

**THE STATE OF SOUTH CAROLINA**

**In the Court of Appeals**

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**APPEAL FROM RICHLAND COUNTY**

**Court of Common Pleas**

**The Honorable Doyet A. Early, III, Circuit Judge**

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**Appellate Case No.: 2021-000518**

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Adele J. Pope.....Appellant,

v.

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

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**RETURN TO MARCH 17, 2024, LETTER/MOTION OF ATTORNEY GENERAL  
AND CONFIRMATION THAT \$4.7 MILLION AT-DEATH VALUATION OF  
MUSIC EMPIRE OF JAMES BROWN IS PUBLIC AND SHOULD HAVE BEEN  
RELEASED UNDER FOIA IN 2011**

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**General Objection to the Attorney General’s FOIA Refusal in the March 17 Letter**

In Exhibit A, a March 17, 2024 letter/motion, the Attorney General of South Carolina (“AG”), asks this Court to ignore FOIA implications of the startling revelation that the Attorney General has been in possession for years of the public claimed at-death \$4.7 million valuation of the worldwide music empire of entertainer James Brown which the Attorney General has continuously used since 2010 to falsely accuse Robert Buchanan and Appellant Pope of the federal felony of overstating Brown’s assets by \$79 million to

get a \$5 million commission on what the Attorney General says was the \$5 million estate of James Brown.

The events of the last three months in this FOIA case, which may be the longest-running unresolved state FOIA case in the nation, are extraordinary. A FOIA response was delivered to Appellant Pope after 4:00 p.m. on March 28, 2024. Appellant's position is, however, the same that it has been since the \$4.7 million valuation documents and the Attorney General's Special Counsel Litigation Retention Agreement with the private law firm of Sweeny, Wingate & Barrow, P.A. ("SWB") in Richland County Case No. 2010-CP-40-4900 ("Richland 4900") were requested under FOIA in 2011: both the SWB Special Counsel Agreement and the \$4.7 million valuation, along with documents related to it between August 1, 2010 and May 6, 2011 were all public; were not confidential; and should have been produced under FOIA in 2011 when requested.

### **Statement of the FOIA Case and Public Documents Sought**

The brief history of the case is as follows:

- a. On August 2007 the Hon. Doyet A. Early, III issued an order making 80 boxes of "James Brown Historical Documents" public. These public files contained detailed financial information showing James Brown brought in \$80 million between 1999 and his death of Christmas Day 2006.
- b. In November 2007 James Brown's Estate filed an Inventory & Appraisal (I&A) valuing the Estate at \$100 million, less the "Pullman bond debt" of \$15 million.
- c. Between November 2007 and May 26, 2009 Buchanan and Pope made 65 additional boxes of James Brown documents public.
- d. In December 2007 Sr. Asst. AG Sonny Jones inquired about the \$100 million offer and the fiduciaries explained why they believed a sale at the time was not prudent.

- e. In 2007 *Forbes* listed Brown as a top-earning “Dead Celebrity” with \$5 million in the first year of his death.
- f. In September 2008 Forlando Brown, under oath, stated that \$150 million offers were available. Forlando was part of TJBL, an investment group seeking to buy the James Brown assets.
- g. In September 2008 Buchanan & Pope signed the estate tax return filed by Court-appointed CPA William Sellars. Under oath, they valued the James Brown music empire at \$84 million -- \$99 million less the “Pullman bond debt” which had been \$26 million in 1999; was paid down to \$15 million at Brown’s death despite nearly 8% interest; and was paid off in 2011.
- h. In January 2009, after TJBL had made 3 offers, the Estate proposed to consider a “right of first offer” with TJBL. The AG opposed the proposal and it was abandoned.
- i. On May 26, 2009 Buchanan and Pope delivered \$99 million of James Brown assets to Russell Bauknight. A full accounting, under oath, and the public documents delivered to Bauknight show that Brown earned \$5+ million a year; the Pullman bond debt was reduced to just over \$9.2 million; and a publicity rights contract expected to bring in \$1-\$2 million year was ready to be signed.
- j. The Pullman bond loan payoff was \$9.2 million and was paid 12 years ahead of the target, as shown by 145 boxes of public James Brown documents, but the AG’s trustee began claiming it had been \$19 million at death and \$14 million in 2009, concealing the public documents. The Attorney General used the false figure for the next 15 years.
- k. On May 26, 2009 Beth Bauknight became “custodian of the records” for Brown’s estate, according to her sworn affidavit.
- l. By June 22, 2009 Buchanan and Pope had delivered all 145 boxes of public James Brown documents to Bauknight, who signed a custody waiver detailing the documents delivered (about 70 pages) and agreeing to share them with Buchanan and Pope during the appeal which became *Wilson v. Dallas*, 743 S.E.2d 746 (2013).  
NO CONFIDENTIALITY ORDER WAS SIGNED AND FULL ACCESS WAS GRANTED IN THE SIGNED DOCUMENT BY THE ESTATE.
- m. Shortly after that, Nexsen Pruet (NP) attorneys and staff of the Office of The Attorney General (OAG) went through the 145 boxes and made certain notes, as is shown in a later FOIA request.

- n. In August 2009 Alan Medlin, Esq., an attorney for Tommie Rae Hynie, proposed a massive devaluation of James Brown's music empire to discredit "Bobadele." This proposal is contained in an email released by NP attorney Wm. Newsome, Esq., to Pope at some time in 2014 or later.
- o. In March 2010 Judge Early issued an order giving Buchanan and Pope access to all fee agreements of parties to the Attorney General's 2008 settlement, and directing that the Aiken Clerk of Court produce them because they had been delivered to the judge in 2009. They were missing from the Aiken Clerk of Court when requested, and never found. The 2008 fee agreement of Bauknight, outlining the \$375 - \$500 an hour fee for his NP counsel; his flat fee; his \$350-an-hour fee for litigation; and the \$350 fee for the Bauknights for accounting services was released under FOIA by the Attorney General in 2020 at the request of another citizen.
- p. On May 18, 2010 the SWB Special Counsel Agreement to bring "Richland 4900" was signed by an SWB attorney and:
- Bauknight
  - Alan Medlin, Esq.
  - Louis Levenson, Esq.
  - David Bell, Esq.,
- The Contract to sue Buchanan and Pope was not signed by Governor McMaster and the AG Staff knew that, as did SWB, who acted for the AG, now Governor, for 14 years.
- q. On May 19, 2010 the Attorney General, with others, sued Buchanan and Pope, falsely accusing them of the federal felony of overstating James Brown's assets to the IRS in order to obtain a large commission, along with other false claims of financial improprieties. The 145 boxes of public James Brown documents show this false felony claim to be absolutely false, and the other claims to be false. Bauknight, effectively controlled by the Attorney General, had agreed that Buchanan and Pope would have access to them.
- r. The false felony claim was somewhat tempered by the Attorney General's claim that Buchanan and Pope should have accepted the \$100 million offer made to purchase Brown's assets in 2007, and the reasons to not accept the \$100 million offer are found within the 145 sealed boxes of public James Brown records, now claimed to be confidential.
- s. Buchanan is a part-time federal magistrate judge and Pope was a certified specialist in Estate Planning and Probate with a history of more than 30 years of proper dealing with the IRS, and the false claim lodged by the Attorney General posed a serious threat to both their reputations and careers.

- t. Sr. Assistant Attorney General C.H. Jones (“AG Jones”) appeared at the Richland 4900 hearing and was introduced as a client; and SWB told that Court that AG Jones was certain that the AG’s tort suit by the private law firm SWB was proper.  
Six Years later, now-Governor McMaster testified under oath that he did not authorize Richland 4900 or SWB to act for the State/AG. He said, under oath, to Pope “Ma’am, I did not sue you.”
- u. Buchanan and Pope moved to dismiss and filed an answer and counterclaim.
- v. The Attorney General and his co-plaintiffs did not produce any documents in Richland 4900 document discovery from 2010 until 2020 except a 2-page witness list. The Attorney General, through SWB, claimed that the public AG’s Special Counsel Agreement with SWB was the “epitome” of a public document.
- w. In August 2010, before the \$4.7 million valuation arrived, AG Jones signed a document with the Supreme Court which stated:  
. . . Bauknight has pursued the appropriate fiduciary route and engaged a nationally-renowned and respected appraisal firm to value the Estate and Trust. Although the expected final completion for that appraisal is a couple of weeks away, a preliminary report indicates that the date-of-death value of the Estate and Trust will not exceed Twelve Million (\$12,000,000.00) Dollars. In light of that actual appraised value, Appellants’ claim for approximately Five Million (\$5,000,000.00) Dollars for their commissions and fees total perhaps half or more of the date-of-death value of the Estate and Trust, which further refutes any notion that their counsel are acting for the public good. [*Emphasis supp.*]
- x. In September 2010 the \$4.7 million valuation arrived, and the Attorney General, and others, in emails responsive to the FOIA suit, made the decision to withhold the \$4.7 million valuation from the Supreme Court until after the final briefs in *Wilson v. Dallas* were filed. The \$4.7 million claimed value, 1/20 the actual value of the music empire in 2010, was not shown to now-Governor McMaster, who left office as AG in January 2011. Nobody explained that it would shift nearly 1/3 out of the charity over to Levenson and Bell clients.
- y. Before year end Buchanan and Pope sought the following, and many other documents in Richland 4900 discovery:
- a. Documents showing the AG’s co-plaintiff, Medlin’s client, was not Brown’s spouse and Buchanan and Pope never owed her a duty;

- b. The public documents confirming that the \$99 million less Pullman bond debt was correct; and that Buchanan and Pope did not commit the federal felony the Attorney General was accusing them of;
- c. Documents related to the AG's less-than- \$12 million value; and
- d. The AG's Special Counsel Litigation Agreement with SWB.

In 2024, acting for the State/AG, SWB had not produced any of them except the AG's Special Counsel Agreement ordered by court order 9 years later.

- z. The Attorney General, through SWB, refused to produce any documents in the document request except a 2-page witness list.
  - aa. In May 2011 Bauknight filed an Amended I&A stating that Brown's music empire was worth \$4.7 million, not \$84 million.
  - ab. The AG's chosen trustee began making the false claim that the Pullman bond debt was \$19 million. This was part of the \$4.7 million devaluation of James Brown's assets by \$79 million to discredit "Bobadele."
  - bb. In May 2011 the Attorney General began falsely claiming to the Supreme Court and in Richland 4900 that Buchanan and Pope overstated the value of Brown's music empire by \$79 million to secure a \$5 million commission on what the Attorney General claims was James Brown's \$5 million estate, a federal felony.
  - cc. On June 30, based on the appraisal disclosed in May 2011, and the refusal of the AG to comply with discovery, Pope sought under FOIA:
    - a. The \$4.7 million valuation;
    - b. The documents from August 1, 2010 until May 2011 leading to the rollout of the Attorney General's false felony claim both in *Wilson v. Dallas* and Richland 4900.
    - c. Legacy Trust amendments related to the right of a family member to buy the music empire.
  - dd. The FOIA request was sent to SWB, the Attorney General, and (in part) to James Brown Legacy Trust ("Legacy Trust").
  - ee. On July 1, 2011, the Attorney General, through Bauknight, sought a protective order as to the public SWB Contract which was not resolved until 2020, claiming it was the "epitome" of a private document.
  - ff. On July 15, 2011, Bauknight's Legacy Trust attorney David Black, Esq., rejected the June 30 FOIA request and said:

“In the event 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.”

gg. On August 3, 2011 Pope filed this FOIA suit.

hh. On September 6, 2011 the AG moved to dismiss or strike.

ii. On September 9, 2011 Pope made a FOIA request for “All preliminary appraisal reports and/or other documents supporting the \$85 million vs. \$12 million vs. \$4.7 million. [See Ltr. Pope/Meyers, 10/5/11 p. 2, R. 510]

On October 3 and 5, 2011 AG Meyers and Pope had additional discussion in writing about the request and AG Meyers’ asserting that the AG’s office “does not possess such documents.” Pope sent \$300 for the AG to recheck and produce FOIA documents. [R. 509-13]

jj. On October 21, the Office of the Attorney General (“OAG”) filed an October 20, 2011 affidavit in which AG Meyers said, under oath, she had not received the June 30, 2011 FOIA request from Pope; that attaching the FOIA request to the complaint “does not constitute a request under FOIA to which the Office of the Attorney General must respond.” Meyers also stated:

6. Upon conclusion of the suit and delivery or mailing of the same FOIA request to the Office of the Attorney General by Ms. Pope or her attorney, a response to the FOIA request will be made then if permitted by any Order of the Court in case 2011-CP-36-364 or any other judicial proceeding related to the matters that are the subject of that request.

kk. On December 13, 2011, a *Newberry Observer* article entitled “Goliaths roar in James Brown FOIA lawsuit; David Asks what is AG Alan Wilson hiding? The article cited the sanctions Mark Gende, Esq., sought on behalf of the AG’s Richland 4900 co-plaintiffs who tried to intervene in Pope’s FOIA suits. The article said:

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

Several affidavits of private citizens and journalists... have been filed...

All affidavits emphasized the importance of protecting the public interest and keeping the FOIA strong...

Summer was interested in why the AG was claiming Brown’s charity was \$4 million when others said it was \$100 million.

- ll. Over objection of Pope, the Attorney General and Legacy Trust sought, and obtained an order transferring this FOIA case to Richland County. A second FOIA case, at the AG's request, over objection, was consolidated with Richland 4900.
- mm. In January 2012 SWB urged the Attorney General not to comply with his obligation under FOIA to release the public SWB Litigation Agreement with the AG. The AG did not comply until 9 years after the FOIA request for the public document.
- nn. In 2012 the AG and Legacy Trust moved to consolidate this FOIA case with Richland 4900. The motion was still pending in 2020.
- oo. On February 27, 2013 the Supreme Court's first *Wilson v. Dallas* decision admonished in Footnote 29 that the circuit court consider the FOIA cases in the first instance.
- pp. In March 2013 James Brown II, then a minor, discussed details of the \$4.7 million in a Supreme Court filing in *Wilson v. Dallas*. His attorney and GAL were later awarded a \$700,000 fee by the circuit court from James Brown's estate.
- qq. On April 24, 2013 the Attorney General wrote SWB stating that it had never hired SWB to bring Richland 4900, but SWB continued to act for the State/AG in Richland 4900 and neither the Attorney General, under FOIA, nor SWB, in discovery, informed any court or released this letter until it was released under FOIA by the Attorney General in late 2020.
- rr. On May 8, 2013 the Supreme Court issued its final decision in *Wilson v. Dallas*.
- ss. By then the AG's Legacy Trust, whose trustee stated under oath that it was managed for 3 years in Richland County in 2012, told Judge Manning it might not exist. By 2016, in this FOIA case, the Legacy Trust trustee said that the Legacy Trust did not exist.
- tt. On May 10, 2013 the Attorney General, through SWB, told the Honorable Casey Manning that because the Supreme Court had omitted footnote 29 in its final *Wilson v. Dallas* decision, it placed no importance on the prompt completion of either the FOIA cases or Richland 4900. The Attorney General, through SWB, sought and obtained a 3-year *de facto* stay in Richland 4900 and the two Pope FOIA cases.

- uu. During the stay, requested by the AG, through SWB, Pope’s FOIA counsel sought numerous hearings, and the AG’s in-house counsel said he did not object to a hearing, but the Attorney General, through SWB, and Legacy Trust forced the stay.
- vv. In 2012, during the stay, the Attorney General obtained an “emergency” order to stop the AG’s witness from giving a deposition when it was clear he would say that James Brown’s music empire was worth \$100 million and Medlin’s client was a bigamist. He testified under oath, instead. Also in 2012, the AG, through SWB, rejected and filed an offer to let both Brown’s Estate/2000 Trust and the AG out of Richland 4900 at no cost.<sup>1</sup>
- ww. In 2013 Russell Bauknight, trustee of the Legacy Trust, claimed that Pope “raped” James Brown’s estate, and, with SWB – still speaking for the Attorney General – began a 10-year plan to reinstate the AG’s 2008 settlement as announced by Levenson and Medlin on May 29, 2013, and to blame the damage on Buchanan and Pope with the false felony claim and Richland 4900. As described by SWB attorney Mark Gende to the Honorable Clifton B. Newman in 2023:
- “Well, I represent the Estate, personal representative of the Estate, Mr. Russell Bauknight, and the Estate does not see *Wilson v. Dallas* as a victory. What *Wilson v. Dallas* did was, Ms. Pope, who had to be removed and that decision upheld the removal because of her contentious relationship withstood early and prompt resolution of all the claims related to the Estate of James Brown because she didn't like -- I'll admit she came up with an argument that in large part, the Supreme Court accepted but the net result was this, that's why it's not a victory, she got them a bigger piece of a much smaller estate, instead of the Estate having percentage-wise maybe a smaller piece, but of a much larger corpus. That's not a victory.”
- xx. In 2013 Bauknight and Beth Bauknight were sharing all of the following public documents with James Brown II, the Attorney General, Peter Afterman, Levenson, Bell and Medlin, but Bauknight claimed to the federal court that both the public AG’s Special Counsel Agreement with SWB and the \$4.7 million valuation were confidential, although none of those persons had signed a confidentiality agreement:
- yy. The AG’s chosen trustee is now withholding, while accusing Pope of a federal felony:
- 80 Boxes of James Brown Historical Documents made public in 2007;

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<sup>1</sup> This was the third of many settlement offers to the AG and Estate/Trust.

- Tommie Rae Hynie’s handwritten bigamy admissions;
- 45 additional boxes of Buchanan/Pope confirming \$99 million value of James Brown’s music empire and \$5+ million income a year;
- Bauknight’s 2008 fee agreement showing \$5.5 million + earned by Bauknight from the claimed \$5 million estate; \$350 an hour for Beth Bauknight;
- Bauknight’s records of tens of millions of dollars in legal fees spent;
- Copies of documents from file of Court-appointed CPA William Sellars;
- The AG’s Special Counsel Litigation Retention Agreement with SWB;
- Documents confirming the \$4.7 million valuation is incorrect;
- Documents shared with Peter Afterman, who advised Tommie Rae Hynie’s attorneys from 2013 until 2020.

## ARGUMENT

### **The \$4.7 Million Valuation has Never Been Confidential and is Subject to FOIA**

In 2010 the \$4.7 million valuation was not only *used* in Richland County Case No. 2010-CP-40-4900 (“Richland 4900”), where the contract provided it was subject to FOIA, but *used* by Senior Assistant Attorney General C.H. Jones (“AG Jones”), and others in August 2010 to make the false felony claim to the Supreme Court in *Wilson v. Dallas* even before the \$4.7 million valuation was completed in September 2010.

As set out above, AG Jones claimed to the Supreme Court in August 2010 that the forthcoming valuation, expected in a few weeks, would show that James Brown’s assets were worth less than \$12 million, proving, said AG Jones, that Buchanan’s and Pope’s *pro bono publico* appellate attorney James B. Richardson, Jr., Esq., was not acting in the public interest by appealing the 2008 settlement brokered by the Attorney General which became *Wilson v. Dallas*.

As set out in the SWB 2023 statement, Bauknight and the Attorney General used and shared the \$4.7 million valuation and its related false felony claim to discredit Buchanan and Pope from 2010 until 2013 to try to stop the appeal which became *Wilson*

*v. Dallas*. Then the Attorney General and signatories to the AG' Special Counsel Agreement used the \$4.7 million valuation freely among themselves to support the claim that Pope "raped" James Brown 's estate; that she and Buchanan were greedy incompetent felons who sought a \$5 million commission on James Brown's \$5 million estate; and to trample on the FOIA, First Amendment, Due Process and other civil rights of anyone who believed that James Brown deserved the respect accorded a S.C. citizen who created a \$100 million charity that would distribute nearly \$4 million a year in scholarships that could be started in 2013.

The OAG staff have made known false claims, including under oath, to citizens and multiple courts to prevent release of the public \$4.7 million valuation since 2011, making this FOIA what may be the longest running unresolved FOIA case in the nation.

As shown in Pope's *pro se* response to an effort by Russell Bauknight and the same attorney who threatened sanctions 13 years ago if Pope exercised her FOIA rights, and the \$4.7 million valuation has never been confidential. [See Return to Petition for Original Jurisdiction, dated 2/15/24, in Appellate Case No. 2024-176, which is incorporated herein by reference] It was created by Russell Bauknight, trustee of the AG's Legacy Trust and Peter Afterman, the Legacy Trust's music manager, at the behest of Medlin, who proposed the massive devaluation in 2009 to discredit "Bobadele" and derail *Wilson v. Dallas*, the appeal of a 2008 settlement brokered by the Attorney General from which Medlin's clients would have received about \$20 million.

On November 19, 2020, the Deputy Solicitor General asked the Honorable Clifton Newman not to decide the merits of this FOIA case, but to dismiss it based on the

troublesome October 20 affidavit of AG Meyers. AG Smith failed to inform Judge Newman that *prior to the October Meyers Affidavit*, Appellant Pope made a second FOIA request for the \$4.7 million valuation. He also failed to tell Judge Newman that the \$4.7 million valuation had been in the AG's office for years, but that the AG's FOIA staff was still claiming, based on a 2016 false affidavit, that the Attorney General never possessed the \$4.7 million valuation.

Both SWB, speaking for the State/AG, and certain staff of the OAG, have left a trail of FOIA deception related to \$4.7 million valuation AG staff, Bauknight and Legacy Trust lawyers withheld from the Supreme Court for 8 months as they prepared to roll it out in *Wilson v. Dallas* after the final briefs had been filed so that the false felony claim against Buchanan and Pope would have a maximum impact on the Supreme Court.

On January 18, 2024, ahead of the oral argument in this case, Appellant served her third FOIA request for the public \$4.7 million valuation documents she should have received in 2011.

This resulted in a firestorm of attacks and the admission by the Attorney General that the \$4.7 million valuation had been in the office of the Attorney General for at least six years, but at least four OAG attorneys have represented since 2013 that they did not have it.

In the OAG's March 17, 2024 letter, AG Smith repeats some of the false claims about confidentiality made by Bauknight, in an effort to make short work of what is now almost 13 years of FOIA defiance and noncompliance in coordination with Bauknight, Bauknight's spouse Beth Bauknight, the Legacy Trust and SWB's State/AG actors in

Richland 4900. The AG has even sought to strike no fewer than 14 affidavits of journalists and other citizens seeking the \$4.7 million valuation.

Deputy AG Smith did make one important statement to Judge Newman:

Under FOIA, the question is whether the agency has the documents, whether they are subject to an exemption... [I]t's irrelevant whether a party needs them or doesn't need them...

The Attorney General's refusal to release the \$4.7 million and related documents under FOIA by the claim that the AG's office did not have it is inconsistent with the transparency required of the FOIA and democratic government. The public \$4.7 million valuation and related documents should have been released under two FOIA requests of 2011, one FOIA request of 2012, a 2014 FOIA order, a 2021 FOIA request and a January 2024 FOIA request.

### **The AG's Trustee Seals 145 Boxes of Public James Brown Documents**

For almost 15 years the Bauknights, with the blessing of the Attorney General, have concealed public James Brown documents and made false confidentiality claims, rebuffing anyone who questions why the Attorney General claims James Brown's charity was just \$4 million while numerous others claim it was \$80 million when Brown died and \$95 million when the Pullman bond debt was paid off in 2011.

In the fall of 2009, Bauknight, with Afterman as the "industry expert," began working on the \$4.7 million valuation, which was suggested by Medlin as a way to discredit "Bobadele" and derail the appeal of the AG's 2008 settlement. Now, for 13 years, the AG has used the \$4.7 million claimed "professional valuation" to accuse Buchanan and Pope of a crime and conceal under FOIA all the evidence to show there was no crime.

## **Suppression by the Office of the AG of Governor McMaster's Sworn Testimony**

In 2013, before Bauknight began claiming to a federal judge that the \$4.7 million valuation was confidential, it was clear that that this FOIA case should have been avoided and that there was no basis to bring Richland 4900. The Attorney General's April 24, 2013 letter made that clear. Yet SWB, acting for the Attorney General, and other State/AG actors in Richland 4900, continued Medlin's plan to discredit "Bobadele" and SWB's claim that it spoke for the Attorney General of S.C. for a decade to overturn the Supreme Court's ruling in *Wilson v. Dallas*. To do so, the Attorney General, through SWB and Legacy Trust lawyers began the bitter effort to suppress testimony under oath of Governor Henry McMaster, testimony under oath of Solicitor General Robert Cook, and testimony under oath of Attorney General Alan Wilson, none of whom had been informed of the \$4.7 million valuation or the false felony claim; or the fact that the Attorney General, through SWB and some OAG staff, was directly working to defy the Supreme Court of South Carolina in its *Wilson v. Dallas* decision.

None of these knew of anything Buchanan or Pope had done wrong, or of the false felony claim which two attorneys general, through OAG staff, have lodged against Buchanan and Appellant for 14 years. None knew of what the AG has done in Richland 4900. Testimony of the Governor's lack of knowledge of the false felony claim or the fact that he never knew about the \$79 million devaluation of James Brown's assets is still being concealed by the Attorney General's staff, confirming a lack of candor on the part of the staff in FOIA and FOIA-related cases.

SWB attorney Mark Gende, Esq. revealed in 2023 that, in addition to the 40%

contingency he is being paid by SWB's private clients, he is being paid \$350 for appeals related to Richland 4900. SWB also disrupted the FOIA hearings on remand. These actions to deprive citizens of their FOIA rights to know whether James Brown's charity should have been \$100 million when *Wilson v. Dallas* was decided, and why the Attorney General was claiming it was worth less than \$20 million, do not serve FOIA, which is essential to a democratic operation of the South Carolina government.

### **The AG Meyers Affidavit and FOIA Disruption by Legacy Trust Counsel (2011)**

In 2011, after refusing discovery in Richland 4900, the Attorney General began refusing FOIA requests for public documents, including the AG's Special Counsel Litigation Retention Agreement with SWB which was the beginning of the false felony claim as the \$4.7 million valuation was being produced. The AG also simply refused to release the emails leading up to the rollout of the false felony claim based on the hidden \$4.7 million valuation. The Attorney General continues to refuse to release them in this FOIA case.

In 2012 Bauknight stated under oath that the Legacy Trust was managed in Richland County and entitled to tens of millions of dollars of damage from Buchanan and Pope. In 2016, under oath in this FOIA case, he said it did not exist.

By 2016 the specious AG Meyers affidavit had been supplemented with one of AG Marcie Greene, who said the \$4.7 million valuation was not in the AG's Office. A third FOIA compliance officer, until March 17, 2024, said she had updated the Greene affidavit and the Attorney General had never had the \$4.7 million valuation.

Since remand, Legacy Trust attorneys, the OAG, and SWB, speaking for the

State/Attorney General, had at first said the AG did not have the \$4.7 million valuation; then that Pope's 2024 FOIA request was "fraudulent;" and now that she cannot have it because she already has it – under an ill-gotten 2013 confidentiality claim three years after it should have been produced by the Attorney General in Richland 4900 discovery and two years after it should have been released under FOIA.

### **SWB Directs Attorney General Not to Comply with FOIA Obligations (2012)**

In early 2012 an SWB attorney urged AG Alan Wilson, speaking as his attorney, not to comply with his obligations under FOIA. SWB said it was better to resist FOIA release of the public SWB Agreement than to face public embarrassment or damage his co-plaintiffs in Richland 4900. The AG did not release a single document under FOIA to Pope until forced to release the public AG's Special Counsel Agreement with SWB in 2020, 9 years after it should have been released. In addition, the Attorney General, through SWB, joined Legacy Trust trustee Bauknight in an extraordinary effort in Richland 4900 and also in Pope's fee case to suppress not only the \$4.7 million valuation, but how it was rolled out by AG Jones, NP attorneys and the AG's chosen trustee to maximum effect in the May 2011 Supreme Court filing in *Wilson v. Dallas*.

The suppression of the April 24, 2013 letter of the AG to SWB and the sworn testimony of Governor McMaster and Solicitor General Cook, by the AG through SWB and his own FOIA attorneys, has been extraordinarily effective. It has not served FOIA or the respect for James Brown or the rule of law. The circuit court's 2019 finding that the "only credible evidence" is that James Brown died with a \$4.7 million worldwide music empire is a testament to the effectiveness of false statements when the State does not

respect FOIA or the rights of citizens to open records so they will know how public officials conduct their business.

### **Forlando Brown and Others Reveal Contents of 4.7 Million Valuation (2013 +)**

In 2013 Bauknight represented to the federal court that he had “never disclosed the [\$4.7 million valuation] without a confidentiality agreement.”<sup>2</sup> Five years later, he would make a similar claim about confidentiality to a federal court, this time to the Honorable Michelle Childs. He claimed his dealings since 2013 with Peter Afterman, advisor to Medlin’s client Tommie Rae Hynie, were confidential. Bauknight had already admitted under oath that he spoke almost daily with Afterman from 2009 until at least 2018. Judge Childs did not agree.

Bauknight’s ill-gotten 2013 order does not say the \$4.7 million valuation is confidential, but merely that it is subjected to a 2008 consent document discovery order under which Forlando Brown, Buchanan and Pope have all waived any confidentiality of the \$4.7 million. Forlando Brown, under oath, has stated it is “bogus.” Buchanan and Pope, in milder terms, agree.

Even if the 2013 ruling had been properly obtained, confidentiality would have been lost the first time Bauknight discussed it with Afterman, or when Forlando and two attorneys openly spoke of it and did not sign confidentiality agreements; or when Afterman, or Brad Sharpe, the Attorney General’s expert reviewed it.<sup>3</sup>

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<sup>2</sup> See Reply in Support of the Special Trustee of the James Brown August 1, 2000 Trust’s Motion Confirming Confidentiality Designation in *Brown v. Pope*, Case No. 3:08-cv-00014-WOB.

<sup>3</sup> See Exhibit B, A January 17, 2011 email sent to the OAG during the period when the false felony rollout was being prepared.

There is no evidence that any of the Richland 4900 plaintiffs has signed a Confidentiality Agreement, or that anyone in the AG's office has signed one.

None of the requirements to treat the \$4.7 million valuation as confidential under the 2008 order in Dist. Court Case 3:08-cv-00014-WOB were met, and Bauknight made no attempt to obtain copies distributed to Forlando Brown, two of his attorneys, Buchanan and Pope when the case ended in 2014, because he could not have. Additionally, the AG was never a party to that federal case and could therefore not be subject to a confidentiality order therein. The AG asserts it does not know how or when it received the document, meaning there is no evidence that any party to the federal case supplied it to the AG. There is also no evidence to confirm that the AG was *not* already in possession of the document before the federal court designated it confidential based on Bauknight's statement that he had maintained its confidentiality.

Even before Bauknight told the federal court that he had not shared the \$4.7 million with anyone, the lawyer and GAL for James Brown II had told the Supreme Court about the contents of the \$4.7 million valuation. James II confirmed that the \$4.7 million valuation was based on the same false termination rights claims Medlin and Afterman made from 2010 until 2020, namely that the termination rights of Brown's heirs are worth "tens of millions" of dollars while the estate is worth only \$4.7 million. Their false rationale is that the royalties are the "primary" asset of Brown's estate and will end as each potential termination date is reached. This has been refuted by the law, the facts and the AG's own expert Roger Miller in 2017, who valued James Brown "solid gold" copyrights at 15-20 times revenues, as much as \$100 million without the valuable right of publicity. Miller

valued the termination rights of all heirs 10 years after James Brown's death at only \$8.8 million. He confirmed that termination rights will never apply to the non-U.S. royalties, about half of their annual income stream. And the hundreds of copyrights obtained after Brown's death will have 35 years before there will be any dissipation by termination rights.

Miller explained the "Sharpe ratio" of Brown's music catalogue that kept the value of the copyrights alone at 15-20 times royalties, \$80-\$100 million -- despite the Great Recession. This was the value when the music empire was turned over to the AG's trustee in may 2009. According to the sworn testimony of the AG's trustee, James Brown's estate had earned at least \$5 million each year since the \$5+ million a year Buchanan and Pope earned. It is understandable that citizens wonder why the Attorney General has valued Brown's charity at \$4 million when James Brown brought in a documented \$80 million from 1999 until his death on Christmas Day 2006. Why, since the IRS requires private charities to pay out about 5% of their assets each year, does the Attorney General want James Brown not to provide \$4 + millions of scholarships to S.C. and Georgia students each year?

The OAG claims that neither AG Wilson nor any of his staff, who undertook the duty to monitor the James Brown "I Feel Good" charity from 2010 until 2024, glanced at the \$4.7 million valuation, or asked why the AG's chosen trustee had valued the charity at \$4 million at death while the Attorney General's own expert Roger Miller said the copyrights alone were worth \$100 million. Further, TJBL and former IRS agent and Judge (Retired) Walter Williams confirm in sworn testimony or the concealed 145 boxes of James Brown documents that Brown's total assets are worth more. The FOIA claim made by the

OAG from 2011 until March 17, 2024 is disingenuous.

In 2018 another of the Attorney General's experts, Brad Sharpe, looked, without agreeing to confidentiality, at the \$4.7 million.

Even if – as the Deputy Solicitor General claims – nobody in the Office of the Attorney General looked at the Bauknight/Afterman \$4.7 million valuation until 2024, the AG's burden to designate it confidential is not met and cannot be met. Under FOIA and *S.C. Tax Com'n v. Gaston Cooper*, 447 S.E.2d 843 (1994) the fact that it came into the office freely, with no obligation of confidentiality, and was reviewed by staff who had no obligation to anyone to treat it as confidential from 2011 until 2024, confirms that the AG has not, and cannot meet any burden of confidentiality.

A more important question is: Why would the Attorney General want to conceal a false "valuation" which was created in 2010 and used not only to discredit James Brown but to punish two S.C. citizens who properly valued James Brown's "I Feel Good" education charity?

The AG's claim to confidentiality in the March 17 letter/motion is without merit.

#### **The Attorney General Has Ignored Judge Griffith's FOIA Order (2014-2015)**

In 2014 the Honorable Eugene Griffith ordered the Attorney General to produce all documents *used* in Richland 4900 and to get them from counsel. He ordered them to produce documents they used in Case 4900, and they had clearly used the \$4.7 million valuation. The judge also required the Attorney General to provide a privilege log for all documents he would not produce. AG Smith did not reveal that Attorney General Wilson had said he never hired SWB. AG Smith also did not claim any privilege as to the \$4.7

million valuation.

AG Smith told Judge Griffith nobody in the office of the Attorney General had ever seen the \$4.7 million valuation, but never produced an affidavit of AG Jones, who had been using the \$4.7 million valuation to falsely accuse Buchanan and Pope of the federal felony for years. Instead, AG Smith relied on specious affidavits of FOIA staff who had repeatedly rejected James Brown FOIA requests.

**Alexander Affidavit Confirms that Bauknight Improperly Claiming Confidentiality**

On September 21, 2013 expert R.B. Alexander, who had reviewed copies of the public documents the Attorney General has allowed his trustee to keep under lock and key, opined that the Buchanan/Pope valuation of the music empire at \$99 less the \$15 million Pullman bond debt, paid off in 2011, was conservative and correct. Alexander's own value was somewhat higher.

What was significant was that Alexander had reviewed numerous documents from the 145 boxes of public documents that the AG's trustee sealed by 2010 and still claims to be confidential, after the AG's trustee signed an agreement to keep them open.

The Attorney General's March 17, 2024 letter seeks to obtain a confidentiality declaration under FOIA for documents that have not been confidential for a decade, but are now hidden.

If James Brown created an \$80 million charity from his \$100+ million estate, as former IRS agent Judge (retired) Walter Williams testified, under oath, in 2017, why does the Attorney General seek to conceal a document which steals that credit from James Brown? Does James Brown not deserve the respect he earned from decades of being the

hardest working man in show business, then giving the bulk of his \$100 million fortune to provide \$4 million of so in scholarships to needy students in S.C. and Georgia?

### **The Affidavit of Marcie Greene and the FOIA Dismissals (2016)**

In 2016 the Attorney General told the Court in this FOIA case that he did not have the \$4.7 million valuation; that the AG had provided all documents responsive to Pope's 2011 FOIA request; and that the \$4.7 million valuation was subject to discovery in Richland 4900. At the same time the Attorney General, through SWB, was seeking summary judgment in Richland 4900 with no discovery and without revealing that Governor McMaster testified that he had never authorized SWB to sue in the name of the State/Attorney General. At the same time the AG was seeking to be dropped as a party to Richland 4900 under Rule 21.

In 2016 an affidavit of AG Marcie Greene claimed that she made proper inquiry and that the AG did not have the \$4.7 million valuation. AG Smith said the OAG did not have the \$4.7 million valuation, and that nobody in the office had even seen it. He did not produce the documents between August 2010 and May 2011 when the rollout of the false felony claim was planned

In 2017 two SWB attorneys, under oath and when required to testify by a circuit court judge, stated that both Attorney General Wilson and now-Governor McMaster had been their clients since 2010, and that Richland 4900 was legally authorized. This directly conflicts with the Governor's sworn testimony.

### **James Brown Financial Documents Destroyed under Care of AG's Trustee**

While the Bauknights concealed James Brown's public documents which confirm

that James Brown's worldwide music empire was \$99 million less the Pullman bond debt at his death, and should have returned to the \$99 million at least by 2013, they failed to collect the James Brown financial and tax files held by court-appointed CPA William Sellars, appointed in 2007. This destruction of 2 years of the James Brown estate financial records was concealed until 2017 when the deposition of Sellars revealed that the Attorney General's trustee, while falsely accusing Buchanan and Pope of financial misdealing and the federal felony of overstating Brown's assets by \$79 million to the IRS to get a \$5 million commission, was problematic. The Attorney General's allowing suppression of 145 boxes which help replace these valuable lost public records, destroyed because they were abandoned for more than six years by the AG's chosen trustee, is more problematic.

#### **SWB Fails to Designate any Documents Confidential (2017+)**

In 2017 SWB, attorneys, acting for the Attorney General and others, reviewed more than 120 boxes of James Brown Documents at Pope's home office. They did not designate any documents as confidential. Further, even if they had tried to do so, the claim would have been ill gotten because they were acting without authority for the State/Attorney General and Hynie, both of whom were concealing Hynie's handwritten admissions that she was a bigamist.

#### **Attorney General Continues to Lack Candor With Court on First Remand**

In 2019 the Court of Appeals remanded this FOIA case to determine whether an exception existed.

On remand the OAG continued to make the incorrect claim that it did not have the \$4.7 million valuation. A check of the records would have found the \$4.7 million valuation

and correspondence related to the false felony claim.

### **AG Releases Some FOIA Documents to Summer Withheld Since 2014 Order (2020)**

In 2020 the Attorney General released to a reporter certain documents the Attorney General should have released in discovery in Richland 4900 in 2010 and under FOIA as early as 2011. This cache of emails, and the latest “discovery” of the \$4.7 million valuation, place serious doubts about the ability of the State/AG to show that any James Brown document it has ever had is confidential.

Doesn't the public have a right to know why the Attorney General and his chosen trustee valued James Brown's music empire at \$4.7 million and “I Feel Good” charity at \$4 million while paying tens of millions of dollars to lawyers charging \$375 - \$500 an hour?

The Attorney General's delay for 10 years in releasing public documents showing the costs the AG allowed his chosen trustee to charge is just one example of the lack of transparency and candor in relation to FOIA compliance.

### **Office of Attorney General Lacks Candor in 2021 FOIA Request for \$4.7 Million Valuation**

In 2021 another citizen sought the \$4.7 million and other documents the Attorney General has failed to release since 2011. A third FOIA administrator presented the citizen with the 2016 Marcie Greene affidavit, then stated that she had checked further, and there was no \$4.7 million valuation.

### **The Deputy Solicitor General Failed to Inquire When Filing the AG's Brief**

The Attorney General as the enforcer of the FOIA cannot allow his staff to lack candor with citizens and the court in responding to his own FOIA requests.

The Attorney General has not met the burden of proving that the \$4.7 million valuation is confidential. He cannot do so because his chosen trustee has liberally shared the documents with Peter Afterman and anyone he favors since it was created in 2010 while concealing the document from those he opposes.

### **CONCLUSION**

The AG's failure to comply with FOIA requests for the \$4.7 million valuation and related valuation documents which show the rollout by the AG's staff and the Legacy Trust the AG controlled, of a plan to discredit and destroy the reputations of two S.C. citizens protecting James Brown's charity in the Supreme Court, by falsely accusing them of a federal felony and other false financial claims is unacceptable in a society which supports FOIA and open records. It has continued for 13 years, and still continues. The March 17 letter follows a long line of FOIA refusal that has damaged Appellant; James Brown's "I Feel Good" charity; and public trust in the Attorney General's enforcement of the FOIA. All attempts to claim that the documents sought in 2011 are confidential should be soundly rejected and the documents produced under FOIA. The documents requested under FOIA twice in 2011 should be released immediately.

Respectfully submitted,

s/Adam T. Silvernail

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S.C. Bar No. 80219

**Attorney for Appellant**

March 29, 2024

# EXHIBIT A



ALAN WILSON  
ATTORNEY GENERAL

March 19, 2024

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
By efilng only

Re: Pope v. Wilson, Appellate Case No. 2021-000518  
Correction to Final Brief

Dear Ms. Kitchings:

I was just informed yesterday that the Office of the Attorney General had located a confidential document that our final brief of Respondent reported that we did not have. The document is an appraisal of the value of assets of the Brown estate. This document does not change the arguments in this case, but I note it for the information of the Court.

The primary issue on appeal is whether the order of the Circuit Court should be affirmed because the Office of the Attorney General never received Appellant's Freedom of Information Act request. The Respondent Attorney General's brief refers to the Appraisal on page 7 in connection with an order in other litigation in which the Office of the Attorney General claimed that it did not have the document. On the same page, the brief also notes that the appraisal is confidential pursuant to Court order, but that Appellant would have access to it through that proceeding. Footnote 7 on page 14 refers to an argument of Appellant as to the existence of the appraisal.

A comprehensive search of documents in 2015, for which I can produce affidavits executed that year, located no appraisal. Apparently, a large number of documents were scanned for the first time in 2017. In an electronic document search to respond to a new FOIA request from Appellant in 2024, the appraisal was located last Friday. According to the information I have been given, the appraisal does not show how or when the document came to the Office of the Attorney General.

The location of the document does not change the arguments in this case for these reasons:

1. The only ground on which this case was dismissed was that the Attorney General's Office never received the FOIA request at issue. Although Respondent raised mootness as an additional ground for sustaining the Order

The Honorable Jenny Abbott Kitchings

March 19, 2024

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of Judge Newman because it had provided all responsive documents, the Judge never reached that ground in his Order.

2. The appraisal is not responsive to the FOIA request because Appellant's request was for communications between the Office of the Attorney General and Russel Bauknight related to the value of the assets of the Brown trust and estate. As noted, we do not know how the appraisal came to this office.
3. The appraisal is confidential pursuant to Court order. *Supra*, Respondent's final brief at page 14, note 7.

Should the Court prefer a more formal filing regarding this matter, please let me know. Oral argument is scheduled in this case on April 2, but I do not see a reason why argument should be rescheduled. I will, of course, be glad to answer any questions that the Court has at argument.

Respectfully,



/s/ J. Emory Smith, Jr.  
James Emory Smith, Jr.  
Deputy Solicitor General

cc: Adam Silvernail (by email only)

# EXHIBIT B

January 7, 2011 JAW 2011

**Sonny Jones**

**From:** Terry Bradford Cox, Ph.D. <cox.terry@att.net>  
**Sent:** Monday, January 17, 2011 4:33 PM  
**To:** Sonny Jones  
**Cc:** William James Brown  
**Subject:** Wednesday Mtg

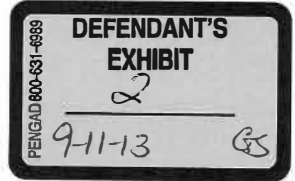
Sonny

This is to confirm our Mtg this Wednesday Jan. 19. Can we make it at 2pm. I then probably see a mtg to continue with just Russell and Freddie to go over administrative stuff for how we are going to get started.

Besides myself, William Brown will be attending along with a Jim Blackwell, he is a financial guy (no attorneys). I have put together an agenda and some handouts that I will go over with you Tuesday pm if you are available. Basically I see us starting with the ROFR and clarifying the key pieces that you, Alan and me worked through. (There is no issue here, I just think it is important for all to nod their head in the affirmative.) From here we can discuss our approach to the assets and the due diligence. Then we will continue with the administrative stuff, and you and Alan can leave if you want.

Original doc of ROFR is being sent today and you will also receive a doc signed by Terry Brown that gives us the right to represent him. If there is anything you want to add, let me know.

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



**RECEIVED**

**Mar 29 2024**

**SC Court of Appeals**

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

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

**The Honorable Clifton B. Newman, Circuit Judge**

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**Appellate Case No. 2021-000518**

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Adele J. Pope..... Appellant,

v.

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

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**PROOF OF SERVICE**

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The undersigned counsel for Appellant hereby certifies that the Return to March 17, 2024 Letter were served on the date shown below by emailing a copy of the document to counsel for each Respondent at the addresses shown below:

J. Emory Smith, Esquire  
[esmith@scag.gov](mailto:esmith@scag.gov)  
*Attorney for Respondent Attorney General*

March 29, 2024

s/Adam T. Silvernail  
*Attorney for Appellant*