

Feb 15 2024**S.C. SUPREME COURT**

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

In the Original Jurisdiction

Supreme Court Appellate Case No. 2024 -

Ex parte: **RUSSELL L. BAUKNIGHT, AS PERSONAL REPRESENTATIVE OF THE
ESTATE OF JAMES BROWN AND AS TRUSTEE OF THE JAMES BROWN
2000 IRREVOCABLE TRUST, Petitioner**

In re: **ADELE J. POPE, ESQ, Respondent**

**RETURN TO REQUEST FOR ORIGINAL JURISDICTION
AND REQUEST OF PETITIONER FOR ADDITIONAL RELIEF**

On Christmas Day 2006 James Brown died leaving the bulk of his \$100 Million fortune solely to educate needy students. Eighty boxes of James Brown Historical Documents made public by court order in 2007 confirm that Brown's "I Feel Good" charity was \$80 million or more at his death -- and would have been \$95 million if thief David Cannon had not stolen \$15 million from funds James Brown devised for scholarships in S.C. and Georgia.

In 2010 the Attorney General of South Carolina,¹ based on a claimed \$4.7 million at-death valuation of Brown's worldwide music empire, began falsely accusing Robert Buchanan, Jr. and Respondent of the federal felony of overstating the value of James Brown's charity by more than

¹ "Attorney General" or "AG"

\$75 million in sworn IRS filings to get a \$5 million commission on what the Attorney General and Petitioner claim is James Brown's \$5 million estate.

The Attorney General relied for the false felony claim on Russell Bauknight, the trustee he had chosen for his new "Legacy Trust."² Bauknight was also PR/Trustee for Petitioner. The Attorney General failed to consider 80 boxes of James Brown Historical Documents, which had grown to 145 boxes as a result of the "open administration" of Mr. Buchanan and Respondent from November 2007 until May 2009. Those 145 boxes of public documents contained public information the Legacy Trust trustee and owners did not want the courts or the public to see. They were slammed shut in 2010. They remain shut today.

The 145 boxes of public James Brown documents make clear that – despite the Great Recession³ – James Brown's "I Feel Good" charity was well on its way to returning to its pre-

² The James Brown Legacy Trust ("Legacy Trust") was created by the Attorney General in 2008, and Mr. Bauknight has been its sole trustee since its inception. In 2012 Mr. Bauknight claimed under oath that the Legacy Trust had been managed in Richland County since 2009. In 2016 the Legacy Trust claimed in the FOIA suit seeking the \$4.7 million valuation documents that it did not exist, but then obtained summary judgment and conducted multiple appeals in Richland County Case 2010-CP-40-4900 ("Richland 4900").

³ In 2016 the Attorney General, the Legacy Trust owners and Petitioner jointly designated termination rights expert Roger Miller, formerly of Bicycle Music, as their expert in Richland 4900 and in Respondent's fee claim, 2013-CP-02-1337 ("Aiken 1337"). Mr. Miller was deposed *pro se* by Respondent in March 2017 with counsel for Petitioner present. Mr. Miller testified that "frothy" investors had moved into the music royalty market in the years before Brown's death in 2006 and were willing to pay 15 – 20 times royalties for "solid gold" music catalogues such as that of James Brown. This was true both at James Brown's death and in May 2009 when the catalogue was earning \$5+ million a year and Mr. Buchanan and Respondent were replaced as fiduciaries by Petitioner. This meant that the music assets alone were worth as much as \$100 million in 2009 when they were delivered to Respondent. [Exhibit I] He valued the termination rights of all heirs at only \$8.8 million.

Mr. Miller explained that the copyrights had weathered the Great Recession when other asset groups dropped dramatically because of their high "Sharpe Ratio." Mr. Miller was not asked to value James Brown's "right of publicity," the right to exploit his worldwide image and likeness.

Cannon-theft value of \$95 million in October 2011 when the Pullman bond debt was paid in full.⁴ The Legacy Trust trustee and attorneys working for \$375 - \$500 an hour did not tell the Attorney General that the change in value from a net of \$84 million to a net of \$4.7 million for the music empire, if not corrected, would shift nearly 1/3 of the assets and income of James Brown's charity from the charity to seven grandchildren and cause hundreds of thousands of dollars of unnecessary income taxes to be paid. Nor did Petitioner tell the new Attorney General this problem would not be corrected by the reversal of the AG's 2008 settlement in what became *Wilson v. Dallas*.

The 80 boxes of James Brown Historical Documents and the public records show that the TJBL group valued Mr. Brown's image and likeness at \$40 million or more in 2007, and that is consistent with the value placed on them by R.B. Alexander. [Exhibit G] The Alexander affidavit, filed on in September 2013 in S.C. Dist Court Case No. 3:08-cv-00014;WOB (the "Forlando Federal Suit") makes clear on pages 3 and 4 that he had full access to the public James Brown Historical Documents. Alexander stated that the public documents were all that was necessary to determine the value of Brown's assets at death. He said that the value placed on the assets by Mr. Buchanan and Respondent was reasonable; and that he was unaware of any facts to support a claim of a \$4.7 million value. [Ex. G, p.8]

Forlando Brown ("Forlando"), a grandson of James Brown and part owner of TJBL, the Atlanta investment group seeking to buy the James Brown assets, testified under oath in September 2008, the week the estate tax return was filed, that there were offers of \$150 million available for the music empire. This is consistent both with Mr. Alexander and Roger Miller, confirming that a release of the nonconfidential \$4.7 million valuation and its public purported backup documents is necessary to refute the false felony claim used by the Attorney General and both SWB and Mr. Bauknight while acting "on behalf of" the AG.

⁴ Except that the \$4.7 million valuation, if not corrected – and it wasn't – shifted the fraction taken out of the Trust from 1/42 to almost 1/3 (31%), and this would remain until corrected with the IRS, and was not corrected. The result, known to any estate planning or tax lawyer – and there were at least five on the team of the settling parties – was that a million or more a year not used for education of one of the seven grandchildren, would be trapped in the "Family Trust" and taxed at a high income tax rate until each of the seven turned 35. This secretly amended Mr. Brown's 2000 Trust which was carefully designed to pay almost NO income taxes OR estate taxes. Accountings show the hundreds of thousands of dollars of income taxes after the devaluation of the music empire from \$84 million to \$4.7 million. This problem, and its easy, confidential solution, was pointed out in March 2013 in meetings by Respondent and her counsel Adam Silvernail with the Attorney General, the Chief Deputy Attorney General, and the Solicitor General.

According to *Forbes'* 2007 list of top-earning dead celebrities, James Brown's estate earned \$5 million in 2007, but thief David Cannon and those helping him cover up his theft wiped out all of the bank accounts shown on the estate tax return, spending \$1.2 million in a year to cover up Cannon's misdeeds. Mr. Buchanan and Respondent brought in more than \$5 million a year during their tenure from November 2007 until May 2009, almost all going to reduce the Pullman bond debt. The Pullman bond debt was reduced from about \$15 million at Brown's death to just over \$9 million when they were replaced in May 2009.

The suppression of the 145 boxes of public James Brown records for fourteen years has advanced the May 29, 2013 announced plan of Tommie Rae Hynie and Louis Levenson, Esq., to disregard the Supreme Court's *Wilson v. Dallas* decision and reinstate the Attorney General's 2008 settlement, even after James Brown's real heirs terminated Mr. Levenson and denounced their prior association with Ms. Hynie. While Petitioner and the music manager for James Brown's estate worked for a decade to "prove" Petitioner's claim that *Wilson v. Dallas* was not a victory for James Brown's "I Feel Good" charity, a dozen Richland 4900 plaintiffs disagreed.

SWB⁵ and Mr. Bauknight, concealing public documents that should have sealed the fate of the Attorney General's 2008 settlement in 2010, continued, without authority, to act for both the Attorney General and the battling parties, taking the side of the "spouse" against the dozen plaintiffs who said she was a bigamist. The false felony claim and the concealed \$4.7 million valuation documents were material to their plan.

⁵ Sweeney, Wingate and Barrow, P.A. ("SWB") was sole counsel to the Attorney General and all Richland 4900 plaintiffs on the never-amended Richland 4900 2010 complaint. It continues as sole counsel to all plaintiffs despite the direct conflicts and a lawsuit by a number of plaintiffs against Mr. Bauknight, Ms. Hynie and her son in 2018 over what they described as improper "backroom" termination rights deals.

The concealed James Brown documents have spawned FOIA suits from people who believe that James Brown should be accorded the respect he deserves for creating a private charity which was larger than The Ray Charles Foundation. It was also among the largest private charitable foundations in South Carolina at Brown's death – if not the largest.

Mr. Buchanan and Respondent should have gotten the documents by 2010 in discovery or under FOIA in 2011, at the latest. The Attorney General's Special Counsel Litigation Retention Agreement which SWB characterizes as the "epitome" of a private document, says:

F. Public Records

Any materials, data, files, discs or documents created, produced or gathered by Special Counsel or in Special Counsel's possession in furtherance of the litigation or which fulfills an obligation of this appointment shall be considered the exclusive property of the State of South Carolina. Special Counsel agree to adhere to South Carolina Freedom of Information Act, South Carolina Code of laws § 30-4-10 *et seq.* and 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 Rule 417 of the South Carolina 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 supplied]

When discovery requests failed, Respondent, at Mr. Buchanan's request, turned to FOIA and was met with vitriolic response by a Legacy Trust attorney who called the Legacy Trust the "James Brown Trust." He advised that the Legacy Trust created by the Attorney General with James Brown's money was not a public body. He warned that if Respondent continued to "file unnecessary discovery and/or FOIA requests," that Petitioner would "have no other choice than to file an action against you for abuse of process or sanctions." And the Legacy Trust did. Repeatedly, for the next dozen years. [Ltr. Black, 7/15/11, Exhibit D. pp, 1,2]

In August 2011 the FOIA case to release the public documents that would accord James Brown the respect he deserves for dedicating most of his \$100 million fortune to educate needy students and would also debunk the false felony claim met a stone wall.

Now, more than 17 years after James Brown's death, the public James Brown Historical Documents which show what now-Governor Henry McMaster described in 2008 as the "vast" value of James Brown's gift to South Carolina and Georgia students – and which confirm that the false felony claim against Mr. Buchanan and Respondent is false -- remain under lock and key by the same Legacy Trust lawyers who should have released Legacy Trust documents under FOIA more than a decade ago.

In February 2024 Petitioner, still speaking for the Attorney General and the private Legacy Trust owners in Richland 4900, and without joining the Attorney General, asks the Supreme Court to derail, with no record, a 2011 FOIA case which may be the oldest state FOIA case in the nation. For good measure, Petitioner has filed a simultaneous slanderous motion in Aiken 1337.

Not satisfied with Respondent's 2017 offer of \$2.1 million to end all claims related to Petitioner James Brown Estate/ 2000 Trust for 5 ½ years of service, Petitioner, with three lawyers, one paralegal, its fiduciary, and 7 new experts designated for the first time in 2016⁶ was able to

⁶ On June 13, 2013, Mr. Buchanan and Respondent were banned by the circuit court from all James Brown cases, including as witnesses and experts, except their own fee claim cases. The Aiken Clerk of Court was directed to return any filing by Mr. Buchanan and Respondent not in their fee cases. From that time until just before the trial of Aiken 1337 in 2017, Mr. Buchanan and Respondent handled *pro se* their respective portions of their joint 2009 claim of a MAXIMUM PR/Trustee fee for Mr. Buchanan or \$2.1 million and a MAXIMUM fee for Respondent of \$2.8 million for their 5 ½-year service. Petitioner has claimed for years that Respondent wanted a commission of \$5 million for 18 months, which was not true. By the time a status report was filed in May 2015, after Mr. Buchanan and Respondent had been excluded for almost two years, the circuit court reported to this Court that Mr. Buchanan had "settled the case against him" for \$500,000 and that Respondent wanted \$2 million instead of \$47,972 as an SA fee; and that Respondent's total fee request was for \$7 million.

reduce the \$2.1 million, to a single unpaid portion of Respondent's 2007 special administrator fee of \$47,972, plus interest from 2008 at 8 ¾%. That was not enough.

Since 2019 Petitioner and attorneys (at a collective \$1,000 or more an hour) have worked to secure orders that the SA fee of \$47,972, awarded to Respondent by three court orders be held partly by the Aiken Clerk of Court and partly by Petitioner (with no accounting) until the Richland 4900 plaintiffs complete their quest to "prove" in Richland 4900 that James Brown died with a \$4 million charity; that the Attorney General's 2008 settlement was good for James Brown's charity;

Even though Respondent openly offered to accept \$2.1 million to end all ties with James Brown's Estate/2000 Trust BOTH before and during the Aiken 1337 trial, Petitioner's counsel began falsely accusing Respondent at trial of trying to take \$19 million from James Brown's Estate and the needy students. The claim was false.

By 2021 the false claim of Petitioner that Respondent was claiming \$19 million from James Brown's estate and depriving needy students of scholarships had spread to an Augusta TV Channel, which corrected the report when its falsity was noted, and media in London, U.K., the home of Richland 4900 Plaintiff Tommie Rae Hynie.

In 2021 Petitioner's fiduciary told *New York Times* Reporter Ben Sisario that Respondent was seeking \$19 million from James Brown's estate and preventing needy students from getting scholarships. Both Respondents and Respondent's counsel spoke to the *New York Times* reporter Sisario, pointed him to the correct facts within the records, and urged the *New York Times* not to print the false, slanderous, wholly unsupported claim. It did not.

The *New York Times* did print another false claim being made by Petitioner: that there can be no distributions for scholarships until the James Brown Estate is closed. This is patently false. With consent of the beneficiaries who all knew what James Brown wanted, at least 47.5% of \$4 million in scholarships, they could have begun as early as 2012. Or, Petitioner Estate/2000 Trust AND the Attorney General could have both gotten out of Richland 4900 at no cost, and allowed Judge Early to set Respondent's compensation, as the 2012 offer provided. Instead, the Attorney General and Respondent, through SWB, not only rejected the offer to get out of Richland 4900 at no cost, but filed it and asked that the circuit court strike the offer from the public record.

In 2024 Petitioner's fiduciary, while continuing to act "on behalf of" the Attorney General in Richland 4900, continues to make both the false felony claim related to the concealed \$4.7 million valuation and the slanderous false claim that Respondent is demanding \$19 million from James Brown's estate and preventing needy students from enjoying scholarships.

that the Supreme Court's decision in *Wilson v. Dallas* was not a victory for the charity; and that Mr. Buchanan and Respondent are greedy, incompetent felons who overstated the value of James Brown's charity to the IRS by \$79 million to get a \$5 million fee.

The 12-year-old FOIA case seeking the \$4.7 million valuation documents and Legacy Trust documents which Petitioner seeks to disrupt is both a cautionary tale for charities anticipating a move to South Carolina and a matter of public interest. It is extraordinary in every respect, as has been virtually every action taken by the Attorney General, his Legacy Trust, and SWB in Richland 4900 since May 2010. The Attorney General, the state's "top cop" is falsely accusing two S.C. citizens of a federal felony in a civil case, but refuses to release the smoking gun and says he can't get it from his private lawyer. The Attorney General, the state's protector of charities, claims that James Brown's charity was worth only \$4 million when he died, while four trustees and others say it was worth \$80 million, but nobody in the Office of the Attorney General has checked to see what happened to the \$76 million, and the Attorney General says he can't get the document from the trustee of the charity, and that a FOIA request to the Attorney General's private lawyer didn't count. The state's enforcer of the FOIA refuses for more than a dozen years to produce public James Brown documents under FOIA because he was instructed not to do so by his private lawyer and has tried to consolidate at least three James Brown FOIA cases with Richland 4900 to benefit the Legacy Trust which now says it doesn't exist.

For every reason stated in the FOIA case itself, the public record, and the following memo and attachments, the issue of the intrusion of a private individual into the proper implementation of the FOIA is of extraordinary public importance, but the Attorney General, the state actors for the State/AG since April 24, 2013 and the full record are not before the Court.

The Attorney General's Positions Related to the \$100 Million Estate before April 24, 2013

In 1999 financier David Pullman and James Brown valued Brown's music empire at \$100 million as Pullman helped James Brown take out a \$26 million "Pullman bond" loan with almost 8% interest.

Before Brown died, David Cannon stole more than \$15 million devised to James Brown's charity and laundered \$5 million through a Barnwell bank, reducing the charity that should have been about \$95 million to \$80 million at Brown's death.

Within the week of James Brown's death, the Cannon trustees offered the six children acknowledged by James Brown \$5 million, five percent (5%) of the estate, but they declined.

In January 2007 Judge (Retired) Walter Williams, a former IRS attorney and member of the Advisory Board of James Brown's "I Feel Good" Trust who had valued hundreds of estates gave an interview to the *Chattanooga* which valued Brown's fortune at \$100 million, but Williams testified under oath in 2017 that the value was very low. [Exhibit N]

In August 2007 the circuit court ordered that 80 boxes of James Brown Historical Documents held by the trustees be made public.

In the fall of 2007 trustees Albert Dallas and Alfred Bradley, filed the Inventory & Appraisalment ("I&A") prepared by a tax lawyer, valuing James Brown's estate at \$100 million, based on an offer, then reducing it by the \$15 million Pullman bond debt.

In October 2007 *Forbes* named James Brown as a top-earning dead celebrity with \$5 million for the year. He also earned more than \$5 million a year when Mr. Buchanan and Respondent were PR/Trustees.

In October 2007 the Attorney General entered the James Brown estate proceedings. That month, TJBL, an Atlanta investment group, made an offer to buy the music empire for about \$100 million. The offer is mentioned in the Richland 4900 complaint.

In December 2007 the Attorney General inquired about the \$100 million offer. Mr. Buchanan and Respondent explained that a Pullman bond lawsuit and a \$10 million claim by David Cannon and his co-trustee needed to be better positioned before a sale.

In February 2008 Brown's estate sued Cannon and others for damages related to his \$17 million theft and the coverup. By then four will contests⁷ filed in December and a federal injunction suit filed by grandson Forlando seeking to reinstate the thief David Cannon as James Brown's trustee temporarily made an attempted sale impractical.

In February the Attorney General appeared on WIS-TV with Forlando to discuss the vast value of James Brown's image and his gift to the students of South Carolina and Georgia. The Attorney General and Forlando claimed that the circuit court judge had coerced the Cannon trustees to resign in order to favor Ms. Hynie and the Levenson clients.

In February and March 2008 TJBL issued additional letters of intent to buy the music empire for \$92 million - \$102 million, with Terry Brown ("Terry") and his son Forlando as part of TJBL.

⁷ Motions to reject Ms. Hynie's claims based on her own handwritten bigamy admissions and other evidence were filed as to all of her claims. The Levenson clients had weak cases because James Brown's almost-identical estate plans of 1999 and 2000 were virtually ironclad; some Levenson clients could not pass the estate's official DNA test; all contestants knew that the creation of an education trust was James Brown's long-held and often-stated desire; and two daughters had briefly accepted positions with the 2000 Trust after James Brown died. Further, one child of Brown had served under a power of attorney with Cannon and Dallas.

On August 6, 2008 Forlando, Petitioner 2000 Trust, Mr. Buchanan and Respondent consented to a discovery-related consent Confidentiality Order in the Forlando Federal Suit seeking to return the thief David Cannon as a trustee. It did not rule on the confidentiality of any document, but rather the right of a party to designate documents confidential. Forlando opposed all confidentiality, shared all documents with Cannon through Powell Goldstein, and nobody opposed the dissemination of the 80 boxes of James Brown Historical Documents. By 2009 the estate tax return had been made public and the only confidential document of 145 boxes that Respondent is able to recall is the public so-called "Hynie diary," Ms. Hynie's public bigamy admissions. After nearly a year of being public, they were sealed under an *ex parte* 2008 circuit court order in the state case, but re-released to the public about seven years later.

As shown on Exhibit A, the 2008 federal discovery confidentiality order did not rule on the confidentiality of any documents, and Forlando is the only Legacy Trust owner who ever agreed to it. Neither Forlando nor anyone else sought to enforce the confidentiality of discovery documents after May 26, 2009. Further, the designation only involved discovery, and was based on the party's representations to the court. As is discussed later, Petitioner's fiduciary lacked candor with the federal court about both the SWB Special Counsel Agreement and the \$4.7 million valuation which was created by someone working for Ms. Hynie and the Legacy Trust, and the public James Brown Historical Documents which support it. [Exhibits E,F,G,H] None of Forlando, his attorneys, Mr. Buchanan or Respondent returned the \$4.7 million valuation when the case was concluded years ago, and Forlando shared its contents freely with many, including those seeking to cover up the theft of David Cannon. Forlando stated under oath that the \$4.7 million valuation was "bogus." Mr Buchanan stated the same under oath, but expressed it differently.

On August 10, 2008 the Attorney General, Ms. Hynie and the Levenson clients reached the AG's 2008 settlement. The Attorney General created the Legacy Trust, which was sometimes called the "Settlement Entity" or "Charitable Trust."

In 2008 Russell Bauknight secretly advised the Attorney General that he would charge a flat rate based on value to serve as fiduciary; hire lawyers at \$375 - \$500 an hour, with the tax attorney at \$440; pay himself \$350 an hour for litigation; and payment himself and his spouse, both CPAs \$350 an hour for accounting matters. The Attorney General and Petitioner concealed the Bauknight fee agreement for 12 years until the AG released it under FOIA in 2020.

In January 2009 a possible "right of first offer" with TJBL was objected to by Ms. Hynie.

In the spring of 2009 the Attorney General and settling parties prevented the Estate/2000 Trust from entering into a publicity rights contract with GreenLight projected to bring in \$1 - \$2 million for two years, in addition to the \$5+ million royalties a year.

In May 2009 the circuit court approved the AG's 2009 settlement and designated Mr. Bauknight, trustee of the Legacy Trust, as PR/Trustee under James Brown's Will and 2000 Trust.

In May and June 2009 Mr. Buchanan and Respondent delivered just over \$100 million of assets to Petitioner and fully accounted for their acts, showing that they made \$5+ million a year and reduced the Pullman bond debt payoff of just over \$9⁸ million. They also delivered 145 boxes of public James Brown documents (including the 80 James Brown Historical Documents made public in 2007). Mr. Bauknight signed a 72-page receipt detailing the public documents delivered to him, and agreed to share them during the pendency of the anticipated appeal which would become *Wilson v. Dallas*.

⁸ Some documents do not take into account an approximately \$2 million fund which would be applied to the final Pullman bond debt payment, and show a gross number, rather than the actual payoff.

In August 2009 counsel for Ms. Hynie proposed a massive devaluation of James Brown's assets to discredit "Bobadele." Legacy Trust music manager Peter Afterman consulted with Mr. Bauknight on the valuation.

In March 2010 Ms. Hynie's attorney threatened a lawsuit by the Attorney General if Mr. Buchanan and Respondent did not drop the appeal of the AG's 2008 settlement which became *Wilson v. Dallas*.

In March 2010 the circuit court found in an order that all of the fee agreements related to the AG's 2008 settlement were non-confidential and should be delivered by the Aiken Clerk of Court to counsel for Mr. Buchanan and Respondent, but they were missing from the office of the clerk, and never found. The Attorney General and Petitioner refused to release them.

On April 22, 2010 the Attorney General proposed a settlement that required Mr. Buchanan and Respondent to "terminate all actions" to be paid for their service. [Exhibit C., p.1]

On April 27, 2010 *pro bono publico* lead counsel for Appellants in *Wilson v. Dallas* urged that the Attorney General consider a comprehensive settlement by Mr. Buchanan and Respondent to prevent Richland 4900. [Exhibit C, pp. 3,4]

Numerous still-concealed emails in the week before Richland 4900 may show who decided to name Attorney General Henry McMaster as a Richland 4900 Plaintiff where he has stated under oath in 2016 that he did not authorize SWB to sue Mr. Buchanan and Respondent, specifically: "Ma'am, I did not sue you." [Exhibit O, Depos, p. 50] From December 2010 until 2020, when ordered to do so, SWB and the Attorney General refused to release the public Wingate Special Counsel Litigation Retention Agreement or any of the many documents it made property of the State of South Carolina in discovery in Richland 4900 or under FOIA. Instead, the AG, SWB and

Petitioner claimed the AG's public Special Counsel Agreement was the "epitome" of a private document.

In May 2010 the Attorney General sued Mr. Buchanan and Respondent in Richland 4900 to try to stop the appeal of the AG's 2008 settlement which became *Wilson v. Dallas*.

From that time Petitioner, SWB, the Legacy Trust and its owners began concealing large numbers of public documents; refused access to the public James Brown Historical Documents; and refused access to the 65 additional boxes of public documents Mr. Buchanan and Respondent has generated in their service as PR/Trustees.

Mr. Buchanan and Respondent moved to dismiss Richland 4900 on ten grounds, including that it was a violation of their Due Process rights for a single private law firm to represent the Attorney General, the Legacy Trust and SWB's other private clients.

In August 2010 the Attorney General, Petitioner and others told the *Wilson v. Dallas* Court an appraisal expected within a few weeks would show James Brown's assets were less than \$12 million when he died.

In September 2010 the \$4.7 million valuation arrived, but the Attorney General, Respondent and Legacy Trust attorneys agreed to conceal even the existence of the \$4.7 million appraisal from the Supreme Court in *Wilson v. Dallas* until "a time of our choosing."

In December 2010 the Attorney General, Petitioner and Legacy Trust lawyers did not disclose the existence of the concealed SWB \$4.7 million valuation in their brief related to *Wilson v. Dallas*. At the same time, the Attorney General, Petitioner, and the Legacy Trust refused to release public documents related to the claimed "less than \$12 million" claim in discovery in Richland 4900. [Exhibit J]

In December 2010 an amendment to the Legacy Trust/Settlement Agreement was signed by the Attorney General giving Terry Brown the right to begin due diligence on the purchase of James Brown's music empire which Mr. Bauknight was claiming to be worth \$4.7 million. Within days, Terry's right of first refusal and Legacy Trust interest were secretly transferred to Forlando, who was still trying to reinstate the thief David Cannon as James Brown's trustee.

In December 2010, under oath, Mr. Bauknight, a CPA, told the IRS that James Brown's worldwide music empire was worth \$4.7 million when he died; that he gave just under \$2 million to his spouse; that he gave \$2.8 million to charity; and that his total gross assets were about \$6.5 million, including the Beech Island mansion and 60-acre home estate; the 800+ copyrights; Brown's right of publicity; Brown's 10,000 items of tangible personal property (TPP); the \$17 million claim against Cannon; and other miscellaneous assets.

From 2010 until 2024, the Attorney General, Petitioner, and SWB have all claimed that nobody in the Office of the Attorney General looked at the \$4.7 million valuation documents that reduced James Brown's "I Feel Good" education charity from \$80 million to about \$4 million.

In January 2011 a false claim about the proper withdrawal of Mr. Brown's Grammy© from a small 2008 sale was planted at an Atlanta law firm which had contacts both with the Attorney General and Forlando. The planted false Grammy© claim was not known until the post was apparently noticed by the Supreme Court two years later in the *Wilson v. Dallas* decision.

Mr. Levenson, attorney for 11 Richland 4900 plaintiffs, was present when the Grammy© was properly withdrawn from the small Christie's sale in 2008, but the planting of the false Grammy© claim was consistent with the dirty tricks, forgeries, and altered documents which became a part of the James Brown estate case in 2007 by the thief David Cannon and those aligned

with him and continued for a decade. Petitioner and the Attorney General would emphasize and expand on the planted false Grammy© claim after April 24, 2013, ignoring the actual facts.

In 2010 and early 2011, without notifying Attorney General Alan Wilson, SWB and Mr. Bauknight acted for the State/Attorney General in seeking relief from default for failing to timely respond to the counterclaims; objecting to a change of venue to Aiken County; and objecting to a motion to dismiss the Richland 4900 complaint. Then, SWB without notice to the Attorney General as required by the Special Counsel Agreement, moved to dismiss a writ of prohibition and the first Richland 4900 appeal which asserted that citizens Mr. Buchanan and Respondent should not have to endure a patently unconstitutional lawsuit brought in the name of the State/AG primarily to benefit SWB's private clients.

The Court of Appeals, believing the motion to dismiss the writ was the action of the State/Attorney General, dismissed the writ of prohibition and appeal as premature. The Due Process issue was not resolved more than a decade later, after Mr. Bauknight had spent tens of millions of dollars concealing the unsigned SWB Litigation Retention agreement to "prove" that the 2008 settlement was beneficial to James Brown's charity.

In April 2011 Wm. Jeffrey Smith and Respondent circulated to professionals a draft of "Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't... which explains how the combined claim that Ms. Hynie was Mr. Brown's spouse and the devaluation of his assets to \$12 million would leave James Brown's "I Feel Good" charity with almost nothing.

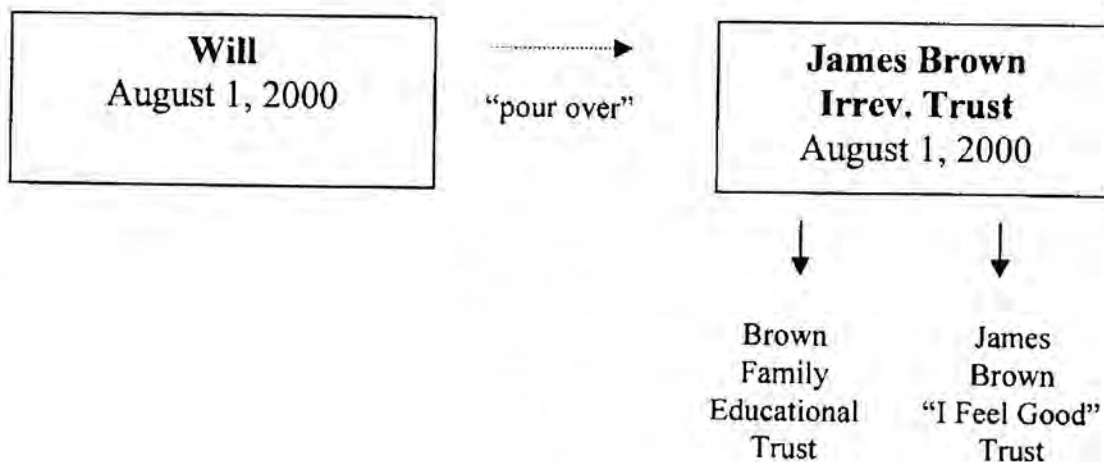
In May 2011 the Attorney General, Petitioner and Legacy Trust attorneys disclosed to the Supreme Court the existence of the claimed \$4.7 million valuation, and Mr. Bauknight, under oath,

filed an amended I & A with the Aiken County Probate Court disclosing it, but not attaching the claimed appraisal.

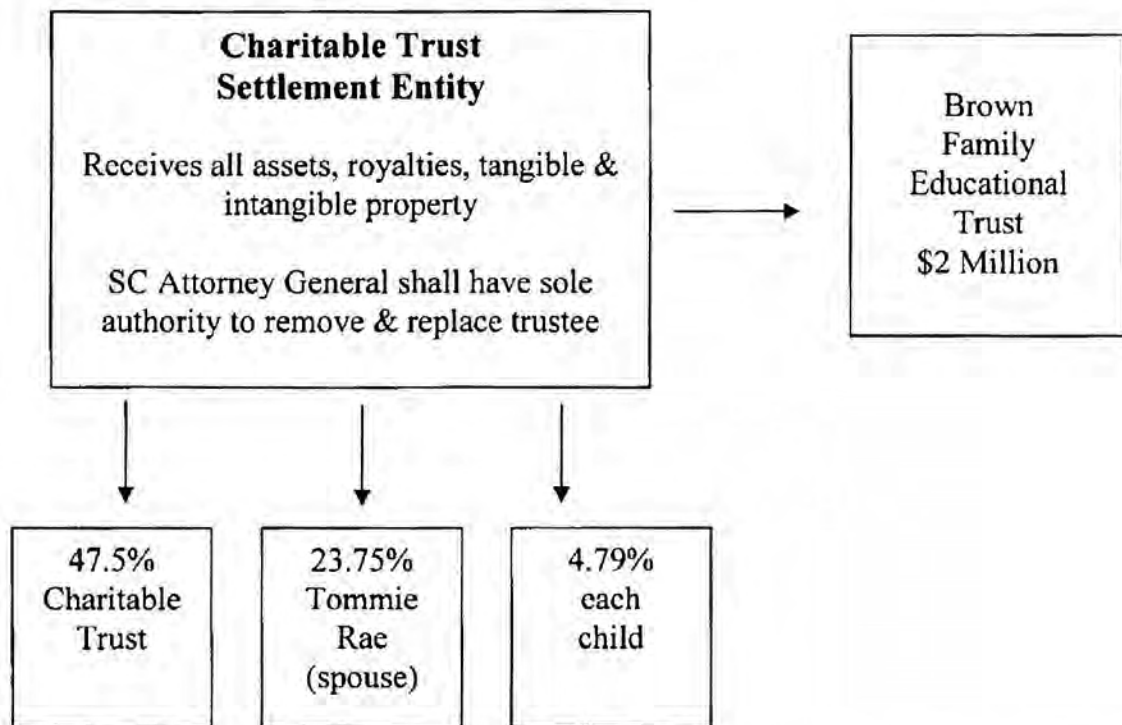
In 2011 the Attorney General, Legacy Trust attorneys and Petitioner began a bitter, decade long assault on the Due Process, FOIA and First Amendment rights of those who opposed the known false claims they were making to the Supreme Court in *Wilson v. Dallas*, including that Petitioner Estate/2000 Trust had no assets to speak of, but that Ms. Hynie and her son controlled “tens of millions of dollars” of termination rights under the U.S. Copyrights Act, and that the AG’s 2008 settlement saved taxes. [Exhibit H (Ex. F)]

In June 2011, after efforts by Buchanan and Respondent to obtain the public documents in Richland 4900 were unsuccessful, Respondent, at Mr. Buchanan’s suggestion, made a FOIA request for them.

On July 15, 2011 the Legacy Trust attorney, calling the Legacy Trust the “James Brown Trust,” refused to release the 2010 Legacy Trust documents and threatened sanctions or a lawsuit. As shown on a chart presented by SWB, James Brown’s estate plan and the Legacy Trust/Settlement Entity are not the same:



The Charitable Trust is diagramed as follows:



On August 3, 2011 Respondent filed two FOIA lawsuits, one seeking from the AG the Wingate Special Counsel Agreement in Richland 4900 and the other seeking the claimed \$4.7 million valuation and the Legacy Trust amendment from the AG and Legacy Trust.

On August 5, 2011 Sr. Asst. AG Tracy A. Meyers, referring to Richland 4900, proposed to put Appellant's FOIA requests "on hold pending the outcome of your litigation," and added:

Once the Litigation is completed, I would then provide you with all of the information you have requested that is available... 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. [ROA 2021-00518 filed 9/28/22, Vol. II, pp.475-476]

On August 9, 2011 the Attorney General, through SWB, filed in Richland 4900 a PLAINTIFFS' MOTION FOR PROTECTIVE ORDER CONCERNING FEE AGREEMENT AND/OR MOTION TO STRIKE DEFENDANT POPE'S MOTION TO COMPEL FEE

AGREEMENT. [2021-518, II, pp. 506 – 508] The Attorney General, through SWB, claimed the public fee agreement was the “epitome” of a private document, and maintained that position for nearly a decade.

On September 9, 2011 Respondent again requested under FOIA all preliminary appraisal reports and/or other documents which support the August 23, 2010 statement to the Supreme Court as follows:

... Respondents dispute Appellants’ assertion that the settlement agreement has 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,...[\$85 - \$100 million]...
...By contrast, Bauknight has pursued the appropriate fiduciary route and engaged a nationally renowned and respected appraisal firm...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 will not exceed Twelve Million (\$12,000,000.00) Dollars.

On October 20, 2011 AG Meyers signed an affidavit saying that she “never received from Ms. Pope the June 30 letter” requesting the claimed \$4.7 million valuation documents and Legacy Trust documents, although SWB had an obligation to deliver the FOIA request to the AG. Ms. Meyers stated in part:

4. Attachment of the June 30, 2011 letter to the complaint in the above [FOIA] suit does not constitute a request under FOIA to which the Office of the Attorney General must respond. [Vol. II, p. 516]

...

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... related to the matters that are the subject of this request.

The Attorney General has never claimed in FOIA that the request for the \$4.7 million valuation was fraudulent, and Petitioner has no legal authority to take that position for the AG.

By early 2012 Mr. Bauknight, the Legacy Trust owners, and others were seeking to intervene in Respondent's 2011 FOIA cases, and succeeded in moving both from Newberry County to Richland County. One was consolidated with Richland 4900, and the Attorney General and SWB moved to consolidate the other.

In 2012 the Attorney General and others stopped the deposition of their own witness, trustee Albert Dallas, when it became known that he would testify about the \$100 million offer made in 2007 and assert that Ms. Hynie was not Brown's spouse.

In 2012 the Attorney General and Petitioner Estate/2000 Trust of James Brown rejected, filed, and moved to strike from the public record offers which would let both the Attorney General and the Petitioner Estate/2000 Trust out of Richland 4900 at no cost.

In 2012 SWB advised the Attorney General as his attorney not to comply with a FOIA request for the Special Counsel Agreement, and he did not. The Attorney General, through SWB, sought the notes and sources of a reporter.

The March 2013 Meeting with the Attorney General and the April 24, 2013 Letter

On February 27, 2013 the Supreme Court's first, later substituted, *Wilson v. Dallas* decision, noted Richland 4900 and Appellant's FOIA suits.

On March 6, 2013 Respondent met with the Attorney General, the Solicitor General and the Chief Deputy AG to discuss the damage done to Brown's "I Feel Good" charity by claims to the IRS that Brown's music empire was worth \$4.7 million and that Brown had given money to a surviving spouse. Respondent and attorney Adam Silvernail met with the Chief Deputy and Solicitor General a few days later for the same purpose. The problems with the filings, which could have been easily corrected in connection with *Wilson v. Dallas*, included:

- Ms. Hynie might use the Estate's filings to claim she was a spouse;

- The devaluation from a net of \$84 million to \$4.7 million for the music empire shifted nearly 1/3 (31%) of Brown's "I Feel Good" charity over to a Trust for family.
- Shifting nearly 1/3 to family for a decade or more generated tens of thousands of dollars of unnecessary income taxes for Brown's Trust each year. [Exhibit M]

The Solicitor General, under oath four years later, believed that Respondent was concerned about the "I Feel Good" Trust, and not greedy and incompetent, as filings with his name –but not his signature – claimed. [Exhibit M]

In March 2013 the Attorney General advised the Supreme Court in *Wilson v. Dallas* and Petitioner that he was getting out of Richland 4900, and the Attorney General also advised the Supreme Court that he hoped to conclude the FOIA cases promptly.

In March 2013, Mr. Bauknight moved to intervene in the 2012 FOIA case of a Newberry reporter who sought the \$4.7 million valuation and other documents. [Exhibit J]

In March 2013 Ms. Hynie's minor son, who would later be awarded a \$700,000 legal and GAL fee by the circuit court, attempted to justify the \$4.7 million valuation to the Supreme Court in the rehearing process in *Wilson v. Dallas*, clearly showing that he had reviewed the valuation. He said the copyrights were worth \$23.7 million, which was reduced by the Pullman bond debt. The minor's attorney was also under contract with Ms. Hynie.

In March 2013 Mr. Levenson advised the Supreme Court he would continue Richland 4900, which seeks to enforce the AG's 2008 settlement, and he did so until 2018, even after being terminated by his eleven clients, Richland 4900 plaintiffs, who claimed that Ms. Hynie was a bigamist and entitled to nothing.

On April 24, 2013 the Honorable Alan Wilson ("AG Wilson"), through his chief deputy, wrote SWB to confirm the following:

- The Office of the Attorney General never hired SWB to bring Richland 4900.

- The Attorney General had no attorney-client privilege with SWB.
- The Attorney General was not going to pay any portion of SWB's fee.
- If *Wilson v. Dallas* remained the same, SWB would be required to disgorge to James Brown's Trust the funds advanced to SWB in Richland 4900.

Mr. Bauknight, who told the Supreme Court in March 2013 that he would enforce James Brown's estate plan if reinstated, concealed this information, along with SWB and Petitioner, for a decade while seeking to reinstate the AG's 2008 settlement and blame the damage on Mr. Buchanan and Respondent.

Mr. Bauknight's and SWB's Actions to Disrupt FOIA After the AG's April 24, 2013 Letter

On May 8, 2013 the Supreme Court issued its final decision in *Wilson v. Dallas*.

On May 10, 2010, the Attorney General (SWB) urged the Honorable Casey Manning to stay the two James Brown 2011 FOIA cases and Richland 4900 and a *de facto* stay was in place from 2013 until April 2016. No FOIA hearing was held.

On May 29, 2013 counsel for Ms. Hynie and Mr. Levenson announced to Judge Early in open court their plan to disregard *Wilson v. Dallas* and reinstate the AG's 2008 settlement. Ms. Hynie's counsel asserted that "Mrs. Brown" had been very generous in the AG's 2008 settlement deal and might be less generous if the AG's 2008 settlement were not reinstated promptly.

From 2013 until 2020 Peter Afterman worked both for Ms. Hynie and Petitioner Estate/2000 Trust, claimed Brown's music empire was worth \$4.7 million; Ms. Hynie was Brown's spouse; and she controlled termination rights worth tens of millions of dollars. These claims, which bolstered the false felony claim while concealing the public facts, were false.

Petitioner Trustee's Fiduciary Lacked Candor with the Federal Court

As the record and Exhibits show, Russell Bauknight lacked candor in seeking to designate the SWB Litigation Retention Agreement and other public documents, including the \$4.7 million

valuation and James Brown Historical Documents as confidential, even for discovery, because they did not qualify. [See Exhibits A, G, H] Mr. Bauknight did this at a time when he was acting “on behalf of” the State/AG in Richland 4900 while working for Ms. Hynie..

This combined use of the power and prestige of the Office of the Attorney General and lack of candor by SWB and Petitioner continues today, a decade after the Attorney General’s April 24, 2013 letter.

This lack of candor, and attempts to conceal public documents by SWB and Bauknight, using the power of the State/Attorney General for a decade while concealing the April 24, 2013 letter, allowing Ms. Hynie’s fraudulent claims, and even those of the thief David Cannon, to infect Richland 4900, Aiken 1337 and at least three James Brown FOIA cases should not be tolerated in this attempted end run around the FOIA.

As is shown by distinguished author James McBride, when the Legacy Trust trustee or Forlando, one of its secret owner-beneficiaries since 2011, wanted to disclose facts, they just disclosed them. In his book Mr. McBride took facts from Forlando, a reporter, and others. He said in his 2016 Kill ‘em and Leave:

At least \$100 million left behind to educate poor children of all races in South Carolina and Georgia. And ten years after he died, not a dime of Brown’s money would go to educate a single impoverished kid in either state. Why?

The short answer is greed.

The long answer is boring, which is how lawyers like it. That’s how modern-day gangsters work. They don’t pull out a gun and stick it in your face. They paper you to death. They bore the public, hoping you’ll turn the page, change the channel... Say the hell with it and move on.

That year Poet Nikky Finney wrote a poem about the Quality of Life in South Carolina and questioned why some were saying James Brown’s charity was only \$4 million while others were

claiming it was \$80 million. The poet questioned who was keeping the quality of needy students' lives from going from "zero to 1,000." The poet imagined she heard the Godfather saying "I'm those kids' last chance."

Petitioner, while using the power of the State/Attorney General in Richland 4900, should not be allowed to make an end run around the Attorney General's FOIA obligations to produce public documents.

Petitioner's Efforts to Reinstate the AG's 2008 Settlement Should Not Disrupt FOIA

It would be 2023 before an SWB attorney would boldly state to the Honorable Clifton Newman that his client, the Personal Representative of James Brown's estate, did not believe that *Wilson v. Dallas* was a victory. By then Mr. Bauknight had spent ten years and tens of millions of dollars trying to make Ms. Hynie the spouse of James Brown; give her \$1 million a year and a quarter of the \$90 million sale; and put half in the Attorney General's new charity created under the 2008 settlement. And to blame the damage on Mr. Buchanan and Respondent with the false felony claim.

Respect for James Brown and the Necessity of FOIA for a Democratic Society

Citizens have a right to see the documents showing how the Attorney General justified giving away half of James Brown's charity, then saying it was worth only \$4 million. Petitioner has abused the power of the State/AG, as has SWB, by withholding 145 boxes of public documents used to calculate the \$4.7 million. They will help understand why James Brown's charity was valued by the Attorney General at \$4 million when it should have been valued at \$80 million. Respondent should not stop the FOIA release of :

- The claimed \$4.7 valuation and the public documents used to generate it;
- A 2010 Legacy Trust amendment by AG McMaster just before he left office.

The valuation was important to the FOIA case and to Respondent because it was clear that Mr. Bauknight, the AG's trustee, had shared the \$4.7 million valuation with those seeking to dismember James Brown's estate, and because the Attorney General, the AG's Legacy Trust and its trustee were falsely accusing Mr. Buchanan and Respondent of a federal felony.

Petitioner's Richland 4900 Counsel Lacked Candor with the Court

In 2017 two SWB attorneys, Kenneth Wingate, Esq., and Everett Kendall, Esq., after waivers by all parties, were directed by the Honorable Jean Toal, acting circuit judge, to testify in Aiken 1337 about the authorization for the Attorney General to commence and continue Richland 4900. Both said Attorney General Wilson and Governor McMaster were their Richland 4900 clients, and that they knew of no change of clients in Richland 4900 since 2010.

Neither SWB attorney produced the April 24, 2013 letter saying SWB was never engaged by the Office of the AG. Worse, SWB admitted in 2023 that it had been paid by Petitioner on an hourly basis to conduct appeals related to Richland 4900 where it has viciously fought lifting the stay in Richland 4900 that would have revealed its lack of authority.

In March 2017 AG Alan Wilson testified that he knew nothing that either Respondent or Mr. Buchanan had done wrong; knew nothing about the false felony claim he had lodged since 2011 against Mr. Buchanan and Respondent in Richland 4900; and had done nothing except try to get out of Richland 4900 since 2013. SWB and Petitioner have suppressed this, and other AG testimony, for years. The testimony of Solicitor General Cook, Attorney General McMaster and others make clear Bauknight should not speak for them. [Exhibits K. O]

Exhibits Are a Small Part of the Improper State/AG Action Since April 2013

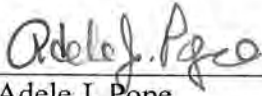
The exhibits to this Return are only a sampling of the unauthorized state action by the Legacy Trust's and Petitioner's fiduciary to disrupt FOIA compliance which have infected and

delayed more than half a dozen cases and appeals since April 24, 2013, but include the testimony of the Governor that he did not authorize Richland 4900 [Exhibit O], Testimony of counsel for a reporter seeking FOIA [Exhibit J], the Roger Miller testimony suppressed since 2017 [Exhibit I], the testimony of Solicitor General Robert Cook [Exhibit K], the testimony of Judge Walter Williams [Exhibit N], and evidence of suppression of the AG's public Special Counsel Agreement and lack of candor with the Courts.

Conclusion

Petitioner's attempt to disrupt James Brown FOIA cases is of public interest, especially where the public documents sought to be suppressed are being used to defy *Wilson v. Dallas* and blame the 11-year effort to reinstate the AG's 2008 settlement on Mr. Buchanan and Respondent by accusing them of a federal felony and concealing the alleged evidence. Petitioner seeks to have the Supreme Court review the matter without the Attorney General, without the improper state actors and without an adequate record. The request and all related relief should be denied.

Respectfully submitted,


Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 2910
(803) 413-00753
adele@popelawfirm.com
Bar No. 4501

February 15, 2024

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Forlando J. Brown,	)	Civil Action No.: 3:08-cv-00014-WOB
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<u>CONFIDENTIALITY ORDER</u>
Adele J. Pope, individually and As	)	
Trustee of the Irrevocable Trust	)	
established by James Brown in August	)	
1, 2000, and	)	
	)	
Robert J. Buchanan, Jr., individually	)	
and As Trustee of the Irrevocable Trust	)	
established by James Brown in August	)	
1, 2000,	)	
Defendants.	)	

Whereas, the parties to this Consent Confidentiality Order ("parties"), have stipulated that certain discovery material is and should be treated as confidential, and have agreed to the terms of this order; accordingly, it is this 6th day of August, 2008, ORDERED:

1. **Scope.** All documents produced in the course of discovery, all responses to discovery requests and all deposition testimony and deposition exhibits and any other materials which may be subject to discovery (hereinafter collectively "documents") shall be subject to this Order concerning confidential information as set forth below.

2. **Form and Timing of Designation.** Confidential documents shall be so designated by placing or affixing the word "CONFIDENTIAL" on the document in a manner which will not interfere with the legibility of the document and which will permit complete removal of the Confidential designation. Documents shall be designated CONFIDENTIAL prior to, or contemporaneously with, the production or disclosure of the documents [optional: except for

documents produced for inspection under the "Reading Room" provisions set forth in paragraph 4 below]. Inadvertent or unintentional production of documents without prior designation as confidential shall not be deemed a waiver, in whole or in part, of the right to designate documents as confidential as otherwise allowed by this Order.

3. **Documents Which May be Designated Confidential.** Any party may designate documents as confidential but only after review of the documents by an attorney¹ who has, in good faith, determined that the documents contain information protected from disclosure by statute, sensitive personal information, trade secrets, or confidential research, development, or commercial information. The certification shall be made concurrently with the disclosure of the documents, using the form attached hereto at Attachment A which shall be executed subject to the standards of Rule 11 of the Federal Rules of Civil Procedure. Information or documents which are available in the public sector may not be designated as confidential.

4. **Reading Room.** In order to facilitate timely disclosure of large numbers of documents which may contain confidential documents, but which have not yet been reviewed and marked, the following "Reading Room" provisions may be utilized.

a. Documents may be produced for review at a party's facility or other controlled location ("Reading Room"), prior to designation as confidential. After review of these documents, the party seeking discovery may specify those for which further production is requested. The producing party shall then copy the requested documents for production. To

¹ The attorney who reviews the documents and certifies them to be CONFIDENTIAL must be admitted to the Bar of at least one state but need not be admitted to practice in the District of South Carolina and need not apply for *pro hac vice* admission. By signing the certification, counsel submits to the jurisdiction of this court in regard to the certification.

the extent any of the requested documents warrant a CONFIDENTIAL designation, the copies shall be so marked prior to further production.

b. Unless otherwise agreed or ordered, copies of Reading Room documents shall be requested within twenty days of review in the Reading Room and shall be produced within fourteen days after the request is made.

c. The producing party shall maintain a log of persons who have reviewed documents in the Reading Room and the dates and time of their presence.

d. The production of documents for review within the confines of a Reading Room shall not be deemed a waiver of any claim of confidentiality, so long as the reviewing parties are advised that the Reading Room production is pursuant to this provision and that the Reading Room may contain confidential materials which have not yet been marked as confidential.

e. Until such time as further production is made of documents reviewed in a Reading Room, the reviewing party shall treat all material reviewed as if it was marked CONFIDENTIAL at the time reviewed.

5. **Depositions.** Portions of depositions shall be deemed confidential only if designated as such when the deposition is taken or within seven business days after receipt of the transcript. Such designation shall be specific as to the portions to be protected.

6. **Protection of Confidential Material.**

a. **General Protections.** Documents designated CONFIDENTIAL under this Order shall not be used or disclosed by the parties or counsel for the parties or any other persons identified below (¶ 6.b.) for any purposes whatsoever other than preparing for and conducting the litigation in which the documents were disclosed (including any appeal of that litigation).

The parties shall not disclose documents designated as confidential to putative class

members not named as plaintiffs in putative class litigation unless and until one or more classes have been certified.

b. **Limited Third Party Disclosures.** The parties and counsel for the parties shall not disclose or permit the disclosure of any documents designated CONFIDENTIAL under the terms of this Order to any other person or entity except as set forth in subparagraphs (1)-(5) below, and then only after the person to whom disclosure is to be made has executed an acknowledgment (in the form set forth at Attachment B hereto), that he or she has read and understands the terms of this Order and is bound by it. Subject to these requirements, the following categories of persons may be allowed to review documents which have been designated CONFIDENTIAL pursuant to this Order:

- (1) counsel and employees of counsel for the parties who have responsibility for the preparation and trial of the lawsuit;
- (2) parties and employees of a party to this Order but only to the extent counsel shall certify that the specifically named individual party or employee's assistance is necessary to the conduct of the litigation in which the information is disclosed²;
- (3) court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making photocopies of documents;
- (4) consultants, investigators, or experts (hereinafter referred to collectively as "experts") employed by the parties or counsel for the parties to assist in the preparation and trial of the lawsuit; and

² At or prior to the time such party or employee completes his or her acknowledgment of review of this Order and agreement to be bound by it (Attachment B hereto), counsel shall complete a certification in the form shown at Attachment C hereto. Counsel shall retain the certification together with the form signed by the party or employee.

(5) other persons only upon consent of the producing party or upon order of the court and on such conditions as are agreed to or ordered.

c. **Control of Documents.** Counsel for the parties shall take reasonable efforts to prevent unauthorized disclosure of documents designated as Confidential pursuant to the terms of this order. Counsel shall maintain a record of those persons, including employees of counsel, who have reviewed or been given access to the documents along with the originals of the forms signed by those persons acknowledging their obligations under this Order.

d. **Copies.** All copies, duplicates, extracts, summaries or descriptions (hereinafter referred to collectively as "copies"), of documents designated as Confidential under this Order or any portion of such a document, shall be immediately affixed with the designation "CONFIDENTIAL" if the word does not already appear on the copy. All such copies shall be afforded the full protection of this Order.

7. **Filing of Confidential Materials.** In the event a party seeks to file any material that is subject to protection under this Order with the court, that party shall take appropriate action to insure that the documents receive proper protection from public disclosure including: (1) filing a redacted document with the consent of the party who designated the document as confidential; (2) where appropriate (*e.g.* in relation to discovery and evidentiary motions), submitting the documents solely for *in camera* review; or (3) where the preceding measures are not adequate, seeking permission to file the document under seal pursuant to the procedural steps set forth in Local Civil Rule 5.03, DSC, or such other rule or procedure as may apply in the relevant jurisdiction. Absent extraordinary circumstances making prior consultation impractical or inappropriate, the party seeking to submit the document to the court shall first consult with counsel for the party who designated the document as confidential to determine if some measure less restrictive than filing the document

under seal may serve to provide adequate protection. This duty exists irrespective of the duty to consult on the underlying motion. Nothing in this Order shall be construed as a prior directive to the Clerk of Court to allow any document be filed under seal. The parties understand that documents may be filed under seal only with the permission of the court after proper motion pursuant to Local Civil Rule 5.03.

8. **Greater Protection of Specific Documents.** No party may withhold information from discovery on the ground that it requires protection greater than that afforded by this Order unless the party moves for an Order providing such special protection.

9. **Challenges to Designation as Confidential.** Any CONFIDENTIAL designation is subject to challenge. The following procedures shall apply to any such challenge.

- a. The burden of proving the necessity of a Confidential designation remains with the party asserting confidentiality.
- b. A party who contends that documents designated CONFIDENTIAL are not entitled to confidential treatment shall give written notice to the party who affixed the designation of the specific basis for the challenge. The party who so designated the documents shall have fifteen (15) days from service of the written notice to determine if the dispute can be resolved without judicial intervention and, if not, to move for an Order confirming the Confidential designation.
- c. Notwithstanding any challenge to the designation of documents as confidential, all material previously designated CONFIDENTIAL shall continue to be treated as subject to the full protections of this Order until one of the following occurs:

- (1) the party who claims that the documents are confidential withdraws such designation in writing;

(2) the party who claims that the documents are confidential fails to move timely for an Order designating the documents as confidential as set forth in paragraph 9.b.

above; or

(3) the court rules that the documents should no longer be designated as confidential information.

d. Challenges to the confidentiality of documents may be made at any time and are not waived by the failure to raise the challenge at the time of initial disclosure or designation.

10. Treatment on Conclusion of Litigation.

a. **Order Remains in Effect.** All provisions of this Order restricting the use of documents designated CONFIDENTIAL shall continue to be binding after the conclusion of the litigation unless otherwise agreed or ordered.

b. **Return of CONFIDENTIAL Documents.** Within thirty (30) days after the conclusion of the litigation, including conclusion of any appeal, all documents treated as confidential under this Order, including copies as defined above (§6.d.) shall be returned to the producing party unless: (1) the document has been entered as evidence or filed (unless introduced or filed under seal); (2) the parties stipulate to destruction in lieu of return; or (3) as to documents containing the notations, summations, or other mental impressions of the receiving party, that party elects destruction. Notwithstanding the above requirements to return or destroy documents, counsel may retain attorney work product including an index which refers or relates to information designated CONFIDENTIAL so long as that work product does not duplicate verbatim substantial portions of the text of confidential documents. This work product continues to be Confidential under the terms of this Order.

An attorney may use his or her work product in a subsequent litigation provided that its use does not disclose the confidential documents.

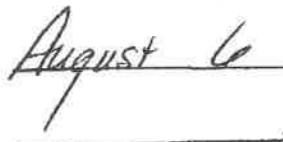
11. **Order Subject to Modification.** This Order shall be subject to modification on motion of any party or any other person who may show an adequate interest in the matter to intervene for purposes of addressing the scope and terms of this Order. The Order shall not, however, be modified until the parties shall have been given notice and an opportunity to be heard on the proposed modification.

12. **No Judicial Determination.** This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating discovery. Nothing herein shall be construed or presented as a judicial determination that any specific document or item of information designated as CONFIDENTIAL by counsel is subject to protection under Rule 26(c) of the Federal Rules of Civil Procedure or otherwise until such time as a document-specific ruling shall have been made.

13. **[If by consent] Persons Bound.** This Order shall take effect when entered and shall be binding upon: (1) counsel who signed below and their respective law firms; and (2) their respective clients.

IT IS SO ORDERED.


The Honorable William O. Bertelsman
Senior Judge
United States District Court, Eastern
District of Kentucky

 August 6, 2008

**ATTACHMENT A
CERTIFICATION BY COUNSEL OF DESIGNATION
OF INFORMATION AS CONFIDENTIAL**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Forlando J. Brown,

Plaintiff,

vs.

Adele J. Pope, individually and As
Trustee of the Irrevocable Trust
established by James Brown in August
1, 2000, and

Robert J. Buchanan, Jr., individually
and As Trustee of the Irrevocable
Trust established by James Brown in
August 1, 2000,

Defendants.

Civil Action No.: 3:08-cv-00014-WOB.

**CERTIFICATION BY COUNSEL OF
DESIGNATION OF INFORMATION AS
CONFIDENTIAL**

Documents produced herewith [whose bates numbers are listed below (or) which are listed on the attached index] have been marked as CONFIDENTIAL subject to the Confidentiality Order entered in this action which Order is dated [confidentiality order date].

By signing below, I am certifying that I have personally reviewed the marked documents and believe, based on that review, that they are properly subject to protection under the terms of Paragraph 3 of the Confidentiality Order.

Check and complete one of the two options below.

- ☐ I am a member of the Bar of the United States District Court for the District of South Carolina. My District Court Bar number is [District Court Bar #].
- ☐ I am not a member of the Bar of the United States District Court for the District of South Carolina but am admitted to the bar of one or more states. The state in which I conduct the majority of my practice is [state in which I practice most] where my Bar number is [that state's Bar #]. I understand that by completing this certification I am submitting to the jurisdiction of the United States District Court for the District of South Carolina as to any matter relating to this certification.

Date: [date attachment A signed]

[Signature of Counsel [s/name]]

Signature of Counsel

[Printed Name of Counsel [A]]

Printed Name of Counsel

ATTACHMENT B

**ACKNOWLEDGMENT OF UNDERSTANDING
AND
AGREEMENT TO BE BOUND**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Forlando J. Brown,

Plaintiff,

vs.

Adele J. Pope, individually and As
Trustee of the Irrevocable Trust
established by James Brown in August
1, 2000, and

Robert L. Buchanan, Jr., individually
and As Trustee of the Irrevocable Trust
established by James Brown in August
1, 2000,

Defendants.

Civil Action No.: 3:08-cv-00014-WOB

**ACKNOWLEDGMENT OF
UNDERSTANDING AND AGREEMENT
TO BE BOUND**

The undersigned hereby acknowledges that he or she has read the Confidentiality Order dated [confidentiality order date], in the above captioned action, understands the terms thereof, and agrees to be bound by such terms. The undersigned submits to the jurisdiction of the United States District Court for the District of South Carolina in matters relating to the Confidentiality Order and understands that the terms of said Order obligate him/her to use discovery materials designated CONFIDENTIAL solely for the purposes of the above-captioned action, and not to disclose any such confidential information to any other person, firm or concern.

The undersigned acknowledges that violation of the Stipulated Confidentiality Order may result in penalties for contempt of court.

Name: [undersigned name [att B]]

Job Title: [Job Title [att B]]

Employer: [Employer [att B]]

Business Address: [Business Address [att B]]

Date: [date attachment B signed]

[Signature [attachment B]]
Signature

ATTACHMENT C

**CERTIFICATION OF COUNSEL OF NEED
FOR ASSISTANCE OF PARTY/EMPLOYEE**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Forlando J. Brown,

Plaintiff,

vs.

Adele J. Pope, individually and As
Trustee of the Irrevocable Trust
established by James Brown in August
1, 2000, and

Robert L. Buchanan, Jr., individually
and As Trustee of the Irrevocable Trust
established by James Brown in August
1, 2000,

Defendants.

Civil Action No.: 3:08-cv-00014-WOB

**CERTIFICATION OF COUNSEL OF
NEED FOR ASSISTANCE OF
PARTY/EMPLOYEE**

Pursuant to the Confidentiality Order entered in this action, most particularly the provisions of Paragraph 6.b.2., I certify that the assistance of [name of assistant [att C]] is reasonably necessary to the conduct of this litigation and that this assistance requires the disclosure to this individual of information which has been designated as CONFIDENTIAL.

I have explained the terms of the Confidentiality Order to the individual named above and will obtain his or her signature on an "Acknowledgment of Understanding and Agreement to be Bound" prior to releasing any confidential documents to the named individual and I will release only such confidential documents as are reasonably necessary to the conduct of the litigation.

The individual named above is:

- ☐ A named party;
- ☐ An employee of named party [employee of named party]. This employee's job title is [employee's job title] and work address is [employee's work address].

Date: [date attachment C signed]

[Signature [attachment C]]
Signature

Exhibit B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Forlando J. Brown,	)	Civil Action No.: 3:08-cv-00014-WOB
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Adele J. Pope, individually and As	)	<u>DEFENDANTS' REPLY</u>
Trustee of the Irrevocable Trust established	)	<u>MEMORANDUM IN SUPPORT OF</u>
by James Brown in August 1, 2000, and	)	<u>DEFENDANTS' MOTION FOR</u>
Robert L. Buchanan, Jr., individually and	)	<u>GUIDANCE AND FOR PROTECTIVE</u>
As Trustee of the Irrevocable Trust	)	<u>ORDER</u>
established by James Brown in August 1,	)	
2000,	)	
Defendants.	)	

Adele J. Pope, individually and As Trustee of the Irrevocable Trust established by James Brown in August 1, 2000, and Robert L. Buchanan, Jr., individually and As Trustee of the Irrevocable Trust established by James Brown in August 1, 2000 (individually "Pope" and "Buchanan" and collectively "Defendants"), by and through their undersigned counsel, hereby file this Reply Memorandum in Support of Defendants' Motion for Guidance and for Protective Order, filed July 8, 2008.

ARGUMENT

Despite Plaintiff's repeated assertions otherwise, Defendants *do not* seek a stay of discovery, and they have *never* taken a position that the discovery ordered by this Court in its May 12 Order is stayed. To the contrary, both Defendants have timely responded to Plaintiff's Interrogatories and Requests for Production.¹ However, an Order of the South Carolina Court of

¹ While Plaintiff complains of the time that Defendants used to respond to the Interrogatories and Requests for Production, the responses were timely served pursuant to the Federal Rules of Civil Procedure.

Appeals issued on May 28, 2008, resulted in Defendants' need for Court guidance in this case.² Using this Order, various counsel in the other matters in which Defendants are involved as Personal Representatives or Trustees asserted that Defendant's ability to act as trustees was stayed. In fact, while wearing his State Court hat, David Bell – also counsel for Plaintiff in this case – stated in a May 30 letter to Judge Early that “[t]he Court of Appeals has accepted the appeal as to the Trust, and therefore, *all issues dealing with the trust are stayed pending the appeal.*” (emphasis added). The confusion and divergent positions relating to the Court of Appeals Order led to this request for guidance as to how the parties should proceed.³

To further add to an evolving situation, the South Carolina Court of Appeals granted a temporary stay in response to an Emergency Motion to Enforce Automatic Stay filed on July 9, 2008, by former trustees, Albert H. Dallas and Alfred A. Bradley. After briefing, the South Carolina Court of Appeals resolved these issues by Order issued on July 14, 2008, indicating that if a stay existed, it was lifted and that Pope and Buchanan should continue to act as trustees during the pendency of the appeal.⁴ For this reason, the issue of whether Defendants may act as trustees appears to be resolved. To allow for orderly discovery and to compensate for delays caused by the confusion and conflicting positions asserted by the various counsel, Defendants have consented to Plaintiff's request for an extension of time for the discovery period.

The need for a Protective Order is urgent, however. As recognized by the parties and by the Court during the May 9, 2008, telephone hearing, a Protective Order is necessary to protect

² See Order dated May 28, 2008 attached as Exhibit 1 to Defendants' Memorandum in Support of Motion for Guidance and for Protective Order.

³ Defendants will not restate the other facts related to the confusion but instead incorporate the description contained in Defendants' Memorandum in Support of Motion for Guidance and for Protective Order.

⁴ Defendants advised the Court of the additional Court of Appeals Orders by Supplemental Memoranda, filed July 14, 2008, and July 15, 2008.

sensitive documents, given the public nature of this matter. As Plaintiff is wearing multiple and conflicting hats, notably as a participant in a consortium which has attempted to purchase assets of Estate and Trust, the “attorney’s eyes only” provisions are essential to protect the Estate and Trust, particularly the “trade secrets or proprietary business information” that the Protective Order will encompass. However, because of the multitude of documents (over 1,000,000) and the constantly evolving environment, it is simply not feasible for Defendants to designate a list of documents in need of protection from Plaintiff’s eyes.

Plaintiff also complains that the logistics of using protected information in Court would be “unreasonably burdensome” because Paragraph 15 directs this information “may not be disclosed in hearings, disclosed at trial, or introduced into evidence unless the parties consent to the disclosure or unless disclosure is ordered by the Court.” Paragraph 15 is a typical provision in an “attorneys eyes only” Order and essential to protect this documentation, given that Court proceedings are public and the goal is to restrict disclosure to only the attorneys and Court. Moreover, Paragraphs 11, 12, 13, and 14 provide explicit instruction to counsel for using this documentation in other contexts, including providing “attorney’s eyes only” documentation to the Court for review – which does *not* require “consent of the parties.”

The proposed Protective Order is also tailored to function in an environment in which Defendants must cater to the potentially conflicting positions asserted in other cases. Not only does Plaintiff admittedly have conflicting roles, but two of the three original PR/Trustees, in particular Dallas and Bradley, initially either waived the attorney-client privilege or did not assert it. As a result, Defendants Buchanan and Pope had no reason to identify what may have been otherwise privileged material in the files delivered either by them or from their counsel. Recently, however, Dallas and Bradley have sought to assert claims of attorney-client privilege

in the broadest possible manner, including as to the Powell Goldstein law firm at depositions taken June 11 and 12, 2008.⁵ To date, this issue has not been resolved by the State Court.

Given this backdrop, though, Defendants are in a position that the former trustees (or others) may assert harm from the production of documents that may be privileged, assuming the State Court allows the privilege to be reasserted, and seek protection from these claims in Paragraphs 1 and 21 of the Proposed Protective Order.

Another complicating factor is that Defendants act as custodian of documents assembled and deposited from multiple sources, and many documents pre-date Defendants' role as trustees or otherwise have no direct connection to Defendants' service. Recognizing this fact, Defendants seek the Court's protection in Paragraph 1 of the Proposed Protective Order related to the production or use of such documents, particularly if documents are used in one or more of the other litigations in which Defendants are involved as personal representatives or trustees. While Plaintiff correctly points out that non-parties to this matter cannot be bound by the Protective Order, *Defendants* will have the protection of acting under Court Order if such claims are made in other matters. Obviously, the Federal Rules of Evidence will govern the introduction of documents in this matter.

The State Court has recognized that the Estate and Trust must be protected by a Confidentiality Agreement. The August 10, 2007, State Court Order setting up the depository for the approximately ninety (90) boxes of "historical documents" provided for inspection by counsel for interested persons but required their consent to a Confidentiality Agreement. That Order was entered in State Court Case 2007-CP-02-0122, now known as the Removal/Appointment/Accounting matter. The form of Confidentiality Agreement was

⁵ Most significantly, they have refused to comply with an August 10, 2007, Court Order to deliver the Powell Goldstein file, as to which they now assert privilege.

developed prior to the initiation of most of the 12 cases now pending and has not yet been revisited in light of the various litigations.

The August 10, 2007, Order and resulting Confidentiality Agreement apply only to the approximately ninety boxes of historical documents and not to any of Defendants' work files. The Confidentiality Agreement has most recently been used today when an attorney who is the South Carolina co-counsel to Mr. Bell on behalf of this Plaintiff, his father and brother, executed the Confidentiality Agreement in order to review documents in connection with the pending cases challenging the Estate Plan.⁶ Significantly, however, no parties to the State Court cases have yet reviewed Defendants' approximately thirty (30) boxes of work files. It is these files that Plaintiff now seeks to review.

Plaintiff further complains of the purported "argumentative attacks against Plaintiff" contained in two footnotes in the Proposed Protective Order. Defendants, however, do not seek Plaintiff's adoption of these statements. Rather, these footnotes are deliberately designated as *representations* made by the Defendants so that the context of their positions is clear, particularly given the other lawsuits discussed above.

Finally, Plaintiff complains to this Court about Defendants' proposal to delete the phrase "verbatim substantial portions of" in Paragraph 17(b) when addressing the destruction of work product documents at the conclusion of the proceeding. Defendants proposed this amendment simply for purposes of greater clarity and ease of enforcement. However, if Plaintiff is comfortable with the responsibility (and liability) for determining whether work product documents duplicate "verbatim substantial portions of" the text of confidential documents as

⁶ See Confidentiality Agreement, dated July 23, 2008, attached hereto as **Exhibit 1**.

opposed to simply the “text” of confidential documents, Defendants do not oppose this adjustment.

CONCLUSION

For the reasons stated above and for the reasons set forth in Defendants’ Motion and Memorandum in Support of Defendants’ Motion for Guidance and for Protective Order, this Motion must be granted and Plaintiff’s Motion to Compel must be denied.

[Signature page follows]

SOWELL GRAY STEPP & LAFFITTE, L.L.C.

By: s/J. Calhoun Watson
J. Calhoun Watson
Fed. I.D. No.: 4794
cwatson@sowell.com

By: s/Elizabeth Van Doren Gray
Elizabeth Van Doren Gray
Fed. I.D. No.: 4824
egray@sowell.com

By: s/Robert E. Horner
Robert E. Horner
Fed. I.D. No.: 7872
bhorner@sowell.com
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

**Attorneys for Defendant Robert L. Buchanan, Jr.,
individually and As Trustee of the Irrevocable Trust
established by James Brown in August 1, 2000**

JETER & WILLIAMS, P.A.

By: s/ Daryl L. Williams
Daryl L. Williams
Fed. I.D. No.: 4671
dwilliams@jeterandwilliams.com
1204 Main Street, Suite 200
Post Office Box 7425
Columbia, South Carolina 29202
(803) 765-0600

**Attorneys for Defendant Adele J. Pope, individually and
As Trustee of the Irrevocable Trust established by
James Brown in August 1, 2000**

Columbia, South Carolina
July 25, 2008

EXHIBIT 1

to

DEFENDANTS' REPLY
MEMORANDUM IN SUPPORT OF
DEFENDANTS' MOTION FOR
GUIDANCE AND FOR
PROTECTIVE ORDER

Civil Action No.: 3:08-cv-00014-WOB

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SECOND JUDICIAL CIRCUIT
COUNTY OF AIKEN	)	
	)	CIVIL ACTION NO. 2007-CP-02-0122
	)	
	)	
IN RE:	)	
	)	CONFIDENTIALITY AGREEMENT
THE ESTATE OF JAMES BROWN	)	
A/K/A JAMES JOSEPH BROWN	)	
_____	)	

It appears that material parts of the documents or information to be produced or disclosed during the discovery process by the parties in the above-captioned litigation may constitute confidential or proprietary information entitled to protective provisions of Rule 26(c), SCRPC, and other protections, the parties to this lawsuit hereby stipulate and agree as follows:

1. The contents and the substance of documents produced or information disclosed by any party in this litigation shall be used only for the prosecution or defense of this action and shall not be used or employed for any other purpose whatsoever. The contents or substance of documents produced or information disclosed by any party in this litigation shall not be disclosed or made available to anyone except:

- (a) The Court;
- (b) Parties to the action;
- (c) Counsel for parties to the action, including professional and legal support personnel employed by counsel; or
- (d) Experts or consultants retained for the purposes of this litigation.

2. While the parties agree to the confidentiality provision above, the parties may use necessary documents in court proceedings.

3. The parties further agree that the production of documents for inspection or copying

shall not constitute a waiver of any claims of privilege or any objection a party may have to the documents or use of these documents by the parties in this matter.

4. This Confidentiality Agreement shall remain in effect until the Estate of James Brown is closed and subsequent to such closings so as to protect the confidentiality of the information disclosed during the discovery process.

I SO AGREE AND CONSENT:

Signed:

Printed Name:

Address:

Matt Bodman
Matt Bodman
1500 Calhoun Street Columbia S.C. 29201

SUBSCRIBED AND SWORN to before me
this 23rd day of July, 2008

Dele G. Pope NOTARY PUBLIC
MY COMMISSION EXPIRES: 12/11/13

Exhibit C



HENRY McMASTER
ATTORNEY GENERAL

April 22, 2010

James Richardson, Jr., Esquire
1229 Lincoln St.
Columbia, SC 29201

RE: Settlement Negotiations

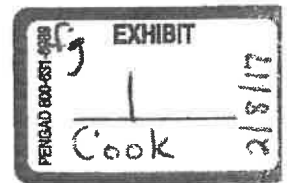
Dear Jim:

As a follow-up to our telephone conversation yesterday, Wednesday, April 21, 2010, please accept this letter as one last effort to resolve our differences before the Settling Parties commence an action.

I am writing to propose that we agree in principle to three broad issues, which all the settling parties are willing to consider:

- (1) The settling parties will consider releasing Bob and Adele from any and all actions, delicts, omissions, etc. while they served as fiduciaries; and
- (2) The settling parties will consider allowing Bob and Adele to receive some commissions in addition to any amounts they have already been paid; and
- (3) In return, Bob and Adele will terminate all actions with prejudice and bring no more actions.

If we agree in principle to these three issues, we can meet to iron out the details. The details of the release would necessarily include the process for making both sides comfortable with the efficacy of the release, which may include court approval (Circuit Court and possibly Court of Appeals, as we may agree during the negotiations over details). The possibility of additional fees will be considered only if Bob and Adele finally respond to our requests to give us a broad breakdown of their proposed fees: how much time (and proposed fees) with respect to fighting the settlement versus how much time (and proposed fees) with respect to handling other matters related to the estate and trust. We will need that breakdown before the weekend if we are going to keep the fee issue on the table. We will need a general agreement in principle to all issues before the weekend as well. If by then we receive a response agreeing in principle, we



would begin meeting this coming Monday to iron out details. If not, I will keep the planned meeting with the Attorney General next week and we will get his OK to commence the lawsuit.

Very truly yours,

C.H. Jones, Jr. /by mfg
C.H. Jones, Jr.
Senior Assistant Attorney General

cc:

Alan Medlin, Esquire
Louis Levenson, Esquire
David Bell, Esquire

**Law Office of
James B. Richardson, Jr.**

1229 LINCOLN STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE 803/799-9412
FAX 803/799-9628

April 27, 2010

BY FAX AND BY MAIL

C.H. Jones, Jr., Esquire
Senior Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211-1549

Re: Settlement Negotiations

Dear Sonny:

Bob Buchanan tried unsuccessfully to reach me by phone yesterday afternoon. He returned to Aiken Friday night after a 1200-mile round-trip drive, did not visit his office over the weekend, and yesterday (Monday) morning saw your letter of April 22d.

My clients are concerned that your letter does not respond to the good-faith offer which they presented to the Attorney General a month ago. Instead it deals only with the matter of fees and a release. Your letter treats the proposal for Court of Appeals approval of a settlement as a possible part of a process for making both sides comfortable with the efficacy of a release, but the proposal for Court of Appeals approval has a broader foundation than that.

My clients have asked me whether Mr. McMaster has seen their comprehensive settlement offer and, if so, what does he think of it? Does he agree to having the Court of Appeals reach the "substitution of judgment" question, which was essential to the settlement? Touching a few of the other elements contained in our settlement proposal, have Forlando and Romunzo agreed to pay for the Federal case? Do the parents of the minors agree that a GAL is critical? Does Mr. Slotchiver agree to sign on behalf of James II?

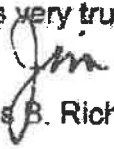
All these questions, which are the subject of the appeal, remain unaddressed.

You know that Ms. Hayes and I, who were engaged and are working solely to assist Mr. Buchanan and Ms. Pope in carrying out their mandate under the James Brown Estate Plan, will not be involved if the threatened lawsuit is commenced. I have been authorized, however, to tell you that my clients are willing to speak, *individually*, with an attorney for the Attorney General, other than you or Ms. Jowers, or to speak with Mr. Levenson, about why they do not think that such a suit would be helpful to anyone. Their only requirement for such a meeting would be that it be a private, confidential settlement conference, and that

they both attend.

I continue to feel that Mr. McMaster and the settling parties should respond fully to the comprehensive settlement proposal which we have placed on the table.

Yours very truly,


James B. Richardson, Jr.

Jeter & Williams, P.A.

ATTORNEYS AND COUNSELORS AT LAW

Edwin Russell Jeter
Daryl L. Williams

1204 Main Street, Suite 200 (29201)
Post Office Box 7425
Columbia, South Carolina 29202

Tel. 803/765-0600
Fax 803/765-0619

October 18, 2010

Hon. L. Casey Manning, Jr.
Richland County Court of Common Pleas
PO Box 192
Columbia, SC 29202-0192

Re: *Russell L. Bauknight, et al. and Henry Dargan McMaster, et al. v.
Adele J. Pope and Robert L. Buchanan, Jr.;*
Civil Action No.: 2010-CP-40-4900

Situs of James Brown 2000 Irrevocable Trust set in Aiken County by Order of
8/10/07

Dear Judge Manning:

We thank you for the opportunity to respond fully, after conferring with our clients, regarding our statement that the situs of the James Brown 2000 Irrevocable Trust was set in Aiken County by Order of the Honorable Doyet A. Early, III, dated August 10, 2007, in Case 122.

Counsel for Plaintiffs, in a letter dated October 5, has asserted that our representation to this effect in the proposed Order of Dismissal (without prejudice) submitted to you on October 1, 2010 was "utterly false." A subsequent letter, dated October 8, 2010, continues that suggestion.

Because of the complexity of the James Brown cases, including Case 122 which is still pending in Aiken County, the S. C. Court of Appeals (2d Cannon appeal) and the S. C. Supreme Court (Dallas/Bradley appeal), some explanation is necessary.

When the August 10, 2007 Case 122 Order was issued neither we nor the Plaintiffs' firm was involved in the James Brown cases. As described in the decision of the S. C. Court of Appeals dated November 6, 2009, attached as Exhibit A, Mr. Buchanan and Mrs. Pope were serving as Special Administrators of the Estate of James Brown and had just discovered that \$900,000.00 had been taken from the James Brown 2000 Trust in 2006.

On July 28 Buchanan and Pope filed a Motion to Remove one or more PR/Trustees for cause based on the \$900,000 taking.

What the Cannon decision partially shows, but is much clearer in the August 10 Order and the Case 122 record, is that by August 3, 2007 Cannon and Dallas – who many Plaintiffs and Defendants now agree made false statements in filings with the Court – both asserted that only Cannon knew of the \$900,000.00 taking although Dallas was Trustee at the time. [See Cannon opinion p. 2, which shows Buchanan and Pope did not accuse Dallas – based on this representation-and excerpts from Order dtd. April 8, 2008, Exhibit B.]

Based on this representation, Mr. Buchanan and Mrs. Pope, as SA s, negotiated an agreement with Dallas (and the now-deceased Bradley) to recommend that the Court delay any hearing on Dallas' removal if the remaining trustees would subject themselves to stricter oversight. Among the stricter controls was that the Brown Historical Documents be placed in a central location (a large space behind Mrs. Pope's office, easily accessible to Dallas' then-attorneys Keith Babcock and Jonathan Harling, and their staff), and setting and keeping the situs of the Trust, Estate and Brown Entities in Aiken County.

In reaching the agreement, Buchanan and Pope had to deal with the often expressed concern that both the assets and PR/Trustees Cannon and Dallas themselves would flee the jurisdiction. [See Exhibit C, Statement of Counsel for T. R. Brown, Tr. Hg. 2/9/07, Case 122]

While it was not known at the time Buchanan and Pope were dealing with the issue of the \$900,000 taking, Dallas and Cannon, in consultation with the Atlanta law firm Powell Goldstein, were actually planning to flee the jurisdiction before the August 10 hearing, and to change the situs of the Trust to a County in Georgia. [See Exhibit D, Cannon Cross Ex., by L. Levenson, counsel for 5 Plaintiffs in this Case, and Exhibit 24, Tr. Hg. 11/15/07.]

As the transcript shows, the Agreement was reached with Dallas and Bradley on the 9th, the day before the August 10 hearing, and presented to the Court on August 10. Setting the situs of the Estate, Trust and Brown Entities in Aiken County – and preventing their removal under provisions of the Trust which allow a situs change – was part of the additional safeguards referenced in the August 10 Order. The Aiken situs was intended to give comfort to many of the Plaintiffs in the current suit who were pushing to have Dallas removed immediately. [Plaintiff Terry Brown in the current suit wanted Dallas to remain. See Exhibit B, excerpts Order dtd. 4/8/07, Case 122.]

After the hearing, as the Court states on the record, all counsel remained to draft and present to the Court the August 10, 2007 Order so it could be signed that day. [See Exhibit E, Tr. Hg. 8/10/07.]

By November 15, 2007, as Exhibit B shows, Dallas' continuing relationship with Cannon; Cannon's wiring of \$866,000 to Honduras in August 2007; Powell Goldstein's working with Dallas and Cannon in July 2007 in an aborted attempt to move the situs of the Irrevocable

Trust to Georgia; and additional wrongdoing has been uncovered. Facing almost certain removal, Dallas and Bradley resigned. [See Exhibit B]

We apologize to the Court for the length of the answer, but clarifying that the situs of the Estate, Irrevocable Trust and Brown Entities throughout the service of Buchanan and Pope, until their (disputed) termination under the Settlement now on appeal in Case 1647, is important not only in this case but in the other ongoing James Brown cases in Aiken County and elsewhere.

Thank you for your consideration.

Very truly yours,



Daryl L. Williams

Sowell Gray Todd & Lafitte



J. Calhoun Watson

cc: Kenneth R. Wingate, Esquire
Everett A. Kendall, II, Esquire
Robert L. Buchanan, Jr., Esquire
Adele J. Pope, Esquire

Enclosures:
Exhibits A – E

**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 JUDICIAL CIRCUIT**

Civil Action No. 2010-CP-40-4900

JEANETTE W. McBRIDE
C.C.P. & G.S.

2010 OCT -1 PM 3:43

FILED

AFFIDAVIT OF BETH BAUKNIGHT

1. I am Beth Bauknight. I am employed with the firm of Bauknight, Pietras & Stormer, P.A. The statements contained herein are made from my personal knowledge.

2. Since approximately May 26, 2009, I have served as the custodian of the records relating to the Estate of James Brown. I am personally familiar with documents that were filed by the former Personal Representatives, Adele Pope and Robert J. Buchanan, in the Aiken County Probate Court.

3. Attached hereto at Exhibit A is a true and correct copy of an "Interim Accounting" filed by the former Personal Representatives on May 20, 2009.

4. Attached hereto at Exhibit B is a true and correct copy of a "Final Accounting" filed by the former Personal Representatives on June 24, 2009.

Further, the Affiant sayeth not.

Beth Bauknight
Beth Bauknight

SWORN TO and subscribed before me
This 1st day of October, 2010

Harriet W. Craps
Notary Public for South Carolina
My Commission Expires: 9/19/2016

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

PROBATE COURT

IN THE MATTER OF ESTATE OF JAMES BROWN
CASE NUMBER 2007-ES-02-0056

ACCOUNTING
(Supplemental and Amended)

[] FINAL
[X] INTERIM #1A

The undersigned Personal Representatives submit this Supplemental and Amended Accounting, which covers the period from November 20, 2007, through May 20, 2009.¹

The attached documentation sets forth a complete accounting for the period specified, which is summarized as follows:

	Income	Principal	Total*
Beginning Balance			\$100,000,000.00
Plus: Receipts			\$ 6,196,325.60
Subtotal			\$106,196,325.60
Less: Disbursements			\$ (6,333,310.58)
Ending Balance			\$ 99,863,015.02

*If a consolidated accounting, use this column.

The Personal Representatives declare 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 Representatives.



FORM #360PC (7/87)
SCPC 3-704, 3-1003

PAGE 1 OF 2

¹ This amends and supplements the accounting that covers November 20, 2007 through June 20, 2008.

Filed: 5-20-2009

Sue H. Roe
Judge of Probate

STATE OF SOUTH CAROLINA
THIS IS TO CERTIFY THAT I HAVE EXAMINED THE
CORRECT COPY OF THE ACCOUNTING AND I
WITNESS MY HAND AND SEAL OF THE COUNTY THIS 20th
DAY OF MAY A.D. 2009
Sue H. Roe
JUDGE OF PROBATE FOR AIKEN COUNTY, S.C.

AR
PUSH

JUN 29 2009

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

PROBATE COURT

IN THE MATTER OF ESTATE OF JAMES BROWN
CASE NUMBER 2007-ES-02-0056

ACCOUNTING

☒ FINAL (RESERVING ALL RIGHTS)¹
☐ INTERIM #

The undersigned Personal Representatives submit this Final Accounting, which covers the period from May 21, 2009, through May 27, 2009, and relates to the assets of the Estate of James Brown and the James Brown 2000 Irrevocable Trust.

The attached documentation sets forth a complete accounting for the period specified, which is summarized as follows:

	Income	Principal	Total*
Beginning Balance			\$ 99,863,015.02
Plus: Receipts			\$ 2,338,393.75
Subtotal			\$ 102,201,408.77
Less: Disbursements			\$(102,201,408.77)
Ending Balance in hands of Buchanan and Pope			\$ 0*

*If a consolidated accounting, use this column.

The Personal Representatives declare that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and are true to the knowledge and belief of the Personal Representatives.



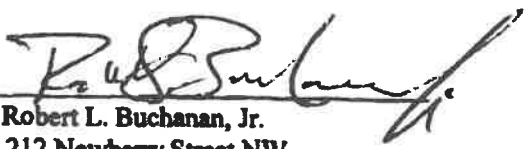
FORM #360PC (7/87)
SCPC 3-704, 3-1003

PAGE 1 OF 2

¹ \$99,860,509.21 was delivered to Russell L. Bauknight, reserving all rights pursuant to the appeal of this Court's Termination of Appointment dated May 26, 2009 and all objections and reservations to the Order of the Honorable Doyet A. Early, III, dated May 26, 2009.

Filed: 6-24-2009
Sue H. Roe
Judge of Probate
By: S. Ready

JUN 29 2009

Signature: 

Name: Robert L. Buchanan, Jr.

Address: 212 Newberry Street NW

P.O. Box 463

Aiken, South Carolina 29802-0463

Telephone(O): 803-649-2586

Signature: 

Name: Adele J. Pope

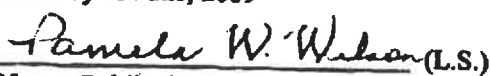
Address: 1218 Taylor Street

PO Drawer 7125

Columbia, SC 29202-7125

Telephone(O): 803-779-1870

SWORN to before me this
24th day of June, 2009

 (L.S.)

Notary Public for South Carolina

My Commission Expires: 04-08-2012

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

RECEIVED
EXEMPTED
ONLY

Exhibit D

EXHIBIT C D

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).

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 dark 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

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-40,4900

2011 JUL -5 AM 11:26
JEANETTE W. McBRIDE
C.C. & G.S.

PLAINTIFFS' MOTION FOR
PROTECTIVE ORDER CONCERNING
VARIOUS DOCUMENTS REQUESTED
BY DEFENDANT ADELE J. POPE

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 Concerning Various Documents Requested by Defendant Adele J. Pope, including the Raymond G. Gonzalez, Esquire file referenced in Defendant Pope's Second Request to Produce to Plaintiff Bauknight, incorrectly designated Pope's First Request to Produce, (see Exhibit A) and approximately ten categories of documents listed in a June 16, 2005 letter from Adam Silvernail, Esquire, counsel for Defendant Pope (see Exhibit D).

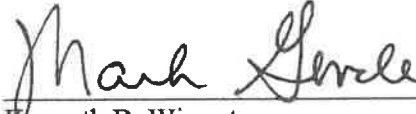
The bases for this Motion for Protective Order include: (1) that Defendant Pope is seeking the production of documents in other on-going James Brown Estate matters that are irrelevant to the instant action, (2) that Defendant Pope is seeking document that are protected by attorney-client privilege and/or the work product doctrine, (3) that Defendant Pope refuses to enter into a consent confidentiality order covering any potentially relevant but sensitive estate documents.

Attached as Exhibits to this Motion are (1) concerning the Gonzales file: Defendant Pope's Request to Produce (Exhibit A), Plaintiffs' Response (Exhibit B), and Pope's counsel's subsequent correspondence threatening a motion to compel with respect to the Gonzalez file (Exhibit C), and (2) concerning the approximately 10 categories of documents requested by Defendant Pope, Adam Silvernail's June 15, 2011 correspondence demanding the documents (Exhibit D) and Plaintiffs' counsel's June 17, 2011 reply, including the proposed Confidentiality Order (Exhibit E).

(Signature Page Immediately Following)

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



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

July 1, 2011

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-404900

FILED
JUL 14 2011
C.C.P. & G.S.

2011 JUN 14 AM 9:56

**PLAINTIFFS' MOTION FOR
PROTECTIVE ORDER AND/OR
MOTION TO QUASH THE
DEPOSITION NOTICE OF
FORMER ATTORNEY GENERAL
HENRY DARGAN MCMASTER**

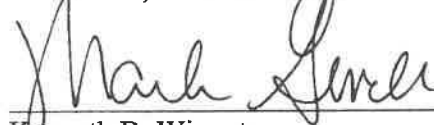
TO: DEFENDANTS AND THEIR ATTORNEYS:

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 and/or to Quash the Deposition Notice of Former Attorney General Henry Dargan McMaster.

The grounds for this Motion are: First, attempts to agree on a date and location for the deposition are not concluded. Second, since noticing the deposition, defense counsel has moved this Court for an Order disqualifying Plaintiffs' counsel from appearing in this matter. Third, the former Attorney General is protected from being deposed in his individual capacity in this matter. This Motion may be supported by a Memorandum of Law, Affidavits, or other information.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



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

June 10, 2011

XFINITY Connect

suesummer@comcast.net

± Font Size ±

Re: Wingate contract

From : Mark Plowden <MPlowden@scag.gov>

Thu, Oct 06, 2011 01:41 PM

Subject : Re: Wingate contract

To : suesummer@comcast.net

Well, then, we are at a disagreement.

Mark Plowden
Communications Director
Office of the Attorney General
PO Box 11549
Columbia, S.C. 29211
803.734.3670 Fax: 803.734.4323

>>> <suesummer@comcast.net> 10/5/2011 7:30 PM >>>

Dear Mark,

I am not an attorney, either. But I was in the courtroom, and despite several attempts by "your attorneys," the judge did not issue a stay.

I am also confused: I did not realize that C.H. Jones Jr. was the attorney of record in this matter.

I see that some contracts have been released on the AG's website.
How many contracts were NOT released, pending guidance from the court?

In the matter at hand...

When will Mr. Jones meet with Judge Manning re: the Wingate contract?

Please send me notification.

Given that Jones is a public employee, I assume that the press will be allowed to attend.

Thank you,

Sue Summer

From: "Mark Plowden" <MPlowden@scag.gov>

To: "suesummer" <suesummer@comcast.net>

Sent: Wednesday, October 5, 2011 3:15:01 PM

Subject: Re: Wingate contract

Sue,

I am told by our attorneys in the courtroom that "everything" was stayed.

As I am not an attorney, I must rely on the letter written by Asst. Deputy AG Jones.

Mark Plowden
Communications Director
Office of the Attorney General
PO Box 11549
Columbia, S.C. 29211
803.734.3670 Fax: 803.734.4323

>>> "suesummer" <suesummer@comcast.net> 10/5/2011 2:55 PM >>>

Dear Mr. Plowden,

According to the judgment in Civil Case 2010CP4004900, the decision made by the court was for the trial to be continued. There is no mention of a stay.

8

Since the misunderstanding about a stay was the sole reason given for not releasing the Wingate contract, according to a letter from C.H. Jones Jr. dated Sept. 22, 2011, I am asking again that you send me a copy of the Wingate contract. Given the delay caused by the misunderstanding, I trust your response to this FOIA request will be prompt.

Thank you,

Sue Summer

— Scanned by M+ Guardian Messaging Firewall —

— Scanned by M+ Guardian Messaging Firewall —

9

Adele Pope

From: Black, David <DBlack@nexsenpruet.com>
Sent: Tuesday, May 31, 2011 9:09 AM
To: 'dearlyj@sccourts.org'; 'dearlysc@sccourts.org'; 'dearlyc@sccourts.org'
Cc: Sonny Jones; Mary Frances Jowers; 'mattbodmanlaw@aol.com';
'rlbuchananjr@bellsouth.net'; 'lori@levensonlaw.com'; 'louis@levensonlaw.com'; Burl F. Williams; Fred L. Kingsmore; 'adele@popelawfirm.com'; 'amedlin@sc.rr.com'
Subject: RE: James Brown

Dear Ms. Vriesinga:

In follow up to our conversation on Friday, I have cc'd all of the attorneys for the settling parties as well as Ms. Pope and Mr. Buchanan (the prior email was sent to all of the attorneys in the state law cause of action that Messrs. Few and Gilreath are handling).

Mr. Bauknight was not copied on Ms. Pope's May 18th letter to the Court. After reviewing the letter, Mr. Bauknight and the settling parties do not believe a status conference is necessary. Case 1647 is on appeal at the Supreme Court and the Cannon appeal remains on appeal at the the Court of Appeals. In terms of Ms. Pope's request to substitute, the underlying matters are moot until the Supreme Court decides case 1647.

In the event that the Court wishes to move forward with a status conference, we would respectfully request that the conference take place in chambers.

Thank you for your consideration,

David Black

Counsel to Mr. Bauknight as the Trustee of the James Brown Trust and Personal Representative of the James Brown Estate

<-----Original Message----->

From: Early, Doyet A. Law Clerk \ (Sandra Vriesinga\) [dearlyc@sccourts.org]

Sent: 5/26/2011 3:19:37 PM

To: Adele Pope

Cc:

jim@gilreathlaw.com,nemge@carlockcopeland.com,nemge@carlockcopeland.com,raanderson@carlockcopeland.com,raanderson@carlockcopeland.com,info@jkendallfew.com,ADavison@fulcherlaw.com,FKingsmore@nexsenpruet.com,FKingsmore@nexsenpruet.com,sean@jkendallfew.com,JRichardson@nexsenpruet.com,JRichardson@nexsenpruet.com,BWilliams@nexsenpruet.com,BWilliams@nexsenpruet.com,jbrcolumbia@gmail.com,{F958209}.NPCOL1@worksite.lawfirm.local,dharmon@carlockcopeland.com,dharmon@carlockcopeland.com,steve.morrison@nelsonmullins.com,davidbell@davidbelllawfirm.com,DBlack@nexsenpruet.com,DBlack@nexsenpruet.com

Subject: RE: James Brown

Ms. Pope,

Judge Early received your letter requesting a status conference. He would like to schedule a meeting over the next few weeks and will be available in Aiken next week as well as the week of June 20th. He'll be in Bamberg the weeks of June 6th and 13th. Let me know which week suits everyone best and we can go from there in scheduling a date and time.

16

Thanks,
Sandra

Sandra Vriesinga
Law Clerk to the Honorable D.A. Early, III
The Circuit Court of the 2nd Judicial Circuit
PO Box 90
Bamberg, SC 29003
Telephone: 803.245.4004
Fax: 803.245.2983
dearlylc@sccourts.org

From: Adele Pope [mailto:adele@popelawfirm.com]
Sent: Wednesday, February 09, 2011 2:14 PM
To: Early, Doyet A. Law Clerk (Sandra Vriesinga)
Cc: jim@gilreathlaw.com; nemge@carlockcopeland.com; nemge@carlockcopeland.com;
raanderson@carlockcopeland.com; raanderson@carlockcopeland.com; info@jkendallfew.com; ADavison@fulcherlaw.com;
FKingsmore@nexsenpruet.com; FKingsmore@nexsenpruet.com; sean@jkendallfew.com; JRichardson@nexsenpruet.com;
JRichardson@nexsenpruet.com; BWilliams@nexsenpruet.com; BWilliams@nexsenpruet.com; jbrcolumbia@gmail.com;
{F958209}.NPCOL1@worksite.lawfirm.local; dharmon@carlockcopeland.com; dharmon@carlockcopeland.com;
steve.morrison@nelsonmullins.com; davidbell@davidbelllawfirm.com; DBlack@nexsenpruet.com;
DBlack@nexsenpruet..com
Subject: Re: James Brown

Dear Ms. Vriesinga:

I expect to see Bob Buchanan within the next two weeks, and would like an opportunity to respond to Judge Early's inquiry after we have evaluated our individual interests in light of the matters now pending in the Supreme Court, the South Carolina Court of Appeals and Richland County.

Should you need a quicker response, I will make an opportunity to meet with him.
Thank you,

Adele Pope
February 9, 2011

<-----Original Message----->

From: Early, Doyet A. Law Clerk \((Sandra Vriesinga\) [dearlylc@sccourts.org]
Sent: 2/8/2011 4:17:56 PM
To: Jim Gilreath \((jim@gilreathlaw.com\))
Cc: Emge, N. Keith,Anderson, Robin A.,info@jkendallfew.com,ADavison@fulcherlaw.com,Kingsmore, Fred L.,sean@jkendallfew.com,Richardson, Joyce,Williams, Burl F.,adele@popelawfirm.com,jbrcolumbia@gmail.com,{F958209}.NPCOL1@worksite.lawfirm.local,Harmon, David,Steve Morrison,davidbell@davidbelllawfirm.com,Black, David \((DBlack@nexsenpruet.com\))
Subject: James Brown

Counsel,

Judge Early is wondering if there are any outstanding James Brown Orders that need to be dealt with. Let me know when you get a chance.

11

Thanks,
Sandra

Sandra Vriesinga
Law Clerk to the Honorable D.A. Early, III
The Circuit Court of the 2nd Judicial Circuit
PO Box 90
Bamberg, SC 29003
Telephone: 803.245.4004
Fax: 803.245.2983
dearlylc@sccourts.org

*** CONFIDENTIAL COMMUNICATION *** The information contained in this message may contain legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or duplication of this transmission is strictly prohibited. If you have received this communication in error, please notify us by telephone or email immediately and return the original message to us or destroy all printed and electronic copies. Nothing in this transmission is intended to be an electronic signature nor to constitute an agreement of any kind under applicable law unless otherwise expressly indicated. Intentional interception or dissemination of electronic mail not belonging to you may violate federal or state law.

*** IRS CIRCULAR 230 NOTICE *** Any federal tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending any transaction or matter addressed in this communication.

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

12

5/27/2011

Silvermaillawfirm.com Mail - Fw: Baukni...



Adam Silvernail <adam@silvermaillawfirm.com>

Fw: Bauknight v Pope and Buchanan

Daryl Williams <dwilliams@jeterandwilliams.com>

Fri, May 27, 2011 at 9:03 AM

To: adam@silvermaillawfirm.com

Daryl L. Williams
Jeter & Williams, P.A.
1204 Main Street, Suite 200 (29201)
P.O. Box 7425
Columbia, SC 29202
Telephone: 803-765-0600
Facsimile: 803-765-0619

IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice that may be contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding any penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to any other party any transaction(s) or tax related matter(s) that may be addressed herein.

— Original Message —

From: Daryl Williams
To: Mark V. Gende
Cc: Ken B. Wingate
Sent: Thursday, May 26, 2011 1:01 PM
Subject: Re: Bauknight v Pope and Buchanan

Mark:

When I noticed these depositions I told you we'd work with you. You've given no alternative dates for us to consider. If your clients are unwilling to do that, I suggest you file your motion.

Daryl L. Williams
Jeter & Williams, P.A.
1204 Main Street, Suite 200 (29201)
P.O. Box 7425
Columbia, SC 29202
Telephone: 803-765-0600
Facsimile: 803-765-0619

IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice that may be contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding any penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to any other party any transaction(s) or tax related matter(s) that may be addressed herein.

| — Original Message —

13

— Original Message —

From: Mark V. Gende
To: Daryl Williams
Sent: Thursday, May 19, 2011 3:36 PM
Subject: RE: Bauknight v Pope and Buchanan

Daryl:

Still working on it. However, at this time do know that Terry Brown would like to be deposed in Augusta, if possible. I'll get back to you on the others, as far as locations and times. Thanks.

Mark V. Gende
Sweeny, Wingate & Barrow, PA
1515 Lady Street
Columbia, South Carolina 29201
T (803) 256-2233
F (803) 256-9177

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately either by phone (800-306-2455 or 803-256-2233) or reply to this e-mail and delete all copies of this message.

From: Daryl Williams [mailto:dwilliams@jeterandwilliams.com]
Sent: Tuesday, May 17, 2011 3:50 PM
To: Mark V. Gende
Subject: Bauknight v Pope and Buchanan

Mark:

Any progress on scheduling the depositions we have noticed/requested, i.e., Tomie Rae Hynie, Terry Brown, former AG McMaster and AG Wilson?

Thanks.

Daryl L. Williams
Jeter & Williams, P.A.
1204 Main Street, Suite 200 (29201)
P.O. Box 7425
Columbia, SC 29202
Telephone: 803-765-0600
Facsimile: 803-765-0619

IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice that may be contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding any penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to any other party any transaction(s) or tax related matter(s) that may be addressed herein.

From: Alan Medlin <amedlin@sc.rr.com>
Sent: Friday, June 03, 2011 9:14 AM
To: Black, David; AGSJONES@scag.gov; MFJowers@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: 920-1181.

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:MFJowers@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

Exhibit E-11

15¹

JB-41_000296

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

Attached please find some editing suggestions. David, call me at your convenience: 920-1181.

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:MFJowers@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

16¹

JB-41_000296

Exhibit E

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Forlando J. Brown,	)	Civil Action No.: 3:08-cv-00014-WOB
	)	
Plaintiff,	)	
	)	
vs.	)	RETURN AND MEMORANDUM OF
	)	ADELE J. POPE OPPOSING
Adele J. Pope, individually and As Trustee	)	CONFIDENTIAL DESIGNATION OF
of the Irrevocable Trust established by	)	WINGATE LITIGATION AGREEMENT
James Brown in August 1, 2000, and	)	AND
	)	BAUKNIGHT APPRAISAL
Robert J. Buchanan, Jr., individually and	)	
As Trustee of the Irrevocable Trust	)	
established by James Brown in August 1,	)	
2000,	)	
Defendants.	)	

Defendant and counterclaimant Adele J. Pope presents this Return and Memorandum in opposition to the motion of Russell L. Bauknight to designate two documents confidential. The documents for which confidential designation was sought by Mr. Bauknight are:

1. A Litigation Agreement executed on or about May 19, 2013 by which Henry McMaster, Attorney General of South Carolina ("AG McMaster"), the James Brown Legacy Trust (the "Legacy Trust"), the Defendant James Brown 2000 Irrevocable Trust ("2000 Trust") and others authorized the private law firm of Kenneth B. Wingate, Sweeney, Wingate and Barrow, P.C. ("Wingate") to sue Defendants Buchanan and Pope in the name of the State/AG and others (the "Wingate Litigation Agreement"); and
2. A less-than \$4.7 million at-death appraisal was used between 2011 and March 2013 by the S.C. Attorney General and others to accuse Defendants Buchanan and Pope of committing the felony of intentionally overstating James Brown's music empire to the Internal Revenue Service ("IRS") by \$79 million to secure a \$5 million commission for their service to the Estate of James Brown. (the "Bauknight Appraisal")

Defendant Pope asks the Court to lift any confidentiality designation as to these documents for one, more or all of the following reasons:

1. Both are public documents.
2. Mr. Bauknight has violated the S.C. Probate Code by not filing the Bauknight appraisal.
3. No judge in the three counties where State Court James Brown matters are pending has found that the documents are confidential.
4. Mr. Bauknight's August 20, 2013 claim that he has not shown the Bauknight Appraisal to is incorrect – as evidenced at least by the multiple roles he holds, and in which he has used the appraisal.
5. The S. C. Attorney General has declared the Wingate Litigation Agreement a public document which, but for interference by Mr. Bauknight and Wingate in S. C. Freedom of Information Act ("FOIA") compliance, would have been released in September 2011.
6. Mr. Bauknight has unclean hands, having manipulated two State Courts – and attempted to manipulate this Court – in order to delay the inevitable disclosure of two public documents.
7. All information necessary to complete the at-death appraisal of James Brown's assets had been made public for substantial periods of time (or all) between August 10, 2007 and May 26, 2009.
8. Forlando Brown, in his own name, has never sought to conceal either document; has asserted that the Bauknight Appraisal is "bogus," and is now the real-party-in-interest for Terry Brown in the Wingate Suit.
9. Designating the documents confidential will promote fraud by Forlando, who has confirmed the \$100 million value of Brown's music empire to this Court while, under the name of Terry Brown, joining with Mr. Bauknight to claim the less-than \$4.7 million value to the S.C. Supreme Court.

Some of these reasons are discussed in detail below:

The Wingate Litigation Agreement is a Public Document

On September 26, 2011 AG Alan Wilson declared that the Litigation Retention Agreement by which Wingate, a private law firm, sued Mr. Buchanan and Ms. Pope in the name of the State/AG and others was public. AG Wilson told South Carolina State Court

Judge L. Casey Manning that his office was “ready and more than willing” to release the Wingate Litigation Agreement.

AG Wilson then released on his website every other Litigation Retention Agreement used by the State of South Carolina since former AG Henry McMaster began the practice. In no instance was a private firm engaged to represent private individuals at the same time it represented the State/AG. In no instance were non-residents (such as Tommie Rae Hynie in the Wingate Case) co-plaintiffs with the State/AG. In no instance was a minor without a guardian ad litem (“GAL”) a co-plaintiff with the State/AG such as Sydney L., Carrington L., and Janise B in the Wingate Suit. In no instance were the defendants individual citizens of South Carolina such as in the Wingate Suit. In every instance the Attorney General or an attorney on his staff was named in the pleading. This was not the case in the Wingate Suit.

For two years – despite his confirmation that the Wingate Litigation Agreement was public – AG Wilson acquiesced in the machinations of Mr. Bauknight, Ms. Hynie and Terry Brown designed to delay the inevitable release of the Litigation Retention Agreement. They met with some success. To date no judge has heard or had an opportunity to rule on the issue. Mr. Bauknight, to date, has denied the justice which the South Carolina Freedom of Information Act (“FOIA”) demands by delaying it.

In its first *Wilson v. Dallas* decision the S. C. Supreme Court directed that the FOIA cases be heard “in the first instance.” AG Wilson’s response by way of Motion for Rehearing acknowledged the importance of FOIA and asserted a belief that the FOIA matters would be concluded in a matter of months.

AG Wilson also notified the S. C. Supreme Court of his intention to be dropped as a party to the Wingate Suit. He asserted that his predecessor did not want to sue Mr. Buchanan and Pope, in part, because of their fine reputations. But an unidentified person persuaded him that he would breach his fiduciary duty as AG if he did not do so.

The second Wilson v. Dallas decision, issued May 8, dropped the FOIA mandate after these assurances from AG Wilson that FOIA compliance was imminent.

But Mr. Bauknight and Wingate wasted no time. On May 10 they asked Judge Manning to delay the FOIA matters for what may be years. They told Judge Manning that the deletion of the FOIA footnote meant that the S. C. Supreme Court placed no importance on prompt FOIA compliance.

Having asked the Richland County Court to delay any hearing on the release of the public Wingate Litigation Agreement and other public documents until the work of the Aiken County Court is concluded, Mr. Wingate now asks this Court to make these public documents confidential while until after both the Aiken Court and the Richland Court have delayed the matter for years.

FOIA's stated purpose is that public documents be made available in the least expensive manner possible. The Wingate Agreement is a public document.

The Bauknight Appraisal is a Public Document

In May 2011 Mr. Bauknight filed an amended sworn Inventory & Appraisement ("I&A") in the Aiken County Probate file of the Estate of James Brown. The value of Brown's iconic personal and household effects ("PHE") was reduced from about \$2 million to \$.5 million. The value of Brown's worldwide music empire was reduced from about \$84 million to less than \$4.7 million.

The South Carolina Probate Code Section 62 - 3 - 708 provides:

Duty of Personal Representative; Supplementary Inventory

If any property not included in the original inventory comes to the knowledge of the personal representative or if the personal representative learns that the value or description in the original inventory is erroneoous or misleading, he shall make a supplementary inventory or appraisement showing the market value as of the date of the decedent's death of the new item or the revised market value or descriptions, and the appraisers or other data relied upon, if any, **and file it with the court, and furnish copies thereof or information thereof to persons who receive the original inventory and to persons interested in the new information.** (Emphasis added.)

Despite repeated requests Mr. Bauknight failed to file the Bauknight Appraisal as required by law.

On May 8, 2013 Mr. Bauknight's appointments as PR/Trustee were voided by the *Wilson v. Dallas* decision. His subsequent *ex parte* appointments and the orders which are allowing him to act temporarily are subject to challenge. None of that, however, diminishes his 2-year-old obligation to file the Bauknight Appraisal.

Forlando has Not Sought a Confidentiality Designation

There is strong evidence that members of James Brown's family who have tried to repudiate the McMaster Settlement have met with powerful opposition from their own siblings and lawyers who were – and still are – expecting to get more than \$20 million in fees from funds James Brown set aside for needy students.

On August 20 Mr. Bauknight squarely placed himself in the camp of those wishing to redo the McMaster Settlement. On August 20, 2013, in his deposition, Mr. Bauknight stated:

That's poppycock. Pure speculation from your client. Fantasy...I'm the person who actually looked at this. And I said it was a fair and

reasonable settlement. I don't know where this fantasy is that \$50 million was gone away. Number one, your client made up that number. Your client did that in a self-serving fashion so that she could take \$5 million out of this estate for her retirement. So to say that this would have diminished is a load. A total load. I looked at this. I say. You have no clue how termination rights where [sic]. You don't know the value. Your client testified about a law that doesn't even exist with respect to termination rights showing her total misunderstanding and lack of understanding of the business. She has no clue what she was dealing with and put stuff in the paper that it's just totally fabricated untrue. It blows me away that someone with a law degree can be so dishonest and get away with it. ...You know, what? That's set aside by the Supreme Court. That's fine. I've got a new roadmap, and I'm going to follow this new roadmap to a T....

...[Y]our client raped this estate taking every dime out of it for her own fees and for Bob's fees and her lawyer's fees leaving it insolvent....Your client didn't even try. Your client didn't know the numbers. I know the numbers. There was no diminished Legacy Trust. That's fabrication from your client.

A Confidentiality Designation will Promote Continuing Fraud by Forlando

For most of the existence of the two documents which are the subject of Mr. Bauknight's confidentiality claim Plaintiff Forlando Brown has take directly opposite positions in separate courts. He has done so since January 7, 2011 when he, AG McMaster, Mr. Bauknight and others agreed to a modification of Terry's right of first refusal ("ROFR") to buy James Brown's music empire and the assignment to Forlando of Terry's entire interest in the Estate of James Brown to Forlando.

During most of this period the "real" Forlando agreed with Defendant Buchanan and Pope as to many material issues, while Forlando *cum* Terry worked with Bauknight to take the opposite position. Those may be illustrated:

Forlando/Buchanan/Pope

Forlando (Terry)/Bauknight

- | | |
|---|---|
| 1. Hynie was not Brown's spouse & knew it. | 1. Hynie was Brown's spouse. |
| 2. Music empire worth at least \$84 MM. | 2. Music empire worth under \$4.7 MM |
| 3. Hynie "diary" Gag Orders void or expired. | 3. Gag Orders should be enforced. |
| 4. McMaster Settlement should be set aside. | 4. McMaster Settlement valid. |
| 5. Estate/2000 Trust should control Copyright Terminations through dealing with real heirs. | 5. Hynie & son control Copyright Termination elections. |
| 6. Forlando, no claims against Buchanan/Pope | 6. Terry wants tens of millions for |
| 7. Forlando: Buchanan & Pope correct in IRS filing. | 7. Terry: IRS filing criminal. |

Forlando made material misstatements either in his own name or secretly speaking for two years under Terry's name.

Bauknight has used the Appraisal and Agreement for Strangers to the Estate

On May 19, 2010 the Wingate Firm, engaged by Mr. Bauknight, brought the Richland County Suit for, among others, the following Plaintiffs:

1. The James Brown Legacy Trust;
2. Henry McMaster as Attorney General of South Carolina;
3. Russell Bauknight on behalf of the Attorney General of South Carolina;
4. Terry Brown;
5. Russell Bauknight on behalf of Terry Brown;
6. Tommie Rae Hynie
7. Russell Bauknight on behalf of Tommie Rae Hynie;
8. Deanna Thomas;

9. Russell Bauknight on behalf of Deanna Thomas;
10. James B., (Ms. Hynie's son);
11. Three minors without guardians ad litem.
12. The Estate of James Brown
13. The James Brown 2000 Trust. (the "Wingate Suit")

The Wingate Suit sought damages against Mr. Buchanan and Mrs. Pope for alleged wrongdoing, including:

- a. Not accepting a \$100 million offer to sell the Brown assets;
- b. Improperly valuing the assets, exposing the estate to unnecessary taxes;
- c. Conducting the *Wilson v. Dallas* appeal.

To suggest that four months after making these serious allegations Mr. Bauknight, as PR, received the Philpott Ball appraisal and did not share it with Mr. Wingate – or that he and Mr. Wingate did not share it with the Attorney General of South Carolina and other co-plaintiffs – is unprecedented.

To further suggest, as Mr. Bauknight has done, that the Attorney General of South Carolina then – for two years – accused Mr. Buchanan and Mrs. Pope of the following felony without looking at the appraisal is even more troublesome:

I.R.C. § 7206 - FRAUD AND FALSE STATEMENTS

Any person who -

**(1) DECLARATION UNDER PENALTIES OF PERJURY – Willfully
makes and
subscribes any return, statement, or other document, which contains
or is**

verified by a written declaration that is made under penalties of perjury, and which he does not believe to be true and correct as to every material matter; or

... shall be guilty of a felony and, upon, conviction thereof, shall be fined ... , or imprisoned not more than 3 years, or both, together with the costs of prosecution. [Emphasis supplied.]

If the Attorney General did not look at the appraisal he certainly had a right to do so, as it affected what may be South Carolina's largest-ever private foundation dedicated solely to providing scholarships for needy students.

Many of Mr. Bauknight's co-plaintiffs in the Wingate Suit are strangers to the Estate. Yet he and Mr. Wingate have – or should have – shared the appraisal with them before making felony claims against Mr. Buchanan and Mrs. Pope.

Conclusion

Based on the affidavits filed herewith, the voluminous record in this case and this return and memorandum, the requested claim of confidentiality for these two documents should be denied.

Respectfully submitted,

JETER & WILLIAMS, P.A.



By: _____

Daryl L. Williams, Fed. I.D. No. 4671
1204 Main Street, Suite 200
Post Office Box 7425
Columbia, South Carolina 29202
Telephone: (803)765-0600
Facsimile: (803) 765-0619
dwilliams@jeterandwilliams.com

s/Adam T. Silvernail

Adam T. Silvernail, Fed ID No. 11024
Law Office of Adam T. Silvernail, LLC
1901 Hampton Street
Post Office Box 1898
Columbia, South Carolina 29202
Telephone: (803) 779-1770
Facsimile: (803) 403-8092

**Attorneys for Defendant Adele J. Pope,
Individually**

Columbia, South Carolina
September 27, 2013



Lou Sossamon of Gaffney, Bill Collins of Summerville and Harry Logan of Florence.

It pays to be in the SCNN advertising networks

More than \$109,000 of second quarter payouts from the S.C. Newspaper Network advertising networks was mailed to member newspapers last week. Papers in the QuarterPage+ Network received \$37,038. For the Small Space Display Network (2x2/2x4/2x6), members were mailed \$60,830 and Online Network members were paid out \$11,817. Statewide Classified Network checks are mailed annually, so they were not part of this quarter's payout checks. "The income from the SCNN networks is an important benefit of SCPA membership and are a simple way for member papers to increase their bottom lines," said Randall Savely, Director of Operations. Savely attributed the continued growth of the QuarterPage+ Network and strong Small Space Displays sales to increased payouts this quarter.

If your newspaper is an SCPA member and does not participate in the SCNN networks, contact [Randall Savely](#) to learn how these networks can provide added revenue to your newspaper.

MEMBER SPOTLIGHT: EMERY GLOVER

Online News Editor, The Times and Democrat

What do you like best about your job?

I think the best part of my job is not knowing what's going to happen next. Everyday isn't a quiet day and the challenge of finding ways to enhance the news experience for readers online motivates me.

What is your proudest moment from your career in the newspaper industry?

I'd say winning my first SCPA award for best website and best print and online integration project.

How do you view the future of the newspaper industry?

I think the newspaper industry's future is bright. Companies will always have those who have to have the print product and websites will only make newspapers stronger with things that can't be provided in print.

What are some area attractions/restaurants in your community visitors shouldn't miss?

If you're a fan of barbecue, you've got to try Dukes BBQ on Whitman Street. You'd be doing yourself a disservice not going there if you came to Orangeburg.

What is something most people don't know about you?

I'm a big music enthusiast. I love finding undiscovered artists and their work on the Web and just hearing new music.

Any big plans coming up?

I'm getting married in September. So, I'm really excited about starting that new chapter of my life.

Know someone interesting that you'd like to see featured here? [Let us know!](#)



Emery and his fiancée, Ashley Pew, are getting married in September.

FOI BRIEFS

Judge hears motions in James Brown FOI case

A hearing was held Friday in Newberry on an FOI suit brought by reporter Sue Summer seeking information about the settlement of the estate of singer James Brown.

Judge Eugene C. Griffith, Jr. ruled that the case would be heard in his court and not transferred to Richland County.

"Government is supposed to have open books and she is well within her rights to have it heard in Newberry County," Judge Griffith ruled about Summer's suit.

He heard arguments concerning Summer's request for a copy of the fee agreement in a case where the Attorney General had initiated a suit to remove trustees of a trust created by James Brown. The S.C. Supreme Court has recently ruled that the Attorney General lacked authority to challenge the terms of Brown's trust.

Assistant Attorney General Emory Smith argued that Summer's FOI suit should be heard in Richland County because that is where the records sought would be if they existed. Smith noted that another suit involving the Brown estate was currently pending in Richland County.

Summer's attorney, Tom Pope, argued that it was "not the intent of the Legislature that every FOI case be heard in Columbia. It should be resolved in this county."

Smith told the court that Attorney General's office had given Summer everything subject to her request except for the fee agreement, which the Attorney General's office claims it does not have a copy of, and a diary entry, which Smith said could not be released because of a court order in a third case involving the Brown estate.

Attorney Jay Bender, arguing for Summer, suggested the court hold an "in camera" review of the material so it could rule on its release.

Judge Griffith took the arguments under advisement, along with a motion to intervene from an attorney for one of the trustees acting on behalf of the Attorney General. Bender objected to the intervention in the FOI case, arguing that the release of documents under the FOIA is up to the public body and not an outside party.

FOIA reforms hung up again over legislative exemption

By Curt Olsen, The Nerve, S.C. Policy Council

Public Access to Information Act (FOIA) exemptions are a major barrier to transparency. The law currently allows for exemptions from public release of records that are "exempt from public release under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act (5 U.S.C. 552a)."



Duke Energy

MASC
Midnight Association of South Carolina



MEDIASpan

TownNews.com
Online solutions. Bottom-line results.

VISION DATA

SILVER

ArchiveInABox
Newspaper Archive Scanning Service



BRONZE

Adpay



The Most Powerful Business Intelligence for Local+Digital Advertising Sales



Exhibit F

FROM WATCHDOG WIRE

SON DARYL LAUNCHES CAMPAIGN TO SAVE JAMES BROWN'S EDUCATION CHARITY



Legal battles continue over dead pop star's will August 14, 2013 by Sue Summer

Only one of James Brown's sons toured with him and came to know the music legend as a friend and a father. That son, Daryl, is now launching a media campaign to save his father's legacy, the "I Feel Good" education charity.

"My father's wishes should be respected," Daryl said in an Aug. 8 telephone interview. "James Brown did things his way, and what I'm doing, I'm doing out of respect for him."

Daryl believes the same people who previously contested his father's will are now trying to work another settlement deal in which his father's 2000 estate plan will be rewritten for their benefit. He has fired his attorneys and will appeal directly to the public for help in preventing another "closed door deal."

In his fight to have Brown's 2000 will and trust enforced as written, Daryl is planning media appearances and a website on Indiegogo.com. He invites everyone to get involved so that his father's last wishes will be honored by the state of South Carolina.

A previous settlement deal in the Brown estate was overturned in May by the South Carolina Supreme Court. That 2009 deal was forged by former Attorney General (AG) Henry McMaster.

"The Supreme Court said to go back to the original will, and people need to listen," Daryl said.

In Brown's estate plan, his music empire was given to the "I Feel Good" education trust for needy students in South Carolina and Georgia. Brown's household effects were given to six named children, and education trusts of up to \$285,000 were set up for certain grandchildren. Brown left nothing to his companion, Tomirae Hynie, and her son.

In 2007 some of the Brown children and Hynie contested Brown's will, which included the clause: anyone who contests the will receives nothing. Under the McMaster settlement deal, however, those who contested the will were given over half of James Brown's \$100 million music empire, and the grandchildren's \$285,000 education trusts were eliminated.

The McMaster deal was appealed by former trustees, Adele Pope of Newberry and Robert Buchanan of Aiken. Arguments were heard Nov. 1, 2011. In May 2013, the Supreme Court overturned the McMaster settlement, calling the deal a "dismemberment" of Brown's estate plan.

The Supreme Court has returned the case to the Aiken Court for further proceedings. According to Daryl, his siblings and his father's companion are working on another deal in which they plan to take assets their father intended for the "I Feel Good Trust."

"What's wrong is wrong, and what's right is right....No more closed-door deals. I am taking this to the people," Daryl said.

Daryl has issued a press release that said, "(S)ince September of 2007, the South Carolina Attorney General has been causing great financial harm and mental pressures to the family by not honoring James Brown's wishes and imprisoning David Cannon, his most trusted financial advisor...."

In 2012 Cannon entered an Alford plea related to money missing from the trust, and he was sentenced to house arrest. No restitution was requested by the AG.

"We have made the governor's office aware of what's going on," Daryl said. In June, he and others met with a staff member of Gov. Nikki Haley about what went wrong with his father's estate—and what can be done to set things right. He is also considering legal action against the AG's office for damages to the estate over the past five years.

Daryl was among the Brown children who contested the will in 2007, but in 2012 he expressed major regrets. In an impassioned plea to AG Alan Wilson, he asked for Wilson to protect the needy children his father wanted to educate by enforcing his father's will as written. In the letter, Daryl wrote "At first I just went along with my family, and this was a mistake."

Daryl claims the plan to contest his father's will originated when some family members contacted Atlanta attorney Louis Levensen. After Daryl wrote the 2012 letter, he informed Levenson that he no longer represented him. "Then he got in touch with me through my family," Daryl said.

At the time Daryl was working as a truck driver. One day on the road, Daryl received a call from his daughter's telephone. "I thought it was my daughter calling me, and it was him on the phone—over at my daughter's house. I wondered how ... he found them (his daughter and wife). It was disconcerting."

According to Daryl, his daughter said Levenson was telling her and her mother that Daryl was jeopardizing her education by speaking out and breaking away from the family.

After the call, Daryl requested a meeting at an Augusta Dunkin' Donuts, where he met with Levenson, current Brown trustee Russell Bauknight, and Bauknight's attorney David Black. "They said how important I was, blah-blah-blah. I said, let me tell you something. I'm concerned about education. That's it."

Daryl was given assurances that his daughters, who are now over 18, would be provided money for their education. "I said OK, I'll hold you to that."

For a time Daryl "played along" to protect his daughters' education benefits, but he was treated badly, he said. He asked for but did not receive an accounting from Bauknight about what was going on with the estate. In a related lawsuit, settlement offers were made to him and his daughters, but he was not informed about them.

In the end, he found the promise to fund his daughters' education was empty. Even though the estate earned \$10 million last year, he was told no tuition was available for his daughter, a May graduate, to attend college.

"I couldn't take it any more," he said.

Daryl has again fired Levenson as his attorney. "He said he would put a lien against me...but I won't be lured back."

Daryl also says there is no basis for a will contest. On a national television program, he said that his father was not unduly influenced by the original trustees to leave his music empire to charity. "Nobody told James Brown what to do."

With fresh resolve and renewed strength, Daryl is standing up and speaking out. He wants his father's 2000 will enforced. "If this could happen to my father, it could happen to anybody. People need to know," Daryl said.

Daryl's campaign will ask the public to become involved in: establishing a legal fund that will make sure James Brown's 2000 will is honored; restoring education funds for grandchildren; saving James Brown's "I Feel Good" Trust in its entirety; preventing those who contested the will before from destroying his father's estate plan yet again.

Sue Summer

More Posts

Categories: Must Read, News

Tags: "I Feel Good" Trust, Daryl Brown, James Brown estate, South Carolina Attorney General Henry McMaster, TomIrae Hynie

RELATED ARTICLES

1. Touring a Wichita-owned downtown retail development
2. VA: Harvard Press Center Director Shrugs Off Media Bias
3. Watchdog Wire Weekly Wrap!
4. "No More Names" gun violence rally comes to the Capitol (video)
5. WATCH HERE: Obamacare, IRS Scandal, and Sequestration at the New York Meeting

COMMENTS

13

Exhibit F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Forlando J. Brown,

Plaintiff,

vs.

Adele J. Pope, individually and As Trustee
of the Irrevocable Trust established by
James Brown in August 1, 2000, and

Robert J. Buchanan, Jr., individually and
As Trustee of the Irrevocable Trust
established by James Brown in August 1,
2000,

Defendants.

Civil Action No.: 3:08-cv-00014-WOB-JGW

**Affidavit of William Jeffrey Smith
Opposing Motion of Russell
Bauknight to Designate
Documents Confidential**

PERSONALLY APPEARED BEFORE ME, William Jeffrey Smith, who being duly
sworn deposes and says:

1. The affidavit is made of my own personal knowledge.
2. I am a graduate of Clemson University where I served as president of the
Philosophy Club. I graduated from Georgetown University School of Law.
3. I formerly served as a patent examiner in the U.S. Patent Office, and have
had a decades-long interest in 20th century music – especially as it relates to film.
4. Some time ago I served without objection as an expert in a case in which Sr.
Assistant AG Havird "Sonny" Jones and Adele Pope were involved. I testified about the
writing of Elmer Gates, a scientist and writer. As I recall, among the questions before
the Court was whether a fund Mr. Gates created for the preservation of his body of work
was to be considered a charitable or private trust.

5. I am co-author with Ms. Pope of *Private Foundations, Copyright Heirs and Musical Millionaires: Why the James Brown "I Feel Good" Trust doesn't...* which was circulated in draft form to professionals for comment in April 2011.

6. *Private Foundations...* explores how a 2008 settlement related to the estate of entertainer James Brown forged by former S. C. Attorney General Henry McMaster threatened to destroy Brown's "I Feel Good" Trust by:

- a. An improper determination of heirs under the Federal Copyright Act, including a "stipulation" that a non-spouse, Tommie Rae Hynie, was a spouse.
- b. A proposed transfer of 52 ½% of Brown's assets to Hynie and half or fewer of Brown's proven heirs under the Copyright Act in contravention of two valid estate plans.
- c. Giving Terry Brown a right of first refusal to purchase Brown's music empire ("ROFR") at "fair market value," inviting a devaluation by Terry and others¹.

7. The McMaster Settlement and the appointment of Russell Bauknight as Brown's PR and trustee of the "I Feel Good" Trust were voided by the May 8, 2013 *Wilson v. Dallas* decision of the S. C. Supreme Court.

8. It is my understanding that Bauknight, Hynie, Atlanta attorney Louis Levenson, Esq. and others have expressed an intention to reinstate the McMaster Deal.

9. I am informed and believe that Bauknight, for Kenneth Wingate, Esq. ("Wingate") and himself, is seeking a "confidential" designation of public documents the release of which the two have bitterly fought since 2011. I believe that such a

¹By early 2008 Forlando Brown and Terry Brown were closely aligned with former Trustees David Cannon and Albert "Buddy" Dallas. In 2010 Cannon was charged with taking more than \$12 million from James Brown between 1999 and 2007 and uttering a 2008 forgery. In 2011 Cannon entered an *Alford Plea* to some of the charges.

designation will serve only to confuse and delay, aiding them in their ongoing interference with the S. C. Freedom of Information Act ("FOIA").

10. Most of Brown's historical and financial documents from before his death, and until 2009, are public. But Wingate and Bauknight have fought to prevent further view not only of those documents, but a handful of public documents generated since 2009, including:

a. The Wingate Litigation Retention Agreement by which the private Wingate Firm and Bauknight – with questionable authority – sued Bob Buchanan and Adele Pope in 2010 in Richland County, SC. on behalf of the State/AG McMaster and others.

and

b. Bauknight's less-than \$4.7 million at-death appraisal of Brown's music empire.

11. I am informed and believe that these documents are both public and important to saving the "I Feel Good" Trust and determining the role of Forlando and Terry Brown in its attempted destruction.

12. I am informed and believe that – but for the interference of Wingate (acting for Terry Brown, among others) and Bauknight – both documents would have been released in 2011.

13. So far as I know, no court has said the documents are not public, and Wingate's and Bauknight's "success" has been limited to confusing multiple courts and delaying the inevitable release of these documents.

14. I am informed and believe that the Wingate Agreement and the Bauknight

Appraisal became even more critical in 2013 when it was disclosed that Forlando Brown owned Terry Brown's interest in the Estate of James Brown.

15. Forlando has consistently supported many of our primary conclusions in *Private Foundations...*, including:

- a. Hynie was not Brown's spouse and should not have been given about \$23.5 million from the "I Feel Good" Trust.
- b. Hynie and her son do not control the Federal Copyright Act termination rights related to Brown's 800+ published songs.
- c. The McMaster Settlement destroyed Brown's two noble estate plans, both leaving his music empire to scholarships for needy students.
- d. The McMaster Settlement destroyed the \$285,000 education trust Brown gave to Forlando and six other designated grandchildren
- e. The at-death value of Brown's music empire was at least \$84 million. [See Exhibit A]

16. Terry, however, became part of the McMaster Settlement in 2009 and has taken the opposite positions in the courts since then.

17. After January 2011 it appears Forlando and Forlando-under-Terry's- name are simultaneously taking opposite positions at the same time in the Wingate Suit and this Federal Suit as follows:

Forlando in Public & the Federal Suit

Forlando (Terry) with Bauknight/Wingate

- | | |
|--|--|
| a. Hynie was not Brown's spouse & knew it. | Hynie was Brown's spouse |
| b. Music empire worth \$100 million less TIAA | Music empire worth under \$4.7 million |
| c. Hynie & son do not control termination rights | Hynie/son control termination rts. |
| d. McMaster Settlement destroys Estate Plan | McMaster Settlement is good |
| e. Buchanan/Pope \$84 million value reasonable | Buchanan/Pope are felons |

f. Several \$90 - \$100 million offers were made No offers to buy Brown's assets

g. 2008 Gag Orders Invalid Uphold 2008 Gag Orders

18. I am informed and believe that where Forbes listed James Brown as a top-earning "Dead Celebrity" in 2007 with \$5 million in earnings, how Bauknight's or any appraisal could have concluded that his private foundation would have been worth less than \$4.7 million at death is an important public question.

19. I am informed and believe that where the S. C. Attorney General relied on the Bauknight Appraisal for nearly two years to publicly accuse five prior personal representatives of improperly valuing Brown's assets – and two of committing the felony of intentionally overstating the assets by \$79 million to the IRS for an improper purpose – the appraisal which supports these public claims is a public document.

20. I am informed and believe that where Bauknight and Wingate both claiming to speak for the Attorney General , a public official, in the Richland Count Suit accused Buchanan and Pope publicly of overvaluing Brown's assets and exposing Brown's estate to large amounts of "unnecessary taxes," the appraisal on which such accusation is based should be open to the public.

21. I am informed and believe that the S. C. Probate Code required Mr. Bauknight to file the Bauknight Appraisal as supporting documentation for reducing the estate's value by almost \$80 million in a sworn amendment to the original Inventory filed by PR s Dallas and Bradley.

22. I am informed that the Wingate Agreement – which purportedly authorized Wingate and Bauknight to sue in the name of the State, is a public document because AG Wilson has asserted that all of his Litigation Retention Agreements are public.

23. I am informed and believe that no court in the 2 ½ years Bauknight and Wingate have been interfering has said any documents are confidential, and AG Wilson has affirmatively stated that the Wingate Agreement is public.

24. I understand that Mr. Bauknight has asked this Court to keep these documents confidential until the Richland County Court rules, yet has recently asked the Richland County Court not to rule until matters are concluded in Aiken County – what may be years.

25. Just some of the steps taken by Mr. Bauknight and Mr. Wingate to prevent review of these and several other public documents are described below:

- a. Seeking sanctions against Pope in 2011 for exercising her FOIA rights. [See “Goliaths roar..” [Exhibit B]
- b. Seeking by subpoena notes and confidential sources of journalist Sue Summer in violation of the Shield Law. [See Exhibit C and Columbia Journalism Review, 9/13/12, Exhibit D.]
- c. Delaying Summer's FOIA requests, then trying to move a FOIA compliance suit to another county for delay. [See SCPA Bulletin, Exhibit E]

26. In addition to Mr. Bauknight's actions to delay and prevent the release of public documents, in 2013 it appears Mr. Bauknight traveled with Forlando's original attorney Louis Levenson, Esquire, to attempt to persuade James Brown's son Daryl not to support Brown's estate plan. [See “ Son Daryl Launches Campaign to Save James Brown's Education Charity.” Exhibit F.]

27. I have known journalist Sue Summer for years, and am aware of her passion for children's issue and the FOIA. I believe her reporting of the James Brown issues has been fair and accurate.

28. I am informed and believe that the interference of Wingate and Bauknight with Summer's reporting on James Brown's issues has been unwarranted.

29. I am informed and believe that Bauknight's request to make these public documents confidential will damage the "I Feel Good" Trust and is intended to benefit some of the others Wingate and Bauknight represent in the Richland County Suit, including:

- a. Bauknight as Trustee of the Legacy Trust created by AG McMaster to hold James Brown's assets proposed to be taken over by the State;
- b. Bauknight "on behalf of" Tommie Rae Hynie;
- c. Bauknight "on behalf of" Hynie's son James;
- d. Bauknight "on behalf of" Tonya Brown
- e. Bauknight purportedly "on behalf of" Venisha Brown, an incarcerated adult without GAL, who contested the Estate Plan;
- f. Bauknight "on behalf of" Deanna B. Thomas, who contested the Estate Plan;
- g. Bauknight "on behalf of" Larry Brown, who contested the Estate Plan;
- h. Bauknight "on behalf of" Yamma Lumar, who contested the Estate Plan.

FURTHER DEPONENT SAYETH NOT.


William Jeffrey Smith

SWORN TO before me this
26th day of September, 2013

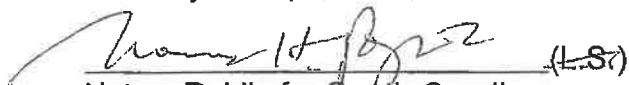
 (L.S.)
Notary Public for South Carolina
My Commission expires: 3-28-2022

Exhibit A

FROM WATCHDOG WIRE

GRANDSON VOWS TO FIGHT STATE TAKEOVER OF JAMES BROWN ESTATE



James Brown Grandson Vows To Keep Fighting January 28, 2013 by Sue Summer

William James Brown has been fighting since 2008 to grant the last wish of his grandfather, music legend James Brown.

"I'm here to do ... what my grandfather wanted, to educate children," William said.

In Brown's estate plan, he set up the "I Feel Good Trust" to provide scholarships for needy children in South Carolina and Georgia: Brown died on Christmas Day of 2006, and to date, not one child has received the first dime.

In an effort to hasten the award of scholarships, William has been working in recent months on the sale of his grandfather's music empire. "We had several buyers brought to the table, with offers from \$50 to \$120 million, but through this process, it became obvious Russell Bauknight did not want to sell," William said.

Bauknight is the current trustee of Brown's estate, appointed by former Attorney General (AG) Henry McMaster and continuing to serve "at the pleasure" of current AG Alan Wilson.

In an exclusive telephone interview, William Brown expressed his disappointment that Bauknight seemed to care more about attorneys' fees for his friends than about needy children. "This is about their retirement, and they are not interested in educating kids or distributing money to kids. It's all about the money for them, and how much they can pay attorneys."

William said he hired someone who brought several buyers to the table, but Bauknight did not cooperate and refused to provide a complete inventory of Brown's music assets. "No one will write a check unless they know what they're buying, and Russell Bauknight refused to let us look at everything."

That is why the buyers walked away, William said. "The puzzle had big missing pieces."

William added, "Everybody knew: everything he (my grandfather) owned was going to help children." He recalled a James Brown visit with Pres. Bush at the White House during which Brown discussed with the president his "I Feel Good Trust," in particular a program called "Drugs are out, School is in."

"He (my grandfather) made it clear even then, he wanted to help needy and poor children," William said.

James Brown's estate plan left his music empire to the "I Feel Good" Trust, an education foundation for needy children in South Carolina and Georgia. He also funded an additional education trust for some of his grandchildren, and he left personal and household goods to some children. He left nothing to his companion, Tomi Rae Hynie, and her son.

When the companion and some children sued for a greater share than Brown had provided for them, former AG McMaster took control of the Brown assets and rewrote his estate plan. The McMaster settlement deal gave over half of Brown's music empire to those who had contested the will. Former trustees, Adele Pope of Newberry and Robert Buchanan of Aiken, appealed the settlement deal. Arguments were heard in the case by the S.C. Supreme Court on Nov. 1, 2011, but no decision has been issued.

William Brown first spoke publicly about his commitment to his grandfather's estate plan in February of 2008 when he appeared on WIS-TV with then-AG Henry McMaster.

Only six months later, McMaster had re-written the estate plan and given away over half of the assets Brown intended for poor children. William

took issue with McMaster's decision to undo Brown's estate plan, and since then, he has struggled with former AG McMaster, current AG Wilson, and trustee Bauknight.

William now questions some of the expenses paid by the estate, including large attorney's fees. "Russell Bauknight has even paid his wife from my grandfather's money. She is absolutely working for the estate and billing hours: Russell is keeping it in the family."

William believes the estate is being managed to benefit attorneys who are friends of Bauknight, and he named Nexsen Pruet attorney Fred Kingsmore among them. According to filed documents, Kingsmore is one of 10 or more Nexsen Pruet attorneys who represent Bauknight as trustee of the Brown estate.

One main point of contention with William has been whether the at-death value of Brown's music empire was closer to \$100 million, as argued by all previous trustees, or to the \$4.7 million value that Bauknight filed with the Internal Revenue Service—a value that William considers ridiculous.

"The low value is bogus, so that no one can say Bauknight damaged the assets," William said.

Under the McMaster settlement agreement, William's father Terry was given the right of first refusal to purchase the music empire, but he transferred the right to William. "The settlement agreement offers a finders' fee of two percent to whoever brings a buyer to the table, but that was to come from the purchaser, not the estate," he said.

One question raised by Terry's assignment of his rights to William—who has vigorously opposed the McMaster settlement deal—is why the AG has not notified the S.C. Supreme Court that a major player in the McMaster deal now wants to scuttle the settlement so that all of Brown's music empire will go to needy students.

William vows to continue the fight to grant his grandfather's last wish, and he paraphrased a quote from his grandmother: "It's not about me winning, it's about the children winning....This will be a long road, but the work is worth the heavy lifting."

Sue Summer

[More Posts](#)

Categories: Government Transparency

RELATED ARTICLES

1. Wichita and Visioneering peers job growth
2. Lavabit email service abruptly shutting down due to government regulations
3. End of Old Media – New Media Rises
4. Do you know this about Kansas school test scores?
5. WichitaLiberty.TV August 13, 2013

COMMENTS

Copyright © 2013 Franklin Center for Government & Public Integrity. All rights reserved.
Developed by The Liberty Lab, Inc.

[Home](#) [Main Site](#) [Privacy Policy](#) [Contact Us](#)

close

Login

Username:

Password:

☐ Remember Me

Login

Estate of Denial®

Shining light on the dark side of estate management

- [Home](#)
- [The Issue](#)
- [Multimedia](#)
 - [Video](#)
 - [Audio](#)
- [Archive](#)
- [Links](#)
- [Contact/Donate](#)

Exhibit B

← [Fla. woman wants her statements out of NY trial](#)

[Three indicted in forgery of late state Rep. Ulysses Jones' will \(TN\)](#) →

Goliaths roar in James Brown FOIA lawsuit; David asks what is AG Alan Wilson hiding? (SC)

December 13, 2011



In a July 15 letter, Columbia attorney David Black of the mega-firm Nexsen/Pruet issued a threat to Newberry resident Adele Pope. If she continued to file requests for documents and information under the Freedom of Information Act (FOIA), he would file an action to have her sanctioned.

On Friday afternoon, Black followed through on that threat through one of his clients, the current trustee of the James Brown trust, Columbia C.P.A. Russell Bauknight.

Mark Gende of the large Columbia law firm Sweeny, Wingate and Barrow filed the motion in the Newberry Courthouse asking for sanctions against Pope and "other relief the Court deems just and reasonable."

In this action, Gende is representing Bauknight, as well as other private parties that he requested be added as defendants in the lawsuit against Attorney General (AG) Alan Wilson, filed by Pope under FOIA for the release of the contingency fee contract between former AG Henry McMaster and the Wingate firm.

Under the contract, the State of South Carolina, Bauknight, and 13 disinherited, claimed relatives of James Brown are suing Pope and Aiken attorney Robert Buchanan, asserting that they caused tens of million of dollars in damages to Brown's assets while serving as trustees from Nov. 2007 to May 2009.

Ironically, the AG's office has since agreed to filings by Bauknight to the Internal Revenue Service that the entire Brown music empire was worth a mere \$4.7 million at his death in 2006, even though it was bringing in about \$4-5 million in royalties every year.

The legal Goliaths of Nexsen/Pruett and Sweeny, Wingate and Barrow filed the suit for sanctions in their continuing effort to block the release of the contingency fee contract under which McMaster engaged the Wingate law firm to sue Pope and Buchanan for their "vigorous" defense of James Brown's estate plan. Their efforts include an appeal to the S.C. Supreme Court of a settlement deal cut by McMaster that gave away over half of what Brown intended to be used for the education of poor children to claimed relatives that Brown intentionally disinherited—essentially dismantling Brown's estate plan.

After months of having her FOIA requests for the contract dodged by Wilson's office, Pope filed an FOIA lawsuit in August. The suit names only Wilson as a defendant, but at a hearing in November, Gende asked that his private clients—including Bauknight and other claimed relatives—be added as defendants.

The FOIA is intended to grant every citizen access to public documents and government business, and as a public official, Wilson would be subject to the FOIA law. None of Wingate's individual clients are public bodies, and Pope had not requested documents or information from them.

All of the AG's contingency fee contracts contain language that confirms they are public documents. AG Wilson has released other contracts on his website, and through his assistant Sonny Jones, Wilson has confirmed that the McMaster/Wingate contract is also a public document. The AG's office has not responded to an emailed question: is the McMaster/Wingate contract is the only one not released by Wilson?

Judge Frank Addy declined to rule on whether the private parties should be added as defendants in Pope's FOIA lawsuit against AG Wilson, but he ordered the FOIA lawsuit to be consolidated with the McMaster/Wingate lawsuit against Buchanan/Pope in Richland County.

In Pope's answer, she claimed that Gende's motion to add private plaintiffs to a lawsuit involving public documents was intended to delay the release of the contract and to deny her the exercise of her FOIA rights.

The FOIA includes criminal penalties for violation of the law, a fine of no more \$100 for first offense. Gende's motion for sanctions and penalties asserts Pope has accused his private clients of criminal activity by advising the court that they are intentionally interfering with her FOIA rights.

In essence, Gende did exactly what Black threatened in July: he is attempting to have Pope sanctioned and penalized for attempting to exercise her rights under the FOIA.

Several affidavits of private citizens and journalists from Aiken, Newberry, and Lexington counties have been filed by Pope with a motion for Judge Addy to reconsider the consolidation of the FOIA and civil cases.

All affidavits emphasized the importance of protecting the public interest and keeping the FOIA strong. Several, including one filed by Debra Spence, widow of former Congressman Floyd Spence, asked the question: what is AG Wilson hiding.

"I am concerned that AG Wilson's refusal for more than four months to release a public document makes it appear that he is covering up an inappropriate or questionable agreement," she said.

Spence also wanted the court to consider: Black, speaking for Bauknight, made “vicious statements about Mrs. Pope and Mr. Buchanan that were repeated in hundreds of media outlets. The next day, I heard another Nexsen Pruet lawyer and Mr. Jones from the AG’s office trying to justify to our Supreme Court why Henry McMaster gave away what was correctly described as Mr. Brown’s ‘noble estate plan.’ Since then, AG Wilson’s refusal to release the McMaster contract has focused my attention on other troublesome things McMaster did – or is said to have done – in connection with Brown’s estate and trust, and I believe the public has a right to learn what really happened.”

Other affidavits in support of the FOIA, not all of them filed, include those from: journalist Vic MacDonald, whose pursuit of documents led to a Reid Montgomery press award for protecting the FOIA; copyright expert Jeff Smith, who has written an article for publication on the copyright issues related to the James Brown estate; and this reporter, who has requested the McMaster/Wingate contract at least six times by telephone, email, and as of last week, by certified mail. The FOIA requires a response in 15 working days.

In Pope’s affidavit, she states there is no basis under the law for any of Gende’s private clients to enter a FOIA lawsuit against a public official, and that Gende’s motion was intended to cause “delay and denial” of her rights.

She said the contract should be released because it is a public document that could determine: a) whether any public purpose is being served; b) whether the AG has proposed an illegal fee-sharing arrangement with individuals; c) whether the following provision, found in other contingency fee contracts, is appropriate: “(t)he AG shall retain 10 percent of Special Counsel’s fees awarded under this suit.”

The Goliath law firms have now made good on the threat of July 15. They are asking for sanctions and penalties against a private citizen for the exercise of her rights under the FOIA.

The longer AG Wilson allows the Goliaths to pound David, the more it appears that he is hiding something. How big and how bad, or how small and innocuous, no one will know—until the document is released.

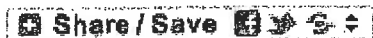
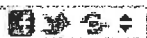
Attribution:

Goliaths Roar in James Brown FOIA Lawsuit; David Asks What Is AG Alan Wilson Hiding?

Sue Summer

December 10, 2011

The Newberry Observer

 Share / Save 

News

[← Fla. woman wants her statements out of NY trial](#)

[Three indicted in forgery of late state Rep. Ulysses Jones’ will \(TN\) →](#)

Exhibit C

CRIME & COURTS Richmond Co. | Columbia Co. |

Newberry, S.C., journalist asked for sources in James Brown legal dispute

By Meg Mirshak

Staff Writer

Friday, Sept. 21, 2012 5:13 PM

Last updated Friday, Jan. 4, 2013 4:03 PM

A Newberry, S.C., journalist is caught in a legal tangle over confidential sources who she said revealed that soul singer James Brown's widow has doubts about the legality of their marriage.

Sue Summer said her source or sources have confirmed that Tomi Rae Hynie Brown, the woman who says she was married to Brown at the time of his death, had begged Brown to marry her. They were married before she was divorced from another man, and Brown said he was too embarrassed to marry her a second time, according to Summer's source.

"In (her) diary, she records pleading with Mr. Brown to marry her, which would indicate she knew she was not his wife," Summer said.

A semiretired freelance reporter for *The Newberry Observer*, Summer was served with a subpoena in August requesting her interview notes and written, audio and video records relating to several Brown relatives and former and current estate trustees.

Summer fought the subpoena, citing shield laws that protect a journalist's right to privileged information, until it was withdrawn this week.

On Tuesday, South Carolina Attorney General Alan Wilson asked Mark Gende, a private attorney representing his office, to cancel the subpoena. Bryan Stirling, a spokesman for Wilson, said a letter was sent to Summer's attorney, Jay Bender, dropping the request on Wednesday.

"I believe the subpoena was issued to keep me from writing about this case — to make me stop," Summer said.

Summer was also served with a subpoena in May requesting she turn over any communications or documents relating to Hynie Brown's diary, which is under a court gag order.

Brown lived in Beech Island and died at age 73 on Christmas Day 2006. He left his personal and household effects to named adult children, up to \$2 million for a family educational fund, and the remainder to the James Brown I Feel Good Trust to help needy students in Georgia and South Carolina schools.

Brown's relatives and others bickered for years about the will and whether Hynie Brown was the wife until then-South Carolina Attorney General Henry McMaster renegotiated the assets.

The settlement negotiated by McMaster shifted considerable assets to Brown's family members. It gave half to a James Brown Scholarship Fund, a quarter to spouse Hynie Brown and a quarter to the six adult children named in the will.

Summer began covering the story in August 2011 after fellow Newberry County resident Adele Pope, a former trustee of the Brown estate who is currently involved in a lawsuit related to the estate, was denied Freedom of Information Act requests by the attorney general's office.

Pope and Aiken lawyer Robert Buchanan appealed McMaster's settlement deal claiming that Brown wanted more of his money to help educate children in need and not so much to go to his family. Both were sued by the attorney general's office for causing damage to the estate when it was under their control from 2007 to 2009.

Summer said she is still waiting for the attorney general's office to provide documents she requested through the Freedom of Information Act.

[Back to Top](#)

COLUMBIA JOURNALISM REVIEW

The future of media is here

Exhibit D

02:32 PM - September 13, 2012

James Brown estate case reporter slapped with subpoenas

The 60-year-old journalist believes South Carolina is attempting to hush her

By Hazel Sheffield

When the judges responsible for distributing the estate of the late musician James Brown started refusing freedom of information requests from the estate's former trustees last year, a 60-year-old, semi-retired freelance reporter named Sue Summer wondered why. She started reporting on the squabbles over Brown's estate for her local paper, the *Newberry Observer*, when she wasn't caring for her granddaughter. In the year since her first story ran, Summer believes the attorney general—and therefore the state—has attempted to stop her digging three times, culminating in an extremely broad subpoena issued last month that lists the attorney general as a plaintiff. It requests that she turn over all her on- and off-the-record material pertaining to the case.

This latest subpoena comes after the Facebook page Summer made to document her reporting was taken down after she published a piece in March detailing seven ways Attorney General Alan Wilson allegedly violated the Freedom Of Information Act, she told CJR. (The page has since been reinstated.) In May, Summer received her first subpoena, from the lawyers of a woman called Tommie Rae Hynie, who claims she was married to James Brown at the time of his death. The subpoena specifically demanded all of Summer's reporting on Hynie's diary, which is seen as key to the case. The newest subpoena, issued on behalf of Brown's children, was served on August 22, with a deadline of October 26.

"This is the third attempt to make me go away," said Summer, who believes the subpoenas are being issued to scare her off the case. "They want me to hush very quickly."

Brown died on Christmas Day, 2006, leaving behind strict instructions about how his estate should be distributed. He intended for most of his money to go towards founding the "I Feel Good" trust, which would provide scholarships to needy children in South Carolina and Georgia. He also made provisions for six of his children—he may have as many as 12—and asked that a family education trust be held for seven designated grandchildren. He left nothing to Hynie.

But when one of the three trustees chosen by Brown to enact his wishes was accused of siphoning off millions of dollars from the trust in November 2007, then-South Carolina Attorney General Henry McMaster intervened to appoint new ones. McMaster himself drew up a settlement deal called the Legacy Trust in 2009, which reduced the funding for Brown's "I Feel Good" charity. When McMaster refused FOI requests from former trustees to release the details of the Legacy Trust and information on how the estate was valued in August 2011, Summer first became interested in the case.

McMaster also redirected some 23.5 percent of Brown's estate to Hynie. Part of Summer's reporting included two unnamed sources who confirmed that Hynie was already married when she exchanged vows with Brown and that she knew her marriage to the singer was a sham.

"These stories don't just drop off a tree in your backyard!" Summer said. "I live in a small town. I write for the *Newberry Magazine*, I write for the paper, I host a radio show, and the fact that it came here... wouldn't you have wanted to do it?"

When Summer was served with her second subpoena in August, she said that she felt she was missing a part of the story—why would the state make repeated efforts to discourage her from publicizing the case? She took a closer look at the attorney general Alan Wilson's re-election campaign contributions from July (Wilson took over from McMaster as attorney general last year). Two coincidences caught her eye.

On the day of Summer's subpoena hearing in May, Wilson—who is responsible for deciding the final distribution of the estate—received election campaign contributions from a law firm who have hired private practice lawyers to secure Tommie Rae Hynie a share. (Wilson did not respond to a request for comment.) Summer also discovered that one of Hynie's two high-powered attorneys teaches law at the University of South Carolina where McMaster has worked as a fundraiser since finishing his AG term.

"It certainly raises an eyebrow," Summer said. "As a matter of fact, Wilson was on a bus tour promoting transparency in government on the very day that I was issued a subpoena by his lawyer."

Lou Ann Anderson, a journalist in Texas who founded estateofdenial.com in 2007 to document probate cases in the courts, told CJR that the Brown case looks particularly bad on the state. "The idea that assets appear to be being diverted from intended beneficiaries and have been reddiverted to unintended parties or outside parties, i.e. the lawyers—that happens regularly. The fact that this is all being orchestrated by a state government—that is unusual," Anderson said.

"This AG office appears to be helping to finance a certain number of lawyers who are then going out and hiring private practice lawyers to pursue this. We say 'appears,' because with them being unwilling to comply with these FOI requests, we can't know. They really are looking to have their cake and eat it. They don't want to comply with this, but at the same time they're targeting this reporter, wanting her to give up her rights," Anderson said.

The *Newberry Observer* is not offering Summer legal counsel at this time. She is being represented by the South Carolina Press Association. Summer, the only journalist in South Carolina reporting on the case, fears that weakened regional newsrooms mean fewer resources are available to keep state governments in check.

"After a year, after seeing the violations of the Freedom Of Information Act, after seeing what they've tried to do to the Shield Law, the one thing that I am convinced of at this point is that the traditional watchdog of the FOIA has always been newspapers," Summer said. "But we are now in such a weakened position, I don't know that we can fulfill that function as well as we did in the past, and I'm concerned about that. There was a time when I would have been fighting to get a little piece of this story."

Summer's lawyer has issued a letter stating that she is protected from the subpoena under the Shield Law, which gives reporters the right to refuse to testify. They have not had any response. Summer said she will continue to report on the case.

Hazel Sheffield is a former assistant editor at CJR. Follow her on Twitter @hazelsheffield.

Follow us

Exhibit E

SCPA EBULLETIN

South Carolina Press Association

www.scpa.org

YOUR WEEKLY CONNECTION TO INDUSTRY & MEMBER NEWS

MAY 2, 2013

Mark Sanford and the billboard



By Jay Bender
SCPA Attorney

Johnny Carson won a suit against a California portable toilet firm for using the name "Here's Johnny."
Woody Allen won a suit against a clothing company that featured a billboard with a drawing of a person strongly resembling Woody.
Bette Midler won a suit against an auto manufacturer that used one of her backup singers to imitate Bette in a radio jingle.
The suits all had one thing in common: they were characterized as invasions of the privacy of the famous person. The claim is generally known as "misappropriation of personality or likeness for a commercial purpose."
As most of you now know, an online dating site for those wishing to have an extramarital fling has posted a double billboard along I-26 featuring a photo of former governor, current candidate for Congress and admitted adulterer Mark Sanford suggesting that next time he wants to go on a "hike" he use AshleyMadison.com "to find his running mate."
Does Sanford have a claim?

In theory, yes. That is assuming Sanford did not consent to the use of his image because consent would be a defense to the claim. [Read more](#)

Larry Flynt 'endorsement' ad goes unpublished in Lowcountry

According to the Charleston City Paper, infamous smut mag publisher Larry Flynt reportedly [shopped around a print ad](#) to S.C. newspapers this week, including the Charleston City Paper, but as of Wednesday afternoon, the ad has yet to appear on newsstands.

Flynt released a statement to media outlets yesterday, saying, among other things, that the papers who refused his ad were acting as censors.

I was surprised and dismayed that a distinguished newspaper like The Post and Courier decided to act as a censor and refused to publish my paid advertisement endorsing Mark Sanford for Congress. I was even more surprised when the publisher of the Charleston City Paper also refused my family friendly advertisement endorsing Mark Sanford. These newspapers' shameful decisions to act as censors instead of voices of democracy damage their reputations as standard bearers of the First Amendment and freedom of speech. They have both disgraced themselves. I have endorsed Mark Sanford because he is America's great s explorer for exposing the sexual hypocrisy of traditional values. The Post and Courier and Charleston City Paper now stand as the leading examples of hypocrisy in America regarding the First Amendment.

City Paper Publisher Noel Mermer stands behind his right to refuse any ad and rejects the idea of it being censorship. "I was approached about running this ad by LFP, Inc. and rejected it on the grounds that I thought it was an inappropriate mockery of our local election," says Mermer. "I knew it would garner a lot of press, but it wasn't the kind I wanted us to be associated with."

Advertising director Blair Barna and editor Stephanie Barna believe the City Paper should've taken the ad. "I was so excited when I heard about the ad buy that I was shocked we ended up in a weekend-long argument about whether or not to take the ad," says Stephanie. "Larry Flynt is a champion of the First Amendment and we should've run his ad, regardless of whether or not it made a mockery of the election."

"This is not a First Amendment issue," said SCPA Executive Director Bill Rogers. "This is a decision by a publisher not to accept an ad that does not meet his or her publication standards."

Rogers said the First Amendment protects publishers and speakers from government limitation of their rights, which is not the case with the Flynt ad.

He said newspaper publishers regularly reject ads for reasons that include libel, legality, obscenity, community standards and false information, but they have complete latitude to decide what ads they will publish to their readers. "The right of a publisher to reject an advertisement extends to Mr. Flynt himself." [Read more](#)

Bender, McLean interviews added to newspaper history site

Two new interviews have been posted to [SCPA's Oral History website](#). They are with Tom McLean, retired executive editor of The State, and Jay Bender, media attorney and the Reid H. Montgomery Freedom of Information Chair at the University of South Carolina.

McLean talks about his years at The State newspaper, Hurricane Hugo, and the transformation of the industry, including group ownership and the impact of Vietnam. He also talks about the Jim Flitts case, which led to criminal libel being declared unconstitutional in our state. And he remembers Ben Morris, long-time publisher of the paper.

Bender discusses major legal issues during his career, including the Susan Smith trial, the Lost Trust cases and many other landmark legal cases in our state.

The Oral History project is co-sponsored by the USC J-School and the Humanities Council SC.

Others included in the project include: Jim Davenport of AP, Hubert Osteen of The Item in Sumter, Kent Krell from AP and The State, Dean Livingston of The Times and Democrat in Orangeburg, Bunny Richardson formerly of The State/Record, Jack Bass of Charleston, Bill Kinney from Bennettsville, Barbara Williams of The Post and Courier,

UPCOMING EVENTS

May 9: [Webinar: Overcome Objections and Close More Sales!](#)

May 10: [Webinar: What You Could Be Missing in Photoshop](#)

May 30: Weekly Circulation Roundtable, SCPA Offices, Columbia

May 31: PALMY Ad Contest deadline
- [rules for newspaper members](#)
- [rules for associate members](#)

June 6: Daily Editors Roundtable, SCPA Offices, Columbia

June 13: Ad Basics Workshop, SCPA Offices, Columbia

June 14: Daily Publishers Roundtable, SCPA Offices, Columbia

June 20: Basic and Advanced InDesign Workshop, SCPA Offices, Columbia

July 18: Basic and Advanced PhotoShop Workshop, SCPA Offices, Columbia

August 2: Ad Directors Roundtable, SCPA Offices, Columbia

August 8: Weekly Editors Roundtable, SCPA Offices, Columbia

August 15: Basic and Advanced Adobe Illustrator Workshop, SCPA Offices, Columbia

September 12: Ad Design Workshop, SCPA Offices, Columbia

Sept. 19: Advanced InDesign and PDF Workshop, SCPA Offices, Columbia

THANKS TO OUR
ANNUAL MEETING
SPONSORS!

GOLD

ATHLON SPORTS



Exhibit G

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Forlando J. Brown,

Plaintiff,

VS.

Adele J. Pope, individually and As Trustee of the Irrevocable Trust established by James Brown in August 1, 2000, and

Robert J. Buchanan, Jr., individually and As Trustee of the Irrevocable Trust established by James Brown in August 1, 2000,

Defendants.

) Civil Action No.: 3:08-cv-00014-WOB-JGW

**AFFIDAVIT OF
RICHARD B. ALEXANDER**

PERSONALLY APPEARED BEFORE ME, Richard B. Alexander, who being duly

sworn, deposes and says:

1. This Affidavit is based on my personal knowledge and belief. My professional opinions stated herein are given to a reasonable degree of professional certainty within my areas of expertise.

2. I am the president and CEO of R.B. Alexander & Co, Ltd., which provides strategic business and advisory services to retailers, manufacturing groups, attorneys, real estate developers and others.

3. I have more than 40 years experience in retailing, turnaround management, crisis and renewal management, debt/equity restructures and liquidations.

4. My clients have included The Brown Group; Nations Bank, predecessor of Bank of America; Belk Stores Services; The Cato Corporation; LandCraft Properties, Inc. and the Kingo Group, Hong Kong.

5. I have been engaged by counsel for Adele J. Pope in connection with Richland County Case 2010-CP-40-4900 (known as ACase 4900") in which the complaint, a portion of which is attached as Exhibit A, alleges that defendants Robert L. Buchanan, Jr. and Adele J. Pope, committed various breaches of fiduciary duty, including:

- a. a claim that Mr. Buchanan and Ms. Pope breached their duty by not accepting a 2007 \$100 million offer to sell the assets of entertainer James Brown; and
- b. a claim that Mr. Buchanan and Ms. Pope improperly valued the assets of James Brown on the estate tax return where they claimed the value was approximately \$100 million less a debt to the New York Teachers (ATIAA@) of about \$15 million.

6. Specifically, I have been asked to explore, among other issues:

- a. Whether Mr. Buchanan and Ms. Pope were sound in their conclusion that the Estate/2000 Trust was not in a financial or practical position to accept either the 2007 offer or similar proposals in February and March of 2008.
- b. Whether the valuation methods and results of Mr. Buchanan, Mrs. Pope and their predecessors Alfred Bradley and Albert Dallas -- all placing the value of the James Brown assets at approximately \$85 million -- were reasonable.
- c. The damage, if any, of a less than \$4.7 million valuation to Ms. Pope, The James Brown "I Feel Good" Trust and certain of James Brown's grandchildren.
- d. The damage, if any, caused to Ms. Pope and the "I Feel Good" Trust by an incomplete and/or inaccurate heirs determination under the Federal Copyright Act, including a claim that Brown's companion Tommie Rae Hynie was his wife.

7. I have also been asked to address any of the above issues, and related issues, which arise in this case.

8. In preparing for Case 4900 and this case, I have had access to thousands of pages of public documents, and/or have discussed with Mrs. Pope -- who, with Mr. Buchanan, was immersed in management issues of the James Brown Estate and 2000 Trust from March 7, 2007 until May 26, 2009 -- the following public information:

- a. Facts, figures and filings in the public record in more than 20 Aiken County Cases;
- b. The record on appeal ("ROA") and filings in the recently-decided case of *Wilson v. Dallas*, and appellate cases involving former Trustees David G. Cannon and Albert Dallas.
- c. Financial documents from the SLED investigation of former Trustee David Cannon, including the summaries filed with his 2011 *Alford Plea*.
- d. The historical documents and payment history of the TIAA debt.
- e. The tax returns, estate tax return, inventories, accountings, and James Brown Historical documents, as well as documents related to his Royalties, publicity rights, assets, liabilities, which, as I understand, were available for inspection and copying at some or all times between August 10, 2008 and May 26, 2009.
- f. The reports of James Brown's major royalties for the 6 years before his death which -- after adding back \$900,000 taken in 2006 -- show a consistent royalty stream of approximately \$3 million per year. [Exhibit B.]
- g. The William Morris Agency summary report delivered in 2007 confirming that Brown's revenues from Road performances from 2003 - 2006 grossed \$18 million. [Exhibit C]
- h. Information regarding the Global Gaming contract entered into just prior to the death of James Brown; the James Brown Saves Boston deal; and other actions taken and thwarted during the period from November 2007 through May 26, 2009.
- i. Detailed historical information about Brown's assets, operation and entities and continuing information for the two years after his death, including:
 1. Performance Contracts and detailed IP information;
 2. Detailed Royalty reports provided by the Publishing Companies through TIAA;
 3. The reports of Geronimo, LLC.
 4. The Tax Returns, which apparently all agree were wrong and could not be relied on for a complete picture of the assets or income.

5. The Estate Tax Appraisal by Christie's
 6. The jewelry appraisal
 7. The Real Estate Appraisals attached to the Estate Tax Return;
 8. The Letters of Intent of October 2007 and March 2008.
 9. The Movie Option in place for years before his death;
 10. The sampling issue;
 11. The suit filed against David Cannon and others to recover \$13+ million;
 12. The offers of TJBL, LLC and the proposed 2009 Right of First Offer
 13. The structure of Brown's operation, including the Estate, the 2000 Trust, Geronimo, JBE, Inc. and other entities.
- j. The draft article "Private Foundations, Copyright Heirs and Music Millionaires: Why the James Brown "I Feel Good" Trust doesn't....." by Wm. Jeffrey Smith and Adele J. Pope.
- k. Articles regarding the less-than \$4.7 million valuation contained on the James Brown "I Feel Good" Trust FOIA concerns blog, and in other media.
- l. Documents and records from the Library of Congress gathered by Mrs. Pope.
- m. Other professional writings related to Copyright Termination issues, including strategies to avoid termination when faced with uncooperative heirs.
- n. The opinions of W. Steven Johnson, Esq. and James C. Hardin, III in which both concluded that Mr. Buchanan and Mrs. Pope properly performed their duties as personal representative and trustees.
- o. The Orders of The Honorable Doyet A. Early, III dated August 10, 2007, Nov. 20, 2007, January 8, 2008, February 20, 2008, March 7, 2008,

April 1, 2008 and April 8, 2008; the decisions in the Cannon appeal and *Wilson v. Dallas*; and other orders and decisions.

p. Media articles and other public information about the music catalogue, earnings, and projections of earnings for James Brown, including the *Forbes* list of top-earning dead celebrities on which James Brown appeared in 2007.

q. Representations in the record of former trustees and their counsel, especially representations in early 2007 that James Brown earned \$1 million per week on 3-week tours to Asia (counsel for trustees); that his Royalties alone may be worth \$100 million (counsel for Ms. Hynie); that an offer of \$100 million was made in October 2012 (Mr. Dallas, Plaintiff and others); and that offers of \$150 million remained available in the fall of 2008.

r. Other documents from what I understand to be more than a million pages of public documents which relate to the operation of James Brown=s music empire for more than a decade before his death and the 2 2 years after.

10. I have also reviewed the September 14, 2007 proposal to the Honorable Doyet A. Early, III in which, I understand, Mr. Buchanan and Ms. Pope asked that the Court to approve the following valuation criteria for the Royalties, Image and Persona of James Brown on the estate tax return:

- a. A single valuation of the Royalties, Image, Name and Persona, which appears to be appropriate based on the scant case law and legal commentary.
- b. Use of the following formula for date-of-death valuation of the Royalties, Name, Image and Persona of James Brown, working with William Sellars, CPA, M&T Bank and the available records of David Cannon:
 1. 1 year royalties, based on 5 yr. M&T average
 2. PLUS 50% of Gross known Performance Contracts from 2006

3. X - a figure recommended by accountant within range of 12.5 - 14.
 4. LESS payoff amount due M&T Bank as of date of death
 5. EQUALS date-of-death value of royalties, Image, Name and Persona
- c. The royalties, image and persona should be returned as Estate assets, with full disclosure that they may be claimed, in whole or in part, by James Brown Enterprises, Inc., which, in turn, may be claimed, in whole or in part, by the Trust.
- d. The PRs [Mr. Dallas and Mr. Bradley] should be directed to prepare... a compilation of a detailed report to accompany the above valuation when filed with the Estate Tax Returns in March, 2008, to include:
1. A complete explanation of the structure of the \$26,000,000, 7.98% Royalty-Backed Pay-through Note, Class A No A-1 (CUSIP No. 470277 AA2) and receipts, payments and misappropriations from said fund. (This would include the structure of James Brown Royalty Venture I SPC, Inc, James Brown, L.L.C., etc.)
 2. A detailed explanation of the filing and failure to file, tax returns with respect to the various entities.
 3. A compilation of all known and available information about Mr. Brown=s performance and other contracts during 2006 and 2007, including those entered into after death.
 4. Complete information about the structure of Brown Entities, including Geronimo Music Ltd., to the extent known.
 5. Complete information about any unpublished masters, to the extent known.
 6. A complete explanation of the Royal Bank of Scotland 2006 proposed refinancing transaction.
 7. A complete explanation of the proposal of Greenberg Traurig to refinance the TIAA note in October of 2006.

8. A complete explanation of Mr. Brown's relationship with David Cannon, 7th Decade, Intrigue and others which may be relevant to the valuation issue.

11. It is my understanding that neither the S.C. Attorney General nor any person interested in the estate B all of whom had access to the relevant documents B objected to the above valuation criteria for the Royalties and Publicity Rights on the estate tax return during the period the Court gave them to object.

12. It is my understanding, also, that Plaintiff Forlando Brown and Daryl Brown, a son who worked with James Brown in his band for years, have -- with others -- confirmed the value placed on Mr. Brown's assets by Messrs. Dallas and Bradley and Mr. Buchanan/Mrs. Pope.

13. I have reviewed documents by which Russell L. Bauknight and others asked the S.C. Supreme Court in May 2011 to accept a less-than \$4.7 million appraisal as the at-death value of James Brown's music empire.

14. A simple Google search, including the Forbes List of Top-Earning Dead Celebrities for 2007, with Brown's available public records, reveals the following about the at-death potential for Brown's Royalties and Publicity Rights:

- a. James Brown was No. 11 on the 2007 list of top-earning dead celebrities with a reported \$5 million. [In 2011 he generated \$10+ million.]
- b. Tupac Shakur was listed as earning \$9 million in the 2007 list. Forbes later reported his empire earned \$3.5 million in 2010.
- c. Bob Marley earned \$4 million, as No. 12 on the 2007 list. He continues to earn despite 20 years of litigation.
- d. Steve McQueen, No. 10 on the list, earned \$6 million. ~~_____~~

CRB

e. Elvis Presley's earnings were much higher than those of Brown, but James Brown's potential, especially in Asia, Africa and Europe, compared favorably with Presley's.

15. I have not reviewed or discussed the contents of the appraisal which purports to support the less-than \$4.7 million value, although I have recently heard the name of the appraisers.

16. Based on all of the above, it is my opinion to a reasonable degree of professional certainty in my field that:

a. Virtually all of the information to place an at-death value on the James Brown assets had been made publicly available by Orders of Judge Early and otherwise on or before May 26, 2009.

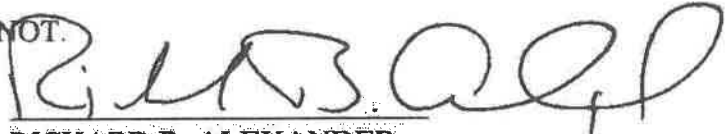
b. To date, given the stream of royalty income, branding opportunities at the time of his death and assets of James Brown, I am not aware of any facts which make the approximately \$85 million valuation placed on James Brown's music empire at death by Mr. Buchanan and Ms. Pope, or by their predecessors, unreasonable, and I believe the \$85 million to be reasonable.

c. To date, I am not aware of any facts which could support a willing buyer and a willing seller, each with knowledge of the relevant facts and circumstances, to place a less-than \$4.7 million value on James Brown's music empire his death.

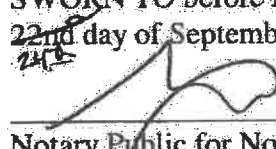
16. It is my understanding that James Brown's "I Feel Good" Foundation, although it is a private foundation, has a public duty to commit its assets solely to providing scholarships for needy and deserving students.

17. Because of the "I Feel Good" Trust's public obligations and the secret, pre-death misappropriation of millions of dollars which should have gone to the "I Feel Good" Foundation, I am informed and believe that Mr. Buchanan and Mrs. Pope acted reasonably in continuing to conduct the operations of the Estate and 2000 Trust in an open manner for at least a reasonable period after more-than \$12 million was found missing and Messrs. Cannon and Dallas resigned.

FURTHER DEPONENT SAYETH NOT.


RICHARD B. ALEXANDER

SWORN TO before me this
22nd day of September, 2013

 (L.S.)
Notary Public for North Carolina

My Commission expires: 7/13/2016

Exhibit H

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Forlando J. Brown,

Plaintiff,

vs.

Adele J. Pope, individually and As Trustee of
the Irrevocable Trust established by James
Brown in August 1, 2000, and

Robert J. Buchanan, Jr., individually and As
Trustee of the Irrevocable Trust established by
James Brown in August 1, 2000,

Defendants.

Civil Action No.: 3:08-cv-00014-WOB-JGW

**AFFIDAVIT OF ADELE J. POPE
OPPOSING CONFIDENTIALITY
DESIGNATION OF WINGATE
SUIT LITIGATION AGREEMENT
AND BAUKNIGHT APPRAISAL**

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

1. This affidavit is based on my own knowledge and belief.

2. I am informed and believe that the attempt of Russell L. Bauknight to designate the Wingate Litigation Agreement and the less-than \$4.7 million Bauknight Appraisal confidential should be denied for the following reasons:

a. The documents are public under the S. C. Freedom of Information Act ("FOIA") and are not confidential for discovery purposes.

b. Mr. Bauknight and Wingate have shared, or should have shared the contents of the Wingate Appraisal and the Wingate Agreement with other Wingate clients and Bauknight's co-plaintiffs in the Richland County Suit filed May 19, 2010, including:

- i. Attorney General (former) Henry McMaster;
- ii. Russell Bauknight on behalf of Henry McMaster as Attorney General;
- iii. Russell Bauknight on behalf of Tommie Rae Hynie;
- iv. Tommie Rae Hynie
- iv. Russell Bauknight on behalf of James B., Hynie's son;

- v. James B. (Hynie's son), without a Guardian ad Litem ("GAL")
 - vi. Tonya Brown, a stranger to the Estate and 2000 Trust;
 - vii. Russell Bauknight on behalf of Tonya Brown;
 - viii. Terry Brown
 - ix. Russell Bauknight on behalf of Terry Brown
 - x. Russell Bauknight on behalf of Deanna B. Thomas a Will/Trust contestant;
 - xi. Deanna B. Thomas;
 - xii. Sydney L., Carrington L. minors without GALs.
 - xiii. Russell Bauknight on behalf of Sydney L. and Carrington L.
 - xiv. Daryl Brown – who has testified in a deposition he was not told of the Wingate Suit prior to its commencement.
 - xv. Russell Bauknight on behalf of Daryl Brown, apparently without disclosure that he and the Wingate Firm were commencing the Richland County Suit.
 - xvi. Russell Bauknight as trustee of the Legacy Trust created by Henry McMaster to hold the private assets of James Brown in the proposed state takeover.
- c. Mr. Bauknight and the Wingate Firm attorneys have violated the S. C. Freedom of Information Act ("FOIA") and acted in bad faith as to FOIA.
- d. Mr. Bauknight and the Wingate Firm have abused the discovery system in Aiken County, Richland County and this Court.
- e. All of the information necessary for the Bauknight Appraisal was public for most or all of the period from August 10, 2007 until May 29, 2009.
3. In the past 35 years I have been involved in the preparation of numerous estate tax returns and worked on the valuations accompanying them. It is my opinion to a reasonable degree of professional certainty in my field that all available financial documents for seven years

before James Brown's death and 2 ½ year after his death were the only documents which could have helped determine the fair market value of James Brown's music empire at death.

4. All of the records necessary to conduct the fair-market value appraisal of Brown's IP assets and music empire were available for inspection and copying without limitation by all Interested Persons, including strangers to the Estate/2000 Trust such as Ms. Hynie, Tonya Brown and James B., for most of the time from and after the Order of the Honorable Doyet A. Early, III dated August 10, 2007 and until Mr. Buchanan and I were replaced on May 26, 2009.

5. During brief periods some documents might not have been available, but such period were brief. For example, the estate tax return was designated confidential in State Court and this suit between September 2008 and January 2009. It was then fully discussed in open court and is now a part of the record on appeal in *Wilson v. Dallas*.

6. I am sure Mr. Bodman will confirm, if asked, that the confidentiality document he signed was during one of those brief periods, and that Forlando and Terry had lengthy and continuing access to the James Brown historical documents and documents related to the operation of the estate and 2000 Trust until May 26, 2009.

7. Attached as Exhibit A is a copy of my letter to Attorney General Alan Wilson sent on September 16, 2013 after I learned that Mr. Bauknight claimed that he did not show the Bauknight Appraisal to the Office of the Attorney General.

8. To date I have not had an opportunity to meet with AG Wilson.

9. Mr. Bauknight, his attorneys at Nexsen Pruet and the Wingate Firm have been fighting the release of public documents under FOIA since the Summer of 2011. The following are just a few examples of their actions:

a. In May 2011 AG Wilson and Bauknight both told the *Wilson v. Dallas* Court 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...”

The Supplemental Inventory and Appraisal ... reveal that the date of death value, [sic] the James Brown Estate and Trust were actually valued at roughly \$6.5 Million...”
[A footnote explains that the home is \$1.2 Million of that figure.]

AND

“Accordingly the date of death valuation of these taxable interests was corrected from \$84 million to \$4.697 Million.

b. By November 2011 Wingate and Mr. Bauknight, for Hynie, Terry Brown and others, were bitterly fighting FOIA and discovery requests to see the Appraisal and other public documents, and had had tried to intervene in two FOIA suits. The fight continues today [See Exhibits B,C and D]

c. By 2012 it was clear that the Wingate Suit had been brought without the knowledge of a number of the claimed plaintiffs.

d. In 2012 Wingate and Mr. Bauknight began fighting to keep a 4-year-old Gag Order in place [Exhibit E.]

10. Between the two *Wilson v. Dallas* decisions I had a meeting with AG Wilson, and we had discussed these important issues. [See Exhibit F]

11. By May 2013 AG Wilson had terminated the Wingate Firm and asked to be dropped as a party to the Wingate Suit. He had also told the Supreme Court the FOIA matters should be resolved shortly.

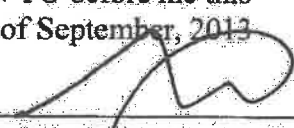
12. Wingate and Mr. Bauknight, however, asked the Richland County Court in May 2013 to delay all hearings on everything, including the AG’s attempt to withdraw and the FOIA suits, until all matters are concluded in Aiken.

13. Wingate's clients, including Terry, Mr. Bauknight and others, have been seeking relief from default as to my counterclaims (as to which they failed to timely respond) since late 2010.

FURTHER DEPONENT SAYETH NOT.


ADELE J. POPE

SWORN TO before me this
27th day of September, 2013



Notary Public for South Carolina

My Commission expires: 2/12/2014

(L.S.)

Exhibit A

Law Office of Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108

September 16, 2013

The Honorable Alan Wilson
South Carolina Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549

Re:

Request for Meeting Re: Bauknight Claim that AG Wilson
never saw Appraisal on which False Felony Claim Based.

Mr. Bauknight's Continuing Interference with FOIA Rights

Dear Attorney General Wilson:

I ask to meet with you at your earliest convenience to deal with actions of Russell Bauknight taken within the last 30 days to perpetuate the false felony claim lodged against Robert Buchanan, Jr. and me by your office between 2011 and 2013.

Mr. Bauknight still speaks of record "on behalf of" the Attorney General of South Carolina in Richland County Case 2010-CP-40-4900 (the "Wingate Case"). Until that is corrected, the State/AG appears to bolster Mr. Bauknight's actions.

Your office assured the S.C. Supreme Court in March 2013 that the FOIA cases would proceed expeditiously.

Instead, on May 10 Mr. Bauknight told the Court in the Wingate Suit that the Supreme Court (by omitting the FOIA footnote) has no further interest in FOIA compliance. He asked Jg. Manning to delay the FOIA cases for what may be years.

Then on September 11, 2013 Mr. Bauknight asked the Federal Court to impose a confidentiality Order on two public documents requested under FOIA since 2011:

- a. The Wingate Litigation Retention Agreement; and
- b. The appraisal claiming the at-death value of James Brown's worldwide music empire was less than \$4.7 million.

In an August 20 federal deposition Mr. Bauknight claimed – for the first time – that your office never saw the less-than \$4.7 million appraisal which served as the basis of the felony claim lodged against Mr. Buchanan and me for two years.

Ltr. to Attorney General Wilson
September 16, 2013
Page 2

Mr. Bauknight clings to the notion that James Brown's worldwide music empire was worth less-than \$4.7 million at death – not the correct value of approximately \$84 Million. He clings to the notion that Ms. Hynie and her child control the Termination Rights. He clings to the false felony claims. His August 20 deposition says, in part:

That's poppycock. Pure speculation from your client [Pope]. Fantasy...I'm the person who actually looked at this. And I said it was a fair and reasonable settlement. I don't know where this fantasy is that \$50 million was gone away. Number one, your client made up that number. Your client did that in a self-serving fashion so that she could take \$5 million out of this estate for her retirement. So to say that this would have diminished is a load. A total load. I looked at this. I say. You have no clue how termination rights where [sic]. You don't know the value. . . She has no clue what she was dealing with and put stuff in the paper that it's just totally fabricated untrue. It blows me away that someone with a law degree can be so dishonest and get away with it. ...You know, what? That's set aside by the Supreme Court. That's fine. I've got a new roadmap, and I'm going to follow this new roadmap to a T....

...[Y]our client raped this estate taking every dime out of it for her own fees and for Bob's fees and her lawyer's fees leaving it insolvent...Your client didn't even try. Your client didn't know the numbers. I know the numbers. There was no diminished Legacy Trust. That's fabrication from your client.

These are strong words for one speaking "on behalf of" the State/AG. It is doubly troubling when the less-than \$4.7 million appraisal has been under "lock and key" for three years despite the requirement of the S.C. Probate Code to file it.

Mr. Bauknight's claims about Ms. Hynie's control of the Termination Rights has been shown to be wrong. You have now asked to be dropped from the lawsuit the State/AG filed against us in 2010 based on somebody's (false) claim that AG McMaster would breach his fiduciary duty if he did not sue us on May 19, 2010.

It is time to undo the damage done by these false felony claims, and the above two public documents are one place to start.

Since October 2012 we have discussed the damage caused by the State/AG's adoption of Mr. Bauknight's false claim that Bob and I intentionally overstated the value of Brown's assets by \$79 million on the Estate Tax Return for the improper purpose of securing a \$5 million commission. Section 7206 of the IRC says:

Ltr. to Attorney General Wilson
September 16, 2013
Page 3

I.R.C. § 7206 - FRAUD AND FALSE STATEMENTS

Any person who -

(1) DECLARATION UNDER PENALTIES OF PERJURY - Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that is made under penalties of perjury, and which he does not believe to be true and correct as to every material matter, or

... shall be guilty of a felony and, upon conviction thereof, shall be fined ... , or imprisoned not more than 3 years, or both, together with the costs of prosecution. [Emphasis supplied.]

If it is true that you have not looked at the appraisal, and that you relied on Mr. Bauknight's guidance, I ask that we look at it together and assess whether there is an easy way to set these matters straight.

I ask that we meet at your earliest convenience to discuss this serious matter. I am sending this letter to my counsel Adam Silvernail, as I would like for him to join us.

We are available almost any morning at your convenience, and on most Tuesday and Thursday afternoons with a little notice.

Thank you in advance for the opportunity to speak with you.

Sincerely,



Adele J. Pope

AJP/ja

cc: Adam Silvernail, Esq.

Robert Buchanan, Jr., Esq.

Exhibit F

Law Office of Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108

Exhibit F

April 1, 2013

The Honorable Alan Wilson
South Carolina Attorney General
John W. McIntosh, Esquire
Chief Deputy Attorney General
Robert D. Cook, Esquire
Assistant Deputy Attorney General
C. Havird Jones, Esquire
Senior Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549

Re: Hynie "Diary" Gag Order Appeal
Appellate Case No. 2012-212917

Dear Attorney General Wilson, John, Bob and Sonny:

Since the February 27, 2013 Decision has voided AG McMaster's "stipulation" that Tommie Rae Hynie was Brown's spouse, I ask that Attorney General Wilson either:

1. Move to withdraw from the Hynie "Diary" Gag Order Appeal; or
2. Join me in asking the Court to either Rule on the Appeal or Remand it to Judge Early for a Ruling.

As you may recall, I began trying to void the Gag Orders in March 2012, as part of Case 4900. The Order on appeal was issued as part of Aiken Case 122.

As you know from your own copy of the "diary" and Sonny's and Mary Frances' email communications with Buddy Dallas in 2008, it is important for witnesses to be ungagged as to the known contents of these documents.

A May 29, 2012 Affidavit of Case 4900 witness Albert Dallas says:

Mr Wells called me, to the best of my recollection, around 1st of March, 2007...boxes and debris left in home of James Brown.

The diary was copied and transcribed by David Cannon and his secretary, whose name I do not recall. As trustee, I felt that this was information that needed to be

Letter to Attorney General Wilson and others
April 1, 2013
Page 2

turned over to the Court and numerous copies were made available to a number of interested parties at a hearing, the exact date of which I do not recall.

As personal representative and trustee until November 20, 2007, I feel it is imperative...that the content be revealed for any and all probative questions presented to the Court...I was required to vigorously defend the estate plan....a release from Judge Early's order is necessary in order that all...facts be made available to all interested parties. To that end, I request by this affidavit that the Tommie Rae Diaries be released.

A May 30, 2012 Affidavit of Tom Wells describes finding the "Hynie diary" in a pile of boxes appearing to be discarded. He says: "I read through it, called Mr. Dallas, and met Mr. Dallas on that same afternoon. At the meeting, I turned the diary over to Mr. Dallas. I have not seen it since.

As Sonny and Mary Frances will recall, the "diary," which had been widely disseminated and discussed for months, was mailed to about 15 people by Wayne Byrd, Esquire, in early 2008. Recipients included AG McMaster, the AG of Georgia and others within and outside the reach of the Aiken Court.

The Gag Orders were issued in February and March of 2008. Sonny and Mary Frances – in violation of the Order, unless void – failed to turn in AG McMaster's copies to the Clerk and – again in violation, unless void – received another copy from Dallas.

On August 13, 2012, after Judge Early declined to rule on voiding the Gag Orders, I filed a notice of appeal. I named AG Wilson as a Respondent because AG Wilson, through Sonny, had opposed voiding the Gag Orders.

To expedite a decision on this matter, I filed my brief on August 14.

The attempts to void the Gag Orders started a search by AG Wilson and Hynie, through Mr. Wingate in Case 4900, for the person – not me - who had revealed the widely known diary contents to journalist Sue Summer.

Thereafter filings by Hynie's attorney, endorsed by Sonny for AG Wilson, not only repeated the joint position two Attorneys General and Hynie have taken in Case 4900 from its inception, but took vitriolic shots at me. [Bob was not included in the vitriol because Bauknight had purchased Hynie's release from Bob's claims with Estate funds.]

Included were:

1. A claim of lack of jurisdiction because Case 1647 was pending in the Supreme Court.

2. An alternative claim that the "diary" orders are the law of the case.

...

P. 6. ... "there is no conflict of interest like self-interest." Pope's \$2.5 Million Conflict of Interest . . . She had the "audacity to file a claim for that amount. Her claim is simply egregious **when viewed against the backdrop of her actual work and the value of the Estate and Trust...**

"In addition to correcting numerous problems from Pope's administration, including tax problems stemming from her failure to file income tax returns due during her administration, her successor Bauknight also addressed the estate tax.

" Mr. Bauknight did what a personal representative should have done...obtained an independent, professional valuation of the intellectual property....**James Brown's Estate was found to be worth \$6.5 Million at the date of his death...**

"That independent professional valuation was then submitted to and scrutinized by the ...IRS.. A division that deals exclusively with business and royalty valuations....**federal government refunded \$10,000 in estate taxes that Pope erroneously concluded were due..**

"...Haphazardly claimed the date of death value of James Brown's Estate was worth varying amounts around \$100 Million, not one of them ever provided any substantiation for that figure.

"The number was created by Cannon, Dallas and Bradley (and followed by Pope), yet never substantiated by an analytical business valuation model or methodology.

"**Since late 2008 the family and the Attorney General have been in agreement that the litigation must end. "Similarly, the family and the Attorney General are in agreement that Pope's conduct must come to an end. .."** [Emphasis supplied.]

Attached to this was the following statement signed by Sonny for AG Wilson, Robert Cook, himself and Mary Frances:

"The Settling Parties hereby join and support Tommie Rae Brown's Motion to Dismiss Adele Pope's appeal regarding the diary orders..."

My Reply asserted that the above attacks detracted from the important issue of this appeal:

Should Judge Early have heard the challenge to the 4 ½ year-old Hynie "diary" Gag Orders and declared those gag orders void *ab initio* or expired?

I also asserted that:

"Attacks by the Attorney General on a person asking our Supreme Court important questions about the right of individuals in South Carolina to create and maintain privately-run foundations raises another question: Why?"

I hope you will agree that this support by the AG/State for Hynie's position should not continue after the February 27 Decision. I hope, also, that you will see from the above how important it is for AG Wilson's current position to be known as to the following matters:

- a. Is it true the State/AG will no longer bolster Hynie in her attempts to secure assets James Brown gave to The James Brown "I Feel Good" Trust?
- b. Is it true the State/AG will not take advice from Hynie's counsel about the value of her claims?
- c. Is it true the State/AG no longer endorses Bauknight's allegation that Brown's music empire and claims against Cannon, etc. were worth less than \$4.7 Million at death?
- d. Is it true the State/AG no longer asserts that Buchanan and Pope committed the federal felony of intentionally overstating Brown's assets by \$79 Million on the Estate Tax Return for the improper purpose of receiving a large commission?

Simply moving through Sonny, your counsel of record, to withdraw from the Hynie "Diary" Gag Order Appeal, will be an important first step in making clear that since February 27, 2013 AG Wilson intends to protect the "I Feel Good" Trust – not Hynie.

Letter to Attorney General Wilson and others

April 1, 2013

Page 5

I apologize for the length of this letter, but was concerned Bob and John might not recall the details of this appeal.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Adele Pope".

Adele J. Pope

AJP/ja

Enclosure: Dallas email to Sonny & Mary Frances (Redacted by AG Wilson)

Exhibit I

1

2 IN THE COURT OF THE COMMON PLEAS
3 SECOND JUDICIAL CIRCUIT
4 STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

-----X
ADELE J. POPE,

5

PLAINTIFF,

6

-against- Case No.:
2013-CP--02-1337

7

8 ESTATE OF JAMES BROWN and THE JAMES BROWN
9 2000 IRREVOCABLE TRUST,

9

DEFENDANTS.

-----X ,

10

DATE: March 16, 2017

11

TIME: 1:18 P.M.

12

13

14

15 CONFIDENTIAL EXAMINATION BEFORE TRIAL

16

of the Expert Witness, ROGER MILLER, CFA,

17

taken by the respective parties, under the

18

South Carolina Rules of Civil Procedure,

19

pursuant to a Court Order, held at the

20

offices of Shukat Arrow Hafer Weber &

21

Herbsman, LLP, 494 Eighth Avenue, 6th

22

Floor, New York, New York 10001, before

23

Cleo Shenkin, a Notary Public of the State

24

of New York.

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

ADELE J. POPE, ESQ.
Plaintiff Pro se
ADELE J. POPE
1228 Walnut Street
Newberry, South Carolina 29108
BY: ADELE J. POPE, ESQ.
adele@popelawfirm.com

NEXSEN PRUET, LLC
Attorneys for the Defendants
ESTATE OF JAMES BROWN and THE
JAMES BROWN 2000 IRREVOCABLE TRUST
55 East Camperdown Way, Suite 400
Greenville, South Carolina 29601
BY: BURL WILLIAMS, ESQ.
BWilliams@nexsenpruet.com

ALSO PRESENT:
RUSSELL BAUKNIGHT

* * *

1 R. MILLER - CONFIDENTIAL

2 Q. Buy to own, okay. So buy low
3 and produce a lot?

4 A. Produce a lot.

5 Q. Right. So, but buy low is
6 still essential to the concept, right?

7 A. When possible.

8 Q. Right.

9 A. But, in my experience, if you
10 want to buy this type of high quality
11 content, you are often, more so than not, a
12 price taker, not a price maker in the
13 market.

14 Q. So you think James Brown's
15 assets were very spectacular assets, don't
16 you?

17 A. Solid gold.

18 Q. Solid gold, right, right.

19 Okay. Good. I do too. We are
20 in agreement.

21 And you have had great success
22 in what you have done, haven't you?

23 A. I suppose.

24 Q. You have. I enjoyed reading
25 about you.

1 R. MILLER - CONFIDENTIAL

2 everybody in your field knows that there
3 are lots the private equity people out
4 there eagerly chases these assets?

5 A. Correct.

6 And many of them issue press
7 announcements when they raise their money.

8 Q. Right. And that would mean
9 both the catalogs and the termination
10 rights?

11 A. Correct.

12 Q. And there is nothing second
13 secret about your opinion that James
14 Brown's is a solid gold catalog?

15 A. No.

16 I think anybody would agree.

17 Q. Okay.

18 A. Who is familiar with the work.

19 Q. Okay. And there is nothing
20 secret about your opinion that 15 to 20
21 times multiples would not be an
22 unreasonable value for James Brown's
23 catalog?

24 A. No.

25 Q. Nor would it have been when he

1 R. MILLER - CONFIDENTIAL

2 died?

3 MR. WILLIAMS: Object to the
4 form.

5 Q. I'm sorry, go ahead an answer.

6 A. When he died, valuations were
7 as frothy, if not more so.

8 There was an initial, what I
9 call, influx of private equity in the space
10 around 2004 and '5. My firm originated in
11 2006 and we were the only ones who
12 remained, everybody else was later
13 consolidated. But there was a time when 20
14 times was a pretty common multiple of pay
15 for very high quality assets like this.

16 Q. Okay. And that would have been
17 about the time of James Brown's death,
18 right?

19 A. Yes.

20 Q. Okay. And, let me just ask you
21 this, because you know all of this and I
22 don't, but when there was the general
23 downturn in 2008, is it fair to say that
24 these kinds of assets held their value as
25 well as anything else?

1 R. MILLER - CONFIDENTIAL

2 A. It is.

3 Q. Or even better?

4 A. Yeah, I would say even better.

5 Our best year, as I recall, was

6 2008.

7 Q. Okay.

8 MS. POPE: Thank you very much.

9 I pretty much your time.

10 MR. WILLIAMS: One thing I
11 failed to do is I have his bio and
12 his CV, I want to make it a part of
13 the record, just in case it needs to
14 be.

15 Can I just -- can we --

16 MS. POPE: Yes.

17 Mr. Williams has asked that we
18 make your bio an exhibit.

19 THE WITNESS: Certainly.

20 MS. POPE: And that is your bio
21 that you have presented to him?

22 MR. WILLIAMS: Yes, so I want
23 to show it to you --

24 MS. POPE: I have it.

25 MR. WILLIAMS: Oh, you do. And

Exhibit J

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF AIKEN

- - -

ADELE J. POPE,	:	
	:	Civil Action No.:
Plaintiff,	:	
	:	2013-CP-02-1337
vs.	:	
	:	
ESTATE OF JAMES BROWN and THE	:	
JAMES BROWN 2000 IRREVOCABLE	:	
TRUST,	:	
	:	
Defendants.	:	

DEPOSITION OF THOMAS H. POPE, III, ESQUIRE

DATE TAKEN: April 11, 2017

TIME BEGAN: 10:30 a.m.

TIME ADJOURNED: 11:25 a.m.

LOCATION: Pope & Hudgens
1508 College Street
Newberry, South Carolina

REPORTED BY: Tami I. Watters, RPR, CRR
EveryWord, Inc.
P.O. Box 1459
Columbia, South Carolina 29202
(803) 212-0012

1 APPEARANCES:

2 LAW OFFICE OF ADELE J. POPE, P.C.
3 BY: ADELE J. POPE, ESQUIRE
4 1228 Walnut Street
5 Newberry, South Carolina 29108
(803) 413-0753
adele@popelawfirm.com
Pro Se

6 NEXSEN PRUET, LLC
7 BY: BURL F. WILLIAMS, ESQUIRE
8 55 East Camperdown Way
Suite 400
9 Greenville, South Carolina 29601
(864) 370-2211
bwilliams@nexsenpruet.com
10 Representing the Defendants
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 enforcement of the state and he did take control,
2 and that's not appropriate. So I think the
3 paragraph is correct.

4 Q Okay. So your opinion all ties into the
5 presence of the attorney general in this
6 litigation?

7 A That one does, yeah.

8 Q Okay. What does Case 4900 or Journalist
9 Sue Summer have to do with this case?

10 A Well, my experience in the Sue Summer
11 case was -- like, I met the same stone walls that
12 Adele has. That's really basically it. Because we
13 were requesting documents.

14 She's a journalist and, on her behalf, we
15 made -- with Jay Bender's, co-counsel, help, we
16 sought out the documents that were very important
17 to the James Brown case and to the public, and
18 those would be the fee agreement Sweeny Wingate had
19 with the attorney general and all the parties,
20 which we got.

21 It was actually produced in the federal
22 case while our FOIA request was pending, but we got
23 that. We asked for the Hynie diaries. They were
24 produced by an unknown, anonymous third party while
25 this was pending.

1 But we prevailed and the judge awarded
2 her attorney's fees in that. We did not get the
3 \$4.7 million appraisal documents because the AG's
4 office said they did not have that.

5 I mean, I'm not denying they did not have
6 those documents, but after the final order was
7 issued, we asked the judge to reconsider
8 whether they -- if they had used those documents
9 under FOIA, then they should still be protected and
10 they should go get those documents from whoever had
11 them and present them to us. And the judge
12 declined to rule on that because the case was over,
13 as he saw it, and he did not rule.

14 But we were successful in large part, and
15 we got Ms. Summer's attorney's fees paid. So
16 that's the relation.

17 I mean, it doesn't -- what it is, it is.
18 We got documents that related to 4900, but that
19 wasn't the only purpose of it.

20 Q Okay. You mentioned the 4.7 million
21 appraisal. Why did you want to see that?

22 A Because it seems preposterous. I mean,
23 she thought it did, I think it does. Anybody in
24 the world thinks it does. You ask a guy on the
25 street that ...

1 Q Do you know -- have you ever seen it?

2 A No, I've never seen it.

3 Q You have never signed a confidentiality
4 order and looked at it?

5 A I've never seen it, any part of it.

6 Q Okay.

7 A I mean, there are farmers in
8 Newberry County that are worth more than that; I
9 mean, honestly. It's ludicrous.

10 He had a \$3 million-plus stream of income
11 every year before he died.

12 Q So you've never looked at it, but you
13 just assume it's incorrect?

14 A I would bet my life on it being
15 incorrect.

16 Q Okay. And then what is -- why was -- do
17 you understand what the appraisal has inside of it?

18 A What --

19 Q Analysis?

20 A Assets and liabilities, I guess.

21 Q No. An analysis of the revenue stream,
22 copyrights and --

23 A Yes. That sort of thing should be in
24 there, yeah.

25 Q Okay.

1 A Publicity rights, there's the property.
2 All that. Whatever. Whatever he had. And
3 publicity rights and copyrights apparently are very
4 valuable.

5 Q Okay.

6 A I'd say that James Brown is probably --
7 in terms of his cultural popularity, he's probably
8 right there with Elvis. He might be a step behind
9 him, but not much.

10 Q How much in publicity rights did
11 Mrs. Pope and Mr. Buchanan generate during their
12 fiduciary service?

13 A I don't know. They tried to do one with
14 Corbis.

15 Q Do you know the terms of that deal?

16 A I don't.

17 Q Okay. Beyond Corbis, do you know if they
18 generated any other publicity rights?

19 A I don't know.

20 Q How about the prior fiduciaries?

21 A How about what?

22 Q The prior fiduciaries. Were they able to
23 do it?

24 A No. I think they were so busy stealing,
25 they never got around to it.

Exhibit K

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF AIKEN

- - -

ADELE J. POPE,	:	
	:	Civil Action No.:
Plaintiff,	:	
	:	2013-CP-02-1337
vs.	:	
	:	
ESTATE OF JAMES BROWN and THE	:	
JAMES BROWN 2000 IRREVOCABLE	:	
TRUST,	:	
	:	
Defendants.	:	

DEPOSITION OF JAMES HARDIN, III

DATE TAKEN: March 23, 2017

TIME BEGAN: 10:03 a.m.

TIME ADJOURNED: 1:48 p.m.

LOCATION: Office of James C. Hardin, III
113 East Main, Suite 330
Rock Hill, South Carolina

REPORTED BY: Tami I. Watters, RPR, CRR
EveryWord, Inc.
P.O. Box 1459
Columbia, South Carolina 29202
(803) 212-0012

1 APPEARANCES:

2 LAW OFFICE ADELE J. POPE, P.C.
3 BY: ADELE J. POPE, ESQUIRE
4 1228 Walnut Street
5 Newberry, South Carolina 29108
(803) 413-0753
adele@popelawfirm.com
Pro Se

6 NEXSEN PRUET, LLC
7 BY: WILLIAM G. NEWSOME, III, ESQUIRE
8 1230 Main Street
Suite 700
9 Columbia, South Carolina 29201
(803) 771-8900
bnewsome@nexsenpruet.com

10
11 ALSO PRESENT:

12 RUSSELL BAUKNIGHT
13
14
15
16
17
18
19
20
21
22
23
24
25

1 MR. NEWSOME: Object to the form.

2 THE WITNESS: I think my answer would
3 depend upon how yourself and Bob, Adele,
4 learned of and developed -- the basis of your
5 learning about this -- this formula.

6 BY MS. POPE:

7 Q And if I told you that Roger Miller, an
8 expert for defendants, has said that James Brown's
9 copyrights, which produced the royalties, today
10 may -- may have a value of 15 to 20 times royalties
11 and that at James Brown's death, that multiple
12 could have been higher, would you think that
13 perhaps Mr. Buchanan and Ms. Pope had -- had some
14 consultations in connection with that?

15 A I would.

16 MR. NEWSOME: Object to the form of the
17 question.

18 BY MS. POPE:

19 Q And if they had in fact consulted with
20 industry people and proposed that formula, would
21 you think anything was wrong with it?

22 A No.

23 Q Okay. And looking at the \$84 million
24 value now, are you aware that the \$84 million value
25 placed on -- by Bob Buchanan and Adele Pope on the

1 James Brown Schedule F-2 assets included all of the
2 following: James Brown's more than 850 copyrights,
3 James Brown's publicity rights, James Brown's claim
4 for the \$17 million taken against Cannon,
5 James Brown's claim against Greenberg Traurig for
6 various actions prior to Mr. Brown's death which is
7 now said to be as much as \$30 million,
8 James Brown's fleet of vehicles, including his
9 Rolls-Royce, and a substantial part of
10 James Brown's tangible personal property, both
11 business personal property and personal property,
12 would you have any reason to think that that figure
13 was too high?

14 A No, I wouldn't.

15 Q And if someone told you all of those
16 assets had been appraised by a professional
17 appraiser at \$4.7 million, would you have a
18 question about the -- either the competence of the
19 professional appraisal or the information which he
20 was given?

21 A I would.

22 Q Okay. Have you heard before today that
23 in fact the attorney general and the attorney
24 general's appointed trustee told both the IRS and
25 the South Carolina Supreme Court that James Brown's

1 Schedule F-2 assets were worth only \$4.7 million?

2 A I had not.

3 Q Okay. Can you explain what the
4 Bosch Principle is?

5 A Yes. That means that the -- or the
6 holding in Bosch was that the federal courts, and
7 particularly the IRS, is not bound by a state
8 withholding unless it is the highest court in the
9 state.

10 That's a very crude rendition of Bosch.
11 It has many nuances, but ...

12 Q And is it fair to say that the attorney
13 general or his appointed fiduciary were trying to
14 get the supreme court to make a finding that
15 James Brown's assets -- James Brown's music empire
16 was worth less than \$4.7 million, one might need to
17 view that action to determine if there was a breach
18 of fiduciary duty?

19 MR. NEWSOME: Object to the form of the
20 question.

21 THE WITNESS: Yeah. I think that that
22 would be something deserving of review.

23 BY MS. POPE:

24 Q Okay. Would that be especially true
25 based on the fact that James Brown's copyrights

1 Q Right. Right. And do you think if the
2 attorney general were standing by a person making
3 incorrect representations to the IRS, that the IRS
4 might be less likely to bother with it?

5 A That's correct. I would think so.

6 Q Because of the Bosch issue?

7 A That's right.

8 Q Yeah. Yeah. Okay. And if a fiduciary
9 claimed a \$3 million charitable deduction for
10 James Brown's charity with knowledge that 2 million
11 of that was allocated to private individuals, that
12 wouldn't be right, would it?

13 A It would not.

14 Q And if it slipped through an audit, that
15 wouldn't mean that it was right?

16 A No.

17 Q And if the attorney falsely accused
18 Bob Buchanan and Adele Pope of overstating the
19 value of James Brown's assets by \$79 million for
20 the improper purpose of securing a \$5 million
21 commission, that was an accusation that they had
22 committed a felony?

23 MR. NEWSOME: Object to the form of the
24 question.

25 THE WITNESS: It would certainly sound

1 that way, yes.

2 BY MS. POPE:

3 Q Right. And if he did that without even
4 looking at an appraisal that he said supported a
5 \$4.7 million claim, that would be reckless?

6 A I would think it would be.

7 Q Yes.

8 MR. NEWSOME: Thank you.

9 MS. WATTERS: Would you like a copy of
10 the transcript?

11 MR. NEWSOME: Please.

12 MS. POPE: I want an e-tran but no
13 exhibits.

14 THE WITNESS: I do want to read and sign.

15 - - -

16 (Witness excused.)

17 - - -

18 (Deposition concluded at 1:48 p.m.)

19 - - -

20

21

22

23

24

25

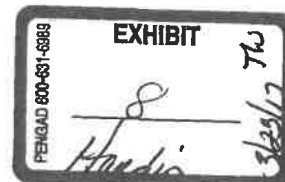
Bob's & Adele's Correct \$84 Million Value for James Brown Assets

I. Evidence of \$84 Million Value Before Bob & Adele Named.

- 2003 -2006 Brown earns \$18 Million between 2003 and 2006 in Road shows (Morris)
- 2000 - 2007 Brown earns \$3 million a year in royalties from copyrights.
- May 2006 Royal Bank of Scotland Appraisal puts major copyrights at \$42 Million.
- At Death Brown has claim against Cannon for \$12+ Million taken since 1999.
- At Death Movie Deal option pending & paying Brown each year, \$750K total.
- At Death Brown has claim against Morgan Stanley for Cannon \$10 MM takings.
- At Death Brown has claim against Katz/GT re: Oct. 18 Ltr., RBS deal, etc.
- Early 2007 Jg. Walter Williams discusses \$250 Million value of James Brown assets with investors & Jg. Bradley, who has knowledge of Brown holdings.
- Jan. 2007 Cannon/Dallas offer Yamma & Deanna \$5 Million, 5% of assets.
[*Cold Sweat*]
- Jan. 2007 Daryl, others report Cannon trustees digging for cash at Beech Island.
[Cannon later confirms boxes of money and buried funds.]
- Early 2007 Pinnacle issues prospectus to raise \$200 Million to buy/manage assets.
- Feb. 2007 R. Peeples reports Brown earning \$1 million per week on European tours.
- Feb. 2007 Hynie's lawyer claims "Book of Music" (copyrights) alone may be worth \$100 million. Confirms Hynie has substantial knowledge of assets.
- March 2007 Jg. Williams' \$100 Million value reported to *Chattanooga* is conservative.

II. More Evidence of \$84 Million Value While Bob & Adele SAs.

- May 2007 Dr. Cox values publicity rights at \$40-\$50 Million; Royalties, \$36-\$45 MM.



Sept. 2007 Wm. Sellars, CPA seeks IRS estate tax extension with \$80 MM value.

Oct. 2007 Cox Group, TJBL, issues first "Letter of Intent" to Dallas for \$100 MM.

2007 Buddy Dallas tells Bob & Adele \$100 Million sale under Oct. 18 Ltr. ok.

Nov. 2007 Dr. Cox reports Industry Standard for Royalties = $12 \frac{1}{2} \times$ revenues.

Nov. 2007 Tax Atty. Wm. Hammond value assets at \$85,663,562.99 on I & A.

Nov. 2007 Bob & Adele propose to value Royalties/Publicity Rights by formula
 $12 \frac{1}{2} - 14$ times Royalties plus $\frac{1}{2}$ annual Gross Road Revenues.

Nov. 2007 Neither AG McMaster nor anyone else opposes valuation proposal.

III. More Evidence of \$84 Million Value While Bob & Adele PR/Trustees.

2007

Dec. 2007 AG Jones inquires about \$100 Million offer. Oct. 18 Ltr. prevents sale.

Dec. 2007 Will/Trust Challenges Put Temporary Hold on Consideration of Sales.

2008

Jan. 2008 Forlando/Powell Goldstein (PG) claim tens of millions in 2000 Trust.

Feb. 2008 Second TJBL \$90 - \$100 Million letter of Intent. First Terry \$2 Million offer for all TPP.

By Mar. 2008 Estate/2000 Trust sue Cannon, MS, GT Now pending. Seeking \$30MM.

Mar. 2008 Cannon takings known to be \$17 Million. (MS + \$5 MM "check to nobody")

March 2008 3rd TJBL \$90 - \$100 Million offer for 2000 Trust assets. 2d Terry offer.

Aug. 2008 McMaster Settlement Reached. Bob & Adele asked to "stand down."

Sept. 2008 AG & Settling parties decline to help w/ preparation of Est. Tax Return.

2008 Prof. Einhorn advises Bob Brown's Copyrights likely $15 - 20 \times$ revenue

Sept. 2008 Bob, Adele, Sellars file Est. Tax Return w/ Value at about \$84 Million.

- Sept. 2008 Forlando says under oath that \$150 Million offers still available.
- Oct. 2008 AG and all Settling Parties given Estate Tax Return. No objections filed.

2009

- Jan. 2009 Bob & Adele invite AG, Hynie, etc. to Corbis/GreenLight meeting, NYC.
- Feb. 2009 Jg. Early's order frees Bob and Adele to propose Right of First Offer.
- 2009 Hynie's lawyers seek *ex parte* Order to stop any sale of Brown assets.
- Spring 2009 Bob and Adele warn AG McMaster of Terry/Bell devaluation scheme.
- Spring 2009 Harley Ruff, Esq. testifies about Estate/other tax problems of Settlement.
- Spring 2009 Bob & Adele propose Corbis/GreenLight Publicity Rights Deal projected to bring in \$2 Million per year. Rejected by Settling Parties.

IV. More Evidence of \$84 Million Value By Filing of Richland 4900

- June 2009 Bob & Adele urge F. Kingsmore of Nexsen Pruet (NP) & Russell to begin Corbis/GreenLight 2-year Publicity Rights contract, expected to earn \$2 Million per yr.
- June 2009 Kingsmore says it seems a good idea, but must check w/ David Bell.
- Aug. 2009 Hynie's lawyer (Medlin) proposes to Nexsen Pruet (NP) and others to devalue Brown's copyright to 6- 8 x revenues & publicity rights at ZERO.
- Sept. 2009 NP attorney Wilkins requests lift of stay during McMaster Settlement appeal. States:

THE STAY SHOULD BE LIFTED TO ALLOW BAUKNIGHT TO CONTINUE AND TO EXECUTE THE PLANS THAT HE WAS ALREADY WORKING ON TO ENTER INTO VARIOUS BUSINESS VENTURES FOR THE ESTATE; FOR EXAMPLE, MARKETING JAMES BROWN'S MUSIC, MARKETING HIS IMAGE, HIS PERSONA, DEVELOPING VIDEO GAMES WITH JAMES BROWN AS THE CENTRAL CHARACTER, PRODUCING A DIGITAL REBIRTH OF JAMES BROWN JUST LIKE THE BEATLES ARE DOING TODAY AND NEGOTIATING A MOVIE DEAL. WE'VE HAD NUMEROUS OPPORTUNITIES TO ENTER INTO DOCUMENTARY SERIES ABOUT JAMES BROWN AND **ALL OF THESE THINGS ARE JUST SITTING THERE READY TO GO....**

- 2010 Richland 4900 claims Bob & Adele should have accepted \$100 million offer to Dallas in 2007 while telling IRS & Supreme Court no offers made.

Exhibit L

Page 1

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
 2 COUNTY OF AIKEN) C/A #: 2013-CP-02-1337
 3 Adele J. Pope,)
 4 Plaintiff,)
 5 v.)
 6 Estate of James Brown and the)
 7 James Brown 2000 Irrevocable)
 8 Trust,)
 9 Defendants.)

10 DEPOSITION OF
 11 W. STEVEN JOHNSON, ESQUIRE
 12 *****

13 Wednesday, July 20, 2016
 14 10:13 a.m. - 1:35 p.m.

15 The deposition of W. STEVEN JOHNSON, ESQUIRE,
 16 taken on behalf of the Plaintiff at the law offices
 17 of TODD AND JOHNSON, 609 Sims Avenue, Columbia, South
 18 Carolina, on the 20th day of July, 2016 before Carla
 19 S. Dominick, Court Reporter and Notary Public in and
 20 for the State of South Carolina, pursuant to Notice
 21 of Deposition and/or agreement of counsel.

Page 3

1 Plaintiff's Exhibit Number Seven 15
 2 (Ltr to Attorney General Alan Wilson from
 3 Plt; dtd 5/17/13)
 4 Plaintiff's Exhibit Number Eight 19
 5 (Ltr to S. Johnson from Plt; dtd 6/13/13)
 6 Plaintiff's Exhibit Number Nine 22
 7 (Exhibit 17 with Summons; dtd 6/27/08)
 8 Plaintiff's Exhibit Number Ten 23
 9 (Ltr to Judge Early from Attorney General
 10 Henry McMaster; dtd 7/7/08)
 11 Defendant's Exhibit Number One 40
 12 (Todd & Johnson, LLP Pre-bill Worksheet for
 13 S. Johnson; dtd 9/4/12)
 14 Defendant's Exhibit Number Two 73
 15 (Supreme Court Opinion; dtd 5/8/13)
 16 Defendant's Exhibit Number Two 80
 17 (Supreme Court Order; dtd 6/10/15)

STIPULATIONS

18 It is stipulated and agreed that this
 19 deposition is being taken pursuant to the South
 20 Carolina Rules of Civil Procedure.

21 It is stipulated by and between counsel and the
 22 witness that the reading and signing of the following
 23 deposition be, and the same are, hereby not waived.
 24 Signature sheet is attached at page 125.
 25

Page 2

APPEARANCES

1 Adele J. Pope, Esquire
 2 LAW OFFICE OF ADELE J. POPE PC
 3 1228 Walnut Street
 4 Newberry, South Carolina 29108
 5 Attorney for the Plaintiff
 6 adele@popelawfirm.com

7 William G. Newsome, III, Esquire
 8 NEXSEN PRUET
 9 1230 Main Street, Suite 700
 10 Columbia, South Carolina 29201
 11 Attorney for the Personal Representative,
 12 Russell Bauknight,
 13 bnewsome@neszenpruet.com

INDEX

14 MR. JOHNSON: PAGE:
 15 MS. POPE EXAMINATION 4
 16 MR. NEWSOME EXAMINATION 32
 17 MS. POPE RE-EXAMINATION 91
 18 MR. NEWSOME RE-EXAMINATION 115
 19 Signature Sheet 125
 20 Certificate 126

EXHIBITS

21 Plaintiff's Exhibit Number One 5
 22 (Affidavit of W. Steven Johnson; dtd
 23 7/20/09)
 24 Plaintiff's Exhibit Number Two 5
 25 (Curriculum Vitae of W. Steven Johnson)
 Plaintiff's Exhibit Number Three 13
 (Exhibit 5 of the Estate/Trust of James
 Brown)
 Plaintiff's Exhibit Number Four 13
 (Exhibit 12 Attorneys Fees for Tressa T.H.
 Hayes dtd 7/22/08 & 5/26/09)
 Plaintiff's Exhibit Number Five 13
 (Exhibit 11 Attorney Fees and Cost -
 James D. Bailey, Esquire; dtd 1/2/08 &
 5/26/09)
 Plaintiff's Exhibit Number Six 15
 (Forbes Article of Top-Earnings for
 Dead Celebrities)

Page 4

1 W. STEVEN JOHNSON, ESQUIRE, having been duly sworn,
 2 deposes and testifies as follows:

3 MR. JOHNSON - EXAMINATION BY MS. POPE:

4 Q: Steve, I'm Adele Pope. Would you state your
 5 full name for the record?

6 A: W. Steven Johnson.

7 Q: Thank you. Have you had your deposition taken
 8 before?

9 A: I have.

10 Q: Would -- and you are a lawyer?

11 A: I am.

12 Q: Would you like for me to explain the deposition
 13 process to you?

14 A: No, that's okay.

15 Q: Not necessary?

16 A: Not necessary.

17 Q: Okay. Thank you. Okay. Steve, I may refer to
 18 myself in this deposition as Mrs. Pope or Adele
 19 Pope because I am a pro se plaintiff in this
 20 action and it may be easier to decipher what
 21 we're talking about if I do.

22 A: Okay.

23 Q: Is that all right? Okay. Now, tell me why you
 24 are present at this deposition on the 20th of
 25 July of 2016?

1 (Pages 1 to 4)

Page 85

1 adverse estate tax result. That's what I
2 recall from my reading of it.
3 Q: Okay. Then if I tell you that there's multiple
4 places that says it would create a 40 million
5 dollar tax problem, does that sound correct?
6 A: That -- that -- that sounds ...
7 MS. POPE: Object -- sorry, excuse me. Object to
8 the form.
9 A: I think I read that in the -- in the brief.
10 Q: Okay. And do you know whether that was correct
11 or not?
12 A: I don't.
13 Q: Okay. Do you know whether the IRS audited the
14 estate tax return in this case?
15 A: I don't.
16 Q: Okay.
17 A: I don't.
18 Q: And if I tell you that they did and that there
19 was no estate tax problem
20 MS. POPE: Object to the form, there was no audit.
21 Q: All right. You can't do that speaking
22 objection, so please just object to the form.
23 MS. POPE: I will. I apologize. I withdraw the
24 objection.
25 Q: And I'll rephrase the question.

Page 86

1 A: Please, please.
2 Q: So hypothetically, if the IRS reviewed the
3 estate tax return filed by Mr. Bauknight and
4 the settlement agreement and there was no 40
5 million dollar estate tax issue, does that
6 affect your opinion about these representations
7 that Pope and Buchanan made to the court?
8 A: Not really because it depends on the quality of
9 the auditor that you got and you might have
10 just gotten lucky and gotten an auditor who
11 didn't know what they were doing, so you just
12 got lucky and didn't have a -- an adverse
13 estate tax result. You know, I know that --
14 that Adele had sought the services of Harley
15 Ruff down in Beaufort and I know that they were
16 concerned and the fact that the concern didn't
17 manifest itself in -- in the estate tax audit,
18 I would say the chances are that, that was just
19 the luck of the draw in getting an estate tax
20 auditor who didn't know what the hell they were
21 doing.
22 Q: But you don't know that?
23 A: I don't know that.
24 Q: Okay.
25 A: But I'm answering ---

Page 87

1 Q: That's just speculation?
2 A: --- I'm answering hypothetically back to you.
3 Q: Okay. Do you know anything about federal
4 copyright law?
5 A: I don't.
6 Q: Okay. Do you know -- have you ever heard of
7 the term termination rights?
8 A: I believe that I have.
9 Q: Okay. Where did you hear about that?
10 A: I believe that in some of my studies, I have
11 been warned by public professionals who know
12 something about copyright law that it doesn't
13 pass pursuant to the terms of the will, but
14 goes by operation of law to the survivors of
15 the estate.
16 Q: Okay.
17 A: And that's -- that's my recollection of what
18 you're asking me about.
19 Q: Do you ---
20 A: I don't know -- I don't know whether I'm right
21 or wrong about that.
22 Q: Okay. Do you know if that was an issue in this
23 estate?
24 A: I don't.
25 Q: Okay. In the documents you reviewed, do you

Page 88

1 know whether Pope and Buchanan considered
2 termination rights in this case?
3 A: I don't.
4 Q: Okay. Do you know whether the settlement
5 involved termination rights in this case?
6 A: The settlement agreement among the parties?
7 Q: Yes.
8 A: I don't.
9 Q: Okay. If I represent to you that it did and
10 that you had that -- had that document in your
11 file ...
12 MS. POPE: I object.
13 Q: Okay.
14 A: I did not remember that.
15 Q: Okay.
16 MS. POPE: Are you representing to him that he had
17 that in his file and that it said that?
18 MR. NEWSOME: I'm going to look at my file.
19 Q: Mr. Steve, one of the documents that you
20 reviewed -- it's referenced in your affidavit,
21 is the order Judge Early signed approving the
22 settlement agreement, is that correct?
23 A: That's correct.
24 Q: Can I ask you to take a look at that?
25 A: What -- Billy, what exhibit number is it?

22 (Pages 85 to 88)

Exhibit M

State of South Carolina) In the Court of Common
) Pleas
)
County of Aiken) Case No: 2013-CP-02-1337

Adele J. Pope,

Plaintiff(s),

VS.

The Estate of James Brown and
The James Brown 2000
Irrevocable Trust,

Defendant (s) .

Deposition of

ROBERT COOK

February 8, 2017

Deposition of ROBERT COOK, taken before Frances C. Gray, Verbatim Court Reporter and Notary Public in and for the State of South Carolina, scheduled for 10:00 a.m. and commencing at the hour of 10:25 a.m., Wednesday, February 8, 2017, at the office of Office of the Attorney General, Rembert Dennis Building, 1000 Assembly Street, Columbia, South Carolina.

Reported by:
Frances C. Gray

APPEARANCES

For the Pro Se Plaintiff(s):

ADELE J. POPE, Attorney/Esquire
LAW OFFICE OF ADELE J. POPE, PC
1228 Walnut Street
Newberry, South Carolina 29108
adele@popelawfirm.com

For the Defendant(s):

J. EMORY SMITH, JR., Attorney/Esquire
OFFICE OF THE ATTORNEY GENERAL, STATE OF SOUTH
CAROLINA
Rembert Dennis Building, 5th Floor
1000 Assembly Street
Columbia, South Carolina 29201
ESmith@scag.gov

WILLIAM G. NEWSOME, III, Attorney/Esquire
NEXSEN PRUET ADAMS KLEEMEIER, LLC
1441 Main Street, Suite 1500
Columbia, South Carolina 29201
bnewsome@nexsenpruet.com

MARK V. GENDE, Attorney/Esquire
SWEENEY WINGATE & BARROW, P.A.
1515 Lady Street
Columbia, South Carolina 29201
MVG@SWBLAW.com
(Representing Plaintiffs of Richland Case 4900)

1 **Q. Mr. Cook, did you and I have a discussion about**
2 **this very problem in March of 2013?**

3 MR. SMITH: Object to form the question
4 and scope.

5 MR. NEWSOME: Same objections.

6 MR. GENDE: Same.

7 A. I know we met with you and Mr. McIntosh and
8 General Wilson and I believe myself. I think you
9 had asked not to have Mr. Jones there I believe as
10 I remember. I can't remember every detail of our
11 discussion, but I'm sure you raised it.

12 **Q. Did I raise my concern that valuing James Brown's**
13 **music empire at about 4.7 million would slash**
14 **James Brown's charity to almost nothing?**

15 MR. SMITH: Object to the form and scope.

16 MR. NEWSOME: Same objection.

17 MR. GENDE: Same objection.

18 A. I believe you did.

19 **Q. Did you get the idea from that meeting that I was**
20 **there to be greedy and get myself a big fee?**

21 MR. SMITH: Object to the form and scope.

22 MR. NEWSOME: Same objection.

23 MR. GENDE: Same.

24 A. No, I did not.

25 **Q. Did I seem to sincerely want to save the James**

Brown "I Feel Good" Trust?

MR. SMITH: Object to the form and scope.

MR. NEWSOME: Same objection.

MR. GENDE: Same objection.

A. Yes, you did.

Q. Did you tell me at that meeting that you were hearing some of the things I said for the first time?

MR. SMITH: Form and scope objection.

MR. NEWSOME: Same objection.

MR. GENDE: Same objection.

A. I don't remember every detail in the meeting, but I remember you saying some of those things and both myself and General Wilson said that.

Q. Do you recall my concern about Mr. Bauknight's having filed documents with the IRS to claim that Tommie Rae was the spouse and not changing them as a result of the decision?

MR. SMITH: Object to form and scope.

MR. NEWSOME: Same objections.

MR. GENDE: Same objections.

A. I can't particularly recall that, but -- you know, I don't doubt what you're telling me.

Q. Might I have told you that it could cause terrible problems for the 900 copyrights James

Exhibit N

STATE OF SOUTH CAROLINA	*	IN THE COURT OF COMMON PLEAS
	*	
COUNTY OF AIKEN	*	
	*	
ADELE J. POPE	*	CASE NO. 2013-CP-02-1337
	*	
Plaintiff,	*	
	*	
-vs-	*	
	*	
ESTATE OF JAMES BROWN	*	
and THE JAMES BROWN 2000	*	
IRREVOCABLE TRUST,	*	
	*	
Defendants.	*	
	*	

THE DEPOSITION OF
WALTER F. WILLIAMS
January 26, 2017

JILL C. SCHEIB, CERTIFIED COURT REPORTER
447 Mauldeth Road
Chattanooga, Tennessee 37415
(423) 544-7886
jillscheib@epbfi.com

APPEARANCES:

ADELE J. POPE, ATTORNEY AT LAW
 Adele Pope Law Offices
 1218 Taylor Street
 Columbia, SC 29201
 Appearing for the Plaintiff

BURL F. WILLIAMS, ATTORNEY AT LAW
 Nexsen Pruet
 1230 Main Street, Suite 700
 Columbia, SC 29201
 Appearing (Telephonically) for the Defendants

INDEX OF EXAMINATION

	PAGE
Direct Examination by Ms. Pope.....	4
Cross Examination by Mr. Williams.....	24

INDEX OF EXHIBITS

NO.	DESCRIPTION	PAGE
1	The Chattanooga.com Article March 1, 2007..	13
2	Confirmation of Request to Serve.....	20

1 to the community.

2 Q. Okay. Now, we also discussed that your speech
3 is somewhat slow, but do you feel that you've been at all
4 mentally impaired by your stroke?

5 A. Don't think I've been impaired mentally. I
6 just speak slowly.

7 Q. Okay.

8 A. But other than that, I've not been impaired.
9 I walk slowly, but I can walk.

10 Q. Good. And you walked here.

11 A. Yes.

12 Q. Good. Thank you. Now, Judge, if you'll tell
13 me just a little bit about your history, both your
14 professional history and your history of involvement in
15 the community.

16 A. Well, I finished high school here in 1970,
17 went to Morehouse College in Atlanta. Finished there in
18 '74 and went to Howard University School of Law and
19 finished in '77. I practiced for the Internal Revenue
20 Service for three years, until 1980, when I returned to
21 Chattanooga to start a law practice with Judge John
22 McClarty. He's on the court of appeals now. But at that
23 time he and I started a partnership, and remained
24 together till '91 when I was elected to the City Court
25 bench in 1991. And I remained there until 2003 when I

1 retired. I had enough years in that -- they gave us a
2 year-and-a-half for every year we served, so I had enough
3 time in to retire, which I did. And I returned to the
4 private practice of law with the law firm of Jim McKoon.
5 It became McKoon, Williams & Gold. Mr. Gold left and it
6 became McKoon, Williams and Haun. Haun left and it
7 became McKoon, Williams and Hegeman when I retired. Now
8 it's called McKoon, Williams, Atchley & Stanley. But I'm
9 a retired lawyer. And community-wise I was chairman of
10 the board of deacons at my church, First Baptist Church,
11 until my stroke, and then I retired as the chairman of
12 the board of deacons and just a deacon.

13 I serve the community -- I retired as the
14 chairman of the Westside Community Development
15 Corporation. I'm involved in a lot of activities, but I
16 retired from a lot of them because I'm just -- I don't
17 drive, and my wife has to take me around, and she is not
18 able to get me everywhere, so I pretty much stay home
19 unless I'm called upon to go to a bar function. And
20 sometimes I'll go to the Court and just sit around to
21 just hear some of the cases as a spectator. But I don't
22 do anything. I pretty much have retired from everything
23 except I help out when I'm asked to help out.

24 Q. Okay. Judge, do you have a long history of
25 interest in youth and education?

1 A. Until my stroke, I was chairman of the
2 Morehouse College board of -- excuse me -- the Morehouse
3 students who wanted scholarships from Beasley
4 Distributing Company. Mr. Beasley created two
5 scholarships for worthy students to go to Morehouse
6 College. He paid all their expenses, room and board,
7 tuition, monthly stipends, Christmas gifts, everything,
8 for the two students. I was chairman of that board.

9 I was also chairman of the -- for years, for
10 at least ten years, chairman of the scholarships for 100
11 Black Men, I started the program, and we gave out over a
12 quarter of a million dollars to students who -- deserving
13 students who wanted to go to college. I was chairman of
14 that committee for at least ten years, the founding
15 chairman, and I retired from that.

16 So I've had an interest in helping students go
17 to school since my college days, because somebody had to
18 help me go to school. And I have contributed and been a
19 part of efforts to help students go to school not only at
20 Morehouse, but other schools around the country.

21 Q. Okay.

22 A. In fact, my doctor, my cardiologist, Dr. Few,
23 finished medical school and he was a recipient of the
24 Morehouse scholarship.

25 Q. The Morehouse scholarship?

1 Q. Oh, good. Good. All right. Now, I want to
2 show you what we've looked at before today, and we'll
3 mark that as Plaintiff's Exhibit 1.

4 (Whereupon, Plaintiff's Exhibit Number 1 was marked.)

5 Q. And this is an article from March 1, 2007.
6 And if you'll just publish the title of the article in
7 the Chattanooga.

8 A. Yes.

9 Q. Right. Is that big enough to read, Judge?

10 A. Walter Williams to Help Distribute James Brown
11 Fortune.

12 Q. All right. And then it says: Named to
13 Panel --

14 A. To Oversee Soul Singer's Educational Fund.

15 Q. Okay. And do you recall -- you've read this
16 article before today.

17 A. Yes.

18 Q. Okay. And I'm interested in a few things.
19 One is the very first sentence. It says: Former
20 Chattanooga City Judge Walter Williams has been named to
21 a board to decide how to distribute over \$100 million
22 from the estate of soul singer James Brown. Do you know
23 how The Chattanooga came up with that figure or that
24 statement?

25 A. I mentioned it to John Wilson, who is the

1 editor of The Chattanooga, I mentioned it to John, and
2 he wanted to do a story about it.

3 Q. Okay. So you were involved with --

4 A. Yes.

5 Q. -- the story to some extent. How did you
6 know, or what did you know at that time, March 1, 2007,
7 about the size of James Brown's fortune?

8 A. At Judge Bradley's home, some investors, I
9 guess, they approached Judge Bradley about James Brown's
10 estate.

11 Q. Uh-huh.

12 A. We knew that James Brown held onto his
13 publishing rights to his masters. We knew --

14 Q. Excuse me. Could I stop you? I'm just going
15 to tell the court reporter the words you said.

16 A. Yeah.

17 Q. His publishing rights and his masters. Did I
18 say that correctly?

19 A. That's right.

20 Q. Keep going. I'm sorry.

21 A. And we assumed that his masters would be worth
22 \$250,000 (sic) or more, because most of the artists had
23 sold their masters, but James Brown never sold his.

24 Q. Okay.

25 A. And we thought then that it would be worth at

1 least \$250,000 (sic).

2 Q. Thousand or million?

3 A. Million.

4 Q. Okay.

5 A. 250 million.

6 Q. Right. And it was because of the masters and
7 the publishing rights.

8 A. Right.

9 Q. Okay. Did you also consider his famous face
10 and publicity rights?

11 A. We didn't consider -- that's the reason we
12 said at least --

13 Q. Okay.

14 A. -- 250 million.

15 Q. Okay.

16 A. And I quoted 100 million because I knew we
17 were talking 100 million.

18 Q. Right. So 100 -- from your perspective on
19 March 1, 2007 and that of Judge Bradley was that 100
20 million was conservative.

21 A. Oh, very much so.

22 Q. And Judge Bradley had substantial knowledge
23 about James Brown's assets?

24 A. Oh, yes.

25 Q. And of course he's dead today.

1 estates involved copyrights or masters?

2 A. Not often, not often.

3 Q. And how did you go about arriving at the value
4 of James Brown's estate?

5 A. As I indicated, I was at Judge Bradley's home
6 and a group of, I call them investors, and I and Judge
7 Bradley were talking about the James Brown estate. They
8 had indicated that they thought his masters copyright,
9 et cetera, exceeded \$250 million. When I spoke to
10 Mr. Wilson in the article, I used 100 million, a more
11 conservative figure.

12 Q. Okay.

13 A. But I used it as a minimum, not a maximum.

14 Q. Yes, sir. Is it fair to say that your
15 valuation number that you used is based upon what someone
16 else told you, is that what you just testified to?

17 A. No. I just used 100 million. I was told by
18 the investors that it was worth more than 250 million.

19 Q. Okay. And who were the investors?

20 A. They were -- they happened to come to a
21 cocktail party that Judge Bradley had at his house. I
22 called them investors. They may have been other people,
23 but I think they were investors.

24 Q. Okay. Did you -- do you recall their names
25 or --

1 signing documents, but it wasn't -- I didn't speak to her
2 that often, I would say four or five times, about the
3 status of the case, that's about it.

4 Q. Okay. And when you say status of the case,
5 are you referring to the lawsuits challenging the will
6 and trust?

7 A. Yeah. I know that it had gone to the Georgia
8 Supreme Court and it had gone to the South Carolina
9 Supreme Court, and I was just curious as to what was
10 going on. But I haven't spoken to Mrs. Pope in some
11 time. That's the reason I thought the matter was
12 resolved. But apparently not.

13 Q. Yes, sir. Can you tell the -- well, strike
14 that. Judge, can you tell the jury how many estates you
15 have valued in your life?

16 A. Oh, thousands of them.

17 Q. Okay.

18 A. I used to have a pretty good practice of
19 estate administration here in Chattanooga. I suspect
20 that 85 percent of all of the estates of
21 African-Americans in Chattanooga I handled.

22 Q. Okay.

23 A. So I have extensive experience in valuing
24 estates.

25 Q. Okay. Can you tell the jury how often those

Exhibit O

1 State of South Carolina) Court of Common Pleas
2 County of Richland) Case No: 2013-CP-02-1337

3 Adele J. Pope,)
4)
5 Plaintiff(s),) Deposition
6 vs.) of
7) Henry D. McMaster
8 Estate of James Brown and The)
9 James Brown 2000 Irrevocable)
10 Trust,)
11)
12 Defendant(s).)
13)

14 Deposition of HENRY D. MCMASTER, taken before
15 Frances C. Gray, Verbatim Court Reporter and Notary
16 Public in and for the State of South Carolina,
17 scheduled for 10:00 a.m. and commencing at the hour
18 of 10:23 a.m., Wednesday, October 19, 2016, at the
19 Office of the Attorney General of South Carolina,
20 1000 Assembly Street, Columbia, South Carolina.

21 Reported by:
22 Frances C. Gray
23
24
25

APPEARANCES

For the Plaintiff(s):

ADELE J. POPE, Attorney/Esquire
LAW OFFICE OF ADELE J. POPE, PC
1228 Walnut Street
Newberry, South Carolina 29108
adele@popelawfirm.com

For the Defendant(s):

J. EMORY SMITH, JR., Attorney/Esquire
OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA
1000 Assembly Street
Columbia, South Carolina 29201
ESmith@scag.gov
(For the S.C. Attorney General's Office)

WILLIAM G. NEWSOME, III, ESQUIRE
NEXSEN PRUET ADAMS KLEEMEIER, LLC
1441 Main Street, Suite 1500
Columbia, South Carolina 29201
bnewsome@nexsenpruet.com
(For Russell L. Bauknight)

1 **Attorney General Henry McMaster.**

2 A. Well, this is 51 pages including the signature
3 page. I recognize it as a -- this is a an e-mail
4 and it says it's a memorandum in support of
5 approving a settlement agreement. What do you
6 want me to do?

7 **Q. Right. I want you to refresh your recollection**
8 **for as long as it takes because I want to talk to**
9 **you about whether my -- the opposition of Bob**
10 **Buchanan and Adele Pope to the settlement was**
11 **reasonable. Because my commission --**

12 A. Well, I'll tell you -- I'll tell you that now. I
13 would say no because that's --

14 **Q. Well, I need to know why.**

15 A. Well, ma'am, that's going to -- if you're wanting
16 me to read this and be able to engage in that kind
17 of discussion, --

18 **Q. I do.**

19 A. -- you're going to miss your plane.

20 **Q. That's all right. I can miss it.**

21 A. And, by the way, that is not my signature.

22 That's -- someone apparently signed it for me.

23 **Q. Well, if someone signs your signature and is not**
24 **authorized to do it, you have means to fix that,**
25 **don't you?**

1 A. Mrs. Pope, they would have been authorized to do
2 it. I'm not asserting that any of these documents
3 are fraudulent.

4 **Q. Well, Mr. McMaster, you sued me six years ago, --**

5 A. Ma'am, I did not sue you.

6 **Q. -- and I have -- please let me finish the**
7 **statement and the question. And I have not been**
8 **--**

9 A. That's a statement.

10 **Q. -- paid for my work since 2007 as a result of the**
11 **suit you brought against me, so I'm here today to**
12 **find out whether there was any basis for bringing**
13 **that suit. Judge Early has been told that I**
14 **cannot be paid until Richland 4900 is concluded,**
15 **and so I need to know what your basis for suing me**
16 **for conducting an appeal of 4900 was, whether it**
17 **was reasonable?**

18 A. Ma'am, I did not sue you, --

19 MR. NEWSOME: Object to the form of the
20 question.

21 A. So, I cannot give you --

22 MR. NEWSOME: There was no question.

23 **Q. I hear you.**

24 A. -- those reasons.

25 **Q. I understand that. Well, no, no. You did -- you**

1 **did --**

2 A. You're interrupting me, ma'am. I'm answering your
3 question. I can tell you that the settlement that
4 this office promoted was reasonable, but as far as
5 the suit against you, I did not bring the suit
6 against you, so I am not in a position to discuss
7 the reasons for that. Now, my memory could be
8 refreshed, but I did not bring this suit.

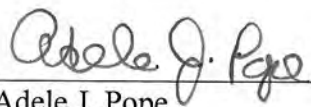
9 **Q. Well, again, the basis, it begins with your**
10 **position that declaring -- stipulating that Tommie**
11 **Rae Hynie would be James Brown's spouse and ending**
12 **the protection Bob Buchanan and Adele Pope were**
13 **providing to James Brown's estate plan is the**
14 **beginning of the problem. This is right where we**
15 **need to be. I need to know why you think it's a**
16 **wonderful settlement and this is what you, under**
17 **your signature, have told the Court. And so I'm**
18 **going to ask you to take all the time it takes to**
19 **refresh your memory about any justification you**
20 **had for the settlement, which the Supreme Court**
21 **later found dismembered James Brown's "I Feel**
22 **Good" Trust. So please take all the time you**
23 **need.**

24 A. Is that what this --

25 MR. NEWSOME: Object to the form of the

I certify that I have served counsel for Petitioner the foregoing Return, with Exhibits A – O on February 15, 2024, by emailing a copy of the same to them, addressed as follows:

J. David Black Esq.
dblack@maynardnexsen.com
Kirsten E. Small
ksmall@maynardnexsen.com


Adele J. Pope