds Incm	Survivor	67.76	1,699.92
General Journal	4/25/2011	EJ 20110404		Interest on Invsco Bid Amer Bds Incm	Survivor	50.90	1,750.82
General Journal	5/13/2011	EJ20110521		Sell GE Capital Corp Intermotes	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 Bid Amer Bonds Incm	Survivor	67.76	2,148.83
General Journal	5/25/2011	EJ20110502		Interest on Invsco Bid 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 Bid Amer Bonds	Survivor	67.90	2,268.03
General Journal	6/27/2011	EJ20110604		Interest on Invsco Bid Amer Bds	Survivor	50.90	2,318.93
General Journal	7/25/2011	EJ20110701		Interest on VK Bid Amer Bonds	Survivor	67.76	2,386.69
General Journal	7/25/2011	EJ20110701		Interest on VK Bid Amer Bonds	Survivor	51.00	2,437.69
General Journal	8/1/2011	EJ20110801		Interest on VK Bid Amer Bonds Incm	Survivor	67.76	2,505.45
General Journal	8/1/2011	EJ20110801		Interest on Invsco Bid Amer Bds Incm	Survivor	50.90	2,556.35
General Journal	9/26/2011	EJ20110901		Interest on VK Bid Amer Bonds Incm	Survivor	68.04	2,624.39
General Journal	9/26/2011	EJ20110901		Interest on Invsco Bid Amer Bds Incm	Survivor	50.90	2,675.29
General Journal	10/13/2011	EJ20111001		Accrued Interest in Sale of VK Bid Amer Bonds	Survivor	6.72	2,682.01
General Journal	10/25/2011	EJ20111002		Interest in VK Bid Amer Bonds Incm	Survivor	67.90	2,749.91
General Journal	10/25/2011	EJ20111002		Interest in Invsco Bid Amer Bds Incm	Survivor	51.10	2,801.01
General Journal	11/16/2011	EJ20111103		Proceeds from Sale of Invsco Bid 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 Bid 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

**Brunsting Family Living Trust**  
**Detail of Accounts**  
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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	8.13	2,920.44
General Journal	12/11/2012	EJ20120448		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	8.75	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	5/8/2013	EJ20120433		Interest Earned	Survivor	5.90	3,062.98
General Journal	5/13/2013	EJ20120453		Interest Earned	Elmer	1.48	3,064.44
Deposit	5/22/2013			May Interest	Survivor	20.61	3,085.05
<b>Total Interest Income</b>						<b>3,085.05</b>	<b>3,085.05</b>
<b>Long Term Capital Gains - Funds</b>							
General Journal	12/31/2010	EJ20101218		LTCG from 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	12/18/2011	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
<b>Total Long Term Capital Gains - Funds</b>						<b>1,047.31</b>	<b>1,047.31</b>
<b>Short Term Capital Gains- Funds</b>							
General Journal	1/24/2011	EJ20110107		STCG on Fidelity New Insights Fd Inst	Elmer	1.98	1.98
General Journal	2/14/2011	EJ20110204		STCG on Fidelity New Insights Fd Inst	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	12/18/2011	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	88.57	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
<b>Total Short Term Capital Gains- Funds</b>						<b>489.10</b>	<b>489.10</b>
<b>Stock Sales less Broker Fees</b>							
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 Intermotes	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	-199.68	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 Intermotes	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

**Brunsting Family Living Trust**  
**Detail of Accounts**  
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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 823 Sh Deere & Company	Survivor	51,039.90	114,217.34
General Journal	6/10/2011	EJ20110601		Commission on Sale of 823 Sh Deere & Company	Survivor	-643.86	113,573.48
General Journal	6/10/2011	EJ20110601		Transaction Fee on Sale of 823 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 Bid Amer Bonds	Survivor	14,492.80	128,989.26
General Journal	10/28/2011	EJ20111003		Sale Price in Sale of Deere & Co Stock	Survivor	30,470.12	159,459.38
General Journal	10/28/2011	EJ20111003		Commission in Sale of Deere & Co Stock	Survivor	-458.73	158,999.65
General Journal	10/28/2011	EJ20111003		Transaction Fee in Sale of Deere & Co Stock	Survivor	-4.95	158,994.70
General Journal	10/28/2011	EJ20111022		Redeem Gen Motors Warrant (WSB)	Survivor	8.33	158,994.03
General Journal	10/28/2011	EJ20111022		Redeem Gen Motors Warrant (WSA)	Survivor	11.92	158,915.95
General Journal	10/28/2011	EJ20111022		Redeem Gen Motors Common	Survivor	19.85	158,935.80
General Journal	11/15/2011	EJ20111102		Sale of Deere & Co Stock	Survivor	14,361.25	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		Transaction Fee on Sale of Deere & Co Stock	Survivor	-4.95	173,145.95
General Journal	11/18/2011	EJ20111103		Proceeds from Sale of Invsco Bid 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	6.17	183,662.79
Total Stock Sales less Broker Fees						183,662.79	183,662.79
Total Investment Income						216,606.71	216,605.71
<b>Miscellaneous Income</b>							
Deposit	12/31/2010			Deposit	Neiva	70.30	70.30
General Journal	3/11/2011	EJ20120460		Invest inc	Neiva	390.64	460.94
General Journal	4/11/2011	EJ20120463		Online Banking Transfer from chking Acct 2639	Neiva	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	Neiva	725.64	2,690.76
General Journal	8/18/2011	EJ20120473		Invest inc	Neiva	702.72	3,393.48
General Journal	9/19/2011	EJ20120475		Invest inc	Neiva	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	237.18	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	EJ20120428		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	485.72	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
<b>Pension Income</b>							
Deposit	12/31/2010			Pension ID [REDACTED]9128	Neiva	594.41	594.41
Deposit	12/31/2010			Minnesota Life Annuity	Neiva	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: [REDACTED]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: [REDACTED]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: [REDACTED]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: [REDACTED]0508	Survivor	600.71	4,056.86
General Journal	8/1/2011	EJ20110119		Minnesota Life DES: Annuity ID:0	Survivor	91.78	4,148.64
General Journal	6/30/2011	EJ20110124		Benefits DES:Pension ID: [REDACTED]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: [REDACTED]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: [REDACTED]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: [REDACTED]2468	Survivor	600.71	6,918.60
General Journal	10/31/2011	EJ20110144		Benefits DES:Pension ID: [REDACTED]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: [REDACTED]3368	Survivor	600.71	8,303.58
Total Pension Income						8,303.58	8,303.58
<b>Proceeds from Sale of Home</b>							
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

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**Brunsting Family Living Trust  
Detail of Accounts**

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Type	Date	Num	Name	Memo	Class	Amount	Balance
<b>Total Proceeds from Sale of Home</b>						<b>433,392.05</b>	<b>433,392.05</b>
<b>Social Security Income</b>							
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
<b>Total Social Security Income</b>						<b>17,800.00</b>	<b>17,800.00</b>
<b>Tax Refunds</b>							
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
<b>Total Tax Refunds</b>						<b>19,816.87</b>	<b>19,816.87</b>
<b>Total Income</b>						<b>830,169.35</b>	<b>830,169.35</b>
<b>Expense</b>							
<b>Automobile Expense</b>							
Check	1/19/2011	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	2/8/2011	EFT	Nnt Hare Repai	Auto Service	Nelva	574.85	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	21.89	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	24.68	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	58.02	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	5/8/2011	EFT	Exxon Mobil	Fuel	Nelva	27.80	1,266.68
Check	5/9/2011	EFT	Chevron	Fuel	Nelva	26.76	1,293.44
Check	5/16/2011	EFT	Chevron	Fuel	Nelva	29.32	1,324.76
Check	5/18/2011	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	8/14/2011	EFT	Exxon Mobil	Fuel	Nelva	29.37	1,638.57
Check	8/15/2011	EFT	Chevron	Fuel	Nelva	26.47	1,665.04
Check	8/20/2011	EFT	Exxon Mobil	Fuel	Nelva	25.60	1,690.64
Check	8/21/2011	EFT	Chevron	Fuel	Nelva	26.58	1,717.22
Check	8/27/2011	EFT	Chevron	Fuel	Nelva	25.13	1,742.35
Check	8/28/2011	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**

12/21/2010-05/31/2013

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	25.88	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	8/8/2011	EFT	Chevron	Fuel	Nelva	26.27	2,160.49
Check	8/10/2011	EFT	Exxon Mobil	Fuel	Nelva	25.53	2,188.02
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	2,664.43
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	eR	Exxon Mobil	FUEL	Nelva	20.25	2,770.15
Check	10/27/2011	EFT	Chevron	Fuel	Nelva	20.89	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	19.81	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	eR	Chevron	FUEL	Nelva	25.78	2,944.69
Check	11/14/2011	eR	Chevron	Fuel	Nelva	21.07	2,965.76
Total Automobile Expense						2,965.76	2,965.76
<b>Bank &amp; Brokerage Charges</b>							
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	287.60	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 Instl	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	285.92	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	10/8/2011	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**

12/21/2010-05/31/2013

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 Tr payment to Sdb 2575 banking	Survivor	25.00	3,330.79
General Journal	11/10/2011	EJ20110148		Safe Deposit Box Rent Refund Fds	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	Debt	Bank of America-Brun...	Check order	Survivor	28.00	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 Inst Cl	Elmer	258.62	3,828.09
General Journal	1/8/2012	EJ20120103		Redeemed JP Morgan Fed Mon Mkt	Elmer	284.78	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 Inst Cl	Elmer	289.92	4,381.70
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	3/8/2012	EJ20120303		Redeem JP Morgan Fed Mon Mkt Inst Cl	Elmer	280.41	4,652.90
Check	3/15/2012	EFT	Bank of America		Elmer	31.00	4,683.90
Check	3/18/2012	EFT	Bank of America	Returned Item Chargeback Fee	Survivor	12.00	4,695.90
Check	3/18/2012	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	8/5/2012	EJ20120603		Redeem JP Morgan Fed Mon Mkt	Elmer	272.55	5,558.68
General Journal	8/25/2012	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	-16.89	6,050.71
General Journal	9/7/2012	EJ20120903		Redeem JP Morgan Fed Mon Mkt	Elmer	281.37	6,332.08
General Journal	9/25/2012	EJ20120907		Fee Offset Less Admin Fee	Elmer	-16.75	6,315.33
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	12/8/2012	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	-18.98	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
<b>Total Bank &amp; Brokerage Charges</b>						<b>8,540.62</b>	<b>6,540.62</b>
<b>Checks/Cash to Family Members</b>							
Check	12/21/2010	8849	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	7,285.00
Check	1/19/2011	EFT	Amy Tschirhart	fee to G Vie letter/sch's dated 7/15/13	Survivor	6,000.00	13,285.00
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/ies 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	378.38	16,918.38
Check	5/10/2011	7014	TDECU	Luke Truck, lies to G Vie letter/sch's dated 7/15/13	Survivor	5,443.22	22,361.60
Check	5/27/2011	7016	The Victoria Col	Luke college -in lieu of Anita Trustee fee per G Vie letter	Survivor	461.00	22,822.60
Check	6/2/2011	EFT	Iowa 529	Kt college - Ach DES:Contribution ID:0000	Survivor	500.00	23,322.60
Check	6/30/2011	EFT	Am-Honda	For Katie DES:PMT ID:000001032223 lies to G Vie letter/sch's ...	Survivor	6,750.51	29,073.11
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 lies 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	2,384.34	35,939.20
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	lies 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	8/8/2011	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	Netva	125.00	52,040.61
Check	9/8/2011	EFT	Candace Curtis	to chk 2839	Netva	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:118...	Survivor	2,390.35	59,748.32
Check	10/5/2011	EFT	Candace Curtis	to chk 2839	Netva	500.00	60,248.32
Check	10/18/2011	356	Netva Brunsting	Cash	Netva	50.00	60,298.32
Check	10/18/2011	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	Yehs Bankd Boosters	Katy band	Survivor	280.00	62,611.62
Check	10/28/2011	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	Luka Riley	Luka 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 Tachimart	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	4/18/2012	122	Candace Curtis	Remainder of Life Ins Trust - Other Income	Survivor	60.00	99,931.04
Check	4/18/2012	123	Carl Brunsting	Remainder of Life Ins Trust	Survivor	60.00	99,991.04
Check	4/18/2012	124	Amy Brunsting	Remainder of Life Ins Trust - Other Inc	Survivor	60.00	100,051.04
Check	4/18/2012	125	Carole Brunsting	Remainder of Life Ins Trust - Other Inc	Survivor	60.00	100,111.04
Check	4/18/2012	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	1,583.50	101,739.19
Check	4/25/2012	131	Anita Brunsting	Legal fees Reimbursement for Retainer to Chip Mathews	Survivor	5,000.00	106,739.19
Check	4/25/2012	130	Anita Brunsting	Reimbursement for UPS to mail boxes to S Mills	Survivor	102.11	106,841.30
Check	5/18/2012	101	Anita Brunsting	Reimbursement for 1/2 farm tax	Elmer	1,678.43	108,500.73
Check	7/18/2012	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
<b>Total Checks/Cash to Family Members</b>						<b>108,924.91</b>	<b>108,924.91</b>
<b>Dues and Subscriptions</b>							
Check	3/15/2011	154	Birds and Blooms		Netva	10.00	10.00
Check	4/25/2011	187	Doon Press		Netva	26.50	36.50
Check	8/17/2011	294	Houston Chronicle		Netva	138.00	174.50
Check	8/18/2011	292	Time Magazine		Netva	20.00	194.50
Check	9/21/2011	322	Iowa Outdoors		Netva	15.00	209.50
Check	9/10/2012	137	Houston Chronicle	final payment - subscription	Survivor	68.97	278.47
<b>Total Dues and Subscriptions</b>						<b>278.47</b>	<b>278.47</b>
<b>Food/Dining/Groceries</b>							
Check	12/21/2010	6848	Randalls		Netva	60.51	60.51
Check	1/10/2011	EFT	Randalls	01/09 #000555055	Netva	234.97	295.48
Check	1/18/2011	EFT	Kroger		Netva	32.33	327.81
Check	1/24/2011	EFT	Randalls	01/23 #000635058	Netva	35.89	363.70
Check	1/24/2011	EFT	Chick-fil-a #0103	Dining	Netva	3.29	366.99
Check	1/31/2011	EFT	Randalls		Netva	51.87	418.86
Check	1/31/2011	EFT	Randalls		Netva	47.24	466.10
Check	1/31/2011	EFT	Chick-fil-a #0103	Dining	Netva	3.29	469.39
Check	2/7/2011	EFT	Randalls		Netva	71.64	541.03
Check	2/14/2011	EFT	Randalls		Netva	23.68	564.71
Check	2/14/2011	EFT	Randalls		Netva	76.92	641.63
Check	2/18/2011	EFT	Kroger		Netva	27.33	668.96
Check	2/22/2011	EFT	Subway	Dining	Netva	3.25	672.21
Check	2/22/2011	EFT	Chick-fil-a #0103	Dining	Netva	5.83	678.04
Check	2/22/2011	EFT	Randalls		Netva	47.02	725.06
Check	2/22/2011	EFT	Wal-Mart		Netva	48.27	773.33
Check	2/22/2011	EFT	Randalls		Netva	8.68	780.01
Check	2/22/2011	EFT	Walgreens		Netva	28.12	808.13
Check	2/24/2011	EFT	Randalls		Netva	24.39	832.52
Check	3/7/2011	EFT	Randalls		Netva	24.30	856.82
Check	3/7/2011	EFT	Chick-fil-a #0103		Netva	3.29	860.11
Check	3/7/2011	EFT	Randalls		Netva	9.77	869.88
Check	3/7/2011	eft	Wal-Mart		Netva	11.89	881.77
General Journal	3/7/2011	EJ20120461		DEBIT 1943	Netva	-6.48	875.29
Check	3/8/2011	eft	Subway		Netva	3.25	878.54
Check	3/14/2011	EFT	Randalls		Netva	29.21	907.75
Check	3/14/2011	EFT	Chick-fil-a #0103	Dining	Netva	14.16	921.91
Check	3/14/2011	EFT	Randalls		Netva	13.23	935.14
Check	3/14/2011	EFT	Taco Cabana	Dining	Netva	6.48	941.62
Check	3/14/2011	EFT	Chick-fil-a #0103	Dining	Netva	3.29	944.91
Check	3/14/2011	EFT	Chick-fil-a #0103	Dining	Netva	1.83	946.74
Check	3/14/2011	EEFT	Taco Cabana	Dining	Netva	8.63	955.37
Check	3/16/2011	EFT	Randalls		Netva	60.94	1,016.31
Check	3/16/2011	EFT	Randalls		Netva	12.44	1,028.75
Check	3/18/2011	EFT	Randalls		Netva	69.77	1,098.52
Check	3/21/2011	EFT	Taco Cabana	Dining	Netva	22.68	1,121.20
Check	3/21/2011	EFT	Taco Cabana	Dining	Netva	23.77	1,144.97
Check	3/21/2011	EFT	Wal-Mart		Netva	114.67	1,259.64
Check	3/21/2011	EFT	Randalls		Netva	16.37	1,276.01

## 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		Neiva	13.11	1,291.12
Check	3/28/2011	EFT	Randalls		Neiva	36.05	1,327.17
Check	3/29/2011	EFT	Subway	Dining	Neiva	4.33	1,331.50
Check	3/30/2011	EFT	Randalls		Neiva	8.65	1,340.35
Check	4/4/2011	EFT	Wal-Mart		Neiva	37.28	1,377.63
Check	4/4/2011	EFT	Randalls		Neiva	34.54	1,412.17
Check	4/4/2011	EFT	Randalls		Neiva	52.52	1,464.69
Check	4/5/2011	EFT	Subway	Dining	Neiva	3.25	1,467.94
Check	4/6/2011	EFT	Randalls		Neiva	34.97	1,502.91
Check	4/8/2011	EFT	Randalls		Neiva	15.87	1,518.78
Check	4/11/2011	EFT	Subway	Dining	Neiva	3.79	1,522.57
Check	4/11/2011	EFT	Chick-til-a #0103	Dining	Neiva	1.83	1,524.40
Check	4/11/2011	EFT	Chick-til-a #0103	Dining	Neiva	1.83	1,526.23
Check	4/11/2011	EFT	Randalls		Neiva	16.56	1,542.79
Check	4/11/2011	EFT	Randalls		Neiva	51.94	1,594.73
Check	4/12/2011	EFT	Subway	Dining	Neiva	3.25	1,597.98
Check	4/12/2011	EFT	Randalls		Neiva	34.69	1,632.67
Check	4/13/2011	EFT	Randalls		Neiva	67.04	1,699.71
Check	4/14/2011	EFT	Randalls		Neiva	24.03	1,723.74
Check	4/15/2011	EFT	Chick-til-a #0103	Dining	Neiva	10.25	1,733.99
Check	4/18/2011	EFT	Randalls		Neiva	26.45	1,760.44
Check	4/18/2011	EFT	Randalls		Neiva	23.16	1,783.60
Check	4/18/2011	EFT	Randalls		Neiva	17.30	1,800.90
Check	4/22/2011	EFT	Randalls		Neiva	57.60	1,858.50
Check	4/25/2011	EFT	Subway	Dining	Neiva	3.79	1,862.29
Check	4/25/2011	EFT	Subway	Dining	Neiva	3.79	1,866.08
Check	4/25/2011	EFT	Taco Cebana	Dining	Neiva	22.68	1,888.76
Check	4/25/2011	EFT	Randalls		Neiva	86.07	1,974.83
Check	5/2/2011	EFT	Randalls		Neiva	140.07	2,114.90
Check	5/3/2011	EFT	Randalls		Neiva	36.75	2,151.65
Check	5/6/2011	EFT	Randalls		Neiva	17.30	2,168.95
Check	5/9/2011	EFT	Randalls		Neiva	33.74	2,202.69
Check	5/9/2011	EFT	Randalls		Neiva	55.52	2,258.21
Check	5/11/2011	EFT	Randalls		Neiva	10.39	2,268.60
Check	5/16/2011	EFT	Chick-til-a #0103	Dining	Neiva	3.29	2,271.89
Check	5/18/2011	EFT	Chick-til-a #0103	Dining	Neiva	3.29	2,275.18
Check	5/18/2011	EFT	Randalls		Neiva	42.56	2,317.74
Check	5/20/2011	EFT	Randalls		Neiva	21.87	2,339.61
Check	5/23/2011	EFT	Randalls		Neiva	57.35	2,396.96
Check	5/25/2011	EFT	Randalls	Dining	Neiva	43.52	2,440.48
Check	5/31/2011	EFT	Randalls		Neiva	31.71	2,472.19
Check	6/3/2011	EFT	Randalls		Neiva	23.46	2,495.65
Check	6/6/2011	EFT	Kroger		Neiva	32.17	2,527.82
Check	6/6/2011	EFT	Randalls		Neiva	23.97	2,551.79
Check	6/8/2011	EFT	Randalls		Neiva	20.00	2,571.79
Check	6/8/2011	EFT	Fastop	Dining	Neiva	4.25	2,576.04
Check	6/13/2011	EFT	McDonald's	Dining	Neiva	13.48	2,589.50
Check	6/13/2011	EFT	Kroger		Neiva	3.05	2,592.55
Check	6/13/2011	EFT	Randalls		Neiva	43.77	2,636.32
Check	6/13/2011	EFT	Randalls		Neiva	54.05	2,690.37
Check	6/14/2011	EFT	McDonald's	Dining	Neiva	2.17	2,692.54
Check	6/20/2011	EFT	Randalls		Neiva	24.19	2,716.73
Check	6/24/2011	EFT	Randalls		Neiva	41.68	2,758.41
Check	6/28/2011	EFT	Randalls		Neiva	50.83	2,809.24
Check	7/1/2011	EFT	Randalls		Neiva	18.92	2,828.16
Check	7/5/2011	EFT	Randalls		Neiva	25.61	2,853.77
Check	7/5/2011	EFT	Randalls		Neiva	34.05	2,887.82
Check	7/8/2011	EFT	Chick-til-a #0103	Dining	Neiva	5.13	2,892.95
Check	7/8/2011	EFT	Randalls		Neiva	46.61	2,939.56
Check	7/11/2011	EFT	Randalls		Neiva	52.99	2,992.55
Check	7/11/2011	EFT	McDonald's	Dining	Neiva	2.48	2,995.03
Check	7/11/2011	EFT	Randalls		Neiva	29.80	3,024.83
Check	7/18/2011	EFT	Randalls		Neiva	35.41	3,060.24
Check	7/18/2011	EFT	Randalls		Neiva	25.14	3,085.38
Check	7/18/2011	EFT	Wal-Mart		Neiva	280.73	3,366.11
Check	7/21/2011	EFT	Randalls		Neiva	45.34	3,391.45
Check	7/25/2011	EFT	Randalls		Neiva	43.38	3,434.83
Check	7/25/2011	EFT	Randalls		Neiva	60.57	3,495.40
Check	7/25/2011	EFT	Kotache Factory	Dining	Neiva	3.76	3,499.16
Check	7/28/2011	EFT	Randalls		Neiva	31.23	3,530.39
Check	7/28/2011	EFT	Randalls		Neiva	26.20	3,556.59
Check	7/29/2011	EFT	Chick-til-a #0103	Dining	Neiva	1.83	3,558.42
Check	8/1/2011	EFT	Randalls		Neiva	47.94	3,606.36
Check	8/1/2011	EFT	Walgreens		Neiva	20.99	3,627.35
Check	8/1/2011	EFT	Chick-til-a #0103	Dining	Neiva	3.29	3,630.64
Check	8/2/2011	EFT	Randalls		Neiva	29.74	3,660.38
Check	8/4/2011	EFT	McDonald's	Dining	Neiva	2.17	3,662.55
Check	8/5/2011	EFT	Randalls		Neiva	24.92	3,687.47
Check	8/8/2011	EFT	Randalls		Neiva	30.29	3,717.76
Check	8/8/2011	EFT	Randalls	08/06	Neiva	57.90	3,775.66
Check	8/10/2011	EFT	Randalls		Neiva	21.78	3,797.42
Check	8/15/2011	EFT	Randalls		Neiva	58.34	3,855.76
Check	8/15/2011	EFT	Randalls		Neiva	46.75	3,902.51
Check	8/17/2011	EFT	HEB		Neiva	34.39	3,936.90
Check	8/17/2011	EFT	HEB		Neiva	19.77	3,956.67
Check	8/22/2011	EFT	Randalls		Neiva	39.52	3,996.19
Check	8/22/2011	EFT	Randalls		Neiva	44.98	4,041.16
Check	8/24/2011	EFT	Randalls		Neiva	44.36	4,085.54

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**Brunsting Family Living Trust**  
**Detail of Accounts**  
 12/21/2010-05/31/2013

Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	8/24/2011	EFT	Randalls		Netva	28.74	4,114.28
Check	8/25/2011	EFT	Randalls		Netva	18.33	4,132.81
Check	8/29/2011	EFT	Randalls		Netva	36.15	4,168.76
Check	9/2/2011	EFT	Randalls		Netva	21.71	4,190.47
Check	9/6/2011	EFT	Randalls		Netva	33.12	4,223.59
Check	9/6/2011	EFT	Chick-fil-a #0103	Dining	Netva	3.29	4,226.88
Check	9/6/2011	EFT	Randalls		Netva	68.27	4,295.15
Check	9/7/2011	EFT	Randalls		Netva	50.29	4,345.44
Check	9/8/2011	EFT	Randalls		Netva	14.60	4,360.04
Check	9/9/2011	EFT	Chick-fil-a #0103		Netva	3.29	4,363.33
Check	9/12/2011	EFT	Randalls		Netva	92.24	4,455.57
Check	9/12/2011	EFT	Randalls		Netva	20.00	4,475.57
Check	9/19/2011	EFT	Randalls		Netva	42.84	4,518.41
Check	9/23/2011	EFT	Walgreens		Netva	11.99	4,530.40
Check	9/28/2011	EFT	Wal-Mart		Netva	133.75	4,664.15
Check	9/28/2011	EFT	Randalls		Netva	23.57	4,687.72
Check	9/28/2011	EFT	Randalls		Netva	14.06	4,701.78
Check	9/28/2011	EFT	Randalls		Netva	18.90	4,720.68
Check	9/30/2011	EFT	Randalls		Netva	28.77	4,749.45
Check	9/30/2011	EFT	Randalls		Netva	19.08	4,768.51
Check	10/3/2011	EFT	Wal-Mart		Netva	55.92	4,824.43
Check	10/3/2011	EFT	Randalls		Netva	32.16	4,856.59
Check	10/3/2011	EFT	HEB		Netva	20.75	4,877.34
Check	10/3/2011	EFT	Randalls		Netva	8.95	4,886.29
Check	10/4/2011	EFT	Randalls		Netva	38.92	4,925.21
Check	10/7/2011	EFT	Randalls		Netva	39.04	4,964.25
Check	10/11/2011	EFT	Chick-fil-a #0103	Dining	Netva	3.29	4,967.54
Check	10/11/2011	EFT	Randalls		Netva	26.50	4,994.04
Check	10/11/2011	EFT	Randalls		Netva	14.06	5,008.10
Check	10/12/2011	ET	Randalls		Netva	25.47	5,033.57
Check	10/17/2011	EFT	Randalls		Netva	65.96	5,099.53
Check	10/17/2011	EFT	Randalls		Netva	45.32	5,144.85
Check	10/17/2011	EFT	Randalls		Netva	28.88	5,173.83
Check	10/17/2011	EFT	Randalls		Netva	28.05	5,201.88
Check	10/17/2011	EFT	Randalls		Netva	17.30	5,219.18
Check	10/17/2011	EFT	McDonald's	Dining	Netva	6.28	5,225.44
Check	10/19/2011	EFT	Randalls		Netva	27.71	5,253.15
Check	10/20/2011	EFT	Chick-fil-a #0103	dINING	Netva	3.29	5,256.44
Check	10/21/2011	eft	Randalls		Netva	7.81	5,264.05
Check	10/21/2011	eft	Chick-fil-a #0103	dINING	Netva	3.29	5,267.34
Check	10/24/2011	EFT	Randalls		Netva	41.88	5,309.22
Check	10/24/2011	eft	Chick-fil-a #0103	dINING	Netva	3.29	5,312.51
Check	10/25/2011	eft	Randalls		Netva	52.17	5,364.68
Check	10/26/2011	eft	Randalls		Netva	42.23	5,406.91
Check	10/26/2011	EFT	Subway	Dining	Netva	14.70	5,421.61
Check	10/31/2011	EFT	Randalls		Netva	94.10	5,515.71
Check	10/31/2011	EFT	Randalls		Netva	20.33	5,536.04
Check	10/31/2011	EFT	Randalls		Netva	6.90	5,542.94
Check	11/1/2011	EFT	Randalls		Netva	33.16	5,576.10
Check	11/2/2011	EFT	Randalls	Fuel	Netva	25.78	5,601.88
Check	11/4/2011	EFT	Randalls		Netva	10.00	5,611.88
Check	11/4/2011	EFT	Randalls		Netva	53.01	5,664.89
Check	11/7/2011	EFT	Au Bon Pain-memo	Dining	Netva	3.94	5,668.83
Check	11/7/2011	EFT	Chick-fil-a #0103	Dining	Netva	3.29	5,672.12
Check	11/7/2011	EFT	McDonald's	Dining	Netva	1.08	5,673.20
Check	11/7/2011	EFT	Randalls		Netva	33.51	5,706.71
Check	11/7/2011	EFT	Randalls		Netva	34.35	5,741.06
Check	11/8/2011	EFT	Randalls		Netva	17.84	5,758.90
Check	11/8/2011	EFT	McDonald's	Dining	Netva	8.70	5,767.60
Check	11/8/2011	EFT	Randalls		Netva	48.45	5,814.05
Check	11/9/2011	EFT	HEB		Netva	43.40	5,857.45
Check	11/14/2011	eft	Randalls		Netva	32.71	5,890.16
Check	11/14/2011	eft	Randalls		Netva	30.92	5,921.08
Check	11/14/2011	eft	Randalls		Netva	22.41	5,943.49
Check	11/14/2011	EFT	McDonald's	Dining	Netva	8.60	5,952.09
Check	11/14/2011	EFT	Chick-fil-a #0103	Dining	Netva	3.29	5,955.38
Check	11/14/2011	EFT	Chick-fil-a #0103	Dining	Netva	3.29	5,958.67
<b>Total Food/Dining/Groceries</b>						<b>5,958.67</b>	<b>5,958.67</b>
<b>Funeral</b>							
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
<b>Total Funeral</b>						<b>3,556.29</b>	<b>3,556.29</b>
<b>Household</b>							
Check	1/20/2011	111	Mrs. Gutierrez	Cleaning	Netva	70.00	70.00
Check	2/11/2011	125	Mrs. Gutierrez	Cleaning	Netva	70.00	140.00
Check	2/18/2011	161	Mrs. Gutierrez	Cleaning	Netva	70.00	210.00
Check	2/22/2011	EFT	Southwest Fertilizer		Netva	8.73	218.73
Check	2/28/2011	EFT	Southwest Fertilizer		Netva	59.73	278.46
Check	2/28/2011	EFT	Radio Shack		Netva	94.13	372.59
Check	3/1/2011	EFT	Home Depot		Netva	20.55	393.14
Check	3/25/2011	169	Mrs. Gutierrez	Cleaning	Netva	70.00	463.14
Check	3/28/2011	EFT	Southwest Fertilizer		Netva	13.39	476.53
Check	4/8/2011	EFT	Southwest Fertilizer		Netva	8.73	485.26
Check	4/8/2011	179	Mrs. Gutierrez	Cleaning	Netva	70.00	555.26

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**Brunsting Family Living Trust**  
**Detail of Accounts**  
12/21/2010-05/31/2013

Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	4/18/2011	EFT	Sou The Home	04/16 #000457501	Neiva	22.83	579.09
Check	4/25/2011	196	Mrs. Gutierrez	Cleaning	Neiva	70.00	649.09
Check	5/3/2011	EFT	Southwest Fertilizer		Neiva	21.98	671.07
Check	5/9/2011	210	Mrs. Gutierrez	Cleaning	Neiva	70.00	741.07
Check	5/23/2011	221	Mrs. Gutierrez	Cleaning	Neiva	70.00	811.07
Check	6/3/2011	237	Mrs. Gutierrez	Cleaning	Neiva	70.00	881.07
Check	6/27/2011	EFT	Sou The Home		Neiva	181.36	1,042.43
Check	7/26/2011	EFT	Southwest Fertilizer	Garden	Neiva	25.88	1,068.31
Check	8/11/2011	300	Maria Vaquera	Cleaning	Neiva	50.00	1,118.31
Check	9/13/2011	EFT	Southwest Fertilizer	Garden	Neiva	18.89	1,137.20
Check	9/26/2011	336	Maria Vaquera	Cleaning	Neiva	50.00	1,187.20
Check	10/6/2011	345	Maria Vaquera	Cleaning	Neiva	50.00	1,237.20
<b>Total Household</b>						<b>1,237.20</b>	<b>1,237.20</b>
<b>Insurance Expense</b>							
Check	1/5/2011	EFT	State Farm Insurance		Survivor	299.83	299.83
Check	2/2/2011	EFT	State Farm Insurance	PPD	Survivor	299.83	599.86
Check	3/2/2011	EFT	State Farm Insurance	PPD	Survivor	299.83	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	300.82	1,501.77
Check	6/2/2011	EFT	State Farm Insurance	PPD	Survivor	300.82	1,802.39
Check	7/6/2011	EFT	State Farm Insurance	PPD	Survivor	300.82	2,103.01
Check	8/2/2011	EFT	State Farm Insurance		Survivor	300.82	2,403.83
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
<b>Total Insurance Expense</b>						<b>4,737.88</b>	<b>4,737.88</b>
<b>Lawn Care</b>							
Check	2/14/2011	133	Mr. Phan Chan	Household	Neiva	100.00	100.00
Check	3/11/2011	157	Mr. Phan Chan	Household	Neiva	100.00	200.00
Check	3/21/2011	160	Nicolas	Yard work	Neiva	52.00	252.00
Check	4/15/2011	190	Mr. Phan Chan	mowing	Neiva	100.00	352.00
Check	5/20/2011	222	Mr. Phan Chan	mowing	Neiva	100.00	452.00
Check	5/24/2011	226	Fernando	yard work Home repair	Neiva	35.00	487.00
Check	6/27/2011	255	Mr. Phan Chan	mowing	Neiva	125.00	612.00
Check	7/25/2011	280	Mr. Phan Chan	mowing	Neiva	125.00	737.00
Check	8/23/2011	337	Mr. Phan Chan	Household	Neiva	225.00	962.00
Check	10/21/2011	361	Mr. Phan Chan	Household	Neiva	100.00	1,062.00
Check	12/23/2011	105	Mr. Phan Chan	13630 Pinerock	Survivor	200.00	1,262.00
<b>Total Lawn Care</b>						<b>1,262.00</b>	<b>1,262.00</b>
<b>Legal Fees</b>							
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	1,029.80	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		Survivor	10,000.00	46,312.44
General Journal	5/31/2013	EJ20120434		George via Candy's suit From Mills Shirley - Reimbursement	Survivor	-10,000.00	36,312.44
<b>Total Legal Fees</b>						<b>36,312.44</b>	<b>36,312.44</b>
<b>Medical Expenses</b>							
<b>In Home Care</b>							
Check	12/29/2010	6851	Tino	Faustino Vaquera, Jr	Neiva	1,245.00	1,245.00
Check	12/29/2010	6852	Michael Brooks		Neiva	855.00	2,100.00
Check	1/4/2011	6853	Robert Cantu		Survivor	738.00	2,838.00
Check	1/7/2011	91	Michael Brooks		Neiva	585.00	3,421.00
Check	1/10/2011	92	Tino		Neiva	1,413.14	4,834.14
Check	1/11/2011	93	Robert Cantu		Neiva	805.00	5,639.14
Check	1/13/2011	102	Michael Brooks		Neiva	585.00	6,024.14
Check	1/18/2011	101	Tino		Neiva	1,065.00	7,089.14
Check	1/18/2011	110	Robert Cantu		Neiva	810.00	7,899.14
General Journal	1/19/2011	EJ20120455		Return of Posted Check / Item (Robert Cantu)	Neiva	-810.00	7,089.14
Check	1/21/2011	112	Tino		Neiva	1,619.00	8,708.14
Check	1/21/2011	113	Robert Cantu		Neiva	888.00	9,596.14
Check	1/24/2011	114	Robert Cantu		Neiva	1,083.91	10,680.05
Check	1/27/2011	116	Tino		Neiva	908.55	11,588.60
Check	1/28/2011	120	Robert Cantu		Neiva	858.93	12,447.53
Check	2/1/2011	121	Tino		Neiva	1,248.00	13,695.53
Check	2/1/2011	144	Robert Cantu		Neiva	801.80	14,497.33
Check	2/2/2011	122	Robert Cantu		Neiva	460.00	14,957.33
Check	2/4/2011	124	Tino		Neiva	842.00	15,799.33
Check	2/7/2011	126	Robert Cantu		Neiva	807.00	16,606.33
Check	2/11/2011	130	Tino		Neiva	1,186.00	17,792.33
Check	2/11/2011	131	Robert Cantu		Neiva	637.41	18,429.74
Check	2/14/2011	135	Robert Cantu		Neiva	430.00	18,859.74

**Brunsting Family Living Trust  
Detail of Accounts**

12/21/2010-05/31/2013

Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	2/17/2011	138	Tino		Neiva	1,454.42	20,291.16
Check	2/18/2011	136	Robert Cantu		Neiva	771.23	21,062.39
Check	2/22/2011	162	Tino		Neiva	1,067.57	22,129.96
Check	2/25/2011	141	Tino		Neiva	826.72	22,956.68
Check	2/25/2011	143	Robert Cantu		Neiva	510.00	23,466.68
Check	3/4/2011	146	Robert Cantu		Neiva	538.68	24,005.36
Check	3/7/2011	148	Tino		Neiva	1,704.19	25,709.55
Check	3/10/2011	165	Michael Brooks		Neiva	285.00	25,994.55
Check	3/10/2011	156	Robert Cantu		Neiva	1,045.67	27,040.22
Check	3/14/2011	158	Tino		Neiva	1,253.02	28,293.24
Check	3/16/2011	159	Michael Brooks		Neiva	55.00	28,348.24
Check	3/18/2011	163	Robert Cantu		Neiva	289.78	28,638.02
Check	3/21/2011	164	Tino		Neiva	1,248.70	29,886.72
Check	3/21/2011	185	Michael Brooks		Neiva	367.50	30,254.22
Check	3/21/2011	166	Robert Cantu		Neiva	380.00	30,614.22
Check	3/23/2011	187	Michael Brooks		Neiva	67.50	30,681.72
Check	3/24/2011	168	Robert Cantu		Neiva	490.86	31,172.58
Check	3/24/2011	170	Tino		Neiva	50.00	31,222.58
Check	3/25/2011	172	Tino		Neiva	1,836.77	32,859.35
Check	3/28/2011	173	Michael Brooks		Neiva	65.00	32,824.35
Check	3/28/2011	174	Robert Cantu		Neiva	701.91	33,826.26
Check	4/1/2011	175	Tino		Neiva	1,689.00	35,315.26
Check	4/4/2011	177	Robert Cantu		Neiva	1,303.48	36,618.74
Check	4/7/2011	178	Michael Brooks		Neiva	184.00	36,802.74
Check	4/8/2011	180	Tino		Neiva	1,475.00	38,277.74
Check	4/11/2011	181	Robert Cantu		Neiva	1,042.10	39,319.84
Check	4/13/2011	185	Michael Brooks		Neiva	75.00	39,394.84
Check	4/15/2011	189	Michael Brooks		Neiva	91.00	39,485.84
Check	4/15/2011	191	Tino		Neiva	1,704.81	41,190.65
Check	4/18/2011	192	Michael Brooks		Neiva	195.00	41,385.65
Check	4/19/2011	194	Michael Brooks		Neiva	216.50	41,602.15
Check	4/20/2011	195	Michael Brooks		Neiva	75.00	41,677.15
Check	4/22/2011	197	Michael Brooks		Neiva	202.00	41,879.15
Check	4/22/2011	198	Tino		Neiva	2,156.83	44,035.98
Check	4/25/2011	199	Robert Cantu		Neiva	215.00	44,250.98
Check	4/25/2011	200	Michael Brooks		Neiva	300.00	44,550.98
Check	4/26/2011	202	Shirleka Hughes		Neiva	1,080.00	45,630.98
Check	4/27/2011	203	Michael Brooks		Neiva	60.00	45,690.98
Check	4/29/2011	204	Robert Cantu		Neiva	645.00	46,335.98
Check	4/29/2011	205	Michael Brooks		Neiva	90.00	46,425.98
Check	5/3/2011	208	Robert Cantu		Neiva	202.50	46,628.48
Check	5/4/2011	207	Tino		Neiva	1,721.11	48,349.59
Check	5/4/2011	209	Michael Brooks		Neiva	270.00	48,619.59
Check	5/6/2011	211	Tino		Neiva	743.00	49,362.59
Check	5/6/2011	212	Michael Brooks		Neiva	67.50	49,430.09
Check	5/6/2011	213	Robert Cantu		Neiva	225.00	49,655.09
Check	5/9/2011	214	Robert Cantu		Neiva	902.30	50,557.39
Check	5/9/2011	215	Michael Brooks		Neiva	202.00	50,759.39
Check	5/12/2011	216	Michael Brooks		Neiva	45.00	50,804.39
Check	5/13/2011	217	Tino		Neiva	1,320.53	52,124.92
Check	5/13/2011	218	Robert Cantu		Neiva	255.00	52,379.92
Check	5/16/2011	219	Robert Cantu		Neiva	868.81	53,248.73
Check	5/16/2011	220	Michael Brooks		Neiva	217.50	53,466.23
Check	5/20/2011	223	Tino		Neiva	1,483.53	54,949.76
Check	5/23/2011	227	Robert Cantu		Neiva	1,026.00	55,975.76
Check	5/23/2011	228	Michael Brooks		Neiva	207.00	56,182.76
Check	5/25/2011	229	Michael Brooks		Neiva	219.50	56,402.26
Check	5/25/2011	231	Michael Brooks		Neiva	227.50	56,629.76
Check	5/27/2011	232	Tino		Neiva	1,621.50	58,251.26
Check	5/31/2011	235	Robert Cantu		Neiva	796.88	59,048.12
Check	5/31/2011	236	Katrina Harper		Neiva	360.00	59,408.12
Check	6/3/2011	239	Tino		Neiva	1,215.36	60,623.48
Check	6/7/2011	241	Robert Cantu		Neiva	1,115.00	61,738.48
Check	6/7/2011	242	Katrina Harper		Neiva	360.00	62,098.48
Check	6/10/2011	243	Tino		Neiva	1,110.00	63,208.48
Check	6/13/2011	244	Robert Cantu		Neiva	720.00	63,928.48
Check	6/13/2011	246	Katrina Harper		Neiva	600.00	64,528.48
Check	6/16/2011	247	Daisy Harper		Neiva	720.00	65,248.48
Check	6/17/2011	248	Robert Cantu		Neiva	930.00	66,178.48
Check	6/20/2011	250	Katrina Harper		Neiva	670.00	67,048.48
Check	6/21/2011	249	Daisy Harper		Neiva	40.00	67,088.48
Check	6/22/2011	252	Cameo Caregivers		Neiva	68.00	67,156.48
Check	6/23/2011	256	Tino		Neiva	1,170.00	68,326.48
Check	6/27/2011	257	Robert Cantu		Neiva	926.19	69,252.67
Check	6/27/2011	258	Katrina Harper		Neiva	360.00	69,612.67
Check	6/29/2011	259	Tino		Neiva	1,121.63	70,734.32
Check	7/1/2011	263	Robert Cantu		Neiva	930.00	71,664.32
Check	7/5/2011	265	Katrina Harper		Neiva	450.00	72,114.32
Check	7/5/2011	266	Robert Cantu		Neiva	60.00	72,174.32
Check	7/7/2011	269	Tino		Neiva	1,166.70	73,341.02
Check	7/8/2011	270	Robert Cantu		Neiva	915.00	74,256.02
Check	7/11/2011	271	Katrina Harper		Neiva	465.00	74,721.02
Check	7/15/2011	273	Robert Cantu		Neiva	720.00	75,441.02
Check	7/16/2011	274	Katrina Harper		Neiva	873.50	76,314.52
Check	7/21/2011	275	Tino		Neiva	1,172.66	77,487.18
Check	7/21/2011	276	Tino		Neiva	100.00	77,587.18
Check	7/22/2011	272	Tino		Neiva	1,300.06	78,887.24
Check	7/22/2011	278	Robert Cantu		Neiva	165.00	79,052.24

**Brunsting Family Living Trust**  
**Detail of Accounts**  
 12/21/2010-05/31/2013

Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	7/22/2011	279	Katrina Harper		Neiva	465.00	79,317.24
Check	7/25/2011	277	Daisy Harper		Neiva	60.00	79,377.24
Check	7/25/2011	281	Robert Cantu		Neiva	765.00	80,142.24
Check	7/28/2011	282	Tino		Neiva	705.00	80,847.24
Check	8/1/2011	283	Robert Cantu		Neiva	1,018.00	81,865.24
Check	8/1/2011	284	Katrina Harper		Neiva	1,062.47	82,927.71
Check	8/4/2011	288	Tino		Neiva	907.50	83,835.21
Check	8/8/2011	289	Robert Cantu		Neiva	930.00	84,765.21
Check	8/9/2011	290	Katrina Harper		Neiva	465.00	85,230.21
Check	8/11/2011	291	Tino		Neiva	1,125.00	86,355.21
Check	8/15/2011	301	Robert Cantu		Neiva	946.00	87,301.21
Check	8/15/2011	302	Katrina Harper		Neiva	450.00	87,751.21
Check	8/18/2011	303	Tino		Neiva	1,146.83	88,898.04
Check	8/19/2011	304	Robert Cantu		Neiva	172.50	89,070.54
Check	8/19/2011	306	Katrina Harper		Neiva	459.50	89,530.04
Check	8/22/2011	308	Robert Cantu		Neiva	735.00	90,265.04
Check	8/24/2011	309	Tino		Neiva	1,110.00	91,375.04
Check	8/29/2011	311	Robert Cantu		Neiva	1,004.00	92,379.04
Check	8/30/2011	312	Katrina Harper		Neiva	517.50	92,896.54
Check	8/1/2011	313	Tino		Neiva	1,162.50	94,059.04
Check	9/5/2011	314	Katrina Harper		Neiva	173.00	94,232.04
Check	9/8/2011	315	Robert Cantu		Neiva	750.00	94,982.04
Check	9/8/2011	316	Daisy Harper		Neiva	80.00	95,062.04
Check	9/8/2011	317	Katrina Harper		Neiva	440.00	95,502.04
Check	8/8/2011	318	Tino		Neiva	1,193.58	96,695.63
Check	9/12/2011	319	Robert Cantu		Neiva	750.00	97,445.63
Check	9/13/2011	328	Katrina Harper		Neiva	628.15	98,073.78
Check	9/15/2011	330	Tino		Neiva	1,034.67	99,108.45
Check	9/19/2011	332	Robert Cantu		Neiva	715.00	99,823.45
Check	9/20/2011	334	Katrina Harper		Neiva	578.00	100,399.45
Check	9/22/2011	335	Tino		Neiva	1,054.46	101,453.91
Check	9/26/2011	338	Robert Cantu		Neiva	784.86	102,238.77
Check	9/27/2011	339	Katrina Harper		Neiva	630.00	102,868.77
Check	9/29/2011	340	Tino		Neiva	810.29	103,679.06
Check	10/3/2011	341	Robert Cantu		Neiva	976.34	104,655.40
Check	10/4/2011	342	Katrina Harper		Neiva	578.57	105,233.97
Check	10/8/2011	344	Tino		Neiva	1,030.00	106,263.97
Check	10/7/2011	346	Robert Cantu		Neiva	165.00	106,428.97
Check	10/11/2011	348	Robert Cantu		Neiva	570.00	106,998.97
Check	10/11/2011	349	Katrina Harper		Neiva	581.86	107,576.83
Check	10/11/2011	350	Robert Cantu		Neiva	240.00	107,816.83
Check	10/14/2011	351	Robert Cantu		Neiva	515.00	108,333.63
Check	10/17/2011	352	Robert Cantu		Neiva	570.00	108,903.63
Check	10/18/2011	353	Katrina Harper		Neiva	985.00	109,888.63
Check	10/19/2011	357	Tino		Neiva	1,342.50	111,231.13
Check	10/21/2011	358	Katrina Harper		Neiva	165.00	111,396.13
Check	10/24/2011	363	Robert Cantu		Neiva	860.00	112,256.13
Check	10/25/2011	384	Katrina Harper		Neiva	370.00	112,626.13
Check	10/28/2011	365	Tino		Neiva	1,187.19	113,813.32
Check	10/31/2011	CHK	Unknown payee		Neiva	793.00	114,606.32
Check	10/31/2011	366	Katrina Harper		Neiva	165.00	114,771.32
Check	11/1/2011	375	Katrina Harper		Neiva	540.00	115,311.32
Check	11/4/2011	378	Tino		Neiva	1,235.29	116,546.61
Check	11/7/2011	377	Robert Cantu		Neiva	885.00	117,431.61
Check	11/8/2011	401	Katrina Harper		Neiva	360.00	117,791.61
Check	11/14/2011	431	Latoya Harper		Neiva	90.00	117,881.61
Check	11/14/2011	432	Katrina Harper		Neiva	810.00	118,691.61
Check	11/14/2011	433	Robert Cantu		Neiva	541.00	119,232.61
<b>Total In Home Care</b>						<b>119,232.61</b>	<b>119,232.61</b>
<b>Medical Supplies</b>							
Check	1/3/2011	6847	Medical Aids		Survivor	32.48	32.48
Check	1/19/2011	104	Duke Medical Equipm...		Neiva	2.54	35.02
Check	4/22/2011	184	Duke Medical Equipm...		Neiva	17.75	52.77
Check	7/7/2011	7023	Duke Medical Equipm...		Survivor	7.82	60.39
Check	7/7/2011	251	Duke Medical Equipm...	Supplies	Neiva	5.08	65.47
<b>Total Medical Supplies</b>						<b>65.47</b>	<b>65.47</b>
<b>Medical Expenses - Other</b>							
Check	1/10/2011	EFT	Walgreens	Food & Dining Groceries POS DEB 1943 01/03/11 00027165	Neiva	21.62	21.62
Check	1/18/2011	103	Memorial City Hermann		Neiva	220.00	241.62
Check	1/19/2011	105	Memorial Clinical Ass...	Doctor	Neiva	8.02	249.64
Check	1/19/2011	108	Radiology West	Doctor	Neiva	1.23	250.87
Check	1/20/2011	106	Memoria City Surgical...	Doctor	Neiva	39.74	290.61
Check	2/2/2011	118	Memorial Pathology C...	Doctor	Neiva	7.10	297.71
Check	2/7/2011	117	Rosewood Family Ph...	Doctor	Neiva	65.00	362.71
Check	2/8/2011	127	Scheicher Dental	Dentist	Neiva	106.00	468.71
Check	2/17/2011	134	Medical Chest Associ...	Doctor	Neiva	15.01	483.72
Check	3/8/2011	151	Memorial City Hermann		Neiva	181.58	665.30
Check	3/10/2011	150	Radiology West		Neiva	5.37	670.67
Check	3/14/2011	153	ACS Primary Care		Neiva	7.56	678.23
Check	4/18/2011	188	ACS Primary Care		Neiva	7.23	685.46
Check	4/19/2011	183	Medical Chest Associ...	Doctor	Neiva	19.52	704.98
Check	4/22/2011	193	Cardiologist Assoc of ...		Neiva	28.60	733.58
Check	6/23/2011	254	Memorial Clinical Ass...	Doctor	Neiva	5.76	739.34
Check	7/1/2011	250	Scheicher Dental	Dentist	Neiva	143.00	882.34
Check	7/6/2011	7024	Medical Chest Associ...	Medical: Doctor	Survivor	4.12	886.46
Check	8/5/2011	285	Dr. Achari	Doctor	Neiva	24.98	911.44

**Brunsting Family Living Trust  
Detail of Accounts**

12/21/2010-05/31/2013

Type	Date	Num	Name	Memo	Class	Amount	Balance
Check	8/15/2011	298	memorial Hermann M...				
Check	8/16/2011	299	ACS Primary Care		Neiva	13.47	923.91
Check	8/18/2011	297	Azmat Khan MDPA	Doctor	Neiva	7.23	931.14
Check	8/29/2011	310	Legends Pharmacy		Neiva	10.13	941.27
Check	9/13/2011	323	Dentax	Doctor	Neiva	42.00	983.27
Check	9/13/2011	324	Memorial City Hermann		Neiva	155.40	1,138.67
Check	9/16/2011	321	ACS Primary Care	Doctor	Neiva	25.00	1,163.67
Check	9/22/2011	327	Memorial City Hermann		Neiva	6.87	1,170.54
Check	9/28/2011	320	Dr. Khawaja	Doctor	Neiva	59.77	1,230.31
Check	10/18/2011	355	OC Pharmacy	Medicine	Neiva	28.04	1,258.35
Check	10/19/2011	354	Oncology Consultants	Doctor	Neiva	10.00	1,268.35
Check	11/7/2011	EFT	Mht Nutrit Svca H		Neiva	22.48	1,290.83
Check	11/10/2011	371	Dr. Achari	Doctor	Neiva	8.12	1,298.95
Check	11/10/2011	372	Northwoods Urology	Doctor	Neiva	29.30	1,328.25
Check	11/14/2011	374	Medical Chest Assoc...	Doctor	Neiva	84.97	1,413.22
Check	12/6/2011	7041	Justin Alexander	for kt - reimburse Medical	Survivor	34.42	1,447.64
Check	12/15/2011	103	Memorial City Hermann	Doctor	Survivor	40.00	1,487.64
Check	12/22/2011	107	Kelsey-Seybold Clinic	Doctor	Survivor	41.72	1,529.36
Check	12/22/2011	108	Memorial City Hermann	Doctor	Survivor	13.92	1,543.28
Check	12/22/2011	109	ACS Primary Care	Doctor	Survivor	226.40	1,769.68
Check	1/23/2012	113	Northwoods Urology	Doctor	Survivor	6.87	1,776.55
Check	2/24/2012	112	Dr. Annie Uralit	Doctor	Survivor	740.77	2,517.32
Check	4/16/2012	120	Houston Progressive ...	Doctor	Survivor	44.06	2,561.38
Check	4/16/2012	121	Medical Chest Assoc...	Doctor	Survivor	2.20	2,563.58
					Survivor	5.40	2,568.98
<b>Total Medical Expenses - Other</b>							
						2,568.98	2,568.98
<b>Total Medical Expenses</b>							
						121,867.06	121,867.06
<b>Miscellaneous Expenses</b>							
Check	1/18/2011	107	Hull Co-op	Misc	Neiva	238.50	238.50
Check	11/14/2011	WDRL	Withdrawal	NO INFORMATION GIVEN FOR THIS TRANSACTION AND BA...	Neiva	6,500.00	6,738.50
Check	11/14/2011	EFT	Houston Metro Ca	Misc	Neiva	15.22	6,753.72
<b>Total Miscellaneous Expenses</b>							
						6,753.72	6,753.72
<b>Office Supplies</b>							
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
<b>Total Office Supplies</b>							
						63.70	63.70
<b>Payments to Credit Cards</b>							
<b>Bank of America Credit Cards</b>							
Check	2/1/2011	EFT	Bank of America Cre...		Neiva	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...		Neiva	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	8,355.65	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
<b>Total Bank of America Credit Cards</b>							
						14,042.99	14,042.99
<b>Bluebonnet Credit Union Cred Cd</b>							
Check	1/18/2011	EFT	Bank of America Cre...	Payment	Neiva	725.00	725.00
General Journal	1/19/2011	EJ20120455		Return of Posted Check / Nam (R - BOA Cr Cd payment)	Neiva	-725.00	0.00
Check	1/21/2011	EFT	Bank of America Cre...	Payment	Neiva	725.00	725.00
Check	3/14/2011	152	Bluebonnet Credit Uni...	Credit card	Neiva	3,248.57	3,973.57
Check	3/15/2011	312	Cardmember Serv	Credit Card	Neiva	111.00	4,084.57
Check	5/26/2011	225	Bluebonnet Credit Uni...	Credit card	Neiva	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	Neiva	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
<b>Total Bluebonnet Credit Union Cred Cd</b>							
						11,986.96	11,986.96
<b>Total Payments to Credit Cards</b>							
						26,029.95	26,029.95
<b>Personal Care</b>							
Check	2/25/2011	139	Sivana	Hair	Neiva	52.00	52.00
Check	5/27/2011	230	Sivana	hair	Neiva	25.00	77.00
Check	6/13/2011	EFT	Target	Shopping-Clothing	Neiva	53.12	130.12
Check	6/13/2011	EFT	J C Penney	Shopping - Clothing	Neiva	125.93	256.05
Check	6/20/2011	EFT	J C Penney	Shopping - Clothing	Neiva	61.70	317.75
Check	6/20/2011	EFT	J C Penney	Shopping - Clothing	Neiva	251.94	569.69
General Journal	6/21/2011	EJ20120468		ATM - Target - Shopping - Clothing	Neiva	-53.12	516.57
Check	8/21/2011	EFT	Target	Shopping - Clothing	Neiva	30.84	547.41
General Journal	7/11/2011	EJ20120470		ATM JCPenney Shopping - Clothing	Neiva	-140.42	406.99
Check	7/11/2011	EFT	Stain Mart	Shopping - Clothing	Neiva	102.77	509.76
Check	7/11/2011	EFT	J C Penney	Shopping - Clothing	Neiva	80.05	589.81
Check	7/18/2011	EFT	J C Penney	Shopping - Clothing	Neiva	208.33	798.14
<b>Total Personal Care</b>							
						798.14	798.14
<b>Pet Care</b>							

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**Brunsting Family Living Trust  
Detail of Accounts**

12/21/2010-05/31/2013

Type	Date	Num	Name	Memo	Class	Amount	Balance
<b>Pet Food and Supplies</b>							
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
<b>Total Pet Food and Supplies</b>						69.68	69.68
<b>Veterinary Expenses</b>							
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	8/14/2011	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
<b>Total Veterinary Expenses</b>						1,976.24	1,976.24
<b>Total Pet Care</b>						2,045.92	2,045.92
<b>Postage</b>							
Check	3/21/2012	118	Postmaster	Estate tax info to Rich	Survivor	14.80	14.80
Check	4/18/2012	126	Postmaster	Mailing Cert Life Ins Checks	Survivor	12.60	27.40
Check	8/27/2012	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
<b>Total Postage</b>						78.15	78.15
<b>Professional Fees</b>							
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
<b>Total Professional Fees</b>						7,563.86	7,563.86
<b>Repairs and Maintenance</b>							
Check	8/13/2011	EFT	Sears	Home appliance repair	Nelva	134.93	134.93
Check	8/16/2011	285	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
<b>Total Repairs and Maintenance</b>						783.31	783.31
<b>Supplies</b>							
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
<b>Total Supplies</b>						29.83	29.83
<b>Taxes</b>							
<b>Taxes - Federal</b>							
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	7,995.00	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	6/8/2011	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	Tax:Fed	Elmer	23,906.00	53,416.00
<b>Total Taxes - Federal</b>						53,416.00	53,416.00
<b>Taxes - Property</b>							
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:zzzzzz	Nelva	385.23	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:ZZZZZZZ	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	1,583.40	9,811.99
<b>Total Taxes - Property</b>						9,811.99	9,811.99
<b>Taxes -State</b>							
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	7028	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
<b>Total Taxes -State</b>						4,793.00	4,793.00
<b>Total Taxes</b>						68,020.99	68,020.99
<b>Telephone Expense</b>							
Check	1/24/2011	EFT	Verizon		Nelva	106.42	106.42

**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, TX) 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	8/23/2011	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	88.00	4,447.01
Check	2/14/2012	EFT	AT&T	Bill (SBC-AR, KS, MO, OK, TX) B	Survivor	72.16	4,519.17
<b>Total Telephone Expense</b>						<b>4,519.17</b>	<b>4,519.17</b>
<b>Utilities</b>							
<b>Cable TV</b>							
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
<b>Total Cable TV</b>						<b>776.41</b>	<b>776.41</b>
<b>Electricity</b>							
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	174.81	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	165.12	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	160.88	2,024.17
Check	12/28/2011	eft	Stream Energy of TX	PAYMENT	Survivor	61.95	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
<b>Total Electricity</b>						<b>2,259.90</b>	<b>2,259.90</b>
<b>Gas</b>							
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	65.88	688.24
Check	12/22/2011	106	Centerpoint Energy	PPD	Survivor	54.62	742.86
Check	3/11/2012	117	Centerpoint Energy	PPD	Survivor	158.09	900.95
Check	6/7/2012	132	Entex	PPD	Survivor	41.71	942.66
<b>Total Gas</b>						<b>942.66</b>	<b>942.66</b>
<b>Water</b>							
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	8/22/2011	7710	Electchik	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	285.10	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	EJ20110622		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	8/15/2011	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

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02102015:0836:P01B0

02112015:1339:P004B

# EXHIBIT 3

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COPY

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
<b>Totals</b>	<b>2,765.00000</b>	<b>228,162.55</b>	<b>675.00000</b>	<b>70,814.25</b>	<b>3,440.00000</b>	<b>298,976.80</b>
<b>Recap by Date</b>						
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
	<b>2,765.00000</b>	<b>228,162.55</b>	<b>675.00000</b>	<b>70,814.25</b>	<b>3,440.00000</b>	<b>298,976.80</b>

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# Exhibit C

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 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 15<sup>th</sup> day of May, 2014.



Kenneth M. Hoyt  
United States District Judge

02112015:1339:P0052

02102015:0838:P0184



# Exhibit 17

PLAINTIFFS RESPONSE TO THE REPORT OF MASTER AND APPLICATIONS FOR  
ORDERS August 13, 2013 demanding defendants account for EE bonds

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.	§	

**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 Master<sup>1</sup>, 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.

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<sup>1</sup> Case 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

/s/ \_\_\_\_\_  
Candace Louise Curtis  
1215 Ulfinian Way  
Martinez, CA 94553  
925-759-9020  
[occurtis@sbcglobal.net](mailto:occurtis@sbcglobal.net)

# Exhibit 18

Transcript: Hearing on Report of Special Master September 3, 2013

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CANDACE LOUISE CURTIS . Civil Action  
. No. H-12-592

VS.

ANITA KAY BRUNSTING, ET . SEPTEMBER 3, 2013  
AL. . HOUSTON, TEXAS  
. 1:38 P.M.  
. .

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE KENNETH M. HOYT  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR PLAINTIFF: MS. CANDACE LOUISE  
Pro Se  
1215 Ulfonian Way  
Martinez, California 94553

FOR DEFENDANTS: MR. GEORGE WILLIAM VIE, III  
MS. MAUREEN McCUTCHEN  
Mills Shirley LLP  
1021 Main Street  
Suite 1950  
Houston, Texas 77002

Proceedings recorded by mechanical stenography, transcript  
produced by computer-aided transcription.



1 APPEARANCES (Continued):

2

3 FOR SPECIAL MASTER:

MR. TIMOTHY AARON MILLION  
Munsch Hardt, et al.  
700 Louisiana Street  
Suite 4600  
Houston, Texas 77002

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9 OFFICIAL COURT REPORTER: MS. STEPHANIE KAY CARLISLE

U.S. District Court  
515 Rusk, Suite 8016  
Houston, Texas 77002  
713.250.5157

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14 ALSO PRESENT:

Mr. William Arthur Potter

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1 PROCEEDINGS

2 (September 3, 2013)

3 THE COURT: This is Cause No. 2012-592, Candace  
4 Louise Curtis versus Anita Kay Brunsting and others. And Amy  
01:38:17PM 5 Ruth Brunsting. And I believe the law firm has been sued as  
6 well. I'm not sure if they have been served or not. In any  
7 event, let's see. Let's get an announcement here.

8 For the plaintiff, pro se, is that you,  
9 Ms. Curtis?

01:38:32PM 10 MS. CURTIS: Yes, Your Honor.

11 THE COURT: And for the defendants?

12 MR. VIE: George Vie and Maureen Kuzik McCutchen for  
13 the defendants, Your Honor.

14 THE COURT: I'm sorry, say that again.

15 MR. VIE: George Vie and Ms. McCutchen for the  
16 defendants, Your Honor.

17 THE COURT: All right. And I have the special  
18 master here as well.

19 MR. WEST: Good afternoon, Your Honor. William  
01:38:54PM 20 West, special master.

21 THE COURT: And you have counsel with you?

22 MR. MILLION: Good afternoon, Your Honor. Timothy  
23 Million.

24 THE COURT: All right. And another gentleman?

01:39:06PM 25 MR. WEST: Your Honor, this is my associate, William

1 A. Potter, P-O-T-T-E-R.

2 THE COURT: Okay. Very good. Let's see. We have  
3 the special master here as well, I gather, as the defendants,  
4 two of the defendants, the two sisters.

01:39:24PM

5 I'm not sure. Are both of them serving as  
6 administrators or trustees of the estate?

7 MR. VIE: They are both co-trustees. Only Anita  
8 Brunsting is here today.

9 THE COURT: Any reason why Amy Ruth is not present?

01:39:44PM

10 MR. VIE: Just because of employment obligations,  
11 sir.

12 THE COURT: Okay. I believe that's everyone that's  
13 participating.

01:40:04PM

14 We have this suit that was filed by Ms. Curtis  
15 back in 2012, in fact. I believe, Ms. Curtis, somewhere  
16 around February of 2012. That was pending for a period of  
17 time, and it was initially brought as a kind of truth in  
18 limine accounting. She mixed a lot of stuff together there.

01:40:26PM

19 And, of course, the one aspect of the case that  
20 this Court -- I said one aspect. One of the aspects of this  
21 case that the Court saw was first that there was diversity of  
22 citizenship, that she was a California resident, and the  
23 sisters were Texas residents.

01:40:44PM

24 And, secondly, that she was making allegations  
25 about an estate that appeared to be substantial sums of money,

1 or property, or both, were located, and that she was an heir,  
2 or at least felt that she was one of the heirs to the estate,  
3 and that she felt, I believe, at that time, that her sisters,  
4 who were co-trustees, were not properly managing the estate.

01:41:09PM 5 I think that's, generally speaking, how this lawsuit  
6 developed.

7           So, in the process of conducting a couple of  
8 hearings, or at least -- I say hearings, opportunities for  
9 communication and dialogue, the Court set this matter for a  
01:41:26PM 10 hearing, and we had a hearing several months ago. Let's see  
11 if I can track that down. A telephone conference in July. I  
12 think it may have been the -- perhaps were the last  
13 communication we had. Proceeding here in the courtroom, for  
14 sure.

01:42:08PM 15           And the Court determined that a report, an  
16 accounting of income, receipts, and expenses, and  
17 disbursements would be appropriate, setting a time frame of  
18 December 21, 2010, through May 31st of 2013, and that that  
19 report should be filed. I would then conduct a hearing to  
01:42:31PM 20 determine not so much whether or not the accounting -- the  
21 report should be received, but to permit the master -- special  
22 master to answer questions from either side regarding the  
23 procedure and his findings, and then, also, for approval of  
24 his request for -- for pay.

01:42:56PM 25           And there, I believe, have been, since that

1 time, motions filed by the defense for, I believe, a renewal  
2 of a lease on the Iowa property. Objections to that and then  
3 other motions have been filed. So we will see how much, if  
4 not all of this, we can cover.

01:43:25PM

5 So, Ms. Curtis, will you be -- besides the  
6 special master, is there anyone else in the courtroom you are  
7 going to need to call and have testify or ask questions of?

8 MS. CURTIS: No, Your Honor.

01:43:41PM

9 THE COURT: Okay. Sir, if you come forward, I will  
10 swear you in, and then you can take a seat over on my left.

11 Raise your right hand, please, sir.

12 (William West, witness, sworn.)

01:44:07PM

13 THE COURT: Please have a seat. And we can start  
14 with -- Ms. Curtis, we can start with you, if you have  
15 questions of the special master regarding -- you have a copy  
16 of his report, do you not?

17 MS. CURTIS: Yes, I do, Your Honor.

18 THE COURT: Okay. Why don't you move up closer to  
19 us there -- no, no, no. I mean, you can have a seat there,  
20 but I just wanted you to move up closer and bring the  
21 paperwork up closer.

01:44:44PM

22 All right. This is a formal proceeding, Ms.  
23 Curtis, so that when you are addressing the Court, you will  
24 need to stand and address the Court, and -- and I will be  
25 requiring that all of the questioning that is done as to any

1 witness should be done from the podium so it is easy for me to  
2 pay attention, for the lawyer and then the witness, and, of  
3 course, that same -- obviously, that same rule applies to  
4 counsel for the defense.

01:45:01PM 5 If you would also bend that microphone down so  
6 that, when you are standing in that area and speaking to me,  
7 we will be able to hear you, and the court reporter can take  
8 your remarks.

9 All right. Are you ready -- you have a copy of  
01:45:15PM 10 the report, I believe you said.

11 MS. CURTIS: Yes, Your Honor.

12 THE COURT: Do you have some questions you want to  
13 ask of the witness? If so, you may do so at this time.

14 MS. CURTIS: No, Your Honor. I have no questions.

01:45:24PM 15 THE COURT: You completely are, say, satisfied that  
16 you understand --

17 MS. CURTIS: I have no questions.

18 THE COURT: You just have no questions. All right.

19 Mr. Vie, do you have any questions you want to  
01:45:33PM 20 ask of this witness?

21 MR. VIE: Yes, Your Honor.

22 THE COURT: All right. Would you come to podium,  
23 sir.

24 Do you have a copy of your report with you? If  
01:45:39PM 25 not, let's get a copy of it to you. I think I have got some

1 copies here.

2 DIRECT EXAMINATION

3 BY MR. VIE:

4 Q. Good afternoon. I just have one or two questions just to  
01:46:06PM 5 clarify, as the Court said, the procedures under which the  
6 report was prepared.

7 On Exhibit 1 to the report --

8 A. Yes.

9 Q. -- you provided a statement of income, receipts,  
01:46:20PM 10 expenses, and disbursements for the period the Court directed;  
11 is that correct?

12 A. Yes, sir.

13 Q. In conclusion, on page 2 of that report, where you  
14 indicate, at the bottom, a net of income receipts and less  
01:46:40PM 15 value of stock distributed, if you could explain, what is that  
16 trying to capture?

17 A. This is trying to capture either -- during the time frame  
18 in question, either the receipts received or dividends in kind  
19 from the dividend distribution -- excuse me, dividend  
01:47:08PM 20 reinvestment accounts, less any amounts paid or any stock  
21 distributed.

22 Q. So this number at the bottom of page 2, the net of income  
23 number, this doesn't reflect actually the value of this  
24 estate?

01:47:26PM 25 It doesn't include the actual stock value that

1 remains in the estate?

2 A. Absolutely not. To do something like that you would need  
3 to get into something with a balance sheet -- and things of  
4 that nature.

01:47:40PM

5 Q. What we are being provided here is more of a statement of  
6 money going out and money coming in?

7 A. Correct.

8 Q. The other exhibit, Exhibit -- the exhibit that relates to  
9 your recapturing the stock distributions that were made, is

01:48:04PM

10 there an Exhibit 3?

11 Is that where that is located?

12 A. Yes.

13 Q. Stock distribution analysis?

14 A. Correct.

01:48:10PM

15 Q. These are all -- these are all distributions that took  
16 place during the time that Ms. Brunsting was alive, correct?

17 A. From December 21st, 2010, to her demise.

18 Q. I understand.

19 Specifically, you did not find any evidence of

01:48:28PM

20 any stock distributions that were made to anyone after the  
21 date that she died, the date of her death?

22 A. Correct.

23 THE COURT: Mr. Vie, what is the date of her death?

24 Establish that.

25 BY MR. VIE:



1 Q. November 11, 2011?

2 A. Correct.

3 Q. So during the period of time that she was the beneficiary  
4 of the trust and had the right to direct gifts and payments --

01:48:52PM

5 THE COURT: "She" being?

6 MR. VIE: Mrs. Brunsting, Nella Brunsting.

7 BY MR. VIE:

8 Q. The only transactions that you found for stock  
9 distribution, as you have noted in Exhibit 3, was at the time  
10 she was alive and could direct those distributions?

01:49:03PM

11 A. To the first part of your question, I don't think I have  
12 enough information to respond. But from all of the documents  
13 that we had and everything appeared to tie, these are the  
14 distributions out of those accounts in that time frame.

01:49:24PM

15 Q. Thank you.

16 Could you -- in addition to the documents that  
17 we provided, you asked for and we provided a Quicken file, an  
18 electronic file?

19 A. Correct.

01:49:34PM

20 Q. If you could explain to the Court what that file was,  
21 what you found in it, and how you used it.

22 A. That was an electronic accounting file that I asked for  
23 and that you had given me, and it was what I would generally  
24 term an electronic checkbook, which would show -- gave  
25 information about a date, an amount, and the payee.

01:50:00PM

1 Q. And what account the payment came from?

2 A. To a limited extent, yes.

3 Q. How were you able to use that, then, into what became the  
4 master's report?

01:50:16PM 5 A. We used that in conjunction with the review of bank  
6 statements and other paper documents, brokerage firm account,  
7 information to create our database.

8 MR. VIE: No further questions.

9 THE COURT: I have a few, and this is to primarily  
01:50:38PM 10 supplement the record.

11 I want you to go back, Mr. West, and give us a  
12 general overview of what you did and -- and what these  
13 exhibits mean in terms of the income and expenses associated  
14 with this report.

01:51:00PM 15 THE WITNESS: Yes, sir.

16 My report is comprised of an introduction where  
17 I gave some of the background of the complaint to a limited  
18 extent which has been addressed today. Then I gave a timeline  
19 of records received. I started that process with calling the  
01:51:27PM 20 defendants' attorney. I set up the meeting with him. We had  
21 a meeting within a week or ten days of my initial call.

22 I received, at his office, a number of paper  
23 files and a number of records on -- in electronic format in  
24 CD -- on CD's. I was also given a schedule of those documents  
01:51:56PM 25 that they were giving me and a list of documents that they

1 were not giving me, but which they were working towards  
2 obtaining.

3 THE COURT: Did you have the impression that this  
4 was a combination of records, some of which had been -- which  
01:52:14PM 5 were the, let's call it, original handwritten-type records,  
6 along with records that maybe had been prepared or were being  
7 prepared by the attorney for the defendant?

8 THE WITNESS: My broad answer to that is yes. Some  
9 were original documents that you could tell had come directly  
01:52:36PM 10 from the brokerage firm or a bank. Some were bank statements  
11 that appeared to have been downloaded over the Internet, which  
12 looked completely normal to me.

13 I have looked at literally thousands of  
14 documents of this nature over the years. Balances, account  
01:52:58PM 15 numbers, everything tied. I didn't think that anything had  
16 been created to be given to me.

17 THE COURT: By saying you were given a CD, what are  
18 you referring to?

19 THE WITNESS: A plastic disk.

01:53:16PM 20 THE COURT: I understand. What was contained on  
21 that?

22 THE WITNESS: Those were bank statements.

23 THE COURT: Downloaded from?

24 THE WITNESS: Yes, sir. For the most part, the  
01:53:25PM 25 paper documents -- they gave them to me, for the most part, in

1 paper format and electronic format.

2 THE COURT: But you didn't have the impression that  
3 this was a way that the records had been kept; this is just  
4 the way they had presented them?

01:53:40PM

5 THE WITNESS: I can't tell if they were kept that  
6 way, but they had been compiled, and I think they have  
7 probably been compiled by counsel's staff.

8 THE COURT: All right.

01:54:00PM

9 THE WITNESS: As -- I received those approximately  
10 the first of June -- actually, there's some dates reflected in  
11 the report. About a month later I received a -- some more  
12 paper files and some more CD's with information on them that  
13 answered a number of -- submitted a number of the documents  
14 that had been missing on the first turnover of documents.

01:54:36PM

15 As that was -- as that information was being  
16 processed from time to time, I had e-mails with defendants'  
17 counsel asking for particular questions or asking for more  
18 information to which, for the most part, he was able to  
19 respond, or if they weren't available, he -- he just told me  
20 so. So, I felt like he was trying to do the best he could.

01:55:02PM

21 THE COURT: At the end of the day, let's say  
22 sometime the latter part of July, when you had your hands full  
23 of the documents, did you have the impression that you had all  
24 of the documents that you needed to complete a proper and  
01:55:29PM 25 complete report?

1 THE WITNESS: For the most part, Your Honor. I  
2 listed in my report some accounts or statements that were not  
3 received. Defendants' counsel had explained why they were not  
4 received, or I believe there were a few things they were still  
01:55:57PM 5 trying to get. I conferred with my associate, who did a great  
6 deal of the work, you know, with my work and supervision.  
7 There were certain documents that we didn't have, but we did  
8 have some summary statements or some quarterly-type  
9 statements.

01:56:19PM 10 I can't say for certain. I felt like we did  
11 have what we needed to present a good report. Not anything is  
12 a hundred percent right, but I felt like we didn't have any  
13 really big unexplained gaps in the things that we were given.

14 THE COURT: That pushes you over into the work  
01:56:52PM 15 performed area where you are now talking about.

16 So is there something else in that area that  
17 you need to bring to the Court's attention?

18 Basically that you received the documents --  
19 I'm just following.

01:57:05PM 20 THE WITNESS: Yes, sir. We felt like we had  
21 substantially all of the documents or a very high percentage,  
22 and I'm saying that from years of experience as an accountant.  
23 If I had really felt uncomfortable about anything, it would  
24 have been highlighted and really brought to the forefront.

01:57:40PM 25 THE COURT: Whatever is necessary, you saw.

1 THE WITNESS: Yes.

2 THE COURT: In the summary of the accounts received,  
3 you show several bank accounts and several, let's call them,  
4 stock accounts or stock brokerage accounts, various investment  
01:57:56PM 5 accounts. I don't know if these are stocks or just simply  
6 accounts where you would invest money and they would purchase  
7 stock. The point is that these are -- appear to be a  
8 substantial number of accounts.

9 Are you of the opinion that these are all the  
01:58:15PM 10 accounts -- first of all, these are the accounts provided?

11 THE WITNESS: They were the ones provided. I think  
12 they were all that was provided. The plaintiff, in response,  
13 had raised the issue about some Treasury bills or Treasury  
14 bonds. I don't believe we saw any information in regards to  
01:58:44PM 15 them.

16 Now, technically, I would like to see the  
17 bonds. And technically, if it was something where they just  
18 sat there and interest was paid in a lump sum at a future  
19 date, and there was no income or cash income receipt activity  
01:59:04PM 20 during the period, then they be wouldn't reflected on here.  
21 But if it was an accrual-type income, then it should have been  
22 reflected.

23 THE COURT: So these accounts, as I understand it --  
24 and you are distinguishing between the accounts that may be in  
01:59:22PM 25 existence but just have not reported income on an accrual

1 basis, but these accounts are reporting on a quarterly or  
2 annual basis income, and/or fees, or whatever else that might  
3 be reflected against the account.

4 THE WITNESS: Yes, Your Honor, all these accounts.

01:59:41PM

5 THE COURT: For example, if there were Treasury --  
6 are Treasury bonds, and they are paying whatever interest they  
7 are paying, that certainly could be -- that might be -- you  
8 don't have those, but that interest theoretically, I guess,  
9 could be applied back into the principal and, therefore, would  
10 not be reflected on a statement.

01:59:59PM

11 THE WITNESS: Correct.

12 THE COURT: Okay. Tell us a little bit about the  
13 report exceptions and the missing documents area there on page  
14 6.

02:00:11PM

15 THE WITNESS: These were -- as it is discussed here,  
16 there were some accounts that we did not have, or statements.  
17 In some cases, they were quarterly reports that were not --  
18 the second quarterly reports were not available yet, or I was  
19 told they were not available yet in the latter part of July,  
20 which was quite often the case, but that they could be  
21 supplied, if needed.

02:00:41PM

22 There were a couple of other accounts where we  
23 may have been missing a monthly account or maybe an earlier  
24 quarterly account, but we had a latter period account where,  
25 for the most part, everything -- we could kind of trace our

02:01:02PM

1 way through the missing period. Again, I didn't see any great  
2 cause for alarm.

3 And then there were a number of things,  
4 disbursements, that we did not have documentation for, and  
02:01:27PM 5 those were explained to me that, for the most part, that they  
6 just didn't exist.

7 THE COURT: Okay. And these disbursements did not  
8 have -- did not have a paper backing. These would just be,  
9 let's say, for example, a check that might have been written  
02:01:48PM 10 for an amount of money, but there was no -- for your records  
11 there was no receipt or document indicating why that  
12 disbursement was being made. It might be reflected on the  
13 check itself.

14 THE WITNESS: Correct. We were able to go back to  
02:02:05PM 15 the pictures of check facsimiles and, you know, confirm that.

16 THE COURT: Okay. All right. Now, you've also  
17 listed on page 8 a number of outstanding shares. These  
18 reflect the transfers that you say were made before November  
19 11th of 2011, I gather. And then other stocks, perhaps, that  
02:02:34PM 20 might have -- that might have been reinvested, or income that  
21 might have been reinvested.

22 Am I seeing that right?

23 THE WITNESS: Yes, sir.

24 THE COURT: Okay. All right. You make a statement  
02:02:58PM 25 on page 9, at the end of that section, that indicates that



1 there are certain stocks available.

2 Is that the total of all stocks outstanding  
3 shares that are part of the trust?

02:03:15PM

4 THE WITNESS: Yes, sir, to the best of my  
5 recollection.

6 THE COURT: Those are three different, I believe --  
7 three different shares -- three different companies -- that  
8 might not be the proper term. How would you say it?

02:03:33PM

9 THE WITNESS: I think it was four -- Chevron, Exxon,  
10 John Deere, Deere Enterprises, and Metropolitan Life.

11 THE COURT: Okay. Those are the four. Okay. All  
12 right. And then you go on to make comments on certain  
13 accounts, and this is some of which you maybe already have  
14 stated having to do with the sale of certain securities and  
15 the disbursement. I'm not sure.

02:03:53PM

16 Is that what that is about?

17 THE WITNESS: Yes, sir.

02:04:11PM

18 THE COURT: One of the areas that you touched on  
19 earlier had to do with, for example, a check that may have  
20 been written to a family member that may or may not have had  
21 some document behind it. We are looking at the top of page  
22 10, where it says, "Many of the payments were noted as  
23 reimbursements." These would be checks that would reflect  
24 reimbursement but not necessarily another check that showed  
25 the payment was made.

02:04:33PM

1 THE WITNESS: Correct. The check was written to the  
2 individual from the Quicken files. It would say reimbursement  
3 for -- automobile repairs type of thing. And on the Quicken  
4 files, it may have been in that automobile repair expense  
02:04:56PM 5 account. But for purposes of this report and the issues  
6 raised in the complaint, I felt that it was important -- it  
7 was important to make this some special category.

8 THE COURT: All right. Now, going to Exhibit 1,  
9 this is the summary statement, is it not?

02:05:23PM 10 I say summary statement. It's a statement of  
11 income, receipt and expenses. Behind that would be the  
12 exhibits. I say exhibits, would be other exhibits that would  
13 reflect the individual checks written and/or to whom they may  
14 have been written in Exhibit No. 2. And in Exhibit 3 would be  
02:05:47PM 15 the distribution analysis of the stock payments.

16 Is that what I'm having there?

17 THE WITNESS: Yes, sir.

18 THE COURT: All right. So, just let me take a look  
19 at this. It shows, I gather, that they had an opening -- a  
02:06:01PM 20 beginning opening of 127,000 -- almost \$128,000 in farm income  
21 as a beginning item there.

22 THE WITNESS: Yes, sir. Farm rent during the time  
23 frame in question.

24 THE COURT: And, so, what you've done is you've  
02:06:16PM 25 accumulated all of the income from the farm for this period,

1 "this period" being the period that I requested that you do,  
2 the December 21, 2010 through May 31, 2013.

3 THE WITNESS: The deposits we identified for farm  
4 rental income.

02:06:38PM 5 THE COURT: And that would be just a little over a  
6 two-year period, two years and a few months.

7 THE WITNESS: Yes, sir.

8 THE COURT: All right. In addition to that, you  
9 show dividend income, interest income.

02:06:52PM 10 And by long-term capital gains and short term,  
11 are you reflecting there some income from Exxon or one of  
12 these companies?

13 THE WITNESS: No, sir. Actually the dividends from  
14 Exxon or Chevron would be in the dividend income amount.

02:07:13PM 15 THE COURT: On Exhibit 3?

16 THE WITNESS: Excuse me.

17 THE COURT: Oh, I'm sorry, no, it would not be.

18 THE WITNESS: I'm sorry, Your Honor. Could you  
19 repeat your question.

02:07:22PM 20 THE COURT: I was asking where did this long-term  
21 capital gains come from.

22 THE WITNESS: Oh, I'm sorry. The long-term capital  
23 gains and short-term capital gains, those were reported on the  
24 stock brokerage accounts. Those are called flow-through  
02:07:38PM 25 amounts from mutual funds and things of that nature.

1 THE COURT: And then the income of 183,000 is stock  
2 sale. That's the liquidation of the stock -- did that include  
3 the liquidation of stock before 11/11/11?

02:08:02PM 4 THE WITNESS: That was the liquidation of stocks  
5 during that time frame, other than the stocks that were  
6 disbursed in kind.

7 THE COURT: Okay. So this is a separate  
8 liquidation.

9 THE WITNESS: Yes, sir.

02:08:11PM 10 THE COURT: Or a separate income, should I say.  
11 This is income.

12 THE WITNESS: It's stock liquidated.

13 THE COURT: This is income from the sale of certain  
14 other stocks that has now has been liquidated and it brings  
02:08:22PM 15 total income to about \$216,600,000.

16 THE WITNESS: Yes, sir.

17 THE COURT: The miscellaneous income is just other  
18 income that -- what would that be, sort of like what?

19 THE WITNESS: To be honest, Your Honor, without  
02:09:01PM 20 looking at the underlying documents, I can't remember right  
21 now. But it was a number of small items that didn't fit one  
22 of these other accounts that are listed in Exhibit 1.

23 THE COURT: But it is reflected in the deposits of  
24 the account?

02:09:17PM 25 THE WITNESS: Yes, sir.

1 THE COURT: The pension income, and I'm looking at  
2 Social Security income. Who is getting Social Security income  
3 to go into that account at this time?

02:09:31PM 4 I believe both the husband and the wife are  
5 deceased, right?

6 THE WITNESS: Mrs. Brunsting, she was alive for  
7 about 12 months.

8 THE COURT: You are right. Tax refunds, that would  
9 also be reflected. This is the sale proceeds from the house.  
02:09:45PM 10 That's all -- so we are talking about a total of 830-plus  
11 thousand dollars during this two years or two- to three-month  
12 period?

13 THE WITNESS: Yes, sir.

14 THE COURT: And then we're talking in the next  
02:09:55PM 15 section about expenses, medical care, in-house care, and  
16 medical care, and all of that coming to the 122,000, more or  
17 less.

18 THE WITNESS: Yes, sir.

19 THE COURT: The pet care and pet food and all of  
02:10:22PM 20 that, that doesn't have anything to do with the farm. This  
21 must be at the house, right?

22 THE WITNESS: Yes, sir.

23 THE COURT: Okay. And veterinarian expenses.

24 So we are talking about total expenditures of  
02:10:41PM 25 about half of what the income was, right?

1 THE WITNESS: Yes, sir.

2 THE COURT: And then you said net income, receipts,  
3 and expenses, disbursements.

4 How are you distinguishing that from total  
02:10:55PM 5 expenses and disbursements?

6 THE WITNESS: That's just the net of the total  
7 incoming receipts of 830,000 less the total expenses of 418.

8 THE COURT: Okay. And then you show the 298,000 in  
9 stock -- in stock transfer to family or whatever. This is a  
02:11:20PM 10 value of stock. This is the value beyond what was sold and  
11 became income.

12 THE WITNESS: Yes, sir.

13 THE COURT: So we are looking at -- right at almost  
14 500 -- well, 300,000, basically, that was transferred  
02:11:39PM 15 directly, apparently, by the estate before -- before Ms.  
16 Brunsting died in November 11, 2011.

17 THE WITNESS: Yes, sir.

18 THE COURT: More or less.

19 THE WITNESS: In May and June of 2011.

02:11:56PM 20 THE COURT: What two or three numbers are you  
21 putting together to come to the 120,000 at the bottom?

22 THE WITNESS: 411,328 less 298,976 gets me to the  
23 112,346.

24 THE COURT: All right. What you don't have or what  
02:12:19PM 25 didn't do and were not asked to do was to do an asset

1 liability --

2 THE WITNESS: Correct.

3 THE COURT: -- sheet.

4 Are there any other concerns or statement that

02:12:45PM 5 you need to make regarding this report before -- before I ask  
6 you a question regarding your billing?

7 THE WITNESS: The one item is, after the filing of  
8 my report, there was a disbursement for \$6500, which had been  
9 put into miscellaneous expenses because I had no backup for

02:13:19PM 10 it.

11 THE COURT: It was a one-time payment of 6500?

12 THE WITNESS: Yes, sir.

13 THE COURT: Where is that reflected on page --

14 THE WITNESS: I'm sorry. Exhibit 1, page 1.

02:13:29PM 15 THE COURT: Page 1, Exhibit 1? All right.

16 THE WITNESS: Towards the bottom, Miscellaneous  
17 Expenses. That shows miscellaneous expenses \$6753. \$6500 of  
18 that amount should be reclassified to checks or cash to family  
19 members.

02:13:54PM 20 THE COURT: What you are calling miscellaneous  
21 expenses would be -- say that again. I'm sorry.

22 THE WITNESS: That miscellaneous expense, there  
23 was -- \$6500 of that amount we found -- defendants' counsel  
24 confirmed for me, subsequent to the filing of the report, that  
02:14:17PM 25 that was a distribution to a family member.

1 THE COURT: Okay. So this is not a part of the pre  
2 -- part of the distribution made by Ms. Brunsting before her  
3 death. This was expenses or monies that were paid to a  
4 particular family member -- a single family member or maybe  
02:14:40PM 5 two family numbers, whatever the number might be, that were  
6 made after that date?

7 THE WITNESS: Let me -- let me confirm that. That  
8 was subsequent to her demise.

9 THE COURT: What page are you looking at?

02:15:10PM 10 THE WITNESS: On Exhibit 2, page 16.

11 THE COURT: Where it says --

12 THE WITNESS: About two-thirds or three-quarters of  
13 the way down the page, it says "Miscellaneous Expenses."

14 THE COURT: Page 16 did you say?

02:15:30PM 15 THE WITNESS: Yes, sir. Exhibit 2.

16 THE COURT: Okay. Miscellaneous, and then it shows  
17 a total of something like... co-op and then withdrawal, and  
18 then Houston Metro, those together totaling 6753.72.

19 THE WITNESS: That middle entry on November 14th of  
02:15:53PM 20 \$6500 should now be reclassified --

21 THE COURT: As disbursement?

22 THE WITNESS: -- as disbursement to family members.

23 THE COURT: As disbursement. You've got a code  
24 there of W-D-R-L. What does that mean to you?

02:16:12PM 25 THE WITNESS: Withdrawal. This withdrawal on the



1 bank statement.

2 THE COURT: It is my lack of accounting acumen.  
3 It's not your fault. I'm trying to make sure I understand, so  
4 that if I have a question, I can ask you.

02:16:29PM 5 Now, as it relates to your billing, it does not  
6 include an appearance here today, as I understand it, or the  
7 time that you have spent. You have already submitted a  
8 billing to the -- bill to the Court for payment, have you not?

9 THE WITNESS: That is correct.

02:16:43PM 10 THE COURT: And except for whatever time has been  
11 spent since this submission, have you received any objections  
12 from either the plaintiff, Ms. Curtis, or from the defense  
13 concerning the payment of your expenses?

14 THE WITNESS: No, sir.

02:16:59PM 15 THE COURT: Does your billing include the legal  
16 advice necessary that you received as well, or was it just  
17 separately an accounting function?

18 THE WITNESS: Mine was separately an accounting  
19 function, and I also submitted a separate invoice from my  
02:17:18PM 20 counsel.

21 THE COURT: Have you received any objections from  
22 either plaintiff or defendant in that regard?

23 THE DEFENDANT: No, sir.

24 THE COURT: Ms. Curtis. Anything else?

02:17:29PM 25 MS. CURTIS: No.

1 THE COURT: Mr. Vie?

2 MR. VIE: Just one thing, Your Honor.

3 BY MR. VIE:

02:17:41PM

4 Q. Just to be clear, because the Court has asked about the  
5 timing of this last expense that you mentioned being  
6 reclassified.

7 A. Yes, sir.

02:17:56PM

8 Q. Okay. If I understand the miscellaneous expense, the  
9 check that is noted for the \$6500, that is prior -- that's  
10 three days after Mrs. Nella's Brunsting's death?

11 A. Correct.

12 Q. Do you recall what the transaction was, the \$6500  
13 transaction?

02:18:13PM

14 A. I believe it was to Carol Brunsting. I feel confident  
15 about that. And I believe the -- the explanation that your  
16 firm gave me was that -- it was to be, I guess, used to help  
17 deal with some of her funeral expenses.

18 Q. Was the money redeposited at some point after that?

02:18:37PM

19 In other words, the money that had been taken  
20 out should there be some funeral expenses or other things  
21 necessary, would that money have been put back at some point?

22 THE COURT: Why don't you show him where you are  
23 talking about.

02:18:48PM

24 MR. VIE: Well, I understand where his reference was  
25 on page 16, where he highlights the miscellaneous expense of

1 6500.

2 THE COURT: I know, but how would he know whether or  
3 not it is put back unless you know where it is?

4 MR. VIE: If he has a corresponding entry for a  
02:19:00PM 5 deposit for 6500.

6 THE COURT: I see.

7 THE WITNESS: I don't recall one.

8 BY MR. VIE:

9 Q. If there was one, where are the costs like that reflected  
02:19:09PM 10 in the report?

11 A. It would probably be under a miscellaneous --

12 THE COURT: Keep your voice up, Mr. West.

13 THE WITNESS: I would think it should be under  
14 miscellaneous income, and I don't find it there. There's a  
02:19:33PM 15 possibility it could have always been misposted, but I would  
16 need to look through the ledger in total.

17 BY MR. VIE:

18 Q. Would you -- it was -- your understanding, it was  
19 represented to you it was not a gift; it was some expenses  
02:19:47PM 20 that were funds made available for funeral expenses?

21 A. That's what I was told.

22 MR. VIE: No further questions, Your Honor.

23 THE COURT: All right. Well, your understanding is  
24 based upon what counsel told you. It had nothing to do with  
02:20:02PM 25 and independent audit, right?

1 THE WITNESS: Yes.

2 THE COURT: You may step down, sir. Thank you very  
3 much.

02:20:30PM

4 All right. If there is no objection, I will  
5 ask -- no objection to the report and the invoice request of  
6 counsel for himself, as an accounting function, as well as  
7 advice of counsel, if there's no objection, I'm going to order  
8 that those be paid.

9 Any objection, Ms. Curtis?

02:20:51PM

10 MS. CURTIS: No, Your Honor.

11 THE COURT: Mr. Vie, speaking on behalf of your  
12 clients?

13 MR. VIE: No, Your Honor, no objection.

02:21:00PM

14 THE COURT: All right. Okay. All right. That's  
15 all we have. Thank you very much, and that will take care of  
16 it.

17 No, no, no. I'm sorry. All we have with  
18 accountants. If they want to leave, they can. There are some  
19 other motions we need to address.

02:21:14PM

20 MR. MILLION: Your Honor, would you like us to  
21 submit a proposed order?

22 THE COURT: Would you do that? It would make it a  
23 lot -- well, how about that, just happen to have it right  
24 there, right?

02:21:40PM

25 You shared this with -- the expense paperwork,

1 you shared the expense report and/or request for payment with  
2 both Ms. Curtis and with Mr. Vie?

3 MR. WEST: Yes, Your Honor.

02:22:20PM

4 THE COURT: All right. Ms. Curtis, you have some  
5 other -- well, I will start with you, Mr. Vie. I believe you  
6 have filed a motion that has drawn some -- you all want to be  
7 excused?

8 MR. MILLION: Yes, Your Honor. I do want to bring  
9 one other thing to the Court's attention.

10 THE COURT: Okay. Go ahead, sir.

02:22:47PM

11 MR. MILLION: In the pleadings that were filed by  
12 the plaintiff and defendant, there has been some indication  
13 that they are wanting additional work to be performed by the  
14 special master. And I know one of the proposed forms of order  
15 said you've got to do something within 10 days.

02:23:04PM

16 Just given the tax season issues with respect  
17 to corporate filings and such, any additional work that the  
18 special master might request to do, he is happy to do whatever  
19 the Court needs. However, he would need more than 10 days to  
20 be able to comply with that.

21 THE COURT: Yeah, I think I might have said this to  
22 both sides. If I did not, you will hear it now.

02:23:22PM

23 My purpose in asking Mr. West to come in was  
24 not to make him a person for them to utilize to do any of  
25 their work. He was working for the Court to bring some

1 matters to the Court's attention that would be too much  
2 contention between the parties for me to ask either side to  
3 present anything to me that I could, at least in good faith,  
4 at the time, rely upon as a way of making some determinations.

02:23:42PM

5 So I wanted to find out where the income was  
6 and what had happened to it. Those were some of the  
7 allegations made by Ms. Curtis.

8 The function of doing other financial reports I  
9 think the parties should be able to handle and do themselves.

02:24:02PM

10 And if they choose to employ someone to do it, they certainly  
11 will be able to do it. We have got fundamentals of stuff  
12 ready and in place for them to go ahead and get that done.

13 If there is some need, certainly, Mr. West may  
14 be asked do it. If so, it would be by the Court, not by the  
15 parties.

02:24:20PM

16 MR. MILLION: Thank you, Your Honor.

17 THE COURT: Thank you very much, gentlemen. Have a  
18 good day.

19 Ms. Curtis -- I'm sorry. Mr. Vie, you filed a  
20 motion to -- let me just get it out here -- a motion to --  
21 request for the renewal of the farm lease, I believe. Let me  
22 see if I can find that document number.

02:24:32PM

23 I believe that's Instrument No. 65, filed about  
24 10 days ago.

02:25:03PM

25 MR. VIE: Yes, Your Honor.

1 THE COURT: And as I understand, Ms. Curtis, that  
2 you have reviewed that, and your objection is, essentially --  
3 correct me if I am wrong -- that it is automatically renewed  
4 at this point because no objection was filed and no  
02:25:21PM 5 disapproval of that renewal occurred within the time frame  
6 that needed to be made.

7 Am I correct?

8 MS. CURTIS: Yes, Your Honor.

9 THE COURT: So in that regard, the objection is  
02:25:31PM 10 simply a matter of record as to how things are and the -- the  
11 renewal of the farm lease, while the Court might have the  
12 authority to cancel it, it is automatically renewed. It would  
13 take some affirmative action.

14 So why should I cancel it? Tell me why I  
15 should cancel it.

16 Is there any basis for me to cancel it at this  
17 point?

18 MS. CURTIS: The farm lease?

19 THE COURT: Yes, ma'am.

02:26:02PM 20 MS. CURTIS: No, Your Honor.

21 THE COURT: The motion will be granted unless there  
22 is something additional I need to know, Mr. Vie, about this  
23 before that occurs.

24 MR. VIE: No, Your Honor.

02:26:09PM 25 THE COURT: All right. I believe there was an order

1 entered, and I know there was one entered, but I believe the  
2 second order was entered for the payment of certain property  
3 taxes.

4 That has been taken care of, right?

02:26:28PM

5 MR. VIE: Yes, Your Honor. You have already entered  
6 that.

7 THE COURT: All right. I have reviewed your  
8 responses to the report. It seems to me the next item, then,  
9 has to do with objection that you have made -- I'm trying to  
10 figure out what you meant, Ms. Curtis, by "recommit matter to  
11 master for consideration."

02:26:40PM

12 Tell me what you are talking about there. You  
13 filed this on September 3rd. This was filed, what, today?

14 MS. CURTIS: This was filed this morning.

02:27:04PM

15 THE COURT: Wow. You are faster than the lawyers  
16 are. Where were you when you filed this?

17 MS. CURTIS: In the clerk's office.

18 THE COURT: All right. I didn't know if you were  
19 filing electronically or not.

02:27:16PM

20 MS. CURTIS: I do not file electronically.

21 THE COURT: Well, you filed this motion -- or  
22 objections to defendants' motion for order to recommit matters  
23 to master for consideration.

24 Tell me what you are talking about there.

02:27:31PM

25 MS. CURTIS: Well, there is a letter that Mr. Vie



1 provided to Mr. West in support of missing documents and other  
2 questions that the master had. It is dated July 15th, 2013.  
3 It was Appendix Tab 1 in Document No. 67 filed by the  
4 defendants, which is their response to the report of master.

02:28:02PM

5 THE COURT: All right.

6 MS. CURTIS: And I am objecting to even spending  
7 another penny with the master when there is nothing  
8 substantive in here. This was all just excuses and  
9 explanations.

02:28:23PM

10 THE COURT: You mean on the part of the defendants?

11 MS. CURTIS: The defendants, for missing records or  
12 how they categorized the expenses, which was not what the  
13 master was instructed to do. He was just instructed to list  
14 the income and the expenses that occurred for this period of  
15 time.

02:28:45PM

16 He did the best he could to categorize these  
17 things. He had questions, like about the 6500 in  
18 miscellaneous income. And he did not receive third-party  
19 receipts or original statements or any documentation. All the  
02:29:04PM 20 master received were excuses for these transactions, which is  
21 not the basis of the master's report. He was just asked to  
22 report on the income and expenses.

23 So I think this entire thing is just irrelevant  
24 and a waste of time.

02:29:25PM

25 THE COURT: So your objection and -- your objection

1 there is to -- has to do with the statements being made in the  
2 defendants' report or request or statements to the master, and  
3 that no further work should be done by the master -- special  
4 master regarding these documents and these statements?

02:29:50PM

5 MS. CURTIS: That is correct.

6 THE COURT: I think I've already cured that. I've  
7 just let him go.

02:30:09PM

8 What else did you have there? You filed, as  
9 well, I think a motion to show cause why a judgement of civil  
10 contempt should not be -- and I know they have not had a  
11 chance to respond to this. But that's also been filed before  
12 the Court. But is there anything else, other than that motion  
13 pending?

02:30:26PM

14 MS. CURTIS: I have not filed anything else, no,  
15 Your Honor.

02:30:41PM

16 THE COURT: All right. So, you are coming out of  
17 California, and I'm trying to find out how we -- how soon  
18 would you be ready and what evidence would you be presenting  
19 on this? Because I don't want to have you just coming back  
20 and forth, expense to you.

21 MS. CURTIS: I have a statement to make. I don't  
22 know if that will help.

23 THE COURT: I don't know if Mr. Vie is prepared to  
24 respond, but I will permit you to make your statement.

02:30:51PM

25 MS. CURTIS: I don't expect a response. I just came

1 prepared with this statement.

2 THE COURT: Okay. Go right ahead, then.

3 MS. CURTIS: "The absent of immunity results in  
4 responsibilities for which there is no exemption. Since no  
02:31:03PM 5 one may be in legal relation with their self, trustees, de  
6 facto or de jure, encumbered with duties, and empowered to  
7 perform such duties are bound in a jural relation to the  
8 beneficiaries, which confers upon said beneficiaries specific  
9 rights which are well-known to the law.

02:31:23PM 10 "Among such rights is a distinct and calculable  
11 property interest in a complete and accurate accounting.  
12 Withholding such information, whether by failure or refusal,  
13 constitutes a palpable injury to a beneficiary evidenced by  
14 the resulting inability to cure and perfect their claim.

02:31:43PM 15 "Said failure to perform the duties of trustee  
16 endows the beneficiary with the legal powers to act against  
17 said trustees in order to lay claim to that which is  
18 [property] -- properly theirs and to which they are entitled.

19 "I object to the July 15th letter from  
02:32:01PM 20 defendants to the master insofar as it contains excuses and  
21 explanations that are prejudicial, non-probative, and thus  
22 immaterial. The time for these explanations and excuses has  
23 long since passed. I would, however, offer the letter into  
24 evidence as an offer of proof that the omissions contained  
02:32:24PM 25 therein establish evidence of facts that are clear, positive,

1 uncontradicted and of such nature they cannot rationally be  
2 disbelieved, and the Court is, therefore, compelled to  
3 conclude that those facts have been established as a matter of  
4 law.

02:32:36PM

5 "Defendants admit that they failed to keep  
6 books and records, and, therefore, are incapable of providing  
7 a full, true and complete accounting. Further, defendants  
8 admit to self-dealing, commingling, and [applications] of --  
9 misapplications of fiduciary attached to expressions of bias.

02:32:58PM

10 "I would also like to offer defendants'  
11 response to plaintiff's request for disclosure and defendants'  
12 answer into evidence as an offer of proof that defendants  
13 refused to provide non-proprietary trust instruments and admit  
14 that they can provide no evidence of notices to the other  
15 co-beneficiaries of any of their acts from alleged changes to  
16 the trust, changes of trustees, changes in trustee  
17 compensation or any of their other proclaimed acts of trust  
18 administration.

02:33:17PM

19 "Plaintiff's claim for breach of fiduciary is  
20 ripe for summary judgment on the merits of these admissions  
21 and the accounting that supports the admissions. Plaintiff  
22 asks this Court for summary judgment on the claim for breach  
23 of fiduciary and asks that defendants be removed from  
24 conducting any further trust business.

02:33:33PM

02:33:48PM

25 This is Texas Trust Code 113.082, Sections 4, 5

1 and 6(b). Plaintiff further moves that this Court bifurcate  
2 all the remaining issues, including questions of damages,  
3 until more necessary information can be obtained."

02:34:11PM 4 THE COURT: I saw attached to your motion what I  
5 believe to be a request for certain discovery.

6 That is certain information that you have  
7 wanted provided to you; is that right?

8 MS. CURTIS: It is information I wanted provided to  
9 me.

02:34:25PM 10 THE COURT: All right. But once that  
11 information -- let's assume that that's what it is and that  
12 they are going to respond and give you certain information  
13 pursuant to your request, and now you have got the  
14 information, let's say.

02:34:34PM 15 What is your next -- you are asking the Court,  
16 I gather, to have a hearing to determine whether or not the  
17 parties should be removed as trustees. You understand that  
18 would require the Court then appointing someone to serve as a  
19 trustee.

02:34:52PM 20 MS. CURTIS: Yes, Your Honor.

21 THE COURT: And then the parties would then have to,  
22 then, present to the Court, I gather, the name -- the name or  
23 names of individuals who they believe -- whom they believe  
24 would be qualified to handle those -- those functions, and  
02:35:08PM 25 could not -- it would seem to me, because of the controversy,

1 it doesn't seem it could include you or another family member.

2 Do you see the problem there?

3 MS. CURTIS: I do understand.

4 THE COURT: So is that what you are asking the Court  
02:35:22PM 5 to do in your -- that's what I think I heard you say.

6 Is that right?

7 MS. CURTIS: Yes, that's correct.

8 THE COURT: Why haven't you gone on and hired a  
9 lawyer?

02:35:32PM 10 MS. CURTIS: Because these are things that -- these  
11 are things that I don't need an attorney for. I'm going --

12 THE COURT: I don't disagree that as a matter of  
13 course, you are entitled to what you are requesting. The  
14 problem is that you are not -- you are so far away from the

02:35:53PM 15 courthouse, and it creates some problems with the  
16 communication that -- when I say "communication," meaning if I  
17 want to have a hearing on something, you either have got to  
18 fly in here, or I have got to have you on the telephone. And  
19 I'm not really sure the telephone is a proper way to have  
02:36:10PM 20 these types of proceedings.

21 If you had counsel, particularly local counsel,  
22 that's someone who could make motions and proceed to do  
23 discovery and all of that on your behalf. It seems to me that  
24 would be a much easier way to proceed. I'm just throwing that  
02:36:28PM 25 out there for you.

1                   However, under the rules of discovery, I'm not  
2 quite sure that the way that you have presented this is a way  
3 in which the defendants are required to respond. In other  
4 words, you have attached to your motion, your ex parte  
02:36:48PM 5 motion -- and I think you filed it under seal. I'm not sure  
6 why.

7                   Why did you file it under seal?

8                   MS. CURTIS: I just gave it to the clerk this  
9 morning.

02:36:57PM 10                  THE COURT: Okay. So it doesn't really need to be  
11 under seal. There are no -- I don't think there are any -- we  
12 generally have things filed under seal that would -- where  
13 there may be some indication of information, family private  
14 information, confidential information, that should not be  
02:37:20PM 15 disclosed to the public. But this is a public proceeding, so  
16 there is nothing, I gather, as far as you know that --

17                  MS. CURTIS: No, Your Honor.

18                  THE COURT: -- would require that. I'm going to,  
19 then, have it removed from being under seal. I don't know if  
02:37:31PM 20 counsel has gotten a copy of it yet, but he would be able to  
21 access it. You should provide him a copy of it.

22                  MS. CURTIS: I did.

23                  THE COURT: Okay. Very good. But if you look at  
24 what you have got as p-68. Does that mean there's a p-67  
02:37:53PM 25 someplace and a p-66?

1 MS. CURTIS: The p-67.

2 THE COURT: It's attached to the motion. That's  
3 what I am referring to. It's attached to your ex parte  
4 motion. It is a five-page document, demanding --

02:38:11PM

5 MS. CURTIS: I have it. It was the only exhibit  
6 that I attached.

7 THE COURT: But this suggests there are 67 other  
8 exhibits out there somewhere, right?

02:38:28PM

9 MS. CURTIS: Yes. I have just continued adding  
10 exhibit numbers from the very beginning.

11 THE COURT: Okay. So some of these exhibits are  
12 attached to your original proceeding?

13 MS. CURTIS: Yes, Your Honor.

02:38:38PM

14 THE COURT: And all along there may have been some  
15 that were added to or attached to your motions, and you are  
16 now at number 68. That's what that is. Okay.

17 MS. CURTIS: Yes, Your Honor. And --

18 THE COURT: Have you read the rules, Federal Rules  
19 of Procedure related to discovery requests?

02:38:55PM

20 MS. CURTIS: Yes, Your Honor. I have something to  
21 say about that, also.

22 THE COURT: Well, let me say my say first. And that  
23 is, this is not going to get.

24 MS. CURTIS: I understand.

02:39:04PM

25 THE COURT: Go ahead and say your say.



1 MS. CURTIS: "The public policy considerations  
2 involved in a common law information demand pursuant to a  
3 fiduciary obligation are very different from those involved in  
4 a discovery request under Rules of Civil Procedure for the  
02:39:19PM 5 following reasons: If trustee is administering property, the  
6 trust estate that belongs to the beneficiaries of the trust.  
7 In other words, the beneficiaries hold equitable title to the  
8 trust estate.

9 "The trustee acting in his individual capacity  
02:39:35PM 10 usually has no personal interest whatsoever in the estate of  
11 the trust that he is administering. Consequently, the  
12 information requested does not belong to the trustee. In  
13 legal discovery requests, a party to a lawsuit is requesting  
14 proprietary information and documents that belong to another  
02:39:54PM 15 party. This is not the case with respect to equitable demands  
16 for information.

17 "The trustee of a trust holds the trust estate  
18 for the benefit of the trust beneficiaries who have an  
19 equitable interest in all information and documents. There is  
02:40:10PM 20 usually a financial disparity between the beneficiary who is  
21 using his personal financial resources to obtain information  
22 and the trustee who is using the estate of the trust to pay  
23 for the cost of his compliance with the information demand.  
24 In essence, the beneficiary is paying everyone's fees.

02:40:32PM 25 "This situation does not occur in legal

1 discovery requests where independent parties are involved in  
2 litigation. The beneficiary of a trust is the only person  
3 authorized to enforce the trust. It is not possible for him  
4 or her to perform this function without disclosure from the  
02:40:49PM 5 trustee regarding how the trust is being administered. Where,  
6 as here, the trustee is conflicted, the duty to disclose is  
7 even higher than that of ordinary corporate trustees.

8 "In discovery, under the rules the scope of  
9 discovery is whether the information sought appears reasonably  
02:41:09PM 10 calculated to lead to the discovery of admissible evidence.  
11 In common law disclosure, the scope of discovery is material  
12 facts known to the trustee that might affect the  
13 beneficiaries' rights.

14 "There is no law in place allowing formal  
02:41:24PM 15 objections to reasonable common law disclosure demand for  
16 information directed from a beneficiary to a trustee. Unlike  
17 interrogatories, there is no limitation on the number of  
18 demands for information that can be made on the trustee if the  
19 trustee breaches his duty to disclose his subject to all  
02:41:45PM 20 equitable remedies. Moreover, his breach is a factor in the  
21 award of legal fees in the overall case pursuant to Texas  
22 Trust Code 114.064."

23 I have been asking, first, nicely, then I made  
24 a common law demand in writing in late 2011, after my mother  
02:42:08PM 25 passed away. I made a statutory demand for the exact same

1 information I was entitled to in January of 2011. And to this  
2 day, I have gotten nothing but excuses and explanations for  
3 records and documents that I am entitled to as a beneficiary.

02:42:35PM 4 THE COURT: All right. Let me ask you, when you say  
5 you have gotten nothing, are you saying that you have received  
6 absolutely nothing from defendants or their attorneys?

7 MS. CURTIS: I have received nothing responsive.

8 THE COURT: So now there is an argument as to what  
9 responsive is, isn't it?

02:42:50PM 10 So here's what I am getting to. These kinds of  
11 disputes as to whether or not -- whatever you might have  
12 received -- and I don't even suggest that it's what you  
13 requested, but whatever the dispute is, these matters are  
14 matters that now are in this Court. And you are asking me to  
02:43:10PM 15 address them, and I'm in no position to address them because I  
16 don't have the documents before me that you do have.

17 And the way this request has to be made now is  
18 not in a common law fashion as you would do if you were  
19 writing a letter to a person and requesting. That simply sets  
02:43:33PM 20 you up to go to court and get a judge to enter an order that  
21 you be provided with the documentation that you believe you  
22 are entitled to. My job would then be to decide whether or  
23 not the information that you have requested is relevant or  
24 important to any issue in the case.

02:43:51PM 25 Because the point is, the bottom line here, in

1 my opinion, and it seems where you are headed, is that you are  
2 asking this Court to do one of several things, or maybe  
3 several things.

02:44:07PM 4 One, it sounds like you are asking the Court to  
5 remove the trustees and appoint a trustee. I think I heard  
6 you say that.

7 Second, it seemed to me you want the estate  
8 dispersed so that you have your share of the estate and it is  
9 not under the supervision and/or hands of your sisters.

02:44:24PM 10 And, third, you want your sisters or the  
11 trustees, whoever was acting as -- I think it was both of  
12 them, co-trustees, since November 11th of 2011, or whatever  
13 period of time. You want them to account to you, that, by  
14 accounting, I think I hear you saying you want them to  
02:44:42PM 15 reimburse you for what they have taken that doesn't belong to  
16 them, as a disbursement to them, assuming that that has  
17 occurred.

18 And it sounds to me like you are asking for  
19 attorney's fees that have not -- following through. And this  
02:44:55PM 20 would not come from the estate per se. It would come from  
21 them individually. That's what I understand I am hearing.

22 So, there are some documents that may be  
23 important or relevant to those kinds of requests, but  
24 everything wouldn't necessarily be. Whether or not -- for  
02:45:14PM 25 example, if you are looking for do you have certified copies

1 of letters, or whatever, that might have gone from this person  
2 to that person, that might not be relevant.

3           What is relevant, it seems to me, is that there  
4 is a money issue here, and it can be solved by accounting and  
02:45:30PM 5 disbursement. One of the things that the Court is going to  
6 have to get around to, it seems to me, because I'm not sure  
7 that you are going to do it voluntarily, or the parties or the  
8 defendants, is at some point an asset/liability statement has  
9 to be prepared and presented in this case. Otherwise, there's  
02:45:50PM 10 no way for the Court to know what the value of the estate is  
11 and/or what the -- what any disbursements might look like.  
12 I'm not sure that disbursement is the proper venue, but I am  
13 certain that that's part of what you are requesting.

14           Am I correct in some of that?

02:46:07PM 15           MS. CURTIS: You are correct in almost 99 percent of  
16 that, but I would like to know where the EE bonds are.

17           THE COURT: The who?

18           MS. CURTIS: The EE Treasury bonds.

19           THE COURT: Here's my point. You can ask that, but  
02:46:24PM 20 you need to do it. You can ask for a revelation of these  
21 documents, these Treasury bonds, whatever else you think  
22 that's missing and have not been accounted for. And the  
23 reason, theoretically, at least in part, that they have not  
24 been accounted for is that they are not paying an interest as  
02:46:45PM 25 an income to the estate, necessarily. The interest,

1 apparently, is being accumulated in the bond itself. So you  
2 would have to cash the bond to get the principal and the  
3 interest. That may be an explanation for it.

4           You are entitled to know what those assets are,  
02:47:01PM 5 but you've got to ask for them. What I said to you was the  
6 way that you attached it to this motion is not the way that it  
7 should be done under the rules of discovery. So simply file  
8 your motion for requesting whatever it is that you are  
9 requesting discovery wise with counsel, Mr. Vie, who has the  
02:47:24PM 10 duty to either object to what you are requesting or to  
11 respond. Okay?

12           But I don't want it attached to your motion for  
13 an order to show cause because that's a different -- that's a  
14 different vehicle. This is discovery attached to something  
02:47:43PM 15 that it should not be attached to. So you need to file a  
16 separate discovery motion. All right? Or at least provide  
17 that -- file that request with Mr. Vie.

18           MS. CURTIS: Excuse me, Your Honor. But the reason  
19 I attached the demand for production of documents, this is  
02:48:05PM 20 a -- this has already been given to defendants. They have  
21 already responded to it.

22           THE COURT: Okay. Okay.

23           MS. CURTIS: And the reason that I attached it is  
24 because I still don't have the information that I need to be  
02:48:19PM 25 able to make a decision about anything having to do with my

1 beneficial interests.

2 THE COURT: So that's the basis for this  
3 application, for civil contempt.

4 MS. CURTIS: Yes, Your Honor.

02:48:30PM

5 THE COURT: I see. Okay. Now, see, I don't know  
6 what's going on outside of the Court. So I apologize for  
7 being too far ahead of you in that respect, or behind you,  
8 whatever.

02:48:44PM

9 The point is that this application, then, would  
10 require the Court to conduct a hearing. They have a duty to  
11 respond and an opportunity to respond within a certain number  
12 of days. It would require a hearing, and, in my opinion, it  
13 would require a hearing here in open court so the record is  
14 made of whatever that proceeding is. So, there you have it.

02:49:05PM

15 It is going to be -- I cannot let you participate by  
16 telephone.

17 MS. CURTIS: I understand.

18 THE COURT: Because you might need to be questioned,  
19 as well, under the proceeding. All right?

02:49:17PM

20 So I will set a date for that, and Mr. Vie can  
21 respond within that time frame, and then we will see whether  
22 or not there's a hearing probably within the next 30, 40 days.

23 MS. CURTIS: Okay.

24 THE COURT: Anything else?

02:49:36PM

25 MS. CURTIS: No, Your honor.

1 THE COURT: And you are still not going to get a  
2 lawyer, right?

3 MS. CURTIS: Not quite yet.

4 THE COURT: Okay.

02:49:44PM 5 Mr. Vie, did you have anything that you needed  
6 to bring to the Court's attention?

7 MR. VIE: No, Your Honor.

8 THE COURT: So I will go ahead and set this matter  
9 for a hearing perhaps the 1st of October.

02:49:55PM 10 Do we have a date that we can give them now?

11 Is October 1st too soon?

12 You haven't had a chance to respond yet. So,  
13 theoretically, you have got 21 days.

14 MR. VIE: I think it is on the docket for the -- I  
02:50:19PM 15 think the submission date is the 19th.

16 THE COURT: That's an automatic submission. I'm  
17 talking about a date for the hearing on the motion. You are  
18 going to be responding or -- or not, one way or the other. I  
19 would have to have a hearing before I could decide the motion.

02:50:35PM 20 MR. VIE: Tuesday, the 1st?

21 THE COURT: Would that be fine?

22 MS. CURTIS: Your Honor, the nature of my work  
23 requires me to be in my office on Monday or Tuesday of any  
24 given week.

02:50:49PM 25 THE COURT: What's a good day for you?



1 MS. CURTIS: Wednesday, Thursday or Friday. Any  
2 Wednesday, Thursday or Friday I will be here.

3 THE COURT: So if you have to travel, how are you  
4 going to get here on Wednesday if you have got to be in there  
02:51:01PM 5 on Tuesday?

6 MS. CURTIS: I can travel at night.

7 THE COURT: You can work that out.

8 MS. CURTIS: I will work that out.

9 THE COURT: So let's pick a Wednesday. October 2nd,  
10 how is that for you?

11 MR. VIE: No objection, Your Honor.

12 THE COURT: October 2nd. Is 11:30 a good time or is  
13 it better in the afternoon, Ms. Curtis?

14 MS. CURTIS: 11:30 is fine.

02:51:24PM 15 THE COURT: Is that fine with you, then, Mr. Vie?

16 MR. VIE: Yes, Your Honor.

17 THE COURT: 10/11, at 11:30 a.m. -- 10/2. 10/11  
18 must be a holiday. 10/2. I apologize. October 2nd.

19 We are not going to send out an additional --  
02:51:48PM 20 well, we might send a notice out, but don't wait on us to send  
21 you a notice. You might get a notice indicating that -- a  
22 reminder that this is occurring, and that would be the nature  
23 and extent of the -- so let me ask a couple of questions,  
24 Mr. Vie. And, I'm not sure, you might confer with your client  
02:52:11PM 25 there.

1 I just signed an order, and you know that is a  
2 fairly expensive -- I will deal with your order. I need to  
3 sign it.

02:52:21PM

4 Can we pull up his order on the motion for the  
5 lease?

6 I want to make sure that the funds are  
7 available to pay the attorney and the accountant before -- I  
8 don't want hear him call me and say, Judge, I haven't seen or  
9 heard anything.

02:52:37PM

10 MR. VIE: They are available, Your Honor.

11 THE COURT: All right. Very good. I believe  
12 everything else that was requested for payment, the taxes,  
13 that's been taken care of.

14 MR. VIE: Yes, Your Honor.

02:52:47PM

15 THE COURT: The only thing I need is your order  
16 here.

17 The Court has entered an order on that. I  
18 believe that's all that I have. Thank you very much, ladies  
19 and gentlemen.

02:53:35PM

20 (Concluded.)

21 \* \* \*

22 I certify that the foregoing is a correct transcript from the  
23 record of proceedings in the above-entitled cause, to the best  
24 of my ability.

25 //s \_\_\_\_\_  
Stephanie Kay Carlisle CSR, RPR

09/27/2013  
Date

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<p><b>thousands</b> [1] - 12:13  <b>three</b> [7] - 18:6, 18:7, 22:11, 23:20, 25:12, 27:10  <b>three-month</b> [1] - 22:11  <b>three-quarters</b> [1] - 25:12  <b>throwing</b> [1] - 39:24  <b>Thursday</b> [2] - 50:1, 50:2  <b>tie</b> [1] - 10:13  <b>tied</b> [1] - 12:15  <b>timeline</b> [1] - 11:18  <b>timing</b> [1] - 27:5  <b>TIMOTHY</b> [1] - 2:3  <b>Timothy</b> [1] - 3:22  <b>title</b> [1] - 42:7  <b>today</b> [4] - 4:8, 11:18, 26:6, 33:13  <b>together</b> [3] - 4:18, 23:21, 25:18  <b>took</b> [1] - 9:15  <b>top</b> [1] - 18:21  <b>total</b> [9] - 18:2, 21:15, 22:10, 22:24, 23:4, 23:6, 23:7, 25:17, 28:16  <b>totaling</b> [1] - 25:18  <b>touched</b> [1] - 18:18  <b>towards</b> [1] - 12:1  <b>Towards</b> [1] - 24:16  <b>trace</b> [1] - 16:25  <b>track</b> [1] - 5:11  <b>transaction</b> [2] - 27:12, 27:13  <b>transactions</b> [2] - 10:8, 34:20  <b>TRANSCRIPT</b> [1] - 1:10  <b>transcript</b> [2] - 1:24, 51:22  <b>transcription</b> [1] - 1:25  <b>transfer</b> [1] - 23:9  <b>transferred</b> [1] - 23:14  <b>transfers</b> [1] - 17:18  <b>travel</b> [2] - 50:3, 50:6  <b>Treasury</b> [6] - 15:13, 16:5, 16:6, 46:18, 46:21  <b>true</b> [1] - 37:7  <b>Trust</b> [2] - 37:25, 43:22  <b>trust</b> [17] - 10:4, 18:3, 37:13, 37:16, 37:17, 37:24, 42:6, 42:8, 42:11, 42:17,</p>	<p>42:18, 42:22, 43:2, 43:3, 43:5  <b>trustee</b> [15] - 36:15, 37:16, 38:19, 42:5, 42:9, 42:12, 42:17, 42:22, 43:5, 43:6, 43:12, 43:16, 43:18, 43:19, 45:5  <b>trustees</b> [11] - 4:6, 4:7, 5:4, 36:5, 36:17, 37:16, 38:17, 43:7, 45:5, 45:11, 45:12  <b>truth</b> [1] - 4:17  <b>trying</b> [7] - 8:16, 8:17, 13:20, 14:5, 26:3, 33:9, 35:17  <b>Tuesday</b> [3] - 49:20, 49:23, 50:5  <b>turnover</b> [1] - 13:14  <b>two</b> [10] - 4:4, 8:4, 20:6, 22:11, 23:20, 25:5, 25:12  <b>two-thirds</b> [1] - 25:12  <b>two-year</b> [1] - 20:6  <b>type</b> [4] - 12:5, 14:8, 15:21, 19:3  <b>types</b> [1] - 39:20</p>	<p style="text-align: center;"><b>V</b></p> <p><b>value</b> [6] - 8:15, 8:23, 8:25, 23:10, 46:10  <b>various</b> [1] - 15:4  <b>vehicle</b> [1] - 47:14  <b>venue</b> [1] - 46:12  <b>versus</b> [1] - 3:4  <b>veterinarian</b> [1] - 22:23  <b>VIE</b> [29] - 1:16, 3:12, 3:15, 4:7, 4:10, 7:21, 8:3, 9:25, 10:6, 10:7, 11:8, 27:2, 27:3, 27:24, 28:4, 28:8, 28:17, 28:22, 29:13, 31:25, 32:24, 33:5, 49:7, 49:14, 49:20, 50:11, 50:16, 51:10, 51:14  <b>Vie</b> [18] - 3:12, 3:15, 7:19, 9:23, 27:1, 29:11, 30:2, 30:5, 31:19, 32:22, 33:25, 35:23, 47:9, 47:17, 48:20, 49:5, 50:15, 50:24  <b>voice</b> [1] - 28:12  <b>voluntarily</b> [1] - 46:7  <b>VS</b> [1] - 1:6</p>	<p>25:25  <b>Withholding</b> [1] - 36:12  <b>witness</b> [5] - 6:12, 7:1, 7:2, 7:13, 7:20  <b>WITNESS</b> [63] - 11:15, 12:8, 12:19, 12:22, 12:24, 13:5, 13:9, 14:1, 14:20, 15:1, 15:11, 16:4, 16:11, 16:15, 17:14, 17:23, 18:4, 18:9, 18:17, 19:1, 19:17, 19:22, 20:3, 20:7, 20:13, 20:16, 20:18, 20:22, 21:4, 21:9, 21:12, 21:16, 21:19, 21:25, 22:6, 22:13, 22:18, 22:22, 23:1, 23:6, 23:12, 23:17, 23:19, 23:22, 24:2, 24:7, 24:12, 24:14, 24:16, 24:22, 25:7, 25:10, 25:12, 25:15, 25:19, 25:22, 25:25, 26:9, 26:14, 26:18, 28:7, 28:13, 29:1  <b>words</b> [3] - 27:19, 40:4, 42:7  <b>Wow</b> [1] - 33:15  <b>writing</b> [2] - 43:24, 44:19  <b>written</b> [5] - 17:9, 18:20, 19:1, 19:13, 19:14</p>
	<b>U</b>		
	<p><b>U.S</b> [1] - 2:9  <b>Ulfianian</b> [1] - 1:14  <b>uncomfortable</b> [1] - 14:23  <b>uncontradicted</b> [1] - 37:1  <b>under</b> [14] - 8:5, 28:11, 28:13, 40:1, 40:5, 40:7, 40:11, 40:12, 40:19, 42:4, 43:8, 45:9, 47:7, 48:19  <b>underlying</b> [1] - 21:20  <b>unexplained</b> [1] - 14:13  <b>UNITED</b> [2] - 1:1, 1:11  <b>unless</b> [2] - 28:3, 32:21  <b>Unlike</b> [1] - 43:16  <b>up</b> [7] - 6:18, 6:20, 6:21, 11:20, 28:12, 44:20, 51:4  <b>utilize</b> [1] - 30:24</p>	<p style="text-align: center;"><b>W</b></p> <p><b>W-D-R-L</b> [1] - 25:24  <b>wait</b> [1] - 50:20  <b>waste</b> [1] - 34:24  <b>Wednesday</b> [4] - 50:1, 50:2, 50:4, 50:9  <b>week</b> [2] - 11:21, 49:24  <b>well-known</b> [1] - 36:9  <b>WEST</b> [3] - 3:19, 3:25, 30:3  <b>West</b> [7] - 3:20, 6:12, 11:11, 28:12, 30:23, 31:13, 34:1  <b>whatsoever</b> [1] - 42:10  <b>wife</b> [1] - 22:4  <b>William</b> [4] - 2:14, 3:19, 3:25, 6:12  <b>WILLIAM</b> [1] - 1:16  <b>wise</b> [1] - 47:9  <b>withdrawal</b> [2] - 25:17, 25:25  <b>Withdrawal</b> [1] -</p>	<b>Y</b>
			<p><b>year</b> [1] - 20:6  <b>years</b> [4] - 12:14, 14:22, 20:6, 22:11</p>

# Exhibit 19

Bates stamped exhibits of EE bonds from Defendants April 9, 2013 disclosure CD  
delivered to Plaintiff in open court

**Bank of America**



**Customer  
Receipt**

All items are credited subject to verification, collection, and conditions of the Rules and Regulations of this Bank and as otherwise provided by law. Payments are accepted when credit is applied to outstanding balances and not upon issuance of this receipt. Transactions received after the Bank's posted cut-off time or Saturday, Sunday, and Bank Holidays, are dated and considered received as of the next business day.

Please retain this receipt until you receive your account statement.

**Thank you for banking with Bank of America.**  
Save time. Save energy. Fast, reliable deposits, withdrawals and account management at more than 18,000 convenient ATM locations.

Tran 00129 08/20/2010 11:59  
Entity NTX CC 0008519 Tlr 00003  
Account \*\*\*\*\*1143  
R/T# 540740134  
Deposit \$11,947.07  
DRL TX\*\*\*\*\* 10/11

Member FDIC  
95-14-2005B 05-2009

**P4913**

**BRUNSTING000470**

MerlinTeller

Withdrawal Deposit Consignment Payments Misc Teller Office TouchPoint Exit

E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
25	EE	200.00	1982 / 02	553.68	453.68
26	EE	200.00	1982 / 12	507.84	407.84
27	EE	200.00	1982 / 11	507.84	407.84
28	EE	200.00	1982 / 10	532.16	432.16
29	EE	200.00	1982 / 09	532.16	432.16
30	EE	200.00	1982 / 08	542.80	442.80
31	EE	200.00	1982 / 07	542.80	442.80
32	EE	200.00	1982 / 06	542.80	442.80
33	EE	200.00	1982 / 05	542.80	442.80
34	EE	200.00	1982 / 04	542.80	442.80
35	EE	200.00	1982 / 03	542.80	442.80
36	EE	50.00	1982 / 02	138.42	113.42

Sub/Totals

Pre-January 1990 Issue Dates

11947.07

9722.07

January 1990 and Later Issue Dates

Total

11947.07

9722.07

PGUP = Screen Up

DOWN ARROW = Scroll Down

ALT-S = More Bonds

PGDN = Screen Down

UP ARROW = Scroll Up

ALT-E = End Customer

ALT-N = More Transactions

AM

MICR-2

Release Version:

1080719A-Y

14:56

08/20/2010

P4914

BRUNSTING000471

MerlinTeller

Withdrawal Deposit Contribution Payments Misc Teller Office TouchPoint Edit

E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
1	EE	50.00	1982 / 09	133.04	108.04
2	EE	75.00	1982 / 12	190.44	152.94
3	EE	75.00	1982 / 11	190.44	152.94
4	EE	75.00	1982 / 10	199.56	162.06
5	EE	75.00	1982 / 08	203.55	166.05
6	EE	75.00	1982 / 07	203.55	166.05
7	EE	75.00	1982 / 06	203.55	166.05
8	EE	75.00	1982 / 05	203.55	166.05
9	EE	75.00	1982 / 04	203.55	166.05
10	EE	75.00	1982 / 03	203.55	166.05
11	EE	75.00	1982 / 01	207.63	170.13
12	EE	100.00	1982 / 03	271.40	221.40

Sub/Totals

Pre-January 1990 Issue Dates

11947.07

9722.07

January 1990 and Later Issue Dates

Total

11947.07

9722.07

PGUP = Screen Up

DOWN ARROW = Scroll Down

ALT-S = More Bonds

PGDN = Screen Down

UP ARROW = Scroll Up

ALT-E = End Customer

ALT-N = More Transactions

AM

MICR-2

Release Version:

1080719A-Y

14:56

08/20/2010

P4915

BRUNSTING000472



E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
13	EE	100.00	1982 / 04	271.40	221.40
14	EE	100.00	1982 / 05	271.40	221.40
15	EE	100.00	1982 / 06	271.40	221.40
16	EE	100.00	1982 / 07	271.40	221.40
17	EE	100.00	1982 / 08	271.40	221.40
18	EE	100.00	1982 / 09	266.08	216.08
19	EE	100.00	1982 / 10	266.08	216.08
20	EE	100.00	1982 / 11	253.92	203.92
21	EE	100.00	1982 / 12	253.92	203.92
22	EE	100.00	1982 / 01	276.84	226.84
23	EE	100.00	1982 / 02	276.84	226.84
24	EE	200.00	1982 / 01	553.68	453.68

Sub/Totals

Pre-January 1990 Issue Dates	11947.07	9722.07
January 1990 and Later Issue Dates		
Total	11947.07	9722.07

PGUP = Screen Up

DOWN ARROW = Scroll Down

ALT-S = More Bonds

PGDN = Screen Down

UP ARROW = Scroll Up

ALT-E = End Customer

ALT-N = More Transactions

AM

MICR-2

Release Version:

1080719A-Y

14:56

08/20/2010

385

Some ~~of~~ ~~the~~ ~~data~~

TERM	LOC.	EMPL. NO.	NAME	BONDS	UNITS
1968	800	114162	E. H. BRUNSTING	22	58

PLEASE NOTE

THE UNITED STATES TREASURY DEPARTMENT REGULATIONS REQUIRE THAT AN ADDRESS BE SHOWN FOR THE OWNER ON ALL BONDS ISSUED. HOWEVER, SINCE THE ADDRESS IS NOT USED FOR MAILING THE BONDS, AND SINCE AN OLD ADDRESS DOES NOT AFFECT THEIR VALIDITY, THE FEDERAL RESERVE BANK WILL NOT CHANGE ADDRESSES ON THE BONDS PURCHASED UNDER THE SAVINGS-STOCK BONUS PLAN.

ALSO, UNITS INDICATED ABOVE ARE THE TOTAL NUMBER OF \$25 BONDS (I.E., \$25 AT MATURITY, BUT \$18.75 WHEN PURCHASED). FOR EXAMPLE, A \$50 BOND IS CONSIDERED AS 1 BOND OF 2 UNITS, A \$100 BOND AS 1 BOND, BUT 4 UNITS.

67 TERM

LOC. EMPLOYEE NO.

NAME

*Cancelled  
6/11/76*

BONDS UNITS

800 114,162

E. H. BRUNSTING

20 56

P4919

BRUNSTING000952

TERM	LOC.	EMPL. NO.	NAME	BONDS	UNITS
1969	800	114162	E. H. BRUNSTING	24	67

PLEASE NOTE

THE UNITED STATES TREASURY DEPARTMENT REGULATIONS REQUIRE THAT AN ADDRESS BE SHOWN FOR THE OWNER ON ALL BONDS ISSUED. HOWEVER, SINCE THE ADDRESS IS NOT USED FOR MAILING THE BONDS, AND SINCE AN OLD ADDRESS DOES NOT AFFECT THEIR VALIDITY, THE FEDERAL RESERVE BANK WILL NOT CHANGE ADDRESSES ON THE BONDS PURCHASED UNDER THE SAVINGS-STOCK BONUS PLAN.

ALSO, UNITS INDICATED ABOVE ARE THE TOTAL NUMBER OF \$25 BONDS (I.E., \$25 AT MATURITY, BUT \$18.75 WHEN PURCHASED). FOR EXAMPLE, A \$50 BOND IS CONSIDERED AS 1 BOND OF 2 UNITS, A \$100 BOND AS 1 BOND, BUT 4 UNITS

P4920

BRUNSTING000953

TERM	LOC.	EMPL. NO.	NAME	BONDS	UNITS
1970	800	114162	E. H. BRUNSTING	24	70

PLEASE NOTE

THE UNITED STATES TREASURY DEPARTMENT REGULATIONS REQUIRE THAT AN ADDRESS BE SHOWN FOR THE OWNER ON ALL BONDS ISSUED. HOWEVER, SINCE THE ADDRESS IS NOT USED FOR MAILING THE BONDS, AND SINCE AN OLD ADDRESS DOES NOT AFFECT THEIR VALIDITY, THE FEDERAL RESERVE BANK WILL NOT CHANGE ADDRESSES ON THE BONDS PURCHASED UNDER THE SAVINGS-STOCK BONUS PLAN.

ALSO, UNITS INDICATED ABOVE ARE THE TOTAL NUMBER OF \$25 BONDS (I.E., \$25 AT MATURITY, BUT \$18.75 WHEN PURCHASED). FOR EXAMPLE, A \$50 BOND IS CONSIDERED AS 1 BOND OF 2 UNITS, A \$100 BOND AS 1 BOND, BUT 4 UNITS.

P4921

BRUNSTING000954

TERM	LOC.	EMPL. NO.	NAME	BONDS	UNITS
,1971	800	114162	E. H. BRUNSTING	24	78

PLEASE NOTE

THE UNITED STATES TREASURY DEPARTMENT REGULATIONS REQUIRE THAT AN ADDRESS BE SHOWN FOR THE OWNER ON ALL BONDS ISSUED. HOWEVER, SINCE THE ADDRESS IS NOT USED FOR MAILING THE BONDS, AND SINCE AN OLD ADDRESS DOES NOT AFFECT THEIR VALIDITY, THE FEDERAL RESERVE BANK WILL NOT CHANGE ADDRESSES ON THE BONDS PURCHASED UNDER THE SAVINGS-STOCK BONUS PLAN.

ALSO, UNITS INDICATED ABOVE ARE THE TOTAL NUMBER OF \$25 BONDS (I.E., \$25 AT MATURITY, BUT \$18.75 WHEN PURCHASED). FOR EXAMPLE, A \$50 BOND IS CONSIDERED AS 1 BOND OF 2 UNITS, A \$100 BOND AS 1 BOND, BUT 4 UNITS.

P4922

BRUNSTING000955

Bank of America



**Customer  
Receipt**

All items are credited subject to verification, collection, and conditions of the Rules and Regulations of this Bank and as otherwise provided by law. Payments are accepted when credit is applied to outstanding balances and not upon issuance of this receipt. Transactions received after the Bank's posted cut-off time or Saturday, Sunday, and Bank Holidays, are dated and considered received as of the next business day.

Please retain this receipt until you receive your account statement.

Thank you for banking with Bank of America.  
Try Online Banking at [www.bankofamerica.com](http://www.bankofamerica.com)

Tran 000400 08/27/2008 11:35  
Entity NTX CC 0008519 Tr 00010  
Account \*\*\*\*\*1143  
R/T# 540740134  
Deposit \$4,448.04  
N DRL TX\*\*\*\*\* 10/11

95-14-2005B 08-2004

P4923

BRUNSTING000956



Toll free number for Federal Reserve Bank in K.C. - 1-800-333-2919.

United States Savings Bonds on hand:-

Series E - 1977 - all months - Expire 2007  
\$25-100-200 denomination

*Cashed in 2/27/07*

Series EE - 1978 - January - one \$100  
one \$200 - Expire 2008

*Cashed in Mar. 4, 2008*

Series HH - 1988 - Nov. only \$1000 - 2 bonds - Expire 2008

8/27/08 - Series EE - 1981 - From February to Dec. Expire 2011  
All denominations

*- 15 bonds '81 cashed  
total 1448.04*

Series EE - 1982 - all months - up to \$200 - Expire 2012

Series EE - 1983 - January through July - Expire - 2013

MerlinTeller

Withdrawal Deposit Commitment Payments Misc Teller Office TouchPoint Exit

E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
1	EE	200.00	1981 / 07	521.76	421.76
2	EE	100.00	1981 / 07	260.88	210.88
3	EE	200.00	1981 / 06	521.76	421.76
4	EE	50.00	1981 / 07	130.44	105.44
5	EE	75.00	1981 / 03	204.36	166.86
6	EE	75.00	1981 / 06	195.66	158.16
7	EE	50.00	1981 / 03	136.24	111.24
8	EE	200.00	1981 / 03	544.96	444.96
9	EE	50.00	1981 / 04	136.24	111.24
10	EE	100.00	1981 / 04	272.48	222.48
11	EE	200.00	1981 / 04	544.96	444.96
12	EE	50.00	1981 / 05	130.44	105.44

Sub/Totals

Pre January 1990 Issue Dates

4448.04

3610.54

January 1990 and Later Issue Dates

Total

4448.04

3610.54

PGUP = Screen Up

DOWN ARROW = Scroll Down

ALT-S = More Bonds

PGDN = Screen Down

UP ARROW = Scroll Up

ALT-E = End Customer

ALT-N = More Transactions

AM

MICR-2

Release Version:

VFR0528B-Y

11:34

08/27/2008

P4925

MerlinTeller

Withdrawal Deposit Consignment Payments Misc Teller Office TouchPoint Exit

E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
4	EE	50.00	1981 / 07	130.44	105.44
5	EE	75.00	1981 / 03	204.36	166.86
6	EE	75.00	1981 / 06	195.66	158.16
7	EE	50.00	1981 / 03	136.24	111.24
8	EE	200.00	1981 / 03	544.96	444.96
9	EE	50.00	1981 / 04	136.24	111.24
10	EE	100.00	1981 / 04	272.48	222.48
11	EE	200.00	1981 / 04	544.96	444.96
12	EE	50.00	1981 / 05	130.44	105.44
13	EE	75.00	1981 / 05	195.66	158.16
14	EE	200.00	1981 / 05	521.76	421.76
15	EE	50.00	1981 / 06	130.44	105.44

Sub/Totals

Pre-January 1990 Issue Dates	4448.04	3610.54
January 1990 and Later Issue Dates		
Total	4448.04	3610.54

PGUP = Screen Up

DOWN ARROW = Scroll Down

ALT-S = More Bonds

PGDN = Screen Down

UP ARROW = Scroll Up

ALT-E = End Customer

ALT-N = More Transactions

AM

MICR-2

Release Version:

VFR0528B-Y

11:34

08/27/2008



MerlinTeller

Withdrawal Deposit Conignment Payments Misc Teller Office Exit

E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
1	E	25.00	1977/12	123.46	104.71
2	E	25.00	1977/08	136.93	118.18
3	E	25.00	1977/05	136.67	117.92
4	E	100.00	1977/04	541.32	466.32
5	E	100.00	1977/05	546.68	471.68
6	E	100.00	1977/08	547.72	472.72
7	E	100.00	1977/06	547.84	472.84
8	E	100.00	1977/07	547.72	472.72

-Sub/Totals-

Pre-January 1990 Issue Dates	19708.78	16952.53
January 1990 and Later Issue Dates		
Total	19708.78	16952.53

PGUP = Screen Up      DOWN ARROW = Scroll Down      ALT-S = More Bonds  
 PGDN = Screen Down      UP ARROW = Scroll Up      ALT-E = End Customer  
 ALT-N = More Transactions

AM

E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
8	E ✓	100.00	1977/07	547.72	472.72
9	E	100.00	1977/09	537.00	462.00
10	E	100.00	1977/10	537.00	462.00
11	E	100.00	1977/11	492.48	417.48
12	E	100.00	1977/12	493.84	418.84
13	E	100.00	1977/01	552.16	477.16
14	E	100.00	1977/02	552.16	477.16
15	E	100.00	1977/03	541.32	466.32

-Sub/Totals-

Pre-January 1990 Issue Dates	19708.78	16952.53
January 1990 and Later Issue Dates		
Total	19708.78	16952.53

- PGUP = Screen Up
- PGDN = Screen Down
- DOWN ARROW = Scroll Down
- UP ARROW = Scroll Up
- ALT-S = More Bonds
- ALT-E = End Customer
- ALT-N = More Transactions

AM

MerlinTeller

Withdrawal Deposit Condonment Payments Misc Teller Office Exit

E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
14	E ✓	100.00	1977/02	552.16	477.16
15	E ✓	100.00	1977/03	541.32	466.32
16	E	200.00	1977/11	984.96	834.96
17	E	200.00	1977/01	1104.32	954.32
18	E	200.00	1977/02	1104.32	954.32
19	E	200.00	1977/03	1082.64	932.64
20	E	200.00	1977/04	1082.64	932.64
21	E	200.00	1977/05	1093.36	943.36

-Sub/Totals-

Pre-January 1990 Issue Dates

19708.78

16952.53

January 1990 and Later Issue Dates

Total

19708.78

16952.53

PGUP = Screen Up

DOWN ARROW = Scroll Down

ALT-S = More Bonds

PGDN = Screen Down

UP ARROW = Scroll Up

ALT-E = End Customer

ALT-N = More Transactions

AM

MICH 2

Release Version:

V720129A Y

10:45

02/27/2007

MerlinTeller

Withdrawal Deposit Consignment Payments Misc Teller Office Exit

E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
20	E ✓	200.00	1977/04	1082.64	932.64
21	E ✓	200.00	1977/05	1093.36	943.36
22	E	200.00	1977/06	1095.68	945.68
23	E	200.00	1977/07	1095.44	945.44
24	E	200.00	1977/09	1074.00	924.00
25	E	200.00	1977/12	987.68	837.68
26	E	200.00	1977/08	1095.44	945.44
27	E	200.00	1977/10	1074.00	924.00

-Sub/Totals-

Pre-January 1990 Issue Dates

19708.78

16952.53

January 1990 and Later Issue Dates

Total

19708.78

16952.53

PGUP = Screen Up

DOWN ARROW = Scroll Down

ALT-S = More Bonds

PGDN = Screen Down

UP ARROW = Scroll Up

ALT-E = End Customer

ALT-N = More Transactions

AM

MICR-2

Release Version:

V720129A-Y

10:45

02/27/2007

P4931

BRUNSTING000964





*HH  
Bonds  
S.P. Pavy*

**NOTICE TO RECIPIENTS OF SERIES HH AND H BOND INTEREST  
IMPORTANT TAX RETURN DOCUMENT ENCLOSED**

On and after March 1, 1987, if a Series HH or H savings bond submitted for redemption is received by a Federal Reserve Office or the Bureau of the Public Debt in the month preceding an interest due date, the bond will be paid and the owner will not receive the upcoming interest payment, unless the paying office receives from the owner a specific written statement that the bond should be held until the month in which the interest is due. For example, if interest is due on a Series HH or H bond every January 1 and July 1 and the paying office receives the bond in June without a written request to hold the bond until July 1, the bond will be paid and the owner will receive no interest for the period from the preceding January 1 to the date of payment.

Paying offices will not honor instructions to hold bonds for later redemption if the bonds and written statement are received more than one month before an interest due date. For example, if interest is due on a Series HH or H bond every January 1 and July 1 and the bond is received by the paying office in September, the bond will be paid, and the owner will receive no interest for the period from the preceding July to the date of payment.

**PLEASE RETAIN THIS NOTICE WITH YOUR BONDS AS A REMINDER OF THIS  
RULE CHANGE.**

**P4932**

**BRUNSTING000965**



U.S. Savings Bond E/EE  
Interest Income

Interest Income to be Reported to the Internal Revenue Service (Form must be typed or printed legibly)

Customer Information (Customer Mailing Address for 1099 Statement)

Customer Name (Name of party receiving funds) <i>Elmer Brunsting</i>	Tax ID (TIN) <i>232 32 - 8905</i>
Street Address/Apt. Number	City/State/Zip Code

I certify that the TIN shown on this form is my correct Taxpayer Identification Number for reporting to the IRS.

Customer Signature *Elmer H Brunsting* Date *6/7/00*

Associate Information

Prepared By <i>Sally Richardson</i>	Teller Number <i>159-006</i>	Telephone Number <i>(713) 365-3220</i>
Bank Number/Cost Center <i>Torrey + Country 159 0008519</i>	Banking Center Name/ Number <i>Torrey + Country</i>	

Transaction Information (Complete all applicable fields)

Type of Bonds (Check applicable type) <input checked="" type="checkbox"/> Series E <input type="checkbox"/> Series EE	Redemption Date <i>6/7/00</i>	Number of Bonds <i>24</i>
Purchase Price (A) \$ <i>1706.25</i>	Interest Amount paid (B) (Amount reported to the IRS as Interest Income) \$ <i>8740.49</i>	Total Amount Paid (C) (A + B + C) \$ <i>10,446.74</i>
Deposit to Account Number <i>8519 001143</i>	Total Deposit Amount \$ <i>10,446.74</i>	
Cash Ticket Number	Cashier's Check Number	

TEFRA Use Only

Entered By	Date	Delete	Date
Verified By	Date	Re-entered	Date

00-14-2944 NSB (01-1999)

White - TEFRA    Canary - Customer    Pink - File

P4933

BRUNSTING000966

BOND INFORMATION

PRESS PRINT KEY FOR CPY OF SCREEN

REDEMPTION YYYY/MO	2000/06	SERIES: 1 - E BONDS	3 - SAVINGS NOTES	2 - EE BONDS	4 = I BONDS	T O T A L S	
# OF BONDS	SERIES 1,2,3,4	FACE VALUE	ISSUE YYYY/MO	P E R R E D E M P . VAL	B O N D I N T E A R N E D	R E D E M P . VAL	I N T E A R N E D
1	1	100	1973/12	447.40	372.40	447.40	372.40
1	1	100	1973/05	458.32	383.32	458.32	383.32
1	1	100	1973/06	459.40	384.40	459.40	384.40
1	1	100	1973/07	463.84	388.84	463.84	388.84
1	1	100	1973/07	463.84	388.84	463.84	388.84
1	1	100	1973/08	464.84	389.84	464.84	389.84
1	1	100	1973/09	455.80	380.80	455.80	380.80
1	1	100	1973/09	455.80	380.80	455.80	380.80
1	1	100	1973/10	455.80	380.80	455.80	380.80
1	1	100	1973/11	455.80	380.80	455.80	380.80
1	1	100	1973/11	455.80	380.80	455.80	380.80
1	1	100	1973/12	447.40	372.40	447.40	372.40
1	1	75	1973/02	350.61	294.36	350.61	294.36
PAGE TOTAL						5834.65	4878.40

DO YOU WANT TO ENTER MORE BONDS? (Y/N)

BOND INFORMATION

PRESS PRINT KEY FOR CPY OF SCREEN

REDEMPTION YYYY/MO	2000/06	SERIES: 1 - E BONDS	3 - SAVINGS NOTES	2 - EE BONDS	4 = I BONDS	T O T A L S	
# OF BONDS	SERIES 1,2,3,4	FACE VALUE	ISSUE YYYY/MO	P E R R E D E M P . VAL	B O N D I N T E A R N E D	R E D E M P . VAL	I N T E A R N E D
1	1	75	1973/04	343.74	287.49	343.74	287.49
1	1	75	1973/06	344.55	288.30	344.55	288.30
1	1	75	1973/08	348.63	292.38	348.63	292.38
1	1	75	1973/10	341.85	285.60	341.85	285.60
1	1	100	1973/01	466.28	391.28	466.28	391.28
1	1	100	1973/01	466.28	391.28	466.28	391.28
1	1	100	1973/02	467.48	392.48	467.48	392.48
1	1	100	1973/03	458.32	383.32	458.32	383.32
1	1	100	1973/03	458.32	383.32	458.32	383.32
1	1	100	1973/04	458.32	383.32	458.32	383.32
1	1	100	1973/05	458.32	383.32	458.32	383.32
PAGE TOTAL						4612.09	3862.09

DO YOU WANT TO ENTER MORE BONDS? (Y/N)

*Barlow Am  
Town of Coventry  
Branch require  
for sale of all our  
1973 Series E Bonds  
6/7/00*

*Total \$8740.49 list.  
Total \$10446.74*

*redemp to  
value*

P4934

GENERAL ATOMIC COMPANY

CALCULATIONS FOR 1972 SERIES E BONDS						
EQUIP. NO.	PROJ. NO.	CALC. NO.	PAGE OF			
PREPARED BY	DATE	REF. DOCUMENTS:				
REVIEWED BY	DATE	FIGURAN FOR JUNE REDEMPTION				
APPROVED BY	DATE					
ISSUE DATE	QTY	SERIAL #	TOTAL VALUE	COST	INT. EARNED	
JAN 1973	100	C-2116581264E	466.28	75	391.28	✓
JAN 1973	100	C-2116581265E	466.28	75	391.28	✓
FEB 1973	100	C-2116581266E	466.28	75	391.28	392.48
FEB 1973	75	K 223036220E	350.61	56.25	294.36	✓
MAR 1973	100	C 2116581267E	458.32	75	383.32	✓
MAR 1973	100	C 2116581268E	458.32	75	383.32	✓
APR 1973	100	C 2116581271E	458.32	75	383.32	✓
APR 1973	75	K 223036219E	343.74	56.25	287.49	✓
MAY 1973	100	C 2116581269E	458.32	75	383.32	✓
MAY 1973	100	C 2116581270E	458.32	75	383.32	✓
JUNE 1973	100	C 116581272E	457.40	75	384.40	✓
JUNE 1973	75	K 223036218E	344.55	56.25	288.30	✓
JULY 1973	100	C 2116581273E	463.84	75	388.84	✓
JULY 1973	100	C 2116581274E	463.84	75	388.84	✓
AUG 1973	100	C 2116581275E	464.84	75	389.84	✓
AUG 1973	75	K 223036216E	348.63	56.25	292.38	✓
SEPT 1973	100	C 2116581276E	455.80	75	380.80	✓
SEPT 1973	100	C 2116581277E	455.80	75	380.80	✓
OCT 1973	100	C 2116581278E	455.80	75	380.80	✓
OCT 1973	75	K 223036217E	391.85	58.55	285.60	✓
NOV 1973	100	C 2116581279E	455.80	75	380.80	✓
NOV 1973	100	C 2116581280E	455.80	75	380.80	✓
DEC 1973	100	C 2116581281E	447.40	75	372.40	✓
DEC 1973	100	C 2116581282E	447.40	75	372.40	✓
			<del>10,311.55</del>	1706.25	8,685.29	
<b>BANK TOTAL</b>			10,446.74			
D.F.			55.20			
<b>Grand Total</b>			10,446.74			
<b>Principal</b>			1,706.25			
<b>Interest</b>			8740.49			
A.28			2447.34			
			2,250.00			
			197.39			
				104,250 = 91,839		
				3,250		
				5500		



December Redemptor

		1	2	3	4	5	6	7	8	9	10	11	12	13
		Denomina	redemp	Penit	Totale			Denomina	Redemp	Penit	Totale		Principo	End.
		Value	Value	or				Value	Value	or				
1	Sept 1968	25	128.93	18.75	110.18		Sept	50	241.04	37.50	203.72	1968	375	2925.60
2		100	515.72	75	440.72			100	492.88	75	407.44	1969	806.25	4588.60
3	Oct	25	128.93	18.75	110.18		Nov	50	241.04	37.50	203.72	1970	1181.25	5079.24
4		100	515.72	75	440.72			100	492.88	75	407.44		2362.50	12183.62
5	Nov	25	127.93	18.75	109.18		Dec	50	248.02	37.50	209.52	1971	1640.25	6693.11
6		100	511.72	75	436.72			100	491.04	75	419.04		806.25	17876.63
7	Dec	4200	521.72	75	436.72					1181.25	5,099.26	1980	702.50	18498.1
8		425	129.93	18.75	111.18								4508.75	21726.44
9				375	2495.60		Jan 71	50	211.50	37.50	174.00	1972	1481.25	6574.74
10								100	423.92	75	348.00		5990.00	28321.8
11	April 1969	25	129.35	18.75	110.60		Feb	50	211.98	37.50	174.48			
12		100	517.4	75	442.40			100	423.92	75	348.92			
13	May	50	255.04	37.50	217.54		March	50	211.98	37.50	174.48			
14		100	510.14	75	435.16			100	423.92	75	348.92			
15	June	50	249.78	37.50	212.28		April	50	211.98	37.50	174.48			
16		100	499.56	75	424.56			100	423.92	75	348.92			
17	Aug	100	495.68	75	420.68		May	75	317.94	56.25	261.69			
18	Sept	50	247.84	37.50	210.34			100	423.92	75	348.92			
19		100	495.68	75	420.68		June	75	315.75	56.25	259.50			
20	Oct	25	123.92	18.75	105.17			100	425.20	75	350.20		Bonds	14980
21		100	495.68	75	420.68		July	50	210.50	37.50	173.00		Savings	7610
22	Nov	50	247.84	37.50	210.34			100	423.92	75	348.92			24080
23		100	495.68	75	420.68		Aug	75	316.32	56.25	260.07			
24	Dec	25	124.56	18.75	105.81			100	421.76	75	346.76			
25		100	498.28	75	423.28		Sept	50	210.88	37.50	173.38			
26				806.25	4588.64			100	421.76	75	344.76			
27							Oct	75	316.32	56.25	260.07		Sold TRAD	1971
28	March 70	50	247.18	37.50	209.68			100	421.76	75	346.76		Capital	3904
29		100	494.36	75	419.36		Nov	50	210.88	37.50	173.38		End	19871
30	April	50	247.18	37.50	209.68			100	421.76	75	346.76			23683
31		100	494.36	75	419.36		Dec	75	317.13	56.25	260.88			
32	May	50	247.18	37.50	209.68			100	422.84	75	346.84		TRAD 19871	5565
33		100	494.36	75	419.36					1181.25	1693.11			18,118
34	June	50	248.34	37.50	210.84									2610
35		100	496.68	75	421.68									27728
36	Aug	50	246.44	37.50	208.94									23720
37		100	492.88	75	417.88									
38	Sept	25	123.22	18.75	104.72									
39		100	492.88	75	418.88									
40				806.25	3,248.38									

4/15/71  
 2/15/71  
 1/15/71  
 12/15/70  
 11/15/70  
 10/15/70  
 9/15/70  
 8/15/70  
 7/15/70  
 6/15/70  
 5/15/70  
 4/15/70  
 3/15/70  
 2/15/70  
 1/15/70

Deerha Redemption  
1977

*red.*

	1	2	3	4	5	6	7	8	9	10	11	12	13
	Deerha	redempt value	Prorata	Taxable									
1	Feb 1980	75	202.29	56.25	146.04								
2	Feb	100	269.72	75	194.72								
3	Feb	200	539.43	150	389.43								
4	March	200	539.47	150	389.43								
5	March	200	539.47	150	389.43								
6	April	75	202.29	56.25	146.04								
7	April	100	269.72	75	194.72								
8		875		702.50	184.81								
9													
10													
11		472											
12	Jan	75	310.86	56.25	254.61								
13	Feb	50	207.74	37.50	170.24								
14	Feb	100	415.48	75	340.48								
15	March	75	311.61	56.25	255.36								
16	March	100	415.48	75	340.48								
17	April	75	311.61	56.25	255.36								
18	April	100	415.48	75	340.48								
19	May	75	311.61	56.25	255.36								
20	May	100	415.48	75	340.48								
21	June	75	312.98	56.25	256.73								
22	June	100	416.64	75	341.64								
23	July	75	306.33	56.25	250.08								
24	July	100	408.44	75	333.44								
25	Aug	75	307.02	56.25	250.77								
26	Aug	100	408.44	75	333.44								
27	Sept	75	307.02	56.25	250.77								
28	Sept	100	408.44	75	333.44								
29	Oct	75	307.02	56.25	250.77								
30	Oct	100	408.44	75	333.44								
31	Nov	75	307.02	56.25	250.77								
32	Nov	100	408.44	75	333.44								
33	Dec	75	307.68	56.25	251.43								
34	Dec	100	410.24	75	335.24								
35				481.25	6591.76								
36				5990	28321.08								
37				-3									
38				34211.08									
39				-3									
40				34011.08									
41													
42													

23  
21  
30

1849.51  
202.50  
252.31

125.92  
118.25  
406.64  
403.59  
1250.29

28221.68  
25886.87  
434.31  
2752.31  
221.00

481.25  
5990  
-3  
34211.08  
-3  
34011.08

25886.87  
2562.34  
28449.21  
25.00  
28474.21  
5990  
2437.21

SAVINGS - STOCK BONUS PLAN OF  
GULF OIL CORPORATION

EMPLOYEE NO: 114162  
LOCATION NO: 150  
SOC SEC NO: 282-32-8905

AUTHORIZATION FOR SETTLEMENT

IN ACCORDANCE WITH THE PROVISIONS OF THE SAVINGS-STOCK BONUS PLAN,  
THE SETTLEMENT SHOWN BELOW IS AUTHORIZED TO BE MADE FOR THE ACCOUNT OF  
E.H. BRUNSTING BY REASON OF REQUEST 12/31/82  
PART OF THIS SETTLEMENT MAY BE TAXABLE.

			COST OF SECURITIES	CASH PAYMENT	TOTAL FUND SETTLEMENT
SAVINGS FUNDS:					
1982 TERM-	36 BONDS	178 UNITS	2,225.00	4.84	2,229.84

STOCK BONUS FUNDS:

LONG TERM-        SHARES @    \$.000

LONG TERM SAVINGS FUNDS:

OPTION 1-        SHARES @    \$.000

OPTION 2

SAVERS A-        SHARES @    \$.000

SAVERS B

---

TOTAL SETTLEMENT UNDER ALL FUNDS:					
36 BONDS		SHARES	2,225.00	4.84	2,229.84

---

CHECK DATE 03/25/83 , NUMBER 214850, PAYEE E. H. BRUNSTING

BENEFITS COMMITTEE

DATE        MARCH    25, 1983

BY        PHILIP E. LINTNER  
SECRETARY



1-800 333 2919

DESCRIPTIONS OF UNITED STATES SAVINGS BONDS PRESENTED AND SURRENDERED

ISSUE DATE	DENOMINATION	SERIAL NUMBER	INSCRIPTION
8/27/67 <del>JAN 1968</del>	123.71 25	Q2323610188E	ELMER H. BRUNSTING OR Q641817019E NELVA E. BRUNSTING
8/27/67 <del>JAN 1968</del>	491.84 100	C488366018E	DITTO C-2116581318E
8/27/67 <del>FEB 1968</del>	494.84 100	C488381553E	DITTO C-2116581319E
8/27/67 <del>MARCH 1968</del>	494.84 100	C487597606E	DITTO C-2116581320E
7/31/67 <del>JULY 1968</del>	495.68 100	C492930507E	DITTO Sold - Mond?
8/27/67 <del>AUG 1968</del>	123.92 25	Q2369597957E	DITTO Q641817018E
8/27/67 <del>AUG 1968</del>	495.68 100	C495526689E	DITTO C-2116581317E
<del>SEPT 1968</del>	123.92 25	Q2376239798E	DITTO Q641817017E
<del>SEPT 1968</del>	495.68 100	C495554472E	DITTO C-2116581316E
<del>OCT 1968</del>	123.92 25	Q2376412853E	DITTO Q641817016E
<del>OCT 1968</del>	495.68 100	C495571546E	DITTO C-2116581315E
<del>NOV 1968</del>	123.92 25	Q2382934338E	DITTO Q641817015E
<del>NOV 1968</del>	495.68 100	C496529219E	DITTO C-2116581314E
<del>DEC 1968</del>	124.37 25	C496545465E	DITTO C-2116581313E
<del>DEC 1968</del>	519.67 25	Q2389590020E	DITTO Q6418172020E
8/27/67 <del>JAN 1969</del>	124.33 25	Q2402769422E	ELMER H BRUNSTING Q6418172021E NELVA E BRUNSTING
7/31/67 <del>JAN 1969</del>	497.32 100	C497448486E	DITTO Sold
8/27/67 <del>FEB 1969</del>	124.33 25	Q2409958642E	DITTO Q6418172022E
8/27/67 <del>FEB 1969</del>	497.32 100	C499254901E	DITTO C-2116581323E
8/27/67 <del>MARCH 1969</del>	495.68 50	L757031560E	DITTO L-2225131884E
8/27/67 <del>MARCH 1969</del>	497.32 100	C499266790E	DITTO C-2116581324E
8/27/67 <del>APRIL 1969</del>	124.33 25	Q2422715395E	DITTO Q6418172023E
<del>APRIL 1969</del>	497.32 100	C499274128E	DITTO C-2116581325E
<del>MAY 1969</del>	246.15 50	L763056023E	DITTO L-2225131885E
<del>MAY 1969</del>	497.32 100	C502244708E	DITTO C-2116581326E
<del>JUNE 1969</del>	240.04 50	L766519117E	DITTO L-2225131886E
<del>JUNE 1969</del>	490.16 100	C502238466E	DITTO C-2116581327E
8/27/67 <del>JULY 1969</del>	119.83 25	Q2440232983E	DITTO Q6418172024E
7/31/67 <del>JULY 1969</del>	475.32 100	C502260677E	DITTO Sold
8/27/67 <del>AUG 1969</del>	238.18 50	L772779399E	DITTO L-2225131887E
<del>AUG 1969</del>	476.36 100	C504859197E	DITTO C-2116581328E
<del>SEPT 1969</del>	238.20 50	L775389203E	DITTO L-2225131888E
<del>SEPT 1969</del>	476.40 100	C504883348E	DITTO C-2116581329E
<del>OCT 1969</del>	119.83 25	Q2468249697E	DITTO Q6418172025E
<del>OCT 1969</del>	476.40 100	C506399101E	DITTO C-2116581330E
<del>NOV 1969</del>	238.20 50	L777324452E	DITTO L-2225131889E
<del>NOV 1969</del>	476.40 100	C506442126E	DITTO C-2116581331E
<del>DEC 1969</del>	119.72 25	Q2476363422E	DITTO Q6418172026E
<del>DEC 1969</del>	475.88 100	C506449027E	DITTO C-2116581308E
	760.58		
8/27/67 <del>JAN 1970</del>	236.96 50	L779356396E	ELMER H BRUNSTING OR 2225131883E NELVA E BRUNSTING
8/27/67 <del>JAN 1970</del>	478.92 100	C507351868E	DITTO C-2116581309E
<del>FEB 1970</del>	118.78 25	Q2489045403E	DITTO Q6418172026E
<del>FEB 1970</del>	477.12 100	C507371517E	DITTO C-2116581234E
<del>MARCH 1970</del>	237.58 50	L781533895E	DITTO L-2225131885E

8/27/67 ~~8/27/67~~ 100 C-2116581302E

P4940

BRUNSTING000973

MARCH 1970 ✓ 237.53 100  
 APRIL 1970 ✓ 118.78 50  
 APRIL 1970 ✓ 475.12 100  
 MAY 1970 ✓ 257.56 50  
 MAY 1970 ✓ 475.12 100  
 JUNE 1970 ✓ 237.58 50  
 JUNE 1970 ✓ 475.16 100  
 9/23/70 JULY 1970 258.70 50  
 9/24/70 JULY 1970 477.40 100  
 AUG 1970 ✓ 236.92 50  
 AUG 1970 ✓ 472.64 100  
 SEPT 1970 ✓ 118.44 25  
 SEPT 1970 ✓ 473.2 100  
 OCT 1970 ✓ 232.84 50  
 OCT 1970 ✓ 473.26 100  
 NOV 1970 ✓ 296.84 50  
 NOV 1970 ✓ 472.76 100  
 DEC 1970 ✓ 237.44 50  
 DEC 1970 ✓ 474.84 100

7750.06

JAN 1971 ✓ 201.32 50  
 JAN 1971 ✓ 402.64 100  
 FEB 1971 ✓ 201.74 50  
 FEB 1971 ✓ 403.44 100  
 MARCH 1971 ✓ 201.74 50  
 MARCH 1971 ✓ 403.48 100  
 APRIL 1971 ✓ 201.74 50  
 APRIL 1971 ✓ 402.74 100  
 MAY 1971 ✓ 302.61 75  
 MAY 1971 ✓ 402.48 100  
 JUNE 1971 ✓ 297.63 75  
 JUNE 1971 ✓ 396.84 100  
 JULY 1971 ✓ 198.76 50  
 JULY 1971 ✓ 397.52 100  
 AUG 1971 ✓ 258.17 75  
 AUG 1971 ✓ 397.56 100  
 SEPT 1971 ✓ 198.74 50  
 SEPT 1971 ✓ 397.52 100  
 OCT 1971 ✓ 258.17 75  
 OCT 1971 ✓ 397.52 100  
 NOV 1971 ✓ 198.76 50  
 NOV 1971 ✓ 397.52 100  
 DEC 1971 ✓ 258.53 75  
 DEC 1971 ✓ 398.56 100

7698.52

1/3/72 JAN 1972 ✓ 293.04 75  
 JAN 1972 ✓ 390.72 100  
 FEB 1972 ✓ 195.50 50  
 FEB 1972 ✓ 391.60 100

C509742914E  
 L781622843E  
 C513299043E  
 LL781689413E  
 C513338157E  
 L781840738E  
 C513377785E  
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 L807326463E  
 C 515436590E

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ELMER H BRUNSTING OR L 2225131874E  
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 DITTO L-2225131875E  
 DITTO C-2116581291E  
 DITTO L-2225131876E  
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 DITTO K 223036231E  
 DITTO C-2116581301E

K16841325E  
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 L1002342624E  
 C536246756E

ELMER H BRUNSTING OR K 223036198E  
 NELVA E BRUNSTING 502  
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C-2116581302E

MARCH 1972 ✓ 293.7375  
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 JUNE 1972 ✓ 392.72100  
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 DITTO K 223036221E  
 DITTO C-2116581263E

*Each 76/00*

JAN 1973  
 JAN 1973  
 FEB 1973  
 FEB 1973  
 MARCH 1973  
 MARCH 1973  
 APRIL 1973  
 APRIL 1973  
 MAY 1973  
 MAY 1973  
 JUNE 1973  
 JUNE 1973  
 JULY 1973  
 JULY 1973  
 AUG 1973  
 AUG 1973  
 SEPT 1973  
 SEPT 1973  
 OCT 1973  
 OCT 1973  
 NOV 1973  
 NOV 1973  
 DEC 1973  
 DEC 1973

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C1017412539E  
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 C1020967660E  
 K103502429E  
 C1022725346E  
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 C1028489866E  
 K105207666E  
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 C1031993683E

ELMER H BRUNSTING OR C-2116581264E  
 NELVA E BRUNSTING C-2116581265E  
 DITTO K 223036220E  
 DITTO C-2116581266E  
 DITTO C-2116581267E  
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 DITTO K 223036216E  
 DITTO C-2116581275E  
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 DITTO C-2116581282E

JAN 1974  
 JAN 1974  
 FEB 1974

272.7675  
 363.68100  
 272.7675

K105609333E  
 C1034862765E  
 K106301025E

ELMER H BRUNSTING OR K 223036215E  
 NELVA E BRUNSTING C-2116581234E  
 DITTO K 223036214E

*March thru August 2000*  
*434/100*  
*456.36 - 381.36 sub.*  
*2500 x 14.34 = 10,850*  
*1974*

9/7/01 *th car member*

FEB 1974 363.68 100  
 MARCH 1974 363.68 100  
 MARCH 1974 363.68 100  
 APRIL 1974 363.68 100  
 APRIL 1974 363.68 100  
 MAY 1974 356.48 100  
 MAY 1974 356.48 100  
 JUNE 1974 357.32 100  
 JUNE 1974 357.32 100

C1037551320E  
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 C1039590047E  
 C1039616578E  
 C1039616579E  
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 C1040575109E  
 C1040666253E  
 C1040666254E

DITTO C-2116581235E  
 DITTO C-2116581236E  
 DITTO C-2116581237E  
 DITTO C-2116581238E  
 DITTO C-2116581239E  
 DITTO C-2116581240E  
 DITTO C-2116581241E  
 DITTO C-2116581242E  
 DITTO C-2116581243E

JULY 1974 59.32 25  
 JULY 1974 357.32 100  
 JULY 1974 357.32 100  
 AUG 1974 59.32 25  
 AUG 1974 357.32 100 ✓  
 AUG 1974 357.32 100 ✓  
 SEPT 1974 59.32 25 ✓  
 SEPT 1974 357.32 100 ✓  
 SEPT 1974 357.32 100 ✓  
 OCT 1974 59.32 25 ✓  
 OCT 1974 714.63 200 ✓  
 NOV 1974 59.32 25 ✓  
 NOV 1974 700.42 200 ✓  
 DEC 1974 702.16 200 ✓

Q5206129943E  
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 C1040699696E  
 Q5207177764E  
 C1042675840E  
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 Q5212656678E  
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 C1044277356E  
 Q5219890347E  
 R104236199E  
 Q5227328461E  
 R104238066E  
 R105532207E

DITTO Q6418172011E  
 DITTO C-2116581244E  
 DITTO C-2116581245E  
 DITTO Q6418172014E  
 DITTO C-2116581246E  
 DITTO C-2116581247E  
 DITTO Q641812079E  
 DITTO C-2116581249E  
 DITTO C-2116581248E  
 DITTO Q6418172029E  
 DITTO R-214370762E  
 DITTO Q6418172028E  
 DITTO R-214370763E  
 DITTO R-214370764E

2200  
 1500  
 2500

4/4/02  
 1/11/05

644.32  
 805.28

JAN 1975 702.04 200  
 FEB 1975 87.74 25  
 FEB 1975 702.08 200  
 MARCH 1975 175.52 50  
 MARCH 1975 702.08 200  
 APRIL 1975 175.52 50  
 APRIL 1975 702.08 200  
 MAY 1975 172.04 50  
 MAY 1975 688.74 200  
 JUNE 1975 56.32 25  
 JUNE 1975 688.74 200  
 JULY 1975 172.44 50  
 JULY 1975 688.74 200  
 AUG 1975 172.44 50  
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 SEPT 1975 688.74 200  
 OCT 1975 172.44 50  
 OCT 1975 688.74 200  
 NOV 1975 253.54 75  
 NOV 1975 674.24 200  
 DEC 1975 254.16 75  
 DEC 1975 677.74 200

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 R105537285E  
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 R105552232E  
 L10655080468E  
 R105555261E  
 L20046344533E  
 R200729202E  
 Q6011260745E  
 R200475099E  
 L2008122240E  
 R200478983E  
 L2011260401E  
 R201130474E  
 L2019145590E  
 R201134203E  
 L2025225306E  
 R201145065E  
 K202269628E  
 R201438781E  
 K202852678E  
 R202448340E

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 NELVA E BRUNSTING Q6418172030E  
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 DITTO L-2225131858E  
 DITTO R-214370759E  
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 DITTO R-214370758E  
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 DITTO R-214370757E  
 DITTO Q6418172031E  
 DITTO R-214370756E  
 DITTO L-2225131861E  
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 DITTO L-2225131862E  
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 DITTO L-2225131863E  
 DITTO R-214370753E  
 DITTO L-2225131864E  
 DITTO R-214370752E  
 DITTO K-223036213E  
 DITTO R-214370774E  
 DITTO K-223036212E  
 DITTO R-214370773E

6/1  
 7/1/01

10,193.94  
 6,461.65

separated 33,282.9  
 7,212.24 of which 6,087.24 is taxable



DEC 1977  
DEC 1977

28  
100

O623389753E  
C2063750948E

DITTO  
DITTO

DEC 1977

Cashed in 200 ✓

PAGE 6

R207846639E

DITTO R 214 370 789 E

JAN 1978  
JAN 1978

314168  
259 100  
594 200

C2063616775E  
R 208068104E

ELMER H. BRUNSTING OR C-2116581231E  
NELVA E BRUNSTING R 214 370 788 E

~~FEB 1980~~

194.43 75

K221891597E

ELMER H BRUNSTING OR K 223096179E

~~FEB 1980~~

259.24 100

C2107430100E

NELVA E BRUNSTING C-2116581232E

~~FEB 1980~~

318.48 200

R212872691E

DITTO R-214 370 787 E

~~MARCH 1980~~

578.48 200

R212956976E

DITTO R-214 370 786 E

~~MARCH 1980~~

518.48 200

R212956977E

DITTO R 214 370 785 E

~~APRIL 1980~~

194.43 75

K222388747E

DITTO K.223036200E

~~APRIL 1980~~

259.24 100

C2108816696E

DITTO C-2116581233E

2462.78

FEB 1981

161.40 50

L50420726EE

ELMER H BRUNSTING OR L 550298074EE

FEB 1981

242.1 75

K19777823EE

NELVA E BRUNSTING K101747190EE

FEB 1981

645.60 200

R7766450EE

DITTO R 13 7344640 EE

MARCH 1981

161.40 50

L57948286EE

DITTO L 550298073 EE

MARCH 1981

242.1 75

K19824806EE

DITTO K 101747189 EE

MARCH 1981

645.60 200

R7862790EE

DITTO R 13 7344693 EE

APRIL 1981

161.40 50

L62652169EE

DITTO L 550298072 EE

APRIL 1981

322.80 100

C22831762EE

DITTO C 586074555 EE

APRIL 1981

645.60 200

R7935030EE

DITTO R 13 7344638 EE

MAY 1981

152.96 50

L66997209EE

DITTO L 550298071 EE

MAY 1981

229.44 75

K20201615EE

DITTO K 101 747 188 EE

MAY 1981

611.84 200

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DITTO R 13 7344637 EE

JUNE 1981

152.96 50

L67154411EE

DITTO L 550298070 EE

JUNE 1981

229.44 75

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DITTO K 101 747 187 EE

JUNE 1981

611.84 200

R8963741EE

DITTO R 13 7344636 EE

JULY 1981

152.96 50

L71018815EE

DITTO L 550298069 EE

JULY 1981

305.92 100

C27478706EE

DITTO C 586074554 EE

JULY 1981

611.84 200

R9080782EE

DITTO R 13 7344635 EE

AUG. 1981

152.96 50

L77515409EE

DITTO L 550298068 EE

AUG. 1981

229.44 75

K21069991EE

DITTO K 101 747 186 EE

AUG. 1981

611.84 200

R9163791EE

DITTO R-13 7344634 EE

SEPT 1981

153.96 50

L78689195EE

DITTO L 550298067 EE

SEPT 1981

305.92 100

C31829104EE

DITTO C 586074553 EE

SEPT 1981

611.84 200

R299558EE

DITTO R 13 7344633 EE

OCT 1981

152.96 50

L83335953EE

DITTO L 550298066 EE

OCT 1981

229.44 75

K21754483EE

DITTO K 101 747 185 EE

OVT 1981

611.84 200

R10284711EE

DITTO R 13 7344632 EE

NOV 1981

148.52 50

L87201014EE

DITTO L 550298065 EE

NOV 1981

227.76 75

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DITTO K 101 747 184 EE

NOV 1981

594.08 200

R10473740EE

DITTO R 13 7344631 EE

DEC 1981

148.52 50

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DITTO L 550298064 EE

DEC 1981

297.04 100

C35846236EE

DITTO C-586074552 EE

DEC 1981

594.08 200

R10720744EE

DITTO R 13 7344630 EE

17,196.98

P4945

BRUNSTING000978

JAN 1982 222.7875  
 JAN 1982 297.04 100  
 JAN 1982 594.00 200  
 FEB 1982 148.52 50  
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 FEB 1982 594.00 200  
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 MARCH 1982 297.04 100  
 MARCH 1982 594.00 200  
 APRIL 1982 222.7875  
 APRIL 1982 297.04 100  
 APRIL 1982 594.00 200  
 MAY 1982 216.30 75  
 MAY 1982 288.40 100  
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 JUNE 1982 216.30 75  
 JUNE 1982 288.40 100  
 JUNE 1982 576.80 200  
 JUL 1981 216.30 75  
 JULY 1982 288.40 100  
 JULY 1982 576.80 200  
 AUG 1982 216.30 75  
 AUG 1982 288.40 100  
 AUG 1982 576.80 200  
 SEPT 1982 144.20 50  
 SEPT 1982 288.40 100  
 SEPT 1982 576.80 200  
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 OCT 1982 288.40 100  
 OCT 1982 576.80 200  
 NOV 1982 192.72 75  
 NOV 1982 256.96 100  
 NOV 1982 513.92 200  
 DEC 1982 192.72 75  
 DEC 1982 256.96 100  
 DEC 1982 513.92 200

K22664763EE  
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ELMER H BRUNSTING OR K101747183EE  
 NELVA E BRUNSTING C586074541EE  
 DITTO R137344629EE  
 DITTO L550298063EE  
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 DITTO K101747181EE  
 DITTO C586074548EE  
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 DITTO C586074546EE  
 DITTO R137344624EE  
 DITTO K101747178EE  
 DITTO C586074545EE  
 DITTO R137344623EE  
 DITTO K101747177EE  
 DITTO C586074544EE  
 DITTO R137344622EE  
 DITTO L550298062EE  
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 DITTO R137344619EE  
 DITTO K101747174EE  
 DITTO C586074540EE  
 DITTO R137344618EE

12,725

JAN 1983 192.72 75  
 JAN 1983 256.96 100  
 JAN 1983 513.92 200  
 FEB 1983 128.48 50  
 FEB 1983 256.96 100  
 FEB 1983 513.92 200  
 MARCH 1983 192.72 75  
 MARCH 1983 256.96 100  
 MARCH 1983 513.92 200  
 APRIL 1983 192.72 75  
 APRIL 1983 256.96 100  
 APRIL 1983 513.92 200  
 MAY 1983 182.34 75  
 MAY 1983 243.12 100

K35869372EE  
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 R13214791EE  
 L136290497EE  
 C54019850EE  
 R13915588EE  
 K36534795EE  
 C54064392EE  
 R14184718EE  
 K39737381EE  
 C55118367EE  
 R14244640EE  
 K39755808EE  
 C55144028EE

ELMER H BRUNSTING OR K101747173EE  
 NELVA E BRUNSTING C586074535EE  
 DITTO R137344617EE  
 DITTO L550298061EE  
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 DITTO C586074536EE  
 DITTO R137344614EE  
 DITTO K101747170EE  
 DITTO C586074535EE

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Faint, illegible text, possibly a body of a letter or document.

1-800-333-2919

4/90



MAY 1983  
 JUNE 1983  
 JUNE 1983  
 JUNE 1983  
 JULY 1983  
 JULY 1983  
 JULY 1983

486.24 200  
 182.34 75  
 243.12 100  
 486.24 200  
 182.34 75  
 234.12 100  
 486.24 200

R14256620EE  
 K39784382EE  
 C55185840EE  
 R15649975EE  
 K39817083EE  
 C55647118EE  
 R14702862EE

DITTO R137344613 EE  
 DITTO K101747169 EE  
 DITTO C586074534 EE  
 DITTO R137344612 EE  
 DITTO K101747168 EE  
 DITTO C586074533 EE  
 DITTO R137344611 EE

6515.77

*Redeemed by Fed Res only 713-658-4493*

SERIES HH BONDS TAXABLE

OCT 1982 385.52 500 D284696HH  
 OCT 1982 385.53 500 D284697HH

ELMER H BRUNSTING ORD 4252731 HH  
 NELVA E BRUNSTING D 4252732 HH

NOV 1988 694.56 1000 M2577341HH  
 NOV 1988 694.56 1000 M2577342HH

DITTO M6024223 HH  
 DITTO M6024224 HH

3000

*saved for 20 yrs*

123,531.51

123,581.51

3000 2 HH

120,581.51

26,493.75 cost

94,087.76 taxable

2160.18 HH taxable

96,247.94 TAX AMT

26,949.42 @ 28%

69,298.52 TAX PD

26,493.75 cost E-EE

4832 cost H-H

96,624.27 clear

Purchase Price  
 1713 @ 18.7%  
 Taxable

HH - 3000 PMA  
 Int. Taxable = 21.60  
 2840

385.53  
 694.56  
 1080.09  
 42  
 2160.18

3000  
 2165  
 2832

1403 25 cent

~~1500 333 2919~~

~~FOB Kansas City~~

P4949

BRUNSTING000982

PD F 5313  
Department of the Treasury  
Bureau of the Public Debt  
(Revised June 1997)

## **SAVINGS BOND REDEMPTION CHECK**

The enclosed check represents payment for the redemption of series F, G, H, J, K, or HH bonds. If you also requested payment for the redemption of series EE or E bonds or the issue of new bonds, you will receive them separately.

Please direct questions concerning this check to the Bureau of the Public Debt at (304) 480-7999.

\*U.S.GPO:1997-418-006/64315

**P4950**

**BRUNSTING000983**

**PLEASE READ INSTRUCTIONS BEFORE PREPARING FORM  
REQUEST FOR REDEMPTION OF U.S. SAVINGS BONDS, NOTES, RETIREMENT PLAN &  
INDIVIDUAL RETIREMENT BONDS**

**INSTRUCTIONS**

1. Complete separate requests for Series E/EE, H/HH, and I bonds.
2. All bonds must be signed by the payee and the signature must be certified by a bank official, authorized bank individual or notary on the back of the bond.
3. When bonds are being submitted to the Federal Reserve Bank for redemption, we become the paying agent. Therefore, your paying agent stamp is not needed on the front of the bond and the 1099-INT will be issued by the Bureau of Public Debt at the end of the year.
4. Series H/HH bonds will suffer a loss of interest if presented for payment in any month other than the month that interest is paid. Be sure to check the appropriate box below to clarify the payee's intentions for payment.
5. Series EE bonds issued after May 1, 1997, and I bonds are subject to a loss of the three most recent months' interest when redeemed within the first five years.

If you have any questions, please do not hesitate to call the Savings Bond Customer Service Unit between the hours of 8:00 a.m. and 6:00 p.m. CDT.

Submit completed form to:

Kansas City Area                      881-2919  
Long Distance Calls                    (800) 333-2919

Federal Reserve Bank of Kansas City  
Savings Bond Department  
P.O. Box 419440  
Kansas City, Missouri 64141-6440

Series of Bonds	Number of Bonds	Total Face Value	Payee's Social Security or Tax I.D. Number	Date
Payee's Name				
Payee's Street Address				
City, State, Zip Code				
Name of Contact and Telephone Number for Questions Regarding Request				
<b>Method of Payment</b> <input type="checkbox"/> Check, mail payment to: (If other than payee's address as indicated above).  <input type="checkbox"/> Credit financial institution's reserve account or correspondent's reserve account as designated on Federal Reserve Bank records. (This is not an ACH deposit.)			<b>Inscription on Savings Bond(s)</b> (Name(s) and address on face of bond)	
Name of Submitting Financial Institution			<b>Evidence</b> <input type="checkbox"/> Return Evidence (i.e., death certificate, court papers, or other documentation) <input type="checkbox"/> Evidence previously submitted to your processing site. _____ <div style="text-align: right; font-size: small;">Date</div>	
9-Digit ABA Number		4-Digit Branch Number		
<b>Complete this section for Series H or HH savings bonds only.</b> <input type="checkbox"/> Hold bonds until after interest is paid next month. NOTE: Requests can only be held for a maximum of 30 business days prior to the next interest payment due date.				
Street Address				
City, State, Zip Code				
Pay Bonds in month of _____  <input type="checkbox"/> Redeem bonds immediately regardless of interest payment due date and forfeit next interest payment. NOTE: No payment of bonds will be made during the last five business days of the month prior to the month that interest is due.				

**FOR FEDERAL RESERVE BANK USE ONLY - DO NOT WRITE BELOW THIS LINE**

<b>Evidence Notations</b>          <table border="1" style="width: 100%; margin-left: auto; margin-right: auto;"> <tr><td>Examiner</td></tr> <tr><td>Date Received _____</td></tr> <tr><td>Out Date _____</td></tr> <tr><td>Initials _____</td></tr> <tr><td>Date Examined _____</td></tr> </table>	Examiner	Date Received _____	Out Date _____	Initials _____	Date Examined _____	<b>Processing Notations</b>  <table style="width: 100%;"> <tr> <td>TRAN _____</td> <td>PRI _____</td> </tr> <tr> <td>1st Pass _____</td> <td>Total CRV _____</td> </tr> <tr> <td>2nd Pass _____</td> <td></td> </tr> <tr> <td>Arb _____</td> <td>Unbal _____</td> </tr> <tr> <td>Res _____</td> <td>Bal _____</td> </tr> </table>	TRAN _____	PRI _____	1st Pass _____	Total CRV _____	2nd Pass _____		Arb _____	Unbal _____	Res _____	Bal _____
Examiner																
Date Received _____																
Out Date _____																
Initials _____																
Date Examined _____																
TRAN _____	PRI _____															
1st Pass _____	Total CRV _____															
2nd Pass _____																
Arb _____	Unbal _____															
Res _____	Bal _____															

**PLEASE READ INSTRUCTIONS BEFORE PREPARING FORM  
REQUEST FOR REDEMPTION OF U.S. SAVINGS BONDS, NOTES, RETIREMENT PLAN &  
INDIVIDUAL RETIREMENT BONDS**

**INSTRUCTIONS**

1. Complete separate requests for Series E/EE, H/HH, and I bonds.
2. All bonds must be signed by the payee and the signature must be certified by a bank official, authorized bank individual or notary on the back of the bond.
3. When bonds are being submitted to the Federal Reserve Bank for redemption, we become the paying agent. Therefore, your paying agent stamp is not needed on the front of the bond and the 1099-INT will be issued by the Bureau of Public Debt at the end of the year.
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Name of Submitting Financial Institution			<b>Evidence</b> <input type="checkbox"/> Return Evidence (i.e., death certificate, court papers, or other documentation) <input type="checkbox"/> Evidence previously submitted to your processing site. _____ <span style="float: right; font-size: small;">Date</span>	
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Date Examined _____																
TRAN _____	PRI _____															
1st Pass _____	Total CRV _____															
2nd Pass _____																
Arb _____	Unbal _____															
Res _____	Bal _____															

SD 89 (Rev. 4-96)

Dear Savings Bond Customer *AW*

Enclosed are the Savings Bond forms you requested. If you are sending a transaction to our office for processing, please be sure to include the completed form and any necessary legal documents. If enclosing savings bonds, please record serial numbers prior to mailing.

Federal Reserve Bank - K.C.  
PO Box 419440  
Kansas City, MO 64141-6440



*E. Brunsting*  
*13630 Pine Rock*  
*Houston TX 77079*

Attention: \_\_\_\_\_

ABA No. \_\_\_\_\_

Daytime Phone # *713 464-4391*

Over

Form #	Quantity
PD 345	
PD 385-1	
PD 1048	
PD 1050	
PD 1455	
PD 1522	
PD 1849	
PD 1851	
PD 1938	
PD 1980	
PD 1993	
PD 2458	
PD 2488-1	
PD 2517	

Form #	Quantity
PD 2966	
PD 3062	
PD 3253	
PD 3360	
PD 3500	
PD 3501	
PD 3600	
PD 3782	
PD 3900	
PD 4000	
PD 4651	
PD 4652	
PD 5255	
PD 5263	

P4953

BRUNSTING000986

Form #	Quantity
PD 5263-1	
PD 5276	
PD 5336	
Supply Requisition	
SD 3 B	
SD 23	
SD 91	
SD 103	
SD 120	
SD 211	
FA 500	
SD 500	
SD 1340	
SF 1199A	

Form #	Quantity
W8	
W9	
SBD 2059	
SBD 2084	
SBD [REDACTED]	
SBD 2113	
SBD 2118	
SBD 2139	
SBD 2162	
CIRC 1-80	
CIRC 2-80	
CIRC 3-80	
CIRC 4-67	
CIRC 530	

Form #	Quantity
CIRC 750	
Red. Table E/SN	
Red. Table EE	
Guaranteed Rate	1
IR Packet	
PD News	
Interim Rate	
Table of Interest Dates	
The Book	
Form 1001	
Other	

Bonds to Cash in

X 507

March 1968	100 C 2116581320 E	722.100
	50 L 2225131584 E	
March 1969	100 C 21165811324 E	
July 1970	100 L 2225131869 E	
	<u>50 C 2116581284 E</u>	
	400 X ~ 2027	

Cashed 9/23/97



0.00 \*

0.00 \*

0.00 \*

68

2,496.00 +

2,496.00 \*

120.00 +

120.00 +

120.00 +

240.00 +

240.00 +

69

240.00 +

240.00 +

480.00 +

480.00 +

480.00 +

480.00 +

480.00 +

480.00 +

480.00 +

480.00 +

5,160.00 \*

120.00 +

2,400.00 +

70

4,800.00 +

7,320.00 \*

2,500.00 +

5,100.00 +

7,300.00 +

14,900.00 \*

+ must 991  
or clear out  
19 & what is  
about 7 lbs

P4956



Customer  
Receipt

Checking Deposit  Savings Deposit  Line of Credit  Consumer Loan  Commercial Loan  Visa/MasterCard  
 Federal Tax Deposit  Safe Deposit Box  Other (specify) \_\_\_\_\_

All items are credited subject to verification, collection, and conditions of the Rules and Regulations of this Bank and as otherwise provided by law. Payments are accepted when credit is applied to outstanding balances and not upon issuance of this receipt. Transactions received after the Bank's posted cut-off time or Saturday, Sunday, and Bank Holidays, are dated and considered received as of the next business day.

Please retain this receipt until you receive your account statement.

Thank you for banking with Bank of America.  
Member FDIC

Home State of Account \_\_\_\_\_

*Talitha Johnson*

TOTAL

8519001143#

008 159 948 70601#0130 \$23054.12 0

95-14-1960B 6-2000

P4957

BRUNSTING000990



U.S. Savings Bond E/EE  
Interest Income

Interest Income to be Reported to the Internal Revenue Service (Form must be typed or printed legibly)

Customer Information (Customer Mailing Address for 1099 Statement)

Customer Name (Name of party receiving funds) <b>Elmer H. Brunsting</b>	Tax ID (TIN) <b>282-32-8905</b>
Street Address/Apt. Number <b>13630 Pinerock</b>	City/State/Zip Code <b>Houston, TX, 77079</b>

I certify that the TIN shown on this form is my correct Taxpayer Identification Number for reporting to the IRS.

Customer Signature: *Elmer H. Brunsting* Date: 07-06-01

Associate Information

Prepared By <b>M. Sarrami</b>	Teller Number <b>008</b>	Telephone Number <b>(713) 365-3220</b>
Bank Number/Cost Center <b>159/8519</b>	Banking Center Name/ Number <b>Town &amp; Country / 159</b>	

Transaction Information (Complete all applicable fields)

Type of Bonds (Check applicable type) <input checked="" type="checkbox"/> Series E <input type="checkbox"/> Series EE	Redemption Date <b>07-06-01</b>	Number of Bonds <b>11</b>
Purchase Price (A) \$ <b>825.00</b>	Interest Amount paid (B) (Amount reported to the IRS as Interest Income) \$ <b>4229.12</b>	Total Amount Paid (C) (A + B = C) \$ <b>5054.12</b> ✓
Deposit to Account Number <b>008519001143</b>	Total Deposit Amount \$ <b>5054.12</b>	
Cash Ticket Number <b>@27% 9141.26</b>	Cashier's Check Number <b>18000</b>	

TEFRA Use Only

Entered By	Date <b>027%</b>	Delete <b>23054.12</b>	Date
Verified By	Date	Re-entered	Date

00-14-2944B 4-1999

White - TEFRA    Canary - Customer    Pink - File

P4958

BRUNSTING000991

BOND INFORMATION

PRESS PRINT KEY FOR COPY OF SCREEN

REDEMPTION YYYY/MO	2001/07	SERIES:	1 - E BONDS	3 - SAVINGS NOTES	2 - EE BONDS	4 - I BONDS	TOTALS	
# OF BONDS	SERIES #, 2, 3, 4	FACE VALUE	ISSUE YYYY/MO	PER BOND	REDEMP. VAL	INT EARNED	REDEMP. VAL	INT EARNED
1	1	100	1974/01	465.48	390.48	465.48	390.48	
1	1	100	1974/02	456.36	381.36	456.36	381.36	
2	1	100	1974/03	456.36	381.36	912.72	762.72	
2	1	100	1974/04	456.36	381.36	912.72	762.72	
2	1	100	1974/05	460.72	385.72	921.44	771.44	
2	1	100	1974/06	461.80	386.80	923.60	773.60	
1	1	100	1974/07	461.80	386.80	461.80	386.80	

PAGE TOTAL

5054.12

4229.12

DO YOU WANT TO ENTER MORE BONDS? (Y/N)

Bonds sold 1997

7/3, 8/3 and 9/23 Investment 1237.50  
 Earned Interest 7041  
 Redemption 8328

all funds & checking acct not to be paid

Tax due  $7041 \times .28 = 1971.48$

12/2/97 - Investment = 5990

Earned Int 28,321

Redemption 34311

Tax due =  $28,321 \times .28 = 7930$

Funds after tax

Invest Refund	5990	
Earn 28,321 x .28	<u>28,321</u>	
Funds available	34,311	
for Mut Funds	<u>25000</u>	
to Tomer	9311	

2,592 - 1971

to	<u>7930</u>	9,901	
	9901	<u>24,410</u>	

for 25000	<u>25000</u>		
-----------	--------------	--	--

Short	590	
	464	

9901
<u>9437</u>
464

**Modifications**

In order to insure the success of the project, all exceptions and modifications to these obligations are to be negotiated with the Executive Director of Houston Habitat for Humanity, Inc.

The purpose of this document is not to create a legally binding agreement, but rather to set forth the expectations of each party so as to aid in creating a satisfying experience for Sponsoring Organization and Houston Habitat for Humanity.

The Board and Staff of Houston Habitat for Humanity look forward to working with in this exciting adventure.

\_\_\_\_\_  
HOUSTON HABITAT FOR HUMANITY

\_\_\_\_\_  
SPONSORING ORGANIZATION

**AUTHORIZATION FOR SETTLEMENT**

In accordance with the provisions of the Contributory Retirement Plan and/or the Savings-Stock Bonus Plan, the settlement shown below is authorized to be made for the account of **E. H. BRUNSTING** by reason of  
**REQUEST** **12/31/73**

None of this settlement is taxable

Part of this settlement is taxable (see attachment)

	DESCRIPTION	COST OF BONDS AND/OR STOCK	CASH PAYMENT	TOTAL FUND SETTLEMENT
<b>CRP</b> (Cash)	PAYMENT FROM MEMBER'S ACCOUNT: CONTRIBUTIONS INTEREST ACCUMULATED CONTRIBUTIONS PAYMENT UNDER SECTION 4F-1 OF THE PLAN			
	<b>TOTAL SETTLEMENT UNDER CRP</b> .....			
<b>SAVINGS FUND(S)</b> (U.S. Savings Bond(s) Series E and/or Cash)	TERM NO. 1972 24 BOND(S) 84 UNIT(S)	1,575.00	3.42	1,578.42
	TERM NO. 1973 24 BOND(S) 90 UNIT(S)	1,687.50	11.70	1,699.20
	TERM NO. BOND(S) UNIT(S)			
	<b>TOTAL SETTLEMENT UNDER SAVINGS FUND(S)</b> 48 BOND(S) 174 UNIT(S)	3,262.50	15.12	3,277.62
<b>STOCK BONUS FUND(S)</b> (Capital Stock of Gulf Oil Corporation and/or Cash)	TERM NO. SHARE(S) @			
	TERM NO. SHARE(S) @			
	TERM NO. SHARE(S) @			
	<b>TOTAL SETTLEMENT UNDER STOCK BONUS FUND(S)</b> SHARE(S) .....			
<b>TOTAL SETTLEMENT UNDER ALL FUND(S)</b> .....		3,262.50	15.12	3,277.62

NO. OF SHARES	IN NAME OF		AMOUNT

DATE	CHECK NUMBER(S)	IN NAME OF	AMOUNT
3/08/74	044993	E. H. BRUNSTING	\$15.12

**RETIREMENT PLAN COMMITTEE  
SAVINGS PLAN COMMITTEE**

Date **MARCH 8, 1974**

By *James W. Chappel*  
SECRETARY **P4962**

**Bank of America**  
embracing ingenuity



**USA**  
Official Sponsor of the 2004 Olympic Teams

Official Sponsor of the 2004 Olympic Teams

**Customer  
Receipt**

All items are credited subject to verification, collection, and conditions of the Rules and Regulations of this Bank and as otherwise provided by law. Payments are accepted when credit is applied to outstanding balances and not upon issuance of this receipt. Transactions received after the Bank's posted cut-off time or Saturday, Sunday, and Bank Holidays, are dated and considered received as of the next business day.

Please retain this receipt until you receive your account statement.

**Thank you for banking with Bank of America.**  
**Try Online Banking at [www.bankofamerica.com](http://www.bankofamerica.com)**

6230515416

95-14-2005B 06-2002

**P4963**

**BRUNSTING000996**



TERM	LOC.	EMPL. NO.	NAME	BONDS	UNITS
1972	800	114162	E. H. BRUNSTING	24	84

PLEASE NOTE

THE UNITED STATES TREASURY DEPARTMENT REGULATIONS REQUIRE THAT AN ADDRESS BE SHOWN FOR THE OWNER ON ALL BONDS ISSUED. HOWEVER, SINCE THE ADDRESS IS NOT USED FOR MAILING THE BONDS, AND SINCE AN OLD ADDRESS DOES NOT AFFECT THEIR VALIDITY, THE FEDERAL RESERVE BANK WILL NOT CHANGE ADDRESSES ON THE BONDS PURCHASED UNDER THE SAVINGS-STOCK BONUS PLAN.

ALSO, UNITS INDICATED ABOVE ARE THE TOTAL NUMBER OF \$25 BONDS (I.E., \$25 AT MATURITY, BUT \$18.75 WHEN PURCHASED). FOR EXAMPLE, A \$50 BOND IS CONSIDERED AS 1 BOND OF 2 UNITS, A \$100 BOND AS 1 BOND, BUT 4 UNITS.

P4964

BRUNSTING000997

**WAIVER OF LIABILITY**  
(18 and over)

To be read and signed by all persons intending to do volunteer work for  
Houston Habitat for Humanity.

I understand that my (or my dependent(s)) work as a volunteer on or about a Habitat  
construction site or project will expose me (or my dependent(s)) to various risks of injury or  
illness. I understand and assume these risks, and agree not to hold Houston Habitat for  
Humanity, its agents, employees or volunteers liable for such injury or illness.

Chapelwood United Methodist Church Group Volunteer

Shelly Montgomery Date 17 Sept 1994  
(Signature)

P4965

BRUNSTING000998

1800-333 2919

all 30 yrs.

Series E 1973 Jan - Dec  
 1974 Jan Dec  
 1975  
 1976  
 1977  
 1978 Jan only

Series BA 1981  
 1982  
 1983 Jan - July

minimum 19

HN - Oct 1982 were 6? snow? 6 mo.

Nov. 1984

1st. Bus Day ~~after~~ month - ~~preparation~~

Fed Res Pbk  
KC

Oct - Int Capital  
 you not 4 weeks  
 after 10 yrs  
 1994.

**Follow-up Notice  
Matured HH/H Savings Bonds**

The Bureau of the Public Debt previously notified you that your series HH/H United States savings bonds were about to mature. Our records show that the matured bonds on the reverse side of this notice are registered in your name **and no longer earn interest.**

Please redeem these bonds as soon as possible. Sign the "request for payment" on the back of each bond in the presence of an authorized certifying officer at a financial institution, and send the bonds to one of the Federal Reserve Banks listed on this notice (select the one nearest you).

If the bonds described on the reverse side of this notice have been lost, please write to the Bureau of the Public Debt, PO Box 2186, Parkersburg, West Virginia 26106-2186. We'll send you a form to file a claim.

If you've recently redeemed the bonds, please ignore this notice.

**Federal Reserve Banks that Process Redemption Requests**

FRB Pittsburgh  
PO Box 299  
Pittsburgh, PA 15230-0299

FRB Richmond  
PO Box 85053  
Richmond, VA 23285-5053

FRB Minneapolis  
Savings Bond Services  
PO Box 214  
Minneapolis, MN 55480-0214

876 881 200  
FRB Kansas City  
PO Box 419440  
Kansas City, MO 64141-6440

NO  
FRB New York  
Savings Bond Examinations Div.  
PO Box 961  
Buffalo, NY 14240-0961

(612) 204 5066  
52 03

**P4967**

**BRUNSTING001000**

ISSUE DATE	DENOMINATION	SERIAL NUMBER	
	100	<u>9 41255-71316</u>	<i>Lyne #</i>

ISSUE DATE	DENOMINATION	SERIAL NUMBER	
10 01	500	<u>10 01,295,70017</u>	<i>Lyne #</i>

U.S. DEPARTMENT OF THE TREASURY  
 BUREAU OF PUBLIC DEBT  
 10-10-71  
 10-10-71

*deferred interest*  
*385.53*  
*10/1982 20 years*

**PLEASE SEE REVERSE SIDE OF THIS PAGE FOR AN  
 IMPORTANT NOTICE ABOUT YOUR MATURED SERIES HH/H  
 UNITED STATES SAVINGS BONDS**



Customer  
Receipt

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Thank you for banking with Bank of America.

*also 9/03  
6/28/02  
total  
what is  
interest?*

Tran 00029      04/03/2002 13:26  
Entity NTX CC 0008519 Tlr 00006  
Account      008519001143  
R/TH 540740134  
Deposit      \$6,464.36  
N KTT

95-14-2005B 4-1999

P4969

BRUNSTING001002

E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
4	E	200.00	1974 / 10 ✓	942.08	792.08
5	E	25.00	1974 / 10 ✓	117.76	99.01
6	E	100.00	1974 / 09 ✓	471.04	396.04
7	E	100.00	1974 / 09 ✓	471.04	396.04
8	E	25.00	1974 / 09 ✓	117.76	99.01
9	E	100.00	1974 / 08 ✓	471.04	396.04
10	E	100.00	1974 / 08 ✓	471.04	396.04
11	E	25.00	1974 / 08 ✓	117.76	99.01
12	E	100.00	1974 / 07 ✓	471.04	396.04
13	E	25.00	1974 / 07 ✓	117.76	99.01
14	E	75.00	1974 / 02 ✓	356.10	299.85
15	E	75.00	1974 / 01 ✓	356.10	299.85

Sub/Totals

Pre-January 1990 Issue Dates

6464.36

5433.11

January 1990 and Later Issue Dates

Total

6464.36

5433.11

PGUP = Screen Up

DOWN ARROW = Scroll Down

ALT-S = More Bonds

PGDN = Screen Down

UP ARROW = Scroll Up

ALT-E = End Customer

ALT-N = More Transactions

AM

MCR-2

Release Version: V21M22F

13:19

04/03/2002

800 299 2265

0 + 0 + 0

P4970

BRUNSTING001003



**Customer  
Receipt**

All items are credited subject to verification, collection, and conditions of the Rules and Regulations of this Bank and as otherwise provided by law. Payments are accepted when credit is applied to outstanding balances and not upon issuance of this receipt. Transactions received after the Bank's posted cut-off time or Saturday, Sunday, and Bank Holidays, are dated and considered received as of the next business day. Please retain this receipt until you receive your account statement.

Thank you for banking with Bank of America.

*9/3/02*  
*Serino/E.*

Tran 00239      09/03/2002 10:06  
Entity NTX CC 0008519 Tr 00006  
Account      008519001143  
R/Tr# 540740134  
Deposit      \$6,865.65  
N DRL TX \*\*\*\*\*

~~*[Signature]*~~

*Int'l P...*

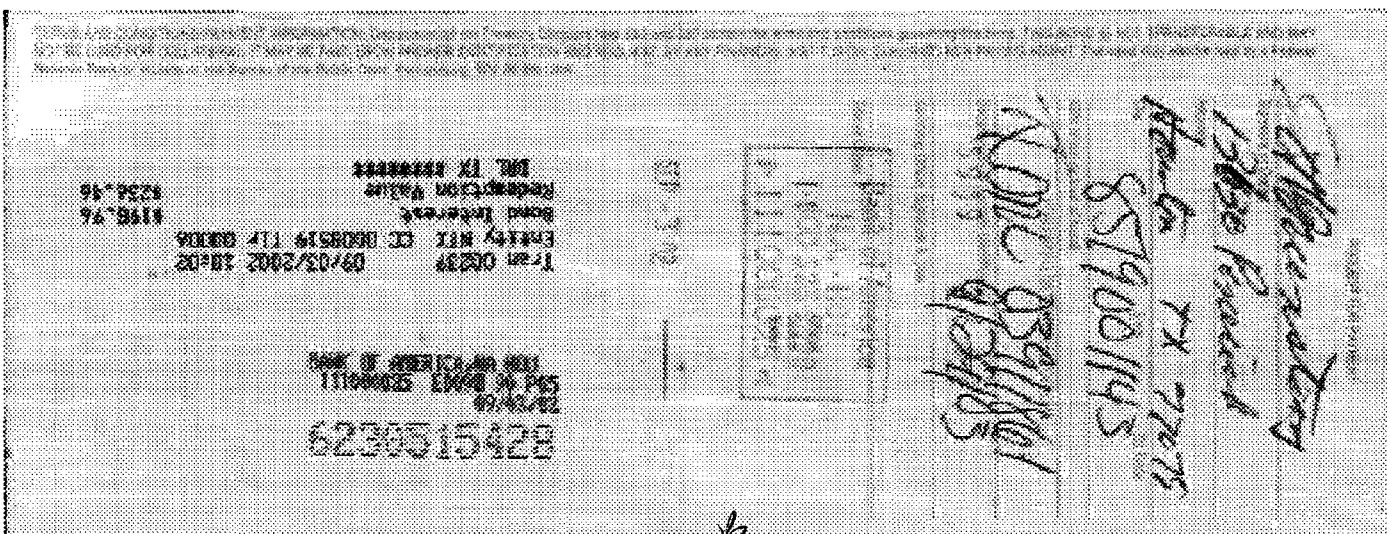
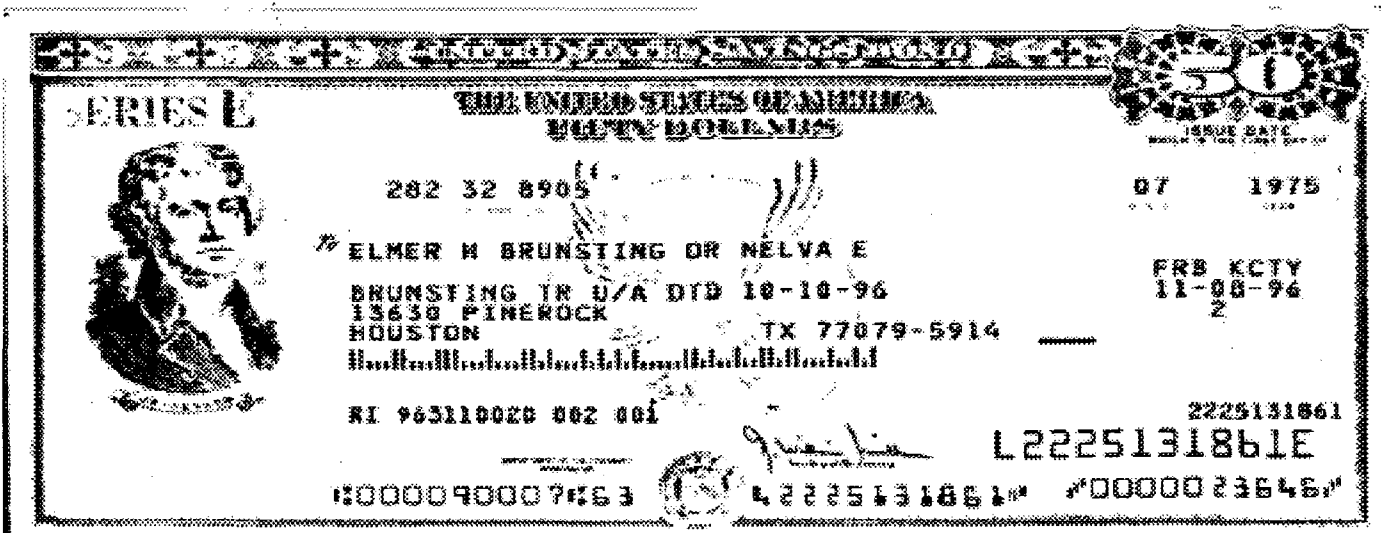
*[Signature]*

95-14-2005B 10-2001



Bank #: 00009000 Acct #: 06342225131861 Check #:

Amount: \$236.46  
Account: 06342225131861  
Bank Number: 00009000  
CD Volume #:  
Check Number:



*Handwritten notes:*  
Total  
11211.26  
9/3/2002  
708 - 5778.15  
Borrow 865.65

P4972

Bank #: 54074010 Acct #: 00008519001143 Check #:

Amount: \$6865.65  
Account: 00008519001143  
Bank Number: 54074010  
CD Volume #:   
Check Number:

DEPOSIT TICKET

ELMER H. BRUNSTING 09/06  
NELVA E. BRUNSTING  
13630 PINEHOCK  
HOUSTON, TX 77079

*Handwritten:* DEPOSIT 6865.65

DATE: DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

TOTAL DEPOSIT  
SUBTOTAL  
LESS CASH

Bank of America

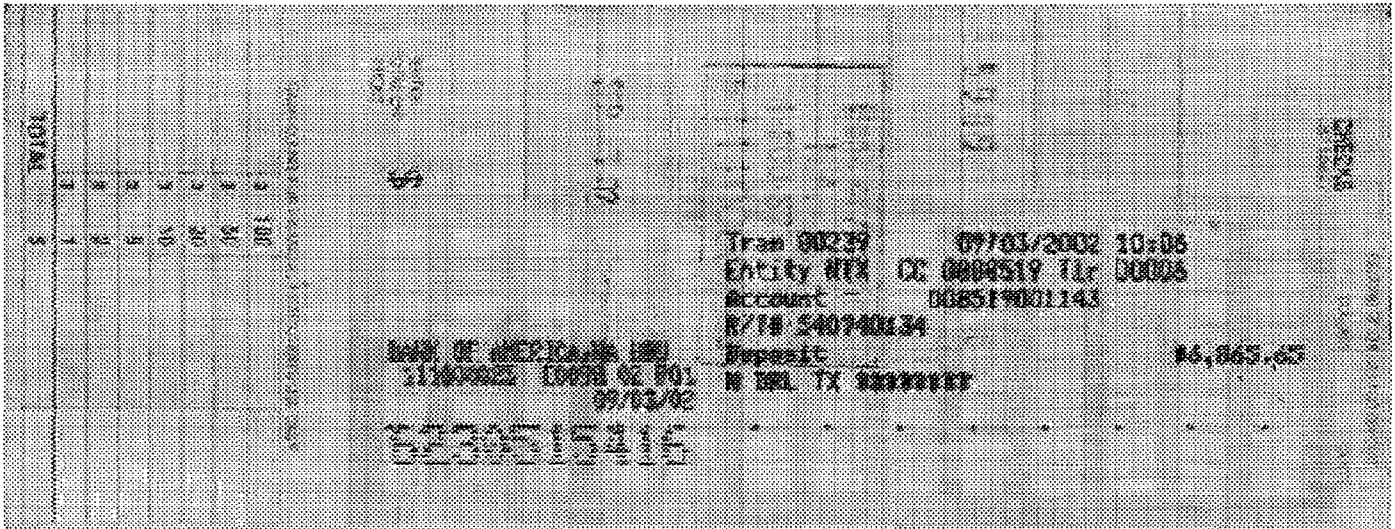


ACH REF 111000025

NET DEPOSIT \$ 6865.65

⑆54074010⑆05⑆008519001143⑆

⑆1⑆0000588565⑆



P4973

BRUNSTING001006

Bank #: 00009000 Acct #: 06510214370761 Check #:

Amount: \$953.28  
Account: 06510214370761  
Bank Number: 00009000  
CD Volume #:  
Check Number:

**SERIES E** THE UNITED STATES OF AMERICA FEDERAL RESERVE NOTE

282 32 8905 01 1975



ELMER H BRUNSTING OR NELVA E  
BRUNSTING TR U/A DTD 10-10-96  
13630 PINEROCK HOUSTON TX 77079-5914

FRB KCTY 11-08-96 2

RI 963110020 002 001 0214370761

R214370761E

000090007:65 10214370761 0000095328



REVERSE SIDE OF CHECK

FRAN DEZAR 09/03/2002 10100  
EMITTY NIX CD 080519 TTP 00000  
Bank Interest  
Redemption Value  
\$953.28  
\$953.28

BANK OF AMERICA NA  
113000025 0900 00 000  
09/03/02  
6239515417

ELMER H BRUNSTING  
NELVA E  
HOUSTON TX 77009

113000025 0900 00 000  
09/03/02

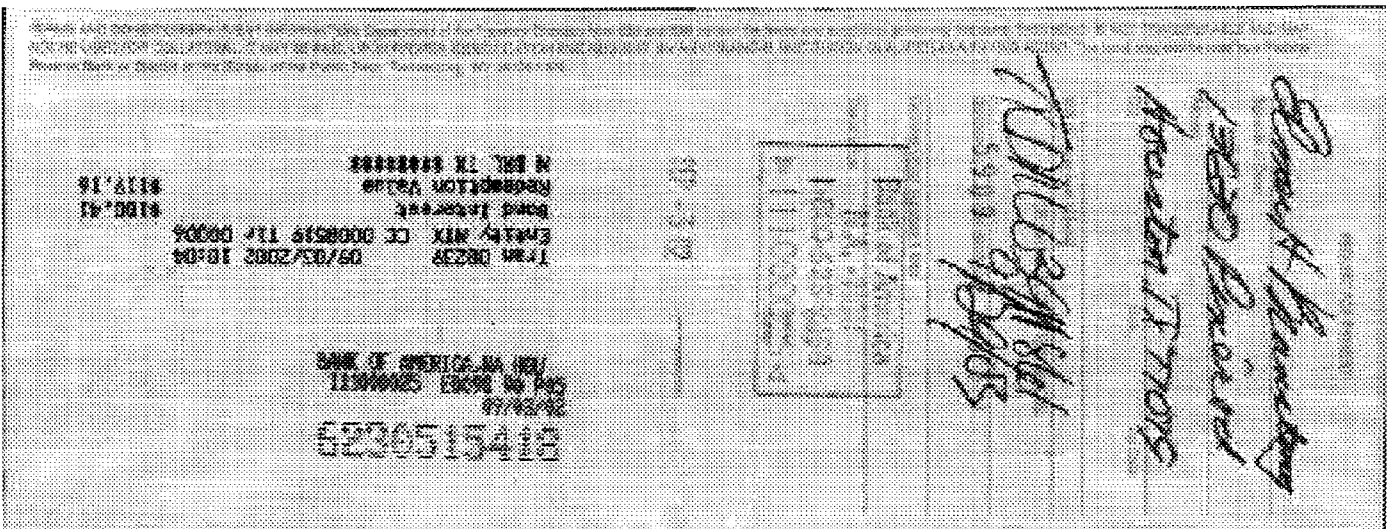
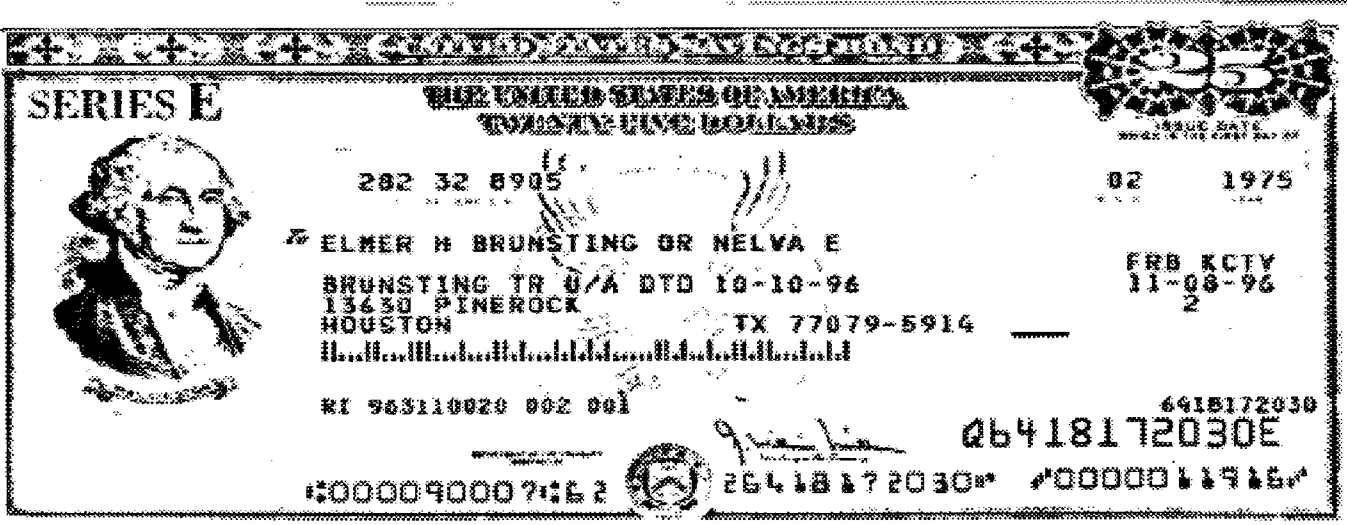
P4974

BRUNSTING001007



Bank #: 00009000 Acct #: 06226418172030 Check #:

Amount: \$119.16  
Account: 06226418172030  
Bank Number: 00009000  
CD Volume #:  
Check Number:



P4976

BRUNSTING001009

Bank #: 00009000 Acct #: 06580214370759 Check #:

Amount: \$953.28  
Account: 06580214370759  
Bank Number: 00009000  
CD Volume #:  
Check Number:

**SERIES E** THE UNITED STATES OF AMERICA  
THREE HUNDRED DOLLARS

282 32 8905 03 1975

ELMER H BRUNSTING OR HELVA E  
BRUNSTING TR U/A DTD 10-18-96  
13630 PINEROCK HOUSTON TX 77079-5914

FRE KCTY 11-08-96

0214370759  
R214370759E

000090007065 80214370759 0000095328

17 APR 1997 10:43 AM  
ELMER H BRUNSTING OR HELVA E  
BRUNSTING TR U/A DTD 10-18-96  
13630 PINEROCK HOUSTON TX 77079-5914

953.28

BRUNSTING TR U/A DTD 10-18-96  
13630 PINEROCK HOUSTON TX 77079-5914

BRUNSTING TR U/A DTD 10-18-96  
13630 PINEROCK HOUSTON TX 77079-5914

BRUNSTING TR U/A DTD 10-18-96  
13630 PINEROCK HOUSTON TX 77079-5914

P4977

BRUNSTING001010



Bank #: 00009000 Acct #: 06322225131859 Check #:

Amount: \$233.66  
Account: 06322225131859  
Bank Number: 00009000  
CD Volume #:  
Check Number:

**SERIES E**      **THE UNITED STATES OF AMERICA**  
**TREASURY DEPARTMENT**



262 32 8905      **04 1975**

**ELMER H BRUNSTING OR HELVA E**  
**BRUNSTING TR U/A DTD 10-10-96**  
**13630 PINEROCK**  
**HOUSTON TX 77079-5914**

**FRB KCTY**  
**11-08-96**

**RI 983118920 002 001**      **2225131859**  
**12225131859E**

**000090000000**      **06322225131859**

**ELMER H BRUNSTING**  
**13630 PINEROCK**  
**HOUSTON TX 77079**

**NOV 10 1975**

**6230515432**

*Elmer H Brunsting*  
*13630 Pinerock*  
*Houston TX 77079*

*KOMC 03/11/81*



Bank #: 00009000 Acct #: 06570214370758 Check #:

Amount: \$934.64  
Account: 06570214370758  
Bank Number: 00009000  
CD Volume #:  
Check Number:

**SERIES E** **THE UNITED STATES OF AMERICA** **TWO HUNDRED DOLLARS**



282 32 8905 04 1975

**ELMER H BRUNSTING OR NELVA E**  
BRUNSTING TR U/A DTD 10-10-96  
13638 PINEROCK  
HOUSTON TX 77079-5914

FRB KCTV  
11-08-96  
2

RI 963110029 002 001 0214370758

0000900070758 70214370758 0000093464

TRANSACTION INFORMATION

TRF 00239 09/03/2002 10:03  
EMTY TR CC 0000017 TR 00000  
BANK OF AMERICA NA  
111000028 00000 TO POS  
09/03/02

6236515423

ELMER H BRUNSTING  
13638 PINEROCK  
HOUSTON TX 77079

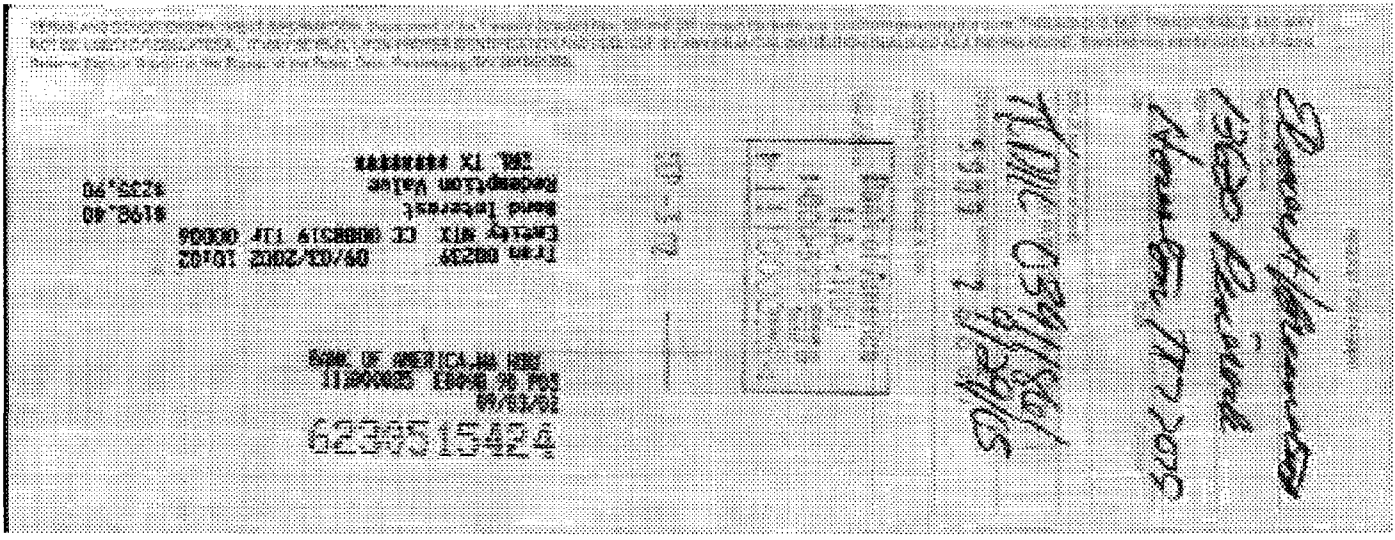
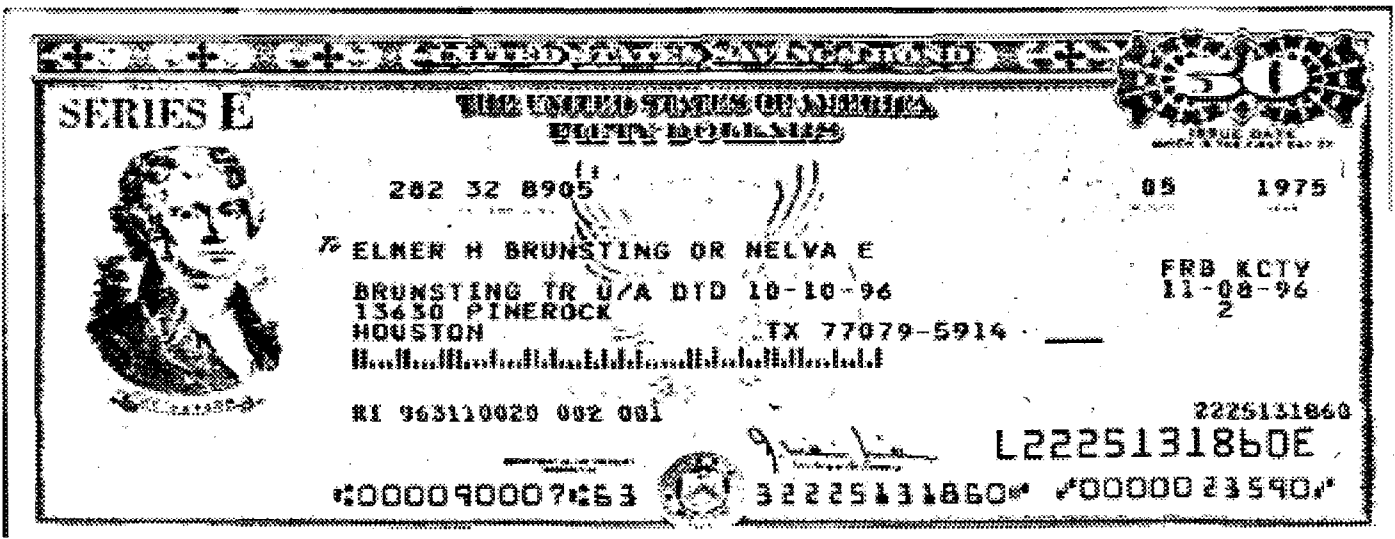
09/03/02

P4980

BRUNSTING001013

Bank #: 00009000 Acct #: 06332225131860 Check #:

Amount: \$235.90  
Account: 06332225131860  
Bank Number: 00009000  
CD Volume #:  
Check Number:




P4981

BRUNSTING001014

Bank #: 00009000 Acct #: 06560214370757 Check #:

Amount: \$943.60  
Account: 06560214370757  
Bank Number: 00009000  
CD Volume #:  
Check Number:

<b>SERIES E</b>	<b>THE UNITED STATES OF AMERICA</b>		<b>200</b> TWENTY DOLLARS
	<b>TWO HUNDRED DOLLARS</b>		
	282 32 8985	05	1975
	<b>ELMER H BRUNSTING OR MELVA E</b>		FRB KCTY
	<b>BRUNSTING TR U/A DTD 10-10-96</b>		11-08-96
	<b>13638 PINEROCK</b>		2
	<b>HOUSTON TX 77079-5914</b>		
	RI 963110020 002 001		0214370757
	R214370757E		
	00009000755		0214370757*
	0000094360		

09/19/96 \$943.60

1772.00

11:02:39 09/03/2002 10:02

CALLY MIX OF BONDSTR II-00006

BOND INTEREST

HOUSTON TEXAS

09/03/96

0214370757

6230515425

ELMER H BRUNSTING  
13638 Pinerock  
Houston TX 77079

11/08/96

P4982

BRUNSTING001015

Bank #: 00009000 Acct #: 06550214370756 Check #:

Amount: \$945.84  
Account: 06550214370756  
Bank Number: 00009000  
CD Volume #:  
Check Number:

**SERIES E** **THE UNITED STATES OF AMERICA** **TWO HUNDRED DOLLARS** **200**  
202 32 8905 06 1975  
TO **ELNER H BRUNSTING OR NELVA E**  
**BRUNSTING TR U/A DTD 10-10-96**  
**13650 PINEROCK**  
**HOUSTON TX 77079-5914**  
FRB KCTY 11-08-96  
2  
RI 963110020 802 001 0214370756  
**R214370756E**  
⑆000090007426⑆ ⑆0214370756⑆ ⑆0000094584⑆

1978/03/2002 10:02  
FUND INTEREST  
ELNER H BRUNSTING TR U/A  
13650 PINEROCK  
HOUSTON TX 77079  
⑆000090007426⑆  
⑆0214370756⑆  
⑆0000094584⑆

ELNER H BRUNSTING  
13650 PINEROCK  
HOUSTON TX 77079

Bank of America, NA  
1130025 10000 00 000  
P4983

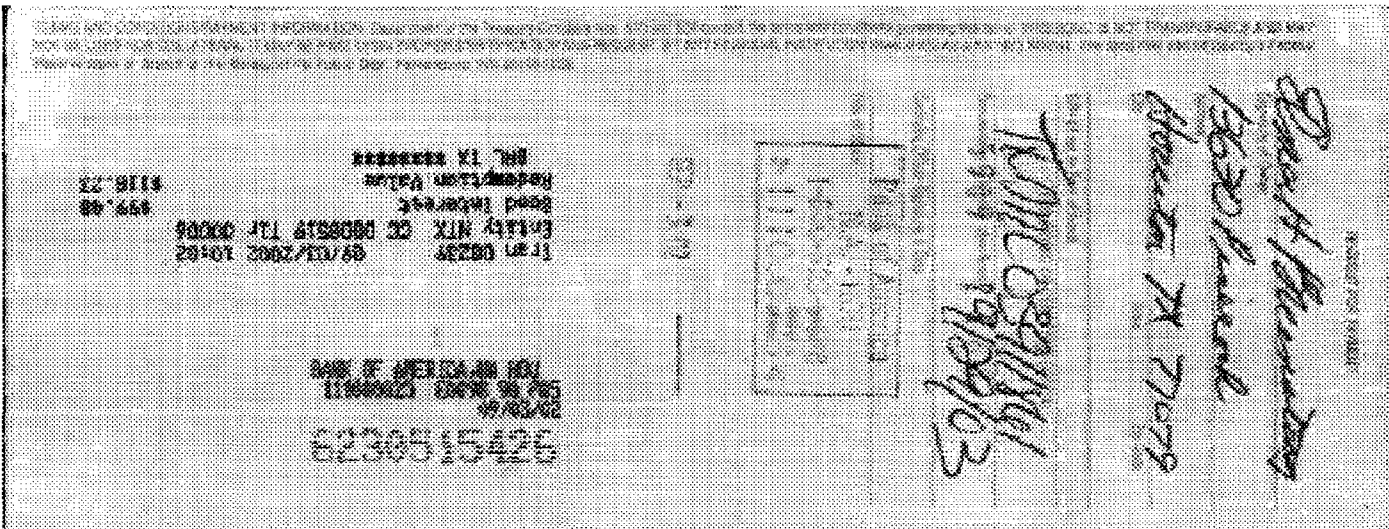
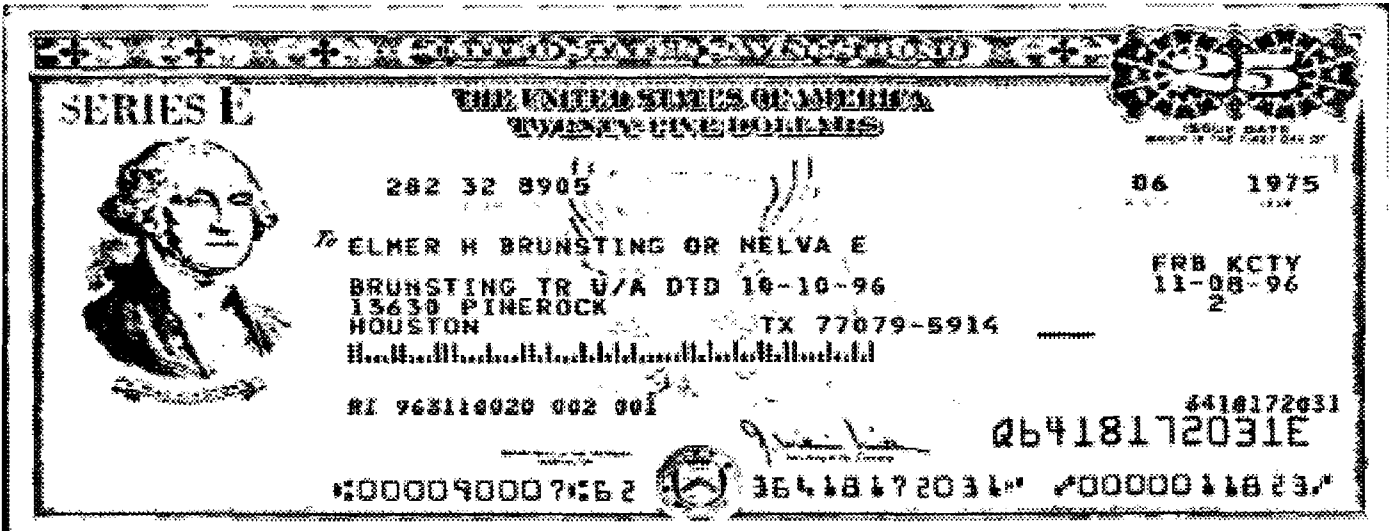
6239515427

P4983

BRUNSTING001016

Bank #: 00009000 Acct #: 06236418172031 Check #:

Amount: \$118.23  
Account: 06236418172031  
Bank Number: 00009000  
CD Volume #:  
Check Number:



P4984

BRUNSTING001017

# The Gulf Companies

LAW DEPARTMENT

Robert F. Ochs  
COUNSEL

P. O. Box 3725  
Houston, TX 77253

2 HOUSTON CENTER  
909 FANNIN STREET

**P4985**

**BRUNSTING001018**

IRA - P 11 - Primary Spouse  
Secondary to Trust

709 - ~~Bank~~ - fill form 709  
Rpt Tax return - claiming each of kids  
getting part of premium - to claim  
operation ~~of~~ shipping tax & computer

So deposit to Trust.

Stock - check of kids on this

Car - Survival ship - ownership

SAVINGS - STOCK BONUS PLAN OF  
GULF OIL CORPORATION

EMPLOYEE NO: 114162  
LOCATION NO: 150  
SOC SEC NO: 282-32-8905

AUTHORIZATION FOR SETTLEMENT

IN ACCORDANCE WITH THE PROVISIONS OF THE SAVINGS-STOCK BONUS PLAN,  
THE SETTLEMENT SHOWN BELOW IS AUTHORIZED TO BE MADE FOR THE ACCOUNT OF  
E.H. BRUNSTING BY REASON OF REQUEST 12/31/80

NONE OF THIS SETTLEMENT IS TAXABLE.

SAVINGS FUNDS:	COST OF SECURITIES	CASH PAYMENT	TOTAL FUND SETTLEMENT
1980 TERM- 28 BONDS 176 UNITS	2,693.75	11.65	2,705.40

STOCK BONUS FUNDS:

LONG TERM- SHARES @ \$.000

LONG TERM SAVINGS FUNDS:

OPTION 1- SHARES @ \$.000

OPTION 2

TOTAL SETTLEMENT UNDER ALL FUNDS:			
28 BONDS	SHARES	2,693.75	11.65
			2,705.40

CHECK DATE 03/19/81, NUMBER 167786, PAYEE E. H. BRUNSTING

BENEFITS COMMITTEE

DATE MARCH 19, 1981

BY PHILIP E. LININER

SECRETARY

P4987



BOND INFORMATION

PRESS PRINT KEY FOR COPY OF SCREEN

REDEMPTION YYYY/MO	2001/05	SERIES: 1 - E BONDS	3 - SAVINGS NOTES					
# OF BONDS	SERIES 1,2,3,4	FACE VALUE	ISSUE YYYY/MO	PER BOND REDEMP. VAL	TOTALS	INT EARNED	REDEMP. VAL	INT EARNED
1	1	100	1974/01	456.36	381.36	456.36	381.36	

1/2% / mo -

2001  
1974  
27 x 12 = 324

$$\frac{456.36}{25} = 6.0848$$

$$\frac{381.36}{75} = 5.0848$$

PAGE TOTAL

456.36

381.36

DO YOU WANT TO ENTER MORE BONDS? (Y/N)

1974 Bonds

16	100	1600
3	200	600
2	25	150
5	25	125
		<u>2475</u>

FACE VALUE

REDEMP.  $\frac{456.36}{100} \times 2475 = 11,294.91$

INT. EARNED  $\frac{381.36}{100} \times 2475 = 9,438.66$

1856.25

INVESTMENT = 2475 x .75 = 1856.25

Total interest = 9,438.66 x .28 =

2642.82 INT

11,294.91 = 76.60% of Total

2642.82

8,652.09

net -

$$\frac{20,000}{8,652.09} = 2.3092$$

MEMORIAL HOSPITAL

E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
1	E	75.00	1976 / 01	358.98	302.73
2	E	75.00	1976 / 02	358.98	302.73
3	E	75.00	1976 / 03	358.98	302.73
4	E	75.00	1976 / 04	358.98	302.73
5	E	75.00	1976 / 05	362.40	306.15
6	E	75.00	1976 / 06	363.21	306.96
7	E	75.00	1976 / 07	356.01	299.76
8	E	75.00	1976 / 09	356.01	299.76

Sub/Totals

Pre-January 1990 Issue Dates	15905.76	13412.01
January 1990 and Later Issue Dates		
Total	15905.76	13412.01

PGUP = Screen Up

DOWN ARROW = Scroll Down

ALT-S = More Bonds

PGDN = Screen Down

UP ARROW = Scroll Up

ALT-E = End Customer

ALT-H = More Transactions

AM

MICR-2

Release Version: V32H5BND-II

10:30

06/03/2003

E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
9	E	75.00	1976 / 10	356.01	299.76
10	E	75.00	1976 / 11	359.49	303.24
11	E	75.00	1976 / 12	360.51	304.26
12	E	100.00	1976 / 08	474.68	399.68
13	E	200.00	1976 / 01	957.28	807.28
14	E	200.00	1976 / 02	957.28	807.28
15	E	200.00	1976 / 03	957.28	807.28
16	E	200.00	1976 / 04	957.28	807.28

Sub/Totals

Pre-January 1990 Issue Dates	15905.76	13412.01
January 1990 and Later Issue Dates		
Total	15905.76	13412.01

PGUP = Screen Up

DOWN ARROW = Scroll Down

ALT-S = More Bonds

PGDN = Screen Down

UP ARROW = Scroll Up

ALT-E = End Customer

ALT-H = More Transactions

AM

MCR-2

Release Version: V32M5BND-N

10:30

06/03/2003

P4990

BRUNSTING001023

E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
17	E	200.00	1976 / 05	966.40	816.40
18	E	200.00	1976 / 06	968.56	818.56
19	E	200.00	1976 / 07	949.36	799.36
20	E	200.00	1976 / 08	949.36	799.36
21	E	200.00	1976 / 09	949.36	799.36
22	E	200.00	1976 / 10	949.36	799.36
23	E	200.00	1976 / 11	958.64	808.64
24	E	200.00	1976 / 12	961.36	811.36

Sub/Totals

Pre-January 1990 Issue Dates	15905.76	13412.01
January 1990 and Later Issue Dates		
Total	15905.76	13412.01

PGUP = Screen Up

DOWN ARROW = Scroll Down

ALT-S = More Bonds

PGDN = Screen Down

UP ARROW = Scroll Up

ALT-E = End Customer

ALT-H = More Transactions

AM

MICR-2

Release Version: V32H5BHD-B

10:30

06/03/2003

P4991

BRUNSTING001024

Bank of America  
embracing integrity



Official Sponsor 2002-2004 U.S. Olympic Team

Customer  
Receipt

All items are credited subject to verification, collection, and conditions of the Rules and Regulations of this Bank and as otherwise provided by law. Payments are accepted when credit is applied to outstanding balances and not upon issuance of this receipt. Transactions received after the Bank's posted cut-off time or Saturday, Sunday, and Bank Holidays, are dated and considered received as of the next business day.

Please retain this receipt until you receive your account statement.

Thank you for banking with Bank of America.  
Try Online Banking at [www.bankofamerica.com](http://www.bankofamerica.com)

Tran 00031D 04/15/2003 09:31  
Entity NTX CC 0008519 TL 00001  
Account 008519001143  
R/T# 540740134  
Deposit \$7,212.24  
N WGL

*11/3/939 paid - 2002*  
*6.00*  
*1/14/03*  
*tax interest*  
*taxable 6,087*  
*N 2*

95-14-2005B-06-2002

P4992

BRUNSTING001025

E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
<del>4</del>	E	200.00	<del>1975 / 09</del>	<del>964.80</del>	<del>814.80</del>
<del>5</del>	E	200.00	<del>1975 / 08</del>	<del>964.80</del>	<del>814.80</del>
<del>6</del>	E	200.00	<del>1975 / 07</del>	<del>964.80</del>	<del>814.80</del>
<del>7</del>	E	75.00	<del>1975 / 12</del>	<del>358.95</del>	<del>302.70</del>
<del>8</del>	E	75.00	<del>1975 / 11</del>	<del>358.17</del>	<del>301.92</del>
9	E	50.00	1975 / 10	241.20	203.70
10	E	50.00	1975 / 09	241.20	203.70
11	E	50.00	1975 / 08	241.20	203.70

Sub/Totals

Pre-January 1990 Issue Dates	7212.24	6087.24
January 1990 and Later Issue Dates		
Total	7212.24	6087.24

PGUP = Screen Up

DOWN ARROW = Scroll Down

ALT-S = More Bonds

PGDN = Screen Down

UP ARROW = Scroll Up

ALT-E = End Customer

ALT-N = More Transactions

AM

MICR-2

Release Version: V32H408T-N

09:28

04/15/2003

P4993

BRUNSTING001026

E/EE Bond

No.	Series	Denom	Issue Date	Redemption Value	Interest
1	E	200.00	1975 / 12	957.20	807.20
2	E	200.00	1975 / 11	955.12	805.12
3	E	200.00	1975 / 10	964.80	814.80
4	E	200.00	1975 / 09	964.80	814.80
5	E	200.00	1975 / 08	964.80	814.80
6	E	200.00	1975 / 07	964.80	814.80
7	E	75.00	1975 / 12	358.95	302.70
8	E	75.00	1975 / 11	358.17	301.92

Sub/Totals

Pre-January 1990 Issue Dates	7212.24	6087.24
January 1990 and Later Issue Dates		
Total	7212.24	6087.24

PGUP = Screen Up

DOWN ARROW = Scroll Down

ALT-S = More Bonds

PGDN = Screen Down

UP ARROW = Scroll Up

ALT-E = End Customer

ALT-N = More Transactions

AM

MCR-2

Release Version: V32M408T-N

09:28

04/15/2003

*Interest Paid every 6 mos. So turn in  
on Anniversary or 6 mos later.*

INTEREST RATES FOR SERIES HH  
AND H SAVINGS BONDS  
(Table good for March 1997 only)

Issue Date	Original Maturity Period	Interest Through Current Maturity Period <sup>1</sup>	Date Next Extended Maturity Period Begins	Life of Bond
<b>SERIES HH</b>				
Mar. 1993-Mar. 1997	10 yrs.	4.0	Mar. 2003-Mar. 2007	20 yrs.
Apr. 1987-Feb. 1993	10 yrs.	6.0	Apr. 1997-Feb. 2003	20 yrs.
Mar. 1983-Mar. 1987	10 yrs.	4.0	<sup>2</sup>	20 yrs.
Jan. 1980-Feb. 1983	10 yrs.	6.0	<sup>2</sup>	20 yrs.
<b>SERIES H</b>				
Apr. 1977-Dec. 1979	10 yrs.	6.0	Apr. 1997-Dec. 1999	30 yrs.
Mar. 1973-Mar. 1977	10 yrs.	4.0	<sup>2</sup>	30 yrs.
Apr. 1967-Feb. 1973	10 yrs.	6.0	<sup>2</sup>	30 yrs.
Feb. 1957-Mar. 1967			Bonds reached final maturity at 30 yrs.	
June 1952-Jan. 1957	9 yrs, 8mos.		Bonds reached final maturity at 29 yrs, 8mos.	

<sup>1</sup> Bonds that entered an extended maturity period between November 1, 1986 and February 28, 1993 have a rate of 6%. Bonds entering maturities after March 1, 1993 have a 4% rate.

<sup>2</sup> Bonds issued during this period are in their last extended maturity period.



**GUARANTEED MINIMUM RATES FOR SERIES EE  
AND E SAVINGS BONDS AND U.S. SAVINGS NOTES  
ISSUED BEFORE MAY 1, 1995<sup>1</sup>  
(Table good for March 1997 only)**

Issue Date	Original Maturity Period	Guaranteed Through Cur- rent Maturity Period <sup>2</sup>	Date Next Extended Maturity Period Begins	Life of Bond
<b>SERIES EE</b>				
Mar. 1993-Apr. 1995	18 yrs.	4.0	Mar. 2011-Apr. 2013	30 yrs.
Nov. 1986-Feb. 1993	12 yrs.	6.0	Nov. 1998-Feb. 2005	30 yrs.
Mar. 1983-Oct. 1986	10 yrs.	4.0	Mar. 2003-Oct. 2006	30 yrs.
Nov. 1982-Feb. 1983	10 yrs.	6.0	Nov. 2002-Feb. 2003	30 yrs.
May 1981-Oct. 1982	8 yrs.	6.0	May 1999-Oct. 2000	30 yrs.
Nov. 1980-Apr. 1981	9 yrs.	6.0	Nov. 1999-Apr. 2000	30 yrs.
Jan. 1980-Oct. 1980	11 yrs.	6.0	Jan. 2001-Oct. 2001	30 yrs.
<b>SERIES E</b>				
Mar. 1978-June 1980	5 yrs.	4.0	Mar. 2003-June 2005	30 yrs.
Dec. 1973-Feb. 1978	5 yrs.	6.0	Dec. 1998-Feb. 2003	30 yrs.
June 1971-Nov. 1973	5 yrs. 10 mos.	6.0	Apr. 1997-Sep. 1999	30 yrs.
June 1969-May 1971	5 yrs. 10 mos.	4.0	'	30 yrs.
Apr. 1967-May 1969	7 yrs.	4.0	'	30 yrs.
Dec. 1965-Mar. 1967			Bonds reached final maturity at	30 yrs.
June 1965-Nov. 1965	7 yrs. 9 mos.	4.0	Mar. 2003-Aug. 2003	40 yrs.
July 1959-May 1965	7 yrs. 9 mos.	6.0	Apr. 1997-Feb. 2003	40 yrs.
June 1959-June 1959	7 yrs. 9 mos.	4.0	'	40 yrs.
May 1958-May 1959	8 yrs. 11 mos.	6.0	Apr. 1997-Apr. 1998	40 yrs.
Apr. 1957-Apr. 1958	8 yrs. 11 mos.	4.0	'	40 yrs.
May 1941-Mar. 1957			Bonds reached final maturity at	40 yrs.
<b>SAVINGS NOTES</b>				
Sep. 1968-Oct. 1970	4 yrs. 6 mos.	4.0	'	30 yrs.
May 1967-Aug. 1968	4 yrs. 6 mos.	6.0	'	30 yrs.

<sup>1</sup> Bonds issued on or after May 1, 1995 earn interest under a market-based structure.

<sup>2</sup> Bonds that entered an extended maturity period between November 1, 1986 and February 28, 1993 have a guaranteed minimum rate of 6%. Bonds entering maturities after March 1, 1993 have a 4% minimum rate. Investors should remember that this table shows minimum rates only. Actual bond yields may be different because bonds earn market-based rates.

<sup>3</sup> Bonds issued during this period are in their last extended maturity period.

**INTEREST RATES FOR SERIES HH  
AND H SAVINGS BONDS**  
(Table good for April 1997 only)

Issue Date	Original Maturity Period	Interest Through Current Maturity Period <sup>1</sup>	Date Next Extended Maturity Period Begins	Life of Bond
<b>SERIES HH</b>				
Mar. 1993-Apr. 1997	10 yrs.	4.0	Mar. 2003-Apr. 2007	20 yrs.
May 1987-Feb. 1993	10 yrs.	6.0	May 1997-Feb. 2003	20 yrs.
Mar. 1983-Apr. 1987	10 yrs.	4.0	<sup>2</sup>	20 yrs.
Jan. 1980-Feb. 1983	10 yrs.	6.0	<sup>2</sup>	20 yrs.
<b>SERIES H</b>				
May 1977-Dec. 1979	10 yrs.	6.0	May 1997-Dec. 1999	30 yrs.
Mar. 1973-Apr. 1977	10 yrs.	4.0	<sup>2</sup>	30 yrs.
May 1967-Feb. 1973	10 yrs.	6.0	<sup>2</sup>	30 yrs.
Feb. 1957-Apr. 1967			Bonds reached final maturity at 30 yrs.	
June 1952-Jan. 1957	9 yrs, 8mos.		Bonds reached final maturity at 29 yrs, 8mos.	

<sup>1</sup> Bonds that entered an extended maturity period between November 1, 1986 and February 28, 1993 have a rate of 6%. Bonds entering maturities after March 1, 1993 have a 4% rate.

<sup>2</sup> Bonds issued during this period are in their last extended maturity period.

**GUARANTEED MINIMUM RATES FOR SERIES EE  
AND E SAVINGS BONDS AND U.S. SAVINGS NOTES  
ISSUED BEFORE MAY 1, 1995<sup>1</sup>  
(Table good for April 1997 only)**

Issue Date	Original Maturity Period	Guaranteed Through Cur- rent Maturity Period <sup>2</sup>	Date Next Extended Maturity Period Begins	Life of Bond
<b>SERIES EE</b>				
Mar. 1993-Apr. 1995	18 yrs.	4.0	Mar. 2011-Apr. 2013	30 yrs.
Nov. 1986-Feb. 1993	12 yrs.	6.0	Nov. 1998-Feb. 2005	30 yrs.
Mar. 1983-Oct. 1986	10 yrs.	4.0	Mar. 2003-Oct. 2006	30 yrs.
Nov. 1982-Feb. 1983	10 yrs.	6.0	Nov. 2002-Feb. 2003	30 yrs.
May 1981-Oct. 1982	8 yrs.	6.0	May 1999-Oct. 2000	30 yrs.
Nov. 1980-Apr. 1981	9 yrs.	6.0	Nov. 1999-Apr. 2000	30 yrs.
Jan. 1980-Oct. 1980	11 yrs.	6.0	Jan. 2001-Oct. 2001	30 yrs.
<b>SERIES E</b>				
Mar. 1978-June 1980	5 yrs.	4.0	Mar. 2003-June 2005	30 yrs.
Dec. 1973-Feb. 1978	5 yrs.	6.0	Dec. 1998-Feb. 2003	30 yrs.
July 1971-Nov. 1973	5 yrs. 10 mos.	6.0	May 1997-Sep. 1999	30 yrs.
June 1969-June 1971	5 yrs. 10 mos.	4.0	<sup>3</sup>	30 yrs.
May 1967-May 1969	7 yrs.	4.0	<sup>3</sup>	30 yrs.
Dec. 1965-Apr. 1967		Bonds reached final maturity at		30 yrs.
June 1965-Nov. 1965	7 yrs. 9 mos.	4.0	Mar. 2003-Aug. 2003	40 yrs.
Aug. 1959-May 1965	7 yrs. 9 mos.	6.0	May 1997-Feb. 2003	40 yrs.
June 1959-July 1959	7 yrs. 9 mos.	4.0	<sup>3</sup>	40 yrs.
June 1958-May 1959	8 yrs. 11 mos.	6.0	May 1997-Apr. 1998	40 yrs.
May 1957-May 1958	8 yrs. 11 mos.	4.0	<sup>3</sup>	40 yrs.
May 1941-Apr. 1957		Bonds reached final maturity at		40 yrs.
<b>SAVINGS NOTES</b>				
Sep. 1968-Oct. 1970	4 yrs. 6 mos.	4.0	<sup>3</sup>	30 yrs.
May 1967-Aug. 1968	4 yrs. 6 mos.	6.0	<sup>3</sup>	30 yrs.

<sup>1</sup> Bonds issued on or after May 1, 1995 earn interest under a market-based structure.

<sup>2</sup> Bonds that entered an extended maturity period between November 1, 1986 and February 28, 1993 have a guaranteed minimum rate of 6%. Bonds entering maturities after March 1, 1993 have a 4% minimum rate. Investors should remember that this table shows minimum rates only. Actual bond yields may be different because bonds earn market-based rates.

<sup>3</sup> Bonds issued during this period are in their last extended maturity period.

*Minneapolis Minn.*

*1-800-563-2663*

Toll free number for Federal Reserve Bank in K.C. - ~~1-800-333-2919~~.

**United States Savings Bonds on hand:-**

Series E - 1977 - all months - Expire 2007  
\$25-100-200 denomination

Series EE - 1978 - January - one \$100  
one \$200 - Expire 2008

Series HH - 1988 - Nov. only \$1000 - 2 bonds - Expire 2008

Series EE - 1981 - From February to Dec. Expire 2011  
All denominations

Series EE - 1982 - all months - up to \$200 - Expire 2012

Series EE - 1983 - January through July - Expire - 2013

*Cashed with  
Press Direct.*

*?*

KLM  
1-800-374-7747  
Depart

Air Entrance  
Phil

# Exhibit 20

Brad Featherston December 4, 2014 email re permission to cash EE bonds and deposit the funds

Brad's December 14, 2014 email received from Drina on March 28, 2015!

"To save all of our clients' the time and expense, please respond to this email with "Agreed" and your electronic signature, indicating your agreement that Anita may cash the listed bonds, deposit the proceeds into the Decedent's Trust BOA account, and then disburse 50% or the proceeds into the Survivor's Trust BOA account. Anita will supplement her production with such pape1work showing these transactions. This agreement is without prejudice to reallocating these funds if it is later determined that such bonds were not community property or should have some other allocation under the trust instruments. Very Truly Yours, Bradley E. Featherston The Mendel Law Firm, L.P. 115 5 Dairy Ashford, Ste 1 04 Houston, TX 77079 Tel: (281)759-3213 Fax: (281)759-3214 [brad@mendellawfirm.com](mailto:brad@mendellawfirm.com)"

# Exhibit 21

Plaintiff Curtis Correspondence with US Treasury re; EE bonds



**Can I find out if an EE/E Bond has already been redeemed?**

If you have the serial numbers for EE/E Bonds, we can look up the status for you. If you are the owner or co-owner of the bonds, send a signed request to the address below. Be sure to include the serial numbers of the bonds you are asking about.

If the owner or both co-owners have died, you must provide proof such as a copy of the death certificate for each deceased person, with your letter.

Send your letter to:

Bureau of the Fiscal Service  
P.O. Box 7012  
Parkersburg, WV 26106-7012

Other written inquiries can be sent to that address. Any information you have about the bonds should be included.

28-36

M



## Redeeming (Cashing In) EE/E Savings Bonds

On this page:

[When can I redeem my EE/E Bonds?](#)

[What are my EE/E Bonds worth?](#)

[How do I redeem my EE/E Bonds?](#)

[How do I authorize an attorney-in-fact to redeem my bonds?](#)

[How much can I redeem at one time?](#)

[What will I need to redeem a paper bond?](#)

[Will I get a form for my taxes?](#)

[Can I find out if an EE/E Bond has already been redeemed?](#)

### When can I redeem my EE/E Bonds?

After they are 12 months old.

If you redeem an EE Bond before it is five years old, you will lose the last three months of interest.

EE Bonds earn interest for 30 years, so the longer you hold on to the bond (up to 30 years), the more it is worth.

If you've been [affected by a disaster](#), special provisions may apply.

All E bonds and some EE bonds have stopped earning interest and should be redeemed.

### What are my EE/E Bonds worth?

Use the [Savings Bond Calculator](#).

**Note:** Savings bonds cannot be transferred. If you find a bond that belongs to someone else or buy a bond on an online auction site, you cannot redeem it. (If you inherit a bond through the death of the bond owner, see [Death of a Savings Bond Owner](#).)

### How do I redeem my EE/E Bonds?

<b>Electronic bonds</b>	Log in to TreasuryDirect and follow the directions there. The cash amount can be credited to your checking or savings account within two business days of the redemption date.
<b>Paper bonds</b>	You can cash paper EE/E Bonds at many local financial institutions. We don't keep a list of banks that redeem bonds, so check with banks in your area.  More information for special situations: <a href="#">Redeeming Bonds Outside the United States</a> and <a href="#">Redeeming a Young Child's Bond</a> .

### How do I authorize an attorney-in-fact to redeem my bonds?

For instructions, please see publication [FD-612 \(Rev. 11-2013\)](#), "Power of Attorney: United States Savings Bonds & Notes."

### How much can I redeem at one time?

<b>Electronic bonds in your TreasuryDirect account</b>	No limit
<b>Paper bonds up to \$1,000 (redemption value)</b>	With just the evidence described in the next section, "What will I need to redeem a paper bond?"
<b>Paper bonds -- \$1,000 or more (redemption value)</b>	As described in the next section "What will I need to redeem a paper bond?" Alternatively, you can: Have a certifying officer at a bank where you have an account certify your signature in each request for payment on the back of each bond.  Provide your Social Security Number.  Mail the bonds to the <a href="#">Treasury Direct Account</a> site.

### What will I need to redeem a paper bond?

Before taking in the bonds to redeem them, it's usually a good idea to check with the financial institution to find out what identification and other documents you'll need. When you present your paper bonds, you'll be asked to show your identity. You can do this by:

being a customer with an active account open for at least 6 months at the financial institution that will be paying the bonds, or

presenting acceptable identification such as a valid driver's license if the redemption value of the bonds is less than \$1,000.

If you are not listed as the owner or co-owner on the bond, you'll have to show that you are entitled to cash in the bond.

### Will I get a form for my taxes?

Yes, IRS Form 1099-INT is provided for all redeemed bonds. The form may be available when you redeem your bond or after the end of the year.

<b>Electronic bonds</b>	Log in to TreasuryDirect and go to ManageDirect. Form 1099-INT is one of the links on the ManageDirect page.
<b>Paper bonds</b>	The financial institution where you redeemed the bond will mail the form to the address on record for the bond owner. (Typically, this mailing takes place after the end of the year in which the bond is redeemed.)

[Tax Considerations for EE/E Bonds](#)

[Translate](#)

**CANDACE L. CURTIS**  
218 Landana Street  
American Canyon, CA 94503  
(925) 759-9020  
[occurtis@sbcglobal.net](mailto:occurtis@sbcglobal.net)

September 13, 2014

Bureau of the Fiscal Service  
P.O. Box 7012  
Parkersburg, WV 26106-7012

RE: EE/HH Bond Status Request

To Whom It May Concern:

My parents, Elmer H. and Nelva E. Brunsting, are both deceased. Their estate plan referenced EE bonds, and their financial records contained bond inventories and other bond related transaction records for both EE and HH bonds.

I have been unable to locate any of the bonds and it is unknown whether all of them had been cashed in before their demise.

I have enclosed copies of the death certificates, and a complete inventory of the bonds as of October 21, 1996.

If possible I would like to obtain a complete printout of transactions related to my parents' EE and HH bond accounts. If this information is not available, please provide the status of any bonds purchased starting in January 1981.

Please feel free to contact me if you have any questions or need further information.

Sincerely,



Candace L. Curtis

enclosures

# CERTIFICATION OF VITAL RECORD

## DEPARTMENT OF STATE HEALTH SERVICES VITAL STATISTICS UNIT

TEXAS DEPARTMENT OF STATE HEALTH SERVICES - VITAL STATISTICS  
**STATE OF TEXAS**      **CERTIFICATE OF DEATH**      **STATE FILE NUMBER 142-09-043770**

1. LEGAL NAME OF DECEASED (Include AKA's, if any) (First, Middle, Last) <b>ELMER H. BRUNSTING</b>				2. DATE OF DEATH (ACTUAL OR PRESUMED) <b>04/01/2009</b>	
3. SEX <b>MALE</b>	4. DATE OF BIRTH <b>09/29/1921</b>	5. AGE - Last Birthday (Years) <b>87</b>	6. UNDER 1 YR Mo: _____ Days: _____	7. UNDER 1 DAY Hours: _____ Min: _____	8. BIRTHPLACE (City & State or Foreign Country) <b>HULL IA</b>
9. SOCIAL SECURITY NUMBER <b>282-32-8905</b>		10. MARITAL STATUS AT TIME OF DEATH <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced <input checked="" type="checkbox"/> Never Married <input type="checkbox"/> Unknown		11. SURVIVING SPOUSE'S NAME (If wife, give name prior to first marriage) <b>NELVA RENSINK</b>	
10a. RESIDENCE STREET ADDRESS <b>13630 PINEROCK</b>			10b. APT. NO.	10c. CITY OR TOWN <b>HOUSTON</b>	
10d. COUNTY <b>HARRIS</b>		10e. STATE <b>TEXAS</b>		10f. ZIP CODE <b>77079</b>	10g. INSIDE CITY LIMITS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11. FATHER'S NAME <b>LUKE BRUNSTING</b>			12. MOTHER'S NAME PRIOR TO FIRST MARRIAGE <b>GERTUDE RIKKERS</b>		
13. PLACE OF DEATH (CHECK ONLY ONE) IF DEATH OCCURRED IN A HOSPITAL: <input type="checkbox"/> Inpatient <input type="checkbox"/> ER/Outpatient <input type="checkbox"/> DOA IF DEATH OCCURRED SOMEWHERE OTHER THAN A HOSPITAL: <input type="checkbox"/> Hospice Facility <input type="checkbox"/> Nursing Home <input checked="" type="checkbox"/> Decedent's Home <input type="checkbox"/> Other (Specify)					
14. COUNTY OF DEATH <b>HARRIS</b>		15. CITY/TOWN/ZIP (IF OUTSIDE CITY LIMITS, GIVE PRECINCT NO.) <b>HOUSTON, 77079</b>		16. FACILITY NAME (if not institution, give street address) <b>13630 PINEROCK</b>	
17. INFORMANT'S NAME & RELATIONSHIP TO DECEASED <b>NELVA BRUNSTING - WIFE</b>			18. MAILING ADDRESS OF INFORMANT (Street and Number, City, State, Zip Code) <b>13630 PINEROCK, HOUSTON, TX 77079</b>		
19. METHOD OF DISPOSITION <input checked="" type="checkbox"/> Burial <input type="checkbox"/> Cremation <input type="checkbox"/> Donation <input type="checkbox"/> Entombment <input type="checkbox"/> Removal from state <input type="checkbox"/> Other (Specify)		20. SIGNATURE AND LICENSE NUMBER OF FUNERAL DIRECTOR OR PERSON ACTING AS SUCH <b>MARICELLA JIRON, BY ELECTRONIC SIGNATURE - 113462</b>		21. <input type="checkbox"/> Unknown Section: <b>2110</b> Block: Lot: <b>DD LC</b> Space: <b>04F</b>	
22. PLACE OF DISPOSITION (Name of cemetery, crematory, other place) <b>MEMORIAL OAKS CEMETERY</b>			23. LOCATION (City/Town, and State) <b>HOUSTON, TX</b>		
24. NAME OF FUNERAL FACILITY <b>MEMORIAL OAKS FUNERAL HOME</b>		25. COMPLETE ADDRESS OF FUNERAL FACILITY (Street and Number, City, State, Zip Code) <b>13001 KATY FREEWAY, HOUSTON, TX 77079</b>			
26. CERTIFIER (Check only one) <input checked="" type="checkbox"/> Certifying physician - To the best of my knowledge, death occurred due to the cause(s) and manner stated. <input type="checkbox"/> Medical Examiner/Judge of the Peace - On the basis of examination, and/or investigation, in my opinion, death occurred at the time, date and place, and due to the cause(s) and manner stated.					
27. SIGNATURE OF CERTIFIER <b>CYNTHIA ZINNER, BY ELECTRONIC SIGNATURE</b>		28. DATE CERTIFIED (Mo/Day/Yr) <b>04/10/2009</b>	29. LICENSE NUMBER <b>M2509</b>	30. TIME OF DEATH (Actual or presumed) <b>09:30 AM</b>	
31. PRINTED NAME, ADDRESS OF CERTIFIER (Street and Number, City, State, Zip Code) <b>CYNTHIA ZINNER, 1880 SOUTH DAIRY ASHFORD STE # 330, HOUSTON, TX 77077</b>				32. TITLE OF CERTIFIER <b>MD</b>	
33. PART 1. ENTER THE CHAIN OF EVENTS - DISEASES, INJURIES, OR COMPLICATIONS - THAT DIRECTLY CAUSED THE DEATH. DO NOT ENTER TERMINAL EVENTS SUCH AS CARDIAC ARREST, RESPIRATORY ARREST, OR VENTRICULAR FIBRILLATION WITHOUT SHOWING THE ETIOLOGY. DO NOT ABBREVIATE. ENTER ONLY ONE CAUSE ON EACH.					
IMMEDIATE CAUSE (Final disease or condition resulting in death) a. <b>DEMENTIA, LIKELY VASCULAR TYPE</b> Due to (or as a consequence of): b. _____ Due to (or as a consequence of): c. _____ Due to (or as a consequence of): d. _____ Due to (or as a consequence of):					
34. WAS AN AUTOPSY PERFORMED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				35. WERE AUTOPSY FINDINGS AVAILABLE TO COMPLETE THE CAUSE OF DEATH? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
36. MANNER OF DEATH <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Accident <input type="checkbox"/> Suicide <input type="checkbox"/> Homicide <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Could not be determined					
37. DID TOBACCO USE CONTRIBUTE TO DEATH? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Probably <input type="checkbox"/> Unknown		38. IF FEMALE: <input type="checkbox"/> Not pregnant within past year <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Not pregnant, but pregnant within 42 days of death <input type="checkbox"/> Not pregnant, but pregnant 43 days to one year before death <input type="checkbox"/> Unknown if pregnant within the past year		39. IF TRANSPORTATION INJURY, SPECIFY: <input type="checkbox"/> Driver/Operator <input type="checkbox"/> Passenger <input type="checkbox"/> Pedestrian <input type="checkbox"/> Other (Specify)	
40a. DATE OF INJURY (Mo/Day/Yr)	40b. TIME OF INJURY	40c. INJURY AT WORK? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	40d. PLACE OF INJURY (e.g. Decedent's home, construction site, restaurant, wooded area)		
40e. LOCATION (Street and Number, City, State, Zip Code)			40f. COUNTY OF INJURY		
41. DESCRIBE HOW INJURY OCCURRED					
42a. REGISTRAR FILE NO. <b>0206214</b>	42b. DATE RECEIVED BY LOCAL REGISTRAR <b>04/28/2009</b>	42c. REGISTRAR <b>REGISTRAR - CITY OF HOUSTON, ELECTRONICALLY FILED</b>			

TEXAS DEPARTMENT OF STATE HEALTH SERVICES - VITAL STATISTICS UNIT  
 WARNING: This penalty for knowingly making a false statement in this form can be 2-10 years in prison and a fine up to \$10,000, (Health and Safety Code, Sec. 192, 199)

VS-112 REV 1/2005  
 00000554490  
 000269576

This is a true and correct reproduction of the original record as recorded in this office. Issued under authority of Section 191.051, Health and Safety Code.

ISSUED **MAR 10 2011**

  
 GERALDINE R. HARRIS  
 STATE REGISTRAR

WARNING: THIS DOCUMENT HAS A DARK BLUE BORDER AND A COLORED BACKGROUND



CERTIFICATION OF VITAL RECORD

DEPARTMENT OF STATE HEALTH SERVICES  
VITAL STATISTICS UNIT

TEXAS DEPARTMENT OF STATE HEALTH SERVICES - VITAL STATISTICS UNIT  
NOV 17 2011

STATE OF TEXAS CERTIFICATE OF DEATH STATE FILE NUMBER 142-11-142463

1. LEGAL NAME OF DECEASED (Include AKA's, if any) (First, Middle, Last) (Maiden) RENSIK 2. DATE OF DEATH (ACTUAL OR PRESUMED) 11/11/2011
3. SEX FEMALE 4. DATE OF BIRTH 10/08/1926 5. AGE - Last Birthday (Years) 85 6. BIRTH PLACE (City & State or Foreign Country) SHELDON, IA
7. SOCIAL SECURITY NUMBER 481-30-4885 8. MARITAL STATUS AT TIME OF DEATH [X] Married [ ] Single [ ] Never Married [ ] Widowed 9. SURVIVING SPOUSE'S NAME (If odd, give name prior to first marriage)
10a. RESIDENCE STREET ADDRESS 13630 PINEROCK LANE 10b. CITY OR TOWN HOUSTON 10c. STATE TEXAS 10d. ZIP CODE 77079 10e. INSIDE CITY LIMITS [X] Yes [ ] No
11. FATHER'S NAME SYLVESTER RENSIK 12. MOTHER'S NAME PRIOR TO FIRST MARRIAGE HARRIET KOOLBECK
13. PLACE OF DEATH (CHECK ONLY ONE) [X] Hospital [ ] ER/Outpatient [ ] DOA [ ] Hospice Facility [ ] Nursing Home [ ] Decedent's Home [ ] Other (Specify)
14. COUNTY OF DEATH HARRIS 15. CITY/TOWN, ZIP OF OUTSIDE CITY LIMITS (GIVE PRECINCT NO.) HOUSTON, 77055 16. FACILITY NAME (If not institution, give street address) SELECT SPECIALTY HOSPITAL - HOUSTON WEST
17. INFORMANT'S NAME & RELATIONSHIP TO DECEASED CAROL BRUNSTING - DAUGHTER 18. MAILED ADDRESS OF INFORMANT (Street and Number, City, State, Zip Code) 5822 JASON ST. HOUSTON, TX 77074
19. METHOD OF DISPOSITION [X] Burial [ ] Cremation [ ] Donation [ ] Entombment [ ] Removal from state [ ] Other (Specify) 20. SIGNATURE AND LICENSE NUMBER OF FUNERAL DIRECTOR OR PERSON ACTING AS SUCH ARACELI J GALINDO BY ELECTRONIC SIGNATURE 114721 21. Section 214 Block 98 Space
22. PLACE OF DISPOSITION (Name of cemetery, crematory, other place) MEMORIAL OAKS CEMETERY 23. LOCATION (City/Town, and State) HOUSTON, TX
24. NAME OF FUNERAL FACILITY MEMORIAL OAKS FUNERAL HOME 25. COMPLETE ADDRESS OF FUNERAL FACILITY (Street and Number, City, State, Zip Code) 13801 KATY FREEWAY, HOUSTON, TX 77079
26. CERTIFIER (Check only one) [X] Certifying physician-To the best of my knowledge, death occurred due to the cause(s) and manner stated. [ ] Medical Examiner/Justice of the Peace - On the basis of examination, and/or investigation, in my opinion, death occurred at the time, date and place, and due to the cause(s) and manner stated.
27. SIGNATURE OF CERTIFIER JERSON CADENAS, BY ELECTRONIC SIGNATURE 28. DATE CERTIFIED (Mo/Day/Yr) 11/13/2011 29. LICENSE NUMBER N3531 30. TIME OF DEATH (Actual or presumed) 04:50 PM
31. PRINTED NAME, ADDRESS OF CERTIFIER (Street and Number, City, State, Zip Code) JERSON CADENAS 4545 POST OAK PLACE #130, HOUSTON, TX 77027-3133 MD
32. PART 1. ENTER THE CHAIN OF EVENTS - DISEASES, INJURIES, OR COMPLICATIONS - THAT DIRECTLY CAUSED THE DEATH. DO NOT ENTER TERMINAL EVENTS SUCH AS CARDIAC ARREST, RESPIRATORY ARREST, OR VENTRICULAR FIBRILLATION WITHOUT SHOWING THE ETIOLOGY. DO NOT ABBREVIATE. ENTER ONLY ONE CAUSE ON EACH.
IMMEDIATE CAUSE (Final disease or condition resulting in death) a. RESPIRATORY FAILURE Due to (or as a consequence of)
Sequentially list conditions, if any, leading to the cause listed on line a. Enter the UNDERLYING CAUSE (disease or injury that initiated the events resulting in death) LAST b. METASTATIC BILIARY CANCER Due to (or as a consequence of)
c. SEVERE PROTEIN CALORIE MALNUTRITION Due to (or as a consequence of)
d. SEPTIC SHOCK
PART 2. ENTER OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH - BUT NOT RESULTING IN THE UNDERLYING CAUSE GIVEN IN PART 1. ADULT FAILURE TO THRIVE
34. WAS AN AUTOPSY PERFORMED? [ ] Yes [X] No
35. WERE AUTOPSY FINDINGS AVAILABLE TO COMPLETE THE CAUSE OF DEATH? [ ] Yes [X] No
36. MANNER OF DEATH [X] Natural [ ] Accident [ ] Suicide [ ] Homicide [ ] Pending investigation [ ] Could not be determined
37. DID TOBACCO USE CONTRIBUTE TO DEATH? [ ] Yes [X] No [ ] Probably [X] Unknown
38. IF FEMALE: [X] Not pregnant within past year [ ] Pregnant at time of death [ ] Not pregnant, but pregnant within 42 days of death [ ] Not pregnant, but pregnant 43 days to one year before death [ ] Unknown if pregnant within the past year
39. IF TRANSPORTATION INJURY, SPECIFY: [ ] Driver/Operator [ ] Passenger [ ] Pedestrian [ ] Other (Specify)
40a. DATE OF INJURY (Mo/Day/Yr) 40b. TIME OF INJURY 40c. INJURY AT WORK? [ ] Yes [X] No 40d. PLACE OF INJURY (e.g. Decedent's home, construction site, restaurant, wooded area)
40e. LOCATION (Street and Number, City, State, Zip Code) 40f. COUNTY OF INJURY
41. DESCRIBE HOW INJURY OCCURRED
42a. REGISTRAR FILE NO. 0217344 42b. DATE RECEIVED BY LOCAL REGISTRAR 11/17/2011 42c. REGISTRAR REGISTRAR - CITY OF HOUSTON, ELECTRONICALLY FILED
EDR NUMBER 000001040508

TEXAS DEPARTMENT OF STATE HEALTH SERVICES - VITAL STATISTICS UNIT



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ISSUED NOV 18 2011

GERALDINE R. HARRIS STATE REGISTRAR



WARNING: THIS DOCUMENT HAS A DARK BLUE BORDER AND A COLORED BACKGROUND

REQUEST FOR REISSUE OF UNITED STATES SAVINGS BONDS/NOTES  
IN NAME OF TRUSTEE OR PERSONAL TRUST ESTATE

**IMPORTANT:** Follow instructions in filling out this form. You should be aware that the making of any false, fictitious or fraudulent claim to the United States is a crime punishable by imprisonment of not more than five years or a fine up to \$250,000, or both, under 18 U.S.C. 287 and 18 U.S.C. 3571. Additionally, 31 U.S.C. 3729 provides for civil penalties for the maker of a false or fraudulent claim to the United States of an amount not less than \$5,000 and not more than \$10,000, plus treble the amount of the Government's damages as an additional sanction.  
**PRINT IN INK OR TYPE ALL INFORMATION**

TO: Federal Reserve Bank

**BEFORE FILLING OUT THIS FORM, READ TAX LIABILITY NOTICE ON PAGE 3**  
(The applicable statement(s) below **MUST** be completed. Failure to furnish this information could cause rejection of the transaction. See instructions.)

1. I (we) hereby request reissue of the bonds described on the reverse hereof in the form set out in item 7 below to the extent of \$ 38,025 (face amount).

2. In support of this request, I (we severally) certify that the trust estate described in item 7 below is a personal trust estate as defined in item 1 of the instructions on page 3 of this form, and

a.  was created by ELMER H. BRUNSTING & NELVA E. BRUNSTING  
(Name(s) of owner, coowner, or both coowners creating trust)

b.  was created by some other person and

(i)  I am (one of us is) a beneficiary of the trust.

(ii)  \_\_\_\_\_, a beneficiary of the trust, is related  
to \_\_\_\_\_ as \_\_\_\_\_  
(Name) (Name of owner or coowner) (Give exact relationship)

3. You must check box a. or b. (SEE "TAX LIABILITY" SECTION OF INSTRUCTIONS):

a.  I (we) certify that, for federal income tax purposes, I (we) will be treated as owner(s) of the portion of the trust represented by any tax-deferred accumulated interest on the surrendered bonds.

I (we) certify that, for federal income tax purposes, I (we) will not be treated as owner(s) of the portion of the trust represented by any tax-deferred accumulated interest on the surrendered bonds, and therefore, I (we) will include the tax-deferred accumulated interest in gross income for the taxable year in which the bonds are reissued to the trust. I (we) am aware that a 1099 INT will be issued and the interest will be reported to the Internal Revenue Service by the agent that processes the transactions. The interest which will be reported includes deferred interest on H/HH bonds as well as interest earned on E/EE bonds from the issue date until the date of reissue.

4. ELMER H. BRUNSTING & NELVA E. BRUNSTING are the trustee/co-trustees of the trust.

5. The trust was created on OCTOBER 10, 1996  
(Month/Day/Year)

6. ELMER H. BRUNSTING, whose Social Security Account number is 282-32-8905  
(Name of coowner)

is the principal coowner of any bonds registered in coownership form submitted herewith. He/she is responsible for any tax liability arising from the reissue transaction requested herein. (A principal coowner is a coowner who (1) purchased the bonds with his or her own funds or (2) received them as a gift, inheritance or legacy, or as a result of judicial proceedings, and has them reissued in coownership form, provided her or she has received no contribution in money or money's worth for designating the other person as coowner on the bonds. Both registrants are considered to be coowners when bonds are registered in the form "A" or "B")

7. Form in which bonds \_\_\_\_\_  
are to be reissued. ELMER H. BRUNSTING or NELVA E. BRUNSTING, Trustees, or the successor Trustees, under the BRUNSTING FAMILY LIVING TRUST dated October 10, 1996,  
as amended.

13630 PINROCK, HOUSTON TX 77079  
(Address)

(Taxpayer identifying number Assigned to Trust)

\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_-

(Employer Identification Number)

282-32-8905

(Social Security Account Number)

If the new bonds are not to be delivered to address shown the \_\_\_\_\_ deliver them to:

ELMER H. BRUNSTING  
(Name)

13630 PINROCK  
(Street Address)

HOUSTON TX 77079  
(City or town) (State) (ZIP Code)

OWNER AND OTHER REGISTRANTS MUST SIGN AND HAVE THEIR SIGNATURE CERTIFIED ON PAGE 2

SEE INSTRUCTIONS FOR PRIVACY ACT AND PAPERWORK REDUCTION ACT NOTICE

P1182

BRUNSTING001611

Under penalty of perjury, I, the undersigned grantor (creator) of the trust, certify that the above taxpayer identification number assigned to the trust is correct; and that I am not subject to backup withholding either (i) because I have not been notified that I am subject to backup withholding (as a result of a failure to report all interest or dividends), or (ii) because I have been notified by the Internal Revenue Service that I am no longer subject to backup withholding. I further certify that the trust estate is not subject to backup withholding for one of the aforesaid reasons. (See Item 3 of the instructions on page 3.) (If an employer identification number, i.e., 12-3456789, has been assigned to the trust estate, then the trustee must furnish an I.R.S. Form W-9.)

Elmer H. Brunsting  
 (Signature of Owner or coowner)  
13630 Pinerock Houston TX 77075  
 (Home Address)  
282 32-8905  
 (Social Security Account Number)

Nelva E. Brunsting  
 (Signature of coowner or beneficiary)  
13630 Pinerock  
 (Home Address)  
481-30-4685  
 (Social Security Account Number)

(713) 464 0391  
 Daytime Telephone Number

(713) 464-4391  
 Daytime Telephone Number

I CERTIFY that ELMER H. BRUNSTING, whose identify is well-known or proved to me, personally appeared before me this 31 day of October, 1996 at Houston TX (City or State)

I CERTIFY that NELVA E. BRUNSTING, whose identify is well-known or proved to me, personally appeared before me this 31 day of October, 1996 at Houston TX (City or State)

and signed the above request, acknowledging the same to be a free act and deed.

and signed the above request, acknowledging the same to be a free act and deed.

**BANK OF AMERICA TEXAS**  
 TELLER # 001  
 (OFFICIAL STAMP OR SEAL) 1 1996  
 BRANCH # 08519  
 TOWN & COUNTRY

Matthew Paul Beal  
 (Signature and title of certifying officer) CSM  
701 Town & Country  
 (Address) Houston TX 77024

**BANK OF AMERICA TEXAS**  
 TELLER # 001  
 (OFFICIAL STAMP OR SEAL) 1 1996  
 BRANCH # 08519  
 TOWN & COUNTRY

Matthew Paul Beal  
 (Signature and title of certifying officer)  
701 Town & Country  
 (Address) Houston TX 77024

**RESERVED FOR IDENTIFICATION NOTATIONS**

- Customer Account Number and Date Established: \_\_\_\_\_ Document(s) - Description: \_\_\_\_\_
- Identified by (Signature and Address): \_\_\_\_\_

**FOR OFFICIAL USE ONLY**

- This transaction was a taxable event
- \$ \_\_\_\_\_ was reported under \_\_\_\_\_ for \_\_\_\_\_ (Social Security Account Number) (Year)
- This transaction was not a taxable event. No interest was reported.

**DESCRIPTION OF UNITED STATES SAVINGS BONDS PRESENTED AND SURRENDERED**

ISSUE DATE	DENOMINATION (FACE AMOUNT)	SERIAL NUMBER	INSCRIPTION (Please type or print names, including middle names or initials, social security account number, if any, and addresses as inscribed on the bonds.)
ALL INFORMATION IS LISTED ON THE ATTACHED 8 PAGES			

(If space is insufficient, use sheet on page 4, sign it and refer to it above - or use PD F 3500 for this purpose.) (2)

**P1183**

DESCRIPTIONS OF UNITED STATES SAVINGS BONDS PRESENTED AND SURRENDERED

ISSUE DATE	DENOMINATION	SERIAL NUMBER	INSCRIPTION
JAN 1968	25	Q2323610188E	ELMER H. BRUNSTING OR
JAN 1968	100	C488366018E	NELVA E BRUNSTING
FEB 1968	100	C488381553E	DITTO
MARCH 1968	100	C487597606E	DITTO
JULY 1968	100	C492930507E	DITTO
AUG 1968	25	Q2369597957E	DITTO
AUG 1968	100	C495526689E	DITTO
SEPT 1968	25	Q2376239798E	DITTO
SEPT 1968	100	C495554472E	DITTO
OCT 1968	25	Q2376412853E	DITTO
OCT 1968	100	C495571546E	DITTO
NOV 1968	25	Q2382934338E	DITTO
NOV 1968	100	C496529219E	DITTO
DEC 1968	100	C496545465E	DITTO
DEC 1968	25	Q2389590020E	DITTO

JAN 1969	25	Q2402769422E	ELMER H BRUNSTING
JAN 1969	100	C497448486E	NELVA E BRUNSTING
FEB 1969	25	Q2409958642E	DITTO
FEB 1969	100	C499254901E	DITTO
MARCH 1969	50	L757031560E	DITTO
MARCH 1969	100	C499266790E	DITTO
APRIL 1969	25	Q2422715395E	DITTO
APRIL 1969	100	C499274128E	DITTO
MAY 1969	50	L763056023E	DITTO
MAY 1969	100	C5022244708E	DITTO
JUNE 1969	50	L766519117E	DITTO
JUNE 1969	100	C502238466E	DITTO
JULY 1969	25	Q2440232983E	DITTO
JULY 1969	100	C502260677E	DITTO
AUG 1969	50	L772779399E	DITTO
AUG 1969	100	C504859197E	DITTO
SEPT 1969	50	L775389203E	DITTO
SEPT 1969	100	C504883348E	DITTO
OCT 1969	25	Q2468249697E	DITTO
OCT 1969	100	C506399101E	DITTO
NOV 1969	50	L777324452E	DITTO
NOV 1969	100	C506442126E	DITTO
DEC 1969	25	Q2476363422E	DITTO
DEC 1969	100	C506449027E	DITTO

JAN 1970	50	L779356396E	ELMER H BRUNSTING OR
JAN 1970	100	C507351868E	NELVA E BRUNSTING
FEB 1970	25	Q2489045403E	DITTO
FEB 1970	100	C507371517E	DITTO
MARCH 1970	50	L781533895E	DITTO

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BRUNSTING001613



## PAGE2

MARCH 1970	100	C509742914E	DITTO
APRIL 1970	50	L781622843E	DITTO
APRIL 1970	100	C513299043E	DITTO
MAY 1970	50	LL781689413E	DITTO
MAY 1970	100	C513338157E	DITTO
JUNE 1970	50	L781840738E	DITTO
JUNE 1970	100	C513377785E	DITTO
JULY 1970	50	L794088310E	DITTO
JULY 1970	100	C513404100E	DITTO
AUG 1970	50	L796803115E	DITTO
AUG 1970	100	C 515732747E	DITTO
SEPT 1970	25	Q2528750393E	DITTO
SEPT 1970	100	C515801272E	DITTO
OCT 1970	50	L801969302E	DITTO
OCT 1970	100	C515833390E	DITTO
NOV 1970	50	L802022535E	DITTO
NOV 1970	100	C515886588E	DITTO
DEC 1970	50	L807326463E	DITTO
DEC 1970	100	C 515436590E	DITTO
JAN 1971	50	L807366168E	ELMER H BRUNSTING OR
JAN 1971	100	C518450821E	NELVA BRUNSTING
FEB 1971	50	L812941238E	DITTO
FEB 1971	100	C518516321E	DITTO
MARCH 1971	50	L815611153E	DITTO
MARCH 1971	100	C522495921E	DITTO
APRIL 1971	50	L817774095E	DITTO
APRIL 1971	100	C523365879E	DITTO
MAY 1971	75	K14200621E	DITTO
MAY 1971	100	C523483834E	DITTO
JUNE 1971	75	K14670394E	DITTO
JUNE 1971	100	C526107354E	DITTO
JULY 1971	50	L819574435E	DITTO
JULY 1971	100	C528427319E	DITTO
AUG 1971	75	K15016278E	DITTO
AUG 1971	100	C529794380E	DITTO
SEPT 1971	50	L825480119E	DITTO
SEPT 1971	100	C529877212E	DITTO
OCT 1971	75	K15187296E	DITTO
OCT 1971	100	C529895593E	DITTO
NOV 1971	50	L835532053E	DITTO
NOV 1971	100	C531353752E	DITTO
DEC 1971	75	K16443059E	DITTO
DEC 1971	100	C534218555E	DITTO
JAN 1972	75	K16841325E	ELMER H BRUNSTING OR
JAN 1972	100	C 535345407E	NELVA E BRUNSTING
FEB 1972	50	L1002342624E	DITTO
FEB 1972	100	C536246756E	DITTO

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## PAGE 3

MARCH 1972	75	K100205529E	DITTO
MARCH 1972	100	C1001140610E	DITTO
APRIL 1972	75	K100235027E	DITTO
APRIL 1972	100	C1001188897E	DITTO
MAY 1972	75	K100574825E	DITTO
MAY 1972	100	C1004287178E	DITTO
JUNE 1972	75	K100897353E	DITTO
JUNE 1972	100	C1004370151E	DITTO
JULY 1972	75	K100923508E	DITTO
JULY 1972	100	C1005971762E	DITTO
AUG 1972	75	K101226740E	DITTO
AUG 1972	100	C1007854435E	DITTO
SEPT 1972	75	K101234776E	DITTO
SEPT 1972	100	C1009583723E	DITTO
OCT 1972	75	K101497925E	DITTO
OCT 1972	100	C1013424162E	DITTO
NOV 1972	75	K101674271E	DITTO
NOV 1972	100	C1014677804E	DITTO
DEC 1972	75	K101717239E	DITTO
DEC 1972	100	C1014769185E	DITTO
JAN 1973	100	C1017412539E	ELMER H BRUNSTING OR
JAN 1973	100	C1017412540E	NELVA E BRUNSTING
FEB 1973	75	K103456625E	DITTO
FEB 1973	100	C1019165387E	DITTO
MARCH 1973	100	C1020967659E	DITTO
MARCH 1973	100	C1020967660E	DITTO
APRIL 1973	75	K103502429E	DITTO
APRIL 1973	100	C1022725346E	DITTO
MAY 1973	100	C1022743153E	DITTO
MAY 1973	100	C1022743154E	DITTO
JUNE 1973	75	K104260431E	DITTO
JUNE 1973	100	C1024190568E	DITTO
JULY 1973	100	C1025207524E	DITTO
JULY 1973	100	C1025207525E	DITTO
AUG 1973	75	K104501960E	DITTO
AUG 1973	100	C1026856168E	DITTO
SEPT 1973	100	C1028489865E	DITTO
SEPT 1973	100	C1028489866E	DITTO
OCT 1973	75	K105207666E	DITTO
OCT 1973	100	C1030186694E	DITTO
NOV 1973	100	C1031889677E	DITTO
NOV 1973	100	C1031889678E	DITTO
DEC 1973	100	C1031993682E	DITTO
DEC 1973	100	C1031993683E	DITTO
JAN 1974	75	K105609333E	ELMER H BRUNSTING OR
JAN 1974	100	C1034862765E	NELVA E BRUNSTING
FEB 1974	75	K106301025E	DITTO

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## PAGE 4

FEB 1974	100	C1037551320E	DITTO
MARCH 1974	100	C1039590046E	DITTO
MARCH 1974	100	C1039590047E	DITTO
APRIL 1974	100	C1039616578E	DITTO
APRIL 1974	100	C1039616579E	DITTO
MAY 1974	100	C1040575108E	DITTO
MAY 1974	100	C1040575109E	DITTO
JUNE 1974	100	C1040666253E	DITTO
JUNE 1974	100	C1040666254E	DITTO
JULY 1974	25	Q5206129943E	DITTO
JULY 1974	100	C1040699695E	DITTO
JULY 1974	100	C1040699696E	DITTO
AUG 1974	25	Q5207177764E	DITTO
AUG 1974	100	C1042675840E	DITTO
AUG 1974	100	C1042675841E	DITTO
SEPT 1974	25	Q5212656678E	DITTO
SEPT 1974	100	C1044277355E	DITTO
SEPT 1974	100	C1044277356E	DITTO
OCT 1974	24	Q5219890347E	DITTO
OCT 1974	200	R104236199E	DITTO
NOV 1974	25	Q5227328461E	DITTO
NOV 1974	200	R104238066E	DITTO
DEC 1974	200	R105532207E	DITTO
JAN 1975	200	R105534602E	ELMER H BRUNSTING OR
FEB 1975	25	Q5250876813E	NELVA E BRUNSTING
FEB 1975	200	R105537285E	DITTO
MARCH 1975	50	L1110504385E	DITTO
MARCH 1975	200	R105552232E	DITTO
APRIL 1975	50	L10655080468E	DITTO
APRIL 1975	200	R105555261E	DITTO
MAY 1975	50	L20046344533E	DITTO
MAY 1975	200	R200729202E	DITTO
JUNE 1975	25	Q6011260745E	DITTO
JUNE 1975	200	R200475099E	DITTO
JULY 1975	50	L2008122240E	DITTO
JULY 1975	200	R200478983E	DITTO
AUG 1975	50	L2011260401E	DITTO
AUG 1975	200	R201130474E	DITTO
SEPT 1975	50	L2019145590E	DITTO
SEPT 1975	200	R201134203E	DITTO
OCT 1975	50	L2025225306E	DITTO
OCT 1975	200	R201145065E	DITTO
NOV 1975	75	K202269628E	DITTO
NOV 1975	200	R201438781E	DITTO
DEC 1975	75	K202852678E	DITTO
DEC 1975	200	R202448340E	DITTO

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JAN1976	75	K202864265E	ELMER H BRUNSTING OR
JAN 1976	200	R202451895E	NELVA E BRUNSTING
FEB 1976	75	K203112916E	DITTO
FEB 1976	200	R202690829E	DITTO
MARCH 1976	75	K203265303E	DITTO
MARCH 1976	200	R202694335E	DITTO
APRIL1976	75	K203366117E	DITTO
APRIL 1076	200	R202698397E	DITTO
MAY 1976	75	K203354323E	DITTO
MAY 1976	200	R202699682E	DITTO
JUNE 1976	75	K203364078E	DITTO
JUNE 1976	200	R203951602E	DITTO
JULY 1976	75	K203386120E	DITTO
JULY 1976	200	R203944366E	DITTO
AUG 1976	100	C2030829953E	DITTO
AUG 1976	200	R203949180E	DITTO
SEPT 1976	75	K207076144E	DITTO
SEPT 1976	200	R203978493E	DITTO
OCT1972	75	K207094581E	DITTO
OCT 1976	200	R204483052E	DITTO
NOV 1976	75	K207452453E	DITTO
NOV 1976	200	R204507335E	DITTO
DEC 1976	75	K207459456E	DITTO
DEC 1976	200	R204523975E	DITTO

JAN 1977	100	C20361322118E	ELMER H BRUNSTING OR
JAN 1977	200	R204541333E	NELVA E BRUNSTING
FEB 1977	100	C2039832289E	DITTO
FEB 1977	200	R204553456E	DITTO
MARCH 1977	100	C2041431316E	DITTO
MARCH 1977	200	R204557856E	DITTO
APRIL 1977	100	C2043336989E	DITTO
APRIL 1977	200	R205675270E	DITTO
MAY 1977	25	Q6185728367E	DITTO
MAY 1977	100	C2046633576E	DITTO
MAY 1977	200	R205991077E	DITTO
JUNE 1977	100	C2049536154E	DITTO
JUNE 1977	200	R20634880E	DITTO
JULY 1977	100	C204981455E	DITTO
JULY 1977	200	R206596261E	DITTO
AUG.1977	25	Q6204923639E	DITTO
AUG 1977	100	C2054099290E	DITTO
AUG 1977	200	R2060846501E	DITTO
SEPT 1977	100	C2054145624E	DITTO
SEPT 1977	200	R207208675E	DITTO
OCT 1977	100	C2058634132E	DITTO
OCT 1977	200	R207528154E	DITTO
NOV 1977	100	C2059773778E	DITTO
NOV 1977	200	R207840791E	DITTO
DEC 1977	25	Q6233839753E	DITTO
DEC 1977	100	C2061750948E	DITTO
DEC 1977	200	R207846639E	DITTO

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## PAGE 6

JAN 1978	100	C2063616775E	ELMER H. BRUNSTING OR
JAN 1978	200	R.208068104E	NELVA E BRUNSTING
FEB 1980	75	K221891597E	ELMER H BRUNSTING OR
FEB 1980	100	C2107430100E	NELVA E BRUNSTING
FEB 1980	200	R212872691E	DITTO
MARCH 1980	200	R212956976E	DITTO
MARCH 1980	200	R212956977E	DITTO
APRIL 1980	75	K222388747E	DITTO
APRIL 1980	100	C2108816696E	DITTO
FEB 1981	50	L50420726EE	ELMER H BRUNSTING OR
FEB 1981	75	K19777823EE	NELVA E BRUNSTING
FEB 1981	200	R7766450EE	DITTO
MARCH 1981	50	L57948286EE	DITTO
MARCH 1981	75	K19824806EE	DITTO
MARCH 1981	200	R7862790EE	DITTO
APRIL 1981	50	L62652169EE	DITTO
APRIL 1981	100	C22831762EE	DITTO
APRIL 1981	200	R7935030EE	DITTO
MAY 1981	50	L66997209EE	DITTO
MAY 1981	75	K20201615EE	DITTO
MAY 1981	200	R8890396EE	DITTO
JUNE 1981	50	L67154411EE	DITTO
JUNE 1981	75	K20988705EE	DITTO
JUNE 1981	200	R8963741EE	DITTO
JULY 1981	50	L71018815EE	DITTO
JULY 1981	100	C27478706EE	DITTO
JULY 1981	200	R9080782EE	DITTO
AUG. 1981	50	L77515409EE	DITTO
AUG. 1981	75	K21069991EE	DITTO
AUG. 1981	200	R9163791EE	DITTO
SEPT 1981	50	L78689195EE	DITTO
SEPT 1981	100	C31829104EE	DITTO
SEPT 1981	200	R299558EE	DITTO
OCT 1981	50	L83335953EE	DITTO
OCT 1981	75	K21754483EE	DITTO
OVT 1981	200	R10284711EE	DITTO
NOV 1981	50	L87201014EE	DITTO
NOV 1981	75	K21962801EE	DITTO
NOV 1981	200	R10473740EE	DITTO
DEC 1981	50	L87994774EE	DITTO
DEC 1981	100	C35846236EE	DITTO
DEC 1981	200	R10720744EE	DITTO

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BRUNSTING001618



## Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, **DO NOT TAPE OVER BARCODE.** Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Package Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.
6. For information on insurance claims, click on "My Account" at the top of any Click-N-Ship web page and then the "How to File a Claim" link.

## Click-N-Ship® Label Record

**USPS TRACKING # / Insurance Number:**  
**9405 9036 9930 0253 1601 07**

Trans. #:	309929516	Priority Mail® Postage:	<b>\$5.05</b>
Print Date:	09/13/2014	Insurance Fee:	<b>\$0.00</b>
Ship Date:	09/13/2014	Total:	<b>\$5.05</b>
Expected			
Delivery Date:	09/15/2014		
Insured Value:	\$1.00		

**From:** CANDACE CURTIS  
 218 LANDANA ST  
 AMERICAN CYN CA 94503-1050

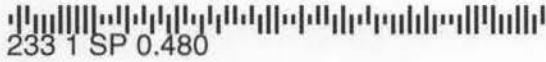
**To:** BUREAU OF THE FISCAL SERVICE  
 PO BOX 7012  
 PARKERSBURG WV 26106-7012

\* Commercial Base Pricing Priority Mail rates apply. There is no fee for USPS Tracking™ service on Priority Mail service with use of this electronic rate shipping label. Refunds for unused postage paid labels can be requested online 30 days from the print date.



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 Check the status of your shipment on the USPS Tracking™ page at [usps.com](http://usps.com)*

BUREAU OF THE FISCAL SERVICE  
PO BOX 2186  
PARKERSBURG WV 26106



October 8, 2014

CANDACE L CURTIS  
218 LANDANA ST  
AMERICAN CANYON CA 94503

## Treasury Retail Securities

### IMPORTANT INFORMATION

Thank you for your recent inquiry regarding Treasury Retail Securities. **If you are responding to our correspondence, please include this bar code sheet with your response.** Failure to include this sheet may delay the processing of your request. Please note:

- Place this bar code sheet on the top of all documents you submit.
- Mail your transaction to the address provided below using the enclosed return envelope.
- Ensure that the return address at the bottom of this sheet is visible in the envelope window.
- Make a note of the Customer Number (shown below) for all future reference or communication purposes.

---

**For Internal purposes only**

---

Customer#: 0001326239S



---

Service Request#: 1-500690063



CC5

BUREAU OF THE FISCAL SERVICE  
PO BOX 2186  
PARKERSBURG WV 26106

For information about Treasury Retail securities, go to:  
[www.treasurydirect.gov](http://www.treasurydirect.gov)







# Treasury Securities Services

October 8, 2014

Customer: 0001326239S  
Elmer H. Brunsting



CANDACE L CURTIS  
218 LANDANA ST  
AMERICAN CANYON CA 94503

Dear Ms. Curtis:

This letter refers to your recent transaction and/or inquiry.

I am trying to get photos of paid bonds; usually we cannot get photos of any bonds that have been paid over ten years ago.

I did locate some Series EE bonds issued to Elmer H Brunsting or Nelva E Brunsting's Trust.

To proceed with the request, we will need from the successor trustee:

- A certified copy of any deceased trustee's death certificate. Death certificates must be certified or sworn to by the state or local registrar, under seal or stamp, as true and correct copies taken from the official records.

In support of the request we will need a Certificate of Trust. If this is not available or your state does not allow for one, please send a copy of the original trust agreement with amendments or relevant trust excerpts and amendments. The copy of the trust must be a true and correct copy of the original and the following pages must be included:

- The page showing the name and date of the trust (not a title or cover page).
- The page(s) identifying the acting trustee(s). If more than one acting trustee is named and each can act independently, submit that portion of the trust.
- The signature page(s).
- Any amendments to the trust that may alter the information on the pages submitted or limit the authority of the acting trustee(s) to request the transaction.

If the bond(s) are missing, we will also need:

- The person(s) entitled to complete and sign the enclosed *Claim For Lost, Stolen or Destroyed United States Savings Bonds* (PD F 1048).

For information about Treasury Retail securities, go to:  
[www.treasurydirect.gov](http://www.treasurydirect.gov)



We may also need information concerning the estate of the last deceased.

Please send your response in the enclosed envelope. When contacting us, please provide the customer name and reference number shown at the top of this letter as well as your daytime telephone number. Also provide your email address if you prefer contact by email.

For general questions about Treasury Securities, visit our website at [www.treasurydirect.gov](http://www.treasurydirect.gov). If you have questions about this letter, call 304-480-7711 ext. 297414, between the hours of 8:00 a.m. and 4:30 p.m. Eastern Time.

Sincerely,

Bureau of the Fiscal Service

Enclosure:        Return Envelope

For information about Treasury Retail securities, go to:  
[www.treasurydirect.gov](http://www.treasurydirect.gov)



# Exhibit 22

Amy June 24, 2015 answers to interrogatories and Requests for Production

# GRIFFIN & MATTHEWS

*Attorneys at Law*  
1155 Dairy Ashford, Suite 300  
Houston, Texas 77079  
(281) 870-1124  
(281) 870-1647 FAX

## FACSIMILE TRANSMISSION

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<b>To:</b>	Bobbie Bayless		713.522.2218		713.522.2224
	Darlene Payne Smith	<b>Fax:</b>	713.658.1921	<b>Phone:</b>	713.752.8640
	Bradley Featherston		281.759.3214		281.759.3213

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<b>From:</b>	Neal E. Spielman	<b>Pages:</b>	29 including this cover page	<b>Date:</b>	6/24/2015
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**Re:** Cause No. 412,249-401; *Carl Brunsting, et. al. v. Anita Brunsting, et. al.*; In Probate Court No. Four (4) of Harris County, Texas

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### PLEASE DELIVER AS SOON AS POSSIBLE

- Amy Brunsting's Objections, Answers and Responses to Candace Louise Curtis' Written Interrogatories and Request for Production (with Verification)

**THIS FACSIMILE TRANSMISSION (AND/OR THE DOCUMENTS ACCOMPANYING IT) IS LEGALLY PRIVILEGED AND CONFIDENTIAL INFORMATION WHICH IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE AND MAY CONTAIN INFORMATION BELONGING TO THE SENDER WHICH IS PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction of this message is strictly prohibited. If you have received this message in error, please immediately notify the sender by telephone.**

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June 24, 2015

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NEAL E. SPIELMAN  
nspielman@griffinatlw.com

Ms. Candace Louise Curtis  
218 Landana Street  
American Canyon, California 94503

**Via C.M.R.R.R.**  
**7014 0150 0001 5384 0078**

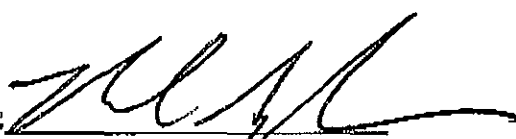
RE: Cause No. 412,249-401; *Carl Brunsting, et. al. v. Anita Brunsting, et. al.*; In  
Probate Court No. Four (4) of Harris County, Texas

Dear Ms. Curtis:

In accordance with the Texas Rules of Civil Procedure, enclosed please find my client's  
Objections, Answers and Responses to the written interrogatories and requests for production  
recently issued. My client's verification is also enclosed.

Very truly yours,

Griffin & Matthews

By:   
Neal E. Spielman

NES:mf

Enclosures

cc: Ms. Bobbie G. Bayless  
Bayless & Stokes  
*Via Facsimile: 713.522.2218*

Ms. Darlene Payne Smith  
Crain, Caton & James  
*Via Facsimile: 713.425.7945*

Mr. Bradley E. Featherston  
The Mendel Law Firm, L.P.  
*Via Facsimile: 281.759.3214*

NO. 412,249-401

CARL HENRY BRUNSTING, et. al.

§  
§  
§  
§  
§

IN PROBATE COURT

v.

NUMBER FOUR (4) OF

ANITA KAY BRUNSTING, et. al.

HARRIS COUNTY, TEXAS

**AMY RUTH BRUNSTING'S  
OBJECTIONS, ANSWERS AND RESPONSES TO CANDACE LOUISE CURTIS'S  
WRITTEN INTERROGATORIES AND REQUESTS FOR PRODUCTION**

*TO: Candace Louise Curtis, Pro Se, - 218 Landana Street, American Canyon, California  
94503*

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

Respectfully submitted,

GRIFFIN & MATTHEWS

BY: 

NEAL E. SPIELMAN  
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*ATTORNEYS FOR DEFENDANT,  
AMY RUTH BRUNSTING*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been sent on this 24<sup>th</sup> day of June 2015, to the following in the manner set forth below:

**Candace Louise Curtis -- Pro Se:**

Candace Louise Curtis  
218 Landana Street  
American Canyon, California 94503  
***Via C.M.R.R.R. 7014 0150 0001 5384 0078***

**Attorneys for Carl Henry Brunsting:**

Bobbie G. Bayless  
Bayless & Stokes  
2931 Ferndale  
Houston, Texas 77098  
***Via Facsimile: 713.522.2218***

**Attorneys for Carole Ann Brunsting:**

Darlene Payne Smith  
Alec B. Covey  
Crain, Caton & James  
Five Houston Center  
1401 McKinney, 17<sup>TH</sup> Floor  
Houston, Texas 77010  
***Via Facsimile: 713.425.7945***

**Attorneys for Anita Kay Brunsting:**

Bradley E. Featherston  
The Mendel Law Firm, L.P.  
1155 Dairy Ashford, Suite 104  
Houston, Texas 77079  
***Via Facsimile: 281.759.3214***

  
NEAL E. SPIELMAN

**OBJECTIONS, ANSWERS & RESPONSES**

Amy Brunsting ("Amy" or "Respondent") objects to the interrogatories and requests for production issued by Candace Louise Curtis ("Candace") to the extent they are, by Candace's own admission, first made pursuant to "fiduciary obligations" allegedly owed to her. If, via the trust documents, Candace actually has the right to inquire into the topics covered in her interrogatories and requests for production, then that right is subject to other provisions in the trust documents requiring her to pay costs associated with responding, which she has not done. As a result, Amy's purported obligation to address these issues with Candace has not yet been triggered, and will not trigger until, at least, all necessary costs have been paid.

To the extent Candace's interrogatories and requests for production are issued pursuant to the Texas Rules of Civil Procedure, Amy's objections, answers and responses are as follows:

**Interrogatory No. 1 (Really, Interrogatories 1-4)**

- (a) Regarding the Affidavit in Support of Removal of Lis Pendens, Sworn to and signed by you on March 6, 2012, at Item 5 you state:

*"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."*

**With respect to this statement:**

**i. Has a Personal Asset Trust been set up for?**

1. Candace Louise Curtis
2. Carole Ann Brunsting
3. Carl Henry Brunsting
4. Amy Ruth Brunsting
5. Anita Kay Brunsting

**If the answer to any of 1 - 5 is yes, please state when and how each personal asset trust was "set up", how and from what assets each was funded. Please explain also the dispositive provisions for the personal asset trusts and the instruments from which each article was derived. Please also explain what administrative provisions were used to "set up" the personal asset trusts and identify the instrument(s) from which those provisions were derived.**

**If the answer to any of 1 - 5 is no, please explain the process for the creation of the personal asset trust(s) and itemize, with a particularity, the causes for your failure to establish said trust(s).**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. Further, it is multifarious, consisting of more than one discrete sub-part.

Subject to the foregoing and without waving the foregoing objections, Respondent states:



The Personal Asset Trusts have not been established. This is a result of the various lawsuits that have been filed by Carl and Candace, as well as the injunction previously requested by Candace and Carl. If, as and when formed, they will be formed according to the applicable trust documents and with the assistance of the appropriate professionals, as determined by the co-trustees.

(b) At item 10 you state:

*"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".*

**The house sold more than 3 years ago, what benefit has any heir received from the sale of the house?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is vague, confusing, premature, misleading and capable of causing jury confusion. Further, it is multifarious, consisting of more than one discrete sub-part.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

The proceeds from the sale of the house have been deposited in an interest-bearing account where they will remain pending resolution of the various legal proceedings initiated by Carl and Candace

(c) At item 3 in your Affidavit in Support of Removal of Lis Pendens, dated March 6, 2012, you state:

*"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."*

With respect to this statement:

**Our father died April 1, 2009. At the time of his death the named successor co-trustees, as per the 2007 Amendment, were Carl and Candace. "Our parents" removed your name as successor co-trustee with the 2007 Amendment, and my name remained as a successor co-trustee with Carl. What instruments created between the 2007 Amendment and our father's death indicate: "our parents did not feel she was competent to handle her own inheritance"?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. Further, it is multifarious, consisting of more than one discrete sub-part.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

All of them. Taken in their totality, the documents evidence our parents changing attitudes and confidence in Candace and Carl's respective abilities to properly care for themselves, manage money, make reasonable decisions, avoid negative influences in the form of spouses and/or significant others, etc.

**Interrogatory No. 2 (Really, Interrogatories 5-8)**

In your Verified Answer to Plaintiff Carl Brunsting's Petition for Declaratory Judgment, for Accounting, for Damages, for Imposition of a Constructive Trust, and for Injunctive Relief, filed May 13, 2013, you state:

*"AMY RUTH BRUNSTING F/F/A AMY RUTH TSCHIRHART is not liable as Trustee of the Carl Henry Brunsting Personal Asset Trust and the Amy Ruth Brunsting Asset Trust because such trusts have not been created and therefore do not contain any trust property."*

Section 3(A)(A) at page 5 of the August 25, 2010 "Qualified Beneficiary Designation and Testamentary Power of Appointment" states:

*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.*

Pursuant to Article X Section "A" of the family trust, distributions were specified to be made to the five personal asset trusts at the death of the Surviving Founder.

*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:*

That event occurred on November 11, 2011.

- (a) **What clause in what trust instrument allows the trustees to ignore the dispositive provisions of Article X (compelling establishment of personal asset trusts) and to continue acting as trustees for the Survivor's and Decedent's trusts well beyond the period of time necessary to settle those trusts?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It seeks to require the Respondent to interpret legal documents and render legal conclusions. Further, it is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. Further, it is multifarious, consisting of more than one discrete sub-part.

- (b) **Did the trustees ever have any intention of funding individual asset trusts? If yes, when, for whom, in what proportions, and based upon what criteria?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is multifarious, consisting of more than one discrete sub-part. Further, it seeks information that is more appropriately requested or obtained from a person or persons over whom Respondent has no control. Respondent can only respond for herself, and is not empowered to speak for other third persons.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

Upon becoming co-trustee, my intent was to follow my mother's wishes as expressed in the documents drafted for her by her attorneys, at her request. Subsequently, the various lawsuits that have been filed by Carl and Candace, as well as the injunction previously requested by Candace and Carl have prejudiced my ability to do so.

- (c) **Did the trustees ever intend to render full, true, and complete accounts? If yes, why have proper accounts not been rendered?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is multifarious, consisting of more than one discrete sub-part. Further, it seeks information that is more appropriately requested or obtained from a person or persons over whom Respondent has no control. Respondent can only respond for herself, and is not empowered to speak for other third persons. Additionally, it is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

Upon becoming co-trustee, my intent was to follow my mother's wishes as expressed in the documents drafted for her by her attorneys, at her request. Subsequently, the various lawsuits that have been filed by Carl and Candace, as well as the injunction previously requested by Candace and Carl have prejudiced my ability to do so.

- (d) **Which of the ten purposes for establishing personal asset trusts, expressed in the August 25, 2010 "Qualified beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement", were considered in the decision not to express and fund personal asset trusts?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. It is multifarious, consisting of more than one discrete sub-part. It seeks information that is more appropriately requested or obtained from a person or persons over whom Respondent has no control. Respondent can only respond for herself, and is not empowered to speak for other third persons.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

The document speaks for itself relative to the Trustor's intent. This notwithstanding, the Personal Asset Trusts have not been established as a result of the various lawsuits that have been filed by Carl and Candace, as well as the injunction previously requested by Candace and Carl. If, as and

when formed, they will be formed according to the applicable trust documents and with the assistance of the appropriate professionals, as determined by the co-trustees.

**Interrogatory No. 3 (Really, Interrogatories 9-10)**

You communicated with Frost Bank by email on January 24, 2012 "about the management of the trust accounts for my brother Carl and my sister Candy". Your email states "A copy of the trust is attached". The only attachment was the August 25, 2010 "Qualified beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement".

- (a) **Is it your opinion that the 8/25/2010 "Qualified Beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement" constitutes the complete trust agreement from which the personal asset trusts are to be created?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is multifarious, consisting of more than one discrete sub-part. It is confusing, misleading and capable of causing jury confusion. It seeks to require the Respondent to interpret legal documents and render legal conclusions.

- (b) **What was the reason why Frost Bank declined the management of the trust accounts for Carl and Candy?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is multifarious, consisting of more than one discrete sub-part. It is vague, confusing, misleading and capable of causing jury confusion. It seeks information that is more appropriately requested or obtained from a person or persons over whom Respondent has no control. Respondent can only respond for herself, and is not empowered to speak for other third persons.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

My understanding is that Frost Bank declined as a result of real property being located outside the State of Texas. Whether there were other or different reasons, I cannot say.

**Interrogatory No.4 (Really, Interrogatories 11-15)**

In 2011, you, Ann, and Jack each received distributions in the form of Exxon and Chevron securities.

- (a) **Were you involved in the decision to distribute those assets? If yes, what trust distribution standard was utilized and what facts were considered in relation to those standards as that criteria relates to each of the five Brunsting beneficiaries?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. Further, it is multifarious, consisting of more than one discrete sub-part. It is vague and confusing. It seeks to require the Respondent to interpret legal documents and render legal conclusions.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

The Exxon and Chevron securities were received while my mother was still alive. They were presented as gifts. I was not involved in mother's decision.

**(b) Were you aware that those distributions were not equal?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. Further, it is multifarious, consisting of more than one discrete sub-part. It is vague and confusing. It seeks to require the Respondent to interpret legal documents and render legal conclusions.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

Yes, I was aware that the gift I received was not the same amount as the gifts received by Ann and Jack. However, to my knowledge, the amounts received by Ann and Jack were equal in amount to similar gifts received by mother's other grandchildren

**(c) Were you aware that Carl received no stock or other assets of any kind at that time?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. Further, it is multifarious, consisting of more than one discrete sub-part. It is vague and confusing. It seeks to require the Respondent to interpret legal documents and render legal conclusions.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

I do not believe this is a true statement. I believe, at or around this time, Carl was receiving monies from mother directly and/or via mother's payment of bills, invoices or other expenses.

**(d) Were you involved in the decision making process in labeling those distributions as gifts?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. Further, it is multifarious, consisting of more than one discrete sub-part. It is vague and confusing. It seeks to require the Respondent to interpret legal documents and render legal conclusions.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

I do not believe that any monies, securities, etc. given out by mother while she was alive were distributions; but, no, I was not involved in any "decision" of this sort.

**(e) Was any specific trust property directed to be distributed by the 8/25/2010 exercise of the Article III Qualified Beneficiary Designation? If yes; what was the specific property, to who**

**was the specific property directed to be distributed, when, in what proportions and according to what criteria?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. It is multifarious, consisting of more than one discrete sub-part. It is vague and confusing. It seeks to require the Respondent to interpret legal documents and render legal conclusions. It seeks information that is more appropriately requested or obtained from a person or persons over whom Respondent has no control. Respondent can only respond for herself, and is not empowered to speak for other third persons.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

I was not a co-trustee until after mother died in November 2011, so I was not involved in anything that occurred up until that time, and Candace's lawsuit began approximately 3 months later. As to specific trust property and its distribution, the documents speak for themselves.

**Interrogatory No. 5 (Really, Interrogatories 16-26)**

As co-trustee, regarding the exercise of "Sole and Absolute Discretion" in recent opposition to a distribution to Candace Curtis:

**(a) What are, and how did the trustees interpret, the particular distribution standards contained in "the trust"?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. It is multifarious, consisting of more than one discrete sub-part. It seeks to require the Respondent to interpret legal documents and render legal conclusions. It seeks information that is more appropriately requested or obtained from a person or persons over whom Respondent has no control. Respondent can only respond for herself, and is not empowered to speak for other third persons.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

The documents speak for themselves relative to standards stated therein. Otherwise, my ability to act as a co-trustee has been prejudiced, hampered and otherwise restricted as a result of the various lawsuits that have been filed by Carl and Candace, as well as the injunction previously requested by Candace and Carl.

**(b) What is the trustee's process for making discretionary distribution decisions?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. It is multifarious, consisting of more than one discrete sub-part. It seeks to require the Respondent to interpret legal documents and render legal conclusions. It seeks information that is more appropriately requested or

obtained from a person or persons over whom Respondent has no control. Respondent can only respond for herself, and is not empowered to speak for other third persons.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

The documents speak for themselves relative to standards stated therein. Otherwise, my ability to act as a co-trustee has been prejudiced, hampered and otherwise restricted as a result of the various lawsuits that have been filed by Carl and Candace, as well as the injunction previously requested by Candace and Carl.

- (c) **What does the trustee require when asked to consider other resources and establish the beneficiary's standard of living?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. It is multifarious, consisting of more than one discrete sub-part. It seeks to require the Respondent to interpret legal documents and render legal conclusions. It seeks information that is more appropriately requested or obtained from a person or persons over whom Respondent has no control. Respondent can only respond for herself, and is not empowered to speak for other third persons.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

The documents speak for themselves relative to standards stated therein. Otherwise, my ability to act as a co-trustee has been prejudiced, hampered and otherwise restricted as a result of the various lawsuits that have been filed by Carl and Candace, as well as the injunction previously requested by Candace and Carl.

- (d) **Does the trust require a beneficiary to waive their right of privacy as a condition of receiving a beneficial interest? If so, identify the controlling provisions and the instrument(s) that contain those provisions.**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. It is multifarious, consisting of more than one discrete sub-part. It seeks to require the Respondent to interpret legal documents and render legal conclusions. It seeks information that is more appropriately requested or obtained from a person or persons over whom Respondent has no control. Respondent can only respond for herself, and is not empowered to speak for other third persons.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

The documents speak for themselves relative to standards stated therein. Otherwise, my ability to act as a co-trustee has been prejudiced, hampered and otherwise restricted as a result of the various lawsuits that have been filed by Carl and Candace, as well as the injunction previously requested by Candace and Carl.

**(e) Does the trustee work with distribution advisors? If so, who and when? If not, why not?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. It is multifarious, consisting of more than one discrete sub-part. It seeks to require the Respondent to interpret legal documents and render legal conclusions. It seeks information that is more appropriately requested or obtained from a person or persons over whom Respondent has no control. Respondent can only respond for herself, and is not empowered to speak for other third persons.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

My ability to act as a co-trustee has been prejudiced, hampered and otherwise restricted as a result of the various lawsuits that have been filed by Carl and Candace, as well as the injunction previously requested by Candace and Carl.

**(f) What types of distributions would the trustees like a beneficiary to receive?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. It is multifarious, consisting of more than one discrete sub-part. It seeks to require the Respondent to interpret legal documents and render legal conclusions. Additionally it is premature in the sense that Carl and Candace may no longer be beneficiaries as a result of the lawsuits they have filed.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

The documents speak for themselves relative to distribution standards stated therein.

**(g) For what purposes can the beneficiary request a distribution from the trust?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. It is multifarious, consisting of more than one discrete sub-part. It seeks to require the Respondent to interpret legal documents and render legal conclusions. Additionally it is premature in the sense that Carl and Candace may no longer be beneficiaries as a result of the lawsuits they have filed.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

The documents speak for themselves relative to distribution standards stated therein.

**(h) When would the trustees like distributions to be made and in what priority?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. It is multifarious,



consisting of more than one discrete sub-part. It seeks to require the Respondent to interpret legal documents and render legal conclusions. Additionally it is premature in the sense that Carl and Candace may no longer be beneficiaries as a result of the lawsuits they have filed.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

The documents speak for themselves relative to distribution standards stated therein. Further, my ability to act as a co-trustee has been prejudiced, hampered and otherwise restricted as a result of the various lawsuits that have been filed by Carl and Candace, as well as the injunction previously requested by Candace and Carl. Resolution of these lawsuits could serve as a means by which it might be determined "when" (and to whom) distributions may be made.

**(i) What circumstances should or should not exist prior to a distribution from "the trust"?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. It is multifarious, consisting of more than one discrete sub-part. It seeks to require the Respondent to interpret legal documents and render legal conclusions. Additionally it is premature in the sense that Carl and Candace may no longer be beneficiaries as a result of the lawsuits they have filed.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

The documents speak for themselves relative to distribution standards stated therein. Further, my ability to act as a co-trustee has been prejudiced, hampered and otherwise restricted as a result of the various lawsuits that have been filed by Carl and Candace, as well as the injunction previously requested by Candace and Carl. Resolution of these lawsuits could serve as a means by which it might be determined "when" (and to whom) distributions may be made.

**(j) Who should be involved in the decision making process?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. It is multifarious, consisting of more than one discrete sub-part. It seeks to require the Respondent to interpret legal documents and render legal conclusions. Additionally it is premature in the sense that Carl and Candace may no longer be beneficiaries as a result of the lawsuits they have filed.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

The documents speak for themselves relative to distribution standards stated therein.

**(k) What factors does the decision-maker measure in determining the beneficiary's need for a distribution?**

**Answer:**

Objection. Respondent objects to this Request as phrased. It is harassing, inflammatory, prejudicial, assumes facts not in evidence, is misleading and capable of causing jury confusion. It is multifarious,

consisting of more than one discrete sub-part. It seeks to require the Respondent to interpret legal documents and render legal conclusions. Additionally it is premature in the sense that Carl and Candace may no longer be beneficiaries as a result of the lawsuits they have filed.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

The documents speak for themselves relative to distribution standards stated therein.

Respondent invokes all rights and remedies associated with instances of offensive discovery abuse, including without limitation, a request for a protective order. This request is occasioned, in part, by Candace Louise Curtis' abuse of the Texas Rules of Civil Procedure and her violation of "discrete sub-part" standards and restrictions. Candace Louise Curtis has issued more interrogatories than she is permitted to issue under the Rules. Until her interrogatories are re-drafted to remedy the violation, or pending further instructions from the Court, additional objections to the remaining interrogatories are reserved, as are additional factual answers.

**(l) What facts were relied upon in your determination to oppose distributions to Candace?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**Interrogatory No. 6 (Really, Interrogatories 27-29)**

On March 8, 2011, Anita sent an email to you, Candy, and Carole in which she said:

*"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."*

**(a) Did you meet with Candace Freed to discuss any trust business prior to the death of Nelva Brunsting? If yes, provide the dates and explain the purposes for each of those meetings.**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(b) How much were you involved with Anita's efforts to convince Nelva to alter the terms of the trust?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (c) How much was Carole involved with Anita's efforts to convince Nelva to alter the terms of the trust?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**Interrogatory No.7 (Really, Interrogatories 30-31)**

Instruments are alleged to have been signed by Nelva Brunsting on August 25, 2010.

- (a) Were you involved in discussions involving the creation or signing of the August 25, 2010 trust amendment instrument(s)? If yes, explain the circumstances leading up to the creation of the instrument.**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (b) Were you personally present when those documents were signed? If yes, please identify the location where they were signed and provide the names and contact information for everyone who was personally present when those instruments were signed.**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**Interrogatory No. 8 (Really, Interrogatories 32-33)**

Instruments are alleged to have been signed by Nelva Brunsting on December 21, 2010.

- (a) Were you involved in the preparatory discussions? If yes, please explain the circumstances leading up to the creation of the December 21, 2010 instruments.**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (b) Were you personally present when those documents were signed? If yes, please identify the location where they were signed and provide the names and contact information for everyone who was personally present when those instruments were signed.**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**Interrogatory No. 9 (Really, Interrogatories 34-37)**

Pursuant to the Provisions of the 2005 Restatement, Administration of the Decedent's trust in Article IX:

**(a) Did Nelva have the authority to remove the trustees of the Decedent's Trust?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(b) Did the exercise of the Qualified Beneficiary Designation and Testamentary Power of Appointment, dated 8/25/2010, appoint specific property to any specified beneficiary or beneficiaries?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(c) Did the Limited Testamentary Power of Appointment, dated 8/25/2010, direct distributions of principal of the Decedent's Trust in a manner that discharged the surviving Founder's legal obligations to any beneficiary of the Decedent's Trust? If yes, please explain with a specificity as it affects each of the five Brunsting heirs/beneficiaries.**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(d) If Nelva discharged her legal obligations to a beneficiary of the Decedent's Trust, what beneficiary(s) and to what extent did Nelva discharge her legal obligations to those beneficiaries?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**Interrogatory No. 10 (Really, Interrogatories 38-41)**

Please refer to George Vie's July 15, 2013 letter to the Special Master and Attachment 1 to these interrogatories when considering the following questions. Note that Attachment 1 is a summary of your Schedule F, plus distributions to beneficiaries from the Edward Jones account during the 10-year period covered by the schedule, also including the \$100,000.00 distribution Anita received in 2005 to pay off her house.

Your letter states that:

*"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."*

Attachment 1 demonstrates that during the 10-year period of the schedule, approximately 46% of the distributions went to Candy, Carole, Carl, Kevan and Andy, with the balance of approximately 54% going to you, Anita and your respective children. Nothing was noted to have been received by Marta during the 10-year period.

- (a) **Please state with specificity the dates and amounts of all gifts given to the older beneficiaries and the source of the information in support of these alleged transactions, as claimed by you in your July 15, 2013 letter of intended influence addressed to the Special Master.**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (b) **Our Dad died April 1, 2009. The only noted transactions labeled as gifts to Kevan and Andy Curtis are dated October 2, 2009. Please state with specificity the dates and amounts of all other alleged gifts given to Kevan, Andy, or Marta between 2001 and April 1, 2009, the source of the information in support of these transactions, and the reason why these transactions were not listed on any schedules. If none say none.**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

In general the July 15, 2013 letter to the Master attempts to provide explanation for the accelerated dissipation of trust assets while our Mother was still alive. These take-my-word-for-it assertions have not been supported by Generally Accepted Accounting Principles (GAAP) in any disclosures. The recap of distributions, or gifts if you want to call them that, reflected on Attachment 1, clearly shows an inequity.

- (c) **Were you involved in the decision making process for any of those distributions? If yes, explain.**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (d) **In your July 15, 2013 letter to the Master you claim "Defendants are individuals, not financial professionals." Did you hire financial professionals to assist you in meeting the obligations commensurate with your fiduciary duties? If yes, who, when, and what did they do? If not, why not?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**Interrogatory No. 11 (Really, Interrogatories 42-56)**

Regarding the August 25, 2010 "Qualified Beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement"

- (a) **What changes to the dispositive provisions of the Survivor's Trust were affected by the 8/25/2010 exercise of the Article III power?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (b) **What changes to the administrative provisions of the Survivor's Trust were affected by the 8/25/2010 exercise of the Article III power?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (c) **What changes to the dispositive provisions of the Decedent's Trust were affected by the 8/25/2010 exercise of the Article III power?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (d) **What changes to the administrative provisions of the Decedent's Trust were affected by the 8/25/2010 exercise of the Article III power?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (e) **What changes to the dispositive provisions of the Survivor's Trust were affected by the 8/25/2010 exercise of the Article VIII LTPA?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (f) **What changes to the dispositive provisions of the Decedent's Trust were affected by the 8/25/2010 exercise of the Article VIII LTPA?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(g) What changes to the administrative provisions of the Decedent's Trust were affected by the 8/25/2010 exercise of the Article VIII LTPA?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(h) What changes to the dispositive provisions of the Survivor's Trust were affected by the 8/25/2010 exercise of the Article IX LTPA?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(i) What changes to the dispositive provisions of the Decedent's Trust were affected by the 8/25/2010 exercise of the Article IX LTPA?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(j) What changes to the administrative provisions of the Survivor's Trust (Article VIII) were affected by the 8/25/2010 exercise of the Article VIII LTPA?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(k) What changes to the administrative provisions of the Decedent's Trust were affected by the 8/25/2010 exercise of the Article IX LTPA?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(l) Has the Brunsting Family Trust ever been amended or revoked by a court of competent jurisdiction?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (m) **Has the Elmer H. Brunsting Irrevocable Decedent's trust ever been amended or revoked by a court of competent jurisdiction?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (n) **Was any specific trust property directed to be distributed by the 8/25/2010 exercise of the Article VIII Limited Testamentary Power of Appointment? If yes, what was the specific property; to who was the specific property directed to be distributed; when, in what proportions; and, according to what criteria?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (o) **What specific trust property was directed to be distributed by the 8/25/2010 exercise of the Article IX limited testamentary power? According to what standard was it to be distributed, when, how and to whom was it to be distributed?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**Interrogatory No. 12 (Really, Interrogatories 57-65)**

With respect to the August 25, 2010 QBD "Section B. Trustor's Intent in Establishing Personal Asset Trusts,"

**Intention 1. To protect and conserve trust principal**

EE Bonds have long been known to exist, yet have never been included in the list of assets of the trust, or accounted for by the trustees. This was brought to your attention at the hearing in connection with the Report of Master in July 2013. Anita received a letter from the Treasury dated December 4, 2014, referring to "your recent transaction and/or inquiry", which says the search "identified the unredeemed bonds described on the enclosed list". It goes on to state "The Department of the Treasury requires the properly completed forms be submitted in order to process the claims." A check with the Treasury Department gave a total value of the bonds as approximately \$6,452.64. A statement at the end of the Bond List received as an attachment to the correspondence says: **"\*If there are any bonds marked with an asterisk, they are within one month of their final maturity and may not be reissued or replaced."** All bonds on the list are marked with an asterisk.

- (a) **Why was your inquiry made more than one year after you were noticed of the existence of those EE Bonds?**

**Answer:**



Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(b) What claim(s), if any, were requested to be processed?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(c) Were the properly completed forms subsequently submitted? If no, why not? If yes, what were the results and why have the transaction records not been disclosed to Plaintiff(s)?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

Intention 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

The Decedent's Trust has received farm income every year, which has not been distributed since 2012. Consequently the decedent's trust owed hefty income taxes each year.

**(a) Why have those taxes not been reduced by distributions of farm income to personal asset trusts for the five beneficiaries? What advice have you obtained or been given regarding income taxes paid by the trusts, if any?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

Intention 3. To benefit and provide for the financial needs of the beneficiary and his or her descendants;

**(a) In what way have you respected this intention?**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**Answer:**

Intention 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;

**(a) In what way have you considered the needs and resources of beneficiary Candace Curtis in your distribution considerations?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(b) What facts did you rely upon in evaluating the needs and personal resources of beneficiary Candace Curtis in your distribution considerations?**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

Intention 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;

**(a) What inquiry did you make in effort to determine the existence of business ventures or start-ups that beneficiary Candace Curtis may be involved in as a part of your distribution considerations?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(b) In your determination not to fund individual asset trusts what facts were considered in relation to any of the remaining expressed intentions for such actions?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**Interrogatory No. 13 (Really, Interrogatories 66-69)**

The Bates stamped documents included in Plaintiffs document production P6-P155, "My Trustee Manual". Chapter 2, P19-P22 is titled "BEFORE GETTING STARTED: A FEW IMPORTANT "DO'S AND DON'TS".

Please review pages 2-1 through 2-4 of My Trustee Handbook and answer the following questions with specificity:

**(a) Which of the eight "Do's" have you done?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(b) Which of the eight "Do's" have you not done?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(c) Which of the nine "Do Not's" have you done?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(d) Which of the nine "Do Not's" have you not done?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**Interrogatory No. 14 (Really, Interrogatories 70-75)**

In establishing Personal Asset Trusts for the beneficiaries

**(a) Describe the steps you have taken to honor the provisions at Page 6 Item C of the August 25, 2010 QBD regarding PERSONAL ASSET TRUST PROVISIONS, as those provisions relate to the personal asset trusts for each of the five Brunsting beneficiaries?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(b) What dispositive and administrative provisions flow to the personal asset trusts from the Decedent's Trust?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(c) What dispositive and administrative provisions flow to the personal asset trusts from the Survivor's Trust?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**(d) When the dispositive provisions of the Decedent's Trust and those of the amended Survivor's Trusts are in direct conflict, what provisions of which instrument are controlling? Why?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (e) **When the administrative provisions of the Decedent's Trust and those of the Survivor's Trusts are in direct conflict, what provisions of which instrument are controlling? Why?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (f) **Describe the steps you have taken to honor the provisions of Article X, Section B (l)(a)(i) of the Brunsting Family Trust?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

**Interrogatory No. 15 (Really, Interrogatories 76-77)**

**Accounts and Accounting**

- (a) **How can you create personal asset trusts and fulfill the purposes of the trust without a full, true, and complete statutory accounting?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

- (b) **When and how did the acting trustees inform the beneficiaries regarding their beneficial interests?**

**Answer:**

Objection. Respondent objects to this Request as it exceeds the number of permissible interrogatories allowed by the Texas Rules of Civil Procedure.

## OBJECTIONS AND RESPONSES

### Request for Production No. 1

Schedule F - Purports to be a partial gifting reconciliation from Elmer and Nelva Brunsting from 2001, as developed from checking transactions. Please provide any bank statements beginning January 1, 2001 through the present that have not already been provided.

#### Response:

Objection. Respondent objects to this Request as duplicative of requests previously issued to one or more other parties to the subject litigation. It is harassing and an abuse of the discovery process for various reasons, including but not limited to its effort to obtain materials that have already been produced by other parties to the subject litigation. Additionally, it is premature and potentially in violation of the rights of one or more other parties to this litigation in the sense that it seeks information that the Requesting Party may no longer be entitled to receive (if she ever was). It is also overbroad in scope and duration of request.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

Please refer to Anita Brunsting's responses to the same Request, which is incorporated by reference as if fully restated herein.

### Request for Production No. 2

Please provide any Edward Jones statements beginning January 1, 2001 through the present that have not already been provided.

#### Response:

Objection. Respondent objects to this Request as duplicative of requests previously issued to one or more other parties to the subject litigation. It is harassing and an abuse of the discovery process for various reasons, including but not limited to its effort to obtain materials that have already been produced by other parties to the subject litigation. Additionally, it is premature and potentially in violation of the rights of one or more other parties to this litigation in the sense that it seeks information that the Requesting Party may no longer be entitled to receive (if she ever was). It is also overbroad in scope and duration of request.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

Please refer to Anita Brunsting's responses to the same Request, which is incorporated by reference as if fully restated herein.

### Request for Production No. 3

Please provide a true and correct copy of the "Appointment of Successor Trustees" dated July 1, 2008 referenced in such instruments as the Certificates of Trust bearing Bates Stamps P6783, V&F 000004; P6784, V&F 000005 and P6785, V &F 000006.

#### Response:

Objection. Respondent objects to this Request as duplicative of requests previously issued to one or more other parties to the subject litigation. It is harassing and an abuse of the discovery process for various reasons, including but not limited to its effort to obtain materials that have already been produced by other parties to the subject litigation. Additionally, it is premature and potentially in violation of the rights of one or more other parties to this litigation in the sense that it seeks information that the Requesting Party may no longer be entitled to receive (if she ever was). It is also overbroad in scope and duration of request.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

Please refer to Anita Brunsting's responses to the same Request, which is incorporated by reference as if fully restated herein.

#### **Request for Production No. 4**

Please provide a true and correct copy of the "Agreement" signed by Nelva Brunsting establishing the rate of trustee compensation claimed in the April 2012 spreadsheets and July 2013 Master's report. Please also include a copy of any letters of notice of change in trustee compensation, along with proofs of certified mailing to beneficiaries, as required by the Texas property statutes.

#### **Response:**

Objection. Respondent objects to this Request as duplicative of requests previously issued to one or more other parties to the subject litigation. It is harassing and an abuse of the discovery process for various reasons, including but not limited to its effort to obtain materials that have already been produced by other parties to the subject litigation. Additionally, it is premature and potentially in violation of the rights of one or more other parties to this litigation in the sense that it seeks information that the Requesting Party may no longer be entitled to receive (if she ever was). It is also overbroad in scope and duration of request.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

Please refer to Anita Brunsting's responses to the same Request, which is incorporated by reference as if fully restated herein.

#### **Request for Production No. 5**

Please provide any and all parole evidence indicating Nelva's knowledge of and direct participation in discussions related to "changes to the trust" specifically in regard to the instruments dated August 25, 2010, and those dated December 21, 2010.

#### **Response:**

Objection. Respondent objects to this Request as duplicative of requests previously issued to one or more other parties to the subject litigation. It is harassing and an abuse of the discovery process for various reasons, including but not limited to its effort to obtain materials that have already been produced by other parties to the subject litigation. Additionally, it is premature and potentially in violation of the rights of one or more other parties to this litigation in the sense that it seeks information that the Requesting Party may no longer be entitled to receive (if she ever was). It is also overbroad in scope and duration of request. Further, it seeks information, which – if it exists – is in the hands of third parties over whom Respondent has no control.

Subject to the foregoing and without waving the foregoing objections, Respondent states:

Please refer to Anita Brunsting's responses to the same Request, which is incorporated by reference as if fully restated herein.

**Request for Production No. 6**

Please provide copies of all supporting documentation upon which 2014 taxes were calculated and paid in regard to any Brunsting related trust(s).

**Response:**

Materials responsive to this Request have previously been provided by Anita Brunsting directly and/or through counsel. Additional responsive materials are in the process of being accumulated and will likewise be provided by Anita Brunsting directly and/or through counsel.

VERIFICATION

STATE OF TEXAS

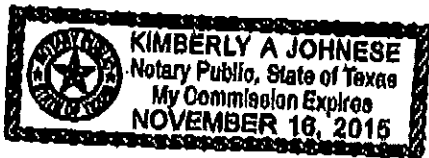
COUNTY OF Comal

Before me, the undersigned notary, on this day personally appeared AMY RUTH BRUNSTING, the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

My name is Amy Ruth Brunsting, and I am over 18 years of age, of sound mind and capable of making this verification. I have read answers to the interrogatories issued to me by Candace Louise Curtis. Unless otherwise noted in the content of the answers, the facts stated are within my personal knowledge and are true and correct.

Amy Brunsting  
Printed Name: Amy Brunsting  
Date: 6-19-15

Sworn to and subscribed before me by Amy Brunsting on the 19 day of June, 2015.



Kimberly A. Johnese  
Notary Public in and for the State of Texas



# Exhibit 23

Anita's June 4, 2015 answers to interrogatories

ESTATE OF	§	IN PROBATE COURT
	§	
NELVA E. BRUNSTING,	§	NUMBER FOUR (4) OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

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

**Anita Kay Brunsting 's Response to  
Candace Louise Curtis'  
First Written Interrogatories**

Anita Kay Brunsting serves her response to Candace Louise Curtis' first written interrogatories.

Respectfully submitted,

/s/ Brad Featherston

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Stephen A. Mendel (13930650)  
Bradley E. Featherston (24038892)  
The Mendel Law Firm, L.P.  
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Houston, Texas 77079  
Tel: 281-759-3213  
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stephen@mendellawfirm.com  
brad@mendellawfirm.com

Counsel for Anita Kay Brunsting  
In Capacities at Issue

## Certificate of Service

I certify that a true and correct copy of the foregoing instrument was served on the following:

Candace Louis Curtis  
218 Landana Street  
American Canyon, CA 94503  
Tel: 925-759-9020

*Pro Se*

Bobbie G. Bayless  
2931 Ferndale  
Houston, Texas 77098  
O: 713-522-2224; F: 713-522-2218

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

Darlene Payne Smith  
1401 McKinney, 17TH Floor  
Houston, Texas 77010  
O: 713-752-8640; F: 713-425-7945

Attorney for Carole Ann Brunsting

Neal Spielman  
Griffin & Matthews  
1155 Dairy Ashford, Suite 300  
Houston, TX 77079  
O: 281-870-1124; F: 281-870-1647

Attorney for Amy Brunsting

via email on June 4, 2015.

/s/ Brad Featherston

\_\_\_\_\_  
Bradley E. Featherston

## Response to Written Interrogatories<sup>1</sup>

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Anita Brunsting objects to Candace's interrogatories and request for production made pursuant to "fiduciary obligations." Interrogatories and request for production are exclusive to the Texas Rules of Civil Procedure and are not contemplated by the trust instruments nor any other applicable law. To the extent Candace's interrogatories and request for production are made pursuant to fiduciary obligations under the trust instruments then, pursuant to the trust, the Trustee requires that Candace pay the additional costs incurred to respond to such requests before the Trustee is required to comply with such request.

---

1. In your exercise of discretion, which of the Founders' ten intended purposes and what aspects of the HEMS standard were factored into your determination to oppose a distribution to beneficiary Candace from her personal asset trust, and upon what set of facts did your determination rely? If you did not use any of the ten expressed purposes or the HEMS standard, what standard did you use, if any?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Subject to and without waiving the foregoing objections, see Anita's response to Candace's request for distributions that was filed with the Court and which documents speak for themselves.

2. In 2011, which of the ten intended purposes, if any, and what aspects of the HEMS standard did you apply to your exercise of discretion in transferring Exxon Stock to Carole, and upon what set of facts did your exercise of discretion rely? If you did not use any of the ten expressed purposes or the HEMS standard, what standard did you use, if any?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Subject to and without waiving the foregoing objections, such transfer was made at Nelva Brunsting's instruction.

3. In 2011, which of the ten intended purposes, if any, and what aspects of the HEMS standard did you apply to your exercise of discretion in transferring Exxon Stock to Candace, and upon what set of facts did your exercise of discretion rely? If you did not use any of the ten expressed purposes or the HEMS standard, what standard did you use, if any?

---

<sup>1</sup> Candace's Interrogatories were renumbered for the convenience of the parties and the Court.

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Subject to and without waiving the foregoing objections, such transfer was made at Nelva Brunsting's instruction.

4. In 2011, which of the ten intended purposes, if any, and what aspects of the HEMS standard did you apply to your exercise of discretion in transferring Exxon Stock to Amy, and upon what set of facts did your exercise of discretion rely? If you did not use any of the ten expressed purposes or the HEMS standard, what standard did you use, if any?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Subject to and without waiving the foregoing objections, such transfer was made at Nelva Brunsting's instruction.

5. Which of the ten intended purposes, if any, and what aspects of the HEMS standard did you apply to your exercise of discretion in not transferring Exxon Stock to Carl, and upon what set of facts did your exercise of discretion rely? If you did not use any of the ten expressed purposes or the HEMS standard, what standard did you use, if any?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, presumably the inquiry relates to the time period Nelva Brunsting was alive and Nelva Brunsting did not instruct an Exxon Stock transfer to Carl.

6. What are, and how did the trustees interpret, the particular distribution standards contained in "the trust"?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, the distribution standards are as set forth in the trust instruments, which were interpreted as written.

7. What is/was the trustee's process for making discretionary distribution decisions?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Defendant further objects because it is unclear which “trust” the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva’s death or after Nelva’s death) and is, therefore, vague. Subject to and without waiving the foregoing objections, the process is as set forth in the trust instruments.

8. What does the trustee require when asked to consider other resources and establish the beneficiary’s standard of living?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Defendant further objects because it is unclear which “trust” the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva’s death or after Nelva’s death) and is, therefore, vague. The trustee requires what the trust instruments provide.

9. Does the trust require a beneficiary to waive their right of privacy as a condition of receiving a beneficial interest? If so, under which provision of what instrument(s)?

RESPONSE: Defendant objects because it is unclear which “trust” the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva’s death or after Nelva’s death) and is, therefore, vague. Subject to and without waiving the foregoing objections, the trust instruments speak for themselves.

10. Does the trustee work with distribution advisors? If so, who and when? If not, why not?

RESPONSE: The trustee has not worked with distribution advisors. No distributions have been made since the Nelva’s death due to the litigation filed by Candace and Carl.

11. When and how did the acting trustees inform the beneficiaries of their beneficial interests?

RESPONSE: Defendant objects because it is unclear which “trust” the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva’s death or after Nelva’s death) and is, therefore, vague. Subject to and without waiving the foregoing objections, prior to defendant’s appointment as trustee, on or about October 23, 2010, Candace was informed of her beneficial interest via email. Shortly after Nelva’s death in November 2011, the trustees and their counsel were in the process handling the trust affairs incident to Nelva’s death. The trustees and

their counsel provided trust documents and assets lists via email and/or mail in December 2011 and thereafter to beneficiaries.

12. What types of distributions would the trustees like a beneficiary to receive?

RESPONSE: Defendant objects to this interrogatory as unintelligible. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, defendant would like a beneficiary to receive distributions in accordance with the trust instruments.

13. For what purposes can the beneficiary request a distribution from the trust?

RESPONSE: Defendant objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, the beneficiary can request a distribution for the purposes contained in the trust instruments.

14. When would the trustees like distributions to be made and in what priority?

RESPONSE: Defendant objects to this interrogatory as unintelligible. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, Subject to, and without waiving the foregoing objections, defendant would like a beneficiary to receive distributions in accordance with the trust instruments.

15. What circumstances should or should not exist prior to a distribution from "the trust"?

RESPONSE: Defendant objects to this interrogatory as unintelligible. Defendant further objects because it is unclear which "trust" the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva's death or after Nelva's death) and is, therefore, vague. Subject to and without waiving the foregoing objections, currently, with respect to Candace, the Court must resolve Candace's claims and allegations in the pending lawsuit and, in particular, Candace's allegation that the no contest provisions in the trust instruments are unenforceable, prior to a distribution.

16. Who should be involved in the decision making process?

RESPONSE: Defendant objects because it is unclear which “trust” the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva’s death or after Nelva’s death) and is, therefore, vague. Subject to and without waiving the foregoing objections, currently, the Court and the parties to the litigation should be involved in the decision making process.

17. What factors does the decision-maker measure in determining the beneficiary’s need for a distribution?

RESPONSE: Defendant objects because it is unclear which “trust” the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva’s death or after Nelva’s death) and is, therefore, vague. Subject to and without waiving the foregoing objections, currently, the Court would consider the factors set forth in the trusts.

18. Describe the steps you have taken to honor the provisions of Article X, Section B (1)(a)(i) of the Brunsting Family Trust?

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and misconstrues the provisions and effects of the trust instruments. Defendant further objects because it is unclear which “trust” the question is seeking information about because the question is not limited to a time period (*i.e.*, before Nelva’s death or after Nelva’s death) and is, therefore, vague. The referenced section was superseded by Nelva and therefore, is inapplicable.

19. Describe the steps you have taken to honor the provisions at Page 6 Item C of the August 25, 2010 QBD regarding PERSONAL ASSET TRUST PROVISIONS, as those provisions relate to the personal asset trusts for each of the five Brunsting beneficiaries?

RESPONSE: After Nelva’s death, defendant began the process of collecting assets, informing trust beneficiaries, and working the attorneys specifically referenced in such section to implement the terms of the trust instruments. The trustees and their counsel provided trust documents and assets lists via email and/or mail in December 2011 and thereafter to beneficiaries. Candace then brought litigation.

20. A copy of the 8/25/2010 QBD was included in the October 23, 2010 email attachments. How did you come to be in possession of the 8/25/2010 QBD on October 23, 2010 when Nelva was the only then serving trustee?



RESPONSE: Nelva provided defendant such instrument.

21. What was your forthright explanation to Nelva regarding the changes that you planned for her to make to the trust and what were the exact changes that you intended to be made?<sup>2</sup>

RESPONSE: Defendant objects to this interrogatory, as it is misleading, capable of causing jury confusion, and is a compound question. Defendant never planned to make any changes to the trust for Carl. It was defendant's understanding that Nelva planned to make changes to the trust. There was a concern by Nelva, defendant, and defendant's siblings that Carl's future well-being may not be met by Drina, and that Drina may take steps to reach Carl's share of trust assets. Nelva never signed the changes into effect.

22. Where are the documents you referred to that you intended for Nelva to sign?<sup>3</sup>

RESPONSE: To defendant's knowledge they were never signed. Defendant does not know what happened to such documents.

23. What was the date of your prior inquiry and why was the inquiry made more than one year after you were noticed of the existence of those EE Bonds?

RESPONSE: Candace and Carl consistently and repeatedly accused Carol of stealing bonds that were alleged to be in the name of Nelva or Elmer. Defendant did not see a record of the bonds being in the name of the trusts. In late 2014, Carol informed defendant that she could request a record of the outstanding bonds, which was done in mid to late 2014.

24. What claim(s), if any, were you asking to be processed?

RESPONSE: None.

25. Did you subsequently submit the properly completed forms? If no, why not? If yes, what were the results and where are the transaction records?

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<sup>2</sup> This is a question about a March 8, 2011 email from Anita.

<sup>3</sup> This is a question about a March 8, 2011 email from Anita.

RESPONSE: No, because Candace would not agree to the disposition of the bonds and the legal fees to seek court approval to cash the bonds in light of Candace's failure to agree made the transaction cost prohibitive.

---

Defendant objects to the balance of the interrogatories as exceeding the limits of permissible discovery under the Texas Rules of Civil Procedure. Defendant further objects to the balance of the interrogatories because Candace has not paid Candace pay the additional costs incurred to respond to such requests before the Trustee is required to comply with such request.

---

Intention 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,

(a) The decedent's trust has received farm income every year, which has not been distributed since 2012. Consequently the decedent's trust owed hefty income taxes each year. Why have those taxes not been reduced by distributions of farm income to personal asset trusts for the five beneficiaries? What advice have you been given regarding income taxes paid by the trusts, if any?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(b) When considering funding for Mother's day-to-day needs prior to the establishment of the Rights of Survivorship account in the name of Carole Brunsting and Nelva Brunsting, what criteria did you use when you liquidated assets in the Edward Jones account? Was avoidance of capital gains tax a factor? If not, why not?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

5. Trustee Manual: The Bates stamped documents included in Plaintiff's document production P6-P155, "MyTrustee Manual". Chapter 2, P19-P22 is titled "BEFORE GETTING STARTED: A FEW IMPORTANT "DO'S AND DON'TS".

(a) Please review pages 2-1 through 2-4 of My Trustee Handbook and answer the following questions with specificity:

i. Which of the eight "Do's" have you done?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

ii. Which of the eight "Do's" have you not done?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

iii. Which of the nine “Do Not’s” have you done?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

iv. Which of the nine “Do Not’s” have you not done?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

6. Instruments are alleged to have been signed by Nelva Brunsting on August 25, 2010.

(a) Were you involved in the preparatory discussions? If yes, please explain the circumstances leading up to the creation of the instruments.

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(b) Were you personally present when those documents were signed? If yes, please identify the location where they were signed and provide the names and contact information for everyone who was personally present when those instruments were signed.

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

7. Instruments are alleged to have been signed by Nelva Brunsting on December 21, 2010.

(a) Were you involved in the preparatory discussions? If yes, please explain the circumstances leading up to the creation of the instruments.

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(b) Were you personally present when those documents were signed? If yes, please identify the location where they were signed and provide the names and contact information for everyone who was personally present when those instruments were signed.

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

8. Please refer to the RESPONSE OF DEFENDANTS TO REPORT OF MASTER, filed

August 27, 2013, and answer the following:

Regarding trustee compensation,

(a) At the point in time when you paid your personal credit card debts from trust assets, were you aware that paying personal debt obligations directly out of trust accounts can be considered self-dealing or co-mingling, whether you were entitled to trustee compensation or not? If not, why not?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(b) Appendix A, Section 1. states that Vacek & Freed determined the percentage amount of your fee to be 2% of the trust value of \$2,291,300, or \$45,826.00. What date was the fee calculation determined? What trust was the value based upon? What trust assets and their corresponding values were used in the calculation? Why was this calculated on an annual basis, rather than monthly or quarterly, since the value of the trust diminished every single month? What provision(s) in the trust set forth the standard for calculating this rate of compensation?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

9. Please refer to George Vie's July 15, 2013 letter to the Master and Attachment 1 to these interrogatories when considering the following questions. Note that Attachment 1 is a summary of your Schedule F, plus distributions to beneficiaries from the Edward Jones account during the 10-year period covered by the schedule, and the distribution you received in 2005 to pay off your house.

Your letter states that:

"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." Attachment 1 demonstrates that during the 10-year period of the schedule, approximately 46% of the distributions went to Candy, Carole, Carl, Kevan and Andy, with the balance of approximately 54% going to you, Amy and your respective children. Nothing was noted to have been received by Marta during the 10-year period.

(a) Please state with specificity the dates and amounts of all gifts given to the older beneficiaries and the source of the information in support of these alleged transactions, as claimed by you in your July 15, 2013 letter of influence addressed to the Special Master.

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in

the Texas Rules of Civil Procedure.

(b) Our Dad died April 1, 2009. The only noted transactions labeled as gifts to Kevan and Andy Curtis are dated October 2, 2009. Please state with specificity the dates and amounts of all other alleged gifts given to Kevan, Andy, or Marta between 2001 and April 1, 2009, the source of the information in support of these transactions, and the reason why these transactions were not listed on any schedules.

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(d) In general the July 15, 2013 letter to the Master attempts to provide excuses for the sudden acceleration of dissipation of mass quantities of trust assets while our Mother was still alive. These take-my-word-for-it assertions have not been supported by Generally Accepted Accounting Principles (GAAP) in any disclosures. The recap of distributions, or gifts if you want to call them that, reflected on Attachment 1, clearly shows an inequity. What was the distribution standard applied to those transactions? What effect did these transactions have on the value of the trust assets, trust tax liabilities, and the personal tax liabilities of the recipients? What were the facts upon which discretion was exercised in each of these transactions?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(e) In your July 15, 2013 letter to the Master you claim “Defendants are individuals, not financial professionals.” It is presumed you knew of this fiscal incompetence before accepting the appointment to a fiduciary office. Did you hire financial professionals to assist you in meeting the obligations commensurate with your fiduciary duties? If yes, who, when, and what did they do? If not, why not?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(f) In a letter dated May 22, 2012, Edward Jones states “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.” It goes on to ask you to “Please review the enclosed pages, which list your account information. If the information is correct, you do not need to return this letter.” This information contains the following:

Net Worth (must exclude value of primary residence): \$1,700,000

Annual Income: \$64,000

Prior Investment Experience: (4) Extensive Experience

Risk Profile: (3) Moderate

Current Occupation: Homemaker

Did you return the letter? If not, why not? When did you provide this information to Edward Jones originally?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

10. The following questions refer to information contained in the 2011 Form 1040 for Nelva E Brunsting, prepared by Kroese & Kroese P.C., signed by you as fiduciary "Under penalties of perjury".

(a) Line 15a IRA distributions = \$58,792 / 15b Taxable amount = \$58,792. On February 24, 2010, Mother executed a Change of Beneficiary Designations for IRA Account at Edward Jones, designating the five of us as "beneficiaries in equal shares". A previous List of Beneficiaries under Edward Jones letterhead, dated July 23, 2009, stated the same designation. On May 23, 2011, an electronic transfer was made from the IRA account number 609-91956-1-9, to the B of A account ending in 1143, in the amount of \$54,000.

i. Were you aware of Mother's beneficiary designation for her IRA? If yes, why did you fail to follow it? If no, how could you not be?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

ii. Did you know this transaction would cause a tax liability for Mother?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(b) Schedule A Medical and Dental expenses are listed as \$118,893.

i. Many of the caregiver payments contained reimbursements for meals and incidental expenses purchased on behalf of our Mother. Were these reimbursements included in the caregiver costs? If so, what is the total for these reimbursements? Did the preparer know these reimbursements were included? If so, please provide support of the preparer's knowledge.

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

ii. IRS Publication 926 Household Employer's Tax Guide sets forth the rules for employment taxes. You were required to withhold and pay social security and Medicare taxes on the wages. As the employer you can choose to pay this yourself and not withhold it. Did you

withhold social security and Medicare from the caregivers paychecks? If no, why not? Did you pay 13.3% of gross wages on behalf of the caregivers to the IRS? If no, why not? Did you issue a W-2 to each caregiver? If no, why not?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(c) Did you seek the advice of a professional in connection with employing caregivers and related employment taxes? Did you seek the advice of a professional regarding what medical and dental expenses are deductible? If so, who did you consult with and what did they tell you?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

11. Numerous distributions have been made and some requests for distribution have been declined or opposed by you based upon your exercise of discretion.

(a) To what extent, if any, did Amy participate in your discretionary decisions?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(b) To what extent, if any, did Carole participate in your discretionary decisions?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(c) To what extent, if any, did Candace participate in your discretionary decisions?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(d) To what extent, if any, did Carl participate in your discretionary decisions?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

(e) To what extent, if any, did Candace Freed participate in your discretionary decisions?

RESPONSE: Defendants objects to this interrogatory as it exceeds the interrogatory limitations in the Texas Rules of Civil Procedure.

\* \* \* \* \*

# Exhibit 24

Candace email statutory demand for accounting



**MIME-Version:** 1.0

**Content-Type:** multipart/mixed; boundary="-----\_Part\_483675\_1625879494.1443134736376"

On Monday, June 15, 2015 3:40 PM, Candace Curtis <occurtis@sbcglobal.net> wrote:

Anita and Amy have a fiduciary **obligation** to provide **ALL** of the beneficiaries with the same information regarding trust income and expenses, on a regular basis. **IT IS THEIR DUTY TO ACCOUNT**, and to keep us advised of our beneficial interests, yet they have failed to properly do so for more than 4 and a half years.

Judge Butts' September 4, 2014 order states that the trustees:

"- provide all parties with notice of their intent to pay all federal income taxes... within five business days of the receipt of the amount of taxes due along with all documentation received from the accountant of the amount of such taxes and provide all parties with copies of all tax returns to be filed... and all invoices from the accountant related to the preparation of federal and state income tax returns...; and provide all parties with copies of the checks paid within five business days of the date of payment and a copy of all executed documents filed with the checks;"

Your flagrant disrespect of the federal injunction, calling it questionable, and Anita's willful violation of the injunction is contemptible, to say the least.

None of the criteria of Judge Butts' order has been met.

Please provide the backup for the 2014 Decedent's Trust Form 1041. Line 14 - Attorney, accountant, and return preparer fees, in the amount of \$16,831, needs to be supported in more detail, as does the capital gain on line 4.

Please send copies of all bank and brokerage statements for 2014. It is possible these were forwarded earlier to prior counsel, but I don't have them.

The payment to Kroese & Kroese P.C. for the "farm lease" (BRUNSTING005519) was unauthorized and a violation of the injunction.

Amy and Anita's failure to negotiate the EE Bonds before they reached the point where they "may not be reissued or replaced" cannot be excused. The assertion that they did not know about them, when they themselves disclosed their existence in their April 9, 2013 CD, simply won't cut it. On August 13, 2013, in response to their objection to the Report of Master, at item 4, I identify the missing EE Bonds as known assets of the trust that the trustees did not account for. On September 3, 2013, at a hearing on the Report of Master, during Mr. West's testimony, he mentioned his curiosity as to the whereabouts of said bonds. A check with the Treasury Department website revealed how easy it is to have the bonds replaced or reissued when they have been lost, or stolen (as the case may be). One need only submit the documentation as listed on the attached letter I received from the Treasury Department, dated October 8, 2014. I do not possess this documentation, the trustees are supposed to have these instruments.

This failure equates to approximately \$6,500.00 in lost value of the trust assets. Whether it is irresponsible, reckless, careless, negligent, or intentional, is inconsequential in the face of the blatant refusal of the trustees to properly protect and account for these assets. It is not even a little amusing that three years after Anita allegedly became trustee, that she should claim

ignorance as to the trusts' ownership interest in those bonds or that after more than 2 years of attempting to get them to account for the bonds it is apparently the plaintiff's fault for not consenting to the trustees' cashing of bonds not even in their possession.

This electronic communication shall stand as a demand for a full, true, and complete accounting, certified as such, in conformance with the Texas Property Code and the common law.

It is also my final informal demand for the fiduciary disclosure, which the trustees full well know is the property of all five beneficiaries, and I do not have to pay them anything to meet their fiduciary obligations. Let's start with the July 1, 2008 appointment that you assert has already been disclosed.

Candace L. Curtis  
218 Landana Street  
American Canyon CA 94503  
925-759-9020  
occurtis@sbcglobal.net

---

Attachments:

10082014 EE Bond Treasury Response Letter to candy.pdf

4.4 MB

# Exhibit 25

Defendants 1<sup>st</sup> Amended Disc Responses

# THOMPSON COE

Thompson, Coe, Cousins & Irons, L.L.P.  
Attorneys and Counselors

To: Bobbie G. Bayless Fax: (713) 522-2218  
Phone: \_\_\_\_\_

From: Cory S. Reed Phone: (713) 403-8213

Date: March 4, 2014 Time: \_\_\_\_\_

File No: 00520.415 User ID: REEDC

Re: Cause No. 2013-05455; Carl Henry Brunsting, et al v. Candace L. Kunz-Freed, et al; In the 164<sup>th</sup> Judicial District Court of Harris County, Texas

There are 28 pages being sent, including this page.

If you are having difficulty receiving this document, please call:

Rosie Gonzalez at (713) 403-8396

Urgent       For Review       Please Comment       Please Reply

Message: Please see attached.

**Confidentiality Notice:** This message is intended only for the use of the individual or entity to whom it is addressed and may contain information that is confidential and protected from disclosure by law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any distribution or copying is prohibited. If you received this communication in error, please notify us immediately by telephone (collect), and return the original to us at the address below via U.S. Postal Service.

# THOMPSON COE

Thompson, Coe, Cousins & Irons, L.L.P.  
Attorneys and Counselors

Cory S. Reed  
Direct Dial: (713) 403-8213  
creed@thompsoncoe.com

Austin  
Dallas  
Houston  
Los Angeles  
Northern California  
Saint Paul

March 4, 2014

**VIA FACSIMILE**

Bobbie G. Bayless  
Bayless & Stokes  
2931 Ferndale  
Houston, Texas 77098

Re: No. 2013-05455; *Carl Henry Brunsting, et al v. Candace L. Kunz-Freed, et al*; In  
the 164<sup>th</sup> Judicial District Court of Harris County, Texas.

Dear Ms. Bayless:

Enclosed, please find the following:

1. Defendants' First Amended Objections and Responses to Plaintiff's First Request for Production; and
2. Defendant Candace L. Kunz' First Amended Objections and Answers to Plaintiff's First Set of Interrogatories.

Sincerely,



Cory S. Reed

/rg  
Enclosures



Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: 

Zandra E. Foley

State Bar No. 24032085

Cory S. Reed

State Bar No. 24076640

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E-Mail: [zfoley@thompsoncoe.com](mailto:zfoley@thompsoncoe.com)

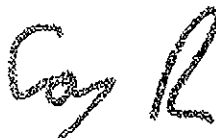
E-Mail: [creed@thomspsoncoe.com](mailto:creed@thomspsoncoe.com)

**ATTORNEYS FOR DEFENDANTS,  
CANDACE L. KUNZ-FREED AND VACEK  
& FREED, PLLC F/K/A THE VACEK LAW  
FIRM, PLLC**

**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to the Texas Rules of Civil Procedure, on this the 4th day of March, 2014, a true and correct copy of this document has been forwarded by certified mail, facsimile and/or e-filing to counsel:

Bobbie G. Bayless  
Bayless & Stokes  
2931 Ferndale  
Houston, Texas 77098



Cory S. Reed

## **REQUEST FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 1:** All agreements with Elmer Brunsting.

**RESPONSE:** Defendants object that this request is vague, ambiguous, and overbroad. Defendants further object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 2:** All agreements with Nelva Brunsting.

**RESPONSE:** Defendants object that this request is vague, ambiguous, and overbroad. Defendants further object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 3:** All agreements with Anita Brunsting.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

**REQUEST FOR PRODUCTION NO. 4:** All agreements with Amy Brunsting.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

**REQUEST FOR PRODUCTION NO. 5:** All agreements with Carole Brunsting.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants object to



this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 6:** All joint defense agreements with any party concerning the Brunsting Trust dispute.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 7:** All invoices for services provided or expenses incurred on behalf of Elmer and/or Nelva Brunsting.

**RESPONSE:** Defendants object that this request is vague, ambiguous, and overbroad. Defendants further object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 8:** All documents reflecting payments made on the invoices described in number 7 above.

**RESPONSE:** Defendants object that this request is vague, ambiguous, and overbroad. Defendants further object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 9:** All invoices for services provided or expenses incurred on behalf of Anita and/or Amy Brunsting.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request because it is not limited in time.

Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

**REQUEST FOR PRODUCTION NO. 10:** All documents reflecting payments made on the invoices described in number 9 above.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

**REQUEST FOR PRODUCTION NO. 11:** All invoices for services provided or expenses incurred on behalf of any of the Brunsting Trusts.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 12:** All documents reflecting payments made on the invoices described in number 11 above.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 13:** All correspondence, including emails, with Elmer and/or Nelva Brunsting.

**RESPONSE:** Defendants object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 14:** All correspondence, including emails, with Anita Brunsting prior to the establishment, if any, of an attorney client relationship with her.

**RESPONSE:** Defendants object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 15:** All correspondence, including emails, with Amy Brunsting prior to the establishment, if any, of an attorney client relationship with her.

**RESPONSE:** Defendants object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 16:** All correspondence, including emails, with Carole Brunsting.

**RESPONSE:** Defendants object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 17:** All correspondence, including emails, with Carl and/or Drina Brunsting.

**RESPONSE:** Defendants object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 18:** All correspondence, including emails, with Carl Brunsting's daughter, Marta.

**RESPONSE:** Defendants object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 19:** All correspondence, including emails, with any third parties, other than your attorney, about Nelva Brunsting, any other member of the Brunsting family, and/or any of the Brunsting Trusts.

**RESPONSE:** Defendants object that this request is vague, ambiguous, and overbroad. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 20:** All drafts of documents prepared by Vacek & Freed for Nelva Brunsting's signature.

**RESPONSE:** Defendants object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 21:** Originals of all documents signed by Nelva, Elmer, Anita, Amy, Candy, Carole, or Carl Brunsting.

**RESPONSE:** Defendants object that this request is vague, ambiguous, and overbroad. Defendants further object to this request because it is not limited in time. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced. The originals will be made available at the offices of Defendants' counsel at a reasonable and mutually agreeable date and time.

**REQUEST FOR PRODUCTION NO. 22:** Originals of all documents notarized by Candace Freed involving Elmer, Nelva, Anita, Amy, Candy, Carole, or Carl Brunsting and/or any of the Brunsting Trusts.

**RESPONSE:** Defendants object that this request is vague, ambiguous, and overbroad. Defendants further object to this request because it is not limited in time. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced. The originals will be made available at the offices of Defendants' counsel at a reasonable and mutually agreeable date and time.

**REQUEST FOR PRODUCTION NO. 23:** Originals of all documents notarized or witnessed by anyone at Vacek & Freed, PLLC other than Candace Freed which involve Elmer, Nelva, Anita, Amy, Candy, Carole, or Carl Brunsting and/or any of the Brunsting Trusts.

**RESPONSE:** Defendants object that this request is vague, ambiguous, and overbroad. Defendants further object to this request because it is not limited in time. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced. The originals will be made available at the offices of Defendants' counsel at a reasonable and mutually agreeable date and time.

**REQUEST FOR PRODUCTION NO. 24:** All opinion letters or reports provided concerning Elmer, Nelva, Amy, Anita, Candy, Carole, or Carl Brunsting or any of the Brunsting Trusts.

**RESPONSE:** Defendants object that this request is vague, ambiguous, and overbroad. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit. Defendants further object to this request because it seeks, on its face, the mental impressions, opinions, and legal theories, and thereby invades the work product privilege.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 25:** All opinion letters or reports sought or received from any third parties concerning Elmer, Nelva, Amy, Anita, Candy, Carole, or Carl Brunsting or any of the Brunsting Trusts.

**RESPONSE:** Defendants object that this request is vague, ambiguous, and overbroad. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit. Defendants further object to this request because it seeks, on its face, the mental impressions, opinions, and legal theories, and thereby invades the work product privilege.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 26:** All joint representation or conflict of interest disclosures provided to Elmer, Nelva, Anita and/or Amy Brunsting.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause,

is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 27:** All documents establishing your attorney/client relationship with Elmer and/or Nelva.

**RESPONSE:** Defendants object that this request is vague, ambiguous, and overbroad. Defendants further object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 28:** All documents terminating your attorney/client relationship with Nelva.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 29:** All documents establishing your attorney/client relationship with Anita, either individually or as trustee of any of the Brunsting Trusts.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

**REQUEST FOR PRODUCTION NO. 30:** All documents terminating your attorney/client relationship with Anita, either individually or as trustee of any of the Brunsting Trusts.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause,

is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

**REQUEST FOR PRODUCTION NO. 31:** All documents terminating your attorney/client relationship with Amy, either individually or as trustee of any of the Brunsting Trusts.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

**REQUEST FOR PRODUCTION NO. 32:** All documents establishing your attorney/client relationship with Amy, either individually or as trustee of any of the Brunsting Trusts.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

**REQUEST FOR PRODUCTION NO. 33:** All documents relating to any referrals of Anita and/or Amy, either individually or as trustees of any of the Brunsting Trusts, to other attorneys.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request because it is not limited in time. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

**REQUEST FOR PRODUCTION NO. 34:** All cell phone and/or long distance records and logs reflecting telephone calls with Anita, Amy, and/or Candy from July 1, 2010 to the present.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 35:** All long distance records and logs reflecting faxes to Anita, Amy, and/or Candy from July 1, 2010 to the present.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 36:** All logs reflecting faxes from Anita, Amy and/or Candy from July 1, 2010 to the present.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 37:** All cell phone records reflecting calls with Nelva from July 1, 2010 to the present.

**RESPONSE:** Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 38:** All records reflecting 'faxes to or from Nelva from July 1, 2010 to the present.

**RESPONSE:** Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 39:** All cell phone records reflecting calls with Carl and/or Drina Brunsting from July 1, 2010 to the present.

**RESPONSE:** Defendants object to this request because it assumes facts not in evidence.



Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 40:** All records reflecting faxes to or from Carl and/or Drina Brunsting from July 1, 2010 to the present.

**RESPONSE:** Defendants object to this request because it assumes facts not in evidence.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 41:** All cell phone records reflecting calls with Carole Brunsting from July 1, 2010 to the present.

**RESPONSE:** Defendants object to this request because it assumes facts not in evidence.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 42:** All records reflecting faxes to or from Carole Brunsting from July 1, 2010 to the present.

**RESPONSE:** Defendants object to this request because it assumes facts not in evidence.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 43:** All investigators' reports relating to the Brunsting family and/or any of the Brunsting Trusts.

**RESPONSE:** Defendants object to this request because it is overly broad, unduly burdensome, and harassing. Defendants object to this request because it seeks information that is not relevant or reasonably calculated to lead to the discovery of relevant evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request on the grounds that it is overbroad, exceeds the scope of permissible discovery, and requires Defendants to marshal their evidence. TEX. R. CIV. P. 192.5(c)(2). Defendants further object to this request because it seeks, on its face, the mental impressions, opinions, and legal theories, and thereby invades the work product privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit. Defendants object to this request because it assumes facts not in evidence. Defendants object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 44:** All tape recordings and/or video recordings involving any Brunsting family member and/or any of the Brunsting Trusts.

**RESPONSE:** Defendants object to this request because it is overly broad, unduly burdensome, and harassing. Defendants object to this request because it seeks information that is not relevant or reasonably calculated to lead to the discovery of relevant evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request on the grounds that it is overbroad, exceeds the scope of permissible discovery, and requires Defendants to marshal their evidence. TEX. R. CIV. P. 192.5(c)(2). Defendants further object to this request because it seeks, on its face, the mental impressions, opinions, and legal theories, and thereby invades the work product privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit. Defendants object to this request because it assumes facts not in evidence. Defendants object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 45:** All photographs involving any Brunsting family member and/or any of the Brunsting Trusts.

**RESPONSE:** Defendants object to this request because it is overly broad, unduly burdensome, and harassing. Defendants object to this request because it seeks information that is not relevant or reasonably calculated to lead to the discovery of relevant evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request on the grounds that it is overbroad, exceeds the scope of permissible discovery, and requires Defendants to marshal their evidence. TEX. R. CIV. P. 192.5(c)(2). Defendants further object to this request because it seeks, on its face, the mental impressions, opinions, and legal theories, and thereby invades the work product privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit. Defendants object to this request because it assumes facts not in evidence. Defendants object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 46:** All materials provided to Elmer and/or Nelva Brunsting.

**RESPONSE:** Defendants object to this request because it is overly broad, unduly burdensome, harassing, and fails to specify those documents sought with reasonable particularity. Defendants object to the request as it is overly broad, calls for material wholly irrelevant to this cause, and is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants object to this request because it is not limited in time. Defendants further object to this request to the extent it documents that are equally available to Plaintiff.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants could not possibly recall every material ever provided to Elmer and/or Nelva

Brunsting. Please see the responsive documents previously produced which Defendants specifically recall providing to them.

**REQUEST FOR PRODUCTION NO. 47:** All communications to beneficiaries of the Brunsting Trusts.

**RESPONSE:** Defendants object to this request because it is not limited in time. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 48:** All calendars reflecting legal work and/or meetings or telephone conferences with any member of the Brunsting family or with any third parties concerning Brunsting family issues and/or any of the Brunsting Trusts.

**RESPONSE:** Defendants object to this request because it is not limited in time. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 49:** All source documents used to prepare any accountings relating to assets owned by Elmer Brunsting, Nelva Brunsting and/or any of the Brunsting Trusts.

**RESPONSE:** Please see the responsive documents previously produced.

**REQUEST FOR PRODUCTION NO. 50:** All speeches, outlines and/or materials distributed at presentations made by Vacek & Freed attorneys or employees which were attended by Elmer or Nelva Brunsting.

**RESPONSE:** Defendants object to this request because it is overly broad, unduly burdensome, harassing, and fails to specify those documents sought with reasonable particularity. Defendants object to the request as it is overly broad, calls for material wholly irrelevant to this cause, and is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants object to this request because it is not limited in time.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants do not recall which presentations were attended by Elmer and/or Nelva Brunsting.

**REQUEST FOR PRODUCTION NO. 51:** All speeches, outlines and/or materials distributed at presentations made by Vacek & Freed attorneys or employees since January 1, 2008.

**RESPONSE:** Defendants object to the request as it is overly broad, calls for material wholly irrelevant to this cause, does not state with reasonable particularity what is being called for, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants will supplement related speeches, outlines and/or materials distributed at presentations in accordance with the Texas Rules of Civil Procedure.

**REQUEST FOR PRODUCTION NO. 52:** All pleadings from any cases in which you have been named as a party since January 1, 2008, other than those relating to the Brunsting Trusts.

**RESPONSE:** Defendants object to this request because it is overly broad, unduly burdensome, and harassing. Defendants also object to this request because it seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request to the extent it seeks public information that is equally available to Plaintiff.

**REQUEST FOR PRODUCTION NO. 53:** All expert designations identifying attorneys at Vacek & Freed as experts in any cases since January 1, 2008.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 54:** All opinions or expert reports concerning fiduciary or trust issues prepared by any attorney with Vacek & Freed since January 1, 2008.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit. Defendants further object to this request because it seeks, on its face, the mental impressions, opinions, and legal theories, and thereby invades the work product privilege.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 55:** All designations of experts, reports prepared by experts, and depositions of experts in cases in which you have been named as a party since January 1, 2008.

**RESPONSE:** Defendants object that this request is vague, ambiguous, overbroad, and harassing. Defendants object to the request as it calls for material wholly irrelevant to this cause, is a mere fishing expedition and is not reasonably calculated to lead to the discovery of admissible evidence. Defendants object to this request because it assumes facts not in evidence. Defendants further object to this request to the extent it seeks information protected by the attorney-client privilege. Defendants object to this request to the extent it seeks confidential and private information of person(s) who are not parties to this lawsuit. Defendants further object to this request because it seeks, on its face, the mental impressions, opinions, and legal theories, and thereby invades the work product privilege.

Subject to and without waiving the foregoing objects, Defendants respond as follows: Defendants have no documents responsive to this request at this time.

**REQUEST FOR PRODUCTION NO. 56:** All exhibits you plan to offer in the trial of this case.

**RESPONSE:** Defendants object to this request on the grounds that it is overbroad, exceeds the scope of permissible discovery, and requires Defendants to marshal their evidence. TEX. R. CIV. P. 192.5(c)(2). Defendants further object to this request because it seeks, on its face, the mental impressions, opinions, and legal theories of Defendants' counsel, and thereby invades the work product privilege.

Subject to the foregoing objection and without waiving the same, Defendants respond as follows: Defendants will timely supplement such documents in accordance with the Texas Rules of Civil Procedure, if necessary.



Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: 

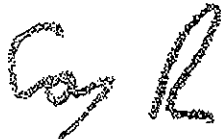
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**ATTORNEYS FOR DEFENDANTS,  
CANDACE L. KUNZ-FREED AND VACEK  
& FREED, PLLC F/K/A THE VACEK LAW  
FIRM, PLLC**

**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to the Texas Rules of Civil Procedure, on this the 4th day of March, 2014, a true and correct copy of this document has been forwarded by certified mail, facsimile and/or e-filing to counsel:

Bobbie G. Bayless  
Bayless & Stokes  
2931 Ferndale  
Houston, Texas 77098

  
Cory S. Reed

## INTERROGATORIES

**INTERROGATORY NO. 1:** Provide any cell phone numbers you have had since July 1, 2010 and identify the company providing cell phone service for each such number.

**ANSWER:** Defendant further objects to the request on the grounds of undue burden, harassment, irrelevancy, and violation of confidentiality and rights of privacy of Defendant and it is not reasonably calculated to lead to the discovery of admissible evidence. Further, it constitutes an unfair prejudicial invasion of Defendant's proprietary interest, personal, constitutional, and property rights absent probative value to the issues of this case. The unfairness far outweighs any probative value.

Subject to the foregoing objection and without waiving the same, Defendant answers as follows: Since July 1, 2010 my cell phone number has been (281) 217-0013.

**INTERROGATORY NO. 2:** Identify the company providing your long distance service both at work and at home since July 1, 2010.

**ANSWER:** Defendant further objects to the request on the grounds of undue burden, harassment, irrelevancy, and violation of confidentiality and rights of privacy of Defendant and it is not reasonably calculated to lead to the discovery of admissible evidence. Further, it constitutes an unfair prejudicial invasion of Defendant's proprietary interest, personal, constitutional, and property rights absent probative value to the issues of this case. The unfairness far outweighs any probative value.

Subject to the foregoing objection and without waiving the same, Defendant answers as follows: Since July 1, 2010 the provider of my long distance service at home has been AT&T and at the office has been Cbeyond, Inc.

**INTERROGATORY NO. 3:** Provide all email addresses you have had since July 1, 2010 and identify the internet service provider for all such addresses.

**ANSWER:** Defendant further objects to the request on the grounds of undue burden, harassment, irrelevancy, and violation of confidentiality and rights of privacy of Defendant and it is not reasonably calculated to lead to the discovery of admissible evidence. Further, it constitutes an unfair prejudicial invasion of Defendant's proprietary interest, personal, constitutional, and property rights absent probative value to the issues of this case. The unfairness far outweighs any probative value.

Subject to the foregoing objection and without waiving the same, Defendant answers as follows: Since July 1, 2010 I have used [Candace@vacek.com](mailto:Candace@vacek.com) and [freedcandace@sbcglobal.net](mailto:freedcandace@sbcglobal.net).

**INTERROGATORY NO. 4:** If you contend Nelva Brunsting had capacity at each time after July 1, 2010 when she signed documents prepared by Vacek & Freed, state all actions you took to insure her capacity.



**ANSWER:** Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal its evidence. Defendant further objects to this interrogatory to the extent it seeks to limit future deposition and/or trial testimony by requesting Defendant to answer this question without any limitation when the information would be better elicited through deposition and/or trial testimony.

Subject to and without waiving the foregoing objects, Defendant answers as follows: As I do for all of my clients, I met with Ms. Nelva Brunsting in-person and discussed all of the documents prior to her signing them. Before she actually signed any of the documents I ensured they were properly drafted as she requested.

**INTERROGATORY NO. 5:** If you contend Nelva Brunsting lost capacity at some point after July 1, 2010, state when that occurred, how it was determined she lacked capacity, what documents it prevented her from signing, and all facts indicating her lack of capacity at that point.

**ANSWER:** Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal her evidence. Defendant further objects to this interrogatory to the extent it seeks to limit future deposition and/or trial testimony by requesting Defendant to answer this question without any limitation when the information would be better elicited through deposition and/or trial testimony.

Subject to and without waiving the foregoing objects, Defendant answers as follows: At no time before or after July 1, 2010 have I ever stated that Ms. Brunsting lost capacity.

**INTERROGATORY NO. 6:** Please indicate all steps taken to ensure that Nelva Brunsting was not unduly influenced by other parties in connection with documents prepared by Vacek & Freed after Elmer Brunsting's death.

**ANSWER:** Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal her evidence. Defendant further objects to this interrogatory to the extent it seeks to limit future deposition and/or trial testimony by requesting Defendant to answer this question without any limitation when the information would be better elicited through deposition and/or trial testimony.

Subject to and without waiving the foregoing objects, Defendant answers as follows: As I do for all of my clients, I met with Ms. Brunsting in-person and discussed all of the documents prior to her signing them. Before she actually signed any of the documents I ensured they were properly drafted as she requested. I do not think/believe Ms. Brunsting was influenced by other parties, because at no time were any material changes made in the disposition of her estate plan with respect to the beneficiaries.

**INTERROGATORY NO. 7:** Describe all steps taken after July 1, 2010 to ensure that the beneficiaries of the Brunsting Trusts were treated impartially.

**ANSWER:** Defendant objects that this interrogatory is vague, ambiguous, overbroad, unduly burdensome, and fails to specify the information sought with reasonable particularity. Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal her evidence. Defendant further objects to this interrogatory to the extent it seeks to limit future deposition and/or trial testimony by requesting Defendant to answer this question without any limitation when the information would be better elicited through deposition and/or trial testimony.

Subject to and without waiving the foregoing objects, Defendant answers as follows: Ms. Brunsting had a general power of appointment over the Survivor's Trust assets and a Limited Power of Appointment over the Decedent's Trust assets among the joint descendants of Elmer and Nelva. These power of appointments allowed her to include or exclude descendants of both Nelva and Elmer Brunsting from the assets. No notice is required to be given if she had exercised these limited and general powers of appointment. Notwithstanding, at one point in time, Ms. Brunsting requested that I draft documents removing one of her grandchildren as a remainder beneficiary. After further discussion, Ms. Brunsting decided not to sign the power of appointment.

**INTERROGATORY NO. 8:** Describe all steps taken to ensure that the beneficiaries of the Brunsting Trusts were properly informed concerning the terms and activities of the Brunsting Trusts after Elmer Brunsting died.

**ANSWER:** Defendant objects that this interrogatory is vague, ambiguous, overbroad, unduly burdensome, and fails to specify the information sought with reasonable particularity. Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal her evidence. Defendant further objects to this interrogatory to the extent it seeks to limit future deposition and/or trial testimony by requesting Defendant to answer this question without any limitation when the information would be better elicited through deposition and/or trial testimony.

Subject to and without waiving the foregoing objects, Defendant answers as follows: Ms. Brunsting had a general power of appointment over the Survivor's Trust assets and a Limited Power of Appointment over the Decedent's Trust assets. These powers of appointments allowed her to include or exclude descendants of both Nelva and Elmer Brunsting from the assets. No notice was required to be given if she had exercised these powers of appointment. Ms. Brunsting was the primary beneficiary of both the Decedent's Trust and the Survivor's Trust until her passing. Upon her death, I provided the Successor Trustees with a document titled "I'm a Trustee Now What." This document provided the Successor Trustees with information related to their fiduciary duties as an acting trustee and accounting requirements. It would be the Successor Trustee(s) responsibility to keep the beneficiaries informed of the terms and activities of the Trust according to the terms of the Trust.

**INTERROGATORY NO. 9:** Describe all steps taken to ensure that Nelva Brunsting's interests were protected both before and after she resigned as trustee.

**ANSWER:** Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal her evidence. Defendant further objects to this interrogatory to the extent it seeks to limit future deposition and/or trial testimony by requesting Defendant to answer this question without any limitation when the information would be better elicited through deposition and/or trial testimony.

Subject to and without waiving the foregoing objects, Defendant answers as follows: As I do for all of my clients, I met with Ms. Brunsting in-person and discussed all of the documents prior to her signing them. Before she actually signed any of the documents I ensured they were properly drafted as she requested. Specifically, I explained to Ms. Brunsting the effect of the resignation and that the resignation was revocable and could be reversed if she later desired. Also, as a matter of course, trustees are advised of their fiduciary duty to the beneficar(ies) and their duty to account for trust assets. Trustees are advised to be familiar with and defer to the trust documents.

**INTERROGATORY NO. 10:** Describe all steps taken to ensure that the assets of the Brunsting Trusts were preserved after July 1, 2010.

**ANSWER:** Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal her evidence. Defendant further objects to this interrogatory to the extent it seeks to limit future deposition and/or trial testimony by requesting Defendant to answer this question without any limitation when the information would be better elicited through deposition and/or trial testimony.

Subject to and without waiving the foregoing objects, Defendant answers as follows: I did not take any steps to preserve the Trust assets. It is one of the duties of the Trusee(s) to preserve the assets of the trust.

**INTERROGATORY NO. 11:** Describe all steps taken to determine the nature and values of the assets owned by Elmer Brunsting, Nelva Brunsting, or by any of the Brunsting Trusts at the time of Elmer Brunsting's death and identify every person providing information concerning the value and existence of assets.

**ANSWER:** Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal her evidence. Defendant further objects to this interrogatory to the extent it seeks to limit future deposition and/or trial testimony by requesting Defendant to answer this question without any limitation when the information would be better elicited through deposition and/or trial testimony.

Subject to and without waiving the foregoing objects, Defendant answers as follows: After the death of a Grantor, the remaining trustee or successor trustee may engage my firm to assist in the identification of assets, titling, and if recommended or desired, implement tax planning and file federal estate tax return, if necessary. In this case, Ms. Brunsting did retain our firm to advise on the administration of the Trust and to implement the tax planning, including the funding of a credit shelter trust. In fact, I met with Ms. Brunsting a minimum of three times to discuss the value and existence of assets. Date of death values are/were obtained from brokers, appraisers, tax preparers, and banks, as well as the internet, evaluation programs and monthly account statements provided by Ms. Brunsting herself. These values are/were used to determine proper allocation among trusts and then are divided according to the terms of the trust agreement, State law and Trustee discretion. In this case, asset information was obtained from the following persons or companies:

Rich Ridders  
Bennie K. Jans, Broker at Jans Real Estate  
Darlene at Edward Jones  
Nelva Brunsting  
Harris County Appraisal District  
Anita Brunsting  
Kelley Blue Book  
John Hancock: Donna Vickers  
Securian: Erin Nuccum  
BNY Mellon  
Computershare  
Metlife: Clare Cook, Douglas Uhling  
Ohio State Life Insurance Co  
ChaseMellon Shareholder Services  
Bank of America  
BlueBonnnett Credit Union

**INTERROGATORY NO. 12:** Describe all steps taken to determine the nature and values of the assets owned by the Brunsting Trusts at the time of Nelva Brunsting's resignation as trustee and identify every person providing information concerning the value and existence of assets.

**ANSWER:** Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal her evidence. Defendant further objects to this interrogatory to the extent it seeks to limit future deposition and/or trial testimony by requesting Defendant to answer this question without any limitation when the information would be better elicited through deposition and/or trial testimony.

Subject to and without waiving the foregoing objects, Defendant answers as follows: I did not take any steps to determine the nature and value of the assets owned by the Trusts at the time of Ms. Brunsting's resignation as trustee, and I was requested or engaged to do so. One of the duties of the Successor Trustee would have been to determine the Trusts assets.

**INTERROGATORY NO. 13:** Describe all steps taken to determine the nature and values of the assets owned by Elmer Brunsting's estate, Nelva Brunsting, or by any of the Brunsting Trusts at the time of Nelva Brunsting's death, and identify every person providing information concerning the value and existence of assets.

**ANSWER:** Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal her evidence. Defendant further objects to this interrogatory to the extent it seeks to limit future deposition and/or trial testimony by requesting Defendant to answer this question without any limitation when the information would be better elicited through deposition and/or trial testimony. Defendant further objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege.

Subject to and without waiving the foregoing objects, Defendant answers as follows: After the death of a Grantor, the remaining trustee or successor trustee may engage my firm to assist in the identification of assets, titling, and if recommended or desired, implement tax planning and file federal estate tax return, if necessary. Date of death values are obtained from brokers, appraisers, tax preparers, and banks, as well as the internet, evaluation programs and monthly account statements. These values are used to determine proper allocation among trusts and then are to be divided according to the terms of the trust agreement. In this case, asset information was obtained from the following persons or companies:

Anita Brunsting  
Amy Brunsting  
Carol Brunsting  
Candace Curtis  
Bank of America Statements  
Houston Association of Realtors  
Harris County Appraisal District  
BNY Mellon  
Bluebonnett Credit union  
Internal Revenue Services  
Lincoln Financial Group  
Edward Jones  
Doug Williams  
Kally Mouw, Certified Appraiser

**INTERROGATORY NO. 14:** Specify the dates and locations of all meetings any representative of Vacek & Freed had with Nelva Brunsting after July 1, 2010 and identify all parties attending such meetings.

**ANSWER:** Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal her evidence. Defendant further objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege.

Subject to and without waiving the foregoing objects, Defendant answers as follows: I met with Ms. Brunsting in her residence on December 21, 2010. At this time I cannot recall everyone present, but believe remember Anita Brunsting, Amy Brunsting, and Carole Brunsting, along with a caregiver to have been present.

**INTERROGATORY NO. 15:** Specify the date of every telephone conference any representative of Vacek & Freed had with Nelva Brunsting after July 1, 2010 and identify any other parties participating in each telephone conference.

**ANSWER:** Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal her evidence. Defendant further objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege.

Subject to and without waiving the foregoing objects, Defendant answers as follows: The following conference calls were conducted between Ms. Brunsting and a representative of Vacek & Freed after July 1, 2010:

October 7, 2010 (am) – Candace Kunz-Freed and Nelva Brunsting. Carol Brunsting was on the telephone for part of the conversation.

October 7, 2010 (pm) – Candace Kunz-Freed and Nelva Brunsting.

October 11, 2010 – Summer Peoples and Nelva Brunsting.

October 11, 2010 – Candace Kunz-Freed, Susan Vacek, and Nelva Brunsting.

October 14, 2010 – Summer Peoples and Nelva Brunsting.

October 25, 2010 – Candace Kunz-Freed, Carol Brunsting, Anita Brunsting, Amy Brunsting, and Candace Curtis.

It is possible there more telephone calls, but these are all of the conference calls that I can recall based on my notes up to the time Nelva resigned.

**INTERROGATORY NO. 16:** Specify the date of every telephone conference any representative of Vacek & Freed had with Anita Brunsting after July 1, 2010 and identify any other parties participating in each telephone conference.

**ANSWER:** Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal her evidence. Defendant further objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege.

Subject to and without waiving the foregoing objects, Defendant answers as follows: The following conference calls were conducted between Anita Brunsting and a representative of Vacek & Freed after July 1, 2010 and up to the time Nelva resigned:

July 20, 2010 – Candace Kunz-Freed and Anita Brunsting.

October 6, 2010 – Candace Kuntz-Freed and Anita Brunsting.

October 11, 2010 – Summer Peoples and Anita Brunsting.

October 25, 2010 – Candace Kunz-Freed, Carol Brunsting, Anita Brunsting, Amy Brunsting, and Candace Curtis.

It is possible there more telephone calls, but these are all of the conference calls that I can recall based on my notes up to the time Nelva resigned.

**INTERROGATORY NO. 17:** Specify the date of every telephone conference any representative of Vacek & Freed had with Amy Brunsting after July 1, 2010 and identify any other party participating in the call.

**ANSWER:** Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal her evidence. Defendant further objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege.

Subject to and without waiving the foregoing objects, Defendant answers as follows: The following conference calls were conducted between Amy Brunsting and a representative of Vacek & Freed after July 1, 2010 and up to the time Nelva resigned:

October 25, 2010 – Candace Kunz-Freed, Carol Brunsting, Anita Brunsting, Amy Brunsting, and Candace Curtis.

It is possible there more telephone calls, but these are all of the conference calls that I can recall based on my notes up to the time Nelva resigned..

**INTERROGATORY NO. 18:** Specify the date of every telephone conference any representative of Vacek & Freed had with Carole Brunsting after July 1, 2010 until the present and identify any other party participating in the call.

**ANSWER:** Defendant objects to this interrogatory because it assumes facts not in evidence. Moreover, Defendant objects to this interrogatory for the reason it requires Defendant to marshal her evidence.

Subject to and without waiving the foregoing objects, Defendant answers as follows: The following conference calls were conducted between Amy Brunsting and a representative of Vacek & Freed after July 1, 2010:

October 7, 2010 (am) – Candace Kunz-Freed and Nelva Brunsting. Carol Brunsting was on the telephone for part of the conversation.

October 13, 2010 – Candace Kuntz-Freed and Carol Brunsting.

October 25, 2010 – Candace Kunz-Freed, Carol Brunsting, Anita Brunsting, Amy Brunsting, and Candace Curtis.

It is possible there more telephone calls, but these are all of the conference calls that I can recall based on my notes up to the time Nelva resigned.

---

**Subject:** Hearing Date Request

---

**From:** Candace Curtis (occurtis@sbcglobal.net)

---

**To:** clarinda.comstock@prob.hctx.net;

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**Date:** Tuesday, February 9, 2016 6:26 PM

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Dear Judge Comstock:

The motion I filed today asks that Judge Butts order the transfer of the related District Court case to Probate Court #4. Hearing on the transfer motion should not be necessary. However, at this time I would respectfully request a hearing date for the following dispositive motions and any other dispositive motions the Court deems appropriate to resolve at the hearing:

1. Plaintiff Curtis' Answer with Motion and Demand to Produce Evidence (PBT-2015-227757)
2. Plaintiff Curtis' Verified Motion for Partial Summary Judgment and Petitions for Declaratory Judgment (PBT-2016-26242)

Respectfully submitted,

Candace L. Curtis  
Plaintiff pro se  
Beneficiary of the Brunsting family of trusts  
Heir to Nelva E. Brunsting  
218 Landana Street  
American Canyon CA 94503  
925-759-9020  
[occurtis@sbcglobal.net](mailto:occurtis@sbcglobal.net)



REPORTER'S RECORD

VOLUME 1 OF 1

COURT CAUSE NO. 412.249-401

APPELLATE NO. \_\_\_\_\_

5	THE ESTATE OF:	)	IN THE PROBATE COURT
6	NELVA E. BRUNSTING,	)	NUMBER 4 (FOUR) OF
	DECEASED	)	HARRIS COUNTY, TEXAS

\* \* \* \* \*

MOTION TO TRANSFER

STATUS CONFERENCE

MOTION FOR CONTINUANCE

\* \* \* \* \*

On the 9th day of March, 2016, the following proceedings came to be heard in the above-entitled and numbered cause before the Honorable Clarinda Comstock Judge of Probate Court No. 4, held in Houston, Harris County, Texas:

Proceedings reported by Machine Shorthand

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A-P-P-E-A-R-A-N-C-E-S:

Mr. Neal Spielman  
Griffin & Matthews  
Attorney at Law  
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281.870.1124

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925.759.9020

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MOVANT, PRO SE

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713.522.2224

Ms. Carole Ann Brunsting

ATTORNEY FOR PLAINTIFF,  
CARL H. BRUNSTING

RESPONDENT, PRO SE

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Irons, L.L.P.  
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713.403.8210

ATTORNEY FOR  
ANITA K. BRUNSTING

ATTORNEY FOR VACEK & FREED  
CANDACE L. KUNZ-FREED

ALSO PRESENT:

Mr. Gregory Lester  
955 N. Dairy Ashford  
#220  
Houston, Texas 77079  
281.597.300

FORMER TEMPORARY ADMINSTRATOR

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VOLUME 1  
(MOTION TO TRANSFER/STATUS CONFERENCE/  
MOTION FOR CONTINUANCE)

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1 March 9, 2016

2 PROCEEDINGS

3 THE COURT: Okay. So, calling Cause  
4 Number 412.249 in the 409, Nelva E. Brunsting, Deceased.

5 We have several matters to address in this  
6 file today.

7 We were asked to consider a motion to  
8 transfer consolidate -- motion to transfer cause in  
9 district court to Probate Court 4 which is what was  
10 originally set in this case. I now have a motion for  
11 continuance in that matter or for continuance of that  
12 motion.

13 Zandra Foley, the attorney representing  
14 Candace Kunz-Freed and Vacek & Freed; is anyone here  
15 from that firm today?

16 MR. REED: I am, Your Honor. Cory Reed  
17 for Thompson, Coe.

18 THE COURT: Thank you. I'm sorry, tell me  
19 your name again.

20 MR. REED: Cory Reed.

21 THE COURT: How do you spell your last  
22 name?

23 MR. REED: Reed, R-E-E-D.

24 THE COURT: Say it again.

25 MR. REED: R-E-E-D.

1 THE COURT: Thank you. You speak very  
2 quickly.

3 Okay. Why don't we start with  
4 announcements. We've heard from Mr. Reed, could we  
5 start with you, Mr. Spielman.

6 MR. SPIELMAN: Yes, Judge. Neal Spielman  
7 representing Amy Brunsting.

8 MR. MENDEL: Steve Mendel representing  
9 Anita Brunsting.

10 MS. BRUNSTING: And I'm Carole Brunsting,  
11 and I'm now pro se. Darlene Payne Smith was my attorney  
12 but now I'm pro se.

13 THE COURT: Thank you.

14 MR. LESTER: I'm Greg Lester. I was  
15 temporary administrator and now I'm, I'm observer, I  
16 guess, participant.

17 THE COURT: Thank you.

18 MS. CURTIS: Candace Curtis, pro se.

19 MS. BAYLESS: Bobbie Bayless on behalf of  
20 Drina Brunsting as Attorney In Fact for Carl Brunsting.

21 THE COURT: Thank you.

22 Is anyone here inclined to stand up and  
23 begin this proceeding or should I?  
24  
25



1 district court case as a legal malpractice action 42  
2 times in her response. But the complaint in the  
3 district court never mentions "malpractice." So, the  
4 causes of action are the same in the district court as  
5 they are here with the exception of the Deceptive Trade  
6 Act. And there is a negligence, and those causes appear  
7 zero times in Ms. Foley's objection.

8           So, I just -- I don't think that there is  
9 representation in the district court for any of the  
10 matters in this court. And so, they need to come over  
11 here so that we can discuss all of the things that are  
12 the same in both cases and decide the facts. And they  
13 want to go back and deal with malpractice in the  
14 district court - that's fine.

15           THE COURT: Okay. Would you like to  
16 respond?

17           MR. REED: I'll let you finish and see if  
18 I still need to say anything.

19           THE COURT: I'm disinclined because the  
20 motion for continuance was filed. I'm, I guess, I'm  
21 disinclined to make a ruling on that motion today; but I  
22 have to say that it seems to me like all of these --  
23 like you're correct - that these matters would best be  
24 handled in the probate court.

25           I'm hesitant because it seems to me that

1 if everyone were in one venue, that it would be easier  
2 to come to some sort of resolution in this case. And I  
3 think that this case is begging for some kind of  
4 resolution, perhaps, outside of a ruling by one of the  
5 courts that's involved.

6           Having said that, I didn't want to waste  
7 your time, Ms. Curtis; I know that you've come from  
8 California, and I wanted to give you all the opportunity  
9 you needed to voice your concerns on that issue, and I  
10 want to go forward with the status conference today and  
11 get as much accomplished as we can.

12           I'm happy to hear the motion for  
13 continuance. I'm happy to continue the motion to  
14 transfer until a later date so that we could hear from  
15 your firm. I don't know whether you or Ms. Foley is the  
16 more appropriate person to respond to that motion. I  
17 was hopeful that we might be able to get a response from  
18 you today about the substance; are you still wanting to  
19 continue that?

20                           MOTION FOR CONTINUANCE

21                           ARGUMENT BY MR. REED:

22           MR. REED: Yes, Your Honor, our client  
23 would prefer Ms. Foley to argue it so we would continue  
24 our -- or seek to continue today's hearing. I mean, if  
25 you have any specific questions -- I mean, one of your



1 concerns seems to be that it makes more sense to have  
2 everyone here for resolution like it's not even adding  
3 this -- the malpractice case is not going to help this  
4 case get resolved at all. It is going to take a ruling  
5 from the district court or this case to resolve this  
6 matter.

7           Having monitored this case for the past  
8 two years, it's going to take a ruling from the Court to  
9 resolve the case. So, I just, you know, would implore  
10 the Court not to bring over the malpractice case, let us  
11 get a ruling in that court, be done with that case, and  
12 you guys continue on with what's going on here.

13           THE COURT: Well I'm interested to hear  
14 from you or from Ms. Foley about you think those issues  
15 are better addressed in the district court than in the  
16 probate court where, you know, so much -- such similar  
17 issues are pending.

18           MR. REED: And I guess that's where we  
19 disagree on the "similar issues are pending."

20           In our mind, the only thing that's at  
21 issue is whether our -- the firm drafted the documents  
22 as requested by Ms. Brunsting. So, all these issues,  
23 whether she had capacity at the time, whether there was  
24 conspiracies or what not, that has no bearing, really,  
25 on the ultimate outcome of the malpractice case. The

1 only determination that would be made in our case is, is  
2 whether the lawyers acted like a reasonable lawyer  
3 should or would have done under similar circumstances.

4 THE COURT: Is that the meat of your  
5 summary judgment over in the district court is whether  
6 your client drafted the documents as requested?

7 MR. REED: The meat of our no-evidence  
8 motion is you have no evidence of any of the claims that  
9 have been brought against us. So and the point being  
10 there, at the time Carl Brunsting was the executor, he  
11 made, you know, a 30-page-plus of claims, took his  
12 deposition, had no facts to support any of it. I don't  
13 think anyone else in this room could step into that  
14 chair and have facts that could support the conduct they  
15 made in the malpractice case.

16 So, again, just bringing us over here is  
17 just going to delay us, and it's definitely not going to  
18 help resolve the malpractice claims.

19 THE COURT: Okay. Ms. Curtis?

20 MS. CURTIS: Can somebody explain to me  
21 how the claims in district court are malpractice claims?  
22 That's what I just can't see. They don't say,  
23 "malpractice." The only thing that could possibly be  
24 malpractice is maybe negligence, but never once is  
25 "malpractice" stated in the claims. Never.

1 THE COURT: There are lots of ways of  
2 drafting things, and I'm not familiar with the pleadings  
3 over in the district court to that extent; so, I'm  
4 not -- I'm really not the appropriate person to respond  
5 to that for you. There are a lot of lawyers, although  
6 they seem to be dropping, there are a lot of lawyers  
7 still involved in this case who might be able to better  
8 address that for you.

9 I would like to hear from everyone. Now  
10 that Mr. Lester has provided his report to the Court, I  
11 would like to hear from everyone about where you think  
12 we stand and how you feel this case ought to progress.  
13 Does somebody want to volunteer to go first?

14 STATUS CONFERENCE

15 ARGUMENT BY MR. MENDEL:

16 MR. MENDEL: We'd like you to order these  
17 parties to mediation, designate who the mediator is,  
18 give us a time frame to get it done. That was  
19 recommended in a report, and I think that would be an  
20 effective use of the parties' time.

21 THE COURT: Okay. Ms. Curtis, do you have  
22 a response to that?

23 MS. CURTIS: We've been to mediation  
24 already in this case. It was shortly after my case was  
25 remanded to the probate court --

1 THE COURT: Who was the mediator on that?

2 MS. BAYLESS: Bill Miller.

3 THE COURT: Sorry?

4 MS. BAYLESS: Bill Miller.

5 MS. CURTIS: And nothing was resolved.

6 And I'm not going to go to mediation again because we've  
7 already been there once. The only issue that really was  
8 discussed were how the attorneys were going to get paid,  
9 and that doesn't matter to me.

10 I want my summary judgment motions heard,  
11 and if we can do that without bringing the district  
12 court case over here, then we should go ahead and do it.  
13 But that's my purpose for coming here today - is to get  
14 the summary judgment motions set for hearing. And I'm  
15 not going to go to mediation, again, because there is no  
16 point.

17 MR. SPIELMAN: Judge -- were you going to  
18 say something?

19 THE COURT: Please proceed.

20 STATUS CONFERENCE

21 ARGUMENT BY MR. SPIELMAN:

22 MR. SPIELMAN: We all, collectively, the  
23 parties and their counsel at the time, we all agreed to  
24 Mr. Lester taking the role that he was taking. And Ms.  
25 Curtis, herself, I believe, on the record, spoke of

1 having done her due diligence into every person that was  
2 suggested by any attorney that was in this room to serve  
3 in Mr. Lester's role, and it was Ms. Curtis' opinion  
4 that only Mr. Lester can serve in that role.

5 We all, as attorneys or as pro se parties,  
6 agreed that what the function that was designated to Mr.  
7 Lester was important, was necessary, and that we were  
8 going to live by and abide by the report that he wrote.

9 The problem that I see right now, and one  
10 of the reasons I suspect why Mr. Mendel suggested that  
11 we go to mediation is in deference to and with respect  
12 for what Mr. Lester said in his report and what he seems  
13 to be trying to suggest to the parties as to what the  
14 future of this lawsuit might hold.

15 I think that what we're seeing now is an  
16 effort to backtrack from the direction that Mr. Lester  
17 tried to set us on and some of the conclusions or  
18 recommendations that he made as to what some of these  
19 claims, particularly the ones that Ms. Curtis is  
20 attempting to bring forward in summary judgment, are  
21 going to actually look like.

22 I think the effort to backtrack from what  
23 Mr. Lester was instructed to do/ordered to do and what  
24 he did, in retrospect, you have to wonder what was the  
25 point of even having done that if the parties, or a

1 party, is now going to try to back away from the impact  
2 of what that was done?

3           One of the reasons we thought that  
4 mediation, like Mr. Lester suggested that mediation  
5 might work, is that the right mediator, he talked to --  
6 talked about the idea of using a former judge - I think  
7 we talked about that in the courtroom last time - that  
8 the right mediator might help to explain, to educate, to  
9 unentrench anybody - whether that be me, whether that  
10 be Mr. Mendel, whether that be Ms. Bayless, whether that  
11 be Ms. Brunsting, Ms. Curtis, whomever. I think Mr.  
12 Lester saw the wisdom in mediation. I think we see the  
13 wisdom in mediation. But the consternation or the  
14 concern at this point, again, is this issue that Ms.  
15 Curtis seems to be unwilling to appreciate, adapt,  
16 recognize, embrace what Mr. Lester concluded or  
17 recommended in his report; and if that's the case, then  
18 I wonder if, if spending the money that it takes to go  
19 to mediation makes sense.

20           Frankly, Judge, the most interesting thing  
21 that I heard Ms. Curtis say was on the issue of  
22 attorneys fees and that that doesn't matter to her; and  
23 that is exactly part of the point. I think you were in  
24 the courtroom, Judge, the last time when Carole  
25 Brunsting made a very impassioned plea or explanation to

1 the Court about how Ms. Curtis' pro se status and her,  
2 her need to be a lawyer and her failure to appreciate  
3 what it costs, what the costs of this lawsuit are, is  
4 never going to lead to this being resolved. I may have  
5 lost my train of thought there for a second.

6 But the point here, Judge, is there seems  
7 to be no accountability on Ms. Curtis' behalf for the  
8 amount of money that is being spent in this case.  
9 Parties have, in the past, suggested, oh, let's not  
10 worry about the attorneys fees because that will all  
11 even out at the end of the story when everybody decides  
12 to divide by five, the corpus of the trust, and the  
13 winning parties or the prevailing parties can --  
14 everything can be adjusted through the division of that  
15 estate.

16 But, Your Honor, if you look at what Mr.  
17 Lester recommended/suggested/reported in his report,  
18 there's now the very real possibility that there isn't  
19 going to be a divide-by-five scenario because of the  
20 no-contest clauses that are recognized as being properly  
21 drawn by the Vacek & Freed Law Firm. And if that  
22 happens, Judge, then the trust is now spending its own  
23 money from those people, whether it be three or four,  
24 that are still going to get a portion of the estate, a  
25 portion of the trust proceeds when this is all said and

1 done.

2 I'm rambling just a bit only because it's  
3 such a circular discussion - is how do we get this case  
4 finished, given, given the backtracking from everybody's  
5 willingness to vest Mr. Lester with the authority to  
6 proceed, and now the one person who doesn't like what he  
7 said, after she filed motions for summary judgment that  
8 are direct contradiction to the conclusions that he  
9 reached. The very constant of having to come down here  
10 and respond to those, to those motions for summary  
11 judgment, the amount of money that that will waste is  
12 insulting, is offensive to the parties.

13 I'd love to come up with a creative idea  
14 to create some accountability, perhaps, if it comes in  
15 the form of a sanction or perhaps it comes in the form  
16 of some kind of bond being posted so that if it turns  
17 out that one of the parties who is blowing things up as  
18 it were and creating this increased attorneys fees, no  
19 longer has an interest in the estate with which we can  
20 even that out by the end of the day. Perhaps if Ms.  
21 Curtis is ordered to post a bond against her claims or  
22 to protect against the ability -- our ability to recover  
23 fees from her if, as and when she loses her case,  
24 perhaps then we can move forward with additional  
25 hearings, additional motions and so forth.



1                   Keep in mind, Judge, that it's not  
2 simply -- it's not as simple as getting a date for Ms.  
3 Curtis' summary judgment motions. There's been no  
4 discovery, in terms of depositions done in this case,  
5 not the least of which will be depositions from,  
6 perhaps, even from the lawyers in the other district  
7 court case who drafted the documents that can explain  
8 what all went into those documents, what Nelva  
9 Brunsting's state of mind was at the time. There's no  
10 way to respond to those summary judgment motions right  
11 now without the full weight of the discovery process  
12 moving forward and all of the money that that's going to  
13 cost.

14                   So, you wanted my thoughts on what to do  
15 and on one hand, you know, I'm still of the belief that  
16 mediation with the right mediator should work, but  
17 beyond that, I'm also of the opinion that I'm not really  
18 sure what the next thing is.

19                   THE COURT: Okay. Well, and I appreciate  
20 your argument, and I share in many of your concerns. I  
21 haven't heard from you, yet, Ms. Bayless.

22                   MOTION TO TRANSFER

23                   ARGUMENT BY MS. BAYLESS:

24                   MS. BAYLESS: No, that's true. Trying to  
25 maintain a low profile, it's hard sometimes.

1           But I think that you've heard some things  
2 that the risk of going back to the motion to transfer  
3 that make it the obvious one - all the cases need to be  
4 together so that everything can be resolved at one time.

5           My client desperately wants to get this  
6 case settled, but I do not -- I share Mr. Spielman's  
7 concerns, and I have some others. I don't know how  
8 we're going to find a mediator who is thrilled about pro  
9 se parties. Many mediators won't take a case that has  
10 pro se parties. So, we have to deal with that issue.  
11 You -- maybe he knows one.

12           I will say this: That Mr. Miller, God  
13 love him, and I know him well, and he's mediated many  
14 cases for me, but he is not the mediator for this case.

15           THE COURT: And I was not considering  
16 sending you back to Mr. Miller.

17           MS. BAYLESS: Okay, good.

18           It really, really does cry out for some  
19 kind of a resolution. I don't think this suggestion of  
20 bond is particularly workable, and it's needed. I mean,  
21 there is valuable real estate in this estate that can be  
22 used to do whatever sanction-wise, division-wise,  
23 whatever he thinks he can prove. We don't have to go  
24 outside this case to resolve this case. I mean, we  
25 don't have to be making the case more complicated to get

1 the case resolved, in my view.

2 Now there may well be parties who don't  
3 want to resolve it, for whatever reason, you know and  
4 want to have a trial. I heard Mr. Reed say that and,  
5 you know, that it's going to require a Court decision.  
6 You know, but frankly, the whole no-contest issue that  
7 Mr. Lester raised in his report, and I assume if we  
8 don't work out some settlement procedure, we'll be  
9 filing responses to his report and dealing with that.

10 The whole no-contest clause violates the  
11 Trust Code and the Probate Code in its very language;  
12 and frankly, to prosecute a no-contest clause, you have  
13 to have a trial. You have to see whether it was filed  
14 and there was good cause in the filing and whether the  
15 case was prosecuted in good faith.

16 So, you're necessarily, to get to that  
17 issue, you're necessarily going to have to have a trial.

18 You could rule all day long that you  
19 believe it to be a valid clause notwithstanding the  
20 fact that its very language violates the Trust Code and  
21 the Probate Code -- or the Estates Code, excuse me, but  
22 you're still going to have to have a trial about what  
23 that means. So, we need some mechanism that doesn't  
24 make us have to have a trial.

25 And now we've got two pro se parties, and

1 I just don't know a strong mediator that is going to  
2 deal with two pro se parties. Maybe there is one, but  
3 it is going to require someone strong if you go that  
4 route.

5 If Ms. Curtis is saying she's absolutely  
6 not going to go, I mean, I don't know what we do about  
7 that. And for all I know, Carole Brunsting may say  
8 she's not going to go. We haven't heard from her  
9 either.

10 You know, everybody else maybe could work  
11 out a resolution. My client wants very much to resolve  
12 the case, but I don't know how you resolve it piecemeal  
13 when you're talking about a trust that has five  
14 beneficiaries. I mean, maybe somebody's smarter than I  
15 and could figure that out and you can come up with some  
16 kind of a, some kind of a design that says this happens,  
17 you know, if X, Y and Z falls into place and it says  
18 that. It's very -- it's a very problematic situation,  
19 and I don't think, you know, right now we don't even  
20 have a personal representative of the estate. So, I  
21 don't know how -- I think, frankly, that the district  
22 court case, there is some advantage being taken of an  
23 unfortunate situation relating to my client's, obviously  
24 capacity, unexpected incapacity in deposition. I get  
25 that. They're trying to zealously represent their

1 client. But the reality is if they go and dispose of  
2 that case without a personal representative when the  
3 Court has been notified of that, that is going to come  
4 back so fast from the court of appeals.

5           And, you know, they, today, before we came  
6 down here, they filed a motion for sanctions. You know,  
7 it's all about pressure in that case to maybe make that  
8 go away. And I think we sort of see the same problem in  
9 this case that, although people try to punch pressure  
10 buttons, nobody -- there's no structure, as frustrating  
11 as it is for me to say this, there's no structure where  
12 everybody is on board. And so, you know, we don't have  
13 a way to get these five beneficiaries separated from  
14 each other and separated from these courts and on down  
15 the road short of forcing someone to do something they  
16 don't want to do.

17           These are all strong-willed people. I  
18 don't know what happens if you force someone to do  
19 something that they don't want to do. You know, maybe  
20 they get there and they realize, well, there is some  
21 merit to this, but I agree, it's a waste of money if  
22 that isn't what happens.

23           And, I mean, I know there's some great  
24 mediators in town. We can go to Alice All [sic] to  
25 repair it. Maybe she would deal with pro se parties, I

1 don't know but I --

2 THE COURT: Well I want to explore that.  
3 You know, in my mind, every puzzle has a solution even  
4 if it feels a little bit like a Rubik's Cube, and I  
5 think that that's true of this case.

6 I feel like it does need to go back to  
7 mediation. I feel like any other direction at this  
8 point is, is going to -- it's just not going to advance  
9 the ball. This has been dragging on for so long and  
10 stalled out for so long, we really need to get it  
11 moving. And I feel in my heart that the best way to try  
12 to move this forward is to have it go to mediation. We  
13 do need a strong mediator. I have someone in mind who I  
14 haven't contacted yet, but I wanted to hear from  
15 everyone here, first, about their suggestions.

16 You have your hand up, but I want to hear  
17 from Carole first.

18 MR. MENDEL: Could I make one quick  
19 comment?

20 THE COURT: Uh-huh.

21 STATUS CONFERENCE

22 ARGUMENT BY MR. MENDEL:

23 MR. MENDEL: In fairness to Mr. Miller,  
24 the case was probably not right for mediation at early  
25 on in the case, but a lot has transpired since then that

1 I think makes it ripe for mediation.

2 I would agree oftentimes that a second  
3 mediation could be a waste of time, but not in this  
4 case. I think this case screams for a second mediation.

5 THE COURT: I agree.

6 MR. MENDEL: In terms of answering the  
7 Court's question - I think it should be a forceful  
8 personality; I think it should be a judge. I would like  
9 to see Judge Davidson be appointed to serve as the  
10 mediator in this case.

11 MR. SPIELMAN: That was actually going to  
12 be my suggestion, Judge. I know Judge Davidson would  
13 not have an issue with pro se elements in the case. I  
14 know, as a judge, he's certainly aware of the dynamics  
15 that that brings to the table.

16 I can say that Judge Davidson, having gone  
17 to a mediation with Judge Davidson in which I, because  
18 of his forcefulness, was forced to completely reevaluate  
19 the entire case that we came in there with. I know that  
20 he is the type of forceful personality that can  
21 unentrench people, that can and will do his own research  
22 and bring issues to the table that, perhaps, the parties  
23 walking in the mediation haven't even considered yet. I  
24 could not more strongly recommend Judge Davidson as  
25 being somebody that fits the bill for what this case is

1 needing; and, of course, everybody is welcome to do  
2 their due diligence to see the types of cases that he's  
3 presided over in the past, to see the docket that he  
4 carries now in the multi-district litigations. I would  
5 be as flabbergasted as flabbergasted could be if people  
6 walked away not thinking that he was the right person to  
7 make a try at this.

8 MS. BAYLESS: Just one question, I'm  
9 sorry. Just one question.

10 Do you know for sure? I have absolutely  
11 no problem with Judge Davidson. I think he's a great  
12 resolver of problems, but do you know that he would do  
13 a -- have you had a situation where there was a pro se  
14 party?

15 MR. SPIELMAN: I'm going to go with I'm 95  
16 percent sure, but I'll be happy to make that phone call.

17 MS. BAYLESS: Anyway, that's my only --

18 THE COURT: I know Judge Davidson. And I,  
19 you know, similarly, I think that he could probably get  
20 the job done quite well. We could contact him and see  
21 how he feels about pro se parties.

22 MS. CURTIS: I also have a quick question  
23 about mediation.

24 Is there any reason why all of the  
25 siblings and their representatives can't be in the same



1 room to talk about it? Because I think that's where it  
2 fell down. The mediator came in one room and talked for  
3 a few minutes and then went to the next room and then  
4 the next room and then came back and told us what these  
5 other people said --

6 THE COURT: And that's how mediations  
7 often go. The mediator often makes a decision at the  
8 beginning of the day about whether he thinks it will be  
9 productive or not to bring everyone together. Often,  
10 you start out all in the same room. Sometimes, if  
11 things are going well, you get back together in the same  
12 room towards the end. And I would rely on the mediator  
13 to make that call because sometimes the parties are so  
14 far apart and antagonistic to one another, that putting  
15 them in the room, just escalates things. And so that's  
16 what -- that's why, you know, we leave that to the  
17 mediator, to kind of make that call. And hopefully, you  
18 know, if everybody is civil and can sit around the table  
19 and reasonably and constructively discuss the issues,  
20 then maybe that's the direction the mediation will go.  
21 There's nothing saying that you can't get together.

22 MS. CURTIS: And that's, if we could,  
23 then, yes, I would consider mediation; but I can't go  
24 through the mediation like we had before.

25 THE COURT: Okay. And, you know, and

1 there's some indication that there are a lot of reasons  
2 why that mediation was not successful. And maybe, you  
3 know, maybe if you got together for mediation now, your  
4 entire family would have a kumbaya experience and find  
5 one another. And I know that there is some head-shaking  
6 and things, but I need you, and frankly, everyone here,  
7 everyone involved in this, needs you to try to keep an  
8 open and forgiving mind going into mediation. And I'm  
9 not saying that you're going to, you know, walk away and  
10 forgive everything that's happened but at least see that  
11 there is some benefit to that, to some level of  
12 forgiveness going forward, so that you can get this  
13 resolved because being here in this building is not  
14 helping you. Ultimately, it's not helping anyone  
15 involved in this case. And so, that's why I feel that  
16 it's, you know -- I need you to go to mediation.

17           It sounds like you're coming around which  
18 I'm glad to hear, on some level, because even if you  
19 don't come around, I think I'm going to have to get to  
20 the point where I order you to go. And, you know, I  
21 mean, we don't like ordering people to do things that  
22 they don't want to do, but I think that it's in the best  
23 interest of everyone to go ahead and get to mediation.

24           If Judge Davidson doesn't pan out, the  
25 other name that came to my mind was John Coselli. I

1 hear that he's been doing some very good mediations  
2 recently, and I know that he's not -- well, I don't  
3 know. I don't think that his focus is probate, but I  
4 understand that he's very quick to come up to speed on  
5 the issues and has been quite effective in getting  
6 things done. So, that's another name that if Mr.  
7 Davidson doesn't pan out, we might look at.

8 Let's see...

9 Ms. Brunsting, did you have something you  
10 wanted to add?

11 MS. BRUNSTING: Well, I mean, I hear the  
12 word "pro se," and it's almost like it's a bad word in  
13 this court --

14 THE COURT: It is not a bad word in this  
15 court.

16 STATUS CONFERENCE

17 ARGUMENT BY MS. BRUNSTING:

18 MS. BRUNSTING: I've never been through  
19 anything like this before. I thought that it was in my  
20 best interest to get an attorney. And Darlene Payne  
21 Smith, while she's a very, very good attorney, she's a  
22 very expensive attorney. I finally just had to make the  
23 decision because I don't know if this is going to drag  
24 out another month or another 10 years. But I don't want  
25 it -- it's upside down, and so I had to just make the

1 decision, as I kind of talked about last year, to try to  
2 stop the bleeding. I had to just stop my own bleeding  
3 because otherwise what's going to happen is there may  
4 not be anything left to divide, but I'm going to end up  
5 having to go into my retirement savings to pay this bill  
6 now. So, I'm just having to make some life-decisions  
7 here. And, unfortunately, one of the things I had to do  
8 which is terminate my relationship with Darlene Payne  
9 Smith. It's nothing against her, but I just had to make  
10 a financial decision on my own because right now I'm  
11 faced with this huge bill that I'm going to pay because  
12 I try to live my life debt-free. It's going to take me  
13 a long time to pay it because I hadn't planned on having  
14 this bill.

15                   But I guess my other concern is, and I  
16 heard some of the other attorneys make it is I feel like  
17 what Candy asked for, everybody tries to give to her.  
18 And we paid \$42,000 for this accounting when we were in  
19 Judge Hoyt's [sic] court and that wasn't good enough.  
20 And now we've all agreed to Greg Lester, and that's not  
21 good enough. And so it just seems like it's going to go  
22 on forever, that whatever everybody tries to do to try  
23 to make Candy happy, we're always going to just end up  
24 straying away from that.

25                   And so it's just like I'm hearing with

1 mediation, and I think the rest of us are willing to go  
2 to mediation, it's going to be, yes, I'll go to  
3 mediation but only if. What if everybody else doesn't  
4 agree to that? It is we all agree to go to mediation if  
5 we all agree to go sit in the same room, I'm thinking  
6 well -- that's why I'm shaking my head. I'm thinking, I  
7 doubt that will happen.

8 THE COURT: Well, as I said, you know, we  
9 need to leave that up to the mediator because the  
10 mediator controls how the mediation proceeds. And, you  
11 know, I encourage you to consider that if it looks like  
12 it's going to be constructive. She's not putting  
13 limitations on the mediation by any stretch of the  
14 imagination. We're going to go forward. We're going to  
15 go to mediation. We need to find an appropriate  
16 mediator, and that's going to happen. So, I want you to  
17 feel --

18 MS. BRUNSTING: But in the last mediation,  
19 I just felt like everybody was kind of blindsided  
20 because I sat in a room for probably three and four  
21 hours before -- just waiting and really had no idea what  
22 was going to happen. And then somebody comes in -- I  
23 mean, a mediator came in and just put a piece of paper  
24 in front of me and I go, "What is this?" "Well this is  
25 what they want." And, I mean, it was just ridiculous.

1 And then after that, we waited another few hours. And  
2 then what we were asked to give up was even bigger than  
3 that. And so, it was so ridiculous and I saw no attempt  
4 at anybody trying to mediate the system. Nobody knew  
5 what was going on.

6 So, I had actually talked to Mr. Lester  
7 about before -- I think before anybody's going to agree  
8 to mediation, everybody is going to have to be convinced  
9 that it's much better organized. The mediator's already  
10 talked to everybody to see what the real expectations  
11 are because if they're not realistic going in, we're  
12 going to be right back where we were before.

13 THE COURT: Okay. Thank you.

14 I want to comment about Mr. Lester. He's  
15 here today. He's not, my understanding is, he's not  
16 billing for his time today, so we're very grateful that  
17 you're here. I asked him to be here in case there are  
18 any questions about his report.

19 I think that the accounting that was done  
20 previously in the federal court, as well as the report  
21 that Mr. Lester provided, is helpful in this case  
22 because I think it gives the Court and it gives all the  
23 parties some insight into how the claims are viewed by  
24 an independent person. And I hope that you'll look at  
25 his report and consider his conclusions going forward.

1 I'm not making any rulings about whether  
2 his conclusion are right or wrong, but I think they're  
3 quite informative. And so I think that it's useful and  
4 sort of leading up to mediation.

5 How -- my next concern about mediation is  
6 how are we going to pay for it? I know that the parties  
7 are motivated to get this resolved, mostly; and in the  
8 past, the -- I've always looked to this end of the table  
9 to fund things, and I'm not sure that I'm going to do  
10 anything different this time.

11 Do you have some opinions about how the  
12 mediator should be paid?

13 MR. SPIELMAN: My opinion is simply that  
14 the parties should pay the mediator's cost as the  
15 parties.

16 Now, again, remember, Judge Comstock, my  
17 client and Anita as the current co trustees are actually  
18 the only ones who should be having their lawsuit defense  
19 financed by the Trust but they have not --

20 MS. CURTIS: Excuse me. Objection.

21 MR. SPIELMAN: Okay.

22 THE COURT: Let him finish, and I'll give  
23 you a chance to respond --

24 MS. CURTIS: But this is --

25 THE COURT: I know.

1 MS. CURTIS: -- incorrect information that  
2 he's saying.

3 THE COURT: You'll have a chance to  
4 respond as soon as he finishes.

5 STATUS CONFERENCE

6 FURTHER ARGUMENT BY MR. SPIELMAN:

7 MR. SPIELMAN: The point, though, Judge,  
8 is because I know that there is not an agreement on that  
9 point currently, that is why my opinion is each party  
10 should pay their own mediation cost.

11 One -- again, I can't make a  
12 representation for Judge Davidson, but I suspect, as he  
13 has done for mediations in the past, maybe, Ms. Bayless,  
14 you've experienced this with him before, I think he will  
15 see a way to not necessarily say, you pay a fee; you pay  
16 a fee; you pay a fee; you pay a fee and you pay a fee.  
17 I think he will probably find some way to structure it  
18 by people that have common interests on one side or the  
19 other or something like that. We can certainly talk to  
20 him about that. I'm happy to talk -- it's my interest  
21 to find a way to convince him to charge as little as  
22 possible for this as much as it's to the benefit of  
23 everybody else here. So, I'm happy to do that.

24 If the Court would like to be the one that  
25 reaches out to Judge Davidson to sort of explain a



1 little bit of the back story, maybe that's appropriate  
2 that would make people feel more comfortable, we will  
3 all have a chance to present our view of the case to  
4 Judge Davidson in advance of the mediation because he  
5 asks for premediation briefing material, premediation  
6 statement. I know he would take phone calls from folks  
7 if they would rather handle it that way.

8 I think that all of the issues that are  
9 being expressed as concerns about the mediation process,  
10 all of them have solutions, and perhaps the attorneys  
11 are more aware of this just by the nature of what we do.

12 But particularly with Judge Davidson, he  
13 has seen and done it all in his time on the bench. As  
14 difficult as this case has been for people particularly  
15 on an emotional level, he would have seen this level  
16 before, and he will know how to massage everybody's  
17 concerns and the law and the facts.

18 Again, I can't say strongly enough -- even  
19 if it's not to my client's benefit when it's all said  
20 and done, that I think he has the ability to get  
21 everybody, you know, on the straight and narrow.

22 STATUS CONFERENCE

23 ARGUMENT BY MS. BAYLESS:

24 MS. BAYLESS: Judge, I agree. The  
25 question was how do we pay for it? And I don't see how

1 it makes sense to create another controversy among  
2 everybody to not want it, those who don't want it to  
3 begin with to think it may be a waste of time. I don't  
4 understand why -- I'm not even sure why Mr. Spielman  
5 makes this suggestion. I would think that we would have  
6 the Trust pay for it, and it can be divided as cost as  
7 may need to be part of the settlement just like we dealt  
8 with Mr. Lester. I don't know why this is -- that was,  
9 frankly, I viewed, anyway, an attempt by the Court to  
10 move everything in the direction of trying to work  
11 toward a resolution. I don't think the mediation is  
12 even more so that way, and I don't know why it's going  
13 to be probably less money. I don't know why it should  
14 be controversial to deal with it as a cost of getting  
15 this case resolved and deal with that and the  
16 resolution, but that's just my two cents.

17 THE COURT: Well, I like the suggestion  
18 that if Judge Davidson is amenable to that, to let him  
19 kind of work that out as part of the mediation, and  
20 perhaps that's the route we need to go.

21 Ms. Curtis, you have -- you wanted to  
22 speak?

23 STATUS CONFERENCE

24 FURTHER ARGUMENT BY MS. CURTIS:

25 MS. CURTIS: Basically, I just -- people

1 are formulating their opinions by talking to parties in  
2 the case, and it's fairly obvious that no one has read  
3 everything starting with the original petition in the  
4 federal court.

5 I sent my sisters a couple of demand  
6 letters after my mother passed away, and I gave them  
7 every opportunity to cure and save face. And I told  
8 them, "If you don't give me an accounting which has been  
9 owed for weeks now," and then I gave them 60 days, that  
10 I'd have no alternative, and that I reserve the right to  
11 file suit against them.

12 And here we are, almost five years later.  
13 Vacek & Freed sold my parents' peace of mind and then  
14 betrayed them because my sister, Anita, developed a  
15 relationship with Candace Freed. And there is evidence  
16 in the record now that shows that. And I'm willing to  
17 come to a conclusion, but we can't have all these  
18 attorneys. Amy and Anita are on their third attorneys  
19 now. And so, how much longer do my brother, Carl, and I  
20 have to spend, money, time and emotional stress to get  
21 what our parents gave to us to begin with? And that's  
22 all they want - not a penny more/not a penny less.

23 THE COURT: Well, often when things get to  
24 this point when you're five years down the road in  
25 litigation and people are in the positions that you find

1 yourselves today, often what it takes is going to a good  
2 mediator and getting everyone in the same room or at  
3 least the same building and really looking at the issue,  
4 perhaps, with fresh eyes, and finding the reality that  
5 there's a better way to resolve this whole game.

6 MS. CURTIS: I want to look at my sisters  
7 and my brother in the eye in the same room. I mean,  
8 it's just -- I've been able to talk to Carole until she  
9 got an attorney and then I couldn't speak to her  
10 anymore. I can't talk to Amy and Anita. I tried to  
11 call them early on. I just -- this is a family. We  
12 don't need these outside people in here paying money for  
13 them to draw conclusions when they don't know what's  
14 going on. And so I just --

15 THE COURT: And I appreciate your bringing  
16 that emotional side of it because I think that's what  
17 all of this sometimes comes down to is, the emotions  
18 that are involved. And if, you know -- I'm glad that  
19 you're saying this here today. All of these attorneys,  
20 I'm sure, are hearing you, are hearing your position;  
21 and I know that they're aware of the emotions -- the  
22 emotional responses from their own clients. And  
23 perhaps, perhaps your wish will come true. Perhaps  
24 we'll get to mediation, and you'll be able to sit in a  
25 room and reach some kind of understanding.

1 I don't have a problem calling Judge  
2 Davidson if nobody has a problem with my doing so. So,  
3 I'll put a call into him. I know him. He was the scout  
4 master of my son's scout troop. So, I'll put a call  
5 into him, and we'll see if we can move that piece  
6 forward.

7 STATUS CONFERENCE

8 FURTHER ARGUMENT BY MR. MENDEL:

9 MR. MENDELL: I would just like to add,  
10 besides Judge Davidson, I don't have any problem with  
11 Judge Coselli. I've been in front of Judge Coselli when  
12 he was a mediator before he got on the bench. He's  
13 excellent.

14 In terms of the fee, I'm open to how the  
15 mediator would want to handle it. But the vast majority  
16 of mediators, as the Court is aware, expect people to  
17 have some sort of an investment, and a great investment  
18 is to come out of pocket and pay for it. So, I would  
19 oppose that the Trust pays for everybody's pro rata  
20 share. Everybody needs to get out their checkbook and  
21 pay the mediator regardless of how the fee is  
22 structured.

23 THE COURT: Okay. I understand.

24 MS. CURTIS: I can't do that. I work full  
25 time. I have no retirement. I have to do without

1 things to come to Houston which I'm more than happy to  
2 do, but I don't have extra money to throw away on more  
3 wasted time. And that's why I didn't hire an attorney  
4 to begin with. My brother shouldn't have had to hire an  
5 attorney.

6 THE COURT: Well, Ms. Curtis, Ms. Curtis,  
7 please. Therein lies the rub. If this is a waste of  
8 time then why are we here? You know --

9 MS. CURTIS: To get resolution.

10 THE COURT: -- we need to move this case  
11 forward, and most of the people in this room feel like  
12 this is the best way to move it forward.

13 MS. CURTIS: I'd like to move it forward  
14 by scheduling the summary judgments.

15 COURT'S RULING

16 THE COURT: Okay. We're going to go to  
17 mediation first. And so I'm going to contact Judge  
18 Davidson. I'll get information about his fees, and I'll  
19 explain the issues and --

20 MS. CURTIS: Okay. I have a personal  
21 friend in Houston that I've known for 30 years. He is  
22 also a mediator, I understand now; is that a conflict if  
23 I suggest that we contact him as well?

24 THE COURT: I don't want to get into what  
25 we've had in prior hearings with everyone objecting to

1 people who are suggested. I think that Judge Davidson  
2 is a good choice. He's going to be a strong mediator,  
3 and I don't want to take lightly the choice of mediator  
4 in this case because I don't want to waste your time. I  
5 want to get to a mediation with somebody who can make  
6 things happen. And I'm not saying that your buddy, your  
7 friend, can't make that happen, but I am concerned that  
8 there are, you know, you have several siblings who are  
9 going to stand up and object for the reasons that I just  
10 mentioned. And I know where that's going to go, and I  
11 don't think that it's a good idea to go down that road  
12 at this point. So, I'm going to call Judge Davidson and  
13 see how that will work out.

14 MS. BAYLESS: I just have a question on  
15 timing.

16 I'm assuming, and maybe I shouldn't say,  
17 that you will be dealing with the motion to transfer  
18 first so that that's part of what is being mediated and  
19 maybe that's not what you had in mind.

20 I think that there is some merit to having  
21 everybody in the room. I recognize Mr. Reed is going to  
22 stand up and say he doesn't want to be in the room, but,  
23 you know, we need to deal with that. And I think Judge  
24 Davidson could deal with all of these issues very well.  
25 And if that loose end is left out there, I don't know if

1 it will impact being able to get this case over. I have  
2 no -- I don't know.

3 THE COURT: That's a good point. I don't  
4 know that we need to transfer the case over here before  
5 that happens if we can get some buy-in from the folks  
6 involved in the district court case to be a part of that  
7 negotiations of the mediation. I don't know whether  
8 that's possible, but it seems like if we can get to  
9 mediation and get every piece of this resolved, that  
10 would be a lot more cost efficient than going through  
11 the transfer and getting all of that done.

12 What I'm saying is you guys don't all have  
13 to be in this court in order to negotiate a settlement.

14 Do you want to respond to that?

15 MS. BRUNSTING: This is something I spoke  
16 with Darlene about is because somehow my brother brought  
17 this suit against Vacek is somehow, I think all of us  
18 are party to it somehow but without our knowledge, we  
19 don't know how this case is going to impact the rest of  
20 us and so that's why I spoke with Darlene, and said I'm  
21 a bit concerned about going to mediation when I don't  
22 know the outcome of this case yet. And so well this  
23 case will have some impact on the rest of this. So,  
24 that is a valid concern that I have.

25 THE COURT: Mr. Reed, what's your position



1 about participating in a mediation?

2 MR. REED: I think the biggest issue that  
3 we have is you or someone has to be appointed or has to  
4 appoint someone on behalf of the estate. Right now, if  
5 I went to mediation, I would have no one to negotiate  
6 with. So, that's the problem by sending a malpractice  
7 case is I have, technically, five people I have to deal  
8 with that I really need -- I can only really deal with  
9 one person that's actually absent right now which is  
10 what's delaying the malpractice case from being  
11 dismissed.

12 So, I mean, if you send us to mediation,  
13 what you're going to have to do is appoint somebody for  
14 us to negotiate which means you're actually appointing  
15 someone on behalf of the estate. So, that creates to me  
16 a big issue that is, again, outside of, really, what we  
17 need to deal with today.

18 THE COURT: How do the rest of you -- how  
19 do the rest of the attorneys in the room feel about  
20 whether we can get to a resolution?

21 MR. MENDEL: I think we can get to a  
22 resolution. I mean, if everybody else on this -- in  
23 this particular case agrees to an outcome and a  
24 resolution for Mr. Reed, then, as I see it, we don't  
25 necessarily need to have someone appointed before they

1 come over to the mediation. I mean, if everybody is in  
2 agreement then it becomes a moot point.

3 THE COURT: And if you can reach an  
4 agreement that a resolution will be reached then you  
5 could, perhaps, agree to appoint a temporary  
6 administrator who could make decisions on behalf of the  
7 estate --

8 MR. SPIELMAN: And that's just the point,  
9 Judge. If you backtrack beyond Mr. Lester's  
10 appointment, the competing applications before the Court  
11 are from my client and from Ms. Curtis. So, if the  
12 mediation goes well, those two competing next in line,  
13 allegedly executors, can sign off on a deal that would  
14 then be able to resolve everything.

15 MR. REED: It's not that the deal can be  
16 worked out, it's, at mediation, I have to go to five  
17 different rooms to negotiate the deal. So, maybe his  
18 client says, okay, I give a million bucks to the  
19 estate - that's great; but Ms. Curtis wants \$2 million.  
20 So, then all of a sudden, I've got to deal with one of  
21 the four. Maybe I get four out of the five. And the  
22 point is you need one voice for the entire estate, and  
23 you're not going to get it with me trying to negotiate  
24 with five people at mediation.

25 THE COURT: Well, at some point, all five

1 of those people are going to have to negotiate something  
2 to move forward rather it's who's going to be the  
3 administrator or the executor going forward. I think  
4 that that negotiation is better to take place at the  
5 mediation than outside of it.

6 MR. REED: I think the problem you're  
7 sending us to mediation with is now we have one extra  
8 level, and we already have too many levels of things we  
9 need to negotiate. It's going to take almost the entire  
10 mediation, if it is successful, to deal with just the  
11 sibling issue, and now you're adding the malpractice  
12 case on top of that to see if, you know, whether all  
13 four or five or one or two agrees with how much money  
14 the malpractice case is worth defending at all.

15 So, I think you're adding too much to the  
16 puzzle to what's already going to be a difficult  
17 mediation.

18 THE COURT: I don't know that the  
19 mediation will be successful without that, though. And  
20 I think that I kind of like the complication that it  
21 has. You know, the more cards on the table, the more  
22 you can mix up the deck, am I wrong? It seems like  
23 everyone has an interest in going forward. Does anyone  
24 disagree with that other than, I'm sorry, Mr. Reed?

25 MS. CURTIS: I don't disagree. And, in

1 fact, it's Candace Freed who drew up these illegitimate  
2 papers - whether they were signed or not - she's the one  
3 that started this. All five of us have been damaged by  
4 what Candace Freed did.

5 I'm happy to let Amy be executor if Neal  
6 will represent the executor in this mediation and in the  
7 case against Vacek & Freed because it's not  
8 malpractice - it's breach of fiduciary. But I just  
9 wanted to get it moved along, okay. So, now you've got  
10 me convinced that mediation is maybe the way to go, but  
11 I don't want any more road blocks for one reason or  
12 another.

13 Why can't Amy be executor? No, let Neal  
14 take that ball and run with it and we'll all agree.

15 MS. BAYLESS: Well I don't know if my  
16 clients will agree to that today, but I don't think we  
17 have to do -- I don't think we have to go to that level.  
18 If we can reach an agreement, then we know we need a  
19 temporary person just for purposes of approving a  
20 settlement and, you know, moving forward. I don't  
21 think -- I don't see any reason why Judge Davidson can't  
22 deal with all of those issues. But if he doesn't deal  
23 with all of those issues, I don't think -- I think we  
24 run a greater risk of not getting the case resolved.

25 And, frankly, I would think that the law

1 firm would be delighted if the case could get resolved.

2 THE COURT: And I hate for you guys to  
3 reach a decision about all of your issues and then have  
4 to go to another mediation to resolve all the issues in  
5 the district court case, particularly, if, you know, if  
6 it's decided that it needs to be grabbed and transferred  
7 over here.

8 MR. REED: But it's taking longer, Your  
9 Honor, if the case is not settled at mediation. Isn't  
10 it somebody is still going to have to be appointed at  
11 that point to bring the claims, still, against the  
12 malpractice?

13 THE COURT: Which comes first, you know?

14 MR. REED: The point is that Mr. -- you  
15 know, if we go back to Mr. Lester's report who already,  
16 you know, looked at it, looked at the issues and said  
17 the writings were correct, we have the malpractice case  
18 that's been pending for three years that no one at this  
19 point has been able to prove any evidence of  
20 malpractice, whatever the claims would be. So, you're  
21 wanting us to go --

22 THE COURT: Well, I'm not sure that Mr.  
23 Lester's report says that you win.

24 MR. REED: I'm not saying that, Your  
25 Honor. What I'm saying is I think it's going to be too

1 difficult for a malpractice case to be negotiated at a  
2 mediation with the five siblings we have here without  
3 one voice --

4 MR. MENDEL: I see it that it needs to be  
5 a global deal, and if we can't work something out with  
6 Vacek & Freed, then the mediation fails. But I'm  
7 confident somebody like Judge Davidson can pull this  
8 thing together.

9 THE COURT: And I tend to agree. And, you  
10 know, I was -- I would hope that you and Ms. Foley would  
11 agree to participating in this mediation. And I'm still  
12 considering the motion to transfer, but I have to say if  
13 you guys are not willing to consider, that encourages me  
14 to grant the motion to transfer just to get everything  
15 over here so that we can try to get it settled.

16 MR. REED: And I don't want you to have a  
17 misvoid [sic] that we're not agreeable to going to  
18 mediation. My concern is more if I go to mediation, who  
19 am I negotiating with? And the problem is I am being  
20 sued -- my client is being sued by the estate. The  
21 estate right now doesn't have a representative.

22 So, my concern is, maybe I didn't express  
23 it well enough earlier, is not the mediation itself in  
24 going - it's who do I negotiate with because I'm dealing  
25 with five separate demands because the family can't

1 speak, and I think that's clear. They can't speak at  
2 this point as a whole.

3 THE COURT: I understand. And I think  
4 that Judge Davidson's qualified. He's capable of seeing  
5 the big picture and putting all those pieces together  
6 and dealing with that.

7 MS. BAYLESS: And, frankly, Judge, I think  
8 I'm going to have to provide the information that Judge  
9 Davidson needs about why the claims are filed to begin  
10 with. And it doesn't matter how many times you say  
11 there is no proof, there is no evidence - the point is,  
12 Judge Davidson is going to have to negotiate this thing.  
13 There is proof, there is evidence, and I can take the  
14 laboring of presenting some kind of summary to him so  
15 that he understands the case from its inception and can  
16 deal with that case.

17 The idea that, well, there is nobody right  
18 now because my client had resigned so there's nobody to  
19 deal with this. Let's jump in there and take advantage  
20 of it and everything says there is no way to prove this  
21 case, there is no way to do that. That's what Judge  
22 Davidson will be trying to deal with, and I can provide  
23 him with the information and the evidence that does  
24 inform him about the case. And it's out there, and they  
25 know it's out there. So, we can get past that.

1 I think it a lot more efficiently if they  
2 agree to deal with the mediation and everything can be  
3 dealt with that way, but I tend to agree - if they can't  
4 do that by agreement, then we're right back where we  
5 were in this suit about what do we do with that case  
6 because that case may very well keep us from resolving  
7 this case. Even a non lawyer in the room has said that  
8 today. So, you know, I think that's pretty obvious.

9 THE COURT: It sounds to me like everyone  
10 except Mr. Reed agrees with that.

11 Do you need to get back with Ms. Foley in  
12 order to get me an answer on whether you will  
13 voluntarily participate?

14 MR. REED: We'll voluntarily participate.  
15 I'm just expressing my concern of why it's not going to  
16 be successful.

17 THE COURT: And I appreciate that. And  
18 that's a level of, you know, difficulty that I think you  
19 will need to bring to the mediation and explain to Judge  
20 Davidson and have him address that. So, I mean,  
21 everyone has voiced complications today that need to  
22 come out on the table and need to be part of the  
23 mediation. So, I'm glad that you're all here and  
24 voicing those opinions.

25 So, I think we all agree that I'm going to



1 call Judge Davidson. Is there anything else that needs  
2 to be discussed today? Is there any -- is there any  
3 timing issues that I need to make Judge Davidson aware  
4 of?

5 MS. BAYLESS: Well there is a trial  
6 setting in May in the district court.

7 MR. MENDEL: I don't think that one is  
8 going to stick given the current posture --

9 MS. BAYLESS: Having gone through that  
10 argument before, I don't know that I would take that for  
11 granted.

12 MR. MENDEL: You're right.

13 MS. BAYLESS: That's pretty much upon us.  
14 We're talking. We may not be able to get in to Judge  
15 Davidson this month. I don't know what his schedule is  
16 but, you know, we're talking about then that does make  
17 it a little bit more important the issue of personal  
18 representative; in fact, if we're facing that many  
19 trials --

20 THE COURT: Okay. Do we need to reset the  
21 motion to transfer at this point? In other words, do I  
22 need to have another hearing to have to hear from Ms.  
23 Foley from that issue?

24 MR. REED: I think you should continue it  
25 until after the mediation.

1 THE COURT: And I think I can do that if  
2 you guys agree to participate.

3 MR. REED: Again, I think you're  
4 misunderstanding what I was saying.

5 THE COURT: No. No. No. I hear what  
6 you're saying - I'm just confirming it.

7 MR. REED: Yeah, I hear you loud and  
8 clear. And if you would prefer us at mediation, I will  
9 be there. I was just expressing to you I think the  
10 concerns that convolute the matter even worse, but I  
11 hear you loud and clear.

12 MS. BAYLESS: What's the trial date?

13 MR. REED: I think it's the 16th, but I  
14 will say this. The Court currently, while we're on the  
15 trial docket, I think they recognize that we can't go  
16 forward with it because we don't have a personal  
17 representative. I don't think that they officially  
18 debated it, but I think they somehow called us, I'm  
19 expressing this court involved them, Your Honor, but I  
20 would say -- well, I'll leave it like that.

21 MR. SPIELMAN: That being said, Judge,  
22 probably sooner is probably better than later, you know.

23 THE COURT: Of course. Yeah, I think  
24 everyone wants to get this moving.

25 MS. BRUNSTING: Because most of us work.

1 I think each night there's certain meetings that I just  
2 can't --

3 THE COURT: Of course. Why I'm not going  
4 to get involved with actually scheduling the day; I'm  
5 going to contact him. And I just wanted to know if  
6 there are any global problems, but I'll leave it to you  
7 guys to, you know, to contact him and find a date that's  
8 going to work for everyone. I know that you guys all  
9 have your emails and share your email addresses. So,  
10 I'm hoping that you can work together and find a date  
11 that will be convenient for everyone.

12 MS. BAYLESS: Speak of that, I don't know  
13 if an order has been signed yet. I've got Ms. Smith's  
14 withdrawal, but can we have some information  
15 about where to serve her like what address or  
16 fax --

17 MS. BRUNSTING: Darlene asked me if it was  
18 okay that she send information out, and I said, "Yes,  
19 that's okay," but she didn't send it out. I did send it  
20 out.

21 THE COURT: Can you send an email to  
22 everyone?

23 MS. BRUNSTING: We can talk about it.

24 THE COURT: Including me. I guess you  
25 sent me a letter so I got your contact information,

1 correct? It's on your letter? Ms. Brunsting?

2 MR. SPIELMAN: Her address, I think, just  
3 to be clear, I think what would be useful to everybody  
4 would be if you could just let us know your preferred  
5 email address, your preferred phone contact. If you do  
6 happen to have access to a fax machine for receiving  
7 things, that would work too. I think that that covers  
8 most of the ways that we can --

9 THE COURT: And if you could copy me on  
10 that as well, that would be helpful. Thank you.

11 Okay. Anything else?

12 MS. BAYLESS: One other thing.

13 I know we held some things, we just held  
14 some things while Mr. Lester was doing his thing, and I  
15 wonder if it would make some sense to revisit the order  
16 that appointed him and the stay provisions and continue  
17 those through the mediation date anyway or something or  
18 through the next hearing, motion to transfer?

19 THE COURT: What specifically --

20 MS. BAYLESS: It just hit me that we've  
21 done that. I'm looking at the order right now.

22 We had talked about it at the hearing that  
23 says that the order expires in 90 days. So, I guess --

24 THE COURT: It doesn't sound like to me  
25 that everybody is eager to jump out and do some

1 discovery and spend more money prior to going to  
2 mediation, am I right? So, let's just focus on getting  
3 to mediation unless someone needs something specific in  
4 writing.

5 MS. BAYLESS: If I find the order, I'll  
6 let --

7 THE COURT: Thank you everybody for being  
8 here, particularly Mr. Lester for coming.

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1 The State of Texas )  
2 County of Harris )  
3

4 I, Hipolita Lopez, Official Court Reporter in and  
5 for the Probate Court Number Four of Harris County,  
6 State of Texas, do hereby certify that the above and  
7 foregoing contains a true and correct transcription of  
8 all portions of evidence and other proceedings requested  
9 in writing by counsel for the parties to be included in  
10 this volume of the Reporter's Record, in the  
11 above-styled and numbered cause, all of which occurred  
12 in open court or in chambers and were reported by me.

13 I further certify that this Reporter's Record  
14 truly and correctly reflects the exhibits, if any,  
15 admitted by the respective parties.

16 I further certify that the total cost for the  
17 preparation of this Reporter's Record is \$334.00  
18 and was paid by Ms. Candace Curtis.

19 WITNESS MY OFFICIAL HAND this the 28th day of  
20 March, 2016.

21  
22 /s/ Hipolita G. Lopez  
23 HIPOLITA G. LOPEZ, Texas CSR #6298  
24 Expiration Date: 12-31-16  
25 Official Court Reporter  
Probate Court Number Four  
Harris County, Texas  
201 Caroline, 7th Fl.  
Houston, Texas 77002

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*.<sup>1</sup> 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.

\_\_\_\_\_  
<sup>1</sup> 547 U.S. 293 (2006).

## No. 12-20164

## 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.<sup>2</sup> 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

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<sup>2</sup> 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.



## No. 12-20164

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.<sup>3</sup>

## III.

Although a federal court “has no jurisdiction to probate a will or administer an estate,”<sup>4</sup> 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

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<sup>3</sup> *Borden v. Allstate Ins. Co.*, 589 F.3d 168, 170 (5th Cir. 2009).

<sup>4</sup> *Markham v. Allen*, 326 U.S. 490, 494 (1946).

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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.<sup>5</sup>

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.”<sup>6</sup> Thus, the Supreme Court clarified the “distinctly limited scope” of the probate exception,<sup>7</sup> 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.<sup>8</sup>

The *Marshall* Court concluded that the federal district court had subject-matter jurisdiction, and the probate exception did not apply, reasoning: “[The claimant]

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<sup>5</sup> Id. (internal citations omitted).

<sup>6</sup> 547 U.S. at 311.

<sup>7</sup> Id. at 310.

<sup>8</sup> Id. at 311–12.

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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.”<sup>9</sup> 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.”<sup>10</sup>

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.<sup>11</sup> 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

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<sup>9</sup> Id. at 312 (internal citations omitted).

<sup>10</sup> Id. at 312–13.

<sup>11</sup> 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.

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therefore are not part of the decedent's estate.<sup>12</sup> 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.<sup>13</sup> 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.

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<sup>12</sup> 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 . . .").

<sup>13</sup> 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.

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

CANDACE LOUISE CURTIS

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

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

Amy Ruth Brunsting

Sworn to and signed before me by ~~6th~~, 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

No. 412,249-401

ESTATE OF	§	PROBATE COURT
<u>Nelva E. Brunsting,</u>	§	
<u>Deceased</u>	§	NUMBER FOUR (4) OF
	§	
	§	HARRIS COUNTY, TEXAS

**AGREED DOCKET CONTROL ORDER**

The following docket control order shall apply to this case unless modified by the Court. If no date is given below, the item is governed by the Texas Rules of Civil Procedure.

1. N/A **JOINDER.** All parties must be added and served, whether by amendment or third party practice, by this date. THE PARTY CAUSING THE JOINDER SHALL PROVIDE A COPY OF THE SCHEDULING ORDER AT THE TIME OF SERVICE
2. ↓ **EXPERT WITNESS DESIGNATION.** Expert witness designations are required and must be served by the following dates. The designation must include the information listed in Rule 194.2(f). Failure to timely respond will be governed by Rule 193.6:
  - (a) 7/1/15 Experts for parties seeking affirmative relief.
  - (b) 8/1/15 All other experts.
3. **DISCOVERY LIMITATIONS.** The discovery limitations of Rule 190.2, if applicable, or otherwise, of Rule 190.3, apply, unless changed below:
  - (a) By Rules Total hours per side for oral depositions.
  - (b) By Rules Number of interrogatories that may be served by each party on any other party.
4. **ALTERNATIVE DISPUTE RESOLUTION.** ADR conducted pursuant to the agreement of the parties must be completed by this date. **If the parties do not agree on a date and/or facilitator for ADR, the Court may sign an order compelling ADR and appointing a mediator for same.**
5. 8/4/15 **DISCOVERY PERIOD ENDS.** All discovery must be completed before the end of the discovery period. Parties seeking discovery must serve requests sufficiently far in advance of the end of the discovery period that the deadline for responding will be within the discovery period. Counsel may conduct discovery beyond this deadline by agreement. Incomplete discovery will not delay the trial.
6. **DISPOSITIVE MOTIONS AND PLEAS.** Must be heard as follows:
  - (a) 8/3/15 Dispositive motions or pleas subject to an interlocutory appeal must be heard by this date.
  - (b) 8/3/15 Summary Judgment motions not subject to an interlocutory appeal must be heard by this date.
  - (c) 6/1/15 Rule 166a(i) motions may not be filed before this date.
7. 9/1/15 **CHALLENGES TO EXPERT TESTIMONY.** All motions to exclude expert testimony and evidentiary challenges to expert testimony must be filed by this date, unless extended by leave of court.
8. 8/4/15 **PLEADINGS.** All amendments and supplements must be filed by this date. This order does not preclude prompt filing of pleadings directly responsive to any timely filed pleadings.

02202015:1134:P0007



02202015:1134:PO008

9. Sept. 4, 2015 Noon JOINT PRETRIAL ORDER. Parties shall provide to the Court, by fax, email, or delivery to our offices, a copy of the signed Joint Pretrial Order by this date. Parties shall bring the original Agreed Joint Pretrial Order to the Pretrial Conference.

10. Sept. 11, 2015 10:00 AM PRETRIAL CONFERENCE. Parties shall be prepared to discuss all aspects of trial with the Court at this time. Parties shall file and exchange (if jury trial) proposed jury charge questions, instructions and definitions at this conference. Parties should be prepared to mark exhibits. Failure to appear will be grounds for dismissal for want of prosecution.

11. Sept. 14-18, 2015 TRIAL.

Signed this 19 day of February, 2015.

C. Auld  
Judge Presiding

Stan Stewart  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

FILED  
2015 FEB 20 AM 8:49

Party: Carole Brunsting Party: Andy Brunsting

Counsel Name: Darlene Payne Smith Counsel Name: Jason B. Ostrom  
SBN: 18643525 SBN: 24027710

Counsel Signature: [Signature] Counsel Signature: [Signature]  
Firm: Crain, Cator, James Firm: Ostrom Morris, PLLC  
Address: 1401 McKinney Address: 6363 Woodway Dr., Suite 300  
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Party: Amy Brunsting Party: Carl Brunsting

Counsel Name: Neal Spielman Counsel Name: Bobbie G. Bayless  
SBN: 00794678 SBN: 01940600

Counsel Signature: [Signature] Counsel Signature: [Signature]  
Firm: Griffin & Matthews Firm: Bayless + Stokes  
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PARTY: Anita Brunsting  
COUNSEL: Brad Featherston (24038892) 37  
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1155 Dairy Ashford Suite 104, Houston, TX 77079  
(0) 281-759-3213 (F) 281-759-3214 Email: brad@mendellawfirm.com

PROBATE COURT 4

DM

**DATA ENTRY  
PICK UP THIS DATE**

NO. 412,249-401

ESTATE OF § IN PROBATE COURT  
NELVA E. BRUNSTING, §  
DECEASED § NUMBER FOUR (4) OF  
§ HARRIS COUNTY, TEXAS  
§

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

**RESPONSE TO CANDACE'S  
MOTION FOR DISTRIBUTION OF TRUST FUNDS  
&  
RESPONSE TO CARL'S  
MOTION FOR DISTRIBUTION OF TRUST FUNDS**

Defendant Anita Kay Brunsting files this response to Candace Louise Curtis' Motion for Distribution of Trust Funds and this response to Carl Brunsting's Motion for Distribution of Trust Funds and would respectfully show the Court as follows:

**I. Summary of the Argument**

1. Distributions to pay legal-fee creditors are not authorized by the trust and, therefore, the motions must be denied.
2. Distributions to pay legal-fee creditors are prohibited by the trust and, therefore, the motions must be denied.
3. The Court lacks jurisdiction to decide the distributions for legal-fee creditor issue because there are no allegations of fraud, misconduct, or clear abuse of discretion with respect to Candace's and Carl's request that the trust pay their attorneys' fees.
4. **If the Court finds the *in terrorem* clause is enforceable, then Candace and Carl have no right to any distribution from the trust.**

12082014:1418:P0047

## **II. Argument & Authorities**

Candace and Carl seek distributions from the trusts to pay their creditor-attorneys.

Neither Candace nor Carl cite any provision in the trust instruments that would allow for the requested distributions. This is a tacit admission that such distributions are not authorized by the trust instruments.

Neither Candace nor Carl cite any legal authority that would allow for the requested distributions. This is a tacit admission that such distributions are not permitted by any legal authority.

Since there is nothing in the trust instruments or in any legal authority that allows the requested distributions, the motions must be denied.

### **A. The Brunsting Family Living Trust.**

With respect to distributions under the Brunsting Family Living Trust, the instrument provides:

#### **i. Distributions of Net Income**

Our trustee, in its sole and absolute discretion, shall pay to or apply for the benefit of [the beneficiary] as much of the net income from [the beneficiary's] trust share as our Trustee deems advisable for the health, education, maintenance and support of [the beneficiary], for [the beneficiary's] lifetime.

#### **ii. Distributions of Principal**

Our trustee, in its sole and absolute discretion, shall pay to or apply for the benefit of [the beneficiary] as much of the principal from [the beneficiary's] trust share as our Trustee deems advisable for the health, education, maintenance and support of [the beneficiary], for [the beneficiary's] lifetime.<sup>1</sup>

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<sup>1</sup> Exhibit 1, Restatement of the Brunsting Family Living Trust, pages 10-1 to 10-12.

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Furthermore, the trust instrument prohibits the trust from being charged with a beneficiary's

debt:

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.<sup>2</sup>

Finally, the trust instrument provides:

All trusts created under this agreement shall be administered free from the active supervision of any court.<sup>3</sup>

**B. The Qualified Beneficiary Designation.**

With respect to distributions under the Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement ("QBD"), the instrument provides:

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 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 Trustee shall deem appropriate for such distributees' health, support, maintenance, and education.<sup>4</sup>

Furthermore, the QBD contains spendthrift provisions that prohibit the requested distribution:

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<sup>2</sup> Exhibit 1, Restatement of the Brunsting Family Living Trust, page 11-1.

<sup>3</sup> Exhibit 1, Restatement of the Brunsting Family Living Trust, page 4-5.

<sup>4</sup> Exhibit 2, Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement, pages 7-8.

[N]either the principal of these trusts nor any income of these trusts shall be liable for any debt of any beneficiary.<sup>5</sup>

The QBD stated purpose includes:

- (1) To protect trust assets and income from claims of and interference from third parties; and
- (2) To protect the beneficiary against claims of third parties.<sup>6</sup>

Finally, the QBD states:

It is the Trustor's intent that the terms of the Trust Agreement be carried out free from outside interference. Therefore, 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.<sup>7</sup>

**C. Attorneys Fees are not "Health, Education, Maintenance and Support."**

Under both the Brunsting Family Living Trust and the QBD, the distributions are: (1) subject to the sole and absolute discretion of the trustee; and (2) as the trustee deems advisable for the health, education, maintenance and support of a beneficiary. Carl's and Candace's attorneys' fees

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<sup>5</sup> Exhibit 2, Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement, page 25.

<sup>6</sup> Exhibit 2, Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement, pages 5-6, ¶¶ 4 and 10.

<sup>7</sup> Exhibit 2, Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment Under Living Trust Agreement, page 25.

sought in their motion are not for their health, education, maintenance and support.<sup>8</sup> Accordingly, the requested distributions are not authorized by the trust.

**D. The Requested Distributions Violate the Spendthrift Provisions.**

The spendthrift provisions plainly state they are designed to prevent interference and claims of third parties. Candace's and Carl's attorneys are third parties. When the spendthrift provisions of the trust and the *in terrorem* provisions are analyzed together, it becomes abundantly clear that the trust was not intended to pay Candace's and Carl's attorneys fees in this case. Accordingly, the requested distributions are prohibited by the trust.

**E. There is No Justiciable Case or Controversy with Respect to the Request Distribution.**

In the case of *Di Portanova v. Monroe*, the First District Court of Appeals explained:

Under a discretionary trust, the beneficiary is entitled only to the income or principal that the trustee, in his discretion, shall distribute to the beneficiary. The beneficiary of a discretionary trust cannot compel the trustee to pay him or to apply for his use any part of the trust property, nor can a creditor of the beneficiary reach any part of the trust property until it is distributed to the beneficiary. A court cannot substitute its discretion for that of a trustee, and can interfere with the exercise of discretionary powers only in cases of fraud, misconduct, or clear abuse of discretion.

A court of equity has no right to interfere with and control, in any case, the exercise of a discretionary power, no matter in whom it may be vested; a corporate body or individuals, the aldermen of a city, the directors of a bank, a trustee, executor or guardian; and I add, that meaning and principle of the rule, and the limitations to which it is subject, are in all the cases to which it applies, exactly the same. The meaning and principle of the rule are, that the court will not substitute

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<sup>8</sup> Although defendant was unable to find a case directly on point, the case of *Tedder v. Gardner Aldrich, LLP*, 421 S.W.3d 651 (Tex. 2013) appears instructive. The Texas Supreme Court held that attorneys fees in a divorce proceeding were not "necessaries." Defendant recognizes that there is a difference between "necessaries" and the HEMS standard, but nevertheless believes the HEMS standard would not include plaintiffs legal fees in the case at bar.

its own judgment for that of the party in whom the discretion is vested, and thus assume to itself a power which the law had given to another[.]

In the absence of evidence of mala fides, the courts are disinclined to interfere where the trustee has been given discretionary powers . . . . The court will refuse to review his decision in the absence of a showing that he did not exercise his discretion in good faith or that his decision was unreasonable; for the trustee in such case stands in the position of an arbitrator.<sup>9</sup>

The First District Court of Appeals ultimately held that the ultimate issue decided by the trial court did not present a justiciable controversy for the trial court to resolve because the issue should have been left to the Trustees' discretion.<sup>10</sup>

Here, Candace and Carl ask this Court to usurp the powers of the trustees and substitute the court's discretion for that of the trustees in violation of the trust. The Court has no jurisdiction to make such determination, because there is no justiciable controversy for the trial court to resolve. There is no allegations of fraud, misconduct, or clear abuse of discretion with respect to Candace's and Carl's request that the trust pay their attorneys' fees.<sup>11</sup> Even if Candace and Carl made such allegations, there is no evidence to support such allegations.

**F. No Contest Clause - Carl and Candace May Not Have An Interest.**

Both Carl and Candace appear to concede that they have violated the trust's *in terrorem* clause. Both filed a declaratory judgment action asking this Court to rule that the trust's *in terrorem* clause is overly broad, against public policy, and not capable of enforcement, but neither challenges

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<sup>9</sup> *Di Portanova v. Monroe*, 229 S.W.3d 324, 330-331 (Tex. App.—Houston [1st Dist.] 2006, pet. denied)(internal citations omitted).

<sup>10</sup> *Id.* at 331.

<sup>11</sup> *See* Candace's Motion and Carl's Motion.

that their acts to date violated the *in terrorem* clause.<sup>12</sup>

If it is determined that the trust's *in terrorem* clause is capable of enforcement, then Carl and Candace do not have an interest in the trust.

If Carl and Candace do not have an interest in the trust, then there is no right to a distribution. Thus, until the Court resolves the *in terrorem* clause issues, there cannot be distributions to Carl and Candace. Furthermore, even if the *in terrorem* clause issues are resolved in favor of Carl and Candace, the requested distributions cannot be made for the reasons discussed above.

### **III. Prayer**

For these reasons, Defendant Anita Kay Brunsting prays that Candace's and Carl's motion for distribution of trust funds be denied and that Defendant Anita Kay Brunsting receive all other relief, general and special, legal and equitable, to which she or the trust may be entitled.

Respectfully submitted,

/s/ Brad Featherston

---

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Bradley E. Featherston (24038892)  
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stephen@mendellawfirm.com  
brad@mendellawfirm.com

Counsel for Anita Kay Brunsting  
In Capacities at Issue

---

<sup>12</sup> Exhibit 3, Carl's First Amended Petition; Exhibit 4, Candace First Amended Petition.



12082014:1418:P0054

## Certificate of Service

I certify that a true and correct copy of the foregoing instrument was served on the following:

Jason B. Ostrom  
Ostrom.Sain, LLP  
5020 Montrose Blvd., Suite 310  
Houston, Texas 77006  
O: 713-863-8891  
F: 713-863-1051

Attorney for Candace Louis Curtis

Bobbie G. Bayless  
2931 Ferndale  
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F: 713-522-2218  
Bayless@baylessstokes.com

Attorney for Carl Henry Brunsting,  
Individually and as Independent Executor of  
the Estate of Elmer H. Brunsting and  
Nelva E Brunsting

Darlene Payne Smith  
1401 McKinney, 17TH Floor  
Houston, Texas 77010  
O: 713-752-8640  
F: 713-425-7945

Attorney for Carole Ann Brunsting

Amy Ruth Brunsting  
2582 Country Ledge  
New Braunfels, Texas 78132  
Pro Se

via e-service or telefax on December 5, 2014, to Jason B. Ostrom, Bobbie G. Bayless, and Darlene Payne Smith, and by email to Amy Ruth Brunsting.

/s/ Brad Featherston

---

Bradley E. Featherston

**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

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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	private
CAROL ANN BRUNSTING	private
CARL HENRY BRUNSTING	
AMY RUTH TSCHIRHART	
ANITA KAY RILEY	

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

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during our lives, from either of us, or both, or from an exercise of a power of appointment by a trust beneficiary or otherwise.

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## 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

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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.

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## 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.

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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:

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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

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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.

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## 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.

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**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:



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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

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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.

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## 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

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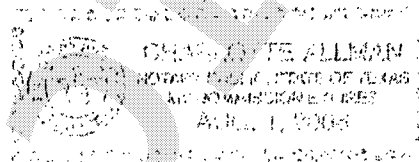
THE STATE OF TEXAS

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





**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 herecin, 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*  
NELVA E. BRUNSTING,  
Founder and Beneficiary

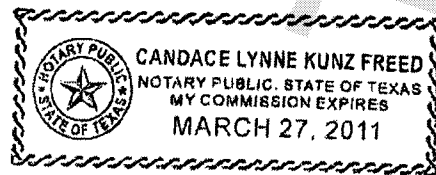
**ACCEPTED** and effective on August 25, 2010.

*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



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EXHIBIT 3

NO. 412.249-401

PROBATE COURT 4

ESTATE OF	§	IN	PROBATE	COURT
NELVA E. BRUNSTING,	§	NUMBER	FOUR (4)	OF
DECEASED	§	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,  
 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 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

NUMBER FOUR (4) OF

HARRIS COUNTY, TEXAS

FILED  
 2013 JUN -7 PM 4:20  
 Stan Stewart  
 COUNTY CLERK  
 HARRIS COUNTY, TEXAS

**FIRST AMENDED PETITION FOR DECLARATORY JUDGMENT,  
 FOR AN ACCOUNTING, FOR DAMAGES, AND FOR  
 IMPOSITION OF A CONSTRUCTIVE TRUST**



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. Anita has made an appearance in this action and may be served through her counsel of record. 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").



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4. Defendant Amy Ruth Brunsting f/k/a/ Amy Ruth Tschirhart ("Amy") is Carl's sister. Amy has made an appearance in this action and may be served through her counsel. 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 has made an appearance in this action and may be served through her counsel. 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. Candy has waived service of citation. 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.

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

8/25/10 QBD

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



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VI.

**Demand for Trust Accounting**

24. The Current Trustees 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. Neither the Current Trustees nor Carole have provided any accounting of the bank account on which Carole was a joint signatory with her mother.

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. Anita and Amy 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 had fiduciary duties to Plaintiff, because of the position of trust she held with her elderly parents and her brother and also because she was a signatory on Nelva's bank 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



RELATIONSHIP TRUSTS

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' actions described herein, Plaintiff has been damaged. Because Defendants' actions were committed willfully and maliciously, Plaintiff also requests that exemplary damages be awarded against Defendants. Plaintiff seeks monetary relief over \$1 million.

#### VIII.

##### Conversion

29. Plaintiff owned, possessed, or had the right to possession of certain personal property, including, but not limited to, stock, accounts at financial institutions, contents of a safe deposit box, and savings bonds over which Defendants wrongfully exercised dominion or control.

30. Plaintiff has suffered damages as a result of Defendants' actions. Because Defendants' conversion was committed willfully and maliciously, Plaintiff also request that exemplary damages be awarded against Defendants. Plaintiff seeks monetary relief over \$1 million.

IX.

**Tortious Interference with Inheritance**

31. Defendants' actions also constitute tortious interference with Carl's inheritance rights.

Through duress, manipulation, and outright deception, Defendants obtained valuable assets which would have otherwise passed by inheritance, thus preventing Carl from receiving what he would otherwise have received from his parents' estates.

32. Carl has been damaged as a result of Defendants' actions. Defendants' actions were committed willfully, maliciously, and with the intent to conceal the true nature of the estate and the trusts, all to Carl's detriment. Accordingly, Carl also requests that exemplary damages be awarded against Defendants. Carl seeks monetary damages in excess of \$1 million.

X.

**Constructive Trust**

33. 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.

**XI.**

**Fraud**

34. On information and belief, Plaintiff alleges that Defendants made material, false representations to Nelva concerning the actions which were being taken with regard to her assets and the Family Trust, as well as the rights, responsibilities, and changes that were being made to the Family Trust. It is also believed that Defendants misled Nelva about the impact those changes would have, both on Nelva's assets and interest in the Family Trust and on Nelva's wishes concerning the disposition of her estate. Defendants knew the representations were false when they were made, or at the very least, Defendants made the representations recklessly. The representations were made by Defendants with the intent that Nelva act on them. Nelva relied on those representations, and as result, Plaintiff suffered injury.

35. Plaintiff has been damaged as a result of Defendants' actions. Because Defendants' actions were made willfully and maliciously, Plaintiff also requests that exemplary damages be awarded against Defendants. Plaintiff seeks monetary relief over \$1 million.

**XII.**

**Civil Conspiracy**

36. Defendants combined to accomplish the unlawful objectives of facilitating the breach of duties to Plaintiff and interference with Plaintiff's rights, as well as the commission of fraud and fraudulent concealment. Defendants had a meeting of the minds on the object or course of action, and all of the Defendants committed unlawful overt acts to further the conspiracy. Such actions by Defendants amount to a civil conspiracy.

37. Plaintiff has been damaged as a result of Defendants' actions. Defendants' actions in furtherance of the civil conspiracy were taken willfully and maliciously, all to the detriment of

Plaintiff. Accordingly, Plaintiff also requests exemplary damages. Plaintiff seeks monetary damages in excess of \$1 million.

**XIII.**

**Fraudulent Concealment**

38. Plaintiff was not aware of Defendants' wrongful actions because Defendants took affirmative steps to deceive Nelva and Carl and to conceal their wrongful actions from Nelva and Carl. Upon information and belief, such deception included misleading Nelva about what was being done, what she was being asked to sign, why she was being asked to sign it, what would happen if she signed it, and the status of her assets. Carl was not given any information concerning the actions being taken by Defendants. As a result of this affirmative deception by Defendants and Nelva and Carl'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. In fact, Plaintiff still does not know the full extent of his claims.

**XIV.**

**Discovery Rule**

39. 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**

40. Tex. Civ. Prac. & Rem. Code Ann. §16.062 tolls the limitations period for Plaintiff because of Elmer and Nelva's deaths.

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XVI.

Conditions Precedent

41. 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

42. Plaintiff is also entitled to prejudgment interest on his claims.

XVIII.

Request for Attorneys' Fees

43. 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.

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: 

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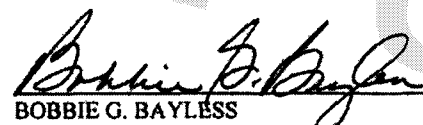
*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing instrument was forwarded to counsel of record via Telecopier on the 7<sup>th</sup> day of June, 2013, as follows:

Maureen Kuzik McCutchen  
George W. Vie, III  
2228 Mechanic, Suite 400  
P.O. Box 1943  
Galveston, TX 77553

Darlene Payne Smith  
Crain, Caton & James, P.C.  
1401 McKinney, 17<sup>th</sup> Floor  
Houston, TX 77010

  
BOBBIE G. BAYLESS

UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF TEXAS

EXHIBIT 4

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

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.

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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

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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

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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

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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  
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(TBA #24027710)  
NICOLE K. SAIN THORNTON  
(TBA #24043901)  
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Houston, Texas 77006  
713.863.8891  
713.863.1051 (Facsimile)

Attorneys for Plaintiff

12082014:1418:P0201

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

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ESTABLISHED 1846

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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

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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

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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 Rikkens 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,

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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