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STATE OF SOUTH CAROLINA

In the Supreme Court

May 01 2025

APPEAL FROM RICHLAND COUNTY

S.C. SUPREME COURT

Court of Common Pleas

The Honorable Clifton B. Newman, Circuit Court Judge

Appellate Case No.: 2023-001253

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; Tommie Rae Brown, individually and on behalf of her minor child, James B.; Daryl J. Brown, individually and on behalf of his minor child, Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. And Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown,

v.

Adele J. Pope, Appellant.

APPELLANT’S PETITION FOR REHEARING

Appellant Adele J. Pope respectfully petitions this Court, pursuant to Rule 221, SCACR, to rehear and reverse its affirmation only on the issue of the circuit court’s striking of Appellant’s answer herein and does not seek rehearing on the other aspects of Judge Newman’s Order.

Grounds for Rehearing¹

This case is about two things: 1) the disastrous \$4.7 Million Appraisal which is not merely of historical interest but has and continues to injure James Brown’s charitable gift to the tune of tens of millions of dollars, and 2) Appellant’s ability to defend herself in a long-running suit

¹ Because the facts and arguments in this case have been fully set out in Appellant’s briefs, which she incorporates, she recites only the facts and procedural history necessary to give context herein.

designed to punish her for, among other things, bringing to light the problems caused by the \$4.7 Million Appraisal.

This Court has twice saved James Brown's charitable estate plan, first from "dismemberment" in *Wilson v. Dallas*, 403 S.C. 411, 441, 743 S.E.2d 746 (2013), and then from the claims of a woman who this Court determined was never James Brown's spouse in *In re Est. of Brown*, 430 S.C. 474, 846 S.E.2d 342 (2020). The \$4.7 Million Appraisal stands to raid James Brown's "I Feel Good" charity despite this Court's efforts.

Here is why: James Brown left the vast bulk of his estate to a trust which used the "fractional share" method of division between the noncharitable Brown Family Education Trust and the charitable "I Feel Good" Trust,² with the numerator being the maximum generation-skipping tax exemption at Mr. Brown's death (which was \$2 million) and the denominator being the value of his entire estate as determined in his estate tax proceeding.

Since the numerator was essentially fixed, this meant that the fraction going to seven grandchildren and the charity, respectively, would vary depending on the final value in the IRS proceeding related to James Brown's Estate.

With Mr. Brown's music empire valued at \$4.7 Million, his entire estate, including his real estate and certain other assets, would be approximately \$6 Million. Thus, the amount going to the charity under the fractional share formula is reduced to about 2/3 from 41/42, as explained below. Once fixed by the valuation of the Estate, this fraction remains unchanged for all distributions of

² Article VI of the James Brown 2000 Irrevocable Trust provides:

The Brown Family Education Trust shall be a fraction of the Trust Estate...the numerator of which shall be an amount equal to the Grantor's generation-skipping transfer exemption...and the denominator shall be the amount equal to the value of the Trust Estate...as finally determined in the Grantor's federal tax proceedings...

income or the proceeds of a sale.

The \$4.7 Million Appraisal was ridiculously low. Mr. Brown's copyrights had earned at least \$5 million per year [R. 1471] even after his death, most of which would have funded scholarships if the assets were properly valued.

If the estate had been valued at, say, \$84 million, the value used by Buchanan, Appellant and others,³ that would have been the denominator, and the charity's share of the estate would be 41/42. Instead, the \$4.7 Million Appraisal reduced the charity's share to about 2/3, and that fraction would be applied in distributing the proceeds of the reported \$90 Million sale which took place in 2021.

In 2010, while Appellant and Robert L. Buchanan, Jr. were appealing the 2008 settlement (later set aside by this Court in *Wilson*), Respondents filed this case against Buchanan and Appellant, alleging, among other things that Buchanan and Appellant failed to accept a \$100 million offer to purchase Mr. Brown's assets in 2007. [R. 130, ¶18(i.)]

Four months after accusing Buchanan and Appellant of failing to accept the \$100 million offer, Respondents accepted and adopted the \$4.7 Million Appraisal of Mr. Brown's music empire. In the 15 years since, they have used the \$4.7 Million Appraisal in this case to attack Buchanan and Appellant.

From 2013 until June 10, 2015, Appellant, acting solely as a private citizen and not as a fiduciary, continued to defend herself and urge that the \$4.7 Million value be corrected. On June 10, 2015, Appellant's efforts to persuade others to correct the \$4.7 Million to \$84 Million ceased abruptly. Since then, however, Appellant has necessarily used the fact that the \$4.7 Million

³ An expert designated by Respondents in this case in 2017 testified that there was an active market, and investors were willing to pay up to \$100 million for James Brown's music rights at his death. This was in addition to the value of Mr. Brown's image and likeness.

Appraisal is incorrect to defend herself in this case. She can do nothing more to correct the problem caused by the \$4.7 Million Appraisal, but she should have the right to defend herself against the allegations in this case by the very people who created the problem.

Respondents have baselessly argued that the pendency of this case has barred the funding of the “I Feel Good” Trust. Appellant submits that the “I Feel Good” Trust has gone unfunded to avoid revealing the damage the \$4.7 Million Appraisal has done to the charity.

Appellant’s efforts to lift the automatic stay and move forward with matters which she and Buchanan had raised as early as 2011 were based on her desire to defend herself from the incorrect allegations related to the \$4.7 Million Appraisal and other false allegations. This Court has found her efforts to be overzealous. Appellant respectfully submits, however, that even if that is so, she has acted at all times in good faith and with the desire to see this matter concluded as quickly as possible with a fair outcome.

Striking Appellant’s answer, the harshest sanction available, is an unfair and unjustified punishment where Appellant has never been sanctioned before and where Appellant did not take any action prohibited by order of any court. She was given no opportunity to change course, and the substantial monetary sanction is more than sufficient. As the record shows, Appellant made no filings prohibited by this Court’s March 28, 2023 Order.

CONCLUSION

For the reasons set forth above, Appellant respectfully asks that the Court grant rehearing solely on the issue of striking Appellant’s answer and reverse the circuit court on that point.

Respectfully submitted,

s/Alvin J. Hammer

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