

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS

CASE NOS. 2008-CP-02-1647-*filed here*  
2009-CP-02-1810  
2007-ES-02-0056

IN RE:

**THE ESTATE OF JAMES BROWN  
A/K/A JAMES JOSEPH BROWN**

INTERIM ORDER

~~FILED~~ 10-3-13  
*Liz Anderson*  
10-3-13 4:30  
*Arita Knoepfle*  
Deputy Clerk

This matter comes before me on applications for appointment filed by, or on behalf of, five individuals (hereinafter, the "Applicants") seeking appointment as Personal Representative of the Estate of James Brown (the "Estate") and Trustee of the James Brown August 1, 2000 Irrevocable Trust Agreement (the "Trust"). The Court has also received an application for appointment of Limited Special Administrator of the Estate and Limited Special Trustee of the Trust.

**BACKGROUND**

In *Wilson v. Dallas*, 403 S.C. 411, 450, 743 S.E.2d 746, 768 (2013) (the "Opinion"), the South Carolina Supreme Court affirmed in part, reversed in part, and remanded this Court's May 26, 2009 Order confirming the James Brown Estate and Trust Settlement Agreement. The Opinion reversed the compromise agreement, affirmed this Court's May 26, 2009, removal of the prior fiduciaries Mrs. Pope and Mr. Buchanan, and vacated Mr. Bauknight's fiduciary appointments made in conjunction with the compromise agreement. The Supreme Court further remanded to this Court the question of who shall serve as fiduciaries of the Estate and Trust. In its Opinion, the Court instructed this Court, "upon proper application, [to] appoint fiduciaries to oversee . . . matters in accordance with the provisions for succession outlined in Brown's trust

*JAE*  
#1

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and estate documents.”

On May 29, 2013, this Court held a status conference concerning the Opinion and, by Order dated June 13, 2013, required all applications of those interested in serving as fiduciaries of the Estate and Trust to be made within 45 days of the date of that Order (July 29, 2013). Mr. Bauknight was ordered, in the interim, to continue to oversee the orderly administrative and fiduciary duties of the Estate and Trust as Special Administrator and Special Trustee, which he has done in a professional manner. Mr. Bauknight has continuously served in a fiduciary capacity for the Estate and Trust since May 26, 2009 and there has been no lapse in his authority or fiduciary service.

A. The Applicants

This Court received a total of six applications, each of varying form. The following identifies the Applicants and summarizes the form of the applications received:

- (1) **Mr. Russell L. Bauknight** – by Petition for Formal Appointment of Successor Personal Representative and Trustee filed with this Court on July 29, 2013 (attached as **Exhibit 1**)
- (2) **David C. Sojourner, Jr.** – by Petition for Formal Appointment as Limited Special Administrator filed with the Aiken County Probate Court and this Court on July 29, 2013, and Petition for Formal Appointment as Limited Special Trustee filed with this Court on July 29, 2013 (attached as **Exhibits 2A and 2B**)
- (3) **Judge Neal W. Dickert** – by letter of recommendation delivered on his behalf to this Court by David B. Bell on July 17, 2013 (attached as **Exhibit 3**)
- (4) **Mr. Scott Keniley** – by letter delivered to and filed with this Court on July 24, 2013 (attached as **Exhibit 4**)
- (5) **Dr. W.M. Grooms, CPA** – by letter filed with this Court on July 24, 2013 (attached as **Exhibit 5**)
- (6) **Rev. Larry Fryer** – by e-mail delivered on August 12, 2013 (attached as **Exhibit 6**).

*WAC*  
#2

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B. In Court Examination of the Applicants

On September 4, 2013, this Court conducted a hearing to receive testimony and answer questions posed by the Court from the Applicant parties. A transcript of the hearing is attached to this Order as Exhibit 7. All of the Applicants appeared at the September 4, 2013 hearing, except Rev. Fryer. On September 11, 2013, this Court reconvened the hearing to receive the testimony of Rev. Fryer. A transcript of that subsequent hearing is attached to this Order as Exhibit 8. At the conclusion of the September 4, 2013 hearing, this Court gave the Applicants ten (10) days to file written opposition to any of the Applicants.

FINDINGS OF FACT

As an initial matter, this Court wishes to express its gratitude to those Applicants who graciously volunteered to serve the Estate and Trust, as well as the State of South Carolina as a whole. Their willingness to assist the Estate and Trust in these matters is greatly appreciated by the Court.

As noted, the Supreme Court remanded the appointment of fiduciaries of the Estate and Trust to the sound discretion of this Court. This Court has carefully reviewed the Will and Trust, all applications and memoranda filed on behalf of, and in opposition to, the Applicants, and has considered the testimony provided by the Applicants. James Brown passed away nearly seven years ago on December 25, 2006. These factual findings and this Interim Order are made cognizant of the age of this matter and in an effort to expedite the efficient administration of the Estate and Trust. The overarching goal of this Court is to create an atmosphere where the prompt resolution of the various contested claims and a final resolution of Estate and Trust matters can occur without compromising the positive gains achieved since this Court issued its May 26, 2009 Order.

*TOOJE*  
*#3*

IN THE COURT OF COMMON PLEAS

CASE NO. 07-CP-02-122

MC \_\_\_\_\_ JR \_\_\_\_\_

In Re: Estate of James Brown

PLAINTIFF(S)

DEFENDANT(S)

**CHECK ONE:**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other- \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other \_\_\_\_\_

IT IS ORDERED AND ADJUDGED:  See attached order;  Statement of Judgment by the Court:

Dated at \_\_\_\_\_, South Carolina, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
PRESIDING JUDGE

This judgment/order was entered/filed on the 3 day of March, 2008, and a copy mailed/hand-delivered/boxed this 3 day of March, 2008 to attorneys of record or to parties (when appearing pro se) as follows:

see list  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

probate  
\_\_\_\_\_  
\_\_\_\_\_

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard  
CLERK OF COURT

By: Christy Smith  
DEPUTY CLERK

Based on the foregoing, this Court finds:

1. Russell L. Bauknight has continuously served as a fiduciary to the Estate and Trust, both in his roles as Personal Representative and Trustee, and his continuing roles as Special Administrator and Special Trustee, with general fiduciary powers, since May 26, 2009. In that time, he and his counsel have protected the interests of the Estate and Trust in an effective and skillful manner, to wit:

(a) Notwithstanding the fact that he inherited the Estate on the verge of insolvency, with less than \$13,000 in the Estate's bank account, Mr. Bauknight oversaw the repayment of over \$14 Million on the Pullman bond debt seven years ahead of schedule.

(b) Mr. Bauknight engaged Mr. Peter Afterman to lead the marketing of intellectual property of the Estate. The Court notes that Mr. Afterman is a widely-respected Grammy Award winning music manager who also markets the music of the Rolling Stones. Mr. Afterman has been instrumental in marketing the intellectual property of the Estate. Mr. Bauknight hired Mr. Afterman on a deferred-pay basis so that he received payment 15 months after he began work for the Estate.

(c) Mr. Bauknight negotiated an arrangement with Universal Music to set up a fully-staffed division to assist in the marketing of Mr. Brown's music without charge to the Estate or Trust.

(d) Mr. Bauknight secured a deal launching the James Brown YouTube channel.

(e) Mr. Bauknight has recovered the domain name JamesBrown.com, which, prior to its recovery, had been held by an unrelated party for at least a decade. The Court understands that securing this domain name is part of a larger plan to market merchandise related to James Brown and otherwise promote the Estate's business interests and Mr. Brown's legacy. Mr. Bauknight convinced Universal Music to build the JamesBrown.com website without charge to the Estate or

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58. Mr. Bell's alliances with Ms. Hynie are directly adverse to Forlando's stated positions in this case.

**Mr. Bell's Support of the False, Less-than \$4.7 Million Value and Felony Claims**

59. Mr. Bell, along with both Forlando and Terry, was present for two days of hearings in November 2008 where the approximately \$84 million value of the music empire and the estate tax return were discussed in detail.

60. Mr. Bell did not raise any question about the \$84 million value until 2011.

61. I am informed and believe Mr. Bell's current position as to value is directly adverse to more than four years of testimony and sworn statements of Forlando.

62. I am informed and believe that the false felony claims lodged against us by Mr. Bell were both malicious and reckless. [See Exhibit E, Ltr. Pope to AG Wilson dtd. 9/16/13.]

63. I am informed and believe that Mr. Bell's entry into this case will unjustly prolong our ability to undo the destruction caused to both the 2000 Trust and our reputations and careers which Forlando – by abandoning his frivolous complaint – began to repair in 2012.

FURTHER DEPONENT SAYETH NOT.

\_\_\_\_\_  
ADELE J. POPE

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

\_\_\_\_\_(L.S.)  
Notary Public for South Carolina  
My Commission expires: \_\_\_\_\_

Trust.

(f) Mr. Bauknight secured a deal for a documentary on the life of James Brown, to be directed and produced by the world renowned musician and entertainer Mick Jagger. The Court understands that this project has already received funding of over two million dollars, which is extraordinary for a documentary.

(g) Mr. Bauknight secured a deal with *Imagine Pictures* (the production company of Ron Howard and Brian Grazer) and *Jagged Productions* (the production company of Mick Jagger) for the production of a movie on the life of James Brown, to be released in late 2014, directed by Tate Taylor, most recently of the movie, *The Help*, and starring Chadwick Boseman, most recently of the Jackie Robinson biopic, *42*.

(h) Mr. Bauknight is in the process of negotiating a live tribute tour featuring the music of James Brown.

(i) Mr. Bauknight engaged Mr. Steve Gibson at the Grand Ole Opry in Nashville, Tennessee, to lead the digitization of video and audio tapes of James Brown so that it can be preserved for commercial purposes. This project began over a year ago, and will preserve valuable audio and video tapes of James Brown that are in danger of deterioration.

(j) Mr. Bauknight has initiated discussions with a renowned Broadway producer for the creation of a Broadway production based on the music of James Brown.

(k) Mr. Bauknight has overseen and continues to oversee the repair and restoration of Mr. Brown's iconic Beech Island home and the remaining personal property in the home, which was in a state of disrepair and deterioration when Mr. Bauknight first began his fiduciary service to the Estate and Trust.

(l) Mr. Bauknight has negotiated a deal to restore Mr. Brown's remaining personal

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51. On May 8 the second *Wilson v. Dallas* decision was issued. Terry immediately asked the court in the Wingate Suit to delay AG Wilson's motion, Ms. Hynie's deposition and the FOIA matters for what may be years.

52. On May 29 Ms. Hynie's counsel and Mr. Levenson announced their intention to reinstate the McMaster Settlement. Mr. Bauknight asserts it should be reinstated. [ See Exhibit D]

53. Mr. Bell refuses to disclose the agreements showing what he would be paid under the McMaster Settlement, even though a March 2010 order of Jg. Early finds his contract not to be confidential and directs it to be disclosed.

54. On August 20 Mr. Bauknight claimed for the first time that Terry and Mr. Bell were not shown the "appraisal" which support Mr. Bell's false felony claims. [See my Ltr. to AG Wilson, Exhibit D.]

**Mr. Bell's Actions to Destroy the Federal Copyright Act Rights of the 2000 Trust**

55. This case was commenced nearly six years ago by Mr. Bell to protect the 2000 Trust; its 7 \$285,000 subtrusts for Forlando and other grandchildren; and the "I Feel Good" private foundation from Ms. Hynie and Forlando's own family.

56. Mr. Bell has worked since before January 31, 2009 to destroy the 2000 Trust.

57. It is undisputed that stipulating Ms. Hynie to be Brown's spouse when she is not will cause irreparable harm to the Estate/2000 Trust's ability to protect its copyright interests through fair-but-arm's length dealings with Brown's real heirs.

possessions found in a state of disrepair at his Beech Island home.

(m) Mr. Bauknight has resolved most of the creditor's claims against the Estate and has worked diligently with his counsel to move the remaining claim matters forward in an efficient and expeditious manner.

(n) Mr. Bauknight has resolved the Estate matters with the Internal Revenue Service and various state taxing authorities, and has filed all income tax returns for James Brown and the Estate and Trust for all periods, both during his tenure as Personal Representative and during the tenure of the prior fiduciaries, who failed to file any income tax returns.

(o) Mr. Bauknight has successfully resolved a number of IRS audits, including the audit of the estate tax return, which resulted in a refund due from the IRS to the Estate.

(p) Mr. Bauknight hired an investment banking firm on a deferred-pay basis to value the intellectual property of the Estate. The IRS royalty valuation experts examined the valuation report during the audit of the estate tax return and agreed with it.

(q) Mr. Bauknight has established a reserve to fund scholarships for deserving students under James Brown's charitable education trust and created a reserve to pay the educational expenses of Mr. Brown's grandchildren. These reserves have presently grown to over \$1 Million due to the foresight and planning of Mr. Bauknight, and those and future funds will be immediately available when the current litigation is concluded.

(r) Mr. Bauknight successfully terminated engagements for royalty audits entered into by the prior personal representatives, which were based on a 20% contingency fee arrangement, and negotiated more financially favorable fixed-fee arrangements with new royalty auditors. These new agreements will save the Estate approximately \$140,000 on the first audit and significant sums in the future.

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44. In 2012 Terry fought bitterly to keep in place 2008 Gag Orders which - unless void or expired – prevent discussion of the widely-known contents of Ms. Hynie's "diary." Forlando has openly violated the Gag Orders.

45. In the fall of 2012 Terry asked the court in the Wingate Suit to strike offers to 2000 Trust beneficiaries Lindsey, Janise, Jason, Sydney and Carrington which would have helped save the 2000 Trust which this suit was brought to protect.

46. In October 2012 Terry supported Wingate/Mr. Bauknight's failure for two years to appoint a GAL for the minors Wingate/Mr. Bauknight had made plaintiffs in the Wingate Suit, further damaging their \$285,000 trusts.

47. In October 2012 Mr. Bell attended a mediation in the Wingate Suit as Terry's representative, but concealed that Terry's interest was owned by Forlando.

#### **Actions of Mr. Bell, Terry and Forlando in 2013**

48. On February 27, 2013 the first *Wilson v. Dallas* decision was issued.

49. In March 2013 I visited AG Wilson and explained to him the damage caused by the false "stipulation" that Ms. Hynie would be treated as Brown's wife, and by the less-than \$4.7 claimed value, combined with the ROFR.

50. On March 2013 AG Wilson notified the Supreme Court that former AG McMaster did not want to sue Mr. Buchanan and me in 2010 in the Wingate Suit, but was advised (advisor still unknown) that he would breach his fiduciary duty as AG if he did not sue us. AG Wilson has filed a motion to be dropped as a party to the Wingate Suit.

(s) Mr. Bauknight has retained attorneys and accountants to represent the Estate and Trust on a deferred-pay basis, which has allowed the Estate and Trust to move forward with administration, while continuing to build and develop the capital required to administer an estate and trust of this size and complexity.

(t) Mr. Bauknight, through his professional contacts, retained other professionals necessary for administration on a deferred-pay or financially beneficial basis.

(u) Mr. Bauknight, in an effort to allow the Estate and Trust to meet all of its obligations and to provide reserves for scholarship funding, has agreed to defer his fiduciary fees and has not yet received any payment from the Estate and Trust for over four years of fiduciary service.

(v) Mr. Bauknight has overseen the successful review and approval of music clearances involving the commercial use of music, including a Super bowl commercial for Volkswagen using the song "*Get Up Offa That Thing*", a Chanel perfume commercial using the song "*It's a Man's Man's Man's World*", and multi-sport Gatorade commercials using the song "*Super Bad*."

(w) Mr. Bauknight and his representatives have successfully represented the Estate in the public arena in a professional manner, promoting James Brown's image and likeness, as well as the activities of the Estate through interviews and media opportunities.

2. When Mr. Bauknight was appointed to serve as Personal Representative there was less than \$13,000 in the Estate bank account and there was no consistent source of revenue to the Estate and Trust. Additionally, there were tens of thousands of dollars in bills due and owing as of the date of his appointment, and tens of millions of claims filed against the Estate. Since that time, Mr. Bauknight has assembled an outstanding team of advisors, attorneys, accountants, and other professionals to establish and secure sources of income, pay off debt, and settle claims, placing the Estate on solid financial footing. Additionally, those advisors and attorneys have

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37. From 2011 until today Terry/Mr. Bell, without reviewing the Bauknight appraisal, have used Bauknight's less than \$4.7 million value to assert the false claim that Mr. Buchanan and I committed the federal felony of intentionally overstating Brown's music empire to the IRS on the estate tax return by \$79 million for the improper purpose of obtaining a \$5 million commission. This is false.

38. In making the false claim, Mr. Bell ignores that he was present when we presented a proposal for valuation criteria for the IP on the estate tax return to Jg. Early on November 15, 2007 -- before we became Prs -- and he did not oppose it.

39. Since 2011 Terry has also sought to intervene in FOIA actions to prevent release of documents such as Ms. Hynie's public "diary" that support Forlando's claims.

40. At the end of 2011 Forlando terminated Mr. Bell and PG in this case.

#### **Terry/Forlando/Mr. Bell's Actions in 2012**

41. Throughout 2012 Mr. Bell spoke for Terry in State Court without revealing to the Court that Terry's interest in the Estate was owned by Forlando.

42. When Forlando told Judge Bertelsman he had no assets, Forlando actually owned: Terry's former interest in the Estate; his own in the 2000 Trust; and the ROFR to buy the music empire under the McMaster Settlement.

43. In August 2012 Terry blocked the deposition of Albert Dallas in the Wingate Suit when it became clear that Mr. Dallas would confirm Ms. Hynie was not Brown's spouse; knew it; and that he and Ms. Hynie discussed in Brown's presence that they were not married in the summer of 2006.

responded to both probate and non-probate claims against the Estate, in both state and federal court throughout the United States (the District Court of California, the Ninth Circuit Court of Appeals, the District Court of Illinois, and the Seventh Circuit Court of Appeals), and have successfully represented the Estate in a professional, efficient, and productive manner.

3. During the more than four years that he has overseen and managed the Estate and Trust, Mr. Bauknight has developed a unique and highly-specialized understanding of the business of the Estate and Trust, its litigation, revenue streams, and liabilities. Given the complexities of the Estate and Trust, there is a need for continuity in the knowledge base for all of the ongoing litigation and business of the Estate and Trust, and Mr. Bauknight and the team he has assembled provide that continuity.

4. The Estate is presently defending against \$10 Million in fee claims filed against it by the previous personal representatives. Adding more personal representatives and trustees, at this time, could detrimentally increase the personal representative and trustee fee burden to the Estate and Trust. The addition of more personal representatives and trustees (and their inevitable separate counsel) would require each to spend a significant amount of time to acquire the institutional knowledge that Mr. Bauknight has developed during his more than four years of service to the Estate and Trust.

5. This Court finds that Mr. Bauknight's significant fiduciary experience, including his prior professional administration of numerous estates and trusts, including a larger estate valued at over \$150 Million, uniquely qualifies him for the job of Personal Representative of the Estate and Trustee of the Trust.

6. The Court is mindful of the ongoing litigation being pursued by Messrs. Kendall Few and Jim Gilreath on behalf of the Estate against former professionals that James Brown

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33. Forlando never opposed our brief in *Wilson v. Dallas*. Terry did.

34. In May 2011 Mr. Bauknight filed an inventory ("I&A") in Aiken County claiming Brown's the at-death value of Brown's worldwide music empire was less than \$4.7 million and his personal and household effects ("PHE") about \$.5 million.

35. On May 6, 2011 Terry asked the S.C. Supreme Court to accept Bauknight's value as part of the *Wilson v. Dallas* record on appeal. ("ROA"). Forlando says the less-than \$4.7 million value is "bogus."<sup>6</sup>

36. The opposite positions of Terry and Forlando taken by Mr. Bell as to value are material and dramatic. Their claims and our filings with the IRS, are:

	Terry/Bell/Bauknight	Forlando/Bell/Buchanan/Pope
Music Empire	\$4.7 million	\$84 million <sup>7</sup>
To "wife"	\$1+ million	No claimed wife
Charitable Ded'n:	\$ 2, 827,892	\$83,369,981

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<sup>6</sup> On July 7, 2011 the S.C. Supreme Court declined to supplement the ROA. But Mr. Bell – speaking for Forlando but using Terry's name – did what he intended to do with the outrageous less-than \$5 million claimed value. As the opinion shows, our credibility with the Court and reputations were severely damaged by Mr. Bell's claims for Forlando (through Terry) that the less-than \$4.7 value was correct, even though Forlando has said it was "bogus."

<sup>7</sup> Mr. Buchanan and I, and others, have valued Brown's Royalties to more than 800 songs and Publicity Rights at approximately the same value. See recent IRS claim that Michael Jackson's Publicity Rights exceeded 450 million at death. In September 2009 Mr. Bauknight/Terry argued to Jg. Early: THIS ESTATE SHOULD BE AND COULD BE TODAY... JUST LIKE THE ESTATE OF MICHAEL JACKSON IS MAKING A LOT OF MONEY TODAY... THIS STAY SHOULD BE LIFTED ...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... WE'VE HAD NUMEROUS OPPORTUNITIES ... ALL THESE THINGS ARE JUST SITTING THERE READY TO DO.

hired to help manage his music empire. Messrs. Few and Gilreath have already reached confidential settlements with certain defendants. The Court firmly believes that it is in the best interests of the Estate for that litigation to continue unimpeded. Mr. Bauknight has formed a positive working relationship with his counsel, understands and is deeply involved in the litigation. The Court is concerned that adding more personal representatives and trustees to manage the Estate and Trust (and its litigation) could increase the fiduciary fee burden (discussed above at Paragraph 4) and hamper, through multiple decision makers, the conduct of this litigation.

7. Respondents Deanna Brown Thomas, Yamma N. Brown, Vanisha Brown and Larry Brown are each devisees under the Will and each has nominated Mr. Bauknight to serve as Personal Representative of the Estate in their stead.

8. The Court is aware that certain Applicant parties have raised the issue of whether a conflict of interest exists with respect to Mr. Bauknight's continued role as fiduciary of the Estate and Trust in the ongoing spousal elective share matter, the omitted spouse matter, the omitted child matter, and the legal challenges to the validity of the will and trust that were involved in the settlement agreement (collectively, the "Will and Trust Challenges"). In reviewing the Applicant party challenges, it is important to pause and underscore that the Opinion unequivocally provided that Mr. Bauknight could be re-appointed as fiduciary. The Court does not believe that a conflict of interest exists. Mr. Bauknight was bound, as a fiduciary, to follow the prior settlement agreement. That settlement agreement has now been overturned. Accordingly, Mr. Bauknight has a fiduciary duty and must defend the Will and Trust against all challenges.

Mr. Bauknight has testified that he has no conflict of interest and that he is willing and

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- b. Our appeal restored Forlando's \$285,000 trust share.
- c. Our appeal exposed that Ms. Hynie's claims were without merit.
- d. Forlando has requested, and the court dismissed, all claims against us.

27. Throughout 2010 Mr. Bell represented both Terry and Forlando in these directly contrary positions.

### **Forlando/Terry/ Mr. Bell's Actions in 2011**

28. On January 20, 2011 AG Wilson's office distributed confirmation that Terry's entire interest in James Brown's Estate has been given to Forlando by:

- a. An amendment to the Legacy Trust (a/k/a "Settlement Entity");<sup>4</sup>
- b. Terry's Assignment to Forlando, including the ROFR . [Exhibit C]

29. Mr. Bell did not advise this or any other court of the Assignment or ROFR.

30. In April 2011 Mr. Smith and I circulated *Private Foundations, Copyright Heirs and Musical Millionaires: Why the James Brown "I Feel Good" Trust doesn't...* to professionals for comment..

31. *Private Foundations* describes how Terry/Ms. Hynie's false spousal claim; devaluation of the assets; and the ROFR would destroy the "I Feel Good" Trust.<sup>5</sup>

32. Forlando's position is consistent ours in *Private Foundations*, while Terry's is directly opposed.

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<sup>4</sup> AG Wilson, through Sr. Assistant AG Jones, distributed the Amendment of the Legacy Trust and Assignment of Terry's interest to Forlando so that settling parties would have both together. [See Exhibit C.]

<sup>5</sup> DNA-proven daughters LaRhonda, Jeanette and Cinnamon (Nicole) – all excluded from the McMaster Settlement– have the same or higher "heirs" status under the Federal Copyright Act than those named in Brown's Will. The McMaster Settlement "stipulation" that Ms. Hynie and her son were heirs, when they were not, damaged the "I Feel Good" Foundation; all real heirs; and ultimately Forlando.

capable of fully defending Mr. Brown's Estate plan. This Court has weighed that testimony and finds that neither Mr. Bauknight, nor his counsel, has any conflict of interest that would prevent them from vigorously defending or prosecuting actions on behalf of the Estate and Trust. Mr. Bauknight and his counsel have done an outstanding job prosecuting and defending dozens of legal actions throughout the past four and one-half years. This Court commends Mr. Bauknight and his counsel for the outstanding results they have obtained for the Estate and Trust.

While this Court finds that no conflict of interest exists, out of an abundance of caution and in order to avoid any appearance of impropriety, and to promote the efficient and speedy administration of the Estate and Trust, this Court finds that it is prudent to appoint an independent individual to serve as Limited Special Trustee and as Limited Special Administrator solely, specifically, and exclusively for the purpose of defending the Trust and the Estate against the claims made in the Will and Trust Challenges.

9. David C. Sojourner, Jr. has been practicing in the area of estate and gift planning and probate administration for more than twenty-six years, and is certified as a specialist in estate planning and probate law and tax law by the South Carolina Supreme Court. Since 2001, Mr. Sojourner has been selected as a member of the American College of Trust and Estate Counsel, and has had specialty training in mediation of issues related to estates, including family disputes. Additionally, Mr. Sojourner has served as a fiduciary in the past and has counseled clients on their obligations and duties in a position as fiduciary. Mr. Sojourner has agreed to serve, so long as his role is limited to defending the Will and Trust Challenges on behalf of the Estate and Trust and his law firm of Adams and Reece LLP can represent him in that role. Given his experience, in addition to the resources of a 300-attorney law firm, Mr. Sojourner is well-suited to serve in the role as Limited Special Trustee and Limited Special Administrator.

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21. In February 2009 Ms. Hynie stopped our proposal to give the purchase group of Dr. Terry Cox a court-approved "right of first offer" to make an offer to buy the music empire.

22. In March 2009, as Jg. Early considered the McMaster Settlement, Mr. Bell wrote to threaten Mr. Buchanan with a judicial grievance if he did not resign.

23. In April 2009 Mr. Bell/Terry, with Ms. Hynie and others, stopped our proposed the 2-year Publicity Rights contract with GreenLight which was projected to earn \$2 million per year. They claimed it interfered with Terry's ROFR.

### **Terry/Mr. Bell's Actions in 2010**

24. In March 2010 Ms. Hynie threatened that Kenneth Wingate, Esquire, would sue Mr. Buchanan and me if we did not drop the *Wilson v. Dallas* appeal.

25. On May 19, 2010 Terry, Ms. Hynie and others sued us in the "Wingate Suit." They claimed we breached our fiduciary duty by:

- a. Conducting the *Wilson v. Dallas* appeal;
- c. Not accepting a \$100 million offer to buy Brown's music empire.
- d. Improperly conducting the Christie's sale, approved in 3 orders.<sup>3</sup>  
[See Entry No. 112- 10 and 112-11]

26. Forlando's position is the opposite of Terry's in the Wingate Suit because:

- a. The *Wilson v. Dallas* appeal restored the "I Feel Good" Foundation.

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<sup>3</sup> In his letter to our counsel dated July 9, 2008 – 9 days before the Christie's sale, Forlando's PG attorney asserted: "Mr. Brown is in no way seeking to interfere with the Christie's sale as your clients contend.." [See Entry No. 112-9]. Forlando later admitted, however, that the family – at odds over many other things – did, in fact, join together to interfere with the Christie's sale. He also confirmed the family had funds to buy any treasured items, which they failed to ask Judge Early to withhold, but their attorneys advised them not to bid. Mr. Bell now claims for Terry the approximately \$.5 million value placed by Mr. Bauknight on Brown's personal and household effects ("PHE"), even though Christie's valued it a more than a million and Terry Brown made a \$2 million offer which is reflected in the April 1, 2008 Order of Judge Early. [Entry No. 112-11.]

10. This Court appreciates the willingness of the Applicants who have offered to serve as Personal Representative of this Estate and commends them on their exemplary credentials. Specifically, this Court recognizes Judge Dickert's long and distinguished career both in civil practice and judicial service to the State of Georgia; Dr. Grooms' training as a Certified Public Accountant, in addition to his familiarity with bankruptcy issues and consistent service to the courts as expert witness in tax and accounting matters; Mr. Keniley's experience in the entertainment industry and familiarity with protection of intellectual property; and Rev. Fryer's longstanding service to the community both individually and as Pastor to Trinity C.M.E. Church.

11. This Court is mindful of the practical administrative problems the Estate and Trust have encountered as a result of the history of the prior and multiple fiduciary appointments. In an effort to avoid the recurrence of such problems, the Court finds that at this time, it is in the best interests of the Estate and Trust to leave Mr. Bauknight's appointments as Special Trustee and Special Administrator with general fiduciary authority undisturbed. Those appointments shall continue until further order of the Court.

12. The Court is mindful of the substantial claims, both satisfied and outstanding, of prior fiduciaries and their attorneys, accountants, and other advisors, as well as the fact that fees and commissions are still owed to the current fiduciary and his advisors. This Court is convinced that, given the extensive, complex and continuing litigation, including specifically the litigation involving allegations of fiduciary misconduct, the appointment of multiple fiduciaries at this time will inevitably involve the retention of multiple additional attorneys to advise the newly-appointed fiduciaries. I find that it is simply not practicable for the Estate and Trust to bear the additional cost and expense associated with multiple additional fiduciaries and their

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[ Mr. Bell's clients agreed with the Estate/2000 Trust that Hynie was not Brown's spouse; and that her son , born of her marriage to Javed Ahmed & before her void ceremony with Brown, was presumed not Brown's son.He refused the DNA protocol.]

b. Placing Hynie and her son in control of Federal Copyright Act Termination Rights elections related to Brown's more-than 800 published songs for her life.

[ The Estate/2000 Trust's position was that the Estate/2000 Trust, by fair dealing with Brown's real heirs, excluding Hynie & including acknowledged children who supported the estate plan and DNA-proven children – could control the Termination Rights elections over the coming decades to the mutual benefit of the "I Feel Good" Foundation and the real heirs.]

c. Taking the following from scholarships for needy students under the "I Feel Good" Trust:

- |                               |                              |
|-------------------------------|------------------------------|
| 1. For Ms. Hynie              | \$11+ million                |
| 2. For Ms. Hynie's lawyers    | \$10+ million                |
| 3. For Mr. Levenson           | \$ 9 million (approximately) |
| 4. For Mr. Levenson's clients | \$10 + million               |

d. Dismantling both the "I Feel Good" Foundation and Forlando's \$285,000 Trust (and 6 other trusts for grandchildren)

e. Placing James Brown's private assets under the control of the State/AG in a "Legacy Trust" which appropriated Brown's name.

18. .On January 31, 2009 Terry joined the McMaster Settlement. He increased the damage to the "I Feel Good" Foundation by securing a right of first refusal to purchase Brown's music empire (the "ROFR").

19. For the four years since January 31, 2009 Mr. Bell has represented Terry in actions directly opposite to the stated positions he took for Forlando in this case.

20. From January 2009 to the present, Ms. Hynie and Terry have "spoken as one," while Forlando asserts she was not Brown's wife and is entitled to nothing.

separate attorneys and other professional advisors at this important time. For these and other reasons this Court has noted, I find it is in the best interests of the Estate and Trust that a single fiduciary continue to administer and manage the business of the Estate and Trust until it is demonstrated that the Estate and Trust can satisfy the tremendous liabilities already created by the service of the many prior fiduciaries and their professional advisors.

13. The tumultuous history of the Estate and Trust and the litigation surrounding the same, juxtaposed to the list of Mr. Bauknight's accomplishments detailed above, leaves this Court with the firm factual conclusion that it is in the best interests of the Estate and Trust for Mr. Bauknight to serve, in the interim, as the sole Personal Representative and sole Trustee. The Court's factual conclusion is also driven by recognition of the considerable expense that the Estate and Trust will incur from the appointment of additional personal representatives and trustees, at this time. Moreover, the Court notes the need for consistent and streamlined administration of the Estate and Trust during this critical time frame.

14. Mr. Brown passed away nearly seven years ago. The Court uses the language—*this critical time frame*—because that is where the Estate and Trust find themselves. As detailed above, under Mr. Bauknight's leadership, the Estate and Trust are poised to launch a series of public events (the documentary, the life story movie, etc.) that should re-catapult James Brown and his musical legacy onto the world stage. These actions should have a tremendous positive impact to the Estate and Trust, both in terms of good will and financial gain. In turn, these actions should greatly benefit Mr. Brown's testamentary plan for scholarships for children in financial need through increased funding of the scholarship reserves.

Because the Estate and Trust are at a critical time frame, the Court is reluctant to interrupt these gains. Overlaying the Court's concern is the existence of the Will and Trust Challenges.

c. Attached a fabricated, post-death second Schedule B to the copy of the 2000 Trust which was filed with the complaint in this case.<sup>2</sup>.

14. On information and belief, Mr. Bell knew the post-death Dallas/Cannon Schedule B was not part of the 2000 Trust when it was filed with the complaint.

15. Mr. Bell told Jg. Early he had little involvement with this federal case, and was not responsible for filing the fabricated Schedule B as part of the Trust.

16. Jg. Early, as a condition of Mr. Bell's continued *pro hac vice* status in Case 122, required Mr. Bell to remove the fabricated Schedule B in this case.

### **Mr. Bell's Actions in 2009**

17. On January 27, 2009 all of Mr. Bell's State Court clients – Forlando, Terry and Romunzo – filed opposition to a settlement forged by former AG Henry McMaster on August 10, 2008. The McMaster Settlement destroyed the 2000 Trust by:

a. "Stipulating" that Tommie Rae Hynie would be considered Brown's spouse for all purposes and her son Brown's son.

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<sup>2</sup> The Cannon/Dallas second Schedule B was created by two of Brown's original trustees between Brown's death on December 25, 2006 and January 2, 2007.

The Cannon/Dallas Schedule B, by making it appear that Brown's entire \$100 million fortune was in the 2000 Trust, was apparently created so that the Cannon Trustees could: escape the Court scrutiny applicable to estates; escape the State; and allow Cannon himself to relocate to his \$1 million turnkey retirement home he sent funds in 2007 to build on Roatan Island, Honduras.

In January 2007 Mr. Levenson asked the firm of Strom Thurmond, Esq., not to file the Will of James Brown. Mr. Thurmond, however, complied with State law and filed the Will.

In July 2007, as the first \$900,00 of the \$12+ million Mr. Cannon was ultimately charged with taking from James Brown, was uncovered by Robert Buchanan, Jr. and me, Powell Goldstein ("PG") sent Messrs. Cannon and Dallas defective documents attempting to move the situs of the 2000 Trust to Georgia. The attempted move was unsuccessful. Mr. Cannon resigned on August 10, 2007, and returned \$350,000 of the funds he took in 2006. In 2010 Mr. Cannon was charged with taking more than \$12 million and uttering a 2008 forgery. In 2011 Mr. Cannon entered an Alford Plea to some of the charges.

Certain family members of James Brown are presently challenging the validity of the Will and Trust, and in doing so are, in part, challenging the validity of the requirement that three individuals serve as Personal Representative and Trustee. Since James Brown's death, the Estate and Trust have been overseen by only one set of three Personal Representatives and Trustees—Dallas (who sought to evade the jurisdiction of this Court by moving the situs of the Trust to Georgia and has since filed for bankruptcy), Cannon (who entered an *Alford* plea to felony indictments charging him with fraudulently taking over \$8 Million of James Brown's money), and Bradley (now deceased). Each of these men resigned from their positions, under a cloud, after information and documents were discovered that questioned the motive and faithfulness of their fiduciary service (these three fiduciaries also intended to charge Mr. Brown's Estate "administrative fees" up to 50% of the Estate's income). Because the Will and Trust are presently subject to litigation, I find that at this pivotal time, it is in the best interests of the Estate and Trust to maintain a single fiduciary to oversee the administration and management of the Estate and Trust. The Court underscores the point that this is an interim decision.

15. During this crucial time frame, the Court firmly believes that it is in the best interests of the Estate and Trust for Mr. Bauknight to continue to oversee the administration and management of the Estate and Trust, while Mr. Sojourner defends the Estate plan. Upon the conclusion of all Estate litigation, this Court will revisit this interim determination. Accordingly, I find that it is in the best interests of the Estate and Trust that, on an interim basis, Mr. Bauknight be appointed as the Personal Representative of the Estate and Trustee of the Trust, and that Mr. Sojourner be appointed as the Limited Special Trustee and Limited Special Administrator to oversee the Will and Trust Challenges. Mr. Sojourner is hereby ordered to draft and present a scheduling order to this Court within the next fourteen days setting forth proposed

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the Trust. ..Dr. Cox suggested that they try to get in front of the trustees to attempt to get Plaintiff's education paid for as required by the Trust. ..

9. Mr. Bell's grievances against Mr. Levenson became part of Aiken County

Case 2007-CP-02-0122 ("Case 122") where Mr. Levenson asserted:

A. Forlando, Terry and others engaged Mr. Levenson and understood the goal of the 30% contingency fee agreement they signed.

B. The grievances were improperly filed to secure an advantage for Forlando in his effort to buy the James Brown assets. [See Exhibit A]

10. Mr. Bell also filed a motion in Case 122 seeking to disqualify Mr. Levenson.<sup>1</sup>

11. Mr. Bell asserted Mr. Levenson improperly changed positions when he contested Brown's Will and 200 Trust, making Forlando a defendant.

12. In an order filed March 2, 2008 Judge Doyet A. Early, III ("Jg. Early") declined to disqualify Mr. Levenson; found that the Levinson contract contemplated the Will/Trust challenges; and admonished Mr. Bell for presenting the Motion to Disqualify without the signature of his sponsoring attorney under the *pro hac vice* rules. [Exhibit B]

13. In 2008 Mr. Levenson and others sought to revoke Mr. Bell's *pro hac vice* status in Case 122. Mr. Bell had:

a. Commenced a case for Velma Brown without a sponsor and without seeking *pro hac vice* admission;

b. Filed a document in Case 122 without his then-sponsor Ronald Maxwell; and

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<sup>1</sup> The "Will/Trust/Heirs challenged later became Aiken County Case 2008-CP-02-0872 ("Case 872").

discovery, deposition, and dispositive motion deadlines so that the Will and Trust Challenges may be expeditiously set for trial.

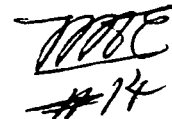
### CONCLUSIONS OF LAW

1. I find that this Court has jurisdiction to hear this matter and that venue is proper. All of the interested parties have been notified of the request for applications to serve as Personal Representative of the Estate and Trustee of the Trust, and have been given an opportunity both to nominate a candidate and oppose the applications filed by the Applicants.

2. The Opinion, which is the law governing this case, requires this Court to, "upon proper application, appoint fiduciaries to oversee . . . matters in accordance with the provisions for succession outlined in Brown's trust and estate documents." *Wilson v. Dallas*, 403 S.C. 411, 450, 743 S.E.2d 746, 768 (2013). Furthermore, this Court "may consider . . . whether [Mr.] Bauknight should be appointed to fill a fiduciary position." *Id.* at 449, 743 S.E.2d at 767.

3. The South Carolina Probate Code provides that in order to acquire the powers and undertake the duties and liabilities of a personal representative of a decedent, a person first must be appointed by order of the court. S.C. Code Ann. § 62-3-103 (1976). S.C. Code Ann. § 62-3-203(a) delineates the order of priority with respect to the appointment of a successor personal representative:

- (1) the person with priority as determined by a probated will including a person nominated by a power conferred in a will;
- (2) the surviving spouse of the decedent who is a devisee of the decedent;
- (3) other devisees of the decedent;
- (4) the surviving spouse of the decedent;
- (5) other heirs of the decedent regardless of whether the decedent died intestate and determined as if the decedent died intestate;
- (6) forty-five days after the death of the decedent, any creditor; and
- (7) four months after the death of the decedent, upon application by the South Carolina Department of Revenue, a person suitable to the court.

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### Mr. Bell's Actions in 2008

6. In early 2008, Mr. Bell filed six grievances against Louis Levenson, Esq. They were filed for Plaintiff Forlando Brown ("Forlando"), his father Terry Brown ("Terry") and a brother. They even claimed a signature on the 30% (plus \$150,000) contract Forlando signed with attorney Louis Levenson, Esq. in January 2007 was forged.

7. I am informed and believe that Mr. Bell knew the accusations against Mr. Levenson were false. I believe he knew Terry and others, with knowledge of the validity of James Brown's estate plan, engaged Mr. Levenson to destroy it. and get the assets Brown gave to The James Brown "I Feel Good" foundation for themselves.

8. Forlando's interrogatory answers in this case say:

A meeting occurred at Aunt Yamma and Uncle Darren's house in early 2007 about the Estate and Trust. In attendance at the meeting were:... Jim Blackwell of UBS, Louis Levenson and his partner...(the attorneys in the State Court matter for many of the children and grandchildren of James Brown)... At this meeting there was a discussion of how Plaintiff's Aunt Deanna Brown Thomas ("Aunt Deanna"), Uncle Darren and Aunt Yamma could obtain control [of] the assets of the Estate and Trust ...and determine how much each beneficiary of the Estate would receive... Mr. Sharpton, Mr. White and Mr. Levenson would benefit by contributing in various forms to this plan.

Uncle Darren and Aunt Yamma said they would give Plaintiff \$10 million and a Porsche Boxter to go along with the plan and keep quiet. Mr. Levenson said if the existing trustees did not go along, he would manipulate the court system in order to obtain the assets of the Estate and Trust so that the family and their advisors could implement this plan...

A presentation was made at the meeting...with slides and a power point. At the conclusion of the presentation, everyone shook hands and said that James Brown did not get it right, but they were going to get it right. The group then started drinking wine and smoking cigars and continued discussing the plan to take over the Estate and Trust.

After the meeting...The Plaintiff decided to object. The Plaintiff did not understand how the family could disregard his grandfather's will and

Unless a contrary intent is expressed in the will, subsection (a)(8) allows “a person with priority under subsection (a) [to] nominate another” person. That nominee “shall have the same priority as the person making the nomination.” *Id.* Additionally, although lack of priority is not a bar to appointment, according to S.C. Code Ann. § 62-3-203(d), before appointing one without priority, the Court must determine that those having priority, although given notice of the proceedings, have failed to request appointment or to nominate another for appointment, and that administration is necessary.

In this case, subsection (a)(1) does not apply because the personal representatives named in the Will all have resigned and have not named successor personal representatives. Moreover, there is no “advisory board” currently in effect, as referenced in the Will and Trust. Subsection (a)(2) is inapplicable because, notwithstanding her claim to be surviving spouse, Tommie Rae Hynie Brown is not a devisee under the Will. Therefore, the highest priority of appointment rests with other devisees of the decedent under subsection (a)(3). Respondents Deanna Brown Thomas, Yamma N. Brown, Vanisha Brown and Larry Brown each are devisees under the Will, and each are allowed to nominate an individual to serve as Personal Representative of the Estate under subsection (a)(8). Because those devisees have nominated Mr. Bauknight for appointment, and there have been no other nominations by any other devisee, Mr. Bauknight has the highest priority under the terms of S.C. Code Ann. § 62-3-203. Because this Court is appointing the Applicant with the highest statutory priority for appointment as Personal Representative of the Estate, S.C. Code Ann. § 62-3-203(d) is inapplicable to the case at bar.

Based on the foregoing, I find and conclude that among all the applications filed in this matter, Mr. Bauknight has the highest statutory priority to serve as Personal Representative of the Estate under S.C. Code Ann. § 62-3-203.

*JMB*  
*#15*

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

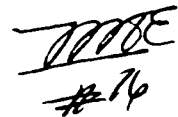
**Affidavit of  
Adele J. Pope  
Opposing *Pro Hac Vice*  
Admission of David B. Bell, Esq.**

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

1. I am over 21 years old.
2. This affidavit is based on my own knowledge and belief.
3. For the reasons stated herein, I believe that *pro hac vice* admission to this case should be denied to David B. Bell, Esquire.
4. I believe that the 2008 application is not current and does not fully inform the Court of the improper actions of Mr. Bell since January 2, 2008.
5. Since January 2, 2008 Mr. Bell has repeatedly attempted to destroy the reputations and careers of opposing counsel through improper means and has engaged in direct conflicts to his positions taken in this case.

4. S.C. Code Ann. § 62-3-414(a) outlines the fourteen requirements of a formal and proper application for appointment. According to that section, a petition must provide (1) a description of the question relating to qualification of the personal representative which is to be resolved, and also must contain the statements required by S.C. Code Ann. § 62-3-301(a)(1). Those statements, which (2) *must be certified* by the applicant to be accurate and complete to the best of his knowledge and belief, S.C. Code Ann. § 62-3-301(a), may either be incorporated into the petition or adopted from a prior filing, and shall include: (3) A statement of the interest of the applicant; (4) Decedent's name; (5) Decedent's date of death; (6) Decedent's age; (7) Decedent's county and state of domicile at time of death; (8) Names and addresses of the spouse, children, heirs and devisees; (9) The ages of any children, heirs, or devisees who are minors so far as known or ascertainable with reasonable diligence; (10) A statement showing venue, if the decedent was not domiciled in the State at the time of his death; (11) A statement identifying and indicating the address of any personal representative of the decedent appointed in this State or elsewhere whose appointment has not been terminated; (12) a statement indicating whether the applicant has received a demand for notice, or is aware of a demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this State or elsewhere; and (13) A statement that the time limit for appointment has not expired. S.C. Code Ann. § 62-3-301(a)(1).

Additionally, in 2010, S.C. Code Ann. § 62-3-414(b) was amended to clarify that *both* "a summons and petition are required to commence a formal proceeding, including a formal proceeding concerning appointment of a personal representative as referred to in [S.C. Code Ann. § 62-3-414]." South Carolina Reporter's Comments (2010 Revision), S.C. Code Ann. § 62-3-414. Thus, the applicant also must (14) serve the petition, *along with a summons*, on all

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interested persons, including all persons interested in the administration of the estate as successors, any previously appointed personal representative, and any person having or claiming priority for appointment as a personal representative. S.C. Code Ann. § 62-3-414(b).

The application filed by Mr. Dickert is defective because it was filed not by him, but by letter of recommendation from Mr. Bell. Therefore, it was not certified by Mr. Dickert to be accurate and complete to the best of his knowledge and belief, as required by S.C. Code Ann. § 62-3-414(b). Additionally, while the application of Mr. Dickert did contain the decedent's name, it did not contain any of the other information required, either in the application or by adoption, under S.C. Code Ann. § 62-3-301(a). Moreover, his application was not served, along with a summons, on all interested parties of the Estate, as required by S.C. Code Ann. § 62-3-414(b).

The application filed by Mr. Grooms is defective because, while it did contain the decedent's name, it did not contain any of the other information required, either in the application or by adoption, under S.C. Code Ann. § 62-3-301(a). Moreover, his application was not served, along with a summons, on all interested parties of the Estate, as required by S.C. Code Ann. § 62-3-414(b). Additionally, it was not certified by Mr. Grooms to be accurate and complete to the best of his knowledge and belief, as required by S.C. Code Ann. § 62-3-301(a). Finally, the application did not contain a description of the question relating to qualification of the personal representative which is to be resolved, as required by S.C. Code Ann. § 62-3-414(a).

The application filed by Mr. Keniley is defective because, while the application did contain the decedent's name, it did not contain any of the other information required, either in the application or by adoption, under S.C. Code Ann. § 62-3-301(a). Moreover, although the application was served on this Court, it was not served along with a summons, on all interested parties of the Estate, as required by S.C. Code Ann. § 62-3-414(b). Additionally, it was not

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***Bauknight, et al, vs. Pope***  
**Case No. 2010-CP-40-4900**  
**Defendant's Deposition Exhibits**

- D1 Complaint, Case 4900
- D2 Witness List dtd 11/12/10, Case 4900
- D3 Response of Daryl J. Brown to Interrogatories
- D4 Ltr. of Daryl J. Brown to Attorney General Wilson
- D5 Ltr. of Daryl J. Brown to Louis Levenson terminating service
- D6 Envelope of Daryl Juan Brown to Adele J. Pope
- D7 Ltr. of Levenson to Pope dtd. October 23, 2012
- D7-A Memorandum dated October 26, 2012 signed by Daryl J. Brown, Lindsey Brown and Janice Brown.
- D8 Motion of Wingate for Daryl Brown and others to Intervene (FOIA)
- D9 Motion of Wingate for Daryl Brown and others for Sanctions (FOIA)
- D10 Order dated March 7, 2007, Case 122 [RTA 23]
- D11 Order dtd. August 10, 2007, Case 122
- D12 Order dtd. November 20, 2007, Case 122
- D13 Order dtd. January 8, 2008, Case 122
- D14 Order dtd. January 9, 2008, Case 122 (Few/Gilreath)
- D15 Order dtd. February 20, 2008, Case 122
- D16 Order dtd. March 7, 2008, Case 122 [RTA 100}
- D17 Order dtd. April 8, 2008, Case 122 [RTA 103]
- D18 Email Jones to Jg. Early, dtd August 12, 2008. [RTA 1]
- D19 Ltr. Buchanan/Pope to Jones dtd. 8/12/2008 [RTA 1]
- D20 Email of Rosen to Pope dtd. 8/12/08, [RTA 1]

certified by Mr. Keniley to be accurate and complete to the best of his knowledge and belief, as required by S.C. Code Ann. § 62-3-301(a). Finally, the application did not contain a description of the question relating to qualification of the personal representative which is to be resolved, as required by S.C. Code Ann. § 62-3-414(a).

Finally, the application filed by Rev. Fryer is defective because, while the application did contain the decedent's name, it did not contain any of the other information required, either in the application or by adoption, under S.C. Code Ann. § 62-3-301(a). Moreover, the application was not served along with a summons on all interested parties of the Estate, as required by S.C. Code Ann. § 62-3-414(b), but instead was e-mailed after the July 29, 2013 deadline set by this Court. Additionally, it was not certified by Rev. Fryer to be accurate and complete to the best of his knowledge and belief, as required by S.C. Code Ann. § 62-3-301(a). Finally, the application did not contain a description of the question relating to qualification of the personal representative which is to be resolved, as required by S.C. Code Ann. § 62-3-414(a).

Based on the foregoing, I find and conclude that only Mr. Bauknight has met the statutory requirements of filing a "proper application" for appointment of Personal Representative of the Estate and Trustee of the Trust as required by the Opinion and this Court's June 13, 2013 Order.

5. Based upon the applications filed and testimony received in the hearings held on September 4 and 11, 2013, I find that no applicant for Personal Representative and Trustee had any previous experience serving as a fiduciary of any Estate or Trust, other than Mr. Bauknight and Mr. Grooms. In addition, no applicant other than Mr. Bauknight has experience serving as a fiduciary in any matter as complex as the James Brown Estate and Trust, or in any matter involving the music industry. Additionally, this Court takes note that Mr. Grooms has filed with

*JME*  
#18

Atty#	Attorney	Case Number	Case Name	Apptmnt	Creditor Notice	Invntry/Apprsmt Due Filed	Accounting Due Filed	Claims Liens	Tax Comm Closing	Final Due	Accounting Filed
459	ADELE J. POPE	00ES00504	BURCH, CLA	2/27/03	7/18/00	1/11/02			3/03	2/26/14	

this Court, subsequent to his testimony, a letter supporting the appointment of Mr. Bauknight as Personal Representative and Trustee.

6. Based upon my nearly seven years of experience with these matters as they have appeared before this Court, and after careful review of the Will and Trust, all applications filed by the Applicants, the testimony proffered by all Applicants, and the party objections filed in opposition to the Applicants, I find, as a matter of law and fact, that it is in the best interests of the Estate and Trust at this time to appoint Russell L. Bauknight as Personal Representative of the Estate and Trustee of the Trust. Moreover, given the considerable expense to the Estate and Trust that the appointment at this time, of additional personal representatives and trustees would entail, as well as the need for consistent and streamlined administration of the Estate and Trust during this critical time frame, I find that it is in the best interests of the Estate and Trust to appoint Mr. Bauknight as the sole Personal Representative of the Estate and sole Trustee of the Trust on an interim basis. Mr. Bauknight is well-qualified and willing to serve in these fiduciary capacities. At this pivotal time, I find that to interrupt Mr. Bauknight's continuing professional administration of the Estate and Trust would not be in the best interests of the Estate, the Trust, or the beneficiaries and potential beneficiaries. I find that it is simply not practicable to appoint additional fiduciaries at this time when the Estate lacks the funds to pay the claims of prior fiduciaries and their legal counsel and is currently unable to pay the current fiduciary and his legal counsel. However, as noted above, this interim appointment will be revisited by this Court at the conclusion of all Estate litigation.

7. In addition, and in order to avoid any appearance of impropriety and to promote the efficient and speedy administration of the Estate, this Court finds that it is in the best interests of the Estate and Trust for Mr. David C. Sojourner, Jr. to be appointed as Limited Special

*DAE*  
*#19*

Trustee and Limited Special Administrator solely, specifically, and exclusively for the purpose of defending the Trust and the Estate against the claims made in the Will and Trust Challenges until final resolution thereof. This interim appointment is made with the requirement that Mr. Sojourner, in his limited capacity, shall remain independent from Mr. Bauknight, shall act with sole and absolute authority in his limited capacity, and will retain Adams and Reese LLP to represent him in the Will and Trust Challenges.

**IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:**

1. Russell L. Bauknight is hereby appointed as the Personal Representative of the Estate and Trustee of the Trust effective immediately, with full, absolute, and exclusive authority to carry out the Estate's administration and the Trust's administration, and all business and matters related thereto, and shall specifically have the authority and power to act on behalf of, and bind, the Estate and the Trust for all purposes, except as limited by the appointment of the Limited Special Trustee and Limited Special Administrator described below.

2. David C. Sojourner is appointed as Limited Special Trustee for the sole, exclusive, and specific purpose of defending the Trust in the Will and Trust Challenges, until final resolution thereof, and is authorized to retain Adams and Reese LLP to represent him in such matters.

3. Mr. Sojourner is ordered to draft and present a scheduling order to this Court within the next fourteen days setting forth proposed discovery, deposition, and dispositive motion deadlines so that the Will and Trust Challenges may be expeditiously set for trial.

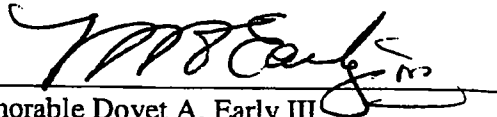
4. Mr. Bauknight's prior appointments as Special Trustee and Special Administrator, with general fiduciary authority, shall remain undisturbed until further order of the Court.

5. No bond is required to be posted in connection with these appointments.

*TAC*  
*#2*

6. This Interim Order is temporary. The Court will revisit the appointment of fiduciaries upon the conclusion of all Estate litigation.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
The Honorable Doyet A. Early III

~~September~~ Oct 1, 2013.

Bamberg, South Carolina