

STATE OF SOUTH CAROLINA
In the Court of Appeals

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Jul 07 2022

SC Court of Appeals

Appeal from Richland County
Court of Common Pleas

The Honorable Clifton B. Newman, Circuit Judge

Appellate Case No. 2021-000518

Adele J. Pope..... Appellant,

v.

Alan Wilson, in his capacity as Attorney General of South Carolina,
.....Respondent.

**APPELLANT'S RETURN AND OPPOSITION TO RESPONDENT'S MOTION
TO STRIKE INITIAL REPLY BRIEF**

Appellant Adele J. Pope ("Appellant") opposes the motion of Respondent Alan Wilson, in his capacity as Attorney General for South Carolina ("Respondent") to strike her Initial Reply Brief. The grounds for Appellant's opposition are set out below.

Background and Summary of Appellant's Position

At the time Appellant made her June 30, 2011 Freedom of Information Act ("FOIA") request to the Attorney General of South Carolina ("AG"), the AG had "effectively obtained control over the bulk of Brown's assets and ha[d] given his office unprecedented authority to oversee the affairs of the parties." *Wilson v. Dallas*, 403 S.C. 411, 446, 743 S.E.2d 746 (2013).

The AG is the State's highest legal officer and is charged with the enforcement of the FOIA. At the time Appellant made the FOIA request which is the subject of this action, the *Public Official's Guide to Compliance with South Carolina's Freedom of Information Act* was prefaced by a letter in which AG Wilson states that the AG's Office uses and recommends the following FOIA guidelines:

When in doubt, disclose requested information

...

When in doubt, release the document (p.1) [Complaint, p. 6]

Nearly twelve years ago, the AG represented to the Supreme Court, in the case that would later result in the *Wilson* decision, that an appraisal was expected in September 2010, and "a preliminary report indicates that the date-of-death value of the Estate and Trust will not exceed Twelve Million (\$12,000,000) Dollars." [Return to Appellants' Request for Extension of Time, *Wilson*, dtd. 8/23/10] After the valuation arrived, purporting to value James Brown's music empire at approximately \$4.7 million, counsel for James Brown's Estate and Trust emailed members of the AG's office, suggesting that the value not be disclosed until Appellant and Robert L. Buchanan, Jr. ("Buchanan") would have no opportunity to address it in their briefs. [Email of Wilkins, dtd. 12/17/10, **Exhibit A**]

Shortly after the purported \$4.7 million value was disclosed for the first time, the AG and others used it to accuse Appellant and Buchanan of having committed a federal felony. [Complaint, Richland 4900]

After the South Carolina Supreme Court admonished the AG for his conduct in its initial opinion in *Wilson*, the AG petitioned for rehearing. His petition includes

the following reference to the then-pending FOIA cases (including this one):

First of all, the Attorney General has not “refused to publicly release all of the documents pertaining to this purported arrangement.” The Attorney General is a strong believer in FOIA and routinely advises public officials that “when in doubt, disclose.” In this instance, we have released everything in our possession which we legally can release. One document is the subject of a Motion for Protective Order, pending before Judge Manning. We certainly have no objection to the release of that document and have so advised the Court that we stand ready and willing to turn that document over once the Court so rules. We hope to have a resolution of this issue in the near future. [AG’s Petition for Rehearing, *Wilson*, dtd. March 14, 2013]

Shortly thereafter, the AG’s private counsel sought and obtained a 3-year *de facto* stay of Richland 4900 and Appellant’s FOIA cases. [Ltr. of Gende to Manning, dtd. 5/10/13]

In May 2016, a hearing was finally held on this 2011 FOIA case, after which the lower court dismissed the case based on its finding that Richland 4900 discovery proceedings superseded Appellant’s FOIA rights. Appellant appealed, and on June 19, 2019, this Court reversed the lower court’s order and remanded the matter. *See Pope v. Wilson*, Op. No. 2019-UP-219 (Ct. App. June 19, 2019).

This Court’s Opinion quoted from a letter of Assistant AG Tracey Meyers suggesting that the AG had not received the June 30, 2011 FOIA request, which the AG had relied on in support of his additional sustaining ground that the lower court had lacked subject matter jurisdiction. Despite quoting from the letter, this Court declined to discuss the AG’s additional sustaining ground.

On remand, the AG again argued that the lower court lacked jurisdiction over this FOIA matter based on the affidavit of AG Meyers, in which she alleges that *she* had not received the FOIA request and could not find an indication in the office’s

mail or delivery log that it had arrived at the AG's office. The lower court again dismissed this FOIA case based on its finding that it lacked subject matter jurisdiction, and Appellant was again forced to appeal to this Court.

In the course of this appeal, the AG has moved to strike every version of every brief filed by Appellant. Although the Court struck Appellant's initial brief, it declined to strike her Amended Initial Brief based on the AG's erroneous assertions that various documents were not in the record or proper for judicial notice.

Now the AG brings its third motion to strike, further delaying this FOIA case in an attempt to edit Appellant's Reply Brief by using the specious argument that any fact not previously mentioned is a new "issue" on reply and, in some instances, seeking to excise from Appellant's Reply Brief true statements that the AG does not like.

Although Appellant's counsel gave a complete, well-documented and time-intensive response when the AG raised his concerns, he has nonetheless proceeded to file the instant motion asking this Court to allow the AG to edit Appellant's FOIA brief to his liking. [See **Exhibit B**, Ltr. of Silvernail to Smith, dtd. 6/23/22]

This FOIA case has now been pending for more than 11 years. To the undersigned's knowledge, this is the longest-pending FOIA case in the State of South Carolina. Appellant respectfully asks that the Court deny the AG's unnecessary and inappropriate motion to strike, so this matter may proceed to the filing of the Record; filing of Final Briefs; and, ultimately, a final disposition before it becomes the oldest FOIA case in the nation.

I. Appellant's citations to the Motion to Alter, Amend and/or Vacate the lower court's order are proper under the applicable Rules.

The AG complains that Appellant may not cite her Motion to Alter, Amend and/or Vacate the lower court's final order in this case as support for any statement in her Reply Brief. The AG cites no Rule in support of his argument, instead citing to caselaw which stands for the proposition that statements within a non-sworn filing are not *evidence*. See *Harper v. Bolton*, 239 S.C. 541, 124 S.E.2d 54 (1962). The *South Carolina Appellate Court Rules*, however, use a different standard.

Rule 208(4) requires that briefs contain references to "the transcript, pleadings, orders, exhibits or other materials which may be properly included in the Record on Appeal. Rule 210(c) excludes only "matter which was not presented to the lower court or tribunal" from inclusion in the Record. The motion cited was undisputedly presented to the lower court.

The motion in question contains quotes and excerpts from filings and testimony. To the extent the AG believes that the motion does not carry significant weight, Appellant submits that his belief does not justify striking any portion of Appellant's Initial Reply Brief. This Court can ably assess the weight of the support for any fact alleged in this appeal. Appellant notes that no live testimony has been presented in this case, and the AG has since 2011 moved to strike virtually every affidavit filed by Appellant (both her own and those of journalists, members of the public, attorneys and at least one legislator). The statements cited to the Motion to Alter, Amend and/or Vacate properly demonstrate the information and arguments placed before the lower court and should not be stricken.

II. The January 20, 2012 letter of Mark V. Gende, Esquire, and the AG's Motion to Consolidate support Appellant's statement which cites to them.

The AG understandably dislikes Appellant's statement that "AG Meyers, other AG staff, [law firm Sweeny,] Wingate [and Barrow, P.A.] and Bauknight became deeply involved in preventing the release of public documents under the FOIA," but that is no basis for striking the statement. Appellant cites the January 20, 2012 letter of Mark V. Gende, Esquire (a member of Sweeny, Wingate and Barrow, P.A. ("SWB")), which was acting as private counsel to the AG) to Attorney General Alan Wilson, with copies to AG Meyers, two other members of the AG's staff, and Russell L. Bauknight. In that letter, Mr. Gende advises, as the AG's attorney, that the AG not release public documents under the FOIA *during the pendency of this case*. Among other reasons, Mr. Gende urged the AG not to comply with FOIA because of Mr. Gende's opinion that doing so would "jeopardize the rights of your co-litigants." Those would be Mr. Bauknight and other private plaintiffs in Richland 4900, who along with the AG were clients of SWB. It is unknown whether any member of the AG's office responded to this letter, but shortly thereafter, the AG moved to consolidate this FOIA case with Richland 4900 (in which SWB was sole counsel of record for the AG). Mr. Gende's letter is attached as **Exhibit C**.

The instruction of SWB, a private law firm, to the AG not to comply with the FOIA was sent to the AG himself, as well as AG Meyers and other AG staff. Nonetheless, the AG moved, through a member of his own staff, to consolidate this FOIA case with the private tort suit in which it was then represented by SWB. Appellant submits that these documents fully support her statement, and the AG

identifies no basis for striking the statement or citation.

III. The second sentence on Page 14 of Appellant's Reply Brief is cumulative and summary of cited material above and below it.

As Appellant's counsel noted in a letter to the AG (**Exhibit A**), this sentence is simply a bridge between specific statements, with citations, made above and below it. While the AG refers to Rule 208(b)(4)'s requirement that a brief must contain references to materials that may be included in the ROA, Appellant submits that her brief is fully compliant with this Rule. Nowhere in the Rules does it say every sentence must be followed by a citation, and Appellant notes that the AG's Initial Brief contains sentences which include no citation to legal authority or to the record. Appellant has not complained about that, because she acknowledges the AG complied with the Rules in preparing his Initial Brief.

The sentence in question is proper, summarizes and prefaces more detailed and cited statements, and is appropriately included in the Initial Reply Brief.

IV. Appellant introduced no new issues or arguments in her Initial Reply Brief.

The AG objects to several factual allegations in Appellant's Initial Reply Brief on the specious basis that they somehow constitute new "issues." Although the AG cites caselaw holding that new "issues" may not be introduced on reply, he goes on to pronounce, with no cited authority, that "the above limitations include new 'arguments' and 'matters' as well as issues." [Motion at 5] No authority provides that a reply brief cannot mention facts or cite to documents not cited in the brief-in-chief, and Appellant has provided the facts and citations necessary to respond to the AG's brief.

As set out in the Initial Reply Brief and in the affidavit of Appellant filed herewith, the factual context for this FOIA case is extensive. Although the AG has repeatedly complained that contextual facts are irrelevant to this FOIA case, he has simultaneously argued that matters in other proceedings related to the Estate and Trust of James Brown deprived Appellant of having rights under the FOIA. This Court found in the previous appeal in this case that the AG was wrong.

Now the AG, following his pattern in this case, simply seeks to edit out material which is embarrassing to the Office of the Attorney General. He does not and could not assert that any of the allegations complained of were not presented to the lower court; all were. Instead, he has fabricated an argument based on caselaw that explicitly does not support his position -- that contextual facts must have already been stated to be used on reply. The AG's disappointment that "he does not have an opportunity to respond" is no basis for striking any portion of the Initial Reply Brief. [Motion at 5] The Rules provide for appellants to file reply briefs; they do not provide for further responses.

The AG appears to acknowledge that none of the allegations he complains of are "issues," when he notes "none of the above parts are relevant to this Court's deciding the issues in this appeal." [Motion at 5] While Appellant disagrees that any matter in her briefs is irrelevant, the AG makes clear that he knows none of the listed items are "issues" and, further, suggests none of them is important to this Court's consideration of this appeal. He has nonetheless taken the rather extraordinary step of moving to strike the Initial Reply Brief, further delaying this aging FOIA case. The motion to strike should be denied.

V. Appellant does not object to including the additional documents noted in the AG's motion in the Record on Appeal herein.

Although the documents the AG wishes to add to the Record on Appeal herein do not affect the truth of the statements in Appellant's Initial Reply Brief, she has no objection to including those documents in the Record on Appeal herein.

Conclusion

For the foregoing reasons, Appellant submits that this Court should deny Respondent's motion in its entirety; accept Appellant's Initial Reply Brief as filed; and allow this 11-year-old FOIA case to proceed. This return is based on the Exhibits filed herewith, Appellant's Affidavit and exhibits which are filed herewith, and the entire record in this case.

Respectfully submitted,

s/Adam T. Silvernail
Adam T. Silvernail (Bar No. 80219)
Law Office of Adam T. Silvernail, LLC
1905 Marion Street (29201)
Post Office Box 7995
Columbia, South Carolina 29202-7995
(803) 779-1770
adam@silvernaillawfirm.com

Counsel for Appellant

July 7, 2022

EXHIBIT A

Law Office of
ADAM T. SILVERNAIL
LLC

June 23, 2022

Via email only:

J. Emory Smith, Jr., Esquire
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
esmith@scag.gov

Re: *Pope v. Wilson*
Appellate Case No. 2021-000518

Dear Emory:

In an effort to ensure a complete response to your separate emails on this subject, I have compiled below the items you raised. Your matters/questions are in bold, with my response below each.

I do not believe any item you raise justifies amendment of our Reply Brief, and I hope the AG will not burden the Court or delay this FOIA case, which will be 11 years old in August, with another unnecessary motion to strike.

- 1. Your citation in support of your quotation or 9-9-11 FOIA request and Meyer's response on p. 7 of your brief is actually to a letter from Pope to Meyers of 10-5-21. I have concern that the 10-5-21 letter is not admissible evidence of the Sept. request and response.**

This was previously referred to on p. 3 of our Amended Initial Brief. The letters referenced are exhibits to the Affidavit of Mrs. Pope, dated January 6, 2012. That affidavit and attachments are a part of the record below in this case, and the citation is properly to Mrs. Pope's letter which includes the material quoted. Admissibility and the weight of this evidence in support of our position is a matter for the Court to ably consider; there is no Rule or case that I can locate which allows for the litigation of admissibility as a prerequisite to including matter which was undisputedly "presented to the lower court" in this case.

- 2. No citation to Record in Support of next to last para. On p. 11**

This is an introductory statement, the substance of which is restated and cited in the following paragraph, which cites to Judge Griffith's Orders, as attached to Mrs. Pope's affidavit, dated October 27, 2020.

3. To which Complaint(s) are you referring on pp. 8 & 9 of the reply.

The only time I see the word “complaint” on page 8 is in the citation to “Affid. Pope in Further Support of all Relief Req. Complaint.” Although this citation is to that document rather than the complaint, the title of that document (filed in this case) of course refers the complaint in this case. The citation on page 9 is also to the complaint in this case, specifically Paragraph 22 and Exhibit D as referenced in that paragraph.

4. P. 5. Where in the Record is the referenced Motion to Supplement in Wilson?

It is Exhibit A to our May 17, 2016 Reply to Memoranda of Defendants, and it was also cited in our Amended Brief at p. 39. We specifically identified the location of this document in the record in our detailed response to the AG’s unsuccessful motion to strike our amended brief in March.

5. P. 9 The cited documents do not support the statement in the last paragraph

They do indeed support the statement. AG Meyers and other AG staff were copied on this communication, in which SWB advised the AG, as its attorney, to avoid FOIA compliance for the benefit of its co-plaintiffs in Case 4900 and to avoid public embarrassment.

6. P. 9. The Williams affidavit and attached letter do not identify documents at issue.

While the Litigation Retention Agreement is not mentioned by name in those documents, this follows on the quoted and cited portion of AG Meyers’ 1/5/12 letter in n. 4, p. 10 of the Amended Initial Brief. While there would have been no basis for an objection to the inclusion in the Amended Initial Brief, I note that the AG did not attempt to object to its inclusion in its motion to strike that brief.

7. PP. 2, 12 & fn. 5 The brief cites Pope’s own Motion to Alter memo in support of factual statements.

While I understand you may object to this, these references comply with Rule 208(b)(4), which requires that references be made to “the transcript, pleadings, orders, exhibits or other materials which may be properly included in the Record on Appeal to support the salient facts alleged.” The Motion to Alter is certainly properly included in the ROA, and the reference is proper to the material presented to the lower court.

8. P. 14. No support for second sentence at top of p. 14 (“more than 8 months”).

This is a cumulative statement, based on the facts above and prefacing the argument below regarding the responsive documents which we know the AG has,

but which have never been produced to my client under the FOIA (including the Wilkins email and amendment to the Legacy Trust). Where these matters are discussed in detail above and below this paragraph, they are appropriately supported by citations to documents in the record.

9. I also note the following parts that are not the proper subject of a reply brief as they are issues not raised in the Appellant's opening brief or responsive to new arguments in Respondent's brief:

- 1. P. 7 & 2d paragraph, p. 8 the matter of the September 9 FOIA request.**
- 2. P. 9 (paras. 2-4) The matter of the Williams affidavit and letter**
- 3. P. 10, 1st & 2d full paragraphs. Release of the "Wingate agreement"**
- 4. p. 10, 3d full para. New matter re Wilson v. Dallas**
- 5. P. 11, 1st full paragraph New matter and incorrect. The AG did not request a stay of this FOIA case. See my email of 5-8-13 ("the FOIA cases should not be held in abeyance . . .") & my emails of 2014 & 2015.**

As a specific note on this item, the sentence very clearly states that the request was made "through Wingate," which was counsel of record for the AG at that time. As you may recall, in 2016, the Wingate firm withdrew an earlier motion to be relieved as the AG's counsel. Our statement is correct.

- 6. P. 11, 2d full para. Plans of some parties to reinstate the 2008 settlement.**
- 7. P. 12, fn. 5; Reference to Wingate agreement.**
- 8. P. 13, para d. New matter re Hynie and Motion cannot be used to support purported factual allegations.**
- 9. P. 13, last para.**
- 10. P. 14, 1st sentence.**

As to all: These are not "issues," but facts and support for our arguments in response to the issues raised in the AG's brief. I suspect you are aware of this, since after your introductory note, you refer only to "matter" rather than "issues." All of the law limiting the content of reply briefs (which you cited in your September 5, 2018 motion to strike our reply brief in Case 1899 – a motion the Court of Appeals denied), relates to "issues." Nowhere in the Appellate Court Rules or any case I can locate is there a restriction on citing cases or documents not cited in opening briefs. Each of the *issues* argued in our reply brief is in direct response to the issues as you couched them in your brief. We are entitled to

support our arguments as we see fit, and the AG is not entitled to edit our brief to his liking.

I hope this letter addresses your concerns and that the AG will not further delay this nearly 11-year-old FOIA case with an unnecessary motion to strike our proper filing. Our Reply Brief is compliant with all applicable Rules, and this matter should proceed

Sincerely,



Adam T. Silvernail

c: Adele J. Pope, Esquire

EXHIBIT B

Marcie Greene

From: Black, David <DBlack@nexsenpruet.com>
Sent: Friday, December 17, 2010 3:10 PM
To: Sonny Jones; Mary Frances Jowers; 'amedlin@sc.rr.com'
Cc: Fred L. Kingsmore
Subject: FW: Appraisal Footnote
Attachments: np.png; links_l.png; links_s.png

Please see attached. I have also reached the conclusion that this is the best strategy. We do not want to lose credibility with the Court through an unnecessary motion to strike proceeding.

J. David Black
Member

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From: Wilkins, William W.
Sent: Friday, December 17, 2010 3:04 PM
To: Black, David; Kingsmore, Fred L.
Subject: Appraisal Footnote

Gentlemen,

After much discussion with many of you, I propose the following language for the footnote regarding the appraisal:

"In contrast, one of Russell Bauknight's first official acts as personal representative of Mr. Brown's estate was to engage an investment banking firm to conduct an appraisal of the estate's value."

I understand that this language is less descriptive than many of you would like and have proposed. However, the appraisal and the proceedings in which it is involved are not part of the record in this case. The language I propose is as detailed as we should be at this time.

Nonetheless, I understand the importance of the appraisal and the significance of the value it places on Mr. Brown's estate. Further, I believe it is critical to our appeal. Thus, I propose that after the appraisal is accepted by the IRS for tax purposes (which I understand is very likely to occur), we file an amended appraisal with the probate court attaching to it the appraisal as an exhibit. After that time, we will petition the Supreme Court to take judicial notice of the IRS's acceptance of the appraisal and the amended appraisal to which it is an exhibit.

I believe this is the proper course of action for two reasons 1) It is consistent with the rules and 2) It will highlight this important issue for the court at a time of our choosing after Pope and Buchanan have filed their reply brief. If we insert a

detailed footnote in our initial brief it will give Pope and Buchanan the ability to argue that we played fast and loose with the rules, move to strike it from our brief, etc.

I believe this is the best course of action both legally and strategically. We are much better off filing our petition after the IRS has accepted the appraisal and we have filed an amended appraisal with the probate court.

Billy

***PLEASE NOTE
NEW STREET ADDRESS***

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NEXSEN PRUET

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EXHIBIT C

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S.W.B

JAN 20 2012

Referred to Victoria Cook
Answered McIntosh Jones
Towers, T. Meyers
CS

S.C. Attorney General's Office
Civil Section
SWEENEY WINGATE & BARROW P.A.

January 20, 2012

JAN 23 2012

Received by SAB
Reviewed by/Date _____
Referred to/Date _____
Notes: _____

Reply to: Main Office
Mark V. Gende
(803) 256-2233 x121
mvg@swblaw.com

URGENT - PRIVILEGED ATTORNEY/CLIENT COMMUNICATION

VIA HAND DELIVERY
Alan Wilson
South Carolina Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

RE: Russell L. Bauknight, et al. v. Adele J. Pope and Robert L. Buchanan, Jr.
Civil Action No.: 2010-CP-40-04900
Our File: 4077-7389

Dear Mr. Attorney General:

It is my understanding that you have decided to release what you deem the public portion of the fee agreement in the above-referenced matter. As your attorney in this matter, I am writing to advise you against releasing any portion of the agreement until the Court rules on this matter.

Releasing these documents at this time will have the following detrimental impact on this litigation.

First, you will certainly incur the sanction of costs and attorney fees in the pending FOIA actions. That defeat will be more costly and publicly embarrassing than a decision to continue litigating the fee agreement issue.

Secondly, your decision will jeopardize the rights of your co-litigants. Once you release what you have deemed the public portions, the Defendants will certainly argue that your actions waive your co-litigants claim to privilege for the remainder of the agreement.

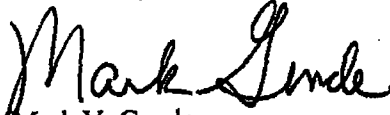
Third, FOIA specifically exempts from production privileged documents. Whether this complicated fee agreement is privileged is currently before the Court. You are complying with

both the spirit and letter of FOIA if you decline to produce the requested documents until the Court has determined whether any of the fee agreement is privileged.

I trust that you will reconsider your decision. I am available throughout the day to discuss this matter.

Yours truly,

SWEENEY, WINGATE & BARROW, P.A.


Mark V. Gende

MVG/smt

cc: C. Havird Jones, Jr., Esquire – via electronic mail
Mary Frances Jowers, Esquire – via electronic mail
Tracy Meyers, Esquire – via electronic mail
Russell Bauknight – via electronic mail

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Jul 07 2022

SC Court of Appeals

**STATE OF SOUTH CAROLINA
In the Court of Appeals**

**Appeal from Richland County
Court of Common Pleas**

The Honorable Clifton B. Newman, Circuit Judge

Appellate Case No. 2021-000518

Adele J. Pope..... Appellant,

v.

Alan Wilson, in his capacity as Attorney General of South Carolina,
.....Respondent.

**AFFIDAVIT OPPOSING MOTION OF ATTORNEY GENERAL TO STRIKE
APPELLANT'S FOIA REPLY BRIEF**

PERSONALLY APPEARED BEFORE ME, ADELE J. POPE, who, being duly sworn, deposes and says:

1. I deny the claims of the Attorney General of South Carolina ("AG"), the South Carolina ("S.C.") official charged with the enforcement of FOIA, in his motion to strike in this almost-11-year old James Brown FOIA suit that the reply brief filed by my attorney Adam Silvernail, Esq, contains matter which is inappropriate, improperly cited, or otherwise provides evidence that the reply brief should be stricken.

2. The AG has filed more than a 20 motions to strike or suppress public documents since 2011 in this FOIA case and in Richland County Case 2010-CP-40-4900 ("Richland

4900”), a tort case the AG brought against Robert Buchanan, Jr. and me in 2010 through the private law firm of Kenneth Wingate, Esq. (collectively “Wingate”).

3. So far as I know, this is the oldest FOIA case in S.C.; the AG has tried to consolidate this and other James Brown FOIA cases with Richland 4900; yet the AG continues to claim that the AG’s office is following the guidelines the AG recommends to other S.C. public bodies in the *Public Official’s Guide to Compliance with South Carolina’s Freedom of Information Act*:

When in doubt, disclose the requested information.

...

When in doubt, release the document.

[Complaint, p. 6, §25.]

4. In considering the motion to strike, I ask the Court to take judicial notice of the statements of the AG to the Court in *Wilson v. Dallas*, this FOIA case, and other James Brown FOIA cases, as well as the undisputed facts about the relationship of the AG to the James Brown Legacy Trust (“Legacy Trust”), its trustee Russell Bauknight, and its attorneys, advisors and owners, including Tommie Rae Hynie.

5. On May 29, 2013 when Ms. Hynie’s attorney and Louis Levenson, Esq, announced to the Honorable Doyet A. Early, III (“Judge Early”) their plan to ignore the S.C. Supreme Court’s *Wilson v. Dallas* decision and reinstate the AG’s 2008 settlement which would have given Ms. Hynie \$1 million a year and \$20 million from the \$90 million sale of the assets of iconic entertainer James Brown to Primary Wave in 2021, and the same amount to 5 clients of Mr. Levenson, Sr. Asst. AG Havird “Sonny” Jones (“AG Jones”) was there; the AG, who had effective control over the James Brown assets, had

been claiming for 2 years that Mr. Brown's worldwide music empire was worth less than \$4.7 million when he died; the AG had refused multiple FOIA requests, including two from me, for documents to support his \$4.7 million value claim; and all of the following facts were undisputed:

- a. 5 Trustees and many others had valued James Brown's music empire at \$100 million at his death, less the \$15 million debt to TIAA.
- b. The AG had inquired about the first \$100 million offer back in 2007.
- c. In 2009 the AG and settling parties had prevented Mr. Buchanan and me from considering a possible sale to TJBL, the group trying to purchase the assets.
- d. James Brown's music empire earned \$7.82 million in 18 months when Mr. Buchanan and I served as PR/Trustee, more than \$5 million a year.
- e. The AG did not cooperate on the James Brown 75th Birthday Television Special and a 2nd image + likeness project that would have made it even more.
- f. In 2009 we had appealed the AG's plan to give Ms. Hynie a quarter of James Brown's "I Feel Good" charity, which we valued at about \$20 million.
- g. The AG and Legacy Trust owners had sued Mr. Buchanan and me for not accepting the \$100 million offer made by TJBL in 2007. [See Complaint, Richland 4900; Exhibit A, 2007 Offer & Email Jones/Buchanan & Pope, 12/6/07]
- h. In 2010 the AG claimed James Brown's music empire was worth less than \$12 million when he died, but would not release any documents to support it.
- i. In 2010 Judge Early ordered release of what Mr. Bauknight and his 12 Legacy Trust/James Brown Estate lawyers were being paid, finding it not confidential.
- j. Mr. Bauknight's payment records were missing from the Clerk's office and not released despite requests, until the AG released them under FOIA in 2020.
- k. By 2018 Mr. Bauknight would advise a federal court that the claimed \$5 million James Brown Estate had spent tens of millions of dollars in litigation costs.
- l. In 2011 the AG began claiming James Brown's music empire was worth under \$4.7 million, and that \$2.8 million – not \$80 Million – was going to charity.

m. The AG was falsely accusing Mr. Buchanan and me of overstating the James Brown assets to the IRS by \$79 million to get a \$5 million fee, a felony, based on the concealed \$4.7 million valuation.

n. My multiple FOIA requests for the \$4.7 million devaluation documents had been pending for 2 years, and our discovery requests for more than 2 ½.

o. A journalist's FOIA suit seeking the same documents, the so-called "Hynie Diaries," and other James Brown documents had been pending for 1 year.

p. The AG was trying to strike a dozen affidavits of S.C. citizens in my FOIA suits urging the AG to comply with FOIA in James Brown matters.

q. In January 2012 Wingate advised the AG not to release the AG's Special Counsel Litigation Retention Agreement with Wingate to bring Richland 4900.

r. The AG's Wingate Agreement was public and made every document used in Richland 4900 property of the State of S.C. and subject to FOIA release.

s. In 2012 Judge Early declined to void his 2008 *ex parte* gags orders stopping discussion or dissemination of Ms. Hynie's handwritten bigamy admissions

t. The AG had its own copy of Ms. Hynie's handwritten bigamy admissions which had been in the AG's office for months before the AG's 2008 settlement.

u. The AG and Bauknight were still refusing to release under FOIA or in discovery the \$4.7 million valuation documents they had shared with Ms. Hynie and Peter Afterman, who was working for Ms. Hynie's lawyers, for years.

v. Ms. Hynie's son had provided details of the \$4.7 million valuation to the Supreme Court in March 2013, in an effort to have *Wilson v. Dallas* reheard.

w. Mr. Bauknight and the AG were also sharing with Ms. Hynie, but concealing, 145 boxes of public James Brown Estate documents which supported our \$99 million valuation of Mr. Brown's worldwide music empire.

x. The \$4.7 million valuation shifted \$1 million of income a year and nearly 1/3 (31%) of the assets out of the "I Feel Good" charity and over to Brown's family.

y. The \$1 million of income a year and assets shifted to family members by the \$4.7 million valuation was not corrected by *Wilson v. Dallas*.

z. My attorney Mr. Silvernail and I had told the AG and senior staff about the problems of the \$4.7 million and IRS filings claiming Ms. Hynie was Brown's spouse at meetings in March 2013.

aa. Ms. Hynie was a bigamist.

6. From 2013 until 2020 the James Brown Estate, through Mr. Bauknight and Mr. Afterman, were supported and praised by AG Jones as they worked to reinstate the AG's 2008 settlement; I worked from May 29, 2013 until June 10, 2015 to try to persuade the AG not to support their efforts; by 2015 Judge Early had declared Ms. Hynie to be Brown's spouse; and by January 2019, at the request of Mr. Bauknight, Judge Early had ruled that Mr. Buchanan and I breached our fiduciary duty under Mr. Brown's Will and Trust by opposing the AG's 2008 settlement and conducting the appeal which became *Wilson v. Dallas*, while the AG refused both FOIA and discovery requests in Richland 4900 for:

a. Ms Hynie's handwritten bigamy admissions (the AG had copies since 2008 and called them her "diary");

b. The \$4.7 million claimed valuation the AG was using to falsely accuse us of a federal felony, and which Forlando Brown declared to be "bogus;"

c. The Legacy Trust/Settlement Entity 2010 Amendment allowing Terry Brown to begin due diligence on his right of first refusal to buy the music empire the month Mr. Bauknight told the IRS it was worth less than \$4.7 million; and

d. The AG's public Special Counsel Litigation Retention Agreement which made every document used in Richland 4900 property of the State of S.C. and subject to release under FOIA by both Wingate and the AG.

7. By August 2013, with these public documents concealed, Mr. Bauknight, under oath, claimed that I was dishonest and had "raped" James Brown's estate, while the James Brown Estate music manager Peter Afterman, using Ms. Hynie's false claims

about termination rights, helped Ms. Hynie's counsel file public termination notices in the U.S. Copyright Office to try to siphon off more than half of the U.S. royalties to about 200 of the "I Feel Good" charity's 1100 + copyrights between 2015 and 2023, as the "spouse" of James Brown. [Affidavit, Afterman, Exhibit AF]

8. The AG had still not released any documents under FOIA to me in this 2011 FOIA suit in 2019 when Judge Early, at the request of Mr. Bauknight, ruled:

a. Mr. Buchanan and I had breached our fiduciary duty to the James Brown Estate and Trust by challenging, and appealing, the AG's 2008 settlement in *Wilson v. Dallas*.

b. the only "credible" evidence before Judge Early from more than a dozen witnesses was that James Brown's music empire was worth less than \$4.7 million when he died.

c. I had demanded \$19 million from the James Brown Estate when I had actually offered to settle for \$2.1 million both before and during trial.

d. the court could not turn a "blind eye" to the fact that the AG's 2008 settlement was good for James Brown's "I Feel Good" charity.¹

9. In 2020 the AG released under FOIA to another citizen, a number of documents it had refused to release under FOIA when ordered to do so by the Honorable Eugene C. Griffith ("Judge Griffith") in 2014, including clear evidence that AG Henry McMaster never legally hired the law firm of Kenneth Wingate, Esq., in Richland 4900, which conflicted directly with Mr. Wingate's sworn 2017 testimony, but did not release any documents to me requested in my two 2011 FOIA suits. [Ltr. of AG McIntosh to SWB, 4/24/13, Exhibit B]

¹ See Order Jg. Early, 1/19, Aiken Case 2013-CP-02-1337 and related correspondence w/ Wm. Newsome, Esq.

10. In 2021 the AG, ordered to do so by the Honorable Clifton Newman, finally delivered to me the AG's public Special Counsel Litigation Retention Agreement with Wingate which the AG had refused to release to me under FOIA since 2011, and which the Wingate firm, speaking as counsel to the AG, had advised the AG not to release under FOIA in 2012. [Ltr. Wingate Firm to AG, 1/20/2012 Exhibit C]

11. As set out in the first appeal of this FOIA case, and below, in December 2021 when the *New York Times*² announced that the James Brown Estate assets had been sold for \$90 million, and that the sale had been in progress for 4 years, the AG was still withholding under FOIA the \$4.7 million valuation he had shared with Hynie since 2010.

12. In 2022 the AG still claims that more than a dozen citizen affidavits urging the AG to comply with his James Brown FOIA obligations should be stricken from the public record although it is undisputed that many valued the music empire at \$99 million or more in 2007; the TIAA debt was paid in full in 2011; the music empire was earning \$5+ million a year in 2008 and 2009; Mr. Bauknight stated under oath that he earned at least as much as we did each year; and from 2013 until at least 2019 the circuit court and James Brown Estate supported Ms. Hynie's efforts to disregard the Supreme Court's *Wilson v. Dallas* decision, take a quarter of the \$90 million sale, value the music empire at \$4.7 million at Brown's death, and blame the damage on Mr. Buchanan and me in Richland 4900.

13. Attached hereto, and outlined below, are just some of the ways the AG's claims

² See Exhibit AG.

for 11 years that James Brown FOIA requests should be subordinate to discovery in Richland 4900, or that the AG did not receive my multiple FOIA requests for the James Brown \$4.7 million valuation documents, or that the AG cannot comply with FOIA because of unconstitutional or ill-gotten rulings in other cases have violated my FOIA rights and diminished James Brown's "I Feel Good" education charity, believed by some, including me, to have been the largest-ever S.C. private foundation dedicated solely to the education of needy students as of Brown's death in 2006.

14. In November 2007 the AG received the inventory of the James Brown Estate, based on a \$100 million offer, showing it to be about \$85 million, the offered amount less the TIAA debt. [Exhibit D, I&A, pp. 1,5,6,7]

15. In 2008 Ms. Hynie secured an *ex parte* gag order concealing her admitted bigamy.

16. In 2008 the AG formed an alliance with Ms. Hynie that lasted until 2013; agreed to stipulate that she was James Brown's widow under the Copyright Act; and proposed to take 75% management control with Ms. Hynie and give her a quarter of the James Brown assets for half of the U.S. Copyright Act termination rights proceeds she and her son had put in the AG's newly-created Legacy Trust.

17. In August 2009 one of Ms. Hynie's attorneys began claiming to the AG that "Bobadele," (a reference to Robert Buchanan, Jr., and me) had overvalued the James Brown Estate assets to the IRS. [Email Medlin/AG Jones, etc. 8/09, Exhibit E]

18. On April 14, 2010 the AG's Office emailed one of Ms. Hynie's attorneys about an accounting Mr. Buchanan and I had filed, stating:

> This accounting states we had an ending balance of over \$99
> million. Alan I think we may be suing the wrong people.
> < Brown-May 20.2009 accounting.PDF> [Exhibit F]

19. On April 28, 2010 an assistant to Mr. Bauknight's attorney emailed the AG's Office and sent the following documents:

- a. March 27, 2008 Letter of Intent to Purchase Assets by Dr. Cox;
- b. Signed March 27, 2008 Letter of Intent to Purchase by Terry Brown;
- c. March 31, 2008 Letter of Pope and Buchanan rejecting proposal;
- d. April 29, 2008 from Pope and Buchanan to Dr. Cox stating sale is not appropriate at this time. [Exhibit G, Email Bronwyn/AG Jones, 4/29/10]

20. On May 19, 2010 the AG and Ms. Hynie sued Mr. Buchanan and me in "Richland 4900," claiming we had breached our duty to the Legacy Trust owners by:

- ...i. Failing to ...accept an offer to buy the estate and trust for \$100 million in November 2007, ...
- ...j. Taking improper adversarial positions to the settlement entered into by the beneficiaries of the Estate and Trust and approved by the Circuit Court.
- ... ii. Failing to understand the basic operation of the federal copyright law and its impact on the estate and its valuation, including ... tax valuation;. . .
- ... iii. Continuing to conduct a vicious attack on the proposed settlement, upon information and belief, for the purpose of padding their own fees, which they claim to be \$5 million. See Complaint, Richland 4900

21. On July 22, 2010, the S.C. Supreme Court denied the motion of the AG and Ms Hynie, to dismiss the appeal which became *Wilson v. Dallas*. See Order, 7/22/10, *Wilson v. Dallas*, p. 1.

22. On August 13, 2010 our *pro bono publico* lead appellate counsel in *Wilson v. Dallas*, James Richardson, Esq., asked for an extension to file our initial brief., See, Mot.

Extension, *Wilson v. Dallas* filed 8/17/10.

23. On August 23, 2010 the AG opposed the request for an extension, and stated in part:

6. Respondents dispute Appellants' assertion that the settlement agreement has the potential to divert "tens of millions of dollars" from the Trust. Presumably, this representation is based on Appellants numerous under oath representations about the date-of-death value of the Trust, ranging anywhere from approximately Eighty-Five Million (\$85,000,000.00) Dollars on the federal estate tax return to approximately One Hundred Million (\$100,000,000.00) Dollars in affidavits, pleadings and testimony... Bauknight has pursued the appropriate fiduciary route and engaged a[n]... appraisal firm. ...[T]he expected final completion date for that appraisal is a couple of weeks away..., a preliminary report indicates the date-of-death value of the Estate and Trust will not exceed Twelve Million (\$12,000,000.00) Dollars. In light of the actual appraised value, Appellants' claim for approximately Five Million (\$5,000,000.00) Dollars for their commissions and fees totals perhaps half or more of the date-of-death value of the Estate and Trust, which further refutes any notion that their counsel are acting for the public good. [Exhibit H, Return, 8/23/17, pp. 4,5. ; Email Cox to AG Jones, re: "I know how both the \$65 MM and \$100 MM were determined."]

24. The AG asked: "Who is better suited to have standing the Attorney General or fiduciaries who seek to be paid \$5 million?" [Exhibit H, Return, 8/23/10, p. 17.]

25. On August 27, 2010 the AG stated in an Acknowledgement in Richland 4900 that the principal place of administration of Brown's Trust was Richland County [Exhibit I]

26. On August 30, 2010 Kenneth Wingate, Esq. with AG Jones present, told the Honorable L. Casey Manning ("Judge Manning"):

MR. WINGATE: Your Honor,...[t]he Estate administration is over in Aiken. But the Settlement Trust, the Charitable Trust that receives the royalties, the intangibles, the intellectual property of James Brown, is then administered in Richland County,...by Russell Bauknight, the trustee, for the purpose of, as you see on that chart, a Charitable Trust that remains for education purposes, why the South Carolina Attorney

General is in this case as one of our client Plaintiffs, ...
[Exhibit J, Trans, R.4900, 8/30/10, pp. 32, 33]

27. A Wingate firm attorney also discussed the \$100 million offer saying:

...our allegations of their failure to accept a hundred million offer.
They may have lots of good reasons that they want to put to the
court for not having accepted that. We have lots of good reasons we're
going to argue but that's a fact question. . . [Exhibit K, Trans, 8/30/10 pp. 42
– 43]

28. On August 30, 2010 we replied to the AG's \$12 million value claim in *Wilson v. Dallas*, stating in part:

4. **Value of the estate.** In paragraph 6 of the return, the Attorney General predicts for the first time that the testator's estate will soon be appraised at only \$12,000,000. The Attorney General then implies that this appeal is somehow related to the appellants' personal claim for fees and commissions....The Attorney General is well aware that the undersigned do not represent the appellants in their claim for commission. That claim had not been ruled on by the lower court, nor is it contingent on the outcome of this appeal. [Exhibit L Reply 8/30/10, p. 3]

29. In September 2010 the claimed \$4.7 million valuation arrived.

30. In December 2010 emails the AG and others discussed the importance of the claimed \$4.7 million value to the *Wilson v. Dallas* appeal, but decided to withhold it from the Supreme Court until "a time of our choosing." [Exhibit M, Emails 12/16-22/10; See initial brief, *Wilson v. Dallas*, 12/22/10.]

31. In December 2010 AG Henry McMaster signed the Legacy Trust amendment which I have sought under FOIA since 2011, including in this FOIA case.

32. In 2010 and 2011 Mr. Buchanan and I sought under discovery in Richland 4900 the documents I am seeking in this FOIA case. [Exhibit N, Mot. to Compel Discovery, dtd. 6/7/11; Ltr. Silvernail, 6/15/11; Ltr. Wingate, for AG, others, 6/17/11]

33. In March 2011 the \$4.7 million valuation information was not disclosed in a supplement to the record in *Wilson v. Dallas*.

34. In an April 29, 2011 email to AG Jones, Ms. Hynie's lawyer discussed "the importance of letting the Court know the truth" about the \$4.7 million value, stating:

Not only does the truth about the estate's value debunk their claims about the effect of the settlement, but it demonstrates their motive for greatly exaggerating the estate's value: they want the estate to be worth \$100 million so they can claim the maximum 5% commission, of \$5 million, which of course is even more ludicrous in light of the actual value of the estate. [Exhibit O, Email, Medlin/AG Jones, 4/29/11]

35. Counsel for Ms. Hynie, stated to the AG: "Obviously we ask that the settling parties keep the valuation confidential." [Emphasis supplied.] [Email, 4/29/11]

36. On May 2, 2011 the AG's final brief in *Wilson v. Dallas* was filed.

37. On May 3, 2011 Mr. Bauknight prepared a sworn inventory to be filed in the Probate Court for Aiken County asserting that Brown's royalty interests, persona, image likeness, and other intangibles were worth only \$4,697,736.60 which was filed in the Aiken Probate Court on May 4. [Exhibit P, p. 1,4, Amended I&A]

38. On May 3, 2011, AG Alan Wilson verified the interrogatory answers Wingate had submitted for AG Henry McMaster in Richland 4900, but AG McMaster stated under oath to me at a 2016 deposition that he did not sue me and did not know he was a party to Richland 4900 until after leaving office as AG. [Exhibit Q, Verified Answers, Richland 4900, 5/3/11]

39. On May 6, 2011 the AG claimed in *Wilson v. Dallas* that the IRS had "independently concluded that the Settlement Agreement does not create additional tax

liability to the James Brown Estate; “James Brown’s worldwide music empire was worth under \$4.7 million when he died; and:

Appellants are presently pursuing a \$5 million dollar fee petition against the Estate and Trust based upon their incorrect representation that the Estate and Trust was worth approximately \$80 - \$120 Million (R.pp.2879 – 80). [Exhibit R, Mot. Supp, p. 7,Ft. 4]

40. On May 18, 2011 I moved to disqualify Wingate and Mr. Bauknight from acting for the State/AG in Richland 4900 because of the \$4,697,736, which I claimed at the time was “less than 1/12 of the actual fair market value.” [Exhibit S, Aff. Pope, 5/18/11, p. 1; Exhibit AG, NYTimes Article 12/21]

41. On May 27, 2011 we objected to the motion to supplement, stating:

The respondents should not be allowed to sandbag these sensational assertions until after the final briefs and Record on Appeal have been filed.

The moving respondents assert that . . . a still-undisclosed 2010 appraisal will show the value of Brown’s assets was previously overstated by a factor of roughly fifteen. See Ret. to Motion, 5/27/11 *Wilson v. Dallas.*, p. 3.

42. The return states that the AG’s \$6.5 million value claim for the James Brown assets is refuted by “all of the decedent’s former fiduciaries and many others.” Return, 5/27/11, p. 4.

43. The return notes that Terry Brown, with a right of first refusal to buy assets he claims are worth \$6.5 million, and his son Forlando Brown, who claimed they were worth \$150 million were represented by the same Powell Goldstein attorneys. Return, p. 4, and footnote 4.

44. We advised the Supreme Court of TJBL’s efforts to buy the James Brown

assets for about \$100 million, and other evidence to support our valuation of \$99 million less the \$15 million TIAA debt. Return, pp. 4 -6, and footnotes 4, 5, 6 and 7.

45. We asserted that the AG's \$4.7 value claim prejudiced our effort to prevent the AG from dismembering Mr. Brown's charity with the AG's 2008 settlement, and "deprive[d] appellants of the opportunity to explore the origin, procurement, accuracy and effect of this shocking valuation." Return, pp. 7, 8.

46. Through pro bono publico counsel Mr. Richardson we requested:

Should the Court decide that consideration of this appeal requires evidence outside the record before the circuit court, appellants respectfully request that the matter be remanded to the circuit court for a full evidentiary determination of the value of the James Brown assets and the impact thereof on the proposed settlement. Return, p. 23.

47. On the morning of June 3, 2011, Ms. Hynie's attorney emailed to the AG the final draft of the AG's reply to our return; referred to "Bobadele;" and stated:

...[T]hey berate us for timing issues; not giving them the appraisal while the record was being established. Of course, we didn't... [Emphasis added.] [Exhibit T, Email Medlin/G Jones, others 6/3/11]

48. The AG's reply was filed that day; the AG, with Ms Hynie, claimed that we had made misrepresentations to the court about "offers," even though the AG was suing us for not accepting the TJBL \$100 million offer made in 2007 that AG Jones had asked us to consider [Exhibit G; Exhibit U, p. 2] , and the AG said his reason for seeking to supplement the record was:

... in part, to clarify that the asset valuation figures tossed around by the appellants are not based upon a due diligence analysis of the assets. [Exhibit U, AG's Reply 6/3/11]

49. In a section entitled “**No One Ever Made an Offer**” the AG dedicated 4 pages to claiming the Cox \$100 million offer which the AG was suing Mr. Buchanan and me in Richland 4900 for not accepting had never been made. [Exhibit U, Reply, AG, *Wilson v. Dallas*, 6/3/11, pp. 5 – 8]

50. On June 17, 2011 the AG, through Wingate, refused to release:

2. All correspondence and other documents related to appraisals obtained by Mr. Bauknight, and appraisal itself, and all earlier drafts. [Exhibit N, Mot. Compel, 6/7/11; Ltr. Wingate/Silvernail, 6/17/11, p.1; Ltr. Wingate, 6/17/11]

51. On June 30, 2011 I sent the FOIA requests in this case to the AG, Wingate, and the Legacy Trust, with Bauknight as trustee.

52. The AG’s Special Counsel Litigation Retention Agreement with Wingate in Richland 4900, like all of the AG’s Special Counsel Agreements, states:

F. Any material, data, files discs, or documents created, produced or gathered by Special Counsel [Wingate] or in Special Counsel’s possession in furtherance of this litigation [Richland 4900], or which fulfills an obligation of this appointment, shall be considered the exclusive property of the State of South Carolina. Special Counsel agrees to adhere to South Carolina’s Freedom of Information Act, South Carolina Code of Laws §30-40-10 et seq., and to maintain all public records in accordance with State law; provided, however, that Special Counsel shall consult with, and obtain the approval of the Attorney General before responding to any public records request. Special Counsel agrees to comply with the Attorney General’s policy on document retention and to refrain from destroying documents unless otherwise permitted under this policy. Special Counsel agrees to comply with Rule 417 of the Appellate Court Rules. Special Counsel agrees to request written confirmation from the Attorney General’s Office prior to destroying any documents. This Agreement shall be considered a public document. [Emphasis added.]

53. On July 15, 2011 Bauknight’s attorney, calling the Legacy Trust, the “James Brown Trust,” refused my June 30 FOIA request, and stated in part:

In the event that you continue to file unnecessary discovery and/or FOIA requests, please be advised that the Trust and Estate will have no other choice than to file an action against you for abuse of process and sanctions. [Ltr. Black/Pope, 7/15/11, page 1, Exhibit V]

54. On August 3, 2011, I filed this FOIA Suit.

55. On August 5, 2011 Sr. Asst. AG Tracy Meyers ("AG Meyers") wrote to say that she had not received my June 30 letter, denied two James Brown FOIA requests, including for the AG's public Special Counsel Agreement with Wingate that makes all documents in Richland 4900 property of the State of S.C. and subject to release under FOIA, and stated, in part:

I am not involved in the civil case in any way and believe the wisest thing to do is to let the presiding judge make the decision on which items, if any, are to be produced and which, if any, are not.

...I will also forward copies of all six letters to the Civil Division and ask that they be treated as discovery requests in the ongoing litigation referred to above, if appropriate. [Ex. W, Ltr. Meyers/Pope, pp. 1,2]

56. On August 7, 2011 I wrote AG Meyers, stating in part:

2. With respect to your comments regarding my FOIA request of July 19 & 20, which you have denied:

...b. You assert that my not obtaining these public documents through FOIA is "the wisest thing to do." I respectfully submit one does not have to be wise to exercise her rights under FOIA.

c. I know of no FOIA provision authorizing you to "put [my] requests on hold pending the outcome of your litigation." [Exhibit W, Ltr. Meyers/Pope, 8/5/11, Ltr. Pope,/Meyers 8/7/11]

57. The letter, sent by fax and email, ended:

I respectfully request that you immediately reverse your FOIA request for these public documents and notify me by phone ...when I may pick them up. [Ex. W, Ltr. App/AG Meyers, 8/7/11, p. 3]

58. On August 9, 2011 the AG, through the Wingate firm, moved to prevent release of the Special Counsel Agreement in Richland 4900, claiming it was the “epitome” of a private document. [Mot., AG, 8/9/11, Exhibit X]

59. On September 9, 2011 I again wrote AG Meyers, seeking:

4. Any Document(s) which show when and in what form ...Bauknight notified the Office of the [AG] that he asserted James Brown’s assets at his death were worth about \$6.5 million and his worldwide music empire less than \$4.7 million on that date.

60. On October 3, 2011 AG Meyers responded, stating in part:

Responding to your request (numbers 1 and 4)...this office does not possess any such documents, and therefore, is unable to provide this information to you. [Ex., Ltr., Meyers/Pope, 10/3/11, Exhibit Y]

61. On October 5, 2011 I wrote AG Meyers again, respectfully stating that her response to FOIA requests number 1 and 4 “is not correct.” and stating:

b. Your Response to Requests 2 and 4 Regarding the \$85 Million vs. \$12 Million vs. \$4.7 Million values placed on James Brown’s music empire, assets

My request of September 9, 2011 was for:

1. All preliminary appraisal reports and/or document(s) which support the August 23, 2010...statement to the Supreme Court..by then-[AG] McMaster and four Assistants,...as follows:

...By contrast, Bauknight has pursued the appropriate Fiduciary route and engaged a nationally renowned...firm to Value the Estate and Trust..., a preliminary report indicates that The date-of-death value of the Estate and Trust will not Exceed Twelve Million...Dollars

AND

4. Any Document(s) which show when and in what form ...Bauknight

notified the Office of the [AG] that he asserted James Brown's assets at his death were worth about \$6.5 million and his worldwide music empire less than \$4.7 million on that date. [Exhibit Z, Ltr. Pope/Meyers, 10/5/11, pp. 2,3]

62. The October 5, 2011 letter was sent by fax and mail, and a check for \$300 was sent with the mailed copy. [Exhibit Z, Ltr. App/AG Meyers, 10/5/11]

63. On October 24, 2011 the AG filed an October 20 affidavit of Sr. Asst. AG Tracy Meyers ("AG Meyers") which said only that she did not receive my June 30 FOIA request "from Ms. Pope;" did not mention my multiple FOIA requests; did not say whether others received it, or whether she received it from them, repeated what she said in August about refusing FOIA until the conclusion of Richland 4900, as she was doing with the AG's Wingate Special Counsel Agreement, stating in part:

6. Upon the conclusion of the suit and the delivery or mailing of the same FOIA request to the Office of the Attorney General by Ms. Pope or her attorney, a response to the FOIA request will be made if permitted by any order in case 2011-CP-36-364 or any other judicial proceeding related to matters that are the subject of this request. [Exhibit AA, Affid. AG Meyers, 10/20/11, pp. 1-2]

64. On November 1, 2011 the AG supported Mr. Bauknight's claims to the Supreme Court in *Wilson v. Dallas*, including that Ms. Hynie's elective share was a "slamdunk," and:

- a. Brown's estate and Trust had no corpus to speak of;
- b. Nobody was trying to buy the James Brown assets;
- c. Termination rights (U.S. Copyright Act) are all the case is about;
- d. "Mrs. Brown" gave up a lot to join the AG's 2008 settlement;
- e. But for the AG's settlement there would be nothing in Brown's "I Feel Good" charity by 2023; See Oral argument, *Wilson v. Dallas*, 11/1/11.

65. On January 20, 2012, Wingate wrote the AG, with a copy to AG Meyers, advising the AG not to comply with his duties under FOIA, and stating in part:

First, you will certainly incur the sanction of costs and attorneys fees in the pending FOIA actions. That defeat will be more costly and publicly embarrassing than a decision to continue litigating the fee agreement.

Secondly, your decision will jeopardize the rights of your co-litigants. Once you release what you have deemed to be the public portions, defendants will certainly argue that your actions waive your co-litigants' claim to privilege for the remainder of the Agreement.

Third, FOIA specifically exempts from production privileged documents. Whether this complicated fee agreement is privileged is currently before the Court. . . [Exhibit AB, Ltr. SWB to AG Wilson, 1/20/12]

66. On February 27, 2013 the Supreme Court addressed Richland 4900 and this FOIA suit in the Footnote 29 of the first, later substituted, *Wilson v. Dallas* decision, stating in part:

Although Brown's music rights have been widely reported as being worth up to \$100 million or more at his death, Bauknight filed documents with the Internal Revenue Service indicating the value of Brown's music empire was only a net of \$4.7 million. The \$4.7 million valuation has been questioned . . .

Further, the AG, with Bauknight's knowledge and cooperation, allegedly entered into contingency-fee agreements with outside counsel Kenneth Wingate, for Wingate to sue Appellant Pope on behalf of the State, Bauknight and others while also representing private plaintiffs in the suit. The suit sought damages to Brown's estate allegedly arising during Pope's appointment. Despite FOIA requests, the AG has refused to publicly release all of the documents pertaining to this purported arrangement. These matters should be considered by the circuit court in the first instance and any fees found to be inappropriately incurred should be disgorged and returned to the trust in light of our finding that the compromise is void and the AG has exceeded his authority by, among other things, controlling the charitable trust through the appointment of Bauknight, who serves at the AG's pleasure.

67. On March 6, 2013 I met personally with AG Wilson, the Chief Deputy AG, and Solicitor General Robert Cook to discuss the threat to James Brown's "I Feel Good" charity of Mr. Bauknight's alliance with Ms. Hynie; his claims to the IRS that she was the spouse of James Brown; and his claim that James Brown's worldwide music empire was worth less than \$4.7 million, including the loss of \$1 million a year of scholarship funds, and the fact that the AG was supporting the claim that James Brown gave under \$3 million to charity, and not \$80 million.

68. My counsel Mr. Silvernail and I had a second meeting with the Chief Deputy AG and Solicitor General Robert Cook a few days later for the same purpose.

69. It was undisputed then that the \$4.7 million value, with the "fractional share" clause of Mr. Brown's 2000 Trust, had shifted \$1 million of income a year and nearly 1/3 (31%) of the assets of the "I Feel Good" education charity out of the charity and over to a trust for six family members, with their trust now being nearly 1/3, rather than 1/42 of James Brown's fortune.

70. I stated on March 6, 2013 and at the second meeting that the \$4.7 million claim and the incorrect claim that Ms. Hynie was the spouse could be quietly and easily corrected by advising the IRS of the \$84 million value and that Ms. Hynie was not James Brown's spouse as part of the *Wilson v. Dallas* response.

71. On March 7, 2013 the AG moved to amend his answer in this FOIA suit.

72. In March 2013 the AG personally told me he was getting out of Richland 4900, and then told the Supreme Court in that he was getting out of Richland 4900 and hoped

to conclude the FOIA cases in a short time, but the AG did not tell, or suggest to the Supreme Court, that he had never received my multiple 2011 FOIA requests for the \$4.7 million valuation documents,

73. On April 24, 2013 the AG told the Wingate firm that the AG's Office had never hired Wingate. See Exhibit B, Ltr. AG McIntosh/Wingate Atty Gende, 4/24/13.

74. The AG did not release the April 24, 2013 letter under FOIA until 2020, and Mr. Wingate did not reveal the AG's April 24, 2013 letter in 2017 when he was ordered by the Honorable Jean Toal to testify about Wingate's commencement and continuation of Richland 4900 from 2010 until 2017. See Ord. Jg. Toal, 3/6/17, Case 2013-CP-02-1337.

75. The AG's April 24, 2013 letter was not released under FOIA in 2014, even though It was directed to be produced in Judge Griffith's FOIA order.

76. On May 29, 2013 Ms. Hynie's attorney and Mr. Levenson, speaking for 10 Richland 4900 plaintiffs, announced to Judge Early their plan disregard *Wilson v. Dallas* and reinstate the AG's 2008 settlement, and AG Jones, hearing the announced plan, made no objection and told Judge Early that AG Wilson was pleased that Mr. Bauknight was reinstated as the James Brown Estate fiduciary.

77. In 2013 Mr. Bauknight's music manager Mr. Afterman was helping Ms. Hynie get more than \$1 million of U.S. termination rights from just 5 of the "I Feel Good" charity's 1100+ copyrights; and in 2019, with the \$90 million sale already under contemplation, Mr. Afterman, who was the "industry expert" on the \$4.7 million valuation, told the Supreme Court there would be nothing in the "I Feel Good" charity in 6 years if Ms. Hynie

were not the spouse, while the AG filed his final brief in the first appeal in this FOIA case saying that I was not entitled to the state-owned \$4.7 million documents because of Richland 4900. See Final Brief of Respondent AG [Exhibit AC]

78. In August 2013 I was present when Mr. Bauknight defended his claimed \$4.7 million valuation and the AG's 2008 settlement, and claimed under oath that I was untruthful and that I (and presumably Mr. Buchanan) had "raped" James Brown's Estate, the same month Ms. Hynie, assisted by Mr. Afterman, began seeking U.S. royalties owned by the "I Feel Good" charity in public filings in the U.S. Copyright Office.

79. In the fall of 2013 Mr. Bauknight claimed to the Honorable Gregory Wehrman, in U.S. Dist. Case No. 08-cv-00014-WOB that both the public AG's Wingate Special Counsel Agreement and the \$4.7 million valuation Mr. Bauknight had shared with Ms. Hynie, others seeking to set aside the Will, and Mr. Afterman since 2010, had been kept confidential.

80. As is shown on his October 27, 2019 affidavit filed with the Supreme Court in the Hynie spousal proceeding, Mr. Afterman while working for the James Brown Estate repeated the same incorrect termination rights claims which the AG had made to the Supreme Court in *Wilson v. Dallas* in 2011, including the incorrect statement:

2. If Tommie Rae Brown is not James Brown's surviving spouse, the Charitable Trust will substantially lose its funding within the next six years. [Affidavit, Afterman, Exhibit AC, p. 3]

81. I was personally present and deposed the AG's Richland 4900 expert Roger Miller in 2017 when he testified that the termination rights of all James Brown heirs in 2017 – 10 years after his death – was only \$8.8 million, but that Mr. Miller left the

determination of heirs to the lawyers.

82. In 2013 the James Brown Estate reported that it received \$2.77 million and it disbursed \$2.47 million, much less than the \$5+ million Mr. Buchanan and I reported. [Exhibit AD]

83. From March 2013 until March 2016 there was no hearing in this FOIA case based on the May 10, 2013 request of the AG, through Wingate, and multiple requests of the Legacy Trust, through Mr. Bauknight, although Mr. Silvernail made numerous requests for a FOIA hearing, and the AG's in-house attorney indicated willingness to proceed. [Exhibit AE, Ltr. Wingate to Jg. Manning, 5/10/13]

84. In 2015 Judge Griffith denied Mr. Bauknight's effort to intervene in a James Brown FOIA suit to prevent release of the documents I seek and Ms. Hynie's bigamy admissions.

85. My efforts from May 29, 2013 until June 10, 2015 to persuade the AG not to allow Ms. Hynie and Mr. Levenson to carry out their announced plan to reinstate the AG's 2008 settlement were unsuccessful.

86. During this time, as shown on Exhibit AF, Ms. Hynie's attorneys and Mr. Afterman were involved with AG Jones on valuation and other matters, including that on May 13, 2014 AG Jones, while refusing my FOIA valuation requests, designated Peter Afterman as the "point person on any assistance we may need from you as to Geronimo." and sought documentation for Afterman's "expertise in this field that would justify and support the validity of your opinion."

87. The AG had named the thief David Cannon as a witness against Mr. Buchanan

and me in Richland 4900, and on page AF– 8 stated to Mr. Afterman:

I need an expert opinion on the valuation of the Geronimo catalogue, supported by as much objectivity or factual basis as possible.... The first number as to current value given its mismanagement (or lack of aggressive management), and a second number as to its management if it were managed correctly and used to its potential.
[Exhibit AF-11]

88. With no confidentiality discussion, Mr. Afterman replied: RE: Geronimo valuation:

Hi Creighton,
I left a message for you at your office and your cell. I would be Happy to speak to the matters you have raised in your email...
[Email chain, Afterman to AG, AF 5/28/14]

89. The Geronimo valuation so freely shared with Ms. Hynie's advisors was part of the documents Mr. Buchanan and I had sought in 2010 in discovery and in 2011 in my multiple valuation FOIA requests, after the AG started using the claimed \$4.7 valuation to openly accuse Mr. Buchanan and me of overstating the value of the James Brown music empire by \$79 million to the IRS to get a \$5 million commission on James Brown's \$5 million estate.

90. In 2014 and 2015 Judge Griffith ordered the AG to produce all documents held by Wingate in Richland 4900, but the AG did not release some documents, including the April 24, 2013 letter.³

³ See the public record of Newberry County FOIA case No. 2012-CP-36-00688, for a full view of the refusal of the AG to release the public documents I am seeking in this FOIA case as well as the Hynie bigamy admissions that AG was sharing with Ms. Hynie and Peter Afterman, and Mr. Bauknight's efforts to intervene and stop FOIA compliance, including Order of Judge Griffith dtd. 9/9/14 and other orders, and Aff. Summer, 11/21/14.

91. By 2015 Mr. Buchanan, grandson Forlando Brown and I had all seen the claimed \$4.7 million valuation which Forlando Brown described under oath as “bogus,” a characterization with which Mr. Buchanan, under oath, and I agreed, but using different terminology.

92. Judge Early declared that Ms. Hynie was James Brown’s spouse in January 2015, after which Mr. Bauknight told the Supreme Court: in Case No. 2014-001279:

The appraisal contains highly confidential financial information. It analyzes songs copyrighted by James Brown and discusses the historical level of revenue each generates. It discloses aspects of future business plans of the James Brown Estate and Trust, and projects future revenues of the Estate and Trust. This analysis is highly confidential because it completely exposes the strengths and weaknesses of the music catalog, and discloses confidential revenue projections of the Estate and Trust.. . .

It is apparent that Petitioner is motivated by something other than the best interest of the Estate and Trust. *See also Wilson v. Dallas*, ... But Petitioner cannot change the past; further, she had no legal right to use these proceedings for that purpose and in doing so abuses a dead man’s estate....

Petitioner continues to waste everyone’s time and the Estate and Trust’s money trying to create a narrative with no foundation in reality. The incontrovertible evidence is that Bauknight’s actions have taken the Estate and Trust from the brink of ruin and insolvency⁴ at the time of

On March 22, 2019 Deputy Solicitor General Emory Smith, signed a statement in the journalist’s FOIA case stating:

I **do not** wish to retrieve evidence/exhibits in the above referenced case and **do not object to the destruction** of same.

⁴ The undisputed record shows that in 2009 the James Brown Estate was ready to sign a 2-year publicity rights contract approved by entertainment counsel Ray Gonzalez, Esq., and projected to bring in \$1 - \$2 million a year, but the AG and Ms. Hynie stopped it. I was present when we urged Mr. Bauknight to go forward with it in 2009; but he did not, and Mr. Afterman then valued James Brown’s image & likeness at zero, or near

his appointment to a debt free and cash flow positive position. During his tenure the Estate and Trust paid off \$14 million⁵ on the Pullman bond debt seven years ahead of schedule. ... been able to retain a host of accomplished music industry professionals to assist in marketing.... Petitioner's outsized \$5 million fee claim is one of the three remaining claims. Nothing Petitioner writes can change these incontrovertible facts. ... Return to Motion, 4/3/15, *Wilson v. Dallas*, Sup. Ct. Case No. 2014:

93. Judge Early's status report to the Supreme Court, filed May 8, 2013, praised Mr. Bauknight and adopted Mr. Bauknight's "brink of insolvency" and "\$14 million Pullman bond" language; claimed that my \$47,972 SA fee claim was for \$2 million; overstated my fee request by more than \$2 million; and did not tell the Court about Ms. Hynie's May 29, 2013 announced plan, instead stating on page 6 of the report, filed in *Wilson v. Dallas*, Case No. 2009-14226:

The Order requesting this status report inquired whether any proposed settlement agreement has been submitted for court approval. The answer is an unequivocal no. No lawyer, party or anyone else has discussed, mentioned, suggested or inquired of me anything about a settlement. Neither am I aware of any rumor or "courthouse talk" of any proposed settlement.

94. My efforts to convince the AG not to allow Ms. Hynie and Mr. Levenson to carry out their plan to dismember the "I Feel Good" charity a second time came to an

zero. [See email of Ms. Hynie's counsel, Exhibit E, 8/09, suggesting that S.C. may not have a right of publicity.]

⁵ The Pullman Bond, another name for the TIAA debt, was actually under \$9.4 million when Mr. Bauknight replaced Mr. Buchanan and me, \$11.4 million with a \$2 million escrow payable with the last payment. Yet the AG and Mr. Bauknight claimed that we had diminished the claimed-\$4.7 million music empire by earning \$5+ million a year, more than 100% of its claimed value. In addition, Mr. Bauknight, supported by the AG, claimed that he had repaid \$14 million, with 7.95% interest, in just 2 ½ year from a \$4.7 million music empire.

abrupt halt on June 10, 2015, but my pursuit of the \$4.7 million valuation documents being used by the AG to accuse Mr. Buchanan and me of a federal felony did not.

95. In 2016 the AG moved two times to consolidate Richland 4900 and this FOIA case with Aiken 1337, my fee claim in another county.

96. In 2016 the AG and Legacy Trust made multiple claims to dismiss my FOIA suits, and Judge Early dismissed the two FOIA suit, and I ask the Court to review the AG's filings and commitment to Richland 4900 in that first appeal in light of the 2020 disclosure that it is being conducted primarily for Ms. Hynie, and solely for Wingate private clients, successors to the Legacy Trust, of which Mr. Bauknight is trustee.

97. In late 2016, the AG, Ms. Hynie and the James Brown Estate named the same 9 expert witnesses for Richland 4900, and in 2016 and 2018 three of the experts gave testimony which supported the \$99 million claim, including that the copyrights alone were worth as much as \$80 - \$100 million when Mr. Buchanan and I delivered the assets to Mr. Bauknight; that the tangible personal property the AG and Mr. Bauknight valued at zero or near zero, was worth up to \$20 million; and that, although there has never been a valuation of the publicity rights, Mr. Brown was a "seminal figure" in the music industry in the 20th Century, which I do not dispute.

98. I respectfully submit that there is no basis to dismiss this FOIA appeal, and that the Court should consider Exhibit AG, the New York Times article about the \$90 million sale, in progress for 4 years, with the undisputed fact that the AG was providing oversight to Mr. Bauknight who, with Mr. Afterman, with actual knowledge that both were deeply committed to Ms. Hynie's May 29, 2013 plan to ignore the Supreme Court and

reinstate the AG's 2008 settlement.

100. Between 2011 and 2020 numerous citizens, including a now-State Senator, a *New York Times* editor, and another editor, presented affidavits in James Brown FOIA cases raising concerns about the AG's FOIA noncompliance, including as to value, where an \$80 million private charity under the IRS "Five Percent Rule" must distribute around \$4 million a year in scholarships, but a \$3 million charity's requirement is less than \$150,000.

101. In 2019 the importance of the AG's withholding of the \$4.7 million valuation was demonstrated when, at Mr. Bauknight's request, Judge Early discarded tens of millions of dollars of litigation costs since 2009, including those he has spent on FOIA disruption and Richland 4900 for the benefit of Ms. Hynie; and when a proposed order submitted by Mr. Bauknight for the James Brown Estate, and signed by Judge Early, claimed that Mr. Buchanan and I should not have opposed the AG's 2008 settlement; the order said that the non-real property of the James Brown Estate was worth only \$5,152,830.00 when James Brown died; and as for the *Wilson v. Dallas* appeal said of Mr. Buchanan's and my joint 5-year effort to keep Ms. Hynie from getting \$1 million a year of income and \$20 million from a \$90 million sale in exchange for termination rights worth zero:

The Supreme Court's opinion in *Wilson v. Dallas* is, the law of the case for this proceeding. Nevertheless this Court is not required to turn a blind eye to the fact that Mrs. Pope did not seek advice regarding the benefits of the settlement agreement vis-à-vis termination rights before her appeal attacking the settlement. Moreover, every appellate decision is, of course, limited to the facts before the Court. The Supreme Court's decision in *Wilson v. Dallas* did not have the benefit of the testimony and

evidence the Court received during this trial. The Court is likewise not required to turn a blind eye to the fact that the settlement agreement put an end to the litigation among the heirs [footnote]. This Court finds that Mrs. Pope's failure to seek guidance on this vitally important term of the settlement agreement constituted a breach of her duty of her care and prudence. See Order. 1/16/19, Aiken 1337.

102. At the request of Mr. Bauknight, the lower court did not allow either Wm. J. Smith, my co-author in *Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't...* or me to testify about the impact of incorrect termination rights claims made by the AG since 2009.

103. While the AG continues to refuse FOIA or discovery release of the \$4.7 million valuation documents and Legacy Trust amendment and other documents, Mr. Afterman, the "music industry expert" responsible for the \$4.7 million; working with AG Jones after *Wilson v. Dallas*; and refuting the claims of the AG's own Richland 4900 experts, told the Supreme Court on October 27, 2019:

I agree with the projection in the Settlement Agreement that the termination rights for James Brown are worth tens of millions of dollars.

And

If Tommie Rae Brown is not James Brown's surviving spouse, the Charitable Trust will substantially lose its funding within the next six years. [Afterman Affidavit, Exhibit , p. 1]

104. Ignoring our testimony and at least five experts, including the AG's own expert Roger Miller, Judge Early, at the request of James Brown's Estate, ruled that the only "credible evidence" in a lengthy trial was that James Brown's music empire was worth

less than \$4.7 million when he died. Order, Aiken 1337, 1/19.

105. I personally witnessed Mr. Bauknight's claim that he had earned more than the \$5+ million a year Mr. Buchanan and I had earned as PR/Trustees, and the TIAA debt has been paid off since 2011.

106. I am interested in these public documents under FOIA because the AG and Mr. Bauknight, in multiple capacities, including purporting to act "on behalf of" the Attorney General, but for the benefit of Ms. Hynie, are using Richland 4900 and have refused all discovery requests for them since 2010; the concealed \$4.7 million valuation is being used by the State/AG to falsely accuse Mr. Buchanan and me of a federal felony and to gain an advantage for Ms. Hynie and the private Wingate clients in Richland 4900.

107. The Legacy Trust documents and the documents which claim that James Brown's music empire was worth only \$4.7 million have been shared with Ms. Hynie and her advisers, including Mr. Afterman, for 12 years, and they are property of the State of S.C., were used in Richland 4900, and should have been delivered to Mr. Buchanan and me 12 years ago in discovery, and to me in this FOIA case 11 years ago.

108. I ask the Court to consider the Final Brief of Respondent Attorney General filed in the first appeal of this case, 2016-001727 , including where the AG states as a fact on page 4 that "[t]he instant action is directly related to *Bauknight* case 4900," in light of the fact that from May 29, 2013 both Ms. Hynie and Mr. Bauknight, acting for the the James Brown Estate and Legacy Trust, were conducting Richland 4900, and using the "directly related" FOIA noncompliance, to ignore the Supreme Court's *Wilson v. Dallas* decision, as announced by Ms. Hynie on May 29, 2013, and get Ms. Hynie \$20 million

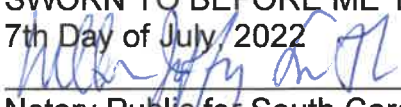
from the sale of the assets James Brown left to his "I Feel Good" charity..

FURTHER DEPONENT SAYETH NOT.


Adele J. Pope

SWORN TO BEFORE ME THIS

7th Day of July, 2022

 (L.S.)

Notary Public for South Carolina

My commission expires: 2/27/2027

Exhibit A

FOI E-Mails

From: Bill Hammond <whamm@bellsouth.net>
Sent: Wednesday, November 14, 2007 11:32 PM
To: Sonny Jones
Cc: Brown Estate GA Atty Gen
Subject: Estate Inventory and appraisalment
Attachments: James Brown Inventory #1 (2) (3).doc

I prepared this today for Buddy and Al to file. I thought you would like to see the numbers. The inclusion of JBE, Inc in the trust is a \$20+Million issue. If JBE, Inc. owns JB's persona, then it is an \$85M issue. Thanks for your help and call me on my cell 706-294-5084 if I need to come to the hearing for any reason or assist you in any way. Thanks again, Bill

IRS CIRCULAR 230 DISCLOSURE: Pursuant to United States Treasury Department Regulations, the firm is now required to advise you that, unless otherwise expressly indicated, any federal tax advice contained in this communication, including attachments and enclosures, is not intended or written to be used, and may not be used, for the purpose of (i) avoiding tax related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax related matters addressed herein.

"ATTORNEY-CLIENT PRIVILEGED; DO NOT FORWARD THIS E-MAIL WITHOUT PERMISSION" The information contained in this transmission is privileged and confidential. It is intended only for the use of the individual or entity named above. NOTE: E-mails are not a secure method of communication. They may be copied and held by various computers through which they pass. Individuals not participating in our communication could intercept them. You have consented to receive communications from the firm via e-mail. If you should change your mind, please advise the firm immediately.

William F. Hammond
Hull, Towill, Norman, Barrett & Salley, P.C.
P.O. Box 1564
Augusta, GA 30903-1564
706-722-4481

--- Scanned by M+ Guardian Messaging Firewall ---

**The James Brown Legacy, Inc.
(name pending)
28 East Andrews Dr.
Suite K
Atlanta, GA 30305**

October 12, 2007

**Mr. Buddy Dallas
Judge Alford Bradley
The Irrevocable Trusts of James Brown, dated 8-1-00
The Brown Family Educational Trust
*The James Brown "I Feel Good" Trust***

Dear Mr. Dallas and Judge Bradley:

We are pleased to present this initial presentation of a corporation to be formed, after approval, named "The James Brown Legacy, Inc." (hereinafter "JBL") and letter of intent to begin due diligence involved with the James Brown Trust Estate (Trust Estate) with the objective of a purchase of the Trust Estate in its entirety, image, songbook, etc. of James Brown. We make this presentation as an initial introduction of our intent and with the understanding that any final agreement will be subject to formal documentation and acceptance and approval by the Trust Estate and the Court.

It is our belief that the legacy of James Brown and his noble wishes as set out in the trust documents will be best served by maximizing the value of the non-performing assets of the Trust Estate and transferring the items to a group interested in not only paying a fair price but also interested in continuing the altruism of Mr. Brown. It is our belief that the Trust Estate will have peak value by keeping the items grouped together and selling them as a unit instead of breaking up the items and liquidating them piecemeal. As you surely know, merely selling the items individually will do nothing to perpetuate the good works of James Brown.

Our organization's mission will be to develop a Strategic Plan and infrastructure that will build and promote the legacy of James Brown. We intend to work and partner with government agencies and educational institutions to turn James Brown's home into an experiential setting commiserate with the stated intentions of the I Feel Good Trust. We also envision plans that would include the establishment of the James Brown Museum. The purpose of this museum will be to tell the story of how James Brown persevered against all odds: a true "Horatio Alger" story. We will also work and partner with other interested parties within the Strategic Plan to maximize the brand equity and performance of the idle assets over time. We believe that this approach, coupled with the right structured sales agreement, will provide the most value for all interested parties.

Our intent is to make a formal offer to the Estate of James Brown and the Irrevocable Trust of James Brown dated 8-1-00 and must meet several criteria and approval by certain specific parties. Our intent is to purchase the assets, in their entirety, of the trust estate to include the writer's share of the music, the songbook, all intellectual property, real estate, personal property such as costumes, etc., Mr. Brown's image and persona, individually and as an entertainer to include all indicia, stage names such as "Godfather of soul", "The hardest working man in show business", etc.

Our intent is to make a formal offer, as of the date of this letter, for the above referenced property, for a payment of \$100 million US dollars plus Five percent (5%) of the gross profits of the company to be formed, JBL, to be portioned to the "I Feel Good" Trust over a determined period of time as legacy royalties. Our formal offer shall provide earnest money in the amount of \$100,000.00 to be paid into the Estate/Trust as directed during the initial 90 day period which will begin upon approval of the formal offer by the Court. In order to maximize the value of the Trust Assets, we also anticipate the Trust granting JBL contingent, exclusive rights to maximize Trust Assets during the 90-day period, the contingency being our eventual closing on the transaction. During this period, JBL will have all of the rights and privileges to determine marketability of assets and enter into arrangements to secure cash infusions. Further, inasmuch as the closing of the purchase, if approved by the parties and the Court, will be as of the date of this letter and all income or receipts of the Trust will be part of the assets that we will be purchasing, the \$100,000.00 earnest money may be paid into the Estate/Trust from any source during that 90 day period.

We envision that, upon tentative approval of the formalized offer by the Court, we will begin a brief period of due diligence.

By the end of the first 90 days following tentative approval, if JBL's due diligence warrants proceeding further, JBL will make a payment of \$5 million to be credited toward the purchase price at the closing. That payment will begin an additional 90 day period in which the parties have to finalize and close the transaction. Provided all the conditions set forth in the formal offer are met, the closing will occur on or before the 90th day following the \$5 million dollar payment. Principals of our group have already been in contact with John H. Tiller, Esq. of Haynsworth Sinkler Boyd, P.A., who has tentatively agreed to be the closing attorney, should the Court approve our formal offer.

At the final closing, the remaining balance of the \$100 million offer shall be paid. We anticipate that the Gross Profits Agreement will be executed at that time as well.

As you will certainly understand, this letter of intent is subject to due diligence by us and our agents. We anticipate certain contingencies to be in the formal offer, including a completed inventory and appraisal of all items in the Trust, assurance of control of assets, assurance of full rights to publicity, reasonable financing if necessary, no limitations or conditions that would inhibit the implementation of the JBL Strategic Plan to develop the James Brown Legacy, and no impediments to creating performing assets over time.

We understand and appreciate that this letter of intent and any formal offer shall be subject to evaluation and approval of both the Special Administrators and the final approval of the Court.

As you understand, it is our hope and desire to maintain the legacy and good will of James Brown as so aptly set forth in the Trust agreements. We understand the limitations that the Trust may have at this juncture, however. As a small demonstration of our wish to "keep up the good works" of James Brown, we wish to provide the Trust Estate with funds necessary to continue James Brown's tradition of providing turkeys for the needy this Thanksgiving 2007. We believe that this important tradition is needed to maintain the James Brown Legacy, Mr. Brown's wishes, and are honored to assist.

We appreciate the opportunity to provide this letter of intent and believe it be truly reflective of the valuation of the estate at this time. If the Trust Estate is willing to consider entering into a formal agreement, kindly contact me or my counsel, John T. Sparks, Sr., within the next 30 days.

I look forward to discussing this matter with you further.

Sincerely,

Gray M. Campbell

cc: John T. Sparks, Sr., Esq., Austin & Sparks, P.C.
cc: John H. Tiller, Esq., Haynsworth Sinkler Boyd, P.A.

Exhibit A

Adele J. Pope

From: Sonny Jones [AGSJONES@ag.state.sc.us]
Sent: Thursday, December 06, 2007 4:04 PM
To: rlbuchananjr@bellsouth.net; adele@pcpelawfirm.com
Cc: Bob Cook
Subject: James Brown Matter

Attachments: James Brown Legacy initial offer 10-12-07____.doc



James Brown
Legacy initial off...

I, like each of you, have been contacted by Dr. Cox and Toby Byron as to the purchase (see attached 10/12/07 letter) of the Trust Estate for \$100 million plus 5% of the gross profits from the company to be formed. I, like each of you, have very little time left to devote to the intellectual property issue. However, I do not want to be the one referenced as the one who sat on an offer of \$100 million and lost it. Therefore, please advise as to the following (and more if you have further insight):

1. Is it that we do not have time to deal w/ this now and if so do we need to consult w/ someone who has the expertise
2. I have heard for the last 3 months that the sky will fall and the offer will go away if we do not accept it now...your thoughts. Also, who else is out there that can make an offer if at all
3. Are there some self serving interest w/ some of the local players in this that is causing this push
4. I was given Joe Katz in Atlanta as a person to call to get a feel if these current offer will in fact decrease in the near future...your thoughts on that contact

I would appreciate your thoughts and your indulgence but I would like to discuss now rather than explain later on...

Please advise. Thanks.

PS: When can we talk about the interesting information you recently discovered in the boxes from Keith Babcock.

Exhibit B



ALAN WILSON
ATTORNEY GENERAL

April 24, 2013

Everett A. Kendall, II, Esq.
Sweeny Wingate & Barrow, PA
P. O. Box 12129
Columbia, SC 29211

RE: Russell L. Bauknight, et al. v. Adele J. Pope
Civil Action No: 2010-CP-40-04900
Your File: 4077-7389

Dear Mr. Kendall:

This is to advise that the Attorney General's Office has no responsibility for legal fees to Sweeny, Wingate & Barrow, as this Office did not employ the firm's services.

Your letter is entitled "Privileged Attorney-Client Communication". Please be advised that the Office of Attorney General has never been a client of Sweeny, Wingate & Barrow in this matter.

My letter of April 18, 2013, was a response to your letter of April 12, 2013. However, we are not signing any documents and are always willing to discuss matters. As you are aware, if the Supreme Court decision stands as is, any fees Sweeny, Wingate and Barrow have heretofore received in the 4900 case are required to be disgorged and returned to the trust established by James Brown. In any event, there is no liability on this Office for legal fees.

Yours very truly,

John W. McIntosh

John W. McIntosh
Chief Deputy Attorney General

CC: Kenneth Wingate, Esq.

JWM/ds

SCANNED

REMBERT C. DENNIS BUILDING • Post Office Box 11549 • COLUMBIA, SC 29211-1549 • TELEPHONE 803-734-3970 • FACSIMILE 803-253-6283

Exhibit C

ELECTRONICALLY FILED - 2020 Oct 27 2:17 PM - RICHLAND - COMMON PLEAS - CASE#2012CP4000350

JAN 20 2012

Referred to Victoria, Cook
Answered McIntosh, John
Towers, J. Meyer

JAN 23 2012

January 20, 2012

Received by: _____
Reviewed by/Date: _____
Referred to/Date: _____
Notes: _____

Reply to: Main Office
Mark V. Gendy
(803) 258-2133 x121
mvg@swblaw.com

URGENT - PRIVILEGED ATTORNEY/CLIENT COMMUNICATION

VIA HAND DELIVERY

Alan Wilson
South Carolina Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

RE: Russell L. Bauknight, et al. v. Adele J. Pope and Robert L. Buchanan, Jr.
Civil Action No.: 2010-CP-40-04900
Our File: 4077-7389

Dear Mr. Attorney General:

It is my understanding that you have decided to release what you deem the public portion of the fee agreement in the above-referenced matter. As your attorney in this matter, I am writing to advise you against releasing any portion of the agreement until the Court rules on this matter.

Releasing these documents at this time will have the following detrimental impact on this litigation.

First, you will certainly incur the sanction of costs and attorney fees in the pending FOIA actions. That defeat will be more costly and publicly embarrassing than a decision to continue litigating the fee agreement issue.

Secondly, your decision will jeopardize the rights of your co-litigants. Once you release what you have deemed the public portions, the Defendants will certainly argue that your actions waive your co-litigants' claims to privilege for the remainder of the agreement.

Third, FOIA specifically exempts from production privileged documents. Whether this complicated fee agreement is privileged is currently before the Court. You are complying with

NAME OFFICE T: 803-255-2133 F: 803-255-9177 1515 LANE ST. (20203) Post Office Box 4220 Columbia, SC 29211
 PER DES OFFICE T: 843-878-5355 F: 843-878-5303 1116 GABRIEL WAY - Sumter Post Office Box 88 HARTSVILLE, SC 29551

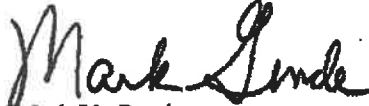
January 20, 2012
Page 2 of 2

both the spirit and letter of FOIA if you decline to produce the requested documents until the Court has determined whether any of the fee agreement is privileged.

I trust that you will reconsider your decision. I am available throughout the day to discuss this matter.

Yours truly,

SWEENEY, WINGATE & BARROW, P.A.


Mark V. Gende

MVG/smt

cc: C. Havird Jones, Jr., Esquire – via electronic mail
Mary Frances Jowers, Esquire – via electronic mail
Tracy Meyers, Esquire – via electronic mail
Russell Bauknight – via electronic mail

ELECTRONICALLY FILED - 2020 Oct 27 2:17 PM - RICHLAND - COMMON PLEAS - CASE#2012CP4000350

Exhibit D

)
)
)
)
)
)

INVENTORY AND APPRAISEMENT

☒ ORIGINAL

Page 1 of 8

SCHEDULE F - Miscellaneous Personal Property - (tangible personal property, employment bonus or award, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, etc.) (If none, so state.) (For jointly owned property with right of survivorship, see schedule E.)

[illegible]

TOTAL SCHEDULE F **\$** 58,667,046.00
(also enter under recapitulation, page 1)

NOTE: FOR SCHEDULES G, H, AND I. LIST VALUES ONLY IF PAYABLE TO ESTATE.

SCHEDULE G - Transfers During Decedent's Life - Transfers intended to take effect at death. United States Government Bonds "Payable on Death", Trust created by Decedent in which income for life was retained, power to revoke or other incidents of ownership retained, life insurance transfers. Lifetime transfers of real property in which decedent retains a life estate or other incidents of ownership.

Did Decedent make any transfers during lifetime as described above? ☒ YES ☐ NO

If "yes" please give date and type of transfer and list total amount payable to estate:
(If more space is required, insert additional sheet of same size.)

Decedent created an Irrevocable Trust Agreement dated August 1, 2000 and transferred title to his personal residence and approximately 60 acres of land (estimated date of death value of \$3,000,000.00) and all of his stock interest in James Brown Enterprises, Inc., the value of which is \$23,332,792. This was calculated by allocating \$50,000,000 of the \$100,000,000 offer for all the estate's assets to the royalty rights owned by James Brown LLC, deducting the \$15,000,000 bond indebtedness secured thereby, and multiplying the sum by 66.66512% (the ownership interest of James Brown Enterprises, Inc. in James Brown LLC). The net realizable value of James Brown Enterprises, Inc. upon the sale of its assets and liquidation to the trust will necessarily be less than the value above, since it is a C corporation for federal income tax purposes and obtained no step up in the inside basis of its assets for income tax purposes. These trust assets are includable in the deceased's taxable estate under IRC Section 2036 (a). The value of the persona and other tangible and intangible rights associated with James Brown, his image and likeness, is estimated to be \$50,000,000 and the other

one half of the \$100,000,000 offer and is included in Schedule F, net of items listed elsewhere herein. The Schedule F amount may be determined by the Court to be owned by James Brown Enterprises, Inc., which is 100% owned by the Irrevocable Trust of August 1, 2000, and therefore not part of the probate estate. None of this value in Schedule G is payable to the estate, but is includible in the federal gross taxable estate before deductions.

Additional offers are expected for assets owned by the estate and the trust. It is anticipated that this Inventory and appraisal will be amended when these offers are received and considered, when appraisals are obtained, and further inquiries made into the circumstances surrounding the acquisition of JTWRS property in Schedule E above.

TOTAL SCHEDULE G \$ 26,332,792.00

(also enter amounts payable to estate under recapitulation, page 1)

(If more space is required, insert tax schedules or additional sheets of same size.)

SCHEDULE H - Powers of Appointment - Property, both real and personal, over which Decedent possessed a Power of Appointment whether Testamentary or otherwise.

Did Decedent possess a Power of Appointment? ☐ YES ☒ NO

If "yes", did Decedent exercise the power of appointment in favor of estate? ☐ YES ☒ NO

If "yes", please describe and list total amount payable to estate. \$
(If more space is required, insert additional sheets of same size.)

TOTAL SCHEDULE H \$ None

(also enter amounts payable to estate under recapitulation, page 1)

Exhibit E

From: Alan Medlin <amedlin@sc.rr.com>
Sent: Sunday, August 30, 2009 4:11 PM
To: Kingsmore, Fred L.; Carter@eckb.com; Chandler@eckb.com; mrosen@rosen-lawfirm.com; AGSJONES@scag.gov; MFJowers@scag.gov; JCNicholson@scag.gov; David Michel; louis@levensonlaw.com; lbauknight@BPSCPAS.COM
Cc: Tax valuation
Subject: tax valuation.rtf
Attachments:
Follow Up Flag: Follow up
Flag Status: Completed

Attached please find a case hot off the press dealing with tax valuation issues of the second greatest country music songwriter (after Hank Williams) who wrote what is arguable the best country song ever: Patsy Cline's "I Fall to Pieces." It is a treasure trove of information for us, including: (1) the method of valuation for songwriter royalties includes an average of some prior years royalty stream multiplied by a multiple (somewhere between 5 and 8 seems reasonable based on the opinion); (2) names of some experts; (3) the Service accepted the multiple of 8. Based on the info in the opinion, Bobadele has grossly overvalued the estate for 706 purposes. The opinion deals only with royalties and not image and likeness, which apparently was inapplicable to the decedent songwriter. Of course, among ourselves, we are not sure we have the right to image and likeness under SC law, so any separate valuation of that should be discounted accordingly.

Exhibit F



From: Alan Medlin <amedlin@sc.rr.com>
Sent: Wednesday, April 14, 2010 12:48 PM
To: Sonny Jones
Cc: Kingsmore, Fred L.; J. C. Nicholson; Mary Frances Jowers
Subject: Re: Brown-Pope May 20, 2009 accounting

So this is a PR accounting. I thought it would be a trustee accounting. So they have taken the position that all the assets were in the estate? Not consistent with a bunch of other stuff they have said. ... Big surprise

Alan Medlin

On Apr 14, 2010, at 12:37 PM, "Sonny Jones" <AGSJONES@scag.gov> wrote:

> This accounting states that we had an ending balance of over \$99
> million. Alan I think we may be suing the wrong people..
> <Brown- May 20-2009 accounting.PDF>

Exhibit E-7

Exhibit G

From: Ellington, S. Bronwyn
Sent: Thursday, April 29, 2010 10:21 AM
To: 'agjones@scag.gov'
Cc: Kingsmore, Fred L.; 'mfjowers@scag.gov'
Subject: FW:
Attachments: np.png; Signed March 27, 2008 Letter of Intent to Purchase Assets by Dr. Cox.pdf; Signed March 27, 2008 Letter of Intent to Purchase Assets by Terry Lee Brown.pdf; March 31, 2008 Letter from Pope and Buchanan rejecting proposal.pdf; April 29, 2008 from Pope and Buchanan to Dr. Cox stating sale is not appropriate at this time.pdf

Dear Sonny,
Freddie asked me to forward these documents to you.

S. Bronwyn Ellington, CP
Certified Paralegal
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, SC 29201
PO Drawer 2426 (29202)
T: 803.540.2134, F: 803.253.8277
BEllington@nexsenpruet.com
www.nexsenpruet.com

NEXSEN PRUET

 Agree that this is a confidential document. To help protect your privacy, Outlook prevented automatic download of this picture from the Internet.

Exhibit E-8

Exhibit H

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

RECEIVED

AUG 23 2010

S.C. SUPREME COURT

The Honorable Doyet A Early, III Circuit Court Judge

Case No 2008-CP-02-1647

Henry Dargan McMaster, in his capacity as Attorney General of the
State of South Carolina, Daryl J Brown, on behalf of his minor children,
Lindsey B and Janise B , Deanna J Brown Thomas, on behalf of her minor
child, Jason L , Yamma N Brown, on behalf of her minor children, Sydney L ,
Carrington L , and Tonya B , Vanisha Brown, and Larry Brown,
Tommie Rae Hynie Brown, Respondents,

v

Albert H Dallas, Alfred A Bradley, and David G Cannon, Individually
And as (purported) Trustees of the James Brown 2000 Irrevocable
Trust, Adele J Pope and Robert L Buchanan, Jr , Personal Representatives
Of the Estate of James Brown and Trustees of the James Brown 2000
Irrevocable Trust, Terry Brown, Romunzo Brown, Forlando Brown, Cinnamon
N M Paris, LaRhonda Pettitt, Jeannette Mitchell, and Russell L Bauknight,
as Special Administrator and Special Trustee for the Estate of James Brown
and The James Brown 2000 Irrevocable Trust,

of whom Robert L Buchanan, Jr and Adele J Pope, as Personal Representatives
of the Estate of James Brown and Trustees of the James Brown 2000 Irrevocable
Trust are Appellants,

and Albert H Dallas, Alfred A Bradley, and David G Cannon, Individually
and as (purported) Trustees of the James Brown 2000 Irrevocable Trust,
Terry Brown, Romunzo Brown, Forlando Brown, Cinnamon N M Paris,
LaRhonda Pettitt, Jeanette Mitchell, and Russell L Bauknight, as Special
Administrator and Special Trustee for the Estate of James Brown and
the James Brown 2000 Irrevocable Trust are Respondents

In re The Estate of James Brown and The James Brown 2000 Irrevocable Trust
u/a/d August 1, 2000

RETURN TO APPELLANTS' REQUEST FOR EXTENSION OF TIME

TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SOUTH
CAROLINA SUPREME COURT

Respondents respectfully oppose the requested amount of time sought by the
Appellants in this matter

1 The Respondents include all the settling parties, all beneficiaries, and
the South Carolina Attorney General. The Respondents must object to the
Appellants request for it is unneeded. Since May 26, 2009—the day the lower court
approved the settlement agreement, which ended almost all of the “James Brown
litigation”—the Appellants have tirelessly sought to prevent the settlement
agreement from coming into effect.

2 The Appellants' actions since May 26, 2009, belie any need for further
time to “frame” the issues before this Court. In their motion for reconsideration
from the order approving the settlement agreement, the Appellants identified 404
grounds for the circuit court to alter its decision to approve the settlement
agreement—the appellate issues have been thought through. See **Exhibit A**, July 10,
2009 Order Denying Motions to Alter or Amend.

3 On September 16, 2009, the circuit court granted the settling parties
Motion to Lift Stay and on October 1, 2009, the circuit court denied the Appellants'
motion for reconsideration. On October 13, 2009, the formal notice of appeal of the
May 26, 2009 order was filed. Were this Court to grant the Appellants' request for

not a novel issue of law just because Appellants claim it is. The authority of the Attorney General to represent charitable beneficiaries has been recognized throughout the history of the law of wills, trusts, and estates.

5 Respondents also dispute the contention that Appellants' counsel serve *pro bono publico*. Appellants' counsel are representing two deposed fiduciaries who seek approximately Five Million (\$5,000,000.00) Dollars in commissions and fees. The South Carolina Attorney General represents the charitable beneficiaries, for the public good.

6 Respondents dispute Appellants' assertion that the settlement agreement has the potential to divert "tens of millions of dollars" from the Trust. Presumably, this representation to the Court is based on Appellants' numerous under oath representations about the date-of-death value of the Trust, ranging anywhere from approximately Eighty-Five Million (\$85,000,000.00) Dollars on the federal estate tax return to approximately One Hundred Million (\$100,000,000.00) Dollars in affidavits, pleadings, and testimony. Appellants' assertions about the value of the Estate and Trust have been made without any underlying appraisal. According to the federal estate tax return, Appellants based their valuation on a valuation provided by their three predecessors as Personal Representatives and Trustees, whom the Appellants themselves decry as untrustworthy, except for their valuation of the Estate and Trust. Valuation assertions by Appellants' three

and deserving) who seek and have need of such assistance to obtain and further their education at the many educational entities and/or institutions in the State of South Carolina and Georgia." See May 26, 2009 Order Approving Settlement Agreement, p. 3.

predecessors were similarly made without any underlying appraisal. By contrast, Bauknight has pursued the appropriate fiduciary route and engaged a nationally-renowned and respected appraisal firm to value the Estate and Trust. Although the expected final completion date for that appraisal is a couple of weeks away, a preliminary report indicates that the date-of-death value of the Estate and Trust will not exceed Twelve Million (\$12,000,000.00) Dollars. In light of that actual appraised value, Appellants' claim for approximately Five Million (\$5,000,000.00) Dollars for their commissions and fees totals perhaps half or more of the date-of-death value of the Estate and Trust, which further refutes any notion that their counsel are acting for the public good.

7 Respondents finally dispute Appellants' assertion that Mr. Brown "expressly intended to disinherit" the 'recipients of the settlement.' The settling parties include the children of Mr. Brown named in his will to receive assets, his surviving spouse whom he married after the execution of the will, and his grandchildren named in his trust to receive benefits. Even assuming arguendo that Mr. Brown intended to disinherit all of these parties, which Respondents deny, a testator cannot expressly disinherit a surviving spouse because she has elective share rights regardless of a testator's intentions. Moreover, federal law provides valuable copyright termination rights to the surviving spouse and children, which pass to them despite Mr. Brown's intentions. The settling parties contributed these termination rights, as well as all rights they have in Mr. Brown's probate and nonprobate assets, to the settlement entity.

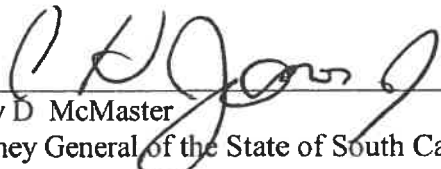
charitable trusts, when the Attorney General and the fiduciaries disagree, the Attorney General must have the sole power to assert the position of the charitable beneficiaries. Otherwise, the interests of the charitable beneficiaries would be conflicted. In cases, such as this, when the Attorney General has asserted its authority, the fiduciaries can have no standing or the Attorney General's power would effectively be rendered moot. In cases such as this, when the issue is simply the validity of a court-approved settlement agreement, when the Attorney General has asserted its authority, the fiduciaries can have no standing or the intent of the legislature would be disregarded. Section 62-3-1102 does not give the fiduciaries a vote or veto over the settlement agreement. If the fiduciaries have standing to appeal the approval of a settlement under 62-3-1102, then they would effectively have a vote or veto. It would be inconsistent with legislative intent to give them no vote or veto at the trial level yet let them appeal.

Who is better suited to have standing: the Attorney General or fiduciaries who seek to be paid \$5 million?¹⁴ Pope and Buchanan have nothing to lose if there were no settlement and the will and trust contests, and the omitted spouse and elective share claims, and the omitted child claim, proceeded. If the will and trust contests prevailed, the charitable beneficiaries *would receive nothing*. Yet Pope and Buchanan will claim their \$5 million commission regardless of who prevails. Only the Attorney General has a stake in whether the charities might get nothing. Consequently, only the Attorney General has standing to represent the charitable beneficiaries and enter into a settlement in the best interests of the charitable beneficiaries.

¹⁴ See uniform comment to section 62-3-1102.

8 In the alternative, if the Court finds that an extension is proper, the Respondents would respectfully request that the Court allow the Appellants the customary 30-day extension to file their initial brief

Respectfully submitted,



Henry D. McMaster
Attorney General of the State of South Carolina
C. Havird Jones, Jr.
Senior Assistant Attorney General
Robert D. Cook
Assistant Deputy Attorney General
J. C. Nicholson, III
Assistant Attorney General
Mary Francis Jowers
Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
State of South Carolina
Post Office Box 11549
Columbia, South Carolina 29211-1549
(803) 734-3970

Louis D. Levenson
LEVENSON & ASSOCIATES
125 Broad Street
Atlanta, Georgia 30303
*Counsel for James Brown Children and
Grandchildren Daryl J. Brown individually and on
behalf of his minor children Lindsey Delores
Brown and Janise Vanisha Brown Deanna J
Brown Thomas individually and on behalf of her
minor children Jason Brown Lewis Yamma N
Brown individually and on behalf of her minor
children Sydney Lumar Carrington Lumar and
Tonya Brown Vanisha Brown Larry Brown*

Robert N Rosen
T Heyward Carter, Jr
S Alan Medlin
David L Michel
Post Office Box 1510
Charleston, South Carolina 29402
Attorneys for Tommie Rae Hynie Brown

Matt Bodman
MATT BODMAN P A
1500 Calhoun Street
Columbia, South Carolina 29201
(803) 806-8605
Attorney for Terry Brown

Columbia, South Carolina

August 23, 2010

Aug 2010

Adele Pope

From: Terry Bradford Cox, Ph.D. <cox.terry@att.net>
Sent: Tuesday, August 03, 2010 5:10 PM
To: Sonny Jones
Subject: Pope letter
Attachments: Pope Letter 3.11.09.pdf

Sonny

Attached is the Pope letter. I never responded to it, because at that time a decision was made for Terry Brown to accept the rights from the settlement vs what Pope was offering.

There has never been any formal valuation on my part to determine any price. But, I know how both the \$65MM and the \$100MM were determined.

Terry

--- Scanned by M+ Guardian Messaging Firewall ---

Exhibit I

Aug 2010

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Henry Dargan McMaster, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

HENRY DARGAN MCMASTER, in his capacity as Attorney General of the State of South Carolina; **TOMMIE RAE BROWN**, individually and on behalf of her minor child, **JAMES BROWN II**; **DARYL J. BROWN**, individually and on behalf of his minor child **JANISE VANISHA BROWN**; **LINDSEY DELORES BROWN**; **DEANNA J. BROWN THOMAS**; **JASON BROWN-LEWIS**; **YAMMA N. BROWN**, individually and on behalf of her minor children **SYDNEY LUMAR** and **CARRINGTON LUMAR**; **TONYA BROWN**; **VENISHA BROWN**; **LARRY BROWN**; and **TERRY BROWN**,

Plaintiffs

v.

Adelle J. Pope and Robert L. Buchanan, Jr.,
Defendants

**IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT**

Civil Action No. 2010-CP-40-4900

FILED
2010 AUG 27 PM 4:24
JEANETTE W. McBRIDE
C.C.P. & G.S.

ACKNOWLEDGEMENT

The undersigned acknowledge the following:

1. That, when as part of the settlement process they proposed the appointment of Russell L. Bauknight ("Bauknight") as Trustee of the 2000 Irrevocable Trust of James Brown

("Trust"), they understood that the principal place of administration of the Trust would be in Richland County, South Carolina, which is where Bauknight maintains his principal place of business and keeps the records of the Trust; they also understood that the predecessor trustees of the Trust maintained the records of the Trust in Richland County.

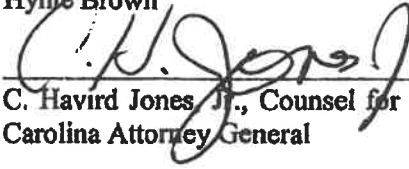
2. That they consider their settlement agreement dated August 10, 2008, and amended and restated on March 31, 2009, and the court order approving the proposed settlement and appointing Bauknight as Trustee to satisfy any and all requirements for maintaining the Trust's principal place of business in Richland County, South Carolina.

3. That, to the extent notice regarding the maintenance of the Trust's principal place of administration was necessary, the settlement process and the court order approving the settlement served as sufficient notice to them; to the extent that the settlement process and the court order approving the settlement did not serve as sufficient notice, they hereby waive any notice requirement and reaffirm their consent to the maintenance of the Trust's principal place of administration in Richland County, South Carolina.

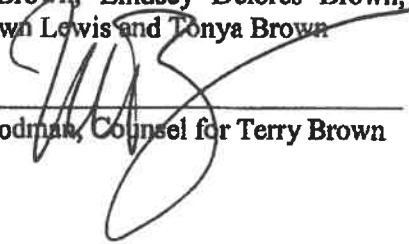
4. That, to confirm that the Trust's principal place of administration is and will be in Richland County, South Carolina, they agree that the Trust's principal place of administration is and will be in Richland County, South Carolina and consider this agreement to be a binding nonjudicial settlement agreement pursuant to S.C. Code section 62-7-111.

5. That most of the undersigned are represented by counsel with a presence in Richland County, South Carolina, and that all of the undersigned consider Richland County, South Carolina, to be the most appropriate venue for the sake of convenience to the undersigned.

S. Alan Medlin, Counsel for Tommie Rae
Hynie Brown


C. Havird Jones, Jr., Counsel for the South
Carolina Attorney General

Louis D. Levenson, Counsel for Deanna J.
Brown, Larry Brown, Yamma N. Brown,
individually and on behalf of her minor
children Sydney Lumar and Carrington
Lumar, Vanisha Brown, Daryl J. Brown,
individually and on behalf of his minor child
Vanisha Brown, Lindsey Delores Brown,
Jason Brown Lewis and Tonya Brown


Matt D. Bodman, Counsel for Terry Brown

("Trust"), they understood that the principal place of administration of the Trust would be in Richland County, South Carolina, which is where Bauknight maintains his principal place of business and keeps the records of the Trust; they also understood that the predecessor trustees of the Trust maintained the records of the Trust in Richland County.

2. That they consider their settlement agreement dated August 10, 2008, and amended and restated on March 31, 2009, and the court order approving the proposed settlement and appointing Bauknight as Trustee to satisfy any and all requirements for maintaining the Trust's principal place of business in Richland County, South Carolina.

3. That, to the extent notice regarding the maintenance of the Trust's principal place of administration was necessary, the settlement process and the court order approving the settlement served as sufficient notice to them; to the extent that the settlement process and the court order approving the settlement did not serve as sufficient notice, they hereby waive any notice requirement and reaffirm their consent to the maintenance of the Trust's principal place of administration in Richland County, South Carolina.

4. That, to confirm that the Trust's principal place of administration is and will be in Richland County, South Carolina, they agree that the Trust's principal place of administration is and will be in Richland County, South Carolina and consider this agreement to be a binding non-judicial settlement agreement pursuant to S.C. Code section 62-7-111.

5. That most of the undersigned are represented by counsel with a presence in Richland County, South Carolina, and that all of the undersigned consider Richland County, South Carolina, to be the most appropriate venue for the sake of convenience to the undersigned.

S. Alan Medlin, Counsel for Tommie Rae
Hynie Brown

C. Havird Jones, Jr., Counsel for the South
Carolina Attorney General

Louis D. Levenson, Counsel for Deanna J.
Brown, Larry Brown, Yamma N. Brown,
individually and on behalf of her minor
children Sydney Lumar and Carrington
Lumar, Vanisha Brown, Daryl J. Brown,
individually and on behalf of his minor child
Vanisha Brown, Lindsey Delores Brown,
Jason Brown Lewis and Tonya Brown

Matt D. Bodman, Counsel for Terry Brown

("Trust"), they understood that the principal place of administration of the Trust would be in Richland County, South Carolina, which is where Bauknight maintains his principal place of business and keeps the records of the Trust; they also understood that the predecessor trustees of the Trust maintained the records of the Trust in Richland County.

2. That they consider their settlement agreement dated August 10, 2008, and amended and restated on March 31, 2009, and the court order approving the proposed settlement and appointing Bauknight as Trustee to satisfy any and all requirements for maintaining the Trust's principal place of business in Richland County, South Carolina.

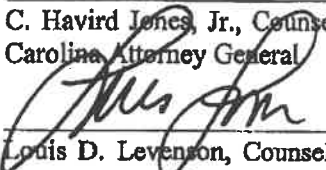
3. That, to the extent notice regarding the maintenance of the Trust's principal place of administration was necessary, the settlement process and the court order approving the settlement served as sufficient notice to them; to the extent that the settlement process and the court order approving the settlement did not serve as sufficient notice, they hereby waive any notice requirement and reaffirm their consent to the maintenance of the Trust's principal place of administration in Richland County, South Carolina.

4. That, to confirm that the Trust's principal place of administration is and will be in Richland County, South Carolina, they agree that the Trust's principal place of administration is and will be in Richland County, South Carolina and consider this agreement to be a binding nonjudicial settlement agreement pursuant to S.C. Code section 62-7-111.

5. That most of the undersigned are represented by counsel with a presence in Richland County, South Carolina, and that all of the undersigned consider Richland County, South Carolina, to be the most appropriate venue for the sake of convenience to the undersigned.

S. Alan Medlin, Counsel for Tommie Rae
Hynie Brown

C. Havird Jones, Jr., Counsel for the South
Carolina Attorney General

 8/27/10
Louis D. Levenson, Counsel for Deanna J.
Brown, Larry Brown, Yamma N. Brown,
individually and on behalf of her minor
children Sydney Lumar and Carrington
Lumar, Vanisha Brown, Daryl J. Brown,
individually and on behalf of his minor child
Vanisha Brown, Lindsey Delores Brown,
Jason Brown Lewis and Tonya Brown

Matt D. Bodman, Counsel for Terry Brown

Exhibit J

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) 2010-CP-40-4900

Russell Bauknight, et al.,)
Plaintiffs,)
vs.) TRANSCRIPT OF RECORD
Henry Dargan McMaster, et al.,)
Defendants.)

August 30, 2010
Columbia, South Carolina

B E F O R E:

HONORABLE L. CASEY MANNING, JUDGE.

A P P E A R A N C E S:

KENNETH B. WINGATE, ESQUIRE
EVERETT A. KENDALL, II, ESQUIRE
Attorneys for Plaintiffs

DARYL L. WILLIAMS, ESQUIRE
J. CALHOUN WATSON, ESQUIRE
Attorneys for the Defendants

Crystal Holmes

1 upon James Browns' death to his Irrevocable Trust.
2 And then that Irrevocable Trust splits into two parts,
3 fifty percent of it was the I Feel Good Trust, a
4 Charitable Trust for the education of students in
5 South Carolina and Georgia, and then the other fifty
6 percent for his family.

7 During the course of the last several years
8 of litigation which has gotten so much attention,
9 there was a settlement that was achieved, Your Honor,
10 and this global settlement that brought all 15 of
11 these people together on this caption into one group,
12 rewrote the estate plan, rewrote the terms of the
13 Trust. And the revised Trust is what Your Honor sees
14 on page 3, the second diagram that's at the top of
15 that chart.

16
17 THE COURT: All right.

18 MR. WINGATE: And again, Your Honor, you see
19 that Will just sits over there in Aiken. The Estate
20 administration is over in Aiken. But the Settlement
21 Trust, the Charitable Trust that receives the
22 royalties, the intangible assets, the intellectual
23 property of James Brown, is then administered in
24 Richland County, South Carolina by Russell Bauknight,
25 the Trustee, for the purpose of, as you see on that

1 chart, a Charitable Trust that remains for education
2 purposes, why the South Carolina Attorney General is
3 in this case as one of our client Plaintiffs, and is
4 about ---

5 THE COURT: The AG, they came in by agreement
6 by everybody, the AG ---

7 MR. WINGATE: That is correct, Your Honor.

8 THE COURT: As it says here, sole authority
9 to remove and replace Trustees, is that fair enough?
10

11 MR. WINGATE: (Affirmative response.)

12 THE COURT: Everybody?

13 MR. WILLIAMS: That is, as I ---

14 THE COURT: That's what it says.

15 MR. WILLIAMS: As I understand it, that is
16 what the -- what is provided in the Settlement
17 Agreement. That is not what was provided in the
18 original estate plan ---

19 THE COURT: Okay.

20 MR. WILLIAMS: -- of Mr. Brown.

21 THE COURT: That's good enough. That's good
22 enough.

23 MR. WILLIAMS: Just so you know.

24 THE COURT: Okay.

25 MR. WILLIAMS: It's not completely accurate.

Exhibit K

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) 2010-CP-40-4900

Russell Bauknight, et al.,)
Plaintiffs,)
vs.) TRANSCRIPT OF RECORD
Henry Dargan McMaster, et al.,)
Defendants.)

August 30, 2010
Columbia, South Carolina

B E F O R E:

HONORABLE L. CASEY MANNING, JUDGE.

A P P E A R A N C E S:

KENNETH B. WINGATE, ESQUIRE
EVERETT A. KENDALL, II, ESQUIRE
Attorneys for Plaintiffs

DARYL L. WILLIAMS, ESQUIRE
J. CALHOUN WATSON, ESQUIRE
Attorneys for the Defendants

Crystal Holmes

1 Paris, take it to Germany, Berlin. Never mind.

2 MR. KENDALL: The ---

3 THE COURT: The -- it was Elmer Gantry, who
4 played Elmer Gantry?

5 MR. WILLIAMS: I'll look for it on my
6 Blackberry.

7 (Laughter.)

8 THE COURT: All right, go ahead.

9 MR. WILLIAMS: I won't remember.

10 THE COURT: Who? Nobody knows.

11 MR. WILLIAMS: I can't remember.

12 THE COURT: I'll think of it in a minute. Go
13 ahead.

14 MR. KENDALL: Okay, very good. So the point
15 is ---

16 THE COURT: He won an Oscar for Elmer Gantry
17 in 1967. Go ahead.

18 (Laughter.)

19 THE COURT: Go ahead.

20 MR. KENDALL: Given that -- given that we --
21 given that you were given authorization to go to the
22 Christie's sale does not mean that -- that it's a
23 blessing on -- they could do it as reckless ---

24 THE COURT: Saying you can drive the car,
25

1 didn't say ---

2 MR. KENDALL: --- run into the wall and we're
3 going to show that they did.

4 Your Honor ---

5 THE COURT: Burt Lancaster, thank you, very
6 much. Go ahead. Burt Lancaster.

7 MR. KENDALL: Your Honor, the -- they talk
8 about a failure to -- our allegations of their failure
9 to accept a hundred million dollar offer. They may
10 have lots of good reasons that they want to put to the
11 Court for not having accepted that. We have lots of
12 good reasons we're going to argue but that's a fact
13 question. That issue's never been disposed of, just
14 because we've heard about it before. The refusal to
15 sign a consent and similar things.
16

17 One of the things, Your Honor, that -- that
18 we need to -- I want to bring to the Court's attention
19 as I know you're going to have to consider this
20 carefully, is a lot of this has been addressed. In
21 fact, a lot of the challenges they've raised are
22 addressed, in fact in the Settlement Agreement and the
23 Order approving the Settlement Agreement. Not the
24 issues that we raised as allegations of negligence in
25 the breach of trust of fiduciary duty but rather the

Exhibit L

**THE STATE OF SOUTH CAROLINA
IN THE Supreme COURT**

**APPEAL FROM AIKEN COUNTY
Court of Common Pleas**

**Doyet A Early, III, Circuit Court Judge
Case No 2008-CP-2-1647**

**Henry Dargan McMaster, in his
capacity as Attorney General of
the State of South Carolina,
Daryl J Brown, on behalf of his
minor children, Lindsey B and
Janise B , Deanna J Brown Thomas,
on behalf of her minor child, Jason
L , Yamma N Brown, on behalf of
her minor children, Sydney L ,
Carrington L , and Tonya B ,
Vanisha Brown, Larry Brown,
Tommie Rae Hynie Brown, and
James B , through his Guardian
ad Litem,**

RECEIVED

AUG 30 2010

SC SUPREME COURT

Respondents,

v

**Albert H Dallas, Alfred A Bradley,
and David G Cannon, Individually
and as (purported) Trustees of the
James Brown 2000 Irrevocable
Trust, Adele J Pope and Robert
L Buchanan, Jr , Personal Repre-
sentatives of the Estate of James
Brown and Trustees of the James
Brown 2000 Irrevocable Trust,
Terry Brown, Romunzo Brown,
Forlando Brown, Cinnamon N
M Paris, LaRhonda Petitt,
Jeanette Mitchell, and Russell
L Bauknight, as Special Adminis-
trator and Special Trustee for The
Estate of James Brown and The
James Brown 2000 Irrevocable
Trust,**

of whom Robert L. Buchanan, Jr.,
and Adele J. Pope, as Personal Repre-
sentatives of the Estate of James
Brown and Trustees of the James
Brown 2000 Irrevocable Trust are,

Appellants,

and Albert H. Dallas, Alfred A. Bradley,
and David G. Cannon, Individually
and as (purported) Trustees of the
James Brown 2000 Irrevocable
Trust, Terry Brown, Romunzo Brown,
Forlando Brown, Cinnamon N.
M. Paris, LaRhonda Petitt,
Jeanette Mitchell, and Russell
L. Bauknight, as Special Adminis-
trator and Special Trustee for The
Estate of James Brown and The
James Brown 2000 Irrevocable
Trust are

Respondents

In re The Estate of James Brown and The James Brown 2000 Irrevocable
Trust u/a/d August 1, 2000

**APPELLANTS' REPLY TO RETURN
TO MOTION FOR EXTENSION OF TIME**

**TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES
OF THE SUPREME COURT OF SOUTH CAROLINA**

Appellants make the following reply to the return filed by the Attorney General
and other respondents in opposition to appellants' motion for an extension of briefing
time

1 **Delay in the appeal** Up until now, the only delay in the normal progress
of this appeal was occasioned by the respondents' motion to dismiss the appeal for lack
of standing. Proceedings in circuit court and in the Court of Appeals regarding whether
the order under appeal should be stayed delayed nothing. Proceedings in the Court of
Appeals regarding a substitution of parties in another case had no effect upon this

appeal

2 **Novelty of issues** Among other things, this appeal will present the question of whether the Attorney General has authority to oust duly appointed and acting trustees of a private trust, entering into a private settlement agreement with those claiming against the estate of the trustor and eviscerating the trust. No answer to this question is to be found in caselaw of this Court to this date.

3 **The nature of lead counsel's service** As one of the reasons for the requested extension of time, the undersigned, as lead counsel, explained that his service in this matter is *pro bono* and he must attend to the business of his other clients while this work progresses. The Attorney General and the attorneys for some (but not all) of the other respondents now tell the Court that this was a misrepresentation. It is difficult to know how to respond to this claim, other than to say that this exchange of documents is not the place to determine who is misrepresenting. That must be determined in a different forum.

4 **Value of the estate** In paragraph 6 of the return, the Attorney General predicts for the first time that the testator's estate will soon be appraised at only \$12,000,000. The Attorney General then implies that this appeal is somehow related to the appellants' personal claim for fees and commissions up to the time they were replaced. The Attorney General is well aware that the undersigned do not represent the appellants in their claim for commissions. That claim has not been ruled upon by the lower court nor is it contingent upon the outcome of this appeal.

5 **Need for an extension** Appellants' attorneys respectfully reiterate that this appeal deserves the best effort which counsel are capable of giving to the Court, and that an unusual — but not unprecedented — extension is needed, and would not have been sought otherwise.

Respectfully submitted,

James B Richardson, Jr
1229 Lincoln Street
Columbia, South Carolina 29201
(803) 799-9412

Tressa T H Hayes
Post Office Box 5329
Columbia, South Carolina 29250
(803) 603-8583

by 
Attorneys for Appellants

August 30, 2010

Exhibit M

Marcie Greene

From: Black, David <DBlack@nexsenpruet.com>
Sent: Friday, December 17, 2010 3:10 PM
To: Sonny Jones; Mary Frances Jowers; 'amedlin@sc.rr.com'
Cc: Fred L. Kingsmore
Subject: FW: Appraisal Footnote
Attachments: np.png; links_l.png; links_s.png

Please see attached. I have also reached the conclusion that this is the best strategy. We do not want to lose credibility with the Court through an unnecessary motion to strike proceeding.

J. David Black
 Member

Nexsen Pruet, LLC
 1230 Main Street, Suite 700
 Columbia, SC 29201
 PO Drawer 2428 (29202)
 T: 803.640.2072, F: 803.727.1409
DBlack@nexsenpruet.com

www.nexsenpruet.com

NEXSEN|PRUET



From: Wilkins, William W.
Sent: Friday, December 17, 2010 3:04 PM
To: Black, David; Kingsmore, Fred L.
Subject: Appraisal Footnote

Gentlemen,

After much discussion with many of you, I propose the following language for the footnote regarding the appraisal:

"In contrast, one of Russell Bauknight's first official acts as personal representative of Mr. Brown's estate was to engage an investment banking firm to conduct an appraisal of the estate's value."

I understand that this language is less descriptive than many of you would like and have proposed. However, the appraisal and the proceedings in which it is involved are not part of the record in this case. The language I propose is as detailed as we should be *at this time*.

Nonetheless, I understand the importance of the appraisal and the significance of the value it places on Mr. Brown's estate. Further, I believe it is critical to our appeal. Thus, I propose that after the appraisal is accepted by the IRS for tax purposes (which I understand is very likely to occur), we file an amended appraisement with the probate court attaching to it the appraisal as an exhibit. After that time, we will petition the Supreme Court to take judicial notice of the IRS's acceptance of the appraisal and the amended appraisement to which it is an exhibit.

I believe this is the proper course of action for two reasons 1) It is consistent with the rules and 2) It will highlight this important issue for the court at a time of our choosing after Pope and Buchanan have filed their reply brief. If we insert a

detailed footnote in our initial brief it will give Pope and Buchanan the ability to argue that we played fast and loose with the rules, move to strike it from our brief, etc.

I believe this is the best course of action both legally and strategically. We are much better off filing our petition after the IRS has accepted the appraisal and we have filed an amended appraisal with the probate court.

Billy

***PLEASE NOTE
NEW STREET ADDRESS***

William W. Wilkins
Member
Nexsen Pruet, LLC
55 East Camperdown Way, Suite 400
Post Office Drawer 10648 (29603)
Greenville, SC 29601
T: 864.282.1199, F: 864.477.2699
[BWilkins@nexsenpruet.com](mailto:BWWilkins@nexsenpruet.com)
www.nexsenpruet.com

NEXSEN|PRUET



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--- Scanned by M+ Guardian Messaging Firewall ---

Dec. 2010

From: amedlin@sc.rr.com
Sent: Thursday, December 16, 2010 12:34 PM
To: Kingsmore, Fred L.
Subject: Re: Appraisal

something re mot to dismiss?

---- "Kingsmore wrote:

> What document did we file saying estate value didn't exceed \$12 million?

>

>

> Fred L. Kingsmore, Jr.

> Nexsen Pruet, LLC

> P. O. Drawer 2426 (29202)

> 1230 Main Street, Suite 700

> Columbia, SC 29201

> T: 803.253.8264, F: 803.727.1451

> fkingsmore@nexsenpruet.com

> www.nexsenpruet.com

> Nexsen Pruet

>

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DEC 2010

From: amedlin@sc.rr.com
Sent: Thursday, December 16, 2010 12:34 PM
To: Kingsmore, Fred L.
Subject: Re: Appraisal

something re mot to dismiss?

---- "Kingsmore wrote:

> What document did we file saying estate value didn't exceed \$12 million?

>

>

> Fred L. Kingsmore, Jr.

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Exhibit N

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
)

) Case No. 2010-CP-40-4900
)

RUSSELL L. BAUKNIGHT, as Trustee of
the James Brown 2000 Irrevocable Trust and
the James Brown Legacy Trust, as Personal
Representative of the Estate of James Brown,
and on behalf of Henry Dargan McMaster, in
his capacity as Attorney General of the State
of South Carolina; Tommie Rae Brown,
individually and on behalf of her minor child,
James Brown II; Daryl J. Brown, individually
and on behalf of his minor child Janise
Vanisha Brown; Lindsey Delores Brown;
Deanna J. Brown Thomas; Jason Brown-
Lewis; Yamma N. Brown, individually and
on behalf of her minor children, Sydney
Lumar, Carrington Lumar, and Tonya Brown;
Venisha Brown; Larry Brown; and Terry
Brown

and

HENRY DARGAN MCMASTER, in his
capacity as Attorney General of the State of
South Carolina; TOMMIE RAE BROWN,
individually and on behalf of her minor child,
JAMES BROWN II; DARYL J. BROWN,
individually and on behalf of his minor child
JANISE VANISHA BROWN; LINDSEY
DELORES BROWN; DEANNA J. BROWN
THOMAS; JASON BROWN - LEWIS;
YAMMA N. BROWN, individually and on
behalf of her minor children, SYDNEY
LUMAR, CARRINGTON LUMAR, and
TONYA BROWN; VENISHA BROWN;
LARRY BROWN; and TERRY BROWN,

Plaintiffs.

v.

Adele J. Pope and Robert L. Buchanan, Jr.,
Defendants.

MOTION TO COMPEL
DISCOVERY

(Requests for Production of Documents)

FILED
NEWBERRY COUNTY
2011 SEP - 5 A 10:56
MICHELE S. POWERS
CLERK OF COURT

TO: PLAINTIFFS RUSSELL L. BAUKNIGHT, AS TRUSTEE OF THE JAMES BROWN
2000 IRREVOCABLE TRUST AND THE JAMES BROWN LEGACY TRUST, AS
PERSONAL REPRESENTATIVE OF THE ESTATE OF JAMES BROWN, AND ON

BEHALF OF HENRY DARGAN MCMASTER, IN HIS CAPACITY AS ATTORNEY GENERAL FOR THE STATE OF SOUTH CAROLINA; DARYL J. BROWN; VENISHA BROWN; LARRY BROWN; TERRY BROWN; TOMMIE RAE BROWN; DEANNA J. BROWN THOMAS; AND YAMMA N. BROWN AND THEIR COUNSEL.

YOU WILL PLEASE TAKE NOTICE that ten (10) days after service hereof, or as soon thereafter as counsel may be heard, Defendant Adele J. Pope, through her undersigned counsel, will move, pursuant to Rule 37, SCRPC, and all applicable South Carolina Rules of Civil Procedure, for an order compelling the above-named Plaintiffs to respond to Defendant Adele J. Pope's First Set of Continuing Requests for Production of Documents, dated October 11, 2010; awarding this Defendant Pope costs, including attorneys' fees, of this motion; and such other sanctions as the Court shall deem just and proper.

The grounds for this motion are as follows:

1. Plaintiffs filed this action on May 19, 2010. Defendants have answered and counterclaimed, and Plaintiffs are currently in default as to the counterclaims.¹
2. On October 11, 2010, Defendant Pope served Plaintiffs Russell L. Bauknight, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Henry Dargan McMaster, in his capacity as Attorney General for the State of South Carolina; Daryl J. Brown; Venisha Brown; Larry Brown; Terry Brown; Tommie Rae Brown; Deanna J. Brown Thomas; and Yamma N. Brown with her First Set of Continuing Requests for Production of Documents. The original requests are attached

¹ Plaintiffs have moved for relief from the entry of default, and that motion has yet to be heard.

hereto as Exhibits A-H.

3. Among the documents requested were "[a]ny and all documents which support any position you may have as to the value of the James Brown assets as of December 25, 2006."

4. On November 12, 2010, counsel for Plaintiffs served responses to those requests, indicating that the documents requested were "still being compiled" at that time.

5. On April 29, 2011 counsel for Defendant Pope wrote to counsel for Plaintiffs, requesting a time to review the documents responsive to Defendant Pope's requests. (See Exhibit I, attached.) Defendant Pope's additionally requested an immediate review of the James Brown Legacy Trust and documents related to valuation of the assets of the Estate of James Brown and the James Brown 2000 Irrevocable Trust.

6. On or about May 3, 2011 Plaintiff Russell L. Bauknight filed a Supplemental Inventory & Appraisement in the Aiken County Probate Court, which asserts that the value of James Brown's music empire and other assets at his death was approximately \$4.7 million.

7. On May 6, 2011 several of the Plaintiffs herein filed a motion to supplement the Record on Appeal in Case No. 2008-CP-02-1647, currently pending before the South Carolina Supreme Court. That motion asserted that Bauknight had "engaged a nationally known firm to conduct the valuation and appraisal of the Estate and Trust." Included in the proposed supplement are the Supplemental Inventory & Appraisement and documents from the Internal Revenue Service, which indicated that the documents supporting the purported valuation had been in possession of the IRS since at least

December 2010. Plaintiff asserted that these documents proved that James Brown's assets at death and those of the 2000 Irrevocable Trust were worth only about \$6.5 million.

8. Also on May 6, 2011 counsel for Plaintiffs responded to counsel for Defendant Pope, indicating that he would suggest dates for Defendant Pope's counsel to review the responsive documents "shortly." (See Exhibit J, attached.)

9. On May 19, 2011 counsel for Defendant Pope again wrote counsel for Plaintiffs, pointing out that the documents filed in the Supreme Court made clear that the documents relating to the valuation of assets were available and again requesting dates to review the documents. (See Exhibit K, attached.)

10. After receiving no response from Plaintiffs, counsel for Defendant Pope again wrote to counsel for Plaintiffs on May 26, 2011, again requesting dates to review the documents. (See Exhibit L, attached.)

11. More than 10 days later, Defendant Pope has received no response from Plaintiffs.

12. More than six months have passed since Plaintiffs indicated that the documents responsive to Defendant Pope's requests were being compiled. More than five weeks after counsel for Defendant Pope originally requested dates to review the documents, Plaintiffs have not proposed a single date and have not offered any explanation for the delay.

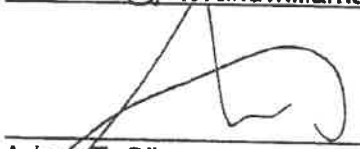
13. This case has been pending for more than a year, and the Plaintiffs have not produced any documents whatsoever to support their claims. It is necessary that discovery proceed, so that dispositive motions may be heard.

14. Defendant Adele J. Pope is informed and believes that she is entitled to an Order compelling the above-named Plaintiffs to comply with Rule 34, as well as all costs associated with this motion, including attorneys' fees, as provided for in Rule 37(a)(4).

This motion is based on the South Carolina Rules of Civil Procedure, especially Rules 34 and 37, applicable case and statutory law, the entire record herein, and such additional documentation as shall come before the Court prior to the hearing on this matter.

Respectfully submitted,

Daryl L. Williams
Jeter & Williams, P.A.
1204 Main Street, Suite 200
Post Office Box 7425
Columbia, South Carolina 29202
Telephone: (803) 765-0600
Facsimile: (803) 765-0619
dwilliams@jeterandwilliams.com



Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
1218 Taylor Street
Post Office Box 1898
Columbia, South Carolina 29202-1898
Telephone: (803) 779-1770
Facsimile: (803) 403-8092
adam@silvernailfirm.com

June 7, 2011

Attorneys for Defendant Adele J. Pope

LAW OFFICE OF
ADAM T. SILVERNAIL, LLC

POST OFFICE BOX 1898
1218 TAYLOR STREET
COLUMBIA, SOUTH CAROLINA 29202

June 15, 2011

By U.S. Mail:

Mark V. Gende, Esquire
Sweeny Wingate & Barrow P.A.
1515 Lady Street (29201)
Post Office Box 12129
Columbia, South Carolina 29211
mvg@swblaw.com

4077-7389

Re: Bauknight and others vs. Pope and others
Richland County Case No. 2010-CP-40-4900

Dear Mark:

Thank you for your letter of June 13, 2011 advising that Plaintiffs' responses to our requests for production would be available starting today. We would like to begin reviewing them on Tuesday, June 21, 2011 and would like our first day's review to include the following:

1. Greenberg Traurig files delivered to Mr. Bauknight pursuant to Court Order;
2. All correspondence and other documents related to appraisals obtained by Mr. Bauknight, the appraisal itself and all earlier drafts;
3. All correspondence with the Internal Revenue Service regarding estate and/or income tax issues of the Estate, the Trust and/or Brown entities;
4. All documents related to the claims by and against Cannon and Dallas;
5. All information and documents related to claims for and against Al Bradley and/or his estate;
6. The file of Zumwalt, Almon & Hayes, PLLC;
7. The Tommie Rae Hynie/Brown domestic files;
8. The Deanna Brown Thomas/Yamma Brown litigation files from Leon Friedman;
9. All files and documents related to case no. 2008-CP-02-0322; and
10. All files and documents related to the Bankruptcy proceedings of Albert H. Dallas.

I know you will understand that this is not a complete list, but rather the point of departure for what we expect will be an exhaustive document review. Please let me know if beginning on Tuesday is agreeable.

Sincerely,


Adam T. Silvernail

cc: Daryl L. Williams, Esquire
J. Calhoun Watson, Esquire
Robin A. Braithwaite, Esquire
Adele J. Pope, Esquire

FILED
NEWBERRY COUNTY
2011 SEP - 6 A 10:55
JACKIE S. BOWERS
CLERK OF COURT



E-MAILED
07/11

SWEENEY WINGATE & BARROW P.A.

June 17, 2011

Reply to: Main Office

Mark V. Gende
(803) 256-2233 x 121
mvg@swblaw.com

VIA ELECTRONIC MAIL AND U.S. MAIL

Adam T. Silvermail, Esquire
1218 Taylor Street
P.O. Box 1898
Columbia, SC 29202-1898

FILED
NEWBERRY COUNTY
SEP - 6 A 10:55
JACKIE S. BOWERS
CLERK OF COURT

RE: Russell L. Bauknight, et al. v. Adele J. Pope and Robert L. Buchanan, Jr.
Civil Action No.: 2010-CP-40-4900
Our File: 4077-7389

Dear Adam:

I am in receipt of your June 15, 2011 correspondence concerning your desire to arrange a time to review plaintiffs' documents in this matter. I will work with you to arrange an agreeable date, but must make the following points.

First, Tuesday June 21, 2011 is not an available date. I suggest that we find a day during the week of June 27, 2011.

Second, prior to viewing the documents all parties must enter into a consent protective order, a proposed copy is attached. I am told that plaintiffs were required to do the same when they reviewed certain of the defendants' documents in the past. Please review the order and either execute it or contact me with any proposed changes.

Third, with respect to the ten categories of documents listed in your letter, I do not agree that the requested documents are relevant to our suit. Therefore, I formally object to all ten listed categories as irrelevant, overbroad, not reasonable calculated to lead to the discovery of admissible evidence, and harassing. Specifically, I object to:

1. The Greenberg Traurig files delivered to Mr. Bauknight pursuant to Court Order.

These documents are unrelated to this action.

2. All correspondence and other documents related to appraisals obtained by Mr. Bauknight, the appraisal itself and all earlier drafts.

The inventory and appraisal are filed under seal pursuant to Judge Early's order. As such, these confidential documents and work product will not be produced.

3. All correspondence with the Internal Revenue Service regarding estate and/or income tax issues of the Estate, the Trust and/or Brown entities.

We will produce relevant non-privileged Internal Revenue Service correspondence.

4. All documents related to the claims by and against Cannon and Dallas.

These documents are unrelated to the subject breach of fiduciary duty action. The Cannon and Dallas documents will not be produced in this litigation.

5. All information and documents related to claims for and against Al Bradley and/or his estate.

These documents are unrelated to the subject breach of fiduciary duty action and will not be produced in this litigation.

6. The file of Zumwalt, Almon & Hayes, PLLC.

These documents are unrelated to this litigation and will not be produced in this litigation.

7. The Tommie Rae Hynie/Brown domestic files.

These documents are unrelated to this litigation, and we specifically object to the production of documents related to the separate Supreme Court Appeal.

8. The Deanna Brown Thomas/Yamma Brown litigation files from Leon Friedman;

These documents are unrelated to this litigation, and we specifically object to the production of documents related to the separate Supreme Court Appeal.

9. All files and documents related to case no. 2008-CP-02-0322.

These documents are unrelated to this litigation, and we specifically object to the production of documents from other ongoing cases.

10. All files and documents related to the Bankruptcy proceedings of Albert H. Dallas.

These documents are unrelated to this litigation, and we specifically object to the production of documents from other ongoing cases.

In the event that relevant materials are discovered within a separate case, they will be produced at such time.

Finally, please be aware that the documents we will be making available for your review are largely comprised of the same documents that Ms. Pope and Mr. Buchanan delivered to Mr. Banknight. The documents will be produced in the ordinary course in which they have been kept.

Sincerely,

SWEENEY, WINGATE & BARROW, P.A.

Mark V. Gende (CSH)
Mark V. Gende

MVG/csh

Attachment

cc: J. Calhoun Watson, Esquire, via e-mail
Daryl L. Williams, Esquire, via e-mail
Robin A. Braithwaite, Esquire, via e-mail

Exhibit O

7.

FILED 7-13-16
Exhibits to Alard
CP&GS
JAN 10

Marcie Greene

From: Alan Medlin <amedlin@scrr.com>
Sent: Friday, April 29, 2011 11:22 AM
To: Sonny Jones
Subject: Brown Estate - Proposed Rule 212 Motion
Attachments: Draft Exhibits to Rule 212 Motion.pdf; Draft Rule 212 motion.DOC

Attached please find (1) a draft of a probate court supplemental inventory and appraisal; and (2) a draft of a Rule 212 motion to seek inclusion of additional evidence in the appellate court record in the Supreme Court appeal by Pope and Buchanan.

As I think we may have all discussed at one time or another, Pope and Buchanan failed to perform a basic fiduciary duty: obtaining a professionally-qualified appraisal of the estate property. Their purported values for the estate, asserted under oath and in pleadings on numerous occasions, claimed values for the estate ranging from \$80M to \$120M (and maybe even more). Their values were created from whole cloth. Being the professional fiduciary that he is, Russell Bauknight did his job: he obtained an professionally-qualified appraisal from a nationally-renowned appraiser which shows the value of the estate being much less. Cementing the finding of that appraisal was the approval by the IRS of Bauknight's valuation, which rendered the tax to the estate to zero. The IRS accepted the marital and charitable deductions, both of which Pope and Buchanan shrilly claimed would be lost because of the settlement agreement. They are still asserting these claims before the Supreme Court – hence, the importance of letting the Court know the truth. Not only does the truth about the estate's value debunk their claims about the effect of the settlement, but it also demonstrates their motive for greatly exaggerating the estate's value: they want the estate to be worth \$100M so they can claim the maximum 5% commission, of \$5 million, which of course is even more ludicrous in light of the actual value of the estate. The IRS determination also has the salutary effect of eliminating any estate tax for the children's share, so the children benefit directly.

Fred Kingsmore tells me he expects to have the inventory and appraisal finalized in the next couple of days, when Russell intends to file the inventory and appraisal under seal to protect the estate and its beneficiaries. This is consistent with the previous filing of the I&A by the original PRs, which also was under seal. Obviously, we ask that the settling parties keep the valuation confidential. The final should be consistent in substance with the draft. If there are any substantial changes, we will re-circulate.

Fred expects to file the Rule 212 motion soon after the filing of the I&A. The Rule 212 motion would include the draft exhibits once finalized.

Consequently, I ask that you take a look at the attached and give me your thoughts. We are operating under a short time frame. Thus, please let me know if you have any edits, comments, or concerns about the attached by Monday.

Thanks.

--- Scanned by M+ Guardian Messaging Firewall ---

Exhibit P

STATE OF SOUTH CAROLINA
COUNTY OF: AIKEN
IN THE MATTER OF: JAMES BROWN

IN THE PROBATE COURT
INVENTORY AND APPRAISEMENT
CASE NUMBER: 2007-ES02-0056

☐ ORIGINAL
☒ SUPPLEMENTAL # 1

Personal Representative(s): Russell L. Bauknicht

Decedent's Social Security Number: 259-32-3801

Decedent's Date of Death: 12/25/2006

Was there a will? ☒ YES ☐ NO

Domicile at Death: Aiken
(county)

SC
(state)

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisal of all real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

SWORN to before me this 3rd day of May, 2011.

Notary Public for South Carolina

My Commission Expires: 5/22/12

Signature: [Signature]
Name: Russell L. Bauknicht

Address: PO Box 1330
Columbia, SC 29202

E-mail:
Telephone (O): 803.771.8943
(H):

Attorney: Fred L. Kingmore, Jr.

Address: PO Drawer 2428

Columbia, SC 29202

E-Mail:

Telephone: 803.253.8264

Signature:

Name:

Address:

E-mail:

Telephone (O):

(H):

For estates of decedents, the gross fair market valuation of all assets, regardless of situs, should be given as of the date of death. List all out-of-state assets on appropriate schedules. A Supplemental Inventory should be utilized for correcting, adjusting or adding to an original inventory. A qualified and disinterested appraiser may be employed to ascertain the value of any asset, the value of which may be subject to reasonable doubt. If an appraiser is employed, his/her name and address should be indicated with the item or items he/she appraised.

Within sixty (60) days following appointment, a copy of the inventory and appraisal shall be sent to each interested person who requests it, and the original inventory filed with the Probate Court.

RECAPITULATION

Schedule A - Real Estate
Schedule B - Stocks and Bonds
Schedule C - Notes Due Decedent and Cash
Schedule D - Insurance on Person's Life:
Part 1 - Payable to Estate
Part 2 - Payable to Beneficiary
Schedule E - Jointly Owned Property
Schedule F - Other Miscellaneous
Other Assets Payable to Estate
Schedule G - Transfers during Decedent's Life
Schedule H - Powers of Appointment
Schedule I - Annuities and Retirement Accounts
TOTAL GROSS VALUE
ENCUMBRANCES
TOTAL NET WORTH

Non-Probate	Probate
\$ 80,000.00	\$ 0
0	202,000.00
0	138,565.00
0	0
0	0
118,000.00	0
0	4,812,266.00
0	0
0	0
0	0
0	0
\$ 5,327,830.00	
(0.00)	
\$ 5,327,830.00	

FORM 6350PC (2/28/04)
62-3-704, 62-3-706, 62-3-707, 62-3-708, 62-3-1203

Filed: May 4, 2011

FILED May 4, 2011

Sue H. Roe
Judge of Probate

By: [Signature]
Deputy Clerk

[Signature]
Deputy Clerk

Page 1 of 6

SCHEDULE F—Miscellaneous Personal Property — tangible personal property, employment bonus or award, interest in a partnership or unincorporated business, articles of collections having either artistic or intrinsic value, etc. (If none, so state.) (For jointly owned property with right of survivorship, see Schedule E.)

Item No.	Description	Value
1	Jewelry and Furs (reported as Item 5 on originally filed Inventory and Appraisal)	114,528.00
2	Royalty interests, patents, image, likeness, and other intangible rights, etc.*	4,697,736.00
	* Item 2 reported above is based on valuation accepted in final audit settlement with the Internal Revenue Service and encompasses items previously reported on originally filed Inventory and Appraisal as Items 1, 2, 3, 4, and 6 of Schedule F as well as certain assets previously reported on Schedule G, net of all related debt.	

TOTAL SCHEDULE F \$ 4,812,264.00
(also enter under recapitulation, page 1)

NOTE: FOR SCHEDULES G, H, AND I, LIST VALUES ONLY IF PAYABLE TO ESTATE.

SCHEDULE G—Transfers During Decedent's Life — Transfers intended to take effect at death. United States Government Bonds "Payable on Death", Trust created by Decedent in which income for life was retained, power to revoke or other incidents of ownership retained, life insurance transfers. Lifetime transfers of real property in which decedent retains a life estate or other incidents of ownership.

Did Decedent make any transfer during lifetime as described above? ☒ YES ☐ NO

If "yes" please give date and type of transfer and list total amount payable to estate:
(If more space is required, insert additional sheet of same size.)

Decedent created and funded a trust during his lifetime. No trust assets are payable to the Estate and therefore are not reported here.

TOTAL SCHEDULE G \$ 0.00
(also enter under recapitulation, page 1)

Form 886A (Rev. 1/99)		Department of the Treasury - Internal Revenue Service	
Explanation of Items			
Estate of James Brown		Social Security Number	Date of Death 12 25 2006
Schedule F, Other Miscellaneous Property			
	Description	Shown on Return	As Corrected
2	Royalty interests, Reversion Rights, etc.	84,000,000	4,697,736
	Total of these items	84,000,000	4,697,736
	Shown on Return		84,000,000
	Change to schedule		<79,302,264>

Item 2 - Royalty Interests, Reversion Rights, Etc.
Valuation of these interests was corrected to fair market value based upon expert opinion and financial analysis. Adjustment is per section 2031, Internal Revenue Code.

**PROPOSED
ADJUSTMENTS
ONLY**

Form 8881 Rev. 3/88	EXPLANATION OF ITEMS	SCHEDULE No. II - M
NAME OF TAXPAYER Estate of James J. Brown	DRAFT	DATE of DEATH 12/25/2006

SCHEDULE M - MARITAL DEDUCTION	PER RETURN	CORRECTED
Item 1 - Marital Share under Estate Settlement Agreement	\$0	\$1,128,775
CHANGE TO RETURNED AMOUNT.....	1,128,775	XXXXXXX
COMPUTED MARITAL DEDUCTION.....	\$1,128,775	\$1,128,775

The marital deduction has been calculated in accordance with the Settlement Agreement dated August 10, 2008, as amended March 3, 2009.
Adjustment is per section 2056, Internal Revenue Code.

DRAFT 12/23/2010

Item 1 - Computation of Marital Share per Settlement Agreement, Approved By Court May 26, 2009

Gross Estate, including Assets of James Brown Trust u/a/d August 1, 2000.....		\$6,542,830
Less: Administrative Expense, Schedule J	\$525,000	
Debts - Schedule K	64,373	
Mortgages & Liens, Schedule K	0	
Expenses: Non-claim prop.- Schedule L	0	
Federal Estate Taxes.....	0	
State Death Taxes	0	
	\$589,373	(589,373)
Residuary Share Computation Amount		5,953,457
Gross Percentage to Spouse.....	23.7500%	
Less: Share of James Joseph Brown, II.....	-4.7900%	
Net Percentage to spouse.....	18.9600%	18.9600%
Computed Amount to Spouse.....		\$1,128,775

DRAFT 12/23/2010

**PROPOSED
ADJUSTMENTS
ONLY**

Form 8868 Rev. 3/88	EXPLANATION OF ITEMS	SCHEDULE II - O
NAME OF TAXPAYER ESTATE OF James J. Brown	DRAFT	DATE OF DEATH 12/25/08

SCHEDULE O - CHARITABLE DEDUCTION	PER RETURN	CORRECTED
Item 1 - Bequest of Residuary to Charitable Trust, computed below.....	\$83,369,981	\$5,953,457
Less: Federal Estate Tax.....	in above	in above
LESS -State Death Taxes	in above	in above
SUBTOTAL.....	83,369,981	5,953,457
INCREASE/DECREASE TO AMOUNT SHOWN ON RETURN.....	(77,418,524)	XXXXX
	\$5,953,457	\$5,953,457

The charitable deduction has been calculated in accordance with the Settlement Agreement dated August 10, 2008, as amended March 3, 2009.
Adjustment is per section 2055, Internal Revenue Code.

COMPUTATION OF TRUST RESIDUE

Gross Estate		\$6,542,830
LESS: Administrative Expenses, Schedule J	\$525,000	
Debts, Sch. K	\$84,373	
Mortgages & Liens, Sch. K	\$0	
Marital Deduction, Schedule M	\$0	
Federal Estate Taxes	\$0	
State Death Taxes	\$0	
	\$589,373	(\$589,373)
Residuary Share Computation Amount	0	\$5,953,457
Percentage to Charitable Trust.....		47.5000%
Computed Amount to Charitable Trust.....		\$2,827,892

**PROPOSED
ADJUSTMENTS
ONLY**

DRAFT

12/23/2010

Exhibit Q

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Henry Dargan McMaster, in his capacity as Attorney General of the State of South Carolina; **Tommie Rae Brown**, individually and on behalf of her minor child, **James Brown II**; **Daryl J. Brown**, individually and on behalf of his minor child **Janise Vanisha Brown**; **Lindsey Delores Brown**; **Deanna J. Brown Thomas**; **Jason Brown-Lewis**; **Yamma N. Brown**, individually and on behalf of her minor children **Sydney Lumar** and **Carrington Lumar**; **Tonya Brown**; **Venisha Brown Larry Brown**; and **Terry Brown**

and

HENRY DARGAN MCMASTER, in his capacity as Attorney General of the State of South Carolina; **TOMMIE RAE BROWN**, individually and on behalf of her minor child, **JAMES BROWN II**; **DARYL J. BROWN**, individually and on behalf of his minor child **JANISE VANISHA BROWN**; **LINDSEY DELORES BROWN**; **DEANNA J. BROWN THOMAS**; **JASON BROWN-LEWIS**; **YAMMA N. BROWN**, individually and on behalf of her minor children **SYDNEY LUMAR** and **CARRINGTON LUMAR**; **TONYA BROWN**; **VENISHA BROWN**; **LARRY BROWN**; and **TERRY BROWN**,

Plaintiffs

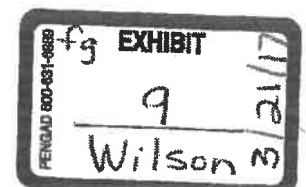
v.

Adele J. Pope and **Robert L. Buchanan, Jr.**,
Defendants

IN THE CIRCUIT COURT

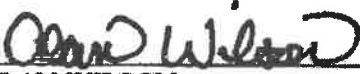
Civil Action No. 2010-CP-40-4900

**ALAN WILSON'S
VERIFICATION OF ANSWERS TO
INTERROGATORIES**



Verification
2010-CP-40-4900

I, ALAN WILSON, the elected successor to HENRY D. MCMASTER, do hereby swear under oath that the answers given in response to Defendant Adele Pope's First Set of Continuing Interrogatories are true and correct to the best of my knowledge, information, and belief.


ALAN WILSON
Attorney General of South Carolina

SWORN TO and subscribed before me
this 3rd day of May, 2011
Mary James Gower (L.S.)
Notary Public for South Carolina
My commission Expires: 9/2/2013

Exhibit R

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

RECEIVED

MAY - 6 2011

**APPEAL FROM AIKEN COUNTY
Court of Common Pleas**

S.C. Supreme Court

**Doyet A. Early, III, Circuit Court Judge
Case No 2008-CP-2-1647**

Alan Wilson, in his capacity as Attorney General of the State of South Carolina, Daryl J. Brown, on behalf of his minor children, Lindsey B. and Janise B., Deanna J. Brown Thomas, on behalf of her minor child, Jason L., Yamma N. Brown, on behalf of her minor children, Sydney L., Carrington L., and Tonya B., Vanisha Brown, Larry Brown, Tommie Rae Hynie Brown, and James B., through his Guardian ad Litem Respondents,

v

Albert H. Dallas, Alfred A. Bradley, and David G. Cannon, Individually and as (purported) Trustees of the James Brown 2000 Irrevocable Trust, Adele J. Pope and Robert L. Buchanan, Jr., Personal Representatives of the Estate of James Brown and Trustees of the James Brown 2000 Irrevocable Trust, Terry Brown, Romunzo Brown, Forlando Brown, Cinnamon N.M. Paris, LaRhonda Pettitt, Jeanette Mitchell, and Russell L. Bauknight, as Special Administrator and Special Trustee for the Estate of James Brown and the James Brown 2000 Irrevocable Trust,

of whom Robert L. Buchanan, Jr. and Adele J. Pope, as Personal Representatives of the Estate of James Brown and Trustees of the James Brown 2000 Irrevocable Trust are Appellants,

And Albert H. Dallas, Alfred A. Bradley, and David G. Cannon, Individually and as (purported) Trustees of the James Brown 2000 Irrevocable Trust, Terry Brown, Romunzo Brown, Forlando Brown, Cinnamon N.M. Paris, LaRhonda Pettitt, Jeanette Mitchell, and Russell L. Bauknight, as Special Administrator and Special Trustee for the Estate of James Brown and the James Brown 2000 Irrevocable Trust are Respondents

In re The Estate of James Brown and The James Brown 2000 Irrevocable Trust u/a/d/ August 1, 2000

**MOTION TO SUPPLEMENT THE RECORD PURSUANT TO
RULE 212(b), SCACR, OR IN THE ALTERNATIVE, TO TAKE JUDICIAL
NOTICE OF RECORDS FILED IN A RELATED PROCEEDING**

TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE
SOUTH CAROLINA SUPREME COURT

Respondents respectfully request that this Court supplement the record of this appeal to include (1) Internal Revenue Service (“IRS”) Federal Estate tax records that were received by Respondents after filing their initial brief on December 22, 2010, and that are related to the date of death valuation of the estate and the tax consequences of the settlement agreement and (2) the Supplemental Inventory and Appraisal of the James Brown Estate (“Estate”) related to the date of death valuation and appraisal of assets for the Estate. In the alternative, this Court may take judicial notice of these documents as they were filed in the probate court or issued by the IRS in related proceedings.

FACTUAL BACKGROUND

This appeal presents a unique situation: it concerns an ongoing estate and trust that are continuing to be administered in the normal course of estate and trust administration, and matters relating to their ongoing administration are relevant to this appeal. Although the documents that Respondents seek to include in the record had not been prepared and were thus not available when the circuit court issued its May 26, 2009 Order approving the Settlement Agreement, the Supplemental Inventory and Appraisal should properly be considered in this appeal as it was filed as required by the South Carolina Probate Code in the ongoing probate proceeding, and the IRS tax records should properly be considered because they were created as a result of an independent IRS audit of the Estate.

The Supplemental Inventory and Appraisal and IRS tax records refute factual assertions that the Appellants make to support their legal positions before this Court. Because these documents provide *support* to the circuit court’s decision to approve the settlement agreement, their inclusion in the record would neither undercut the circuit court’s decision, nor hamper appellate review of it. *Cf. Queen’s Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp.*,

368 S C 342, 373, 628 S E 2d 902, 919 (Ct App 2006) (“Issue preservation rules are designed to give the trial court a fair opportunity to rule on the issues, and thus provide [the Court] with a platform for meaningful appellate review ”)

ANALYSIS

In their brief, Appellants argue (1) that the settlement will cause serious tax problems for the James Brown Estate and Trust (the “Estate and Trust”), and (2) without the aid of a professional appraisal, Appellants contend that the combined Estate and Trust are worth roughly \$100 Million. Specifically, Appellants make the following misleading representations to this Court

Tax Consequences

- On page seven (7) of their brief, Appellants state that “the settlement would cause the loss of the estate tax deduction, resulting in about 50% taxes and interest ”
- On pages thirty-eight to thirty-nine (38–39), Appellants devote a section of their brief to argue that the settlement will cause serious tax problems. They note that the “settling parties offered no evidence to refute the evidence of a likely tax disaster. Instead, their counsel reassured the court that they were ‘dedicated’ to preventing it ” *Id.* at 39

Valuation

- On page five (5), footnote five (5), of their brief, despite never having obtained a professional appraisal, Appellants state that the late James Brown’s assets have been valued at roughly \$80–120 Million
- On page thirty-two (32) of their brief, Appellants note that the trust could be funded with \$100 Million

See Final Brief of Appellants at pp 5, 7, 32, 38-39

Following the circuit court’s approval of the Settlement Agreement and after Appellants entered their notice of appeal, Russell L. Bauknight (“Mr. Bauknight”) engaged a nationally recognized firm to conduct the valuation and appraisal of the Estate and Trust. This is the first

professional valuation and appraisal of the James Brown music assets since James Brown passed away on Christmas Day 2006. The valuation and appraisal work is now complete. As required by S.C. Code Ann. § 62-3-706, Mr. Bauknight filed the Supplemental Inventory and Appraisal at the Aiken County Probate Court (Supplemental Inventory and Appraisal, Appendix R pp. 1-6). To protect the Estate and Trust, Mr. Bauknight filed the Supplemental Inventory and Appraisal under seal.

Furthermore, following the circuit court's approval of the Settlement Agreement and after Appellants entered their notice of appeal, the IRS continued to conduct an independent audit involving the valuation of the James Brown Estate and Trust. The IRS Auditors reviewed all estate tax issues surrounding the James Brown Estate and Trust, including the tax consequences of the subject Settlement Agreement. The Respondents received the IRS Proposed Estate Audit Examination Report ("IRS Audit") on December 27, 2010 (IRS Proposed Estate Audit Examination Report, Appendix R pp. 7-11). Respondents and the IRS agreed to all adjustments concerning the IRS Audit, and the Respondents received the Final IRS Estate Closing Letter ("Closing Letter") on January 31, 2011.¹ (Final IRS Estate Closing Letter, Appendix R pp. 12-15). As noted above, the Respondents received each of these documents *after* filing their initial brief on December 22, 2010.

As noted in the IRS Audit, after reviewing the settlement agreement, the IRS specifically concluded that, pursuant to the Internal Revenue Code, the charitable deduction applied and that "[t]he charitable deduction has been calculated in accordance with the Settlement Agreement dated August 10, 2008, as amended March 3, 2009" (Appendix R p. 11). Further, the IRS

¹ Because Appellants filed the initial tax return that was subject to the audit, the IRS as a matter of course separately notified the prior fiduciaries that the incorrect estate valuation had been corrected and that the audited return had been accepted (Appendix R pp. 13-14). Appellants have since informed Respondents that they disagree with the IRS Final Closing Letter.

Audit found that the marital deduction applied “[t]he marital deduction has been calculated in accordance with the Settlement Agreement dated August 10, 2008, as amended March 3, 2009 ” (Appendix R p 10) Respondents argued in their brief that this deduction would apply and that it favored a finding that the Settlement Agreement was *just and reasonable* Final Brief of Respondents, at 35-36 (The tax return previously filed by Appellants did not seek the marital deduction) Finally, as noted in the Closing Letter, the Settlement Agreement resulted in zero tax liability to the Estate (Appendix R pp 13-14)

The IRS Audit and Closing Letter show that the IRS rejected Appellants’ contention that the settlement agreement will cause additional tax liability, but instead, that the Estate is owed a \$10,000 federal tax refund due to Appellants’ overpayment (R p 2760 (Estate Accounting filed by Appellants, first entry on the page “US Treasury – payment towards Estate Taxes \$10,000”), (Appendix R p 7 (“The report, though not final, shows that the estate is entitled to a refund ”), (Appendix R pp 12-15 (adopting audit, accepting return, and making final determination that no estate taxes are owed “0 00 ”)) Additionally, these documents further underscore Respondents position that the Appellants are not professional fiduciaries and are ill-equipped to manage the Estate and Trust

The Supplemental Inventory and Appraisal, the IRS Audit, and the Closing Letter reveal that on the date of death, the James Brown Estate and Trust were actually valued at roughly \$6 5 Million² Referring to the intellectual property—royalty interests, reversion rights, etc—the IRS Audit revealed that, “[v]aluation of these interests was corrected to fair market value based

² The Supplemental Inventory and Appraisal accounts for only probate assets, it does not include the home of the late James Brown that is valued at roughly \$1 2 Million That is the case because at the date of his death, the Trust owned the home and trust assets are not considered probate assets (The Trust still owns the home) The date of death, gross estate value reported to the IRS included the home, as both probate and non-probate assets must be reported for tax return purposes Accordingly, the Estate and Trust were valued at roughly \$6 5 Million (Appendix R p 10)

upon expert opinion and financial analysis”—that is, the independent professional appraisal authorized by Mr. Bauknight, as audited and accepted by the IRS (Appendix R p. 9). Consequently, the IRS rejected Appellants’ prior inexpert notion that James Brown’s royalty interests and reversion rights were worth approximately \$84 Million dollars. Accordingly, the date of death valuation of these taxable interests was corrected from \$84 Million to \$4,697 Million³ (Appendix R p. 9). This IRS finding, based upon its own independent review and valuation, directly and incontrovertibly refutes Appellants’ contention that (1) the Settlement Agreement will cause the Estate to lose the charitable deduction, (2) that the Settlement Agreement creates additional tax liability, and (3) that on the date of death the Estate was worth \$80-120 Million dollars. Absent the inclusion of the Supplemental Inventory and Appraisal, the IRS Audit, and the Closing Letter, the Court is left with a factual and legally inaccurate probate and circuit court record.

Although these documents were not presented (could not be presented) to the circuit court because they did not exist at that time, this Court should consider the evidence. *See CSX Transp. Inc. v. City of Garden City*, 235 F.3d 1325, 1330 (11th Cir. 2000) (noting “the inherent equitable power to allow supplementation of the appellate record if it is in the interests of justice”), *see also In re AOV Indus. Inc.*, 797 F.2d 1004, 1012 (D.C. Cir. 1986) (“Normally, of course, [courts] are not required to consider evidence presented for the first time on appeal [but] [i]t is within the discretion of the court, however, to make limited exceptions to this

³ While this figure may appear low, it is the date-of-death value that controls for purposes of the Federal estate tax return and the probate inventory and appraisal. Furthermore, this final figure accurately accounts for the debts of James Brown including the outstanding bond executed by Mr. Brown during his lifetime whereby he exchanged the rights to his royalty stream for a lump sum payment of \$26 Million. Once the bond debt is retired, the royalty stream will flow to the Settlement Entity where it will be apportioned among the settling parties—which includes the charitable trust that will fund scholarships to needy children attending schools in South Carolina and Georgia.

rule when ‘injustice might otherwise result ’” (citing and quoting *Singleton v Wulff*, 428 U S 106, 121 (1976)) Here it would appear unjust for this Court to rely on Appellants’ assertion that the Settlement Agreement will cause additional tax liability to the Estate when the IRS has clearly rejected that contention Accordingly, these documents are relevant to the current appeal, as they are official records of the Estate that contradict Appellants’ misleading valuation and tax assertions contained within their brief

CONCLUSION

As the IRS has independently concluded, the Settlement Agreement does not create additional tax liability to the James Brown Estate In fact, the Settlement Agreement has reduced the tax liability to the James Brown Estate Due to the nature of the underlying proceedings, the ongoing probate record on which Appellants’ base their appeal must be considered Absent a complete record, this Court does not have an accurate picture of the underlying probate proceeding As a result, Appellants may inequitably benefit through their own fiduciary inaction in failing to properly value the Estate and in turn claiming a right to receive a \$5 Million dollar commission⁴ based upon their prior unsubstantiated position that the Estate was worth \$80-120 Million

Alternatively, Respondents would respectfully request that this Court take judicial notice of these records for they were filed in a lower court or issued by the IRS in a related proceeding *See Ins Comm n of S C v New S Life Ins Co* , 270 S C 612, 635–36, 244 S E 2d 289, 301 (1978) Furthermore, pursuant to Rule 208(b)(7), SCACR, because the IRS Audit and Closing Letter were received after Respondents filed their initial brief, it would appear appropriate for this Court to recognize the IRS records as supplemental authority to Respondents’ brief

⁴ Appellants are presently pursuing a \$5 Million dollar fee petition against the Estate and Trust based upon their incorrect representation that the Estate and Trust was worth approximately \$80-120 Million (R pp 2879 80)

Respectfully submitted,

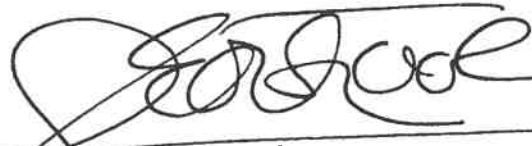


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2000 Irrevocable Trust and Personal
Representative for the Estate of James Brown and
as the Special Administrator and Special Trustee
for the Estate of James Brown and the James Brown
2000 Irrevocable Trust*

Motion denied



In the Court

July 7, 2011

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May 6, 2011

Columbia, South Carolina

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*Attorneys for James Brown Children and
Grandchildren Daryl J Brown Individually and on
Behalf of His Minor Children Lindsey Delores
Brown and Janise Vanisha Brrown Deanna J
Brown Thomas Individually and on Behalf of her
Minor Child Jason Brown Lewis, Yamma N
Brown, Individually and on Behalf of Her Minor
Children, Sydney Lumar, Carrington Lumar, and
Tonya Brown, Vanisha Brown Larry Brown*

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*Attorney for Stephen M Slotchiver Guardian ad
Litem for James Brown II*

May 6, 2011

Columbia, South Carolina

Exhibit S

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, as Trustee of
the James Brown 2000 Irrevocable Trust and
the James Brown Legacy Trust, as Personal
Representative of the Estate of James Brown,
and on behalf of Henry Dargan McMaster, in
his capacity as Attorney General of the State
of South Carolina and others

and

HENRY DARGAN MCMASTER, in his
capacity as Attorney General of the State of
South Carolina; and others,

Plaintiffs.

v.

Adele J. Pope and Robert L. Buchanan, Jr.,
Defendants.

) IN THE COURT OF COMMON PLEAS

)

)

) Case No.: 2010-CP-40-4900

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AFFIDAVIT OF ADELE J. POPE
SUPPORTING DISQUALIFICATION
OF PLAINTIFFS' COUNSEL
INJUNCTION AGAINST COUNSEL
AND PLAINTIFF BAUKNIGHT;
AND RELATED RELIEF

2011 MAY 11 PM 1:08
JEANETTE C. POPE
CLERK

RICHLAND COUNTY
FILED

PERSONALLY APPEARED BEFORE ME, Adele J. Pope, who, being duly
sworn, deposes and says:

1. This affidavit is based on my personal knowledge and belief.
2. On May 12, 2011 I learned that on May 4, 2011 Plaintiff Russell Bauknight had filed sworn documents asserting James Brown's worldwide musical empire at Brown's death on December 25, 2006 had a value of only \$4,697,736 – less than 1/12 of its actual fair market value on his death. Bauknight asserts all asset of the Estate and 2000 Trust were worth only about \$6.5 Million when Mr. Brown died.
3. I am informed and believe that this valuation is not only wrong but outrageous – and intended to benefit of Terry Brown and Tommie Rae Hynie Brown, for

undervaluation of Brown's assets came in August 2010 when then-AG McMaster informed the Court of Appeals that Bauknight had reviewed a draft appraisal that would show Brown's assets were worth less than \$12 Million.

9. Exhibit B is a chart prepared by me which shows the damage to the "I Feel Good" Foundation of a sale of Brown's assets at \$12 Million.

10. Bauknight's devaluation to \$5,953, 457, which AG Jones and AG McMaster apparently condoned, threatens to completely destroy the "I Feel Good" Foundation, reducing it to less than \$1 million, as follows:

a. To Brown's disinherited companion (18.96%)	\$1,128,775
b. To children and claimed children Brown specifically excluded from his music empire (4.79% x 7)	\$2,000,390
c. To the Family Education Trust, rewritten by McMaster	\$2,000,000
d. To The James Brown " I Feel Good" private foundation (47.5% LESS \$2 Million)	\$ 827,292

11. I am informed and believe that AG McMaster's contingency fee contract with Sweeney, Wingate and Barrow (the "Sweeney Firm") was made to try to silence Mr. Buchanan and me and force us to abandon our appeal of McMaster's settlement described in the article; serves no proper public purpose; violates my Due Process Right; violates my First Amendment rights; and illegally uses the name and power of the State to seek funds against me for private citizens, including McMaster.

12. I am informed and believe that the substantial contribution to McMaster's political campaign made by Mark Barrow, a principal in the Sweeney Firm, just after being awarded the contingency fee contract to sue us, was either illegal or

been made.

16. I am informed and believe the false allegations made by Bauknight and AG Jones, now on behalf of AG Wilson – including the suggestion that Mr. Buchanan and I overstated the Brown assets by \$79 Million – are quasi-criminal in nature; violate our Due Process rights; and are intended to destroy our professional reputations and careers. This is particularly troublesome since Mr. Buchanan and I did not seek our positions; were court-appointed; and properly served until May 26, 2009 when we were relieved of management responsibility pending the outcome of the Case 1647 appeal.

17. I am informed and believe that Bauknight and the Sweeney Firm should not be allowed to speak as agents for the Attorney General of South Carolina where the biased positions and false statements they have made will, if not stopped, serve not only to destroy the “I Feel Good” private foundation but also to discourage private philanthropy in the State of South Carolina.

18. I do not know whether AG Alan Wilson participated in or condoned the massive understatement of the value of Brown's assets, but am informed and believe his deposition – requested for July 2011 – is necessary to determine the truth of the matter.

19. I am informed that AG Jones and McMaster knowingly and intentionally exceeded and abused the power of their offices for personal, and McMaster's political, purposes; should answer individually for their actions, including the filing of this suit; and should not be protected by the power of the State.

20. I ask the Court to take judicial notice of a complaint filed on March 14, 2011 by Nexsen Pruet, LLC, a law firm involved in the James Brown cases, which outlines

23. McMaster, AG Jones and Bauknight have each had knowledge (as defined in the Trust Code) since becoming involved in the Brown cases that the fair market value of Brown's assets at death, as defined by the IRS, was between about \$86 Million and about \$110 Million. Branding expert Dr. Terry Cox's figures, set out below, have been available since June 2007:

Image/Likeness	\$40MM - \$50MM
Music Catalogue	\$36MM - \$45MM (Industry standard is 12- 15 x revenue)
Property	\$10MM - \$15 MM

24. Based on the IRS definition that fair market value is "the price at which a willing buyer and a willing seller, neither being under compulsion to buy or to sell both having reasonable knowledge of all relevant facts", the \$84 Million value Bob Buchanan and I placed on Brown's Publicity Rights, Royalties, \$12+ million claim against Albert Dallas/David Cannon and other residuary assets was fair but conservative.

25. Neither AG McMaster nor AG Jones filed any objection to the approximately \$85 Million value set out in the estate tax return filed on September 24, 2008.

26. The \$85 Million¹ was within the value range placed on Brown's assets by some Plaintiffs in a securities prospectus issued in early 2007 (\$200 million). [See Exhibit C] ;3 separate proposals made in 2007 and 2008 to purchase Brown's assets (\$90 - \$102 million) by Terry Brown and others; Cox's valuations; and the \$80 - \$120 Million opinion of Estate/Trust's tax then-tax-counsel.

27. The \$85 Million is substantially less than the \$150 million value placed on

¹ About \$100 Million, less the TIAA royalty-backed debt.

the assets by Forlando Brown, a 39% owner in the prospective purchaser, in September 2008.

28. The \$85 Million value was also consistent with our Motion filed in November 2007 asking Judge Early to approve the valuation method of Brown's Royalties as reported on the estate tax return as a multiple of his \$3 million annual royalties.

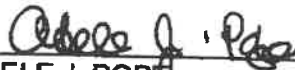
29. On November 20, 2007 Judge Early asked AG McMaster and others to notify him of any objections to our valuation method. Nobody objected.

30. My attorneys have noticed the depositions of Plaintiffs Terry Brown and Tommie Rae Hynie Brown for June 2011 and also asked to depose AG Wilson and former AG McMaster in July 2011.

31. I respectfully submit that the depositions of former AG McMaster and AG Wilson are essential, and request that the Court, if they do not appear in July, direct that each appear on a day certain.

32. I request that the Court also order the depositions of Hynie Brown and Terry Brown on a day certain should they fail to appear in June as noticed.

FURTHER DEPONENT SAYETH NOT.


ADELE J. POPE

SWORN TO before me this
18th day of May 2011


Notary Public for South Carolina

My Commission expires: 7/13/2016

(L.S.)

Exhibit T

From: Alan Medlin <amedlin@sc.rr.com>
Sent: Friday, June 03, 2011 9:14 AM
To: Black, David; AGSJONES@scag.gov; MFlowers@scag.gov; Kingsmore, Fred L.
Cc: Williams, Burl F.
Subject: Re: Reply to Motion to Supplement the Record--FINAL.DOC
Attachments: Reply to Motion to Supplement the Record--FINAL medlin edit.DOC

Attached please find some editing suggestions. David, call me at your convenience: 820-1181.

Some other thoughts to consider:

Cox never made an offer so he never intended to value the property prior to due diligence; he didn't have the available information to do so prior to any due diligence, which never occurred. How can they with a straight face say that his "valuation" is binding when they know he didn't have the information to make a valuation, nor is he a professional appraiser.

They claim that the 3 amigos also valued the estate similarly. The 3 amigos also did not obtain any appraisal. Cite the 706 note where Bobadele state that the 3 amigos are untrustworthy but they are nevertheless basing their valuation on the 3 amigos inventory and appraisal.

Can we cite IRS rules re appraisal? Are there any applicable here? (Lad is looking at this for me.)

I assume we intentionally decided not to address some of the other fluff in their brief. For example, they berate us for timing issues: not giving them the appraisal while the record was being established. Of course we didn't. They have already demonstrated that they would sabotage the estate's dealings with the IRS by sending in the "roadmap." Do we want to address this somehow?

From: Black, David
Sent: Thursday, June 02, 2011 11:30 AM
To: <mailto:AGSJONES@scag.gov>; <mailto:MFlowers@scag.gov>; <mailto:amedlin@sc.rr.com>; <mailto:louis@levensonlaw.com>; <mailto:lori@levensonlaw.com>; Kingsmore, Fred L.
Cc: Williams, Burl F.
Subject: Fw: Reply to Motion to Supplement the Record--FINAL.DOC

Draft reply attached. We will need to file tomorrow. Please have any edits back to us by noon tomorrow. Sonny, I will also send you a hardcopy with Wilkins signature.

Thanks, David

From: Williams, Burl F.
To: Black, David
Sent: Thu Jun 02 11:25:57 2011
Subject: Reply to Motion to Supplement the Record--FINAL.DOC

Burl F. Williams
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, SC 29201
PO Drawer 2426 (29202)
T: 803.540.2145, F: 803.727.1408

C-22
Exhibit E-11

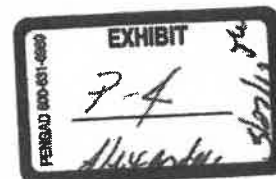


Exhibit U



ALAN WILSON
ATTORNEY GENERAL

RECEIVED

JUN 3 2011

S C Supreme Court

June 3, 2011

The Honorable Daniel Shearouse
Clerk of Court
South Carolina Supreme Court
P O Box 11330
Columbia, SC 29211

RE The Estate of James Brown and the James Brown 2000 Irrevocable
Trust dated August 1, 2000

Dear Mr Shearouse

Enclosed for filing are the original and 6 copies of Respondents' Reply to the Motion to
Supplement the Record Also enclosed is the Certificate of Service

Very truly yours,

C H Jones, Jr
Senior Assistant Attorney General

cc
See attached Certificate of Service

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

**APPEAL FROM AIKEN COUNTY
Court of Common Pleas**

**Doyet A Early, III, Circuit Court Judge
Case No 2008-CP-2-1647**

RECEIVED

JUN - 3 2011

S C Supreme Court

Alan Wilson, in his capacity as Attorney General of the State of South Carolina, Daryl J Brown, on behalf of his minor children, Lindsey B and Janise B , Deanna J Brown Thomas, on behalf of her minor child, Jason L , Yamma N Brown, on behalf of her minor children, Sydney L , Carrington L , and Tonya B , Vanisha Brown, Larry Brown, Tommie Rae Hynie Brown, and James B , through his Guardian ad Litem
Respondents,

v

Albert H Dallas, Alfred A Bradley, and David G Cannon, Individually and as (purported) Trustees of the James Brown 2000 Irrevocable Trust, Adele J Pope and Robert L Buchanan, Jr , Personal Representatives of the Estate of James Brown and Trustees of the James Brown 2000 Irrevocable Trust, Terry Brown, Romunzo Brown, Forlando Brown, Cinnamon N M Paris, LaRhonda Pettitt, Jeanette Mitchell, and Russell L Bauknight, as Special Administrator and Special Trustee for the Estate of James Brown and the James Brown 2000 Irrevocable Trust,

of whom Robert L Buchanan, Jr and Adele J Pope, as Personal Representatives of the Estate of James Brown and Trustees of the James Brown
2000 Irrevocable Trust are
Appellants,

And Albert H Dallas, Alfred A Bradley, and David G Cannon, Individually and as (purported) Trustees of the James Brown 2000 Irrevocable Trust, Terry Brown, Romunzo Brown, Forlando Brown, Cinnamon N M Paris, LaRhonda Pettitt, Jeanette Mitchell, and Russell L Bauknight, as Special Administrator and Special Trustee for the Estate of James Brown and the James Brown 2000 Irrevocable Trust are
Respondents

In re The Estate of James Brown and The James Brown 2000 Irrevocable Trust u/a/d/ August 1, 2000

RESPONDENTS' REPLY TO THE MOTION TO SUPPLEMENT THE RECORD

Respondents respectfully submit the following Reply to the Appellants' Return in Opposition to the Motion to Supplement the Record Appellants oppose Respondents' Motion to

Supplement the Record arguing that the documents Respondents seek to include in the record are neither relevant nor reliable. For the reasons stated below, they are incorrect in both respects.

In their Return, Appellants took the opportunity to make arguments that are not relevant to the issue presented by Respondents' Motion. Those arguments are countered in this Return so that the record in this appeal is complete and correct.

I

RELEVANCE OF IRS RECORDS

Appellants contend that "[t]he proposed supplement contains material which is irrelevant to this appeal" (Appellants' Return, at 2). They make this assertion even though they argue in their final brief that the Settlement Agreement is not just and reasonable, as contemplated by S.C. Code Ann. § 62-3-1102, because it would create "disastrous" and "catastrophic" tax consequences for the Estate. (Final Brief of Appellants, at 38-39). The IRS records tell a different story¹; they show that the Settlement Agreement does not negatively impact the Estate. In fact, the IRS tax records reveal that the Settlement Agreement benefited the Estate in that it no longer owes any federal estate taxes. Moreover, the IRS records show that the Estate's charitable deduction was not impacted by the Settlement Agreement and further, that the Estate was able to favorably utilize the marital deduction because of the Settlement Agreement. All of this reveals that Appellants' assertions in their brief regarding the alleged negative tax consequences that would flow from the Settlement Agreement are patently incorrect. These official IRS documents are relevant to the current appeal, as they are records of the Estate that contradict Appellants' misleading valuation and tax assertions contained within their brief.

¹ Appellants assert they were "sandbagged" with these documents, and suggest that if they had received the information they could have included it in their brief. The IRS mailed its closing letter to Appellants on January 27, 2011 (they received a copy because they filed the initial tax return). (Appendix R pp. 13-14). Respondents received the closing letter on January 31, 2011. Appellants mailed their reply brief on February 1, 2011 (it was signed on February 2). Appellants chose not to respond. Regardless, they have used their Return to respond.

RELIABILITY OF IRS RECORDS

Appellants challenge the reliability of the appraisal upon which the tax records were based, stating that it has not been “tested in any court” (Appellants Return, at 4). Appellants intimate that the appraisal is not legitimate. This intimation, however, rests upon two false premises: (1) that the IRS would accept an illegitimate appraisal that reduced the tax liability of the Estate, and (2) that the negotiation of tax liability with the IRS is not an adversarial proceeding. The IRS has accepted the date of death valuation of the assets, it has the final word in this matter.

The Court should supplement the record on appeal to include the IRS tax records, and the Supplemental Inventory and Appraisement. These documents were generated in the ongoing course of the Estate administration. They speak directly to Appellants’ argument that the Settlement Agreement was not just and reasonable. In the alternative, the Court may take judicial notice of these documents as they were filed in a related proceeding.

II

The Respondents moved to supplement the record on appeal, in part, to clarify that the asset valuation figures tossed around by the Appellants were not based upon a due diligence analysis of the assets—such as an appraisal, for example. In their Return, Appellants do not dispute that they never conducted an appraisal but instead seek to convince this Court that their asset valuation was credible. While asset valuation has little if any bearing upon the question presented in this appeal—whether the Settlement Agreement was just and reasonable pursuant to S.C. Code Ann. § 62-3-1102—the remainder of Respondents’ Reply will nevertheless address Appellants’ irrelevant valuation argument in order to set the record straight.

VALUATION OF THE ASSETS

Appellants argue that “the assertion made in these materials regarding the value of James Brown’s assets conflict with all evidence before [the circuit court] on May 26, 2009” (Appellants Return, at 2). This line of argument leads the reader to believe that asset valuation was a central feature of the circuit court’s decision to approve the Settlement Agreement. It was not.

Not once did the circuit court order approving the Settlement Agreement address asset valuation (R pp 9-53). Rather, the circuit court was interested in the percent allocation of the assets² among the parties to determine whether the allocation was just and reasonable—which the circuit court concluded it was (R pp 22-23, 43-45). Appellants’ myopic focus on asset valuation can only be explained, then, by one fact: their nearly \$5 Million personal representative fee petition (R pp 2879-80). If the valuation of the assets asserted by the Appellants falls, then their fee petition and credibility fall with it. As explained below, the valuation asserted by the Appellants is based upon pure speculation and unsupported by their own citations to the record.

DATE OF DEATH VALUATION

Appellants never acknowledge the distinction between the date of death value of the assets and the unencumbered value of the assets. This distinction is critical. The Internal Revenue Code requires that the executor of a decedent’s estate determine the value, at the time of the decedent’s death, of all of his assets wherever situated. This valuation, which is commonly known as the date of death value or estate tax value, is a snap-shot value of the decedent’s assets as of the date of death; it is determined by taking into account all factors that impact the value of the decedent’s assets, including, but not limited to, transfer restrictions, debt,

² Pursuant to the Settlement Agreement each settling party owns a percent interest in the Settlement Entity that holds and manages all of the late James Brown’s assets (R pp 22-23 (order approving settlement agreement)).

illiquidity, income amounts, and current market conditions

The date of death value should not be considered a static value, as the assets could increase or decrease in value with the passage of time, changing market conditions, the marketing of the assets, and many other factors, including as in this case, paying off the \$26 Million loan given to James Brown during his lifetime in exchange for his royalty stream. Accordingly, Appellants claim that the charitable trust will receive less than \$1 Million is grossly misleading (Appellants Return, at 6). Over the past two years, under Russell Bauknight's watch, the current value of the Estate and Trust has increased significantly. The charitable trust will not be funded by a sale of the assets based upon their date of death value, because no such sale will take place. The vast majority of monies that will flow to the charitable trust will come from the revenue stream generated by the intellectual property assets, and that revenue stream will last until the assets have no commercial value.

The charitable trust will receive roughly half of the income that can be generated by the trustee and individuals he hires to market the assets in perpetuity. Make no mistake, James Brown created a lasting legacy to the education of underprivileged children and young adults attending schools in South Carolina and Georgia. And that lasting legacy will endure.

NO ONE EVER MADE AN OFFER

In an attempt to defend their valuation of the assets, Appellants state that "offers" (in the contract law meaning of that term) were made to them for the purchase of the assets. Their argument is that any offer made by a willing buyer in the open market is strong evidence for what an asset is worth because no buyer would make an offer to purchase an asset unless he had previously evaluated its worth—that is, having already conducted his own due diligence. The argument is inapplicable here, however, because no one ever made an offer. To be clear, from the date of James Brown's death until Russell Bauknight was appointed PR/Trustee no one

conducted any due diligence to determine the value of the assets. Every valuation Appellants rely upon is nothing more than speculation.

Appellants have misrepresented to this Court that “offers” were made to the Estate and Trust to buy its assets. “[O]ffers [were made] to purchase the Brown assets for \$92-\$102 million” (Appellants Return, at 4), “In October 2007, Dr. Cox was part of the investment entity to be formed which made a \$90 million - \$100 million offer to purchase Brown’s assets” (Appellants Return, at 5 n 5 b), “On November 20, 2007, Dr. Cox testified about his \$100 million offer” (Appellants Return, at 5 n 5 f), “In February and March 2008 additional offers [were made]” (Appellants Return, at 5 n 5 g).

Dr. Terry Cox is a branding strategy specialist. Cox testified that he is “someone who develops business and branding strategies and has the ability to take those strategies and implement them” (R. p. 2038, lines 10-12). Cox was a member of a group that initially expressed an interest in exploring the purchase of James Brown’s assets following his death.

The first example of Cox’s purported offers may be found at record page 2175-76. This is an October 12, 2007 letter of intent from Cox’s group to the original trustees. The letter states that it is their intent to “purchase the assets, in their entirety, to include the writer’s share of the music, the songbook, all intellectual property, real estate, personal property such as costumes, etc., Mr. Brown’s image and persona, individually and as an entertainer to include all indicia, stage names as ‘Godfather of soul’, ‘The hardest working man in show business’, etc.” (R. p. 2176, (1st full paragraph)). They go on to speculate that the purchase price will be \$100 Million.

Cox’s group explicitly required a due diligence period, however. “By the end of the first 90 days following tentative approval, if [the] due diligence warrants proceeding further, [we] will make a payment of \$5 million to be credited toward the purchase price at closing” (R. p.

2176 (4th full paragraph)) The letter goes on to state that, “this letter of intent is subject to due diligence by us and our agents” (R p 2176 (6th full paragraph)) That was as far as the Cox group went with the original trustees No due diligence occurred, and no offer was ever tendered

The next example of his purported offers may be found at record page 487 This is a letter of intent from Terry Cox to Appellants dated March 27, 2008 In his letter of intent he speculates that the “purchase price of the assets will be between \$90,000,000 and \$100,000,000

[but that] all depend[s] on the outcome of our due diligence described below” (R p 487 (3d paragraph)) He further states that the “purchase price assumes clear title to the Assets and that the sale will be on a debt free and n free basis” *Id* As noted above, the assets were not debt free and remain encumbered today

Cox goes on to outline the due diligence process “We anticipate we will need a period of 90 days for due diligence, if all required information and people who have had influence on the assets are available Our due diligence will focus on a review of all of the Assets, including, but not limited to, a legal review of all intellectual property and rights, all contracts and agreements, all litigation and an accounting review of the financial statements of JBE^[3] for the last 3 complete fiscal years” (R p 488) Finally, Cox states that this “letter of intent shall not create any binding obligation on the part of any of the parties hereto to enter into the Definitive Agreement or to effect the proposed acquisition or any other transaction regarding the assets” (R p 489) Again, no due diligence occurred, and no offer was ever tendered

The 2007 and 2008 letters of intent are not “offers” to purchase James Brown’s assets Further, these letters are as far as Cox’s group ever proceeded in seeking to purchase the assets

³ JBE stands for James Brown Enterprises, Inc, that company owns the vast majority of his copyrights James Brown was the controlling shareholder of the company, now his Estate is the controlling shareholder

No one ever engaged in the due diligence process outlined above to determine a proper purchase price

Appellants' contend that the assets are worth between \$90 and \$102 Million, despite Cox's speculative estimate of \$90-\$100 Million. The \$2 Million discrepancy is Cox's inaccurate estimate of the personal and household effects of James Brown—his capes and other regalia. At record page 492 there is a letter from Cox to Appellants dated April 15, 2008. It addressed the sale of the late James Brown's personal and household effects. Appellants petitioned the circuit court for permission to sell this iconic property because the Estate and Trust were (in their words) in "jeopardy" and needed funds. (R. p. 983 ¶ 13 ("Complaint for Declaratory Judgment and Related Relief Including Expedited Emergency Relief" wherein Appellants sought permission to sell the iconic property)). The circuit court granted the petition. (R. pp. 149-56). It is true that Cox used the term "offer" in the April 15, 2008, letter found at record page 492. But the context of the letter was his disappointment that Appellants had already decided to split up and sell the iconic property through an auction at Christie's in New York City and not to him. Further, Cox referenced the basis for the offer as previous letters of intent.

One of the previous letters of intent is found at record page 484. It is a March 27, 2008 letter of intent wherein Cox states that the "purchase price of the Assets will be \$2 million." (R. p. 484). Like Cox's companion March 27, 2008 letter to purchase the intellectual property assets, this letter of intent contained language making clear that it was not an offer. For example "This letter of intent shall not create any binding obligation on the part of any of the parties hereto to enter into the Definitive Agreement or to effect the proposed acquisition or any other transaction regarding the Assets." (R. p. 485 (3d full paragraph)).

Ultimately the Christie's sale produced only \$554,077.87. (R. pp. 2758-59, 2761, 2763).

(note entry of “receipts,” *e g* , 8/25/08 \$463,326 12)) Accordingly, the actual fair market value of the iconic property turned out to be roughly 25% of what Cox stated in his letter of intent Cox’s overvaluation by a factor of four undermines any reliance on the estimates he placed in his letters of intent Appellants’ insistence that these letters represent the proper valuation is simply not credible

Appellants finally contend that “[t]hree proposals to purchase Brown’s assets for \$90-\$102 Million meet the IRS definition of ‘fair market value’ as what a willing buyer would pay a willing seller, neither under compulsion to buy or sell, and both with knowledge of relevant facts” (Appellants Return, at 6 (emphasis added)) In their brief, appellants do not cite examples of the three proposals But it is safe to say that their reference to \$90-\$102 Million is a reference to the “offers” discussed above And as noted above, those purported offers expressly required a due diligence review of the assets—that is, due diligence to gain “knowledge of relevant facts”—and therefore do not qualify under Appellants own definition of “fair market value” The bottom line is that no one ever conducted any due diligence to determine the value of the assets

At the date of James Brown’s death, the intellectual property assets of his Estate were worth roughly \$4.7 Million As noted, this figure accounted for the huge debt burden Once the debt is repaid, the royalty stream from James Brown’s intellectual property will begin to fund the education of underprivileged children and young adults all over South Carolina and Georgia

III

CONCLUSION

The proposed supplement to the record on appeal contains relevant information that will help this Court determine that the circuit court approved Settlement Agreement comports with S.C. Code Ann. § 62-3-1102 Appellants’ opposition to the supplement is simply an attempt to

appear credible regarding their fee petition. The basis for their valuation argument has been shown to be groundless. The documents addressing the positive tax consequences from the Settlement Agreement and the date of death valuation should be considered by this Court.

Respectfully submitted,



Alan Wilson
Attorney General, State of South Carolina
C. Havird Jones, Jr.
Senior Assistant Attorney General
Robert D. Cook
Assistant Deputy Attorney General
J. C. Nicholson, III
Assistant Attorney General
Mary Frances Jowers
Assistant Attorney General
Office of the Attorney General
State of South Carolina 29211-1549
Post Office Box 11549
Columbia, South Carolina 29211-1549
(803) 734-3970



William W. Wilkins
J. David Black
Fred L. Kingsmore, Jr.
NEXSEN PRUET, LLC
55 East Camperdown Way (29601)
Post Office Drawer 10648
Greenville, South Carolina 29603-0648
(864) 370-2211

*Attorneys for Respondent Russell L. Bauknight as
the Court-Appointed Trustee of the James Brown
2000 Irrevocable Trust and Personal
Representative for the Estate of James Brown and
as the Special Administrator and Special Trustee*

*for the Estate of James Brown and the James Brown
2000 Irrevocable Trust*

Louis D Levenson
LEVENSON & ASSOCIATES
125 Broad Street
Atlanta, Georgia 30303
(404) 659-5000

*Attorneys for James Brown Children and
Grandchildren Daryl J Brown Individually and on
Behalf of His Minor Children Lindsey Delores
Brown and Janise Vanisha Brrown, Deanna J
Brown Thomas Individually and on Behalf of her
Minor Child Jason Brown Lewis, Yamma N
Brown Individually and on Behalf of Her Minor
Children, Sydney Lumar Carrington Lumar, and
Tonya Brown, Vanisha Brown Larry Brown*

Robert N Rosen
T Heyward Carter, Jr
S Alan Medlin
David L Michel
Post Office Box 1510
Charleston, South Carolina 29402
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Attorneys for Tommie Rae Hynie Brown

Matt Bodman
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Attorney for Terry Brown

Albert P Shahid, Jr
SHAHID LAW OFFICE, LLC
89 Broad Street
Charleston, South Carolina 29401
(843) 853-4500
*Attorney for Stephen M Slotchiver, Guardian ad
Litem for James Brown II*

June 3, 2011

Columbia, South Carolina

Exhibit V

EXHIBIT A

NEXSEN|PRUET

J. David Black
Member
Admitted in SC

July 15, 2011

VIA US MAIL

Adele J. Pope, Esquire
1228 Walnut Street
Newberry, South Carolina 29108

**Re: Request for Documents under the South Carolina Freedom of
Information Act**

Dear Ms. Pope,

I am writing you in reference to your June 30, 2011 South Carolina Freedom of Information Act (FOIA) request for "The final and all drafts, signed and unsigned, of the James Brown Legacy Trust" (James Brown Trust).

Charleston

Charlotte

Columbia

Greensboro

Greenville

Hilton Head

Myrtle Beach

Raleigh

As you are aware, for FOIA purposes, the James Brown Trust is not a public body as defined in the South Carolina FOIA Statute. *See* S.C. Code Ann. § 33-40-20(a). Accordingly, your request for public records is improper.

Furthermore, even in the event that such request were proper, the documents that you have requested are exempt from FOIA pursuant to S.C. Code Ann. § 30-4-40(a)(7) as the FOIA request calls for the production of Attorney Work Product and Attorney Client Privileged Materials related to ongoing litigation.

Please be advised that FOIA is not intended as a substitute for discovery and was not intended to provide procedures for obtaining information during litigation or to benefit private litigants. *Lominack v. Myers*, 2002-CP32-1890 (Order of Judge Westbrook, 11th Jud. Cir., 2002) (citing *NLRB v. Sears Roebuck & Co.*, 421 U.S. 132, 144 n.10 (1975); *U.S. v. Murdock*, 548 F.2d 599, 602 (5th Cir. 1977); *Fruehauf Corp. v. Thornton*, 507 F.2d 1253, 1255 (6th Cir. 1974)).

In the event that you continue to file unnecessary discovery and/or FOIA requests, please be advised that the Trust and Estate will have no other choice than to file an action against you for abuse of process and sanctions.

1230 Main Street
Suite 700 (29201)
PO Drawer 2426
Columbia, SC 29202
www.nexsenpruet.com

T 803.540.2072
F 803.727.1409
E DBlack@nexsenpruet.com
Nexsen Pruet, LLC
Attorneys and Counselors at Law

Adele J. Pope, Esquire
July 15, 2011
Page 2

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. David Black', with a long horizontal flourish extending to the right.

J. David Black

JDB/JGH

cc: James B. Richardson, Jr., Esquire
Russell L. Bauknight

Exhibit W

ALAN WILSON
SECURITIES COMMISSIONER



August 5, 2011

Adele J. Pope, Esq.
1228 Walnut Street
Newberry, South Carolina 29108

Re: Request for documents under the South Carolina Freedom of Information Act

Dear Ms. Pope:

I am in receipt of one letter from you dated July 19, 2011, and five letters from you dated July 20, 2011, requesting certain documents pursuant to the South Carolina Freedom of Information Act ("FOIA"). I have also been notified by attorneys in the Civil Division of the South Carolina Office of the Attorney General ("SCAG") that you refer to a request dated June 30, 2011 in a motion filed by you in a South Carolina circuit court case. Please be advised the only direct requests I have received from you during the June to August 2011 time period are the six referenced above. If there is a request dated in June 2011 that was not received by this Office, but that you represent you drafted and sent on June 30, 2011, if you will forward it to me within the next five (5) business days, I will expedite the response to it.

Responding to your letters dated July 19, 2011 and July 20, 2011 is difficult, as I have been informed there are several pending motions filed in Case No. 2010-CP-40-4900 in the Richland County Circuit Court and that several of the pending motions relate to the documents you are currently seeking to obtain through the FOIA requests. I have been informed there are at least three related motions that relate to the FOIA request: (1) a "Motion for Protective Order Concerning Various Documents Requested by Defendant Adele J. Pope" filed July 5, 2011, filed by the Plaintiffs; (2) a "Motion to Compel Discovery" dated June 7, 2011, filed by your counsel; and (3) a "Motion to Compel Production of Contingency-Fee Contract and Related Documents Prior to Hearing on Motion for Injunction", dated July 26, 2011, filed by your counsel.

While there exists an ongoing case in which I have been informed both a "Motion for Protective Order" and a "Motion to Compel Discovery" are outstanding, it seems premature for me to release the requested documents. I am not involved in the civil case in any way and believe the wisest thing to do is to let the presiding judge make the decision on which items, if any, are to be produced and which, if any, are not.

FILED
NEWBERRY COUNTY
2011 AUG 10 A 10:20
JACKIE S. BOWERS
CLERK OF COURT

Adele J. Pope
August 5, 2011
Page 2

The FOIA was designed to give the public and the press access to the workings of their government. FOIA is not designed to supplement the rules of civil or criminal discovery. For these reasons, I propose to put your requests on hold pending the outcome of your current litigation. Once litigation is complete, I would then provide you with all of the information you have requested that is available (i.e. not exempt) pursuant to the Act. In the meantime, I will also forward copies of all six letters to the Civil Division and ask that they be treated as discovery requests in the ongoing litigation referred to above, if appropriate.

Sincerely yours,



Tracy A. Meyers
Senior Assistant Attorney General

TAM/tpn

1228 Walnut Street
Newberry, South Carolina 29108

July 19, 2011

CERTIFIED MAIL

Custodian of Records
Office of the South Carolina Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

FILED
NEWBERRY COUNTY
2011 AUG 10 A 0:19
JACKIE S. BOWERS
CLERK OF COURT

Re: Request for Documents under the South Carolina Freedom of Information Act

Dear Madam or Sir:

This letter is a request for access to the public records listed below pursuant to the South Carolina Freedom of Information Act ("FOIA").

I would like to receive copies of the following documents:

1. The published policies and/or rules and regulations of the Office of the Attorney General of South Carolina ("AG") with respect to the engagement of private attorneys, including contingency-fee attorneys, by the AG in effect in May 2010.
2. The published policies and/or rules and regulations of the Office of the AG with respect to the engagement of private attorneys, including contingency-fee attorneys, by the AG currently in effect (July 19, 2011).
3. The contract of the then-AG [Henry D. McMaster] and/or the State of South Carolina engaging Kenneth B. Wingate and Everett Kendall, II to commence Civil Action No. 2010-GC-4000073 in the Probate Court for Richland County on May 19, 2010 on behalf of the AG. [A copy of the filed Summons, with emphasis added and minors redacted, is attached.]
4. Any contract and/or other document authorizing Russell L. Bauknight to commence Civil Action No. 2010-GC-4000073 on behalf of the AG and/or the State of South Carolina.

I can be reached at (803) 413-0753 to schedule an appointment to pick up these copies.

Since this request primarily benefits the general public, I request that any search or copying fees be waived, but will pay all required copying costs.

Sincerely,



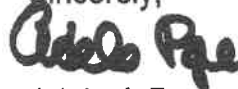
Adele J. Pope

Ltr. to Ms. Meyers
August 7, 2011
Page 3

I respectfully request that you immediately reverse your denial of my FOIA request for these public documents and notify me by phone at (803) 413-0753 when I may pick them up.

Kindly inform me by noon Tuesday, August 9, 2011 if you will reverse your position and comply with my FOIA requests. If not, it is my intention to take appropriate measures to secure the requested documents.

Sincerely,

A handwritten signature in dark ink, appearing to read "Adele Pope", written in a cursive style.

Adele J. Pope

AJP/ja

Enclosure: Ltr. of Tracy A. Meyers
Sr. Assistant Attorney General dtd. 8/5/2011

Exhibit X

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Henry Dargan McMaster, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

HENRY DARGAN MCMASTER, in his capacity as Attorney General of the State of South Carolina; **TOMMIE RAE BROWN**, individually and on behalf of her minor child, **JAMES BROWN II**; **DARYL J. BROWN**, individually and on behalf of his minor child **JANISE VANISHA BROWN**; **LINDSEY DELORES BROWN**; **DEANNA J. BROWN THOMAS**; **JASON BROWN-LEWIS**; **YAMMA N. BROWN**, individually and on behalf of her minor children **SYDNEY LUMAR** and **CARRINGTON LUMAR**; **TONYA BROWN**; **VENISHA BROWN**; **LARRY BROWN**; and **TERRY BROWN**,

Plaintiffs

v.

Adele J. Pope and Robert L. Buchanan, Jr.,
Defendants

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-1900

2011 AUG 11 AM 11:44
JEANETTE W. McBRIDE
Clerk of Court
C.C.P. & G.S.

RICHLAND COUNTY
FILED

**PLAINTIFFS' MOTION FOR
PROTECTIVE ORDER CONCERNING
FEE AGREEMENT
AND/OR MOTION TO STRIKE
DEFENDANT POPE'S MOTION TO
COMPEL PLAINTIFFS' FEE
AGREEMENT**

TO: DEFENDANTS AND THEIR ATTORNEYS:

YOU WILL PLEASE TAKE NOTICE that the Plaintiffs above-named, by their undersigned attorneys, will move before the Presiding Judge of the Richland County Court of Common Pleas at the Richland County Judicial Center at 9:00 a.m. on the tenth (10th) day after service hereof, or as soon thereafter as counsel may be heard, for a Protective Order prohibiting the production of Plaintiffs' Fee Agreement in the above-referenced action.

On July 26, 2011, Defendant Adele Pope through counsel filed a Motion to Compel production of Plaintiffs' Fee Agreement. Fee Agreements are the epitome of privileged communication. Plaintiffs therefore request that this court issue a Protective Order prohibiting the efforts of Defendant Pope from discovering the Fee Agreement.

Also, or in the alternative, Plaintiffs move the court to strike Defendant Pope's Motion to Compel Plaintiffs' Fee Agreement because the motions seeks to contravene a prior decision of the court concerning the order for hearing motions filed in this complex case.

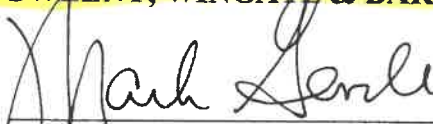
This Motion relies on all applicable statutory and case law and may be supplemented with a memorandum of law, exhibits, affidavits, or other documents.

The Plaintiffs also request costs and fees for the expense in bringing this Motion.

(Signature page to follow)

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.

A handwritten signature in black ink, appearing to read "Mark V. Gende", is written over a horizontal line.

Kenneth B. Wingate

Mark V. Gende

1515 Lady Street

Post Office Box 12129

Columbia, South Carolina 29211

(803) 256-2233

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina

August 9, 2011

Exhibit Y



ALAN WILSON
SECURITIES COMMISSIONER

FILED
NEWBERRY COUNTY
2012 JAN -9 A 10:18
JACQUE S. BOWERS
CLERK OF COURT

October 3, 2011

Adele J. Pope, Esq.
1223 Walnut Street
Newberry, South Carolina 29108

Re: Request for documents under the South Carolina Freedom of Information Act

Dear Ms. Pope:

I am in receipt of your request dated September 9, 2011, requesting certain documents pursuant to the South Carolina Freedom of Information Act ("FOIA").

Responding to your request (numbers 1 and 4), for appraisals and other documents supporting the position of the Office of the Attorney General and/or Russell Bauknight's position on the valuation of the Estate, this Office does not possess any such documents, and therefore, is unable to provide this information to you.

With respect to your request for the title and salary, if over \$50,000, (number 2) for the years 2007 - 2010, for Clyde (Sonny) Jones, Robert D. Cook, Julius (JC) Nicholson, Sandra Matthews, Henry McMaster and Mary Frances Jowers, enclosed please find a printout detailing that information.

With respect to your request for public records which would indicate the amount of time/percentage of work each of the above named individuals spent on matters related to James Brown/James Brown Legacy Trust for the years 2007 - 2010, (number 3) Office staff are not required to track time spent on individual cases. Therefore, when we conducted a search of office records, no documents were located.

Lastly, regarding documents showing a total of State funds, including salaries, travel, mediation costs, and all other costs for the years 2007 - 2010, (number 5) we are happy to make available to you all records regarding travel and other costs for the employees of this Office. Because employees of this Office are not required to track information by individual case numbers or individual case names, the information made available will be that for all employees in the Office. Please contact me by letter so we can arrange an appropriate time for us to make this information available to you.

Adelle J. Pope, Esq.

October 3, 2011

Page 2

Pursuant to Section 30-4-30(b) of the South Carolina Code, agencies are permitted to charge reasonable fees not to exceed their actual costs to provide records, and this Office has elected to charge the fees as a way to offset the costs of responding to requests. This Office charges \$18.90 per hour of staff time for locating and copying records responsive to requests and \$.20 for each page copied. These costs are directly related to the cost to the Office for staff to search for and copy responsive records. Once we determine the estimated amount of staff time to locate and copy the records responsive to your request, I will contact you to obtain an appropriate deposit.

Sincerely yours,



Tracy A. Meyers
Senior Assistant Attorney General

TAM/tpn

Enclosure

Exhibit Z

**1228 Walnut Street
Newberry, South Carolina 29108**

October 5, 2011

BY FAX AND FIRST CLASS MAIL

Fax No. 803-734-3667

Tracy A. Meyers, Esquire
Senior Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

Custodian of Records
Office of the South Carolina Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

**Re: Request for Documents under the South Carolina
Freedom of Information Act**

Dear Ms. Meyers and Records Custodian:

I received yesterday, and thank you for, the letter of Ms. Meyers dated October 3, 2011. With the mailed copy of this letter I am enclosing a deposit of \$300, and ask that I be able to come to your office at the earliest convenience on the first of the following dates you have available:

This Friday, October 7	9:30 - closing
Tuesday, October 11	1 p.m. until closing
Thursday, October 13	9:30 until closing
Monday, October 17	9:30 until closing

My cell phone number is 803-413-0753. Since I am a little over 40 miles away, I would appreciate your letting me know as soon as possible which dates suit.

Please do not let your answers to the questions below delay scheduling my appointment to review whatever documents you have.

I am prepared, each day, to pay the estimated amount - in addition to the enclosed \$300 - of what the additional work we will need to do will take.

I expect my FOIA inquiries to last a long time, as — in order to receive specific documents — I made my initial inquiries as specific as possible. Since I will be examining records which you apparently do not keep in the form I requested, I want my search to be as efficient as possible. I hope your answers to the following questions will help:

a. The Charges you pose. It is my understanding that FOIA requires you to charge the smallest amount necessary to provide the records. You say \$18.90

Ltr. to Ms. Meyers, Custodian

October 5, 2011

Page 2

per hour is the charge for locating and copying. Is it not possible for me to review the records myself – either computer or hard copy – making notes, and then make specific requests?’

For example: The point of my requests 2, 3 and 5 on September 9, 2009 was to determine what information the State has about how much State money has been devoted to James Brown matters since August 2007, and how much to James Brown/James Brown Legacy Trust matters since 2008.

If the State has not compiled this information, as you indicate, I still want to compile my own estimates from the data requested in 2,3 and 5 of my letter of September 9. I have detailed information about hearings, appearances, meeting, etc., which – together with your data – would help put that together.

Will someone at \$18.90 an hour do this with me? Or may I do it myself on a computer at your office – and perhaps bring a more computer-oriented person to assist me? Can it be a combination of the two?

b. Your Response to Requests 2 and 4 Regarding the \$85 Million vs. \$12 Million vs. \$4.7 Million values placed on James Brown's music empire, assets

My request of September 9, 2011 was for:

1. All preliminary appraisal reports and/or other document(s) which support the August 23, 2010 **[in bold]** statement to the Supreme Court of South Carolina by then-Attorney General McMaster and four Assistants, signed by Clyde (C.H.) Jones, placed in context as follows:

6. Respondents dispute Appellants' assertion that the settlement agreement has the potential to divert "tens of millions of dollars" from the Trust. Presumably this representation to the Court is based on Appellants numerous under oath representations about the date-of-death value of the Trust, ranging anywhere from approximately Eighty-Five Million (\$85,000,000.00) Dollars on the federal estate tax return to approximately One Hundred Million (\$100,000,000.00) Dollars in affidavits, pleadings, and testimony...

Valuation assertions by Appellants' predecessors were similarly without any underlying appraisal. **By contrast, Bauknight has pursued the appropriate fiduciary route and engaged a nationally renowned and respected appraisal firm to value the Estate and Trust. Although the expected completion date for the appraisal is a couple of weeks away, a preliminary report indicates that the date-of-death value of the Estate and Trust**

Ltr. to Ms. Meyers, Custodian
October 5, 2011
Page 3

will not exceed Twelve Million (\$12,000,000.00) Dollars.

AND

4. Any Document(s) which show when and in what form Russell Bauknight, serving at the pleasure of the Attorney General, notified the Office of the Attorney General that he asserted James Brown's assets at his death on December 25, 2006 were worth about \$6.5 Million and his worldwide music empire less than \$4.7 Million on that date.

Ms. Meyer's response was:

Responding to your request (numbers 1 and 4)...this office does not possess any such documents, and therefore, is unable to provide this information to you.

I respectfully suggest that this answer is not correct.

In August 2010 the Office of Attorney General McMaster represented to our Supreme Court what the contents of a draft appraisal contained.

In May 2011, the Office of Attorney General Wilson provided our S. C. Supreme Court with copies of portions of an Estate Tax Closing Letter and related IRS documents from January 2011 directly related to this request, showing that – at least by May 6, 2011 – the AG's Office had this information in that form. Those documents – if no others exist – would be responsive to my request if May 6, 2011 is the first day the AG learned that Russell Bauknight asserted James Brown's worldwide music empire was worth less than \$4.7 Million when Brown died.

If the AG's Office learned this information before May 6, 2011, that is the subject of my request #4 of September 9.

As to Request #1, it is reasonable to assume that the AG looked at something when he represented to the South Carolina Supreme Court on August 23, 2010 that an expected appraisal – already in draft form – showed that James Brown's assets – repeatedly reported by the AG's Office and others to be worth \$100 Million (\$85 Million after the TIAA Debt)– would soon be found to be worth less than \$12 Million, a figure, the AG represented, was already found in a draft proposal.

Because of the importance of understanding the State's involvement, if any, in the representation by the AG's appointee, Mr. Bauknight, to the IRS that Bob Buchanan and I committed a criminal overstatement of James Brown's assets on a sworn Estate Tax Return, I ask that you carefully check to confirm that the AG's Office – as you state – has no documents to support its August 2010 assertion of the less-than-\$12 Million value and no record of when it first learned (before May 6) of the less-than \$4.7 Million for the worldwide music empire it reported to the Court on May 6, 2011. Thank you.

c. My other FOIA Requests Which Are Not the Subject of Pending Litigation.

I hope that your response to my September 9, 2011 FOIA request means that the AG's Office has reconsidered the 5 Requests I made on July 20, 2011, which you did not challenge, but failed to fill, including those briefly described below, which I may now review and copy:

1. July 20, 2011 - **11-Page Memorandum** from "tax experts" referenced by CH Jones in April 6, 2009 Hearing, Case 122.
2. July 20, 2011 Communications, Meetings, etc., with Toby Byron of New York. [He is the man who asserted in December 2007 that Albert H. "Buddy" Dallas had offered him 5% of a sale of the James Brown assets, then later recanted that representation. He wrote several letters to various people 2007 - 2009, with copies to the SC AG. He had a number of telephone meetings with Sr. Assistant AG CH "Sonny" Jones as indicated in the email of Sonny Jones to RL Buchanan, Jr. and me dated December 6, 2007 re: \$100 Million initial offer for James Brown assets.]
3. July 20, 2011 Communications, Meetings, Etc. With Dr. Terry Bradford Cox . Mr. Cox, also mentioned by Sonny Jones in his December 6, 2007 email related to the \$100 Million initial offer for the James Brown assets, also met at least one additional time – on or about July 31, 2008 – with Sonny Jones, another AG and an agent for Tommie Rae Hynie. Like Mr. Byron, Dr. Cox corresponded with various people and copied that correspondence to the AG's Office.
4. July 20, 2011 Communications, Meetings, etc., with Albert H. "Buddy" Dallas and/or Forlando Brown. Mr. Dallas had numerous documented – and as yet undocumented – meetings with the Office of AG McMaster, and his joint venturer, Forlando Brown, also had various communications, including the joint February 7, 2008 TV appearance with AG McMaster.
5. July 20, 2011 PG documents.

Please confirm if this is true, so that I may avoid another FOIA suit.

Ltr. to Ms. Meyers, Custodian

October 5, 2011

Page 5

As stated above, please do not let your answers to any of these questions delay scheduling a time for me to come review the documents responsive to my September 9, 2011 request, as I want to do that as soon as possible.

I look forward to coming to the Office; obtaining what you have; and spending a day, or more as needed, gathering the information I have already requested; and learning how to make subsequent requests more efficient so that I may acquire the needed public information as efficiently as possible.

Thank you in advance for an immediate response to my cell phone 803-413-0753 or email to allow me to come to begin obtaining this important public information.

Sincerely,

Adele J. Pope

AJP/ja

Enclosure in mailed copy: Check for \$300.00

Exhibit AA

RICHLAND COUNTY

FILED

2011-CP-36-01364

STATE OF SOUTH CAROLINA

2012 JAN 17 PM 4:35

COUNTY OF RICHLAND

JEANNETTE W. MURPHY
C.C.P. & G.S.

SCANNED

11:00

PERSONALLY APPEARED before me, Tracy A. Meyers, who being duly sworn,
attests to the following:

1. She is a Senior Assistant Attorney General with the Office of the Attorney General.
2. Among her assigned duties, she is to review Freedom of Information Act requests made of the Office of the Attorney General. Incoming FOIA requests are sent to her.
3. She has reviewed the letter of June 30, 2011 addressed to the Custodian of Records of the Office of the Attorney General and attached as Exhibit A to the Complaint in Pope v. Wilson, et al (2011-CP-36-364. She never received from Ms. Pope the June 30 letter Ms. Pope claims to have sent to the Office of the Attorney General. She requested checks of Office mail logs, none of which showed that the letter had been mailed or delivered to the Office of the Attorney General by Ms. Pope or her attorney which is necessary to require a response from this Office under FOIA.
4. Attachment of the June 30, 2011 letter to the complaint in the above suit does not constitute a request under FOIA to which the Office of the Attorney General must respond.
6. Upon the conclusion of the suit and the delivery or mailing of the same FOIA request to the Office of the Attorney General by Ms. Pope or her attorney, a response to the

FOIA request will be made then if permitted by any Order of the Court in case 2011-CP-36-364 or any other judicial proceeding related to matters that are the subject of that request.

Tracy A. Meyers

TRACY A. MEYERS

SWORN TO before me this 20th

day of October, 2011

Shirlechia P. Navarro

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 6/2/18

Exhibit AB

C
S·W·B

RECEIVED

ELECTRONICALLY FILED - 2020 Oct 27 2:17 PM - RICHLAND - COMMON PLEAS - CASE#2012CP4000350

S.C. Attorney General's Office
Civil Section
SWENY WINGATE & BARROW P.A.

JAN 20 2012

Referred to Victoria, Cook
Answered McIntosh, Tony
Towers, T. Meyer
13

January 20, 2012

JAN 23 2012

Received by SWB
Reviewed by/Date _____
Referred to/Date _____
Notes: _____

Reply to: Main Office
Mark V. Gende
(803) 256-2233 x121
mvg@swblaw.com

URGENT - PRIVILEGED ATTORNEY/CLIENT COMMUNICATION

VIA HAND DELIVERY

Alan Wilson
South Carolina Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

RE: Russell L. Bauknight, et al. v. Adele J. Pope and Robert L. Buchanan, Jr.
Civil Action No.: 2010-CP-40-04900
Our File: 4077-7389

Dear Mr. Attorney General:

It is my understanding that you have decided to release what you deem the public portion of the fee agreement in the above-referenced matter. As your attorney in this matter, I am writing to advise you against releasing any portion of the agreement until the Court rules on this matter.

Releasing these documents at this time will have the following detrimental impact on this litigation.

First, you will certainly incur the sanction of costs and attorney fees in the pending FOIA actions. That defeat will be more costly and publicly embarrassing than a decision to continue litigating the fee agreement issue.

Secondly, your decision will jeopardize the rights of your co-litigants. Once you release what you have deemed the public portions, the Defendants will certainly argue that your actions waive your co-litigants claim to privilege for the remainder of the agreement.

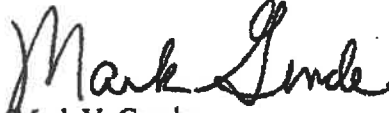
Third, FOIA specifically exempts from production privileged documents. Whether this complicated fee agreement is privileged is currently before the Court. You are complying with

both the spirit and letter of FOIA if you decline to produce the requested documents until the Court has determined whether any of the fee agreement is privileged.

I trust that you will reconsider your decision. I am available throughout the day to discuss this matter.

Yours truly,

SWEENEY, WINGATE & BARROW, P.A.



Mark V. Gende

MVG/smt

cc: C. Havird Jones, Jr., Esquire – via electronic mail
Mary Frances Jowers, Esquire – via electronic mail
Tracy Meyers, Esquire – via electronic mail
Russell Bauknight – via electronic mail

Exhibit AC

THE STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM AIKEN COUNTY

Court of Common Pleas

Doyet A. Early III, Circuit Court Judge

Trial Court Case Nos. 2013-CP-02-02849 and 2013-CP-02-02850

Appellate Case No. 2015-002417 (Court of Appeals)

Appellate Case No. 2018-001990 (Supreme Court)

In Re: The Estate of James Brown a/k/a James Joseph Brown,

Tommie Rae Brown.....Respondent,

v.

David C. Sojourner, Jr., in his capacity as Limited

Special Administrator and Limited Special Trustee,

Deanna Brown-Thomas, Yamma Brown, Venisha Brown,

Larry Brown, Terry Brown, and Daryl Brown.....Respondents below,

Of whom Deanna Brown-Thomas, Yamma Brown, and

Venisha Brown are the Appellants.

Affidavit of Peter Afterman

PERSONALLY APPEARED BEFORE ME, PETER AETERMAN, who being duly sworn, deposes and says:

1. My name is Peter Aeterman. I am a resident of Los Angeles, California. I have been the music manager for the James Brown Estate since 2009. I am a multi Grammy and Peabody Award winning music manager. I am an expert in music copyright law. I have worked in the music business for over 40 years.
2. If Tommie Rae Brown is not James Brown's surviving spouse, the Charitable Trust will substantially lose its funding within the next six years because the ownership of James Brown's songs will revert to the heirs per U.S. Copyright Law. Copyright law provides that 50% of termination rights and control passes to the surviving spouse, and the rest passes to the children (or children of a deceased child). If Mrs. Brown is not the surviving spouse, all of the termination rights will pass to the children.
3. The primary asset of the Estate and Charitable Trust is the income stream the Charitable Trust currently receives from the exploitation of James Brown's songs, whose copyrights he assigned to music publishers, as is typical in the industry. Other than these copyright royalties, the Estate does not own significant other assets. As I understand it, it is this copyright income stream that would serve as the primary source for the funding of any scholarships.
4. Federal law allows, after a certain time, for the owners of copyright termination rights (the intestate heirs) to claw back the copyright assignments from publishers. The song termination rights are not part of the Estate or Trust, nor can they be, according to federal law. Federal law requires that these termination rights are owned by the writer's intestate heirs, regardless of the writer's intent.
5. The only way the Charitable Trust can benefit from these termination rights is for an intestate heir to contribute the proceeds from her termination rights to the Charitable Trust. Mrs. Brown has agreed (in accordance with the Settlement Agreement attached to the Limited Special Administrator's Notice of Withdrawal in the Court of Appeals) to contribute 65% of her proceeds from the song terminations to the Charitable Trust. Because Mrs. Brown as the surviving spouse would be entitled to a 50%, and controlling share, of the termination rights, the Charitable Trust will receive 32.5% of the total song termination proceeds, but only if she is the surviving spouse. If Tommie Rae Brown is not the surviving spouse, 100% of the song termination proceeds will go to the children. While Mrs. Brown has agreed to contribute 65% of her share of the termination rights proceeds to the Charitable Trust, the children have not agreed to contribute anything. If Mrs. Brown is not the surviving spouse, the Charitable Trust will receive nothing.
6. I agree with the projection in the Settlement Agreement that the termination rights for James Brown are worth tens of millions of dollars. The proceeds from these terminated copyrights will arise when the heirs sell (re-assign) these rights to a publisher, with the

PERSONALLY APPEARED BEFORE ME, PETER ATERMAN, who being duly sworn, deposes and says:

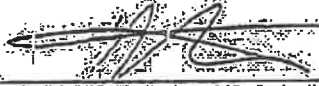
1. My name is Peter Aterman. I am a resident of Los Angeles, California. I have been the music manager for the James Brown Estate since 2009. I am a multi Grammy and Peabody Award winning music manager. I am an expert in music copyright law. I have worked in the music business for over 40 years.
2. If Tommie Rae Brown is not James Brown's surviving spouse, the Charitable Trust will substantially lose its funding within the next six years because the ownership of James Brown's songs will revert to the heirs per U.S. Copyright Law. Copyright law provides that 50% of termination rights and control passes to the surviving spouse, and the rest passes to the children (or children of a deceased child). If Mrs. Brown is not the surviving spouse, all of the termination rights will pass to the children.
3. The primary asset of the Estate and Charitable Trust is the income stream the Charitable Trust currently receives from the exploitation of James Brown's songs, whose copyrights he assigned to music publishers, as is typical in the industry. Other than these copyright royalties, the Estate does not own significant other assets. As I understand it, it is this copyright income stream that would serve as the primary source for the funding of any scholarships.
4. Federal law allows, after a certain time, for the owners of copyright termination rights (the intestate heirs) to claw back the copyright assignments from publishers. The song termination rights are not part of the Estate or Trust, nor can they be, according to federal law. Federal law requires that these termination rights are owned by the writer's intestate heirs, regardless of the writer's intent.
5. The only way the Charitable Trust can benefit from these termination rights is for an intestate heir to contribute the proceeds from her termination rights to the Charitable Trust. Mrs. Brown has agreed (in accordance with the Settlement Agreement attached to the Limited Special Administrator's Notice of Withdrawal in the Court of Appeals) to contribute 65% of her proceeds from the song terminations to the Charitable Trust. Because Mrs. Brown as the surviving spouse would be entitled to a 50%, and controlling share, of the termination rights, the Charitable Trust will receive 32.5% of the total song termination proceeds, but only if she is the surviving spouse. If Tommie Rae Brown is not the surviving spouse, 100% of the song termination proceeds will go to the children. While Mrs. Brown has agreed to contribute 65% of her share of the termination rights proceeds to the Charitable Trust, the children have not agreed to contribute anything. If Mrs. Brown is not the surviving spouse, the Charitable Trust will receive nothing.
6. I agree with the projection in the Settlement Agreement that the termination rights for James Brown are worth tens of millions of dollars. The proceeds from these terminated copyrights will arise when the heirs sell (re-assign) these rights to a publisher, with the

primary valuable sales opportunities arising over the next six years. If Mrs. Brown is not the surviving spouse, the Charitable Trust will lose out on receiving 32.5 percent of the expected tens of millions of dollars.

7. With that basic background about termination rights, here is why the Charitable Trust will substantially lose its funding over the next six years if Mrs. Brown is not the surviving spouse:
- a. As noted above, the Charitable Trust will never receive any proceeds from the valuable termination rights.
 - b. Also, as the copyrights are terminated, the royalty income stream to the Charitable Trust will substantially terminate as well.
 - c. Thus, if Mrs. Brown is not the surviving spouse, the Charitable Trust will suffer a two-fold financial blow: the Charitable Trust will not receive a penny of termination proceeds and the Charitable Trust income stream will lose a substantial portion of its income as the termination rights are exercised.

8. I am over the age of twenty-one (21) years and am competent to testify to the matters stated herein. I have read the foregoing paragraphs, and all matters stated therein are correct and true and based on my personal knowledge and belief, except as to those matters stated on information and belief and as to those matters I believe them to be true.

FURTHER AFFIANT SAYETH NOT:

 10/27/19
Peter Aferman

Sworn to before me this

27 day of October, 2019.

 (U.S.)

Notary Public for California

My commission expires: Dec 18, 2021

Max Sagah (Notary Public)

The certificate Attached

Exhibit AD

STATE OF SOUTH CAROLINA

COUNTY OF: AIKEN

IN THE MATTER OF: JAMES BROWN

IN THE PROBATE COURT

ACCOUNTING

CASE NUMBER: 2007 ES 02 0056

☐
☒

FINAL

INTERIM # 8

The undersigned Personal Representative(s) submits this accounting, which covers the period from January 1, 2013 through December 31, 2013.

The documentation on the following page(s) of this form sets forth a complete accounting for the period specified, which is summarized as follows:

Beginning Balance from Inventory(ies) or
prior Interim Accounting, if applicable

170,857.93

Plus: Receipts
(Rent, Refunds, Dividends, Interest, etc.)

2,774,258.74

Subtotal

2,945,116.67

Less: Disbursements and Distributions

2,475,246.49

Ending Balance

469,870.18

The Personal Representative(s) declares that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and are true to the best knowledge and belief of the Personal Representative(s).

SWORN to before me this 4th day of March, 2014

Harriett W. Chapin

Notary Public for South Carolina

My Commission Expires: 9/19/2016

Signature: [Signature]

Print Name: Russell L. Bauknight

Address: PO Box 1330

Columbia, SC 29202

Telephone (Work): 803 771-8943

(Home): 803 732-1430

(Cell): 803 309-0124

Email: rbauknight@bpscpas.com

Signature: [Signature]

Print Name: Russell L. Bauknight

Address: PO Box 1330

Columbia, SC 29202

Telephone (Work): 803-771-8943

(Home):

(Cell):

Email:

Filed: 03-07-2014

Sus H. Roe

Judge of Probate

By: [Signature]

Exhibit AE



SWEENY WINGATE & BARROW P.A.

May 10, 2013

Reply to: Main Office

Mark V. Gende
(803) 256-2233 x121
mvg@swblaw.com

VIA EMAIL AND U.S. MAIL

Honorable L. Casey Manning, Jr.
Circuit Court Judge
Richland Judicial Center
1701 Main Street, Room 214 (2nd Floor)
Post Office Box 192
Columbia, SC 29202-0192

RE: Russell L. Bauknight, et al. v. Adele J. Pope
Civil Action No.: 2010-CP-40-04900
Our File: 4077-7389

Dear Judge Manning:

Please accept this letter as Richland County Case 4900 Plaintiffs' and Proposed FOIA Intervenor's assessment why all matters in Case 4900 should be held in abeyance pending the outcome of all James Brown Estate matters that the Supreme Court has now unequivocally remanded to Aiken County.

On Wednesday, May 8, 2013 the South Carolina Supreme Court denied all petitions for rehearing and took a significant additional step. The Court substituted a new and revised opinion for its prior decision in the James Brown Estate matter. This new opinion is lengthy and makes certain additions and deletions to the prior, replaced opinion. This new opinion has significant bearing on the continued progress of Case 4900.

First, the new Supreme Court opinion creates significant uncertainty as to what persons or entities constitute the plaintiffs group. The new opinion voids the Section 1102 settlement agreement that had bound the plaintiff's group together. The new opinion also voids the appointment of Russell Bauknight as personal representative and trustee of the James Brown Trust and Estate, but expressly allows Mr. Bauknight the right to reapply and, potentially, be

reappointed as a fiduciary of the Trust and Estate. Therefore, until the individual family members' position with reference to the Trust and Estate is finally determined by the Aiken Court and until fiduciaries are installed for the Trust and Estate, my firm has substantial uncertainty on what basis each named plaintiff will continue in Case 4900. We believe these matters can and will be resolved as each Aiken County matter is resolved.

Furthermore, the Attorney General, for whom Sweeny, Wingate & Barrow, PA is counsel of record in Richland Case 4900, has independently filed a motion to withdraw from the case and made various other representations and filings in related matters. Consequently, Sweeny, Wingate & Barrow, PA today is filing a motion to be relieved as counsel for the Attorney General.

Second, the new Supreme Court opinion upholds the for-cause removal of the Case 4900 Defendant, Mrs. Adele Pope, as a fiduciary of the James Brown Estate. In upholding her for-cause removal, the court relies on some of the very same allegations made by the Case 4900 Plaintiffs against Mrs. Pope. Mrs. Pope is afforded no opportunity to reapply for any fiduciary position with the Trust or Estate. Because of her for-cause removal, she can have no further part in the Estate and Trust.

Third, the Supreme Court, in substituting the new opinion has completely eliminated Footnote 29 of the prior opinion. Footnote 29, while only dicta in the now replaced opinion, addressed, among other items, the FOIA matters and called for them to be heard "in the first instance" without any clear definition of what that meant. Such language is totally absent from the new order. While the court does recognize that the Attorney General is contesting releasing some documents pursuant to FOIA, the court no longer puts any primacy or priority on any court hearing these matters. We believe that such a position is entirely appropriate, because the documents requested under FOIA are subject to a claim of privilege which is the subject of a motion for protective order before this court in Case 4900. The claim of privilege must be decided before any court can make a determination of the application of any FOIA claim.

In summary, all of the uncertainty that your honor recognized at the last status conference still exists, and possibly a bit more. With the Supreme Court now having said all it is going to say on the matters that were before it, it is now abundantly clear that all matters related to the James Brown Estate cases must now be heard and decided by the Aiken Court. How the Aiken Court rules on a number of issues across a number of cases will then determine the posture of the group of plaintiffs or individual plaintiffs who will continue on with Case 4900.

Therefore, Case 4900 Plaintiffs and Proposed FOIA Intervenors respectfully request that Case 4900 be held in abeyance in its entirety until all the underlying issues related to the Plaintiffs are resolved by the Aiken Court. Should you deem it best for Plaintiffs to make a formal motion for stay, I would be pleased to do so.

As always, I am available to provide the court any further information it requires in order to fully consider this matter.

Yours truly,

SWEENEY, WINGATE & BARROW, P.A.

A handwritten signature in dark ink, appearing to read "Mark Gende". The signature is fluid and cursive, with the first name "Mark" and last name "Gende" clearly distinguishable.

Mark V. Gende

MVG/lda

cc: Adam T. Silvernail, Esquire
Daryl L. Williams, Esquire
J. Emory Smith, Jr., Esquire

000511

Exhibit AF

----- Original message -----

From: Creighton Waters <CWaters@scag.gov>
Date: 08/28/2013 11:14 AM (GMT-05:00)
To: Alan Medlin <amedlin@sc.rr.com>
Subject: RE: State v. David Cannon HEARING March 12 Aiken 2:30

Alan,

Can you give me a call about this case as soon as you get a chance? My cell is 803 319 9794.

Regards,

Creighton

<image001.jpg>

S. Creighton Waters

Assistant Deputy Attorney General
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, SC 29211
cwaters@scag.gov
(803) 734-3693

From: Alan Medlin [<mailto:amedlin@sc.rr.com>]
Sent: Thursday, March 01, 2012 7:38 PM
To: Samuel Creighton Waters; mattbodmanlaw@aol.com; louis@Levensonlaw.com; dblack@nexsenpruet.com; fkingmore@nexsenpruet.com
Cc: Sonny Jones; Mary Frances Jowers
Subject: Re: State v. David Cannon HEARING March 12 Aiken 2:30

Sorry. My not so smart phone assumed what I did not want to say in my previous email... I wanted to say Mrs. Brown, and not smith brown.

Alan Medlin

----- Reply message -----

From: "Creighton Waters" <AGCWATERS@scag.gov>
To: <mattbodmanlaw@aol.com>, <louis@Levensonlaw.com>, <dblack@nexsenpruet.com>, <fkingmore@nexsenpruet.com>, <amedlin@sc.rr.com>
Cc: "Sonny Jones" <AGSJONES@scag.gov>, "Mary Frances Jowers" <MFJowers@scag.gov>
Subject: State v. David Cannon HEARING March 12 Aiken 2:30
Date: Wed, Feb 29, 2012 9:02 am

All,

Please be advised Judge James wishes to hold the hearing in the State v. David Cannon reconsideration matter in Aiken on Monday March 12th, 2012 at 2:30 p.m. Please advise me ASAP if there are any problems with this time.

Regards,

AF-1

Creighton

S. Creighton Waters
Assistant Deputy Attorney General
Office of the Attorney General for the State of South Carolina
P.O. Box 11549
Columbia, SC 29211
(803) 734-3693
--- Scanned by M+ Guardian Messaging Firewall ---
<image001.jpg>

AF-2

Web: www.inaudibleprod.com

Please consider the environment before printing this email

From: Sonny Jones [<mailto:SJones@scag.gov>]

Sent: Tuesday, May 13, 2014 6:22 AM

To: Peter Afterman

Cc: Creighton Waters; John McIntosh

Subject: RE: Creighton Waters contact

Peter, thanks for your text last night. Creighton will be the point person on any assistance we may need from you as to Geronimo Music.

Sonny

From: Creighton Waters

Sent: Monday, May 12, 2014 3:27 PM

To: peter@inaudibleprod.com

Cc: Sonny Jones

Subject: Creighton Waters contact

Peter,

Good talking with you a little while ago. For contact purposes here is my email; my direct line is 803 734 4726.

Regards,

Creighton Waters



S. Creighton Waters

Assistant Deputy Attorney General

South Carolina Attorney General's Office

P.O. Box 11549

Columbia, SC 29211

cwaters@scag.gov

(803) 734-3693

AF - 3

From: [Peter Afterman](#)
To: [Sonny Jones](#)
Cc: [Creighton Waters](#); [John McIntosh](#)
Subject: RE: Creighton Waters contact
Date: Tuesday, May 13, 2014 2:16:22 PM

Okay great. Please let me know what you need me to do.

Peter Afterman
INAUDIBLE PRODUCTIONS
14724 Ventura Boulevard, Suite 440
Sherman Oaks, CA 91403
Phone: (818) 385-3400
Fax: (818) 385-3456
Email: peter@inaudibleprod.com
Web: www.inaudibleprod.com
Please consider the environment before printing this email

From: Sonny Jones [<mailto:SJones@scag.gov>]
Sent: Tuesday, May 13, 2014 6:22 AM
To: Peter Afterman
Cc: Creighton Waters; John McIntosh
Subject: RE: Creighton Waters contact

Peter, thanks for your text last night. Creighton will be the point person on any assistance we may need from you as to Geronimo Music.

Sonny

From: Creighton Waters
Sent: Monday, May 12, 2014 3:27 PM
To: peter@inaudibleprod.com
Cc: Sonny Jones
Subject: Creighton Waters contact

Peter,

Good talking with you a little while ago. For contact purposes here is my email; my direct line is 803 734 4726.

Regards,

Creighton Waters



AF-4

From: [Creighton Waters](#)
To: peter@inaudibleprod.com
Cc: [Sonny Jones](#)
Subject: Creighton Waters contact
Date: Monday, May 12, 2014 3:27:00 PM

Peter,

Good talking with you a little while ago. For contact purposes here is my email; my direct line is 803 734 4726.

Regards,

Creighton Waters



S. Creighton Waters

Assistant Deputy Attorney General
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, SC 29211
cwaters@scag.gov
(803) 734-3693

AF-5



S. Creighton Waters

Assistant Deputy Attorney General
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, SC 29211
cwaters@scag.gov
(803) 734-3693

From: Peter Afterman [<mailto:peter@inaudibleprod.com>]
Sent: Tuesday, May 13, 2014 2:17 PM
To: Sonny Jones
Cc: Creighton Waters; John McIntosh
Subject: RE: Creighton Waters contact

Okay great. Please let me know what you need me to do.

Peter Afterman
INAUDIBLE PRODUCTIONS
14724 Ventura Boulevard, Suite 440
Sherman Oaks, CA 91403
Phone: (818) 385-3400
Fax: (818) 385-3456
Email: peter@inaudibleprod.com
Web: www.inaudibleprod.com
Please consider the environment before printing this email

From: Sonny Jones [<mailto:SJones@scag.gov>]
Sent: Tuesday, May 13, 2014 6:22 AM
To: Peter Afterman
Cc: Creighton Waters; John McIntosh
Subject: RE: Creighton Waters contact

Peter, thanks for your text last night. Creighton will be the point person on any assistance we may need from you as to Geronimo Music.

Sonny

From: Creighton Waters
Sent: Monday, May 12, 2014 3:27 PM
To: peter@inaudibleprod.com
Cc: Sonny Jones
Subject: Creighton Waters contact

AF-6

Peter,

Good talking with you a little while ago. For contact purposes here is my email; my direct line is 803 734 4726.

Regards,

Creighton Waters



S. Creighton Waters

Assistant Deputy Attorney General
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, SC 29211
cwaters@scag.gov
(803) 734-3693

AF - 7

From: [Creighton Waters](#)
To: [Peter Afterman](#); [Sonny Jones](#)
Cc: [John McIntosh](#); [Brian Petrano](#)
Subject: RE: Creighton Waters contact
Date: Thursday, May 15, 2014 11:12:00 AM

I have a copy of the affidavit including bio information you did for to Bauknight's reconsideration request before the South Carolina Supreme Court, but if there is any other pertinent info as to your expertise and experience in this field that would justify and support the validity your opinion, I would need that.

I need an expert opinion as to the valuation of the Geronimo catalogue, supported by as much objectivity or factual basis as possible, while understanding that it ultimately depends to some extent on a subjective assessment based on your experience and your view of potential marketability in the future if the catalogue was managed correctly. And that may be two numbers: the first number as to current value given its mismanagement (or lack of aggressive management), and a second number as to its value if it were managed correctly and used to its potential.

Regards,

Creighton



S. Creighton Waters

Assistant Deputy Attorney General
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, SC 29211
cwaters@scag.gov
(803) 734-3693

From: Peter Afterman [<mailto:peter@inaudibleprod.com>]
Sent: Tuesday, May 13, 2014 2:17 PM
To: Sonny Jones
Cc: Creighton Waters; John McIntosh
Subject: RE: Creighton Waters contact

Okay great. Please let me know what you need me to do.

Peter Afterman
INAUDIBLE PRODUCTIONS
14724 Ventura Boulevard, Suite 440
Sherman Oaks, CA 91403
Phone: (818) 385-3400
Fax: (818) 385-3456
Email: peter@inaudibleprod.com

AF - 8

From: [Sonny Jones](#)
To: peter@inaudibleprod.com
Cc: [Creighton Waters](#); [John McIntosh](#)
Subject: RE: Creighton Waters contact
Date: Tuesday, May 13, 2014 9:21:44 AM

Peter, thanks for your text last night. Creighton will be the point person on any assistance we may need from you as to Geronimo Music.

Sonny

From: Creighton Waters
Sent: Monday, May 12, 2014 3:27 PM
To: peter@inaudibleprod.com
Cc: Sonny Jones
Subject: Creighton Waters contact

Peter,

Good talking with you a little while ago. For contact purposes here is my email; my direct line is [803-734-3693](tel:803-734-3693).

Regards,

Creighton Waters



S. Creighton Waters
Assistant Deputy Attorney General
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, SC 29211
cwaters@scag.gov
(803) 734-3693

AF-9

From: [Peter Afterman](#)
To: [Creighton Waters](#); [Sonny Jones](#)
Cc: [Brian Petrano](#)
Subject: RE: Geronimo valuation
Date: Wednesday, May 28, 2014 3:06:48 PM

Hi Creighton,

I left a message for you at your office and your cell. I would be happy to speak to the matters you have raised in your email. My office number is (818) 385-3400 and cell is (818) 427-7324.

Peter Afterman
INAUDIBLE PRODUCTIONS
14724 Ventura Boulevard, Suite 440
Sherman Oaks, CA 91403
Phone: (818) 385-3400
Fax: (818) 385-3456
Email: peter@inaudibleprod.com
Web: www.inaudibleprod.com
Please consider the environment before printing this email

From: Creighton Waters [<mailto:CWaters@scag.gov>]
Sent: Wednesday, May 28, 2014 11:49 AM
To: Peter Afterman; Sonny Jones
Cc: Brian Petrano
Subject: RE: Geronimo valuation

Mr. Afterman,

Do you have a moment to discuss the valuation of Geronimo and the below request? My direct is 803 734 4726 and cell is 803 319 9794.

Regards,

Creighton Waters



S. Creighton Waters

Assistant Deputy Attorney General
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, SC 29211
cwaters@scag.gov
(803) 734-3693

From: Creighton Waters

AF - 10

Sent: Thursday, May 15, 2014 11:13 AM
To: 'Peter Afterman'; Sonny Jones
Cc: John McIntosh; Brian Petrano
Subject: RE: Creighton Waters contact

I have a copy of the affidavit including bio information you did for to Bauknight's reconsideration request before the South Carolina Supreme Court, but if there is any other pertinent info as to your expertise and experience in this field that would justify and support the validity your opinion, I would need that.

I need an expert opinion as to the valuation of the Geronimo catalogue, supported by as much objectivity or factual basis as possible, while understanding that it ultimately depends to some extent on a subjective assessment based on your experience and your view of potential marketability in the future if the catalogue was managed correctly. And that may be two numbers: the first number as to current value given its mismanagement (or lack of aggressive management), and a second number as to its value if it were managed correctly and used to its potential.

Regards,

Creighton



S. Creighton Waters

Assistant Deputy Attorney General
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, SC 29211
cwaters@scag.gov
(803) 734-3693

From: Peter Afterman [<mailto:peter@inaudibleprod.com>]
Sent: Tuesday, May 13, 2014 2:17 PM
To: Sonny Jones
Cc: Creighton Waters; John McIntosh
Subject: RE: Creighton Waters contact

Okay great. Please let me know what you need me to do.

Peter Afterman
INAUDIBLE PRODUCTIONS
14724 Ventura Boulevard, Suite 440
Sherman Oaks, CA 91403
Phone: (818) 385-3400
Fax: (818) 385-3456
Email: peter@inaudibleprod.com
Web: www.inaudibleprod.com

AF-11

Please consider the environment before printing this email

From: Sonny Jones [<mailto:SJones@scag.gov>]
Sent: Tuesday, May 13, 2014 6:22 AM
To: Peter Afterman
Cc: Creighton Waters; John McIntosh
Subject: RE: Creighton Waters contact

Peter, thanks for your text last night. Creighton will be the point person on any assistance we may need from you as to Geronimo Music.

Sonny

From: Creighton Waters
Sent: Monday, May 12, 2014 3:27 PM
To: peter@inaudibleprod.com
Cc: Sonny Jones
Subject: Creighton Waters contact

Peter,

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Regards,

Creighton Waters



S. Creighton Waters

Assistant Deputy Attorney General
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, SC 29211
cwaters@scag.gov
(803) 734-3693

From: [Creighton Waters](#)
To: [Peter Afterman](#); [Sonny Jones](#)
Cc: [Brian Petrano](#)
Subject: RE: Geronimo valuation
Date: Wednesday, May 28, 2014 2:49:00 PM

Mr. Afterman,

Do you have a moment to discuss the valuation of Geronimo and the below request? My direct is 803 734 4726 and cell is 803 319 9794.

Regards,

Creighton Waters



S. Creighton Waters

Assistant Deputy Attorney General
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, SC 29211
cwaters@scag.gov
(803) 734-3693

From: Creighton Waters
Sent: Thursday, May 15, 2014 11:13 AM
To: 'Peter Afterman'; Sonny Jones
Cc: John McIntosh; Brian Petrano
Subject: RE: Creighton Waters contact

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I need an expert opinion as to the valuation of the Geronimo catalogue, supported by as much objectivity or factual basis as possible, while understanding that it ultimately depends to some extent on a subjective assessment based on your experience and your view of potential marketability in the future if the catalogue was managed correctly. And that may be two numbers: the first number as to current value given its mismanagement (or lack of aggressive management), and a second number as to its value if it were managed correctly and used to its potential.

Regards,

Creighton

Exhibit AG

After 15 Years of Infighting, James Brown's Estate Is Sold

The sale to Primary Wave Music, for an estimated \$90 million, provides resources to ultimately realize the musician's wish to fund scholarships for needy children.

Dec. 13, 2021



The Primary Wave deal is being described as a major step toward underwriting scholarships for children that Brown had outlined in his will. Meyer Liebowitz/The New York Times

Since James Brown's death 15 years ago, a plan by the soul and funk music icon to leave the bulk of his estate to scholarships for needy children has been delayed by torrents of litigation. But the mission of financing those scholarships has taken a major step forward under the terms of a new business deal.

Primary Wave Music, a New York company that specializes in marketing estates and song catalogs, is buying the assets of the Brown estate, including music rights, real estate and the control over Brown's name and likeness.

Larry Mestel, the founder of Primary Wave — which did a similar deal for half of Whitney Houston's estate, and owns the largest interest in Prince's — envisions an array of new projects to honor Brown's legacy and promote his music to new generations of fans. Those may include a Broadway musical, television shows and the creation of a Graceland-like museum attraction at Brown's mansion in South Carolina, he said.

"James Brown was one of the greatest musical entertainers of all time, and one of the greatest legends of the music business," Mr. Mestel said in an interview. "That fits what we do like a glove."

The price of the deal was not disclosed, but is estimated at about \$90 million. The money from the transaction will be

used to endow the Brown scholarship trust “in perpetuity,” said Russell L. Bauknight, a public accountant who has served as the estate’s personal representative, or executor, since 2009. He said that once the estate is closed, he will continue to work with Primary Wave as a member of a board handling some of Brown’s assets.

“It’s time to bring in someone of Larry’s expertise to take it to the next level,” Mr. Bauknight said. “We’re looking at this as more of a partnership moving forward.”

The deal includes a provision for Primary Wave to contribute what Mr. Mestel called a “small percentage” of some future deals to the scholarships, which are for underprivileged children in South Carolina, where Brown was born, and Georgia, where he grew up.

Sign up for the Louder Newsletter Stay on top of the latest in pop and jazz with reviews, interviews, podcasts and more from The New York Times music critics.

The Primary Wave deal is a major move toward realizing Mr. Brown’s dream of financing the scholarships, a dream delayed by one of the longest and most contentious estate conflicts in entertainment. The infighting has encompassed numerous lawsuits in state and federal courts, costing millions of dollars in legal fees and leaving a convoluted public record.

"As big a tangle as you've ever seen," Henry McMaster, now South Carolina's governor, told The New York Times in 2014, seven years after he became involved in the Brown estate as the state's attorney general.

One part of that tangle involved Tommie Rae Hynie, a singer whom Brown wed in 2001 but later learned was already married to another man. Even with her spousal status unclear, Ms. Hynie, along with five of Brown's children, tried after Brown's death to set aside his will and negotiate a settlement to give themselves significant shares of the estate.

They found a sympathetic attorney general in Mr. McMaster and a state judge who approved their agreement in 2009 — until South Carolina's Supreme Court struck their settlement down four years later, calling it a "dismemberment of Brown's carefully crafted estate plan." (In 2020, that court ruled unanimously that Ms. Hynie was not Brown's wife.)

For more than a decade, Brown's heirs and estate administrators, including Mr. Bauknight and Adele Pope, a former executor, have battled in court over the value of his estate. Mr. Bauknight estimated it at about \$5 million, but Ms. Pope, who was removed from her position in 2009, put it at \$84 million. Asked if the recent sale had not supported Ms. Pope's valuation, Mr. Bauknight defended it as accurate at the time of Brown's death. He added that the value of the

estate had grown over the years, and he cited the efforts of industry professionals he had hired to advise him.

The deal with Primary Wave has been in the works for nearly four years, and Mr. Bauknight said he had discussions with “a number of players.” Terms of the settlement are confidential, but Mr. Bauknight said the only beneficiaries of the estate are two trusts for education — one for Brown’s grandchildren, limited at about \$2 million, and the other for needy children in South Carolina and Georgia, which was to receive the bulk of Brown’s estate — and the estate is not a party to Brown’s “termination rights,” or reclaimed songwriting copyrights.

To negotiate the acquisition of Brown’s estate, Mr. Mestel enlisted one of music’s legal heavyweights, John Branca, who was Michael Jackson’s longtime lawyer and is one of the executors of Jackson’s estate.

“It was complicated,” Mr. Branca said of the deal, “because James Brown was complicated.”

Primary Wave’s transaction leaves unresolved a longstanding legal fight between Mr. Bauknight and Ms. Pope, who have each accused the other of trying to profit from the estate.

Their outstanding cases — one by Ms. Pope against the

estate, the other filed against her by Mr. Bauknight and others — are under appeal. Until they are decided or settled, the scholarships cannot be paid, Mr. Bauknight said.

Dylan Malagrino, a professor at the Charleston School of Law in South Carolina, said that any claim against the estate “has to be resolved before you can start distributing money. It freezes everything.”

Mr. Bauknight said he hoped that the first scholarships would be awarded by the end of next year. A lawyer for Ms. Pope declined to comment.

For Primary Wave, the deal is the latest in what has become a highly competitive market for hit music catalogs and artist estates. Its competitors include Hipgnosis Songs Fund, which has bought rights in music by Neil Young, Fleetwood Mac and others, as well as the major music conglomerates — which have acquired Bob Dylan’s and Paul Simon’s catalogs — and a new wave of private equity giants that are pouring billions of dollars into new deals.

Mr. Mestel said that Primary Wave’s advantage is expertise in marketing and branding. For the Houston estate, for example, the company is involved in a hologram tour, a cosmetics line, a biopic and a Broadway show.

The company, he said, has about \$1.8 billion in assets and a

“war chest” of \$1 billion in cash to announce new deals. Lately, it has been announcing transactions almost weekly, including deals with the estates of Bing Crosby, Luther Vandross and Teddy Pendergrass, and for the music of Jeff Porcaro of Toto.

“While other investment firms have announced billions they’ve raised,” Mr. Mestel said, “we’re announcing billions of deals we’re closing.”

Ben Sisario covers the music industry. He has been writing for The Times since 1998. [@sisario](#)

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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Richland County
Court of Common Pleas

The Honorable Clifton B. Newman, Circuit Judge

Appellate Case No. 2021-000518

Adele J. Pope..... Appellant,

v.

Alan Wilson, in his capacity as Attorney General of South Carolina,
.....Respondent.

PROOF OF SERVICE

The undersigned counsel for Appellant hereby certifies that the Return to Motion to Strike Appellant's Reply Brief and Affidavit of Adele J. Pope were served on the date shown below by emailing a copy of the document to counsel for each Respondent at the addresses shown below:

J. Emory Smith, Esquire
esmith@scag.gov
Attorney for Respondent Attorney General

July 7, 2022

s/Adam T. Silvernail
Attorney for Appellant