

TAB 5

2. The parties shall have ten (10) days from the entry of this order in which to file any objections to the appointment of West. Any such objection(s) may include a request for a hearing.

3. West's duties are to undertake an analysis of the Brunsting Trust, including, but not limited to, its books and records and thereafter create an accounting of the income and expenses of the trust since December 21, 2010. In order to aid in West's performance of said duties, the parties shall comply with all of West's reasonable requests for information and/or assistance.

4. West shall be authorized to communicate *ex parte* with the Court or any of the parties.

5. West shall complete his investigation and submit his report(s) directly to the Court by July 31, 2013 or on such other date(s) as the permitted by the Court. West will provide copies of the report(s) to other parties only as directed by the Court. The report shall contain a summary of the activities undertaken by West, the detailed accounting information described in paragraph 3 above, and an invoice for all of West's compensation, expenses, and attorneys' fees. West shall retain all files related to his investigation for a period of 3 years after the submission of his final report(s).

6. West shall be compensated at an hourly rate of \$260.00 and any staff working directly under his supervision will be charged at their regular rates (staff rates are currently \$95.00-\$230.00 per hour). West shall also be entitled to recover all expenses and attorneys' fees incurred and related to his appointment by the Court. The parties shall bear the cost of West's compensation, expenses, and attorneys' fees. The Court shall have the right to allocate all such compensation, expenses, and attorneys' fees as appropriate, and regardless of any such allocation West shall be entitled to recover all of his compensation, expenses, and attorneys' fees from the Brunsting Trust, and shall be entitled to payment of all such compensation, expenses, and attorneys' fees directly from the Brunsting Trust immediately upon the completion of his work.

7. West shall be granted all of the powers and authority proscribed in Rule 53(c) of the Federal Rules of Civil Procedure.

8. West has been appointed to prepare his report(s) for the Court and not for any of the parties. Therefore, West is accountable only to the Court. As such, West is entitled to and hereby granted the same judicial immunity as this Court itself, and West shall not be responsible to any party provided his report is made in good faith. Further, in the event that any claims are asserted against West related to his appointment, investigation, and/or preparation of his report(s), West shall be entitled to a defense and indemnity, to be allocated and funded in the same manner as his compensation described in paragraph 5 above.

SIGNED on this 9th day of May, 2013.



THE HONORABLE KENNETH M. HOYT,
UNITED STATES DISTRICT JUDGE