

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

CARL HENRY BRUNSTING §
V. §
ANITA KAY BRUNSTING & §
AMY R. BRUNSTING, Et Al §

**Agreed Emergency Motion for Authority for the Co-Trustees to
Pay the Tenant Farmer & Consolidate
& Distribute Certain Assets**

Carl Brunsting, Carole Brunsting, and the Co-Trustees, Anita Brunsting and Amy Brunsting (collectively the “Beneficiaries”), file this motion for authority for the Co-Trustees to perform the actions set forth herein.

The Beneficiaries respectfully request that the relief sought herein be granted on an expedited basis and without the necessity of an oral hearing, and that relief also be granted on or before December 15, 2022, so that the actions referenced herein can be achieved before December 31, 2022. In particular, funds are needed to be disbursed for the Iowa Farm. In addition, the Co-Trustees have been informed that Carl Brunsting needs extensive dental work and, thus, he needs without undue delay the funds referenced in this motion.

I. Procedural Status

1.01. The Brunsting Family Trust, which includes the Nelva E. Brunsting Survivor’s Trust (“Survivor’s Trust”) and the Elmer H. Brunsting Decedent’s Trust (“Decedent’s Trust”), are three (3) of several trusts (collectively the “Trust”) subject to this Court’s jurisdiction.

1.02. On February 25, 2022, the Court granted the Co-Trustees motion for summary judgment, which found the plaintiff, Candace Curtis (“Curtis”), forfeited her interest as a beneficiary under the Trust. As such, the term “Beneficiaries” as used herein does not include Curtis. The term “Beneficiary” means Carl Brunsting, Carole Brunsting, Amy Brunsting, or Anita Brunsting, as determined by the context.

1.03. As a forfeited devisee, Curtis has no standing to challenge the relief sought by this motion.

II. The Iowa Farm

2.01. Decedent's Trust owns approximately 145 acres (+/-) of farm land in Sioux County, Iowa (the "Farm"). Subject to Court approval, the Farm needs to be sold, distributed, or a combination of both, in order to conclude the pending litigation, close the probate, and close the trust administration. Subject to the timing of rulings by this Court, the target date to close a sale of the Farm is January or February 2023.

2.02. The current Farm lease expires February 28, 2023. In order to maintain the quality of the land for farming purposes and the benefit of the future buyer for the 2023 harvest season, it is necessary that certain soil preparation occur at this time. The current tenant/farmer is willing to perform such work, provided he is reimbursed the cost of same, which is the sum of \$27,350.00. The failure to perform the soil preparation for the next harvest season could impair the price per acre for which the Farm might sell.

2.03. The Parties consider the payment of the soil preparation to be a reasonable and necessary expense and seek Court approval for the Co-Trustees to pay from the Decedent's Trust the sum \$27,350.00 for the soil preparation work.

III. Consolidation of Liquid Assets

3.01. Both the Decedent's Trust and the Survivor's Trust have certain assets held with Bank of America, Edward Jones, and an entity known as Computershare. As this case moves closer and closer towards conclusion, the Co-Trustees desire to start the process to consolidate certain assets into the Bank of America and/or Edward Jones accounts, and away from the Computershare accounts, and to liquidate certain assets for purposes of a preliminary distribution agreed by the Parties.

3.02. The Computershare assets to be transferred to Edward Jones are two (2) large Exxon accounts¹ and one (1) large Chevron account.² The Computershare accounts to be sold and, therefore, closed are eight (8) small accounts, five (5) accounts with values of \$1,500.00 or less, and with the largest account worth approximately \$10,500.00.³ The aggregate value of the stocks to be sold is approximately \$26,000.00 (+/-).

IV. Partial Distribution

4.01. On January 6, 2022, the Court authorized the Co-Trustees to distribute \$100,000.00

¹ Computershare accounts ending in 6261 and 6287.

² Computershare account ending in 9423.

³ Computershare accounts to close would be Brighthouse Financial (\$400 (+/-)); MetLife (\$7,100 (+/-)), John Deere (\$4,500 (+/-)), and three Chevron and two Exxon accounts collectively worth \$14,000.00 (+/-).

to Carole Brunsting. No other Beneficiary received a distribution at that time.

4.02. In early April 2022, Bruse Loyd, Carole Brunsting's attorney, confirmed that Carole Brunsting had no objection to Carl Brunsting, Amy Brunsting, and Anita Brunsting receiving a \$100,000.00 distribution, so that these three (3) Beneficiaries would receive the same benefit that Carole Brunsting received.

4.03. The Co-Trustees desire to make an initial \$30,000.00 distribution to Carl Brunsting, Amy Brunsting, and Anita Brunsting towards the \$100,000.00 "true-up." The payment of this partial distribution per Beneficiary would come from approximately \$71,964.00 in Farm income for calendar year 2022, plus the liquidation of the assets referenced above, plus the sale of such other assets, if any, or a bank withdrawal, if any, as necessary for this initial \$30,000.00 per Beneficiary distribution towards the \$100,000.00 true-up.

Prayer

Carl Brunsting, Carole Brunsting, and the Co-Trustees request that the Court:

- A. Authorize the Co-Trustees to pay from the Decedent's Trust \$27,350.00 to the tenant/farmer for the land preparation to maintain the value of the Iowa Farm for the 2023 harvest season.
- B. Authorize the Co-Trustees to liquidate the Computershare stocks, or transfer the Computershare stocks to Edward Jones, as referenced in this motion.
- C. Approve the Beneficiaries' agreement that Carl Brunsting, Amy Brunsting, and Anita Brunsting shall each receive \$100,000.00 as an initial distribution from the Trust, to match the \$100,000.00 distribution already received by Carole Brunsting.
- D. Authorize the Co-Trustees to pay \$30,000.00 each to Carl Brunsting, Amy Brunsting, and Anita Brunsting as an initial distribution towards the \$100,000.00 per Beneficiary distribution each of them is receive under the Beneficiaries' agreement.
- E. Grant the Beneficiaries such other and further relief, general and special, legal and equitable, to which they may be entitled to receive.

[SIGNAGURES ON FOLLOWING PAGE]

Respectfully submitted, // s // Stephen A. Mendel	Respectfully submitted, // s // Neal E. Spielman
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Certificate of Conference

As indicated in the motion, the only parties with standing to agree or oppose this motion are Carl Brunsting, Carole Brunsting, and the Co-Trustees, Anita Brunsting and Amy Brunsting (collectively the “Beneficiaries”).

By his electronic signature below, the undersigned certifies that he communicated with the parties with standing and the relief sought herein is agreed.

// s // Stephen A. Mendel

Stephen A. Mendel

Certificate of Service

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

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via eService, email, telefax, or first-class mail, on this December 2, 2022.

// s // Stephen A. Mendel

Stephen A. Mendel