

STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
The Honorable Courtney Clyburn Pope, Circuit Court Judge

Appellate Case No. 2026-002236

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

v.

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

of whom Russell L. Bauknight is the Respondent and Adele J. Pope is the Appellant.

APPENDIX

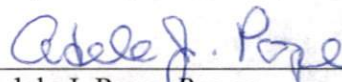
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Respectfully submitted,



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adele@popelawfirm.com
 S.C. Bar No. 4501

October 19, 2026

From: Black, David
To: cnewman1@sccourts.org; cnewmansc@sccourts.org; Clifton Newman (cnewman1@sccourts.org)
Cc: Sonny Jones
Subject: James Brown Estate: Adele Pope Appeals
Date: Friday, February 4, 2022 1:39:38 PM
Attachments: Bauknight v. Pope 3.pdf
EC Adele Pope v. Est. of James Brown 1.pdf

Dear Judge Newman,

I am writing to update the Court on the two remaining appeals concerning the James Brown Estate. The first appeal is now set to be heard in the Court of Appeals on Tuesday, February 8, 2022. That appeal concerns Richland Case 4900 (Appellate Case No. 2018-002229). Case 4900 is the action the Estate and the James Brown Children filed against Ms. Pope for breach of fiduciary duty. Ms. Pope has appealed Judge Manning's denial of her 12(b) motion to dismiss the case and Judge Early's order dismissing her counterclaims that were filed against the Estate and James Brown Children. The second appeal deals with case 1337 (Appellate Case No. 2019-000362). That appeal is now set for March 7, 2022. Case 1337 is the action Ms. Pope filed against the Estate concerning her claim against the Estate for fiduciary/PR fees. Ms. Pope has appealed Judge Early's order rejecting her claim for fiduciary/PR fees.

As the Court has requested the Estate will continue to keep you updated concerning the final two cases that need to be resolved prior to Mr. Bauknight closing the Estate and funding scholarships.

With kind regards,

David Black

J. David Black
Member, Admitted in SC, DC
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, SC 29201
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201 CTP4004900

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

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

and

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

Plaintiffs

v.

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

Defendants

IN THE PROBATE COURT

Civil Action No. 2006C4000073

SUMMONS

FILED
10 MAY 19 PM 1:08
JUDGE
PROBATE
RICHLAND COUNTY, S.C.

FILED
2010 JUL 26 AM 11:47
JEANETTE H. MORRIS
C.C.P. & G.S.

TO: THE DEFENDANTS, ADELE J. POPE AND ROBERT L. BUCHANAN, JR.:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.

Kenneth B. Wingate
Kenneth B. Wingate
Everett A. Kendall, II
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211
(803) 256-2233

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina
May 19, 2010

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

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

and

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

Plaintiffs

v.

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

IN THE PROBATE COURT

Civil Action No.

**COMPLAINT
(Jury Trial Demanded)**

10 MAY 19 PM 1:08
2010 JUL 26 AM 11:47
FILED
COUNTY
C.C.P. & G.S.
JUDGE
JANET L. W. McBRIDE
RICHLAND COUNTY, SOUTH CAROLINA

FILED

FILED
COUNTY

COME NOW THE PLAINTIFFS who, for their claim for relief against the Defendants, allege and will show as follows:

PARTIES

1. Russell L. Bauknight is the court-appointed Trustee of the James Brown 2000 Irrevocable Trust and the Trustee of the James Brown Legacy Trust. Bauknight is also the court-appointed Successor Personal Representative of the Estate of James Brown, the celebrated entertainer, who died on December 25, 2006, a resident of Aiken County, South Carolina. Bauknight serves in each of these capacities pursuant to a Settlement Agreement approved by Order of the Aiken County Circuit Court dated May 26, 2009.

2. Bauknight brings this action as Trustee of the James Brown 2000 Irrevocable Trust (hereinafter "the Trust") and as Trustee of the James Brown Legacy Trust, and as Personal Representative of the Estate of James Brown (hereinafter "the Estate"), and on behalf of the beneficiaries of the Estate and the Trusts. Bauknight is hereinafter referred to as "Trustee Plaintiff."

3. The following are parties to this action by virtue of their being beneficiaries of the Estate of James Brown and/or the James Brown 2000 Irrevocable Trust and/or the James Brown Legacy Trust. These Plaintiffs will hereinafter be referred to as the "Beneficiary Plaintiffs" and include:

- a. Henry Dargan McMaster in his capacity as the Attorney General for the State of South Carolina;
- b. Tommie Rae Brown, individually and on behalf of her minor child, James Brown II;
- c. Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown;

Complaint

- d. Lindsey Delores Brown;
 - e. Venisha Brown;
 - f. Deanna J. Brown Thomas;
 - g. Jason Brown-Lewis;
 - h. Yamma N. Brown, individually and on behalf of her minor children, Sydney Lumar and Carrington Lumar;
 - i. Larry Brown;
 - j. Tonya Brown; and
 - k. Terry Brown
4. Defendants were formerly Personal Representatives of the Estate of James Brown and Trustees of the James Brown 2000 Irrevocable Trust.

JURISDICTION AND VENUE

5. The Estate of James Brown is being probated in Aiken County, South Carolina.
6. The principal place of the administration of the Trust is Richland County, South Carolina. The Trustee maintains his usual place of business in Richland County, South Carolina. The records pertaining to the Trust are kept in Richland County, South Carolina.
7. Defendant Adele J. Pope is, upon information and belief, a resident of Newberry County. At all times pertinent to the matters alleged herein, Pope was a licensed attorney with her law office located in Richland County, South Carolina. During the time she served as a co-trustee of the James Brown 2000 Irrevocable Trust, she maintained her office and kept all documents relating to the Trust and the Estate in Richland County.
8. Defendant Robert L. Buchanan, Jr. is, upon information and belief, a citizen and resident of Aiken County, South Carolina. At all times pertinent to the matters alleged herein, he

Complaint

was a licensed attorney. During the time he served as a co-trustee and co-personal representative of the Estate, Buchanan transacted substantial business in Richland County and derived substantial income from the administration of the Estate and the Trust in Richland County and participated in the maintaining of the Trust and Estate documents in Richland County.

9 The Probate Court has exclusive jurisdiction over the matters raised herein pursuant to **S.C. Code Ann.** §§ 62-1-302 and -7-201.

10. Venue in this matter is proper in Richland County, South Carolina pursuant to **S.C. Code Ann.** §§ 62-7-108 and -204.

FACTUAL ALLEGATIONS

11. A document purporting to be Mr. Brown's Last Will and Testament ("Will"), dated August 1, 2000, was filed with the Aiken County Probate Court on January 18, 2007. The Will nominated three individuals as Personal Representatives, namely, Albert H. Dallas, David G. Cannon, and Alfred A. Bradley, and they were appointed by the Probate Court by Order dated January 18, 2007. These same individuals were also appointed Trustees under a document purporting to create the James Brown 2000 Irrevocable Trust ("Trust").

12. Thereafter, a number of actions were filed in the Aiken County Probate Court in connection with the Will and Trust, all of which were removed to the Aiken County Circuit Court.

13. On or about September 24, 2007, the South Carolina Attorney General intervened in the Circuit Court actions to represent the interests of the charitable beneficiaries of the Trust.

14. On August 10, 2007, the Aiken County Circuit Court accepted Cannon's resignation as, *inter alia*, Personal Representative and Trustee. On November 20, 2007, the Aiken County Circuit Court accepted the resignations of Dallas and Bradley as Personal

Complaint

Representatives and Trustees and appointed the Defendants Robert L. Buchanan, Jr. and Adele J. Pope as substitute Personal Representatives and Trustees.

15. Following additional litigation in the Aiken County Circuit Court, the Beneficiary Plaintiffs entered a comprehensive settlement resolving all their disputes and ending the litigation between them, which agreement was, after an extensive hearing, approved by the Aiken County Circuit Court by an Order entered on May 26, 2009. That Order also removed the Defendants as the substituted Personal Representatives and Trustees.

FOR A FIRST CAUSE OF ACTION
(Breach of Fiduciary Duty)

16. All allegations set forth above are incorporated herein.

17. As Personal Representatives and Trustees of the Estate of James Brown and the James Brown 2000 Irrevocable Trust, the Defendants owed fiduciary duties to the Estate, Trust and the beneficiaries of each (collectively "The Affected Parties"), including a duty of care, of impartiality, and of loyalty as well as a duty to prudently administer the probate and trust estates.

18. Upon information and belief, during their appointment as substitute Personal Representative and Trustee, the Defendants repeatedly and chronically breached their fiduciary duty to the Affected Parties in multiple ways, including but not limited to the following particulars:

- a. Failing to properly manage the estate and trust;
- b. Failing to engage necessary advisors and appropriate assistance to manage the estate and trust, causing, upon information and belief, millions of dollars of lost opportunities for the estate and trust;
- c. Failing to use due diligence in pursuing business opportunities for the estate and trust;

Complaint

- d. Failing to use due diligence in determining the value of the estate, thereby making the estate vulnerable to millions of dollars in unnecessary and incorrect tax liability;
- e. Mishandling an auction of personal property at great cost to the estate and trust;
- f. Failing to timely settle the debts of the estate;
- g. Failing to keep accurate accounting records for the estate and trust;
- h. Engaging in self-dealing by paying themselves hundreds of thousands of dollars in fees, which left the estate and trust with a solvency crisis;
- i. Failing to sell the assets of the estate and trust at a prudent time, for example, by failing to accept an offer to buy the estate and trust for \$100 million in November 2007, as demonstrated by their own testimony under oath, while, upon information and belief, the current value of the estate is now worth tens of millions of dollars less;
- j. Taking improper adversarial positions to the settlement entered into by the beneficiaries of the Estate and Trust and approved by the Circuit Court;
- k. Failing to account to the Attorney General as required by law;
- l. Wasting time and estate and trust assets engaging in federal court litigation which was personal to the Defendants rather than necessary to the administration of the estate and trust;
- m. Refusing to follow the Circuit Court's instructions in executing the settlement agreement and fighting the settlement agreement despite their lack of standing and the fact that the settlement was approved by the Circuit Court as being in the best interest of the Estate;

Complaint

- n. Acting in bad faith, as evidenced by such actions as
 - i. filing a lengthy motion opposing the settlement even before they were informed of the terms of the settlement ;
 - ii. providing to the Internal Revenue Service a road map of the settling parties' plan to deal with tax issues, for no apparent purpose other than to sabotage the settlement agreement;
 - iii. Taking inconsistent legal positions for their own personal interests, such as asserting their right to continue as fiduciaries pending their appeals despite having taken the contrary position when their predecessors appealed, insisting that the settling parties give notice to noninterested persons when Defendants refused to do so whenever they sought relief (such as the payment of their fees), and contesting the settling parties' contention that the estate was in an emergency situation when they themselves had asserted that position shortly before;
 - iv. Despite being judicially estopped by the South Carolina Court of Appeals, asserting they have a right to prosecute the Trust's and Estate's claims against Dallas, Cannon, and Bradley.
- o. Being unequipped and/or unwilling to conduct the administration of the estate, as they admitted by seeking the appointment of a special administrator to handle the administration because the estate was in an "emergency" situation, as further demonstrated by such breaches as:
 - i. Failing to understand the fundamentals of the operation of the music business, which constitutes the essential value of the trust and estate, and

Complaint

- failing to obtain proper advice, under the pretext of not being able to afford such advice despite paying themselves hundreds of thousands of dollars in fees;
- ii. Failing to understand the basic operation of federal copyright law and its impact on the estate and its valuation, including but not limited to tax valuation;
 - iii. Failing to timely conduct due diligence, as demonstrated by their own testimony under oath that "2009 was the year of due diligence."
- p. Engaging in conflicts of interest, such as
- i. Paying themselves hundreds of thousands of dollars in fees while leaving the estate and trust virtually insolvent;
 - ii. Serving as both Personal Representatives and Trustees while a significant issue in the administration of the trust and estate was whether the trust or the estate owned certain assets.
 - iii. Continuing to conduct a vicious attack on the proposed settlement, upon information and belief, for the purpose of padding their own fees, which they claim to be \$5 million.
- q. By misrepresenting or presenting inaccurate statements under oath to the Court;
- r. By failing to file appropriate tax returns;
- s. By allowing statutes of limitations to run, thereby preventing opportunities for the estate and trust to receive reimbursement for music rights misappropriated by others;

Complaint

- t. By failing to comply with the requirements of the South Carolina Uniform Prudent Investor Act, including but not limited to the failure to implement an investment policy for the trust; and
- u. Artificially inflating the reported value of the estate, without any substantiation, and without any consistency, for the purpose of justifying their claim for approximately \$5 Million in fees.

19. Despite the terms of the Order of May 26, 2009, removing the Defendants as Personal Representatives and Trustees, the Defendants have nevertheless continued to breach their fiduciary duties to the Affected Parties by continuing to take actions harmful to the estate and trust and the interests of the Affected Parties, including but not limited to contesting the settlement by filing multiple appeals and objecting to substitution, all to the detriment of the Affected Parties and in violation of their fiduciary duty to the Affected Parties.

20. As a result of Defendants' breach of their fiduciary duties to the Affected Parties, the Plaintiffs are entitled to judgment against the Defendants for actual and punitive damages in such sums as may be proved at trial, together with prejudgment interest and interest on the judgment as provided by law, for attorney fees and the costs of this action, and for such other and further relief as may be provided by law.

FOR A SECOND CAUSE OF ACTION
(Breach of Trust)

- 21. All allegations set forth above are incorporated herein.
- 22. The acts and omissions of the Defendants constitute a breach of trust pursuant to S.C. Code Ann. § 62-7-1001(a).
- 23. As a result of Defendants' breach of trust, Plaintiffs are entitled to an order

Complaint

- a. compelling Defendants to redress the breach of trust by paying money, restoring property, or by other means as may be required to remedy the breach;
- b. ordering the Defendants to account for all property of the Estate and Trust;
- c. denying compensation to the Defendants for all services provided by them for work on behalf of the Estate or Trust;
- d. such other relief as may be necessary to remedy the breach.

24. As a result of Defendants' breach of trust, Plaintiffs are entitled to judgment against the Defendants for damages in such sums as may be proved at trial, together with prejudgment interest and interest on the judgment as provided by law, for attorney fees and the costs of this action, and for such other and further relief as may be provided by law.

FOR A THIRD CAUSE OF ACTION
(Negligence)

25. All allegations set forth above are incorporated herein.

26. Defendants provided services to the Estate and Trust apart from, and in addition to the requirements for the administration of the Estate and Trust. In doing so, Defendants were obligated to provide such services in a reasonable manner, consistent with the applicable standard of care.

27. The acts or omissions of the Defendants in providing these services were careless, negligent, grossly negligent, willful, wanton, reckless, and in conscious disregard of the rights of the Affected Parties.

28. As a result of the Defendants' acts or omissions, the Affected Parties have incurred actual damages in the form of:

- (a) loss, waste, or spoliation of the assets of the Estate and Trust;
- (b) diminution in the present value and income generation of the Estate and Trust;

Complaint

(c) diminution in the future stream of profit and income from the corpus of the Estate and Trust.

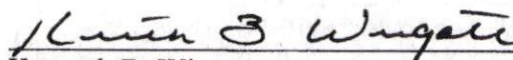
29. As a result of Defendants' negligent and grossly negligent acts and omissions, the Plaintiffs are entitled to judgment against the Defendants for actual and punitive damages in such sums as may be proved at trial, together with prejudgment interest and interest on the judgment as provided by law, for attorney fees and the costs of this action, and for such other and further relief as may be provided by law.

WHEREFORE, The Plaintiffs pray for a judgment against the Defendants for, relief as set forth above, actual and punitive damages in such sums as may be proven at trial, together with prejudgment interest and interest on the judgment as provided by law, for attorney fees and the costs of this action, and for such other and further relief as may be provided by law.

PLAINTIFFS DEMAND A JURY TRIAL.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate
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Columbia, South Carolina 29211
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ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina
May 19, 2010



Adele J. Pope

From: Sonny Jones [AGSJONES@ag.state.sc.us]
Sent: Tuesday, August 12, 2008 10:51 AM
To: dearlyj@sccourts.org
Cc: J. C. Nicholson; Mary Frances Jowers; Matt Bodman; jdbaileylaw@bellsouth.net; rlbuchananjr@bellsouth.net; shahidlo@bellsouth.net; weskirkland@bellsouth.net; davidbell@davidbelllawfirm.com; Carter@eckb.com; William Barr; jmg@jimgriffinlaw.com; William Toal; Lori Christman; louis@levensonlaw.com; Thomas Lydon; Steve Morrison; adele@popelawfirm.com; rrosen@rosen-lawfirm.com; amedlin@sc.rr.com; Audra Byrd; WByrd@turnerpadget.com; C. Bradley Hutto; d_michel@yahoo.com; robtyoungatty@yahoo.com; Steve Brown
Subject: Fwd: Re: Proposed Email to Judge Early

Dear Judge Early:

We, the Attorney General of South Carolina, and Robert Rosen and Louis Levenson along with our clients are very pleased to announce to the Court that all differences between our clients have been resolved and fully settled in a written agreement which was executed following a mediation all day on Sunday August 10, 2008 on James Brown Boulevard in Augusta, Georgia. The Mediator was Tom Wills.

We believe that most of the issues in contention in the estate and trust matters are resolved by this agreement. There are still some issues that remain outstanding involving persons or attorneys who are not parties to our settlement. As such, we respectfully request that, before the hearing scheduled for Tuesday Aug. 19, 2008 in Aiken, SC, Your Honor please devote some time to a status conference with all counsel to discuss the ramifications of the settlement and how it impacts the future administration of the Estate and the Trust. Because Louis Levenson had intended to present a proposed consolidated agenda for the hearing on August 19, 2008, and because all parties to the settlement referenced above believe that certain disputes involving non settling parties still remain and require hearings, below is an agreed upon list of issues and motions that can and hopefully will go forward on August 19, 2008:

1. The PR/Trustees' Order Separating claims of Cannon, Dallas and Bradley (Approved by Mr. Byrd).
2. Scheduling hearing on separate Accountings of Dallas and Bradley as PRs and Trustees, and Attorney's fees. Removal/Appointment/Accounting, Case No. 2007-122 (For September, before September 25th please, Estate Tax Return due that day.)
3. Louis Levenson's Motion for Supersedeas and Bond regarding the Appeal by Buddy Dallas and Al Bradley (Evidence of damages will need to be presented.)
4. Remaining evidence and argument on Motion for Contempt as to Buddy Dallas and Al Bradley, filed by Clients of Louis Levenson on March 18, 2008 regarding testimony on March 7, 2008.
5. Rule 59 Motion to Alter or Amend and/or Reconsider Order Approving and Setting Conditions of Interim Payment of Educational Benefits filed by Louis Levenson on July 31, 2008.
6. David Bell/Forlando Brown's Withdrawal of Stipulation (filed on 8-1-08); and
7. David Bell's Motion to be Admitted Pro Hac Vice filed August 7, 2008.
8. Steve Brown's motions regarding M&T Bank.

We request that you stay or defer all other matters until some date after this status conference.

We also request that you let us know in advance if this is acceptable to you.

Thank you.

C. Havird Jones, Jr.
Senior Assistant Attorney General
Office of the South Carolina Attorney General
P.O. Box 11549

15

From: Alan Medlin <amedlin@sc.rr.com>
Sent: Wednesday, August 19, 2009 9:40 PM
To: Sonny Jones; Kingsmore, Fred L.
Subject: Fw: Joel Katz
Attachments: Picture (Metafile) 1.jpg; Picture (Metafile) 1.jpg; Picture (Metafile) 1.jpg

His client? Terry?

From: Custer, Bill
Sent: Wednesday, August 19, 2009 7:52 PM
To: 'Sonny Jones'; 'Alan Medlin'
Cc: Shearer, William
Subject: Joel Katz

My client tells me that he believes that Joel Katz prepared a disc (or discs) shortly following the death of James Brown that contains a large amount of information about the assets and transactions of James Brown and would be essential to the preparation of an accurate inventory. Does Russell have that? As a side note, my client also believes that Katz knows everything worth knowing about the business of James Brown.

I fear that we must resolve the Katz matter quickly and amicably if we ever hope to get this estate organized even by the goal of November.

Call me about this in the morning. Good talking to you both today.

All the best,

b.c.

**BRYAN CAVE
POWELL GOLDSTEIN**

William V. Custer
Partner

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t: 404.572.6828 | f: 404.572.6999 | e: bill.custer@bryancave.com

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**BRYAN CAVE
POWELL GOLDSTEIN**

1 YOUR HONOR, WE BELIEVE THIS SETTLEMENT AGREEMENT
2 EFFECTIVELY RESOLVES ALL LITIGATION AMONG THE
3 BENEFICIARIES AND POTENTIAL BENEFICIARIES, NOT ONLY AT THE
4 STATE COURT LEVEL BUT AT THE FEDERAL LEVEL AND THE
5 INTERNATIONAL LEVEL BECAUSE THERE MAY BE INTERNATIONAL
6 FEDERAL - INTERNATIONAL COPYRIGHT ISSUES AS WELL. THE
7 ONLY LITIGATION THAT WILL REMAIN AS WE SEE IT, YOUR HONOR,
8 WILL BE LITIGATION THAT TAKES PLACE - AND I HATE TO USE
9 THIS TERM, BUT I WANT TO USE IT IN A TYPICAL ESTATE
10 ADMINISTRATION - CLAIMS FOR AND AGAINST THE ESTATE BY
11 THIRD PARTIES. THE BENEFICIARIES HAVE RESOLVED ALL OF
12 THEIR DISPUTES. EVEN THE SO-CALLED NON-SETTLING
13 PARTIES - MR. GRIFFIN'S CLIENTS AND MR. BARR'S CLIENTS -
14 HAVE STIPULATED BACK IN MARCH, I BELIEVE IT WAS, THAT THEY
15 UNDERSTAND THAT WE'RE NOT TRYING TO IMPOSE ON THEIR
16 RIGHTS, BUT, YOUR HONOR, WE THINK THAT THE ONLY ISSUE
17 THAT'S GOING TO ARISE WITH THEM IS GOING TO BE AS TO THEIR
18 RIGHTS, IF ANY, TO THE FEDERAL COPYRIGHT TERMINATION
19 RIGHTS.

20 THE ONLY OTHER REMAINING LITIGATION, YOUR HONOR, THAT
21 WE FORESEE IF THIS SETTLEMENT IS APPROVED IS THE PROMISED
22 APPEAL FROM MRS. POPE AND MR. BUCHANAN WHO TESTIFIED UNDER
23 OATH, YOUR HONOR, THAT THERE WAS NOT A GOOD FAITH
24 CONTROVERSY AND THAT THERE WAS NOT ENOUGH EVIDENCE TO COME
25 TO A SETTLEMENT AT THIS STAGE, AND, YET, YOUR HONOR, LAST

1 THE ONLY THING THAT'S CERTAIN ABOUT APPEALING ANY
2 APPROVAL OF THE SETTLEMENT AND ABOUT LETTING THIS
3 LITIGATION GO ON IS THE FEES AND COSTS INCLUDING THEIR
4 FEES WILL CONTINUE. THEY WANT US TO PROVE OUR CASE, IN
5 ESSENCE, AND THEN SO. YOUR HONOR, IF WE GET MUCH FARTHER
6 DOWN THE ROAD IN PROVING OUR CASE, I AM NOT SURE MY CLIENT
7 IS GOING TO SETTLE AGAIN. I DON'T THINK SHE WILL BE AS
8 GENEROUS. SHE MAY WELL BE. A VERY IMPORTANT COMPONENT OF
9 HER DECISION-MAKING PROCESS WAS TO BENEFIT THE CHARITABLE
10 TRUST, BUT AT SOME POINT WHEN I TELL HER NOT ONLY DO WE
11 THINK IT WAS A SLAM-DUNK BUT NOW IT'S AN ABSOLUTE
12 SLAM-DUNK HOW MUCH DO YOU WANT TO GIVE AWAY? AND THE SAME
13 CAN BE SAID FOR MR. LEVENSON'S CLIENTS IF THE WILL AND
14 TRUST CONTEST STARTS GOING THEIR WAY.
15 THE PURPOSE OF THE SETTLEMENT IS TO SETTLE. ALL WE
16 HAVE TO DO IS SHOW THAT THERE WAS A GOOD FAITH
17 CONTROVERSY, AND, YOUR HONOR, THE IDEA THAT IT WASN'T PUT
18 IN THE AFFIDAVITS FROM OUR CLIENTS THAT YOU ASKED US TO
19 PREPARE AND THAT THAT SOMEHOW PROVES A LACK OF GOOD FAITH

20 CONTROVERSY, IF I WEREN'T SO TIRED, YOUR HONOR, IT WOULD
21 BE LAUGHABLE THAT THERE IS NOT A GOOD FAITH CONTROVERSY
22 HERE.
23 THE OTHER ISSUE WAS WHETHER IT'S FAIR AND REASONABLE.
24 WELL, IF YOU THINK THE ATTORNEY GENERAL IS DOING ITS JOB,
25 THEN IT'S FAIR AND REASONABLE. IF WE KEEP THIS LITIGATION

1 GOING ON IT'S JUST GOING TO DRAG MR. BROWN'S LEGACY
2 THROUGH THE MUD. MRS. POPE'S OWN TESTIMONY DID SOME OF
3 THAT AND IT WILL PROBABLY BE A LOT MORE THAN THAT IF THIS
4 LITIGATION CONTINUES. WE DON'T WANT THAT, YOUR HONOR, FOR
5 MR. BROWN. TO APPROVE THE SETTLEMENT IS TO HONOR
6 MR. BROWN'S LEGACY AND TO SAVE IT. THANK YOU, YOUR HONOR.

7 THE COURT: MR. JONES?

8 MR. JONES: YES, YOUR HONOR. THANK YOU. AS
9 PROFESSOR MEDLIN HAS SAID YOU MIGHT SAY WE'VE TALKED AND
10 WE AGREED TO WITH HIS COMMENTS AND WE ALSO TALKED TO
11 MR. LEVENSON. I WANT TO MAKE SOME COMMENTS, YOUR HONOR,
12 BRIEFLY CONCERNING THE UNIQUENESS OF THE AG IN THIS
13 MATTER.

14 AS YOU'VE HEARD US SAY BEFORE THE AG HAS AUTHORITY TO
15 PROTECT THE INTEREST OF THE CHARITABLE TRUST. THAT COMES
16 FROM THE PARENS PATRIAE AUTHORITY TO PROTECT THE PUBLIC
17 INTEREST. IT'S NO DIFFERENT THAN THE AUTHORITY THAT MY
18 ATTORNEY GENERAL IS IN THE WATER LAWSUIT THAT'S IN THE
19 ORIGINAL JURISDICTION OF THE U.S. SUPREME COURT. IT IS

20 RECOGNIZED THAT IN THAT PUBLIC INTEREST ALSO IS A
21 RESPONSIBILITY BY THE ATTORNEY GENERAL TO PROTECT
22 CHARITABLE BENEFICIARIES AND THAT IS ESPOUSED IN COMMON
23 LAW AND IS ESPOUSED IN CODE SECTION 1-7-130. 1-7-130.
24 AND IT'S ALSO SET FORTH IN THE PROBATE CODE AT 62-7-405.
25 I THINK YOUR HONOR MIGHT BE AWARE OF THE FACT THAT

Exhibit 

From: Alan Medlin <amedlin@scrr.com>
Sent: Sunday, August 30, 2009 4:11 PM
To: Kingsmore, Fred L.; Carter@eckb.com; Chandler@eckb.com; JLee@eckb.com; mrosen@rosen-lawfirm.com; AGSJONES@scag.gov; MFJowers@scag.gov; JCNicholson@scag.gov; David Michel; louis@levensonlaw.com; lori@levensonlaw.com
Cc: rbauknight@BPSCPAS.COM
Subject: Tax valuation
Attachments: tax valuation.rtf

Follow Up Flag: Follow up
Flag Status: Completed

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

1983

20

MEMORANDUM

TO: Attorneys For Settling Parties
FROM: Russell L. Bauknight
DATE: August 17, 2009
RE: James Brown Estate and Trust

I believe the James Brown Estate and Trust and the Settling Parties are truly at a cross roads:

- On one hand, we are all still struggling with the past, including addressing ongoing litigation with Pope/Buchanan as well as a number of other litigation matters;
- However, on the other hand, I believe it is time for the Estate and Trust and all the Settling Parties to focus on moving forward and implementing a business plan that will maximize the potential of the James Brown Legacy.

As the Personal Representative and Trustee (and now the Special Administrator and Special Trustee), I have determined that one of the biggest operating impediments I have identified to date is created by what appears to me to be the uncertain extent and reach of the right of first refusal language in the Settlement Agreement signed by the Settling Parties.

My own due diligence, including obtaining opinions of a number of individuals in the music industry, has left me to conclude that implementing any business plan that immediately attempts to sell the music business and James Brown Legacy would be a business mistake. I understand that all of the Settling Parties agree with this conclusion. In this respect, I acknowledge Bill Shearer's comments in the meeting in Columbia on June 18, 2009 that the purpose of including the right of first refusal language in the Settlement Agreement was based on Terry Brown's attempt to protect the Estate and the James Brown Legacy from any quick sale to outsiders for a "lowball" price. That concern seems moot at this time based on the discussions, comments and due diligence conclusions, as well as the apparent goals of the other Settling Parties, none of whom has expressed to me any interest in conducting a current sale of the estate. Hopefully, the will of the Settling Parties is to continue the beneficial cooperative spirit which I have witnessed since assuming the role of fiduciary for Mr. Brown's Estate and Trust.

In order to keep the Estate and Trust moving and looking forward for the greatest benefit of each of your clients, as well as all of the needy children Mr. Brown intended to benefit, I am asking that all of you continue that cooperative spirit and help me define and clarify whether any limits exist on the operating day to day business activities of the Estate and Trust under the right of first refusal language in the Settlement Agreement that the Settling Parties signed.

While there may be (and likely will be) additional items that need to be addressed in this discussion, please provide me the opinion of the Settling Parties on what effect the right of first refusal language has (if any at all) on the following specific points:

1. *Granting clearances for more than 2 years in the ordinary course of business.* As I have discussed in an earlier e-mail, the clearance requests for television and movies will in nearly every case involve options that extend in perpetuity. This is true because these products will not be produced for limited term use as a commercial might be. Movies and television shows are produced with the hope that they will be viewed for years to come. Further, the clearance requests are not for exclusive use of a song. The requests are made for a specified purpose on a non-exclusive basis. Finally, the revenue produced from granting the clearances currently goes toward the reduction of the bond debt. If we limit approval of clearance requests to those with a two year period, the only clearances likely to be approved moving forward will be those requests generating a few hundred dollars each. Television and movies generally each pay in the thousands, if not tens of thousands or more. If we are to get the debt and other expenses paid and begin funding distributions to beneficiaries (including the charitable uses), we need to move beyond the two year time restriction under which we have been operating.

2. *Hiring a music business manager on a term basis and on agreed compensation level in the ordinary course of business.* I have spent much time on this process. I am about to begin the final round (in which you will all be invited to participate) of interviews for this position. My list for the final round is short and I will try to have the interviews set for consecutive days if possible.

3. *Licensing the image and likeness of James Brown in the ordinary course of business.* I believe that this portion of Mr. Brown's business is key to generating current income and cash flow. This part of the business plan needs to be well coordinated with the music side in order to reap the greatest benefit from the image/likeness while at the same time generating more interest (and therefore revenue) in the music.

4. *Negotiating a video game deal.* This opportunity is one that I have been discussing with several people. I believe that there will be an opportunity to participate in a video game deal that will generate very significant cash flow. This is a deal that would be discussed with all parties and would only involve tasteful (non-violent type) entertainment, modeled on previous successful video games such as the Guitar Hero type of game.

5. *Considering opportunities to approve Documentaries, other TV specials, DVDs, Books, Movie Deals, Band Reunions, etc.* There are deals to be made. I will need to work on (with your input of course) bringing quality opportunities to the table for consideration. This is something on which the business manager will spend a large amount of time.

In order to not lose ground, I would appreciate a response from all of you by August 26, 2009.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

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

Case No.: 2008-CP-02-1647



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

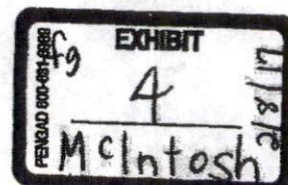
v.

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

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

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

24



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

RETURN TO APPELLANTS' REQUEST FOR EXTENSION OF TIME

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

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

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

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

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

a seventy-five day extension, it would mean that they would have been given more than one year from the time their notice of appeal was filed until their initial brief was filed. Granted, the Appellants did defend against the Respondents' motion to dismiss their appeal on the basis of standing—which the Court has requested additional briefing on—but this cannot justify the current request. Over the past year Appellants have filed over 20 motions, replies, and returns in the South Carolina Court of Appeals all related to their opposition to Russell Bauknight's substitution for them in the James Brown appeal matters. Appellants have gone to such great lengths in taking inconsistent legal positions that the Court of Appeals has applied judicial estoppel. See Exhibit B, February 12, 2010 Order of the Court of Appeals Granting Motion to Substitute. These litigation tactics should not now be rewarded by a seventy-five day extension of time.

4. Respondents dispute Appellants' contention that this "appeal presents novel issues of public importance in the management of estates and in the law of trusts." The crux of Appellants' appeal of the settlement agreement is their contention that they, rather than the South Carolina Attorney General, have the sole authority to represent the charitable beneficiaries of the Estate and Trust and to enter into a settlement agreement on behalf of the charitable beneficiaries.¹ This is

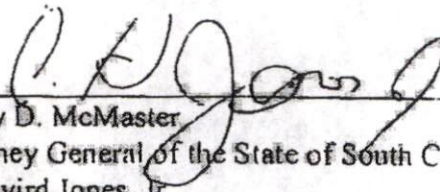
¹ Problematically, Appellants, who claim to have an uber-authority to represent charitable beneficiaries, are unaware of who the actual charitable beneficiaries of the Estate and Trust are. In their motion for a seventy-five day extension of time, Appellants represent that the Trust provides "for the college education of needy students of South Carolina and Georgia." Instead, the Trust would benefit students from anywhere who wish to attend any educational institution in Georgia and South Carolina, not simply limited to colleges. The Trust actually provides "tuition, educational expenses, and financial assistance of and for poor and financially needy children, youth, or young adults (Who are both qualified

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

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

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

Respectfully submitted,



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

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

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

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

Columbia, South Carolina

August 23, 2010

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

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

August 30, 2010
Columbia, South Carolina

B E F O R E:

HONORABLE L. CASEY MANNING, JUDGE.

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

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

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

Crystal Holmes

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Exhibit A-3

1 MR. WINGATE: Well noted. Your Honor, we knew
2 that exactly what did happen right before the lunch
3 break would nappen.

4 THE COURT: Yes, sir.

5 MR. WINGATE: And that is there'd be a whole
6 big bowl of spaghetti, all these lawsuits that have
7 been filed, whip them up, stir them up, mix them up,
8 throw out a quote, throw out a pleading, throw out a
9 caption and try to confuse the matter and say only
10 Jack Early could possibly sort through this mess.

11 This is real simple, Your Honor. There are
12 two different things. There is the Last Will and
13 Testament of James Brown. This is in Aiken County in
14 the Probate Court -- well actually it's in Circuit
15 Court in Jack Early's hands.

16 This, Your Honor, is the 2000 Irrevocable
17 Charitable Trust of James Brown which was created as a
18 separate entity prior to his death which was 2000, he
19 died December of '06. Was funded prior to his death
20 and is an entirely separate entity. And what we're
21 here for, Your Honor, we're going to sort of split
22 things. As you heard before lunch, counsel has been
23 arguing both on their Motion to Dismiss the
24 Plaintiffs' Complaint ---
25

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

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

16 THE COURT: All right.

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

1 Your Honor in the brief, clearly say that exclusive
2 subject matter jurisdiction of trust matters lies in
3 the Probate Courts in South Carolina. And as you
4 asked earlier this morning at 9:00, is this an appeal
5 or what is this? This is probate, isn't it?

6 This was filed by Russell Bauknight and the
7 Attorney General and all of the family members
8 globally in the Richland County Probate Court as a
9 Trust lawsuit

10 THE COURT: All right.

11 MR. WINGATE: And then it was moved to Your
12 Honor to the Circuit Court. So subject matter
13 jurisdiction unquestionably has been properly
14 satisfied. This suit was initiated in the Probate
15 Court. All we're arguing about is venue and we would
16 show Your Honor that respectfully and simply, it's
17 right here in Richland County. There's nowhere else it
18 could be.

19 THE COURT: All right. Thank you, sir.

20 MR. KENDALL: Thank you, Your Honor, and I
21 will -- I will also be brief because I know we have
22 lots of counsel waiting.

23 Unfortunately, the issue has been confused in
24 part because so many issues were thrown out in the
25

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

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

and

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

Plaintiffs

v.

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

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

Civil Action No. 2010-CP-40-4900

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

2010 OCT - 1 PM 3:43

FILED

AFFIDAVIT OF BETH BAUKNIGHT

1. I am Beth Bauknight. I am employed with the firm of Bauknight, Pietras & Stormer, P.A. The statements contained herein are made from my personal knowledge.
2. Since approximately May 26, 2009, I have served as the custodian of the records relating to the Estate of James Brown. I am personally familiar with documents that were filed by the former Personal Representatives, Adele Pope and Robert J. Buchanan, in the Aiken County Probate Court.
3. Attached hereto at Exhibit A is a true and correct copy of an "Interim Accounting" filed by the former Personal Representatives on May 20, 2009.
4. Attached hereto at Exhibit B is a true and correct copy of a "Final Accounting" filed by the former Personal Representatives on June 24, 2009.

Further, the Affiant sayeth not.

Beth Bauknight
Beth Bauknight

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

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

EXHIBIT B

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

PROBATE COURT

IN THE MATTER OF ESTATE OF JAMES BROWN
CASE NUMBER 2007-ES-02-0056ACCOUNTING
(Supplemental and Amended)☐ FINAL
☒ INTERIM #1A

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

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

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

*If a consolidated accounting, use this column.

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

FORM #360PC (7/87)
SCPC 3-704.3-1003

PAGE 1 OF 2

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

Filed: 5-20-2009
Sue H. Roe
Judge of Probate
[Signature]

STATE OF SOUTH CAROLINA
 THIS IS TO CERTIFY THAT I HAVE EXAMINED THE ACCOUNTING OF THE ESTATE OF JAMES BROWN, AND I HAVE FOUND IT TO BE CORRECT.
 WITNESS MY HAND AND SEAL OF THE COUNTY OF AIKEN, SOUTH CAROLINA, THIS 20th DAY OF MAY, 2009.
 SUE H. ROE
 JUDGE OF PROBATE FOR AIKEN COUNTY, S.C.
[Signature]

[Handwritten initials]

Signature: 

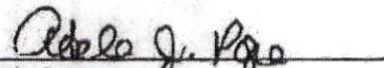
Name: Robert L. Buchanan, Jr.

Address: 212 Newberry Street NW

P.O. Box 463

Aiken, South Carolina 29802-0463

Telephone(O): 803-649-2586

Signature: 

Name: Adele J. Pope

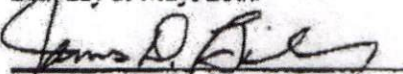
Address: 1218 Taylor Street

PO Drawer 7125

Columbia, SC 29202-7125

Telephone(O): 803-779-1870

SWORN to before me this
20th day of May, 2009

 (L.S.)

Notary Public for South Carolina

My Commission Expires: 2/12/15

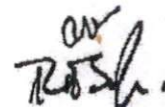


EXHIBIT C

JUN 29 2009

DATE	DESCRIPTION	RECEIPTS	DISBURSEMENTS
	TOTAL	\$102,201,408.77	\$ 102,201,408.77
	Less Secured Claims, etc.:		
	1. TIAA Royalty Debt	\$ 11,388,280.01	
	2. Priority loan from TIAA/M&T, Trustee	\$ 100,000.00	
	3. Other claims, including Debts and disputed claims at nominal carrying value. ³	\$ 1.00	
	Total Debts listed above	\$ 11,488,281.01	
	NET VALUE OF TRANSFERRED ASSETS	\$ 88,372,228.20	

*Also see the following exhibits:

Exhibit 1 - Summary of Accountings of Buchanan and Pope

Exhibit 2 - Custody Receipt for books and records transferred (without prejudice) to Russell L. Bauknight in connection with (temporary) management of Estate and Trust on or before June 23, 2009

³ See list of Status of Claims attached to Interim Accounting 1A covering the period through May 20, 2009.

JUN 29 2009

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

PROBATE COURT

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

ACCOUNTING

☒ FINAL (RESERVING ALL RIGHTS)¹
☐ INTERIM #

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

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

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

*If a consolidated accounting, use this column.

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



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

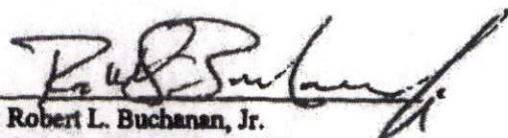
PAGE 1 OF 2

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

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

41

JUN 29 2009

Signature: 

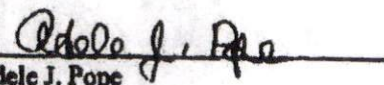
Name: Robert L. Buchanan, Jr.

Address: 212 Newberry Street NW

P.O. Box 463

Aiken, South Carolina 29802-0463

Telephone(O): 803-649-2586

Signature: 

Name: Adele J. Pope

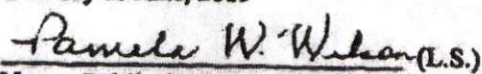
Address: 1218 Taylor Street

PO Drawer 7125

Columbia, SC 29202-7125

Telephone(O): 803-779-1870

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

 (L.S.)

Notary Public for South Carolina

My Commission Expires: 04-08-2012

EXHIBIT D

JUN 29 2009

**CUSTODY RECEIPT
DOCUMENTS OF ESTATE OF JAMES BROWN AND
THE JAMES BROWN 2000 IRREVOCABLE TRUST**

Without prejudice to the position of either party as to rights to ownership or custody on behalf of the Estate of James Brown and/or The James Brown 2000 Irrevocable Trust, the undersigned acknowledge the transfer of custody to Russell L. Bauknight on or before June 22,¹ 2009, of the boxes listed below:

BOX 1 - FORMERLY CANNON BOX 1

This is one of many boxes delivered to 1218 Taylor Street, Columbia, pursuant to Order of the Honorable Doyet A. Early, III, dated August 10, 2007. These documents were maintained until August 2007 by David G. Cannon, who resigned as PR/Trustee on August 10. Custody and control of the boxes remained with Albert H. Dallas and Alfred A. Bradley, the remaining PR/Trustees, until their resignations on November 20, 2007. Since November 20, 2007, the boxes have been, under various Orders, reviewed by interested parties and counsel; counsel for the PR/Trustees; counsel for the former PR/Trustees; and opposing counsel in litigation. 1218 Taylor Street was considered the "Reading Room" in various confidentiality agreements in various cases.

[If requested, we will be glad to discuss this matter at a weekly meeting.]

BOX 2 - FORMERLY CANNON BOX 2

Delivered to 1218 Taylor Street by Mr. Cannon in August, 2007 pursuant to Order dtd. August 10, 2007 in Case 122. Delivered to Mr. Bauknight on May 29, 2009. See Comments to Box 1.

BOX 3 - FORMERLY CANNON BOX 3

Delivered to 1218 Taylor Street by Mr. Cannon in August, 2007 pursuant to Order dtd. August 10, 2007 in Case 122. Delivered to Mr. Bauknight on May 29, 2009. See Comments to Box 1.

BOX 4 - FORMERLY CANNON BOX 4

Delivered to 1218 Taylor Street by Mr. Cannon in August, 2007 pursuant to Order dtd. August 10, 2007 in Case 122. Delivered to Mr. Bauknight on May 29, 2009. See Comments to Box 1.

BOX 5 - FORMERLY CANNON BOX 5

Delivered to 1218 Taylor Street by Mr. Cannon in August, 2007 pursuant to Order dtd. August 10, 2007 in Case 122. Delivered to Mr. Bauknight on May 29, 2009. See Comments to Box 1.

Filed: 10-24-2009

Sue H. Roe
Judge of Probate

By: J. R. Ready

¹ Boxes 1-83 previously delivered. See Receipts dated May 27, 2009 and May 29, 2009.

JUN 29 2008

16. James Brown bike Race
 17. James Brown Wedding
 18. James Brown X-Mas 2003
 19. James Brown Video 2003
 20. James Brown Video 2003
 21. James Brown Day 2003
 22. Godfather Homecoming 1st Set
 23. Godfather Homecoming 2d Set
 24. Godfather Printed JB Brochure JB Festival 2006
 25. JB Cycles; JB Hot; JB Show, etc.
 26. James Brown in Greenville
 27. James Brown & Hakim
- Plastic bag containing numerous keys
Silver Album with Wedding Photos

NOTE: These were preserved as returned.

TRANSFERRED FROM:

Adele J. Pope Robert J. Buchanan, Jr.
ROBERT J. BUCHANAN, JR OR
ADELE J. POPE

RECEIVED BY:



RUSSELL BUKKNIGHT

From: Alan Medlin <amedlin@sc.rr.com>
Sent: Monday, October 24, 2011 4:50 PM
To: Kingsmore, Fred L.
Subject: Re: More questions...
Attachments: image001.png; image004.png; image003.png

Terry Cox is a supposed branding expert who has appeared numerous times in the case. His first appearance came in chambers when Dallas and Bradley resigned in November 2007. At that time Dallas was touting him as the man who was going to buy the estate for \$100 million. No offer was ever made. Soon afterwards, Cox sent Adele a letter suggesting the estate might be worth in the \$100M range and said he had a group who might be interested in buying it but of course they needed to conduct due diligence to see if they would and for how much. This was no more of an offer than for me to tell you I think your car is worth \$100,000 and I will make an offer to buy it once I decide what it is really worth, even if it turns out to be \$300. Nevertheless, Adele says this letter was an offer. She said this to explain why she did not ever get an appraisal of the estate value. The IRS says one method of determining value is what a willing buyer will pay a willing seller. But, as noted, Cox was not ready, willing and able to buy – no actual number was ever set. She can't have it both ways. If there really was an offer for \$100M in late 2007/early 2008 from Cox, she should have taken it – her failure to do so cost the estate about \$95 million. That, of course, is *reductio ad absurdum*; the real point is there was never an offer. Cox later met with me and Sonny and a young assistant AG in August 2008, right before the settlement. He said that there was no way they would have paid \$100M. If he had to guess, maybe the estate was worth \$65 M then. But he said because of her bad management, the estate was now worth only \$35M in August 2008, and he would not offend us by making an offer but rather wanted to partner with us and help us build our "brand." At that point he had probably left Dallas' camp and was trying to work his own deal.

Once Terry joined the settlement, he re-appeared and tried to figure out a way for us to pay him for building our "brand." He was all hat and no cattle. Eventually, Terry and Orlando punted him away.

Nor did Bill Hammond, the original tax lawyer for the 3 amigos referred to in FN 3, have sufficient information about how to value the estate. When you estimate 80 to 120M, you really have no clue. If you can't get the value within \$40M, then you are just guessing. Again, no appraisal was ever done.

The important answer to the question about why our value is so low:

1. They never got an appraisal; we got a professional appraisal.
2. The IRS conducted a vigorous audit and agreed with our number. According to P&B, if the estate was worth \$100M and the settlement queered the charitable and marital deduction, the IRS gave away tens of millions of dollars. Even with the charitable and marital deduction, the IRS would have given away about \$12 million. Does anyone think the IRS gave away a chance at tens of millions, minimum \$12 M, unless they knew we were right with our professional appraisal?
3. The inflated \$100M is a way to try to get their fee of \$5M; Bauknight would be cutting his own throat from a fee standpoint by having a invalid low appraisal. It is against his financial interest to have a low appraisal, but he is honest and professional, and this is another reason his appraiser's value can be believed.

And remember, the value is really just a side issue. The main point about the IRS is that they claimed our settlement would cost \$50M in taxes because we would not get the charitable and marital deductions. The audit is concluded and the SOL has run, and the tax is zero, and we got the charitable and marital deductions.

From: Kingsmore, Fred L.
Sent: Monday, October 24, 2011 3:55 PM
To: amedlin@sc.rr.com
Subject: FW: More questions...

Let you hit this one for him if you will

IN THE COURT OF COMMON PLEAS

FOR THE EIGHTH JUDICIAL CIRCUIT

Civil Action No.: 2011-CP-36-00379

1

2

2

2

1

FACTS BEARING UPON THE MOTION

¹ The Proposed Interveners are as follows: 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 children, SYDNEY L., CARRINGTON L., and TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN. The Proposed Interveners are the non-governmental Plaintiffs in Case No. 4900.

Defendant Pope's Motion to Compel Plaintiffs' Fee Agreement; previously provided to the Court by the parties.) During the pendency of these Motions, Plaintiff Pope served a Freedom of Information Act request on the Office of the Attorney General, seeking a copy of the fee agreement. The Attorney General responded but did not produce the agreement, due in part to the pending Motions. Plaintiff Pope then filed this lawsuit in Newberry County to enforce the FOIA request (the instant case is referred to as "Case No. 379"). In order to protect their interests, the non-governmental Plaintiffs in Case No. 4900 made a Motion to Intervene as Proposed Intervenors in this case. Plaintiff Pope opposed this Motion to Intervene. (See Pope's Return and Opposition to Motion to Intervene, attached hereto as Exhibit A; see also Affidavit of Adele J. Pope Opposing Motion to Intervene, attached hereto as Exhibit B.) By Order dated November 22, 2011, this Court consolidated Case No. 379 with Case No. 4900.² (See Order of Judge Addy, attached hereto as Exhibit C.) Plaintiff Pope filed a Motion to Alter/Amend Judge Addy's Order. (See Motion to Partially Alter or Amend and/or Reconsider and Vacate Order Dated November 22, 2011, attached hereto as Exhibit D.) The statements contained in Plaintiff Pope's Motion to Alter/Amend, as well as statements made in the Affidavit opposing the Motion to Intervene, are the subject of this Rule 11 Motion.

STANDARD OF REVIEW

An attorney's signature on a motion certifies that, "to the best of his knowledge, information and belief there is good ground to support [the motion]." Rule 11, SCRCF. Under

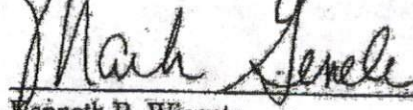
² Specifically, Judge Addy ruled that Defendant Wilson must answer the FOIA action, and that the cases would be consolidated when the pleadings were complete. (Order of Judge Addy, p. 7.) Judge Addy also held that "any motions and issues hereafter outstanding," including the Motion to Intervene, will be taken up by the Richland County Court in Case No. 4900. (Id.) Out of an abundance of caution, Proposed Intervenors have filed this Motion in the Newberry Court because the improper filing by Plaintiff Pope and Adam Silvernail was made in Newberry. Proposed Intervenors reserve the right to re-file this Motion in Richland County if the Newberry Court dismisses and/or deems improper the filing of the Motion in the Newberry Court.

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attorneys fees and costs associated with dealing with this Motion, and award Proposed Intervenor any other relief the Court deems just and reasonable. Proposed Intervenor reserve the right to supplement this Motion with further briefing (or any other materials) that supports Proposed Intervenor's position on this Motion.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate

Mark V. Gende

1515 Lady Street

Post Office Box 12129

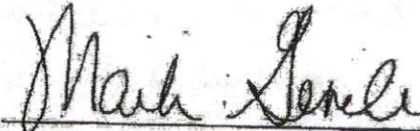
Columbia, South Carolina 29211

(803) 256-2233

**ATTORNEYS FOR PROPOSED
INTERVENORS**

Columbia, South Carolina
December 9, 2011

Pursuant to Rule 11, SCRCP, I hereby certify that conferring with Plaintiff Pope's counsel on this matter would serve no useful purpose.



Mark V. Gende, Attorney for Proposed Intervenor

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What
Louis Levenson wants.

\$8.7 Million

for 1 ½ years' work destroying

The James Brown "I Feel Good" Trust

and for destroying the

\$285,000 Education Trust Funds of
Lindsey, Janise, Sydney, Carrington & Jason.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Case No. 2008-CP-02-1647

RECEIVED

MAR 14 2013

S.C. Supreme Court

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

v.

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

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

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

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

PETITION OF RESPONDENT JAMES B. FOR REHEARING

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Once Bauknight took office, he did what his predecessors did not do and determined the royalty rights of James Brown, including the termination dates. Unlike his predecessors, he obtained a professional appraisal by a nationally renowned appraiser, which was reviewed during an estate tax return audit by the IRS royalties experts and confirmed. Respondents attempted to present this information to the Court via a Motion to Supplement the Record under Rule 212, SCACR, filed May 6, 2011, but the Court denied it. This information was also included as Exhibit O to Respondent's Motion to Dismiss or Stay Appeal, or for Extension of Time to File Respondents' Initial Brief, which pertains to Appellant Pope's appeal of the lower court's denial of her motion to lift certain protective orders, and which was filed with the Court of Appeals September 13, 2012, and later transferred to the Supreme Court. Despite the denial of the Rule 212 motion, it appears the Court availed itself of that information because the opinion refers to it in footnote 29. The IRS conducted an extensive audit and confirmed the professional appraiser's valuation. Despite Appellants' claims that Bauknight and all the settling parties, including the Attorney General, conspired to egregiously undervalue the estate so that Terry Brown, through his right of first refusal, could run off with the estate,³ the truth is in the IRS' confirmation: The IRS would have effectively given away tens of millions of dollars in taxes by accepting the professional appraiser's valuation if the estate value were indeed \$86 million as Appellants represented when they filed the federal estate tax return. (R. p. 1616).

³ That conspiracy theory fails to focus on the fact that Terry Brown has only a right of first refusal, (R. p. 2106-07), and not an option to purchase the estate, nor does it explain why the settling parties, including the Attorney General on behalf of the charitable interest, would willingly give away tens of millions of dollars to Terry Brown.

On February 27, 2013, this Court issued its Opinion reversing and remanding the circuit court order approving an agreement settling litigation concerning the estate of the singer and entertainer James Brown, and affirming the circuit court order removing Appellants as personal representatives and trustees. Wilson v. Dallas, Op. No. 27227 (S.C.Sup.Ct. filed Feb. 27, 2013) (Davis Adv.Sh. No. 10 at 14). Pursuant to Rule 221(a), SCACR, Respondent James B., surviving son of James Brown, by and through his Guardian *ad Litem*, respectfully requests a rehearing of the Court's decision reversing approval of the settlement. James B. respectfully submits that a rehearing is warranted for the following reasons.

1. **The Court overlooked or misapprehended the value of the federal copyright termination rights contributed to the settlement by the family members, leaving the trust and estate relatively valueless.**

The copyright termination rights constitute the most substantial part of the value of the James Brown assets. Federal copyright law provides that the statutory heirs per stirpes (the "Statutory Heirs") of James Brown own these termination rights.¹ These

¹ Under the Copyright Act of 1976, 17 U.S.C. § 304(c), the heirs of a deceased author may terminate the pre-1978 grant or transfer of license of copyright, thereby entitling them to ownership of the copyright for the statutory term going forward. The Ninth Circuit has explained that § 304(c)

allows an author, if he is living, or his widow and children, if he is not, to recapture, for the Extended Renewal Term, the rights that had previously been transferred to third parties. The rights thus revert to the author or his statutory heirs. The termination of transfer right, as applied to the widow and children, is limited to transfers executed before January 1, 1978. See id. § 304(c). The termination of transfer may be effected only during a five year window beginning at the end of what would have been the copyright's original and renewal terms (the end of 56 years from the date the copyright was originally secured), or beginning on January 1, 1978, whichever is later. Id. § 304(c)(3).

Classic Media, Inc. v. Mewborn, 532 F.3d 978, 983 (9th Cir. 2008).

termination rights do not and cannot belong to James Brown's estate or any trust or any other entity, regardless of what he may have wanted. Thus, the only way that any charitable trust can benefit from these termination rights is pursuant to the settlement agreement because the Statutory Heirs contributed their rights and all proceeds therefrom to the settlement entity, which includes the charitable trust. Rather than saving any charitable intention of James Brown, this Court's reversal of the approval of that settlement agreement decimates any charitable intention because, without the settlement agreement, no value from these termination rights can pass to any charitable trust. This Court correctly focused on the charitable trust. But, though the consequence is unintended, the remand will delay and likely destroy the charitable trust.

Under the federal copyright statutes, the termination dates for each of James Brown's hits come due 56 years from the date of publication, and notice of exercising the termination right can be given as much as 10 years before the termination date. As these termination rights come due, the Statutory Heirs will take the royalty stream from these songs away from the estate or trust and own them for themselves until the copyright period expires 95 years after the publication date. See "Superman's Latest Episode," an article submitted by Appellants, which explains the operation of the termination rights process and describes these rights as "immensely valuable." (R. p. 2313).

Because the substantial part of the value of assets relating to James Brown comes from the royalty stream from his songs, the royalty stream will shift, as the termination rights come due, from the estate or trust to the Statutory Heirs. As Mr. Jones observed in the oral argument before this Court, because these termination dates are imminent,² any

² The termination date for his first big hit—"Please, Please, Please"—has already

assets in any charitable trust will soon be dissipated. When considering the millions of dollars of claims still outstanding, which will be paid first from the royalty stream before any charitable trust, there may be few if any scholarships ever awarded unless the proceeds from the termination rights can pass to that charitable trust, which can happen only if the settlement is upheld.

In its decision, the Court states that there was "no evidence presented as to the potential value of these [termination] rights that could be compared to the potential value the Respondents would obtain by having testamentary plan voided." Davis Adv.Sh. No. 10 at 42. This is an unfair assessment. First, Appellants introduced into evidence an article describing termination rights as "immensely valuable." But more importantly, any lack of evidence as to the value of the termination rights is due to the fact that none of the first three personal representatives/trustees or Appellants satisfied their duty to determine what assets are owned by the estate and their value. (R. p. 1455, 1460-62). Thus, Respondents were, at the time of filing of their appellate brief, deprived of information that would have allowed an exact valuation of these termination rights. The pre-Bauknight fiduciaries provided varying estimates of the estate's value, but all were wild guesses because not one of them ever ascertained the individual royalty rights owned by James Brown or obtained any appraisal. (R. p. 1616-18, 1687, 1690, 1691). It is a sad irony of this case that the prior fiduciaries' failure to obtain a proper inventory and valuation has provided a basis for this Court to overturn approval of the settlement. It is simply sad that Appellants' appeal has overturned a settlement that would have provided a stream of royalty income to the charitable trust for many years.

arrived.

Effectively, the appraisal confirmed by the IRS on audit, which is for the date of death value, shows the royalty stream belonging to the estate worth approximately \$4.7 million, which is the fair market value of the royalty stream less outstanding associated debt of approximately \$19 million arising from bonds secured by the royalty stream. Thus, without the bond debt, the date of death value of the royalty stream to the estate would be approximately \$24 million, a valuation derived from taking the royalty stream up to the termination dates and discounted back to date of death for present value purposes. Seen in this light, the \$4.7 million date of death valuation for the royalty stream, as confirmed by the IRS, does not seem as counterintuitive as it otherwise might to a layman guessing what the value of the estate might be. Moreover, neither Appellants nor their expert witness on estate tax issues understood that the royalty stream following the termination rights dates, until the end of the copyright period, belongs to the Statutory Heirs, not the estate or any trust. (R. p. 1444-46, 1449-53, 1915-16). Appellant Pope wrongly testified that the termination rights belonged to the estate. (R. p. 1449-53). If one added the value of the royalty stream belonging to the statutory heirs after the termination dates to the value of the royalty stream belonging to the estate or any trust before the termination dates, the overall value of the entire royalty stream would be much greater than the date of death value of the estate's interest.

Respondent James B. asserts that the value of the termination rights is a critical factor in the determination of whether any charitable intent by James Brown will be recognized. As noted above, the settling parties did not have, and could not have obtained, this information because all of the pre-Bauknight fiduciaries failed to obtain the necessary information at the time of the filing of the appellate briefs. Footnote 29 of the

opinion demonstrates that the Court may have been willing to consider some of the valuation evidence obtained after the filing of the appellate briefs. However, to the extent necessary, Respondent James B. asks this Court to take judicial notice of the fact that most of James Brown's biggest royalty-producing hits occurred no later than the 1960s. Based on that information, one can extrapolate from an understanding of the operation of the federal copyright termination rights that the substantial value of the royalty stream will imminently pass to the statutory heirs and would not be available to any charitable interest if the settlement is overturned. The net result of the Court ignoring the reality of the value of the termination rights based on a procedural deficiency is that the charitable trust will be effectively annihilated.

In sum, the termination rights pass by federal law—the Copyright Act—to James Brown's Statutory Heirs. These rights and the value of these rights are not part of the probate estate or any trust created by James Brown, but were assigned for the benefit of the charitable interests by the family members as part of the settlement. Without the contribution by the family members to the settlement entity through which the charity is funded, the charity will never receive any value from the termination rights. To be clear, even if the will and trust are upheld, and even if the spousal and pretermitted child's claims are defeated, the charity will still not receive any value from the termination rights. Without the settlement, any charitable trust would be short-lived.

2. The Supreme Court overlooked or misapprehended the appropriate standard of review.

According to this Court's Opinion, the appropriate standard of review in determining whether the circuit court abused its discretion in approving the compromise is as follows: "An abuse of discretion occurs when a court's order is controlled by an

error of law or there is no evidentiary support for the court's factual conclusions." Davis Adv.Sh. No. 10 at 6 (emphasis added). The Opinion, which will be widely quoted and cited in the future, appears radically to alter this standard. The Opinion cites no error of law controlling Judge Early's decision, and fails to determine that "there is no evidentiary support" for Judge Early's factual conclusions. Rather than applying this standard of review, the Court substitutes its judgment of the facts for that of the trial court when it concludes: "We see no reasonable or substantial basis to support a good faith finding here," *id.* at 38, and, "In our view, the evidence does not support the finding that the compromise was just and reasonable," *id.* at 42. This Court bases its opinion on its determination about whether the evidence supported the existence of a good faith controversy or that the compromise was just and reasonable, rather than appropriately basing its opinion on whether there was "no evidence" supporting Judge Early's conclusion. Judge Early made his determination of fact based on the entire record before him and his intimate knowledge of the entire case. This real-time experience of a trial judge is the basis for the "no evidence" standard of review, which this Court did not follow. Instead the Court appears to have applied a standard more akin to de novo review.

The record is replete with evidence supporting Judge Early's decision, even those facts cited by this Court in its opinion. In many instances, the evidence would pass the "no evidence" test if Judge Early had indeed found that the underlying claims—e.g., undue influence—were valid, but that is not necessary. All that is necessary are findings that "the contest or controversy is in good faith and that the effect of the agreement upon the interests of persons represented by fiduciaries or other representatives is just and

reasonable.” S.C.Code Ann. § 62-3-1102(3). Only if “no evidence” exists to support such findings should Judge Early’s approval of the settlement be overturned. Some examples of evidence supporting the approval of the settlement—any one of which satisfy the “no evidence” standard—are as follows:

A. The evidence of undue influence supports a finding of a good faith controversy and of a just and reasonable settlement.

The Court’s opinion dismisses the significance of the provisions hidden away in the will and trust documents that would give James Brown’s original advisors/managers/personal representatives/trustees (Dallas, Cannon and Bradley, hereafter the “Original Fiduciaries”) the right to take up to 50% of the gross income from the trust on an annual basis. The Court’s opinion describes this as “generous” and opines that any concern with it could be resolved by reformation.

This rationale misses the point. If reformation could resolve any documentary evidence of undue influence, then undue influence would never effectively exist. Anyone wanting to practice undue influence would thus give it a shot, knowing the worst result would be that a court would later reform the document and eliminate the provision—if someone catches it. The issue of the 50% gross income to the Original Fiduciaries shows the existence of undue influence at the time the documents were executed, which is, obviously, the pertinent time for determining whether a purported testamentary document is the product of undue influence and, if so, whether it is valid. This outrageous provision in which the Original Fiduciaries would annually receive 50% of the gross income provides strong evidence of undue influence, and is overwhelming evidence that there was a good faith controversy supporting the settlement and that the settlement was just and reasonable.

beneficiaries?

Moreover, the South Carolina legislature already recognizes such a power in the Attorney General. Section 62-7-706 provides that the charitable beneficiaries of a charitable trust have the power to replace a trustee, without the necessity of seeking court approval, if the Attorney General concurs. Only if the Attorney General does not concur does the court have to get involved under § 62-7-706. Even though there is such legislative recognition of the Attorney General's authority, the Attorney General nevertheless deferred to the circuit court in this matter.

Nor did the Attorney General fail to make "a cursory evaluation of the claims rather than directing a compromise" The record indicates that the Attorney General performed considerable due diligence before deciding to support the settlement agreement. The Attorney General's due diligence included using the resources of its office without limitation and communicating with investigators to examine the validity of claims.⁶ (R. p. 1326, 1726-27).

Nor does the document's boilerplate power, also confirmed by statute, of a trustee's power to compromise claims, in any way preclude the Attorney General from having the power and the duty to protect charitable interests if the court-appointed fiduciaries refuse to compromise a claim, even at the risk of destroying the charity and in any event being able to add to exorbitant fees already claimed.

Apparently Appellants, through their actions, understood that the Attorney

⁶ Granted, the Attorney General indicated in oral argument that it did not examine the witnesses to the will, with respect to the issue of mental capacity. There would be little reason to examine witnesses to the will's execution, who would likely either be unaware of the undue influence or parties to it, as opposed to what the Attorney General's office diligently did: examine the circumstances underlying the claims of undue influence.

General had to represent the charitable interest in any settlement. Appellants did not object to the Attorney General's intervention to protect the charitable interest. Appellants always included the Attorney General as a party to their pleadings. For example, Appellants included the Attorney General as a necessary party to Appellants' Rule 68 offer of compromise, made towards the end of the settlement hearings (in which Appellants offered a settlement proposal despite testifying during the settlement hearings that not enough evidence had been obtained to settle) (R. p. 1950-51, 2008-09); Appellants included the Attorney General as the only party to the proposed Corbis settlement. (R. p. 1272-74). If the charitable trust were properly represented by Appellants, what role did Appellants think the Attorney General had if they included the Attorney General as a necessary party? Appellants' actions confirm that, because of their conflict of interest (as noted in § 62-3-1102), someone else had to represent the charitable interests in any settlement. Who else could that be but the Attorney General?

This Court's determination that the Attorney General "subverted" James Brown's estate plan is bootstrapped from its conclusion that James Brown's estate plan was valid and not the result of undue influence. If James Brown's estate plan was the result of undue influence—e.g., he did not intend to give 50% of his estate to the Original Fiduciaries—then the Attorney General did not subvert his estate plan. The Court's presumption that the Attorney General subverted James Brown's estate plan is contrary to the presumption stated elsewhere in the opinion by the Court, recognizing that when a confidential relationship exists with the undue influencers, the presumption is that undue influence occurred. Thus, rather than concluding that the Attorney General subverted James Brown's estate plan, the Court should have seen that the Attorney General was

protecting the integrity of the plan. Moreover, the Attorney General obtained the contribution of the termination rights for the benefit of the charitable interest.

Rather than encouraging charitable giving, the Court's decision chills charitable giving. Before this opinion, a charitably minded testator or settlor was unlikely to mind that the Attorney General, protecting any charitable interest, is involved in disputes concerning the validity of the testator's will or settlor's trust. Instead, the opinion creates the potential for fear in potential charitable donors: If a fiduciary is appointed who breaches his duty, including but not limited to one who converts charitable assets to his own use, a donor would want the Attorney General to step in, protect the charitable interest, and stop the fiduciary malfeasance. Thus, the concurring opinion's statement in footnote 35 questioning whether the Attorney General has any role in a will contest creates a chilling prospect. Suppose, similar to what was alleged in this case, that undue influencers coerce a testator into creating a testamentary charitable trust that, rather than mainly benefitting charity, instead mainly benefits the undue influencers through the payment of obscene management fees (say, for example, 50% of gross annual income). Or, suppose a testator executes a will creating a testamentary charitable trust. An undue influencer then coerces the testator into changing his will, leaving all probate assets to the undue influencer and naming the undue influencer as personal representative. According to footnote 35, the Attorney General should not be involved in any will contest. If so, who represents the charitable interests: the very people accused of undue influence whose undue influence including ensconcing themselves in a fiduciary and/or beneficiary position? This creates a classic case of the fox guarding the henhouse. The opinion creates a roadmap for undue influencers who are not natural objects of the testator's

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS

Case No. 08-CP-02-1647
(Estate of James Brown)

In Re:

The Estate of James Brown
A/K/A JAMES JOSEPH BROWN

AFFIDAVIT OF RUSSELL L. BAUKNIGHT

PERSONALLY APPEARED BEFORE ME, the affiant, Russell L. Bauknight, who, being sworn, deposes and states the following:

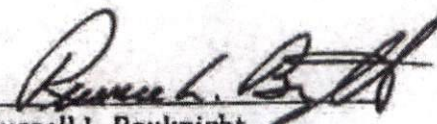
1. I am a resident of Richland County, South Carolina.
2. On May 26, 2009, nearly four years ago, the Honorable Doyet A. Early, III appointed me as Personal Representative of the James Brown Estate, and Trustee of the James Brown 2000 Irrevocable Trust.
3. The Honorable Sue H. Roe also properly issued a Certificate of Appointment for each of these fiduciary positions (see attached Certificate of Appointment).
4. The appointments complied with the original Trust Agreement and South Carolina law.
5. Separate and apart from the above appointments, I was also selected as the trustee for the Settlement Agreement Charitable Trust and Legacy Trust; the corpus of each of those trusts is a future expectancy interest.
6. Pursuant to the Circuit Court's order restricting distributions pending the outcome of this appeal, neither the Legacy Trust nor the Settlement Agreement Charitable Trust ever received a transfer of assets from the Estate or Trust.
7. I do **not** serve at the pleasure of the Attorney General nor am I beholden to him in any way.

8. The Attorney General has no independent authority to remove me from my fiduciary capacities of Personal Representative of the James Brown Estate or Trustee of the James Brown 2000 Irrevocable Trust.
9. I am an independent fiduciary and have done everything in my power to benefit the Estate and Trust.
10. A telling example of my independence deals with the Cannon plea hearing. When I learned that the Attorney General did not recommend restitution at the plea hearing I was livid. My immediate response was to contact the Attorney General, to challenge that decision, and do everything I could to remedy that failing.
11. As a direct result of my challenge to the Attorney General, on September 26, 2012, the Honorable George C. James, Jr. ordered that a restitution hearing occur. At that hearing, as the victim representative for the Estate and Trust, I will present evidence that Cannon should pay restitution to the Estate and Trust.
12. On May 26, 2009 when I began my service as Personal Representative and Trustee, the Estate was in shambles, teetering on the verge of bankruptcy.
13. The poor condition of the Estate was largely due to prior fiduciaries placing their own financial interests above that of the Estate and Trust.
14. The Estate was also encumbered by a \$26 million bond with a principal balance due of approximately \$13 million (Pullman bond) that hung like an albatross around its neck because all royalty income was captured to pay towards the bond.
15. When I took over, the Pullman bond was scheduled to be paid off in 2019.
16. Now, the \$13 million balance on the Pullman bond has been paid off eight years early, and the Estate and Trust is now prepared to fund scholarships for deserving children who attend school in South Carolina and Georgia.
17. I am not seeking reconsideration of this Court's opinion to keep this job for personal gain - unlike prior fiduciaries; I have yet to pay myself a commission, instead using Estate and Trust revenue to put the James Brown Estate and Trust in a position to provide scholarships for deserving children.

18. I believe my fiduciary duty to the Estate and Trust compels me to ask that I remain the fiduciary because my removal at this time will jeopardize the Estate and Trust.
19. I firmly believe that the Court's decision that I should be removed as a fiduciary with respect to the Estate and Trust will cause devastating consequences of which this Court is unaware.
20. For instance, there are multiple contracts that will prove very lucrative to the Estate, Trust, and future scholarship recipients, that are subject to cancellation if I am removed from my position as a fiduciary.
21. I did not ask that these cancellation provisions be placed in the contracts, but the other contracting parties demanded that they be included because of the tortuous history (prior to my appointment) of instability of the administration of the Estate and Trust.
22. Since the Court issued its opinion on February 27, 2013 the Estate and Trust have received numerous telephone calls and letters from record companies and motion picture companies asking for some form of reassurance that I will remain the fiduciary for administration of the Estate and Trust.
23. The Estate and Trust have made all reasonable efforts to reassure these companies/individuals that they need not worry. However, I fear that should I be removed, many of these companies/individuals will exercise their option to terminate the contracts given the unfortunate, continued uncertainty surrounding the Estate and Trust.
24. Furthermore, since my appointment in 2009 I have reached out to several movie studios hoping to renew interest in rights to a James Brown biographical motion picture.
25. Now, nearly four years later, I am pleased to report that I am presently in the middle of negotiating a motion picture deal for a biographical movie on the life of James Brown (Biopic).
26. The motion picture deal is with Imagine Entertainment (owned by Ron Howard and Brian Grazer) and Jagged Films (owned by Mick Jagger) to produce the James Brown Biopic.

27. The Biopic, if it is brought to the Hollywood screen, will have a tremendous impact on the value of the James Brown Estate and Trust.
28. In the industry, this type of biographical motion picture is the springboard for a renewed public interest in the music of the artist depicted.
29. The Estate and Trust is near finalizing the Biopic deal and stands to substantially increase its revenue and value through increased music sales and licenses resulting from the publicity of the Biopic.
30. The producers of this movie have made it abundantly clear that continued instability of the Estate and Trust administration will call into question our ability to move forward on this deal which would make millions of dollars for the Estate and Trust.
31. I am also presently in negotiations and the deal-making stage of creating a show at the famed Apollo Theatre, creating a touring tribute show, and finalizing a documentary regarding the life of James Brown.
32. This Court's Opinion (unknowingly) puts all of these deals at risk.
33. Accordingly, I would respectfully request that this Court allow me to move forward in my fiduciary capacities as Personal Representative of the Estate of James Brown and Trustee of the James Brown 2000 Irrevocable Trust which will allow me to complete these important time sensitive deals for the Estate, Trust, and future scholarship recipients.

FURTHER AFFIANT SAYETH NAUGHT,


Russell L. Bauknight

SWORN and subscribed to before me

This 14th day of March, 2013


Notary Public for South Carolina

My commission expires: 3-2-2014



ALAN WILSON
ATTORNEY GENERAL

April 24, 2013

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

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

Dear Mr. Kendall:

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

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

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

Yours very truly,

John W. McIntosh

John W. McIntosh
Chief Deputy Attorney General

CC: Kenneth Wingate, Esq.

JWM/ds

SCANNED

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IN THE COURT OF COMMON PLEAS
FOR THE FIFTH CIRCUIT
FOR THE STATE OF SOUTH CAROLINA
RICHLAND COUNTY

DEPOSITION OF TOMMIE RAE BROWN

RUSSELL L. BAUKNIGHT, et. al.

and

VOLUME I

ALAN WILSON, et. at.

Plaintiffs,

vs.

CASE NO. 2010-CP-40-4900

ADELE J. POPE,

Defendant.

DEPONENT: TOMMIE RAE BROWN

DATE: June 16, 2016

TIME: 10:11 a.m. - 4:36 p.m.

LOCATION: Nexsen Pruet
1230 Main Street, Suite 700
Columbia, SC 29202

REPORTED BY: SARAH GACIOCH

1 MR. GENDE: Object to the form of the
2 question.

3 BY THE WITNESS: I can't allege to
4 anything I can't prove, but there was certainly some
5 misconduct then directly to hurt and discredit me,
6 yes, absolutely.

7 BY MR. BUNDY:

8 Q. Okay. Can you tell me about that then?

9 A. **Publicity-wise, publicly.**

10 Q. When did that occur?

11 A. **Right around the time of all of the**
12 **Christie's Auction. Right around the time of all of**
13 **the Sue Summers things. Right around the time of**
14 **which I was extremely devastated and emotionally**
15 **distraught because of a direct result of what was**
16 **happening, and I just felt like I was being outright**
17 **sought after and attacked, and I feel like it's been**
18 **that way ever since.**

19 Q. And specifically what did Ms. Pope do?

20 A. **Specifically I can't -- I can't say**
21 **specifically what she did, I can only say that**
22 **specifically it was damaging to me, and it's been**
23 **very difficult for me to recover from it.**

24 Q. Okay. Who did it to you?

25 A. **I'm trying to figure that out right now, but**

1 **that's what I felt like.**

2 Q. Okay. Well, can you specifically tell me
3 what she did that defamed you, the specific words,
4 the dates?

5 A. No, I can't. No, I can't.

6 Q. Okay.

7 A. I can just tell you that, and you're a bright
8 man, I'm sure you can -- no. I can't give you
9 specifics at this time.

10 Q. Okay. How about Mr. Buchanan, can you give
11 me any specifics about him?

12 A. Mr. Buchanan --

13 MR. GENDE: Object to the form of the
14 question.

15 BY THE WITNESS: Yeah. I don't really
16 have much to say about Mr. Buchanan, and I didn't
17 feel personally attacked by him.

18 BY MR. BUNDY:

19 Q. Okay. So do you think Mr. Buchanan did a
20 good job and Ms. Pope didn't?

21 MR. GENDE: Object to the form of the
22 question.

23 BY THE WITNESS: I can't say that. I'm
24 not a businessperson. I'm a distraught wife that's
25 just trying to recover some dignity and respect.

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State of South Carolina) Court of Common Pleas
County of Richland) Case No: 2013-CP-02-1337

Adele J. Pope,	)	
	)	
Plaintiff(s),	)	Deposition
	)	
vs.	)	of
	)	
	)	Henry D. McMaster
Estate of James Brown and The	)	
James Brown 2000 Irrevocable	)	
Trust,	)	
	)	
	)	
Defendant(s).	)	
	)	

Deposition of HENRY D. MCMASTER, taken before
Frances C. Gray, Verbatim Court Reporter and Notary
Public in and for the State of South Carolina,
scheduled for 10:00 a.m. and commencing at the hour
of 10:23 a.m., Wednesday, October 19, 2016, at the
Office of the Attorney General of South Carolina,
1000 Assembly Street, Columbia, South Carolina.

Reported by:
Frances C. Gray

1 A. Mrs. Pope, they would have been authorized to do
2 it. I'm not asserting that any of these documents
3 are fraudulent.

4 Q. Well, Mr. McMaster, you sued me six years ago, --

5 A. Ma'am, I did not sue you.

6 Q. -- and I have -- please let me finish the
7 statement and the question. And I have not been
8 --

9 A. That's a statement.

10 Q. -- paid for my work since 2007 as a result of the
11 suit you brought against me, so I'm here today to
12 find out whether there was any basis for bringing
13 that suit. Judge Early has been told that I
14 cannot be paid until Richland 4900 is concluded,
15 and so I need to know what your basis for suing me
16 for conducting an appeal of 4900 was, whether it
17 was reasonable?

18 A. Ma'am, I did not sue you, --

19 MR. NEWSOME: Object to the form of the
20 question.

21 A. So, I cannot give you --

22 MR. NEWSOME: There was no question.

23 Q. I hear you.

24 A. -- those reasons.

25 Q. I understand that. Well, no, no. You did -- you

1 A. -- then you would be correct, but I cannot tell
2 you that I remember that specific piece of
3 information.

4 Q. Well, and you also had the information that his
5 copyrights had earned \$3 million a year for a
6 decade?

7 A. I don't know what information we had, but we had a
8 lot of information.

9 Q. Okay, right. Now, I'm just going to show you
10 Exhibit 12 and that's just to -- I know you're an
11 old prosecutor and I'm not, but it is a crime to
12 make a false statement on a Federal Estate Tax
13 return to receive a benefit. You'd agree with me
14 on that, wouldn't you?

15 A. Yes, it's a crime to file a false tax return
16 period. Right.

17 Q. Period. Good.

18 A. Whether you're getting a benefit or not, I
19 presume.

20 Q. Right. So if someone were to accuse a lawyer who
21 -- whose livelihood rest on fair dealings with the
22 IRS of overstating James Brown's assets by
23 \$79 million for the purpose of receiving a
24 \$5 million commission, that would be a very
25 serious charge wouldn't it?

1 MR. SMITH: Object to the form.

2 MR. NEWSOME: Same objection.

3 A. The question again, please.

4 Q. If someone were to accuse a lawyer whose practice
5 relied on fair dealings with the IRS of having
6 intentionally overstated James Brown's assets on
7 the Estate Tax Return, by \$79 million for the
8 purpose of achieving a \$5 million commission, that
9 would be a very serious allegation wouldn't it?

10 MR. SMITH: Object to the form.

11 MR. NEWSOME: Same objection.

12 A. Well, there are lots of parts to that question,
13 but accusing a lawyer of filing any sort of false
14 return is -- is serious.

15 Q. Very serious, isn't it?

16 A. Well, serious or very serious or maybe very, very
17 serious. It's serious.

18 Q. And in September, your office received information
19 that they were going to use to try to show that
20 James Brown's music empire was worth \$4.7 million
21 at his death. Did you know that?

22 A. In September of --

23 Q. 2010, when you were in office.

24 A. Do I recall getting that information? No, I
25 don't.

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State of South Carolina) In the Court of Common
County of Aiken) Pleas
Case No: 2013-CP-02-1337

Adele J. Pope,)
Plaintiff(s),)
vs.) Deposition of
RUSSELL BAUKNIGHT
Estate of James Brown and The)
James Brown 2000 Irrevocable)
Trust,)
Defendant(s).)

Deposition of RUSSELL BAUKNIGHT, taken before
Frances C. Gray, Verbatim Court Reporter and
Notary Public in and for the State of South
Carolina, scheduled for 10:00 a.m. and commencing
at the hour of 9:47 a.m., Tuesday, January 31,
2017, at the office of Nexsen Pruet Adams
Kleemeier, LLC, 1230 Main Street, Columbia, South
Carolina.

Reported by:
Frances C. Gray

- 1 I had no idea and legally no one had an obligation
2 to tell me that those termination rights had been
3 filed. You've got a look on your face right now
4 of total disbelief and that just leads me to
5 totally believe you have no clue how these
6 termination rights work.
- 7 **Q. Mr. Bauknight, have you not previously testified**
8 **that Peter Afterman came to you and asked you if**
9 **he could help Tommie Rae Hynie file termination**
10 **elections?**
- 11 A. I'm not aware of having testified to that at all.
- 12 **Q. Did that happen?**
- 13 A. I don't know.
- 14 **Q. You don't recall Peter Afterman coming to you and**
15 **asking you if he could help Ms. Hynie with**
16 **termination elections?**
- 17 A. I do not recall that.
- 18 **Q. You've never said that?**
- 19 A. Ms. Pope, I just said on three occasions, three
20 times in a row, I do not recall that.
- 21 MR. BLACK: Asked and answered, Ms. Pope.
22 That's the third time, if you're going for the
23 fourth, okay? Trying to be patient.
- 24 **Q. And you are saying today that you did not know**
25 **until 2015 that Tommie Rae Hynie had filed**

1 **termination rights elections with the federal**
2 **copyright office in 2013?**

3 A. Ms. Pope, I am quite sure that you did not hear me
4 say 2015 because I've testified countless times
5 today that I'm not going to testify about dates
6 and times. I'm telling you again, for the second
7 time, I was not aware that those termination
8 rights elections had been filed until after cash
9 had changed hands.

10 Contrary to what you and your friend, Sue
11 Summer, put where I distributed a million
12 dollars or something like that in some Max
13 Pickelsimer salacious filing you made or
14 salacious article that's been out there, I've
15 never distributed money. I did not receive a
16 penny. I was not a party to the transaction
17 and if you knew anything about termination
18 rights, Ms. Pope, you'd know that's true. But
19 apparently you don't.

20 Q. **Well, Mr. Bauknight, isn't the decision in the Ray**
21 **Charles' Foundation to the effect that, in fact,**
22 **the person protecting the charity has a place at**
23 **the table in termination rights?**

24 A. Are you asking me about Ray Charles again, --

25 Q. **Right.**

1 A. Ms. Pope, as I've testified, I have never seen an
2 offer to purchase the assets of the estate and
3 trust for \$100 million.

4 MR. BLACK: Ms. Pope, I have been very
5 patient. That was the third time that you've
6 asked that and we're when we talked about 4900,
7 I had the impression you were going to be brief
8 and we've spent substantial time on this.

9 MS. POPE: Trying to be.

10 RESUMING EXAMINATION

11 BY MS. POPE:

12 **Q. Taking improper adversarial positions to the**
13 **settlement entered into by the beneficiaries of**
14 **the estate and trust and approved by the circuit**
15 **court. What was improper about that?**

16 A. Ms. Pope, I've gone over that at least twice
17 during this deposition already where I've clearly
18 told you that because of you personally appealing
19 that decision and fighting that settlement, you
20 have personally cost the estate and trust
21 47-and-a-half percent of all the termination right
22 assets out there, and you have personally cost the
23 estate the damage that may result if the Appeals
24 Court and the Supreme Court uphold the ruling that
25 Judge Early made determining that Tommie Rae Brown

1 is the spouse of James Brown. You, personally,
2 own that. That's the third time I've testified to
3 that, and you, personally, have cost the estate
4 tens of millions of dollars of assets.

5 Those termination rights were valuable.
6 You seemed to know that because you tried
7 desperately to make that such an issue in all
8 the cases where you talked about trying to
9 settle and buyout certain people's interests or
10 votes on termination rights. You seemed to
11 know that those termination rights were
12 valuable, yet your own action in fighting the
13 settlement cost the estate and trust
14 47-and-a-half percent of those assets.

15 **Q. And yet, you continue to insist that Tommie Rae**
16 **was the spouse when lots of other people were**
17 **clear that she wasn't --**

18 MR. BLACK: Object to form.

19 **Q. -- including Tommie Rae, right?**

20 A. Ms. Pope, you say that with such a smile like that
21 mean something. And as I've testified now three
22 times, if Tommie Rae is the spouse, fine. She
23 gets half the termination rights. If Tommie Rae
24 is not the spouse then the children get
25 100 percent of the termination rights. The last

1 time I checked, the estate and trust are in
2 neither of those situations. We lose the
3 termination rights because of Adele Pope. We lose
4 47-and-a-half percent of the termination rights
5 because of you.

6 You say that as if it were a joke. You
7 make the faces over there as if it's a joke.
8 Ms. Pope. You cost millions of dollars in
9 damage to this estate and trust. You are the
10 one who's caused poor children to not get an
11 education. You own that.

12 **Q. K: Failing to account to the Attorney General as**
13 **required by law. Are you aware of any requirement**
14 **of accounting to the Attorney General?**

15 A. I have to discuss that with my attorney that put
16 that together because today I'm not prepared. I
17 came for 1337 and I don't recall of the top of my
18 head what that issue is.

19 **Q. Wasting time and estate and trust assets and**
20 **engaging in federal court litigation which was**
21 **personal to the Defendants. Tell me about that.**

22 A. Rather than necessary to the administration of the
23 estate and trust. If you're going to read a
24 portion, I'd like for the whole thing to be read
25 there. The estate and trust was not sued in the

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State of South Carolina) In the Court of Common
County of Aiken) Pleas
Case No: 2013-CP-02-1337

Adele J. Pope,

Plaintiff(s),

vs.

The Estate of James Brown and
The James Brown 2000
Irrevocable Trust,

Defendant(s).

Deposition of
ROBERT COOK
February 8, 2017

Deposition of ROBERT COOK, taken before Frances C. Gray, Verbatim Court Reporter and Notary Public in and for the State of South Carolina, scheduled for 10:00 a.m. and commencing at the hour of 10:25 a.m., Wednesday, February 8, 2017, at the office of Office of the Attorney General, Rembert Dennis Building, 1000 Assembly Street, Columbia, South Carolina.

Reported by:
Frances C. Gray

1 4900. The Attorney General's office is not a
2 party in that case, but the Attorney General on
3 behalf of the charitable interest is in that case.

4 **Q. Is your answer that the Attorney General, in your**
5 **belief, is not a plaintiff in the Wingate lawsuit?**

6 MR. SMITH: Object to the form and scope.

7 MR. GENDE: Yeah. Object to the form of
8 the question. Object to the scope of the
9 question. Object to the characterization of
10 the lawsuit. Move to strike that.

11 MR. NEWSOME: Object to the form and
12 scope.

13 A. I don't believe he is.

14 **Q. You do not believe he is?**

15 A. Yes.

16 **Q. When did you first learn that the Attorney General**
17 **of South Carolina was named as a plaintiff in the**
18 **Wingate lawsuit?**

19 MR. GENDE: Object to the form of the
20 question.

21 MR. SMITH: Form and scope.

22 MR. NEWSOME: Same. Form and scope.

23 MR. GENDE: Move to strike the
24 characterization of Richland County Case 4900.

25 A. I can tell you when I learned of the addition of

1 the Attorney General's name in the caption. It
2 would've been at the 11th or 12th hour prior to
3 the filing of that case.

4 **Q. You knew that the Attorney General was going to be**
5 **named as a plaintiff in that case?**

6 MR. SMITH: Form and scope.

7 MR. GENDE: Same objection, form and
8 scope.

9 MR. NEWSOME: Same objection.

10 A. I learned that he would -- his name would appear
11 in the caption of that case.

12 **Q. Do you know of any lawsuit ever where a person**
13 **appears as a plaintiff and is not a plaintiff --**

14 MR. SMITH: Object to form and scope.

15 **Q. -- other than the Wingate lawsuit?**

16 MR. GENDE: Object to form of the
17 question. Object to the scope of the question.
18 Object to the characterization of the suit.

19 MR. NEWSOME: Object to the form and
20 scope.

21 A. I would say this: That was a very unique case in
22 terms of the charitable beneficiaries. I know --
23 I know of no other where that has been done.

24 **Q. So let me be clear. In your 40 years of practice,**
25 **you've never seen a case where a person or entity**

1 is named as a plaintiff, but claims not to be a
2 plaintiff?

3 MR. SMITH: Object to form and scope.

4 MR. GENDE: Object to the form of the
5 question, scope of the question.

6 MR. NEWSOME: Object to the form and
7 scope.

8 A. In my 40 years, I have never known of a case like
9 that. So it is unique only because it is not
10 happened before, but that was a major settlement
11 and the settling parties were named as in the
12 caption of the complaint at the twelfth hour. I
13 know of no other like that. I -- I do not.

14 Q. Did you approve of the filing of Richland County
15 Case 2010-CP-40-4900 --

16 MR. GENDE: Object to the form of the
17 question, scope of the question.

18 Q. -- with the Attorney General named as a plaintiff?

19 MR. SMITH: Form and scope.

20 MR. GENDE: Same objection.

21 MR. NEWSOME: Object to form and scope.

22 A. No. I had no authority to approve of it. I
23 learned of it in the twelfth hour. I do believe
24 that the Chief Deputy probably approved of it.

25 Q. Did you review the complaint and when you learned

Brown "I Feel Good" Trust?

MR. SMITH: Object to the form and scope.

MR. NEWSOME: Same objection.

MR. GENDE: Same objection.

A. Yes, you did.

Q. Did you tell me at that meeting that you were hearing some of the things I said for the first time?

MR. SMITH: Form and scope objection.

MR. NEWSOME: Same objection.

MR. GENDE: Same objection.

A. I don't remember every detail in the meeting, but I remember you saying some of those things and both myself and General Wilson said that.

Q. Do you recall my concern about Mr. Bauknight's having filed documents with the IRS to claim that Tommie Rae was the spouse and not changing them as a result of the decision?

MR. SMITH: Object to form and scope.

MR. NEWSOME: Same objections.

MR. GENDE: Same objections.

A. I can't particularly recall that, but -- you know, I don't doubt what you're telling me.

Q. Might I have told you that it could cause terrible problems for the 900 copyrights James

1	STATE OF SOUTH CAROLINA	COURT OF COMMON PLEAS
2	COUNTY OF AIKEN	C/A. No. 2013-CP-02-1337
3	Adele J. Pope,	)
4	Plaintiff,	)
5	vs.	)
6	Estate of James Brown and	)
7	The James Brown 2000	)
8	Irrevocable Trust,	)
9	Defendant.	)

DEPOSITION OF
KENNETH B. WINGATE, ESQ.

Monday, March 6, 2017
2:08 p.m. - 3:51 p.m.

The deposition of KENNETH B. WINGATE, ESQ., was taken on behalf of the Plaintiff at the law offices of Gertz & Moore, LLP, 1416 Laurel Street, Columbia, South Carolina, on the 6th day of March, 2017 before Cassandra E. Vance, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition.

1 A. The Plaintiffs.

2 Q. Is Russell Bauknight, as Trustee of the
3 James Brown 2000 Irrevocable Trust, your client?

4 A. Yes.

5 Q. Is Russell Bauknight, as Trustee of the
6 James Brown Legacy Trust, your client?

7 A. Yes.

8 Q. Is Russell Bauknight, acting on behalf of
9 Attorney General Alan Wilson, your client?

10 A. Yes.

11 Q. Is Russell Bauknight, acting on behalf of
12 Tommie Rae Bryant -- Brown, individually and on
13 behalf of her minor child, your client?

14 A. Yes.

15 Q. Is Daryl J. Brown your client?

16 A. Yes.

17 Q. Is Janise Vanisha Brown your client?

18 A. Yes.

19 Q. Do you know whether she's a minor or not?

20 A. I do not know her.

21 Q. Is Lindsey Delores Brown your client?

22 A. To save you reading all of these, I think
23 the answer to each one of these is going to be
24 "yes."

25 Q. Is Lindsey Delores Brown your client?

1 A. Yes.

2 Q. Is Deanna J. Brown Thomas your client?

3 A. Yes.

4 Q. Is Jason Brown-Lewis your client?

5 A. Yes.

6 Q. Is Yamma N. Brown, individually and on
7 behalf of her minor children, Sydney Lumar and
8 Carrington Lumar, your client?

9 A. Yes.

10 Q. Is Tonya Brown your client?

11 A. Again, I think that the answer to all of
12 these is "yes" and let me explain myself.

13 I don't deal with these individuals
14 directly. As you'll learn through the course of
15 this deposition, I am the attorney through whom
16 this case was brought into our office.

17 I have not been the principal attorney
18 dealing with these matters, so I am testifying as
19 to the best of my knowledge in each of these
20 cases. And, again, I have said, to my knowledge,
21 yes, we represent all of these parties.

22 Q. That's not my question. Is Tonya Bryant --
23 Brown your client?

24 A. To my knowledge, yes.

25 Q. Is Vanisha Brown your client?

1 A. To my knowledge, yes.

2 Q. Is Larry Brown your client?

3 A. To my knowledge, yes.

4 Q. Is Terry Brown your client?

5 A. To my knowledge, yes.

6 Q. Is Alan Wilson, in his capacity as Attorney
7 General of the State of South Carolina, your
8 client?

9 A. Yes.

10 Q. Is Tommie Rae Brown, individually and on
11 behalf of her minor child, your client?

12 A. Yes.

13 Q. Is Daryl J. Brown your client?

14 A. I'm going to give the same answer, again,
15 Adele, to the best of my knowledge, yes, yes,
16 yes, yes, yes.

17 Q. Is Janice Vanisha Brown your client?

18 A. Yes, to the best of my knowledge.

19 Q. Do you know whether she's a minor or an
20 adult?

21 A. I do not know.

22 Q. Is Lindsey Delores Brown your client?

23 A. To my knowledge, yes.

24 Q. Is Deanna J. Brown Thomas your client?

25 A. To the best of my knowledge, yes.

1 Q. Is Jason Brown-Lewis your client?

2 A. To the best of my knowledge, yes.

3 Q. Is Yamma N. Brown, individually and on
4 behalf of her minor children, Sydney Lumar and
5 Carrington Lumar, your client?

6 A. To the best of my knowledge, yes.

7 Q. Is Tonya Brown your client?

8 A. To the best of my knowledge, yes.

9 Q. And Venisha Brown?

10 A. Same answer.

11 Q. Is Larry Brown your client?

12 A. Same answer.

13 Q. Is Terry Brown your client?

14 A. Same answer.

15 Q. Has there been any change in your clients
16 since the commencement of this Wingate Suit on
17 May 19th, 2010?

18 A. To my knowledge, no.

19 Q. Was there a change of Attorneys General?

20 A. Yes. Henry McMaster was the Attorney
21 General. Alan Wilson is now the Attorney
22 General.

23 Q. Do you believe that Henry McMaster
24 authorized you to bring the Wingate Suit?

25 A. Yes, I know that he did.

1 A. Some hearings.

2 Q. And did you not accept responsibility for
3 the lawsuit when it was filed?

4 A. I don't know what you mean by "accepting
5 responsibility."

6 Q. Okay. All right. It is your -- it is your
7 representation that you today represent all the
8 Plaintiffs in the Wingate lawsuit?

9 A. To the best of my knowledge, yes.

10 Q. And that you began to represent Attorney
11 General Alan Wilson when he took office?

12 A. After Henry's term ended and Alan Wilson
13 became the Attorney General, yes.

14 Q. It is -- it is your representation that you
15 represent Russell Bauknight on behalf of the
16 Attorney General of South Carolina?

17 A. Yes.

18 Q. It is your representation that you were
19 authorized by Henry McMaster to represent Russell
20 Bauknight on behalf of the Attorney General of
21 South Carolina?

22 A. I'm telling you that I met with the Attorney
23 General, Henry McMaster, and he authorized this
24 lawsuit to go forward.

25 Q. Did he see the complaint to know who the

THE STATE OF SOUTH CAROLINA
In The Supreme Court

In the Original Jurisdiction

Supreme Court Appellate Case No. 2024-_____

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

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

**REQUEST FOR ORIGINAL JURISDICTION AND
PETITION FOR RULE TO SHOW CAUSE AS TO WHY ADELE J. POPE SHOULD
NOT BE HELD IN CONTEMPT OF THE SUPREME COURT**

J. David Black
Kirsten E. Small
MAYNARD NEXSEN, PA
1230 Main Street, Suite 700 (29201)
Post Office Drawer 2426
Columbia, South Carolina 29202
Telephone: 803.771.8900
Facsimile: 803.253.8277

Attorneys for Petitioner

COMES NOW Petitioner Russell L Bauknight, as Personal Representative of the Estate of James Brown (the "Estate") Trustee of the James Brown 2000 Irrevocable Trust (the "Trust"), and respectfully requests that this Court exercise its original jurisdiction pursuant to Rule 245, SCACR and S.C. Code Ann. § 14-3-310 for the purpose of issuing a Rule to Show Cause why Adele J. Pope, Esq. should not be held in contempt of this Court's prior orders governing her conduct in matters related to the Estate and Trust.

Original Jurisdiction Request

Original jurisdiction is appropriate "[i]f the public interest is involved, or if special grounds of emergency or other good reasons exist why the original jurisdiction of the Supreme Court should be exercised." Rule 245(a), SCACR; *Carnival Corp. v. Historic Ansonborough Neighborhood Ass'n*, 407 S.C. 67, 80, 753 S.E.2d 846, 853 (2014) (recognizing "Rule 245 is concerned with whether a case should be resolved by this Court in the first instance because of the public interest involved and the need for prompt resolution").

This matter meets this test and warrants the exercise of original jurisdiction. As this Court is well aware, the primary purpose of James Brown's estate plan was the funding of a trust to provide scholarships to deserving students in South Carolina and Georgia. As this Court also knows, for this laudable goal to come to fruition the Estate must be closed so that the Trust can be funded. And the Court knows something else: that Respondent Adele J. Pope ("Pope") has done more than anyone else to interfere with the Estate and delay its closing, including by filing repetitive, frivolous motions on matters that have already been conclusively resolved by the courts.

This Court has twice warned Pope, in no uncertain terms, that her continued interference in Estate affairs could expose her to sanctions and/or contempt proceedings. The first such warning was in 2015, when this Court stated:

disclosure of the Appraisal may have deleterious effects on the Estate (and by extension, the Trust), including by potentially disrupting the Estate's confidentiality obligations in connection with the sale of certain assets in late 2022. Simply by engaging in this attempt to nullify multiple court orders recognizing and confirming the confidential, non-public nature of the Appraisal, Pope is interfering with the operation of the Estate and potentially creating yet another multi-year delay in closing the Estate, accompanied by yet more of the seemingly never-ending filings by Pope. This in turn would delay funding the Trust and at long last bringing to fruition James Brown's dream of using his hard-earned wealth to fund scholarships so that others may obtain the education he never had.

II. BACKGROUND

A. Pope's Improper and Deceptive FOIA Request

On January 18, 2024, Pope hand-delivered a FOIA request to the OAG that seeks, among other things:

1. Valuation Analysis of James Brown Estate as of December 25, 2006, (Sept. 03, 2010) (the "\$4.7 Million Valuation")
2. All correspondence, email and/or other communications and/or documents by or among any member of the Office of the Attorney General (OAG) and Russell Bauknight, Peter Afterman, or any other person(s) between August 1, 2010 and today related to the value of the assets of the Estate of James Brown and/or the James Brown Irrevocable Trust and/or the \$4.7 Million Valuation at any time between the death of James Brown on December 25, 2006 and May 8, 2013.

Exhibit D, FOIA Request (bold omitted). The FOIA Request was accompanied by a sealed envelope containing a partial copy of the Appraisal. The FOIA Request also included a communication from Pope to Attorney General Alan Wilson and Solicitor General Robert Cook, which states in part:

Dear Attorney General Wilson and Solicitor General Cook:

Appraisal so that Pope can then—contrary to numerous court orders—claim that it has been transmogrified into a “public document” that she can disclose for whatever purposes she sees fit—regardless of the devastation that may wreak upon the Estate and Trust. She must be stopped.

Given the lengths to which Pope is evidently willing to go to achieve her own ends, it is difficult to know what sanction could possibly be sufficient to adequately punish and deter Pope. At a minimum, the Estate requests that the Court impose a substantial monetary penalty and award the Estate its fees and costs for bringing this Petition. The Estate further suggests that it is within the Court’s discretion, upon appropriate findings, to find Pope in criminal contempt and impose an appropriate penal consequence.

IV. CONCLUSION

Pope’s misconduct is nothing short of appalling and deserving of the severest censure. The Estate respectfully requests the Court to exercise its original jurisdiction, issue a rule to show cause, and take all measures it determines necessary to finally put a stop to Pope’s deceitful and abusive conduct.

Respectfully submitted,

s/ J. David Black

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February 7, 2024
Columbia, South Carolina

Attorneys for Petitioner Russell L. Bauknight



ALAN WILSON
ATTORNEY GENERAL

February 15, 2024

VIA US MAIL

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

RE: Freedom of Information Act ("FOIA") Request

Dear Ms. Pope:

This Office has received your FOIA request dated January 18, 2024, which seeks:

1. Valuation Analysis of James Brown Estate as of December 25, 2006, (Sept. 03, 2010) (the "\$4.7 Million Valuation")
2. All correspondence, email and/or other communications and/or documents by or among any member of the Office of the Attorney General (OAG) and Russell Bauknight, Peter Afterman, or any other person(s) between August 1, 2010 and today related to the value of the assets of the Estate of James Brown and/or the James Brown Irrevocable Trust and/or the \$4.7 Million Valuation at any time between the death of James Brown on December 25, 2006 and May 8, 2013.
3. The Amendment to the James Brown Legacy Trust (Settlement Entity) signed by The Honorable Henry McMaster on or about December 30, 2010, and all drafts thereof, and the assignment by Terry Brown to Forlando Brown (a/k/a William Brown), by NPCOL on or about January 2011 and any drafts thereof, and all documents related to these documents from December 1, 2010 to May 8, 2013.
4. All correspondence, email and/or other communications between any member of the OAG and Sweeney, Wingate and Barrow, P.A., and/or any member of that firm between May 10 and May 25, 2010 and February 20, 2013 and June 13, 2013, including but not limited to the April 24, 2013 letter of the OAG to a member of SWB.

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5. All correspondence, email and/or other communications between any member of the OAG, including Creighton Waters, and/or Peter Afterman and/or any other person related to the value of Geronimo Music, LLC

The Office has determined there are public records responsive to your request. This determination is made in accordance with S.C. Code Ann. § 30-4-30(C).

Records will be made available no later than thirty-five calendar days from today, in accordance with S.C. Code Ann. §30-4-30(C).

Please be advised that the above does not constitute a final opinion as to whether any records may be exempt from production or subject to redaction in accordance with exemptions provided for by § 30-4-40, or other state or federal laws.

Sincerely yours,

Office of the South Carolina
Attorney General

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RECEIVED

Feb 29 2024

SC Court of Appeals

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

**APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
The Honorable Clifton B. Newman, Circuit Court Judge**

Appellate Case Nos. 2023-001253, 2023-001941 and 2024-

RUSSELL L. BAUKNIGHT, as Trustee of The James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; 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
And

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, Plaintiffs,

Of whom RUSSELL L. BAUKNIGHT, as Trustee of The James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. II; 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
And

Tommie Rae Brown, individually and on behalf of her minor child, James B. II; 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, are Respondents.

v.

Adele J. Pope, Appellant.

**RETURN OF PRO SE RESPONDENT IN S. C. SUPREME COURT ORIGINAL JURISDICTION
REQUEST 2024 - TO CONSOLIDATE THIS APPEAL WITH OTHER CASES**

Adele J. Pope¹, *pro se* individual Respondent in Supreme Court Case No. 2024 - , brought by the Estate/2000 Trust of James Brown, through Russell L. Bauknight, through Maynard Nexsen, PC (MN²), responds to the motion of Tommie Rae Hynie and others in Richland 4900,³ through Sweeny, Wingate and Barrow, P.A. ("SWB") to consolidate this appeal both with a second Richland 4900 appeal, now pending in the Supreme Court, and a recent request by Bauknight, through MN, to secure the original jurisdiction of the Supreme Court in an effort to prevent the Honorable Alan Wilson, Attorney General, the state official charged with the enforcement of the FOIA in South Carolina, from releasing under FOIA certain public documents. The public documents include the claimed \$4.7 million valuation of the \$100 million worldwide music empire of entertainer James Brown which the AG, Bauknight, and SWB, acting on behalf of the State/AG, have used in Richland 4900 to falsely accuse Robert Buchanan, Jr. and Pope of a federal felony for more than 13 years.

Hynie, Bauknight and both SWB and MN counsel began their frenzied attempt to derail the second appeal of what may be the longest-running state FOIA case⁴ after Attorney General

¹ For clarify, most persons other than member of the family of James Brown are generally referred to herein by last names with abbreviated titles. Members of the family of James Brown are generally referred to by first names. The Attorney General of South Carolina is referred to as the "Attorney General" or "AG." The Honorable Henry McMaster was AG from James Brown's death until January 2011 and the Honorable Alan Wilson has been AG since. The South Carolina Supreme Court and Court of Appeals are referred to without using "South Carolina."

² For simplicity, "MN" is used herein to describe Maynard Nexsen and its predecessor firms.

³ "Richland 4900" is Richland County Case 2010-CP-40-4900.

⁴ Pope incorporates her brief in Court of Appeal Case No. 2017 -001708, 2016-001727 and the unpublished opinions dated July 19, 2019 in those cases for a history of the first appeals of Pope's 2011 FOIA cases, and the full record of Court of Appeals Case No. 2021-000518 for a history of the second appeal in the 2011 FOIA request seeking the \$4.7 million valuation and its public backup documents. See Exhibit D, Affidavit of R.B. Alexander, and expert in U.S. Dist. Ct. Case No. 3-08-cv-00014-WOB, filed September 27, 2013 which reveals that Mr. Alexander had access to the James Brown Historical Records in 2013 necessary for him to determine that

Alan Wilson, on February 15, 2024, indicated that he may no longer be willing to conceal the public documents which the AG used to try to prove that James Brown's "I Feel Good" charity was not \$80 million charity, but about \$4 million. [See Exhibit A, AG Wilson's February 15, 2024 FOIA response.]

Bauknight and a battalion of Legacy Trust MN and SWB attorneys have tried for fifteen (15) years to persuade multiple courts that Hynie is the spouse of James Brown; that she and Respondent James Brown II control termination rights worth "tens of millions" of dollars; and that putting the "spouse" Hynie, the AG and Bauknight himself in control of James Brown's "\$5 million" music empire through plaintiff "Legacy Trust" is good for James Brown's charity. Bauknight has spent tens of millions of dollars on litigation from the alleged \$4.7 million music empire and concealed more than 145 boxes of public James Brown documents dating back to the 1980s to try to prove his and Hynie's false narrative. He and SWB have used the voice of the AG for their mission.

On April 24, 2013 Attorney General Wilson confirmed to SWB that the Office of the Attorney General had never hired SWB to bring Richland 4900; that the AG would not pay SWB; that SWB had no attorney-client relationship with SWB in Richland 4900; and that if *Wilson v. Dallas* were not changed, SWB would be required to disgorge all fees paid to SWB by Bauknight. [Exhibit B, Ltr. of Office of AG to SWB, 4/24/13]

Instead of heeding the warning of AG Wilson, SWB and Bauknight have concealed the April 24, 2013 letter and acted for or "on behalf of" the Attorney General for what will be 11 years in just two months. Within three months of the final *Wilson v. Dallas* decision, Bauknight's and

the \$85 million value placed on Brown's assets was reasonable and that the documents confirmed that there was no basis for the claimed \$4.7 million.

SWB's defiance of both the Attorney General and the Supreme Court had begun even though Bauknight had assured the Supreme Court he would follow Brown's estate plan and said in 2013:

Now the \$13 million balance on the Pullman bond has been paid off eight years early, and the Estate and Trust is now prepared to fund scholarships for deserving children who attend school in South Carolina and Georgia. [Exhibit C, Bauknight Affidavit, 3/14/13, p.]

While Bauknight was claiming under oath in August 2013 that Pope was dishonest and had "raped" James Brown estate, the Legacy Trust's music manager Peter Afterman (Inaudible Productions) was being paid by Brown's Estate while working for Hynie's attorneys to help Hynie and her son siphon off U.S. royalties devised to James Brown's "I Feel Good" charity.⁵ At the same time, the Attorney General was trying to obtain relief from the thief David Cannon who had stolen \$17 million from James Brown and from whom Bauknight has failed to seek restitution at his 2011 plea. A 2014 order related to the Cannon restitution said:

5. The financial resources of the James Brown Trust are bleak and teetering on collapse without the payment of restitution by the defendant. [Exhibit D, Order Granting Restitution, filed 5/1/14, *S.C. vs. Cannon*, p.3]

From 2013 until 2024 Bauknight and SWB, acting for the State/Attorney General, concealed the AG's April 24, 2013 letter; continued to conceal and suppress 145 boxes of public James Brown documents; continued to reject numerous settlement offers; continued to make the false felony claim on behalf of the State/Attorney General; and, with Levenson, infected Pope's two FOIA cases, Richland 4900 and Pope's fee claim, "Aiken 1337" with the fraud of Hynie,

⁵ Bauknight's 2013 Accounting, Estate of James Brown, 2013, shows payment to Afterman of \$24,400 - \$30,000 a month as he worked for Hynie's attorneys claiming to the U.S. Copyright Office that Hynie was James Brown's spouse and entitled to half of the U.S. royalties to about 200 song copyrights between 2015 and 2023. In addition to Afterman, Bauknight paid two payments of \$165,000 to his firm and two payments of \$335,000 to MN.

Cannon, and the Legacy Trust which had infected the James Brown Estate proceedings since shortly after James Brown's death on Christmas Day 2006.

In 2023 one of SWB's attorneys revealed how the power and prestige of the AG and the purse of James Brown's estate have been used by SWB and Bauknight since 2013. He said:

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.

Buchanan and Pope began efforts to seek a prompt resolution in 2009, tried again in 2010 and Pope made a 2012 offer to let both the AG and Brown's Estate/2000 Trust out of Richland 4900, but SWB, acting for the State/AG, Hynie and Bauknight, rejected the offers; filed them; and moved to strike them from the public records. Offers of Pope to end any relationship with Brown's Estate/2000 Trust for \$2.1 million made in 2017 and again in 2018 and later, were met with vitriolic, false claims that Pope sought \$19 million -- which SWB and Bauknight made not only to the courts, but to the media.

Hynie and State/AG actors SWB and Bauknight have diminished and disrespected the charitable legacy of entertainer James Brown for fourteen (14) years by using the power and prestige of the Office of the Attorney General to claim that James Brown left only \$4 million to charity, rather than an \$80 million charity that was larger than The Ray Charles Foundation, S.C.'s Graham Foundation, and most, if not all private charities in S.C. at the time. They have likewise denigrated anyone who defended Brown's right to leave 41/42 of his \$100 million fortune to his "I Feel Good" charity, and who noted that Brown's \$80 million charity would have been \$95

million if the trustee thief David Cannon had not stolen \$15 million from scholarships for needy S.C. and Georgia students.

Now, when Attorney General Alan Wilson acknowledges that documents used by his own office to falsely accuse Buchanan and Pope of the federal felony of overstating the value of James Brown's charity by \$79 million to get a \$5 million commission from James Brown's claimed \$5 million estate, SWB, Bauknight and MN want to stop the AG's action without joining him or consolidating the 2011 FOIA case in which the request was first made, a case on its second appeal that may be the longest-running state FOIA case in the nation.

As set out briefly herein, the, consolidation without joinder of the Attorney General and the 2011 FOIA case is merely a continuation of the effort of Hynie, Bauknight, the Legacy Trust and their counsel to defy both Attorney General Wilson and the Supreme Court for eleven (11) years, and to blame the damage on Buchanan and Pope.

Bauknight Recommends Attorney General's 2008 Settlement Without Proper Inquiry

In January 2007 the *Chattanooga* announced that retired Judge Walter Williams, a philanthropist, would help distribute James Brown's \$100 million "I Feel Good" charity. Judge Williams a former IRS attorney who had valued thousands of estate, knew James Brown and trustee Al Bradley, shared Brown's love of education, and had spoken with investment bankers about Brown's assets. Judge Williams served without pay on the advisory board of the "I Feel Good" charity from 2007 until 2009. [See Exhibit E, Deposition of Walter Williams 1/26/17]

In 2007 trustees Al Bradley and Albert Dallas, under oath, valued Brown's music empire at \$100 million less the \$15 million Pullman bond debt, based on an offer by TJBL. The Attorney General, who had recently entered the James Brown cases, questioned whether the \$100 million offer would go away. Buchanan and Pope advised that they needed to manage a baseless \$31

million claim by Pullman and baseless \$25 million claims by Cannon, Dallas, and music manager Frank Copsidas considering a sale. All were well managed by the end of 2008, with the Pullman \$31 million claim dismissed with prejudice and other ready for summary judgment.

In 2008 Judge Williams opposed the effort of the Attorney General to give half of James Brown's charity to Hynie and five clients of Louis Levenson, Esq., in exchange for their termination rights under Sections 203 and 304 of the U.S. Copyright Act, but the Attorney General's Senior Assistant AG said Judge Williams' testimony and that of a college professor and the Interim President of South Carolina State University, other members of the advisory board of the "I Feel Good" charity, were unnecessary, even though the university president, along with the State Superintendent of Education, had helped develop the scholarship guidelines Buchanan and Pope submitted to the IRS for approval of James Brown's "I Feel Good" charity as a qualified private foundation. The Attorney General asked that Bauknight, a CPA, be appointed by the court to evaluate the AG's 2008 settlement, and Bauknight was appointed.

The Attorney General claimed that James Brown's fiduciaries might be too interested in their fee to properly evaluate the AG's plan to give away half of the charity for what Buchanan and Pope believed to be less than 5% of its value to settle baseless will contests and the spousal claim of a person who had admitted in her own hand that her marriage to James Brown was bigamous.

By then, TJBL had delivered two additional letters of intent to purchase Brown's assets for \$92 - \$102 million, and both Brown's son Terry Brown and grandson Forlando had become part of TJBL. Both offers were made public and Judge Early was notified that the Estate/2000 Trust did not intend to pursue the offers because Hynie and Levenson had both filed meritless claims in December 2007 seeking to set aside James Brown's estate plan.

Before Bauknight was appointed, the estate tax return for the James Brown Estate was filed. It was temporarily declared confidential because of Federal Dist. Ct. Case 3:08-cv-00014 (the "Federal Injunction Suit"), but, like all documents, was made public at the 2009 hearings. Based on numerous factors, Buchanan and Pope valued James Brown's worldwide music empire at \$99 million less the Pullman bond debt. Contributing to the valuation were 80 boxes of James Brown's financial records dating back to the 1980s; the three TJBL offers and letters of intent; the valuation of the outside investors of TJBL; a 2008 Royal Bank of Scotland \$42 million valuation of the royalty stream alone; and a formula to value the copyrights and right of publicity similar to that accepted by the IRS in the estate of songwriter Harlan Howard. In addition, although the estate had been ravaged by the \$17 million theft of David Cannon, who had filed no accountings, *Forbes* had listed James Brown as one of the top-earning "dead celebrities" of 2007, with income of \$5 million, and Brown's estate was about to make \$5+ million in royalties alone in 2008.

In January 2009 Bauknight recommended that the AG's 2008 settlement be approved, with an amendment allowing a family member to buy the music empire for what the AG assured the Honorable Doyet Early would be "fair market value."

In early 2009 a fourth possible TJBL sale, in the form of a "right of first offer" became available. Hynie, whose counsel claimed she was "speaking as one" with the AG, asked the circuit court to issue an *ex parte* order to prevent any consideration of sales while the AG's 2008 settlement was being considered.

In the spring of 2009 Hynie's counsel also interfered with, a proposed 2-year publicity rights contract with GreenLight, a Bill Gates Company, projected to bring in \$1 - \$2 million a year

in addition to the \$5+ million royalties, most of which were being used to pay off the Pullman bond debt.

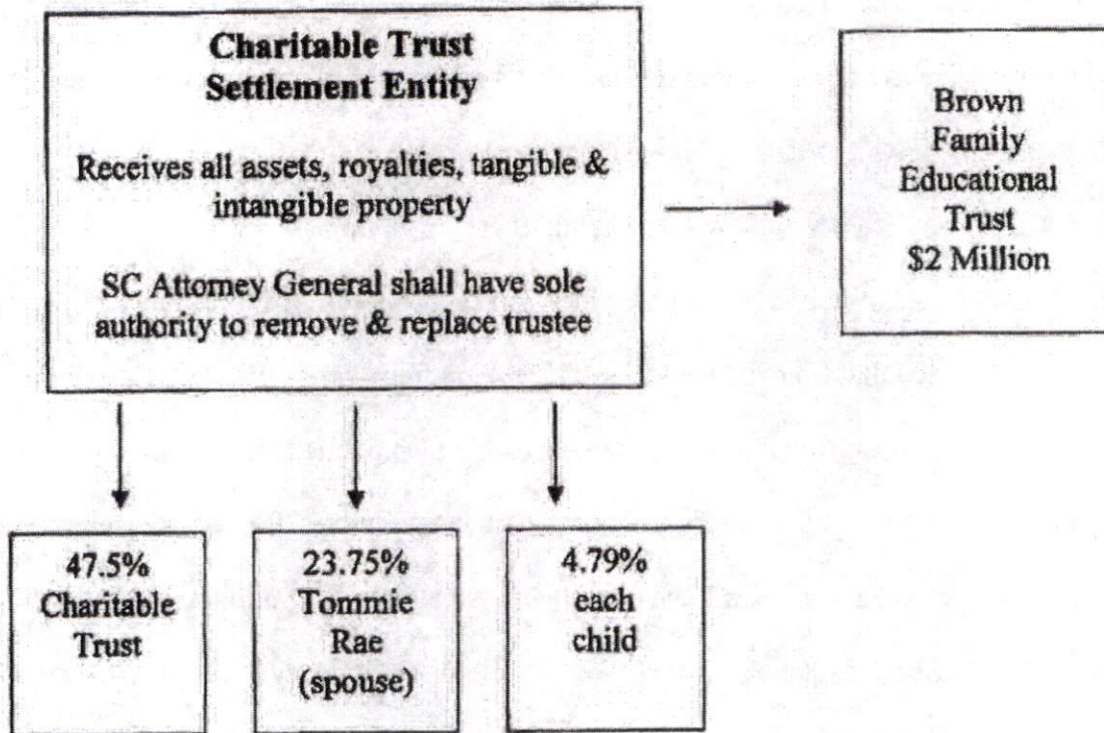
The GreenLight deal had been vetted both by the James Brown Estate's entertainment counsel, Ray Gonzalez, now head of Warner Music Legal, and by Jay Ross, Esq., a Chicago attorney who had represented James Brown for years.

On May 26, 2009, on the recommendation of Bauknight, who had not looked at James Brown's estate tax return or any of the 145 boxes of James Brown public documents, the circuit court approved the AG's 2008 settlement, which had been modified minutes before Bauknight recommended approval of the settlement.

Bauknight became trustee of the AG's newly-created "Legacy Trust" and the AG's new charity that would be funded with 47.5% of James Brown's assets and half of the termination rights proceeds of Hynie and six children of James Brown.

The contrast between the 41/42 of Brown's 2000 Trust that would go to the "I Feel Good" charity under James Brown's documents, and what would go to the AG's new charity under the AG's 2008 settlement is dramatic. It was described by the Attorney General, Hynie and Bauknight, through SWB, the following year. Calling the Legacy Trust the "Charitable Trust Settlement Entity," SWB said:

The Charitable Trust is diagramed as follows:



With fiduciary obligations both to James Brown's estate plan and "I Feel Good" charity and the AG's Legacy Trust, Hynie and the AG's new charity, Bauknight chose to favor the Legacy Trust and fight James Brown's estate plan.

State/AG Action of SWB and Bauknight to Suppress Public Documents (2010-2013)

By the end of June 2009 Buchanan and Pope had delivered 145 boxes of public James Brown documents, including the 80 boxes of public "James Brown Historical Documents," to Bauknight. Bauknight signed a 72-page custody receipt agreeing to share the documents during the pendency of what became *Wilson v. Dallas*, but immediately reneged on the signed agreement. Bauknight also rejected the GreenLight publicity rights deal and terminated the advisory board to the "I Feel Good" Trust.

By the fall of 2009 Bauknight had hired ten MN attorneys at \$375 - \$500 an hour, with MN tax and probate attorneys charging \$440 an hour. He hired Peter Afterman as the Legacy

Trust's music manager and Bauknight's spouse/CPA Beth Bauknight as the custodian of records for James Brown's Estate. The Bauknights each charged \$350 an hour for accounting services and Bauknight, in addition to a flat fee based on value and a percentage of certain sales, charged \$350 an hour for litigation, which Bauknight considered extraordinary.

The Bauknights and 10 MN attorneys "speaking as one" with the AG, Hynie and Levenson, put the 145 boxes of public boxes under lock and key, concealing all the many public documents which confirmed that Cannon had stolen \$17 million from James Brown, \$15 million of which was taken from James Brown's charity; Hynie, by her own public handwritten admissions, was a bigamist; the four Will/Trust contests filed in December 2007 were baseless because Hynie was not a spouse and most Levenson clients had already ratified James Brown's estate plan; and the AG's 2008 settlement would take \$50 million from needy students with less than \$5 million being put in the AG's new charity by Brown's children and zero by Hynie. .

In 2010 Bauknight, Levenson, Alan Medlin, Esq., and David Bell, Esq. signed the 40% contingency fee Agreement with SWB to bring Richland 4900. Attorney General McMaster did not sign; did not authorize SWB or Bauknight to act for the State/AG in Richland 4900; and did not know he was a Richland 4900 plaintiff until after leaving office as AG in January 2011. The AG's Special Counsel Litigation Retention Agreement with SWB, to which all signatories agreed, stated on its face that it was a public document subject to FOIA and that all documents used and gathered in Richland 4900 were property of the State of South Carolina and subject to release under FOIA both by SWB and by the Attorney General.

In August 2010 Bauknight and the MN Legacy Trust attorneys joined SWB, acting for the Attorney General, in the false claim that Buchanan and Pope had committed the federal felony of overstating the assets of James Brown's assets in IRS filings by tens of millions of dollars to get a

\$5 million commission on what Bauknight and his attorneys claimed was an estate of less than \$12 million. [See Exhibit F Return filed 3-08-cv-00014 on September 27, 213 re: Confidentiality, with Confidentiality Order dated August 6, 2008 related to discovery in that case.]

Since 2010 Bauknight, SWB and MN have refused in Richland 4900, Aiken 1337 and elsewhere to produce the 145 boxes of public James Brown documents held by Beth Bauknight and Legacy Trust attorneys which prove that the false felony claim was false.

Both Buchanan and Pope declined to sign any confidentiality agreements in Richland 4900 because the documents to show that the efforts of Hynie, the Legacy Trust owners and the AG to denigrate them to prevent the appeal of the AG's 2008 settlement were all public.

Bauknight, SWB and the some of the same MN attorneys continue to take the position that these public documents are confidential. They do so even though all have shared the documents with Peter Afterman, who worked from 2009 until 2021 for the Estate/Trust while also working from 2009 until 2013 for the Legacy Trust and from 2013 until 2020 for Hynie's attorneys.

In 2010 SWB, while acting for the State/AG, named the thief David Cannon as a witness against Buchanan and Pope, and began a quest until Cannon's death in 2018 to conceal public documents, including the \$5 million "check to nobody" which Cannon laundered through a Barnwell bank in 2011. Cannon's own copy of the \$5 million "check to nobody" is part of the 80 boxes of James Brown Historical Documents delivered to Bauknight in 2009.

In early 2011, while concealing the public SWB Litigation Agreement, SWB, acting for new Attorney General Alan Wilson, without the AG's knowledge sought and obtained dismissal of a writ of prohibition and early Richland 4900 appeal seeking a determination that Richland 4900 violated the Due Process rights of Buchanan and Pope because SWB, a private law firm, was sole counsel to the State/Attorney General and 16 private SWB clients. SWB was using the power

and prestige of the Office of the Attorney General to obtain tort damages primarily for SWB's private clients. After April 24, 2013, SWB and Bauknight used the AG's power and prestige solely for SWB's private clients.

In 2011, while SWB and Bauknight, acting for the State/Attorney General, refused to release public documents in Richland 4900 discovery, Bauknight's MN attorney David Black, Esq., called the Legacy Trust the "James Brown Trust," refused a FOIA request; and threatened Pope with sanctions or a lawsuit if she continued to seek Legacy Trust documents. SWB and the AG failed to comply with FOIA requests for the AG's Special Counsel Agreement with SWB and other public documents, and Pope, supported by Buchanan, filed two FOIA suits.

The FOIA suit seeking the public SWB Agreement had one appeal and it took nine (9) years for the circuit court to order SWB and the Attorney General to produce the public AG's Special Counsel Agreement with SWB both in Richland 4900 and under FOIA.

The 2011 FOIA suit seeking the Legacy Trust's 2010 amendment signed by AG Henry McMaster and the \$4.7 million valuation documents used to accuse Buchanan and Pope of a federal felony is still pending after nearly thirteen (13) years. It is on its second appeal in Court of Appeals. Exhibit A suggests that Attorney General Wilson acknowledges that some or all of the public documents sought should be released.

By 2012 SWB had counseled Attorney General Wilson not to comply with his FOIA obligation to release the AG's public Special Counsel Agreement. SWB told AG Wilson that it was better to withhold the public document than to face public embarrassment over his failure to comply with FOIA; face attorneys' fees; or risk damaging the Attorney General's co-plaintiffs in Richland 4900.

In 2012 SWB, acting for the State/AG, and Bauknight, sought an "emergency" telephone hearing to prevent the deposition of the AG's own witness, Albert Dallas, when it became clear that Dallas would testify under oath about the \$100 million offer made in 2007, and also testify about Hynie's bigamy, including that James Brown was hurt when Dallas discovered Hynie's bigamy and refused to marry her until his death.

In 2012, SWB, speaking for the State/AG, and Bauknight rejected offers to let both the Attorney General and the James Brown Estate/2000 Trust out of Richland 4900 at no cost. The offer, if accepted, would have ended all involvement of the James Brown Estate/2000 Trust with Pope with a ruling by Judge Early as to her entitlement to a fee, with the requested amount being between \$1.47 million and \$2.8 million for what was then 5 ½ years of service. Bauknight and the Attorney General, through SWB, not only rejected the settlement offer and offers to let minor beneficiaries of the 2000 Trust and the incarcerated Venisha Brown out of Richland 4900, but filed them and asked the circuit court to strike the offers to settle from the public record. []

In 2012 Bauknight and his MN attorneys also bitterly objected to efforts of Pope to secure the public Hynie handwritten bigamy admissions to protect herself from Hynie's false claims in Richland 4900. Bauknight's MN attorney Black claimed at a hearing that Judge Early had already declared Hynie to be the spouse, and MN and Hynie's attorneys tried to prevent a hearing on whether to void the 2008 *ex parte* gag orders which allowed Hynie's lawyer to hold the public evidence of her bigamy and prevented all discussion or dissemination of the bigamy admissions. Bauknight and MN joined Hynie's attorneys in claiming that Pope filings were "works of fiction" and that there was nothing Pope could do about the fact that Hynie was married to James Brown.

Bauknight, SWB Conceal AG Wilson's April 24, 2013 Letter from Courts (2013-2024)

The week of March 6, 2013 Pope and Adam Silvermail, Esq., visited AG Wilson, the Chief Deputy AG, and Solicitor General Robert Cook. The purpose of the meeting was to explain the damage Bauknight had caused to the "I Feel Good" charity by his claims to the IRS that Hynie was Brown's spouse; Brown's worldwide music empire was only worth \$4.7 million; and that James Brown had given \$1.8 million to his "spouse."⁶

They explained that Bauknight's IRS filings might be used by Hynie as a claimed admission by James Brown's Estate/2000 Trust that Hynie was the spouse, and to make a claim that Hynie was entitled to half of the U.S. royalties which were slowly becoming available to heirs under the federal termination rights of Sections 203 and 304 of U.S. Copyright Act. They also explained that under the "fractional share clause" of Brown's 2000 Trust, Bauknight's \$79 million devaluation of Brown's music empire to \$4.7 million had shifted nearly 1/3 of James Brown's assets out of the charity and over to a Trust for grandson Forlando Brown and five Levenson clients.

The shift of nearly \$1 million income a year and almost 1/3 of the "I Feel Good" assets was far more than necessary to educate six grandchildren to age 35. As a result, the income would be taxed at a high rate, depleting unnecessarily by tens of thousands of dollars each year the amount

⁶ In 2011 Pope and William Jeffrey Smith, a Georgetown Law graduate and former patent attorney, hired by Brown's Estate/2000 Trust in 2008 to address termination rights issues wrote "Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown 'I Feel Good' Trust doesn't..." The draft article explains how the AG's 2008 settlement, with the stipulation that Hynie, an admitted bigamist, was Brown's spouse, combined with a massive devaluation of Brown's asset to \$12 million or less and sale to a family member, as contemplated by the AG's 2008 settlement, would leave the "I Feel Good" charity with "Almost Nothing," the title of one of Brown's songs.

that would be returned to James Brown's charity when the six grandchildren reached age 35. It would also cause the loss of nearly \$1 million of "I Feel Good" scholarships each year.

At \$84 million, the fractional share in the education Trust had, correctly, been 1/42 of the assets and income of Brown's 2000 Trust. With \$5+ million of income a year, 41/42 of the assets and income was plenty to educate Forlando and five Levenson clients to age 35, at which point the education Trust would return to the "I Feel Good" Trust without being depleted by unnecessary income taxes.

Neither Bauknight, a CPA, nor his spouse/CPA had explained the serious charitable and tax consequences of the \$79 million devaluation of Brown's music empire to Attorney General Wilson or any of his senior staff. Pope and Silvernail explained that the problem remained despite the Supreme Court's first decision in *Wilson v. Dallas*, but could easily and quietly fixed by an IRS filing which informed the IRS that it was no longer the Estate/2000 Trust's position that Hynie was Brown's spouse, and that the \$84 million net value of Brown's 2000 Trust, \$80 million of which was going to the "I Feel Good" charity was correct.

In March 2013 the Attorney General told the Supreme Court he was getting out of Richland 4900, and that he hoped to conclude FOIA matters promptly.

That same month, the still-secret signatories to the AG's Special Counsel Litigation Retention Agreement with SWB had already signaled what Levenson and Hynie's attorney Alan Medlin, Esq., would announce to the circuit court on May 29, 2013. Hynie and Levenson had no intention of honoring the Supreme Court's decision.

Levenson, who had signed the SWB 40% contract for 11 plaintiffs, said that his clients would continue to pursue Richland 4900 regardless of the AG's changed position. An attorney for Tomirae's then-minor son – under a contingency fee contract with Hynie – gave details of the

claimed \$4.7 million in order to justify it, but did the opposite. Hynie's son told the Supreme Court that Bauknight has properly valued James Brown's 850 copyrights at \$23.7 million or less, and then properly reduced that figure by \$19 million for the Pullman bond debt.

In addition to Bauknight's overstatement by \$4 million of the Pullman bond debt, he valued James Brown's 10,000 items of tangible personal property at less than \$.5 million, although 350 of the items had sold for \$850,000. He valued Brown's publicity rights at zero, or near zero, while the TJBL investors had valued them at \$40 million or more. Further, the \$4.7 million valuation and its explanation were inconsistent with sworn filings by Peter Afterman and Bauknight in the Supreme Court during the same month.

On March 7, 2013 Bauknight moved to intervene in the FOIA suit of reporter Susan Summer. Summer's 2012 FOIA suit sought, the \$4.7 million valuation documents and some of the same documents the Bauknight, the Legacy Trust and the AG were refusing to release under FOIA in Pope's 2011 FOIA suit. Summer also sought under FOIA the AG's copy of the public so-called "Hynie diary," Hynie's handwritten bigamy admissions.

After the Attorney General, through SWB, had stopped the deposition of Albert Dallas, Summer had published an interview with a "close acquaintance" of James Brown giving certain details about the "explosive" bigamy admission which Dallas had given to the Attorney General in 2008. The Attorney General, through SWB, then sought Summer's notes and sources, but withdrew this action on behalf of the State/AG after members of the S.C. Press Association objected.

Summer, a children's advocate for more than a decade, wanted to know why Dallas and others were claiming that Brown's charity was worth \$100 million, but AG Wilson was claiming it was worth only about \$20 million, even after the Pullman bond was paid off. For Summer, the

difference meant about \$3 million a year in required IRS scholarships under the IRS's "Five Percent Rule."

Whether the "I Feel Good" charity was required by the IRS to distribute about \$4 million a year in scholarships, or less than \$1 million in scholarships, Summer questioned why the Attorney General proposed to give half of that to Hynie and six of Brown's claimed children if public documents and four trustees confirmed that Hynie was never James Brown's spouse.

After moving to intervene in the Summer FOIA suit to prevent the release of public documents, on March 14, 2013 Bauknight asked the Supreme Court to reinstate him as Brown's trustee. He filed an affidavit supporting the request, along with an affidavit of Peter Afterman.

In March and April 2013 SWB attorneys sent urgent messages to Attorney General Wilson, seeking a meeting to discuss their disengagement with the Attorney General. SWB attorneys labeled some of the communications with the AG as attorney-client privileged.

On March 24, 2013 Attorney General Alan Wilson took the first step to try to correct the State/Attorney General actions in Richland 4900. AG Wilson made clear in the April 24, 2013 letter that the AG would not pay any portion of SWB's fees or costs, and that if *Wilson v. Dallas* remained the same, SWB should disgorge all of the costs which Bauknight had advanced from the James Brown Estate to benefit the Legacy Trust owners in Richland 4900.

In addition, AG Wilson made clear that the Office of the Attorney General had never had an attorney-client relationship with SWB in Richland 4900.

Instead of facing the consequences of AG Wilson's extraordinary April 24, 2013 letter, SWB, Bauknight, and the Legacy Trust have concealed it for more than ten years while using the power and prestige of the Office of the Attorney General to silence and punish anyone who dared to suggest that Hynie is not the spouse of James Brown, or that the AG's 2008 plan to give Hynie

a quarter of Brown's charity and unlimited funds to try to prove that she was Brown's spouse was unwise.

For 11 years, Bauknight and the Legacy Trust, through both MN and SWB, have taken extraordinary steps, while acting on behalf of the State/Attorney General, to see that the *public* April 24, 2013 letter of AG Wilson not see the light of day and not be seen by any court.

In 2020 when the Office of the Attorney General finally took the proper step to release this public 2013 document to a S.C. citizen under FOIA, Bauknight paid SWB, in addition to SWB's 40% contingency with costs, fees of as much as \$350 an hour to denigrate Pope and her counsel and bitterly oppose all efforts to lift the stay imposed since 2017 by the appeal of SWB's ill-gotten partial summary judgment for the State/Attorney General and for the Legacy Trust at the same time the Legacy Trust was claiming in the \$4.7 million FOIA case that it had never existed.⁷

In 2020 when the Attorney General finally withdrew from the conspiracy of silence that some of his FOIA staff had willingly supported, and released the April 24, 2013 letter and the 2008 fee schedule showing the exorbitant fees Bauknight had been paying MN to do Hynie's bidding since 2009, Bauknight did not retreat. Instead, he began paying SWB, in addition to its 40% contingency, up to \$350 a hour for the next four years to fight all efforts to lift the stay.

When efforts to sanction Pope for seeking to end the illegal nightmare lawsuit which had been brought against her in 2010, SWB, Bauknight and Hynie began a slanderous media attack

⁷ In 2012 Bauknight stated under oath that he had managed the Legacy Trust for three years in Richland County. That year SWB and Bauknight secured transfer of two FOIA cases to Richland County to benefit the Legacy Trust, and tried to move the Summer FOIA case and consolidate it with Richland 4900. The Legacy Trust adopted every fraudulent claim Hynie had made since 2007, and used the power and prestige of the Office of the AG and James Brown's pocket to engage 15 MN and SWB lawyers to promote that false narrative. By 2013 Bauknight was claiming in FOIA that the Legacy Trust did not exist, while claiming in Richland 4900 that it was entitled to damages against Buchanan and Pope. By 2016 it had secured both summary judgment in Richland 4900 and a FOIA ruling that it did not exist.

which reached from London, U.K., to the *New York Times*, to an Augusta television station, in addition to the courts. SWB and Bauknight, personally made in the courts and to the media the known false, slanderous claim that Pope was seeking \$19 million from James Brown's Estate (when it was actually \$2.1 million) and that Pope was the reason that Bauknight had been unable to pay scholarships to needy students for a dozen years.

In 2023 SWB revealed that it had spent \$32,500 resisting a single motion to lift the stay. SWB also revealed that it had more than 500 pages of additional bills for appeals in Richland 4900 and "related appeals."

SWB's extraordinary State/AG actions are just part of the tens of millions of dollars of litigation costs spent by Bauknight, documentation of which MN attorney Black filed *ex parte* with the circuit court in 2018. The Aiken 1337 circuit court, after review, discarded the litigation cost records, and did not retain a sealed copy for appellate review.

State/AG Action by SWB and Bauknight Supporting Hynie Plan to Ignore *Wilson v. Dallas*

On May 10, 2013, two days after the final decision in *Wilson v. Dallas*, the Attorney General, through SWB, along with Bauknight and the Legacy Trust, asked the Honorable Casey Manning to stay both Richland 4900 and Pope's two 2011 FOIA cases until all James Brown matters in Aiken were complete. This resulted in a 3-year *de facto* stay of Pope's 2011 FOIA cases and Richland 4900 despite multiple requests of Silvernail to proceed with the FOIA cases. The stay was broken only when the Aiken Judge in actions from which Buchanan and Pope had been excluded for two years contacted the Richland 4900 circuit court and the two judges, *sue sponte* ordered a mediation just after the Aiken Court had determined that Hynie was the spouse of James Brown.

On May 29, 2013 Bauknight was present with two MN attorneys, Black and William Newsome, Esq., the Legacy Trust's \$440 an hour "probate claims expert." Levenson and Medlin announced to the Judge Early their plan to disregard the Supreme Court's May 8 decision in *Wilson v. Dallas* and reinstate the AG's 2008 settlement. Levenson asked Judge Early to go into chambers to hear why the AG's 2008 settlement should be promptly reinstated, but the Judge declined to do so. Medlin said that "Mrs. Brown" had been generous in the AG's 2008 settlement, and that if the settlement were not promptly reinstated, she might be less generous. They asked that Buchanan and Pope be excluded from all James Brown hearings, even as witnesses.

Even though Bauknight had just told the Supreme Court he would uphold James Brown's estate plan, Bauknight's MN attorney Black joined in the request of Levenson and Hynie's attorney that the circuit court exclude Buchanan and Pope, the primary witnesses to the validity of the Will and Trust and the fact that Hynie's case was baseless, from all James Brown hearings.

Concealing the April 24, 2013 letter of AG Wilson, Bauknight, the Legacy Trust and 15 MN and SWB attorneys began an 11-year crusade, costing tens of millions of dollars, to "prove" that Bauknight had been correct in January 2009 when he recommended that the AG's 2008 settlement be approved.

As soon as the May 29 status hearing ended, MN attorney Newsome hand-delivered a "Disallowance" to Pope which said she was not entitled to the \$1.47 million fee earned between 2007 and May 2009 or the unpaid \$47,972 of her 2007 SA fee under Judge Early's fee order of 2008. The Disallowance also made reference to the false felony claim lodged by the State/AG since 2010. The Disallowance said Pope might be required to disgorge her partial SA fee that had been paid. The 47,972, with interest, is still being held until Hynie concludes Richland 4900.

SWB Secures Three-Year Stay for AG While Hynie Obtains Spousal Order in Two Years

While Richland 4900 and the FOIA cases were stayed for three years, those seeking to reinstate the AG's 2008 settlement moved fast in the cases from which Buchanan, Pope and Dallas were banned.

By August 2013 Bauknight's Legacy Trust music manager Peter Afterman was being paid more than \$20,000 month by Bauknight from funds devised to Brown's charity and engaged at the same time by Hynie's attorney to help Hynie and her son try to siphon off half of the U.S. royalties to about 200 of Brown's copyrights between 2015 and 2023.

Five Plaintiffs, clients of Levenson, objected to Afterman's actions, but Bauknight, Afterman and SWB continued to pursue Hynie's efforts to siphon off U.S. royalties from the "I Feel Good" charity; have herself declared Brown's spouse; push her false narrative about her spousal claims and termination rights; and demean and punish Buchanan and Pope for having appealed the AG's 2008 settlement in what became *Wilson v. Dallas*.

In the same month, Bauknight defended the AG's 2008 settlement and \$4.7 million value, while claiming that Pope "raped" James Brown's estate. He said, under oath:

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

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

Bauknight, the Legacy Trust, and Peter Afterman, using, without authorization, the power and prestige of Attorney General Alan Wilson and the purse of James Brown's Estate/2000 Trust, continued to claim (until 2020) that Hynie controlled tens of millions of dollars of termination rights; that it was good for Brown's charity for her to be Brown's spouse; and that Brown's music empire was worth only \$4.7 million when James Brown died. They continued the false narrative Legacy Trust attorneys had pressed the Supreme Court to accept at oral argument in *Wilson v. Dallas* in 2011, namely that Hynie's elective share claim was a "slamdunk;" the false claims that Brown's Estate/2000 Trust had no corpus to speak of; and the false claim that, but for the AG's 2008 settlement, there would be nothing in the "I Feel Good" charity by 2023.

In September 2013 Bauknight secured a right to designate the claimed \$4.7 million valuation – but none of the supporting documents – as confidential under the extant confidential order for discovery in Case 3:08-cv-00014-WOB. Under the order, the right to designate confidential was not a finding of confidentiality, but solely a right, based on false claims made to the federal court by Bauknight, to treat it as confidential until actions of the parties or the court rendered it nonconfidential. Bauknight, at the time he claimed that both the SWB Special Counsel Litigation Retention Agreement with the AG and the \$4.7 Million Valuation were confidential, was sharing them with Peter Afterman, who working for Hynie.

After misleading the federal court by claiming that he had kept the \$4.7 million valuation confidential, Bauknight never required any of his MN or SWB counsel or others he shared the \$4.7

million valuation with, such as Hynie/the AG's expert Bradley Sharpe, to sign the necessary discovery documents to retain confidentiality. Forlando Brown also shared the \$4.7 million valuation with whomever he pleased, and stated under oath that it was "bogus." Buchanan's opinion under oath was the same, although he used different terms. Knowing that there would be objections because he had failed to keep confidentiality, Bauknight made no effort to collect the \$4.7 million valuation from Forlando, Pope, Buchanan or their counsel in 2016 when the federal suit was ended.

In 2014, with the public documents hidden and April 24, 2013 letter concealed, Bauknight and Bauknight's \$440-an-hour "probate claims expert", opposing Pope's *pro se* claim of \$47,972 + interest since 2008; \$1.47 million with interest since 2009, and a discretionary award which might increase the \$1.47 million with interest to \$2.8 million, prevented summary judgment on either the \$47,972 or the \$1.47 million. Bauknight and Newsome both agreed that Pope had earned the entire \$1.47 million and \$47,972 *before* May 2009, but are still holding the \$47,972 with interest.

In 2014 reporter Summer's FOIA case met with some success when the FOIA court ruled that Bauknight, through SWB, could not intervene to try to stop the FOIA requests, but certain AG staff were still able to help Hynie and Levenson by simply ignoring the FOIA court's order and not producing the \$4.7 million because the Attorney General said nobody in his office had ever seen the document the AG had used to falsely accuse two attorneys of a federal felony for four years. The Attorney General's FOIA staff simply failed to produce a number of public documents subject to the 2014 FOIA order, including Bauknight's 2008 fee schedule and Attorney General Wilson's April 24, 2013 letter confirming that the Office of the Attorney General had never hired SWB. The AG also failed to produce SWB's 2012 letter counseling AG Wilson not to comply

with his FOIA obligations to produce to Summer the public AG's Special Counsel Litigation Retention Agreement.

In 2015 the Aiken Circuit Court ruled that Hynie was the spouse of James Brown and, within days, consulted with the Richland 4900 circuit court judge and *sua sponte* ordered a joint mediation in Pope's *pro se* Aiken 1337 fee case and Richland 4900.

A May 6, 2015 status report of the circuit court repeated many of the false claims Hynie, Bauknight, Peter Afterman and SWB were making, including the false claim that that Pope's maximum \$2.8 million fee claim was \$5 million, and that her \$47,972 SA fee claim was for \$2 million for a few months. The status report praised Bauknight, repeated false statements Bauknight had made about the Pullman bond loan, and failed to notify the Supreme Court that Bauknight, MN attorneys and SWB attorneys had been working diligently since May 29, 2013 to carry out the publicly announced plan of Hynie and Levenson to try to make Hynie the spouse and give her a quarter of Brown's charity. The circuit court also repeated Bauknight's patently false claim that James Brown's Estate had been on the brink of insolvency when Bauknight took over on May 26, 2009. Nothing could have been further from the truth.

The truth was that Bauknight had taken over in 2009 when James Brown's Estate and his \$85+ million "I Feel Good" education charity were on the brink of greatness. All Bauknight had to do was to sign either the pre-vetted GreenLight contract, or another publicity rights contract during the appeal; be neutral; pay off the Pullman bond loan by late 2011 or early 2012 as \$5+ million a year would allow it to do; and await the outcome of the appeal of the AG's 2008 settlement deal

If Bauknight had taken the neutral course, which he was required because he was trustee of two trusts – the Legacy Trust and The James Brown 2000 Irrevocable Trust – which had

opposite goals, on May 8, 2013, there would have been \$95 million in James Brown's charity, and \$5 million more a year coming until a sale. Instead of being neutral, as required, Bauknight took the side of the Legacy Trust and Hynie, engaging 15 attorneys and numerous experts on a "deferred pay" basis to help the Legacy Trust demean and defeat anyone who challenged Hynie's false spousal, copyright, and valuation claims, and those of the Legacy Trust's music manager Peter Afterman.

While others pointed out the serious errors in the May 6 status report as related to themselves, Buchanan and Pope were not asked to respond to the false claims against them, and did not.

Not unexpectedly, the Supreme Court which was told that there had been no mention of settlement, and that Pope was seeking \$7 million for 18 months' service – not a maximum of \$2.8 million for six years' service – came down hard. The Supreme Court's June 10, 2015 order abruptly ended Pope's 2-year *pro bono publico* effort to stop the announced plan of Hynie and Levenson to defy the Supreme Court and Bauknight's direct defiance of both the Supreme Court and the April 24, 2013 letter of Attorney General Wilson – of which she was unaware until it was released by Attorney General Wilson under FOIA in 2020.

Governor McMaster Confirms that he Did Not Hire SWB to Bring Richland 4900 (2016)

In 2016 extraordinary events took place in James Brown Estate cases from which Buchanan, Pope and Dallas had been banned, as well as in Pope's two 2011 FOIA cases; Richland 4900; and Pope's fee claim in 1337. As they did, Bauknight, the Legacy Trust and 15 SWB and MN attorneys concealed the 145 boxes of public James Brown documents, AG Wilson's April 24, 2013 letter, and everything Bauknight was sharing with Hynie and Afterman in their joint effort

to implement the AG's 2008 settlement in defiance of the Supreme Court's *Wilson v. Dallas* decision.

The most extraordinary event of 2016 was the sworn testimony of the Honorable Henry McMaster, now Governor of South Carolina in October confirming that he had never hired SWB to bring Richland 4900 and did not even know he was a Richland 4900 plaintiff until after leaving office as AG in January 2011. When deposed *pro se* by Pope, McMaster stated emphatically: "Ma'am, I did not sue you." [Exhibit G, Deposition of McMaster, Oct.19, 2016]] Instead of admitting the problem, Bauknight and his 15 SWB and MN attorney redoubled their efforts to assure that Governor McMaster's testimony in Aiken 1337 not be considered by any appellate court. And SWB continued its State/Attorney General action with clear information from two attorneys general that it had no authority to do so.

In addition, there were other troublesome actions by Bauknight, MN and SWB to suppress the voice of anyone who no longer supported Hynie's fraud and false narrative. By 2016, Levenson, terminated by the 11 clients for whom he had signed the SWB 40% contingency fee, joined in the conspiracy – against his former clients – to make Hynie the spouse and implement the AG's 2008 settlement that would reap him \$6 million to dismiss baseless will contests that settled in 2016 for about \$200,000 instead of the \$20 million Levenson's clients would have gotten under the AG's 2008 settlement.

The circuit court, infected with the belief that Attorney General Wilson was fully supporting the fraud and false narrative of Hynie, took an active role carrying out the plan of Hynie, Bauknight and Levenson to reinstate the AG's 2008 settlement with orders which:

- Awarded \$700,000.00 in legal and GAL fees to Hynie's son who had refused a paid-for DNA test in 2008 and was not a presumed child;
- Found the Legacy Trust did not exist in a FOIA case, but granted it partial

Summary judgment in Richland 4900;

- Dismissed both 2011 FOIA cases;

SWB Attorneys Lack Candor When Ordered to Testify by Judge Toal (2017)

In 2017 two SWB attorneys resisted efforts to be deposed in Aiken 1337, Pope's fee claim, although they had sought to consolidate it with Richland 4900. The Honorable Jean Toal, acting circuit judge, after waivers of all parties, directed that the attorneys be deposed as to the commencement and continuation by the Attorney General of Richland 4900 from 2010 to 2017. Both concealed the April 24, 2013 letter of AG Wilson and refuted Governor McMaster's clear statement under oath that he did not authorize SWB to file Richland 4900 in the name of the State/AG, and did not even know he was a Richland 4900 plaintiff until after leaving office as AG in 2011. Both SWB attorneys claimed that they knew of no change in their Richland 4900 clients other than the change of AG in 2011 from Governor McMaster to AG Wilson.

That same month Bauknight's lawyers bitterly – and successfully -- fought release of sworn testimony of Roger Miller, the Attorney General's Richland 4900 termination rights expert, that the termination rights of all heirs of James Brown ten years after Brown's death were worth only \$8.8 million, while "frothy" investors had been willing to pay 15 – 20 times revenues, as much as \$100 million for Brown's "solid gold" music catalog alone in 2009 when Buchanan and Pope delivered James Brown's asset to Bauknight. The information that Bauknight was trying to keep secret was that in 2008 the AG had proposed to give Hynie and five Levenson clients half of James Brown's \$50 million charity for about \$2.2 million dollars in termination rights. The \$8.8 million came to light only when a second expert for Hynie, the AG and the Legacy Trust, Brad Sharpe revealed the number and certain details about the claimed \$4.7 million valuation in 2018. Brad Sharpe never signed any confidentiality agreement.

In 2017 the AG's and Hynie's expert Mark Hobbs, CPA testified that he knew nothing about the claimed \$4.7 million, even though he had been designated by as a Richland 4900 expert in 2010, the year it was fabricated. In addition, Hobbs did not review James Brown's 2000 Trust where the "fractional share" clause, formerly giving 41/42 to James Brown "I Feel Good" Trust, was reduced to just over 2/3s for the "I Feel Good" Trust by the \$4.7 million, shifting \$1 million of scholarships a year starting in 2012 and nearly 1/3 of the assets over to a trust for Forlando Brown and five Levenson clients. The AG's and Hynie's expert Nathan Crystal, at \$600 an hour, knew nothing about the service of Buchanan and Pope from 2007 until 2013. The AG's expert Ellison Thomas, CPA, refused to testify about his finding about the wrongdoing of Cannon at his 2017 deposition, and knew nothing about the claimed \$4.7 million or its disastrous charitable and tax consequences.

By the end of 2017 more than 30 depositions and filings of 11 former Levenson clients had exposed Hynie's fraud and the false claims Bauknight, Hynie, SWB and MN had made to support the fraud and try to reinstate the AG's 2008 settlement. At this point SWB began a frenetic effort to assure that there be no lifting of the stay in Richland 4900 to expose the coverup of the fraud of Hynie and the Legacy Trust, [See Depositions of: Roger Miller (Exhibit H); James Hardin, Esq. (Exhibit I); W. Steven Johnson, Esq. (Exhibit J); Wm. J. Smith, Esq. (Exhibit K); Thomas Pope, Esq., (Exhibit L); Adele Pope (Exhibit M); Solicitor General Robert Cook (Exhibit N) ,

Action of Bauknight, Legacy Trust and 15 Attorney to Push \$4.7 Million (2017-2024)

In January 2017 Bauknight, under oath, affirmed his "rape" claim in Aiken 1337; talked about what Pope had done wrong; and admitted he had already spent \$1 million trying to defeat Pope's maximum \$2.8 million claim. Then Judge Williams testified under oath that his \$100 million had been low. [Exhibit E, Deposition, Williams, pp. 14-15, 26, 27] Then MN attorney

Newsome, while claiming that both James Brown's estate tax return and the concealed \$4.7 million valuation documents were confidential, tried to convince James Hardin, Esq., Steve Johnson, Esq., Thomas Pope III, Wallace Lightsey, Esq, CPA William Sellars, and seven of the nine (9) experts Bauknight and Hynie had jointly named in Richland 4900 and Aiken 1337 that Buchanan and Pope had ruined James Brown's estate by challenging the claim that Hynie was Brown's spouse who held tens of millions of dollars of termination rights; that James Brown had been "teetering on the brink of insolvency" with a \$4.7 million estate when he died; and that Buchanan and Pope had reduced Brown's estate to less than \$20,000. The story did not take with anyone, even the witnesses Bauknight and Hynie, through MN and SWB had jointly appointed and told that the happy "family" had resolved their differences and Hynie had been determined to be the spouse.

Unfortunately the circuit court judge who had been infected by the Attorney General's and the Levenson clients' open support for Hynie fraud from 2008 until 2013, continued to be told by Bauknight, SWB and MN that the Attorney General fully supported the 11-year push to defy the Supreme Court and reinstate the AG's 2008 settlement. Having banned Buchanan, Pope and Dallas from even appearing as witnesses in Hynie's case, the circuit court had been in a bell jar of fraud and false claims, and believed, based on claims by Bauknight, the Legacy Trust and Bauknight 15 attorneys that the Attorney General was in on the plan to shift nearly 1/3 of the "I Feel Good" charity's assets to Levenson clients and Terry Brown's son with the \$4.7 million, increasing their Trust tenfold; declare Hynie the spouse; and silently reinstate the AG's 2008 settlement deal without the Supreme Court or Court of Appeal ever knowing.

Thirty (30) witnesses and experts, including Bauknight's and Hynie's new experts, didn't go along. So Bauknight and MN persuaded the circuit court to take away the jury trial which both

parties had sought, and not even to grant an advisory jury as to whether James Brown's worldwide music empire was \$100 million when he died, less the \$15 million that Cannon had stolen, and that Brown gave \$80 million to charity – not \$2.8 as Bauknight and his NP attorneys told the IRS.⁸ Bauknight got his wish and Pope, before the trial offered to end her relationship with James Brown's Estate/2000 Trust in both Richland 4900 and Aiken 1337 for \$2.1 million. That offer to settle was for six years of hardship from 2007 to 2013; all of the out-of-pocket costs of *Wilson v. Dallas*; traveling to California, New York, Charleston, and elsewhere to depose seven of the nine experts Hynie and Bauknight had jointly named in late 2016; and attendance at more than 25 other depositions required after Bauknight changed Aiken 1337 from the three witnesses it had been from 2013 until 2016, to name nine experts with Hynie.

Bauknight and NP and MN were not satisfied with paying the nuisance Pope to go away for \$2.1 million, as they had been able to make the nuisance Buchanan go away for \$550,000 instead of \$2.1 million. They chose to spend \$10,000 a day at trial and fly experts who had been misinformed and told Hynie was Brown's spouse from California and New York to crush Pope and "prove" that Bauknight to the circuit court – if not a jury – that Bauknight had correctly valued James Brown's worldwide music empire at \$4.7 million. While the trial proceeded, Bauknight had to SWB and the Legacy Trust extra in the Richland 4900 and FOIA appeals to prevent either the circuit court or the appellate courts from hearing what Governor McMaster, James Hardin, Wallace Lightsey, Steve Johnson, Judge Williams, and even Bauknights and Hynie's own experts CPA Mark Hobbs, Rogert Miller, Ellison Thomas, CPA, William Sellars, CPA, Nathan Crystal, Esq., and Julian Walker, Esq., had to say.

⁸ See Exhibit O, Affidavit of Beth Bauknight, O, w/portion of Buchanan/Pope accountings; proposed IRS adjustment to \$4.7 million.

One thing Sellars said was that Bauknight and his spouse, the records custodian of the James Brown Estate, and their \$440-an-hour attorneys, while inducing the Attorney General of South Carolina to falsely accuse Buchanan of a federal felony with the fabricated \$4.7 million valuation and claiming that Buchanan and Pope had filed improper documents with the IRS, had never even looked at the tax files of court-appointed CPA Sellars and his partner Mary Jo Cole, CPA, who had faithfully served the James Brown estate from 2007 until 2009. Instead, as Sellars testified to the surprise of Newsome and Pope, James Brown's critical tax and "I Feel Good" charitable recognition files held by Sellars, and of which Bauknight had been notified within one day of his appointment, had been destroyed after more than six years because Bauknight, Brown's trustee/CPA and his spouse, the records custodian and CPA for the James Brown Estate, had not requested these critical files for more than six (6) years. Yet Bauknight, and the AG relying on Bauknight, were accusing Buchanan and Pope of failing to file proper returns with the IRS and a federal felony.

Within nothing to say, Bauknight and all 15 attorneys began to say that not only were Buchanan and Pope greedy, incompetent felons, but Pope was demanding \$19 million from the James Brown Estate and was the only reason Bauknight had not been able to provide \$4 million of "I Feel Good" scholarships to needy students in 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, and 2023. Bauknight paid SWB, who remained the unauthorized voice of the Attorney General of South Carolina, to shout the new false claim to the Court of Appeals, to two circuit judges, and to the media.

From 2018 until 2024 Bauknight, Hynie, the Legacy Trust, Levenson, SWB and MN spent whatever it took of James Brown's \$5+ million a year to silence the opposition and infect the courts with Hynie's fraud and false claims, even if the opposition turned out to be SWB's other

clients; Levenson's former clients; and the people to whom Bauknight had owed a fiduciary duty since 2009. And James Brown.

SWB, Bauknight and Legacy Trust use State/AG Action and FOIA Disruption (2013-2024)

Since March 7, 2013 the FOIA disruption by Bauknight, and SWB's paid intrusion with Bauknight and the Legacy Trust into no fewer than three FOIA cases and four FOIA case appeals has been central to the plan to disregard *Wilson v. Dallas* and conceal the public documents which confirm that James Brown's worldwide music empire was conservatively valued at \$99 million when he died; the termination rights were worth only \$8.8 million ten years after Brown died and after his estate had acquired 200 more copyrights that would last 35 years without any loss of termination rights; and that James Brown left \$80 million to charity which should have been \$95 million in 2011 when the Pullman bond was paid off. They have also used FOIA disruption to conceal public documents to show that Buchanan and Pope faithfully service James Brown from 2007 until 2012 (Buchanan) and 2013 (Pope); advanced James Brown's charitable wishes; and were not greedy, incompetent felons. Nor had Buchanan or Pope every delayed a charitable distribution.

Exhibit P, beginning with a letter of James Richardson, Esq., *pro bono publico* lead appellate counsel in Richland 4900 dated, April 22, 2010, is only a small sample of the efforts Buchanan and Pope made jointly before 2012 when Buchanan was silenced, and Pope made before June 10, 2015, when she was silenced, to end Richland 4900, even before it began, and to honor James Brown's desire to leave the bulk of his \$100 million fortune to educate needy students.

SWB's and Bauknight's FOIA Violations Have Been Intentional and Egregious

Since 2010 Bauknight and his 15 attorneys have known that the AG's Special Counsel Litigation Retention Agreement with SWB says:

F. Public Records

Any materials, data, files, discs or documents created, produced or gathered by Special Counsel or in Special Counsel's possession in furtherance of the litigation or which fulfills an obligation of this appointment shall be considered the exclusive property of the State of South Carolina. Special Counsel agree to adhere to South Carolina Freedom of Information Act, South Carolina Code of laws § 30-4-10 *et seq.* and maintain all public records in accordance with State law; provided, however, that Special Counsel shall consult with, and obtain the approval of, the Attorney General before responding to any public records request. Special Counsel agrees to comply with the Rule 417 of the South Carolina Appellate Court Rules. Special Counsel agrees to request written confirmation from the Attorney General's Office prior to destroying any documents. **This Agreement shall be considered a public Document.** [Emphasis supplied]

The conspiracy to conceal public documents by SWB, Bauknight and the Legacy Trust in the name of the State/Attorney General, who is the state's enforcer of the FOIA, is egregious. Attorneys Levenson and Bell willingly joined in the conspiracy so that Levenson could try to make \$6 million and Bell could cover up the theft, fraud and money laundering of David Cannon in the federal suit he filed in 2008.⁹

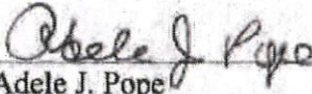
ARGUMENT

Hynie and Cannon were already defrauding James Brown in 2000 when James Brown left 49/50 of his \$100 million music empire to his "I Feel Good" charity. Both knew at Brown's death that Brown's \$100 million music empire – reduced by Cannon's theft – should go 41/42 to his "I Feel Good" Trust. In 2007 the Attorney General was deceived by Cannon's fraud. In 2008 the Attorney General was deceived by Hynie's fraud. Bell and Levenson knew of Hynie's fraud, but

⁹ The entire issue of the AG's Wingate Special Counsel Agreement is troublesome. Among other problems, the page with the signature of Bell contained in the SWB Agreement presented by Bauknight to the federal court in 2013 had been substituted by 2018, and the signature of Bell had been replaced by that of Terry Brown on the SWB Agreement identified by two SWB attorneys when ordered to testify in 2018. This is just one of the many problems associated with the claimed private SWB Agreement with Governor McMaster, which the governor never signed.

Levenson wanted \$6 million and Bell wanted to cover up the theft of Cannon. From 2009 until 2013 Bauknight had a duty to be neutral between James Brown's 2000 Trust and the Legacy Trust, but breached that duty. From 2013 Bauknight had a duty only to James Brown's \$100 million estate, but breached that duty with his 15 attorneys, purportedly acting on behalf of the State/AG, in direct defiance of both the Supreme Court and the Attorney General's April 24, 2013 letter. He used whatever he desired of James Brown's \$5+ million of income a year to disrespect James Brown's wishes and blame the damage on Buchanan and Pope and anyone else who stood in the way of Hynie and the Legacy Trust. Bauknight attempts to resolve his unauthorized State/AG action, and that of SWB, without the voice of the Attorney General to address the defiance of the April 24, 2013 letter and the FOIA disruption.

Respectfully submitted,



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S.C. Bar No. 4501

February 29, 2024

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

In the Matter of:

State of South Carolina,

Petitioner,

v.

Adele Jeffords Pope

Respondent.

BEFORE THE SUPREME COURT
OF SOUTH CAROLINA

CASE NO. 2024-000500

RESPONDENT'S MOTION
TO UNSEAL CUSTODY RECEIPT
AND MEMORANDUM IN SUPPORT

TO: PETITIONER AND ITS COUNSEL DON ZELENKA:

Respondent Adele J. Pope, through her undersigned counsel, respectfully moves this Court to unseal the 76-page Custody Receipt dated June 22, 2009, with its 19-page Exhibit A (the "Custody Receipt") and substitute a copy of the Custody Receipt as filed on October 1, 2010, in in Richland County Case No. 2010-CP-40-4900 ("Case 4900"), for the sealed Custody Receipt filed by the State in June 2024, designating the unsealed Custody Receipt, with Exhibit A as Court's Exhibit #1.

The grounds of this motion are that the Custody Receipt was filed in the Aiken County Probate Court by Robert Buchanan, Jr. and Adele J. Pope on June 24, 2009, as is confirmed by Exhibit A, Affidavit of Beth Bauknight, CPA, Custodian of the James Brown records, when she re-filed the Custody Receipt in Case 4900 October 1, 2010.

The Custody Receipt was filed by Beth Bauknight several months after Case 4900 was commenced on May 19, 2010. It was filed with the First Accounting of Robert Buchanan, Jr. and Adele Pope, page 1 and 2 of which are attached hereto as Exhibit B, and Final Accounting

(Reserving Rights) of Buchanan and Pope dated June 24, 2009, pages 1, 2, and 3 of which are attached hereto as Exhibit C.

As is shown on Exhibit C, the Custody Receipt was attached to the Final Accounting when it was filed in Aiken County on June 24, 2009.

The grounds of this motion are the State, apparently inadvertently, filed under seal a document which is material evidence in this criminal matter and has been a matter of public record in Aiken County for more than fifteen (15) years and in Richland County for almost fourteen (14) years. The Custody Receipt, unsealed, should be a part of the record of this criminal case.

MEMORANDUM

State v. Price, 441 S.C. 423 (2023), makes clear that the record in criminal trials is public and that evidence and records should not be sealed unless there is a compelling reason to do so. There is no reason to seal the Custody Receipt, which has been a matter of public record in two counties for more than a decade.

This criminal matter was tried on May 29 and June 4, 2024, with the State represented by Chief Deputy AG Don Zelenka and others, and Defendant Pope represented by Joel Smith, Esq., and others. During the course of the two-day trial, the June 22, 2009, Custody Receipt signed by Petitioner Russell Bauknight and the 145 boxes which it details, were referenced more than thirty times. (See, for example, Transcript, pages 402, 405, 407 and 409).

At the trial Mr. Smith requested leave of the Court to deliver the Custody Receipt to be made a part of the record as a Court exhibit. (Transcript, p. 409 – 411) Also discussed by the Court was an Order of Judge Early of August 2007.

While Mr. Zelenka was unaware to the circumstances of the Custody Receipt and 145 boxes it indexes, the public records shows that no fewer than five members of the Office of the

AG, including AG Auditor Sandra Matthews, Asst. AG Mary Frances Jowers, Senior Asst. AG Creighton Waters, and Solicitor General Robert Cook , along with Mr. Bauknight and others have been involved in Case 4900, and their deposition are on file therein.

As the public record shows, Ms. Bauknight's Affidavit and the public Custody Receipt which accompanied it, were filed by the law firm of Sweeny, Wingate & Barrow, P.A., as counsel for the Attorney General and sixteen other plaintiffs.

Neither any member of the Attorney General's staff nor any of the Case 4900 plaintiffs has submitted evidence that sealing the Custody Receipt, a public record in two counties for more than a decade, is proper in this criminal matter.

As to the testimony of Ms. Pope and the State's witness about the August 2007 Order of Judge Early, there are actually several orders in August 2007. The Order of the Honorable Doyet A. Early, III, reference on page one of the Custody Receipt, is attached hereto as Exhibit E.

The Custody Receipt is material evidence in this criminal case and should be unsealed.

CONCLUSION

The Custody Receipt is a matter of public record and is material evidence potentially favorable to the Respondent in this criminal trial. Absent compelling reasons, the evidence in criminal trial in this state is public. The State has shown no basis, either at trial or when it filed the Custody Receipt under seal, over objection of Defendant's counsel, that the Custody Receipt should be seal.

Counsel for Respondent should be allowed to file with the Clerk of Court the complete Custody Receipt with Exhibit A to be designated as Court's Exhibit 1.

Respectfully submitted,

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Attorneys for Respondent Adele J. Pope

September 5, 2024

Karen Sudlow

From: Don Zelenka, <DZelenka@scag.gov>
Sent: Monday, November 18, 2024 7:46 PM
To: Karen Sudlow
Cc: Angela Brown; Joel.Smith@bowmanandbrooke.com; Chris@kendrickleonard.com; Mark Tanenbaum; Melody Brown; Mark Farthing; Don Zelenka
Subject: RE: In the Matter of State of South Carolina v Adele Jeffords Pope (2024-00500)
Attachments: Oral argument and Proposed Order re: motion to unseal; Pope - Response to Unseal Motion.pdf; RE: In Re Adele Pope - State's Proposed Court Exhibits

Mr. Hammer, et al.

My objection is simple. Justice James stated the value of the Estate is not at issue in the contempt proceeding (possibly on the date that you were not acting as counsel) and the document you suggest is not the document that I presented in my proffer which I abandoned the confidential designation. This affidavit was never sought to be presented after the hearing and my discussions with the defense team were only to remove the confidential designation to the item I presented as:

"6. TO BE SEALED - Custody Receipt and Inventory Documents of Estate of James Brown and the James Brown 2000 Irrevocable Trust, noting transfer on or about June 22, 2009 Inventory of Boxes (76 pages) , and INDEX to Boxes (19 pages). The State submits that these matters should be presented to the Court as SEALED due to the confidential nature as stated on Tuesday."

This was all done in June 2024 before either of us made our proposed findings and conclusions and offered exhibits nor was it suggested at the hearing.

I fail to understand your confusion about what I originally submitted that was the subject of your motion and my consent to Justice James. I supplied the document to the defense team and the court as supplemental exhibit 6. The document did not include the affidavit. Your new proposal is not the document I provided to you and the court that your motion sought to remove the confidential designation. Please review your emails. I cannot agree to make something different than what was actually presented to you and the judge previously.

Respectfully – review your original emails on Jun 11, 2024 and June 10, 2024. My original document "as is" is what should be presented. **You are welcome to come to Columbia to review that particular document I had provided and designated as confidential with me if you have any question about it.** There can be no confusion. **We are not litigating the valuation of the Estate** – we are litigating assertions of her contempt on failing to follow the Court's orders. I await the proposed order consistent with my position present to the Supreme Court as requested by Justice James - nothing more and nothing less.

DON ZELENKA
Deputy Attorney General
Office of the South Carolina Attorney General
Criminal Division Chief | Office 803-734-3601 | Dzelenka@scag.gov
P.O. Box 11549 | Columbia, SC 29211
scag.gov

MEMO

To: AJP file

From: Tom Pope/ba

Re: Telephone Call from Russell Bauknight on 4/16/25 at 10:10am

Date: 4/16/2025

Russell Bauknight called me out of the blue and said he had the permission of his attorney, David Black. He said we have one opportunity for Bauknight, David Black, and I (me) to sit down and settle this once and for all. He said "to be clear that he would not be bringing a checkbook – that is not on the table." He said he going to be preparing for the 4900 trial soon, engaging experts, etc. and would be spending money "tomorrow". He tried to argue that he was only going to talk to me if we could do it today and I told him that was ridiculous and that in my 50 years as at lawyer nothing was that time-sensitive. He said he had a number that would be "extremely favorable to Adele." He said that number would not necessarily be the same tomorrow. He said "I am not a negotiator." He said that given the sanctions that the Supreme Court affirmed today in 4900, he would expect the money on deposit in Aiken (he said it was approximately \$85,000) would go to the estate and not to Adele and whatever amount less that she would have to supply to make the amount an even \$100,000 and that was the only cash that would be entailed.

He also said that in addition to the cash referenced above, his side would be preparing a settlement agreement with the language about non-disparagement or AJP causing any trouble with the estate in the future, etc. He did not mention that he would try to preclude her from writing a book, although I got the distinct impression that was in the back of his mind if not the front. I told him I was not a lawyer in the case, that I had read almost none of the file, and that Adam Silvernail and Adele, plus current counsel (Alvin, Joel, and Mark) would have to be the ones talking settlement.

I then sent him a text confirming the abbreviated summary of our call.

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE CIRCUIT COURT

Adele J. Pope,

C/A No. 2013-CP-02-1337

Plaintiff,

vs.

MOTION TO STRIKE

Estate of James Brown, and the James Brown
Irrevocable Trust,

Defendants.

Adele Pope is desperate to avoid the coming day of reckoning—a damages hearing and imposition of judgment—for the harm she caused the Estate of James Brown during her disastrous tenure as its Personal Representative. *See Bauknight v. Pope*, Richland Cty. Ct. Common Pleas No. 2010-CP-40-04900 (“Case 4900”). In an attempt to delay that reckoning, she has filed her motion in this case (“Case 1337”) because she cannot file it in Case 4900, the Court having struck her answer and declared her in default as a sanction for her “pattern of frivolous filings and repeated efforts at delay ... demonstrating willfulness and bad faith.” Case 4900, Order Denying Defendant’s Motion to Lift Stay and Granting Plaintiffs’ Motion for Sanctions, filed May 8, 2023 (“Sanctions Order”); *see Bauknight v. Pope*, 445 S.C. 408, 914 S.E.2d 848 (2025) (affirming sanctions order as modified). Pope is supposedly seeking reconsideration of the Court’s 2022 order and amended order allowing the Estate to deposit into court the amount awarded for her services as special administrator of the Estate (the “Deposit Order”), but she presents no changed circumstances or other basis for reconsideration of the Deposit Order. Instead, Pope makes the preposterous claim that this Court has been “infected” by supposed “inflammatory, defamatory, and racially motivated claims made” by attorney Mark Gende, who is lead counsel in Case 4900,

but who has no role in this case.

The real purpose of Pope's motion is obvious: she seeks to disrupt and delay the resolution of Case 4900. Proving she will stop at nothing in her efforts to vindicate herself, Pope makes vile, unfounded, and yet extremely vague claims accusing Mr. Gende—a longstanding, esteemed member of the Bar—of serious ethical misconduct, including making defamatory and racist statements, lying to the Court, and perjuring himself in testimony before the South Carolina Supreme Court. And she portrays the Court as Mr. Gende's unwitting dupe. For good measure, she accuses lead counsel in this case, David Black, of *ex parte* contact with the Court based on a single email that: (a) did not discuss or mention the merits of any case; and (b) was sent in 2022, while Pope's appeal of the judgment against her was pending and well after her attempt to appeal the Deposit Order had been rejected by both the Court of Appeals (dismissing the appeal as interlocutory) and the Supreme Court (denying certiorari).

The Court should strike Pope's motion for numerous reasons, including without limitation the following:

1. **The Motion Violates Rule 11.** By signing the motion, Pope certified that "there is good ground to support it." Rule 11(a), SCRCF. However, there is no "good ground" for Pope's vicious, *ad hominem* attacks on the Court and counsel. If Pope's motion were a pleading, it would be subject to a motion to strike. *See* Rule 12(f), SCRCF (allowing court to strike from a pleading "any redundant, immaterial, impertinent or scandalous matter"). The Court has the power, under Rule 11 and its inherent authority to manage proceedings and maintain decorum, to strike Pope's motion on essentially the same grounds. *See, e.g., Pigford v. Veneman*, 215 F.R.D. 2, 4-5 (D.D.C. 2003) (striking a filing under Fed. R. Civ. P. 11 because its baseless accusations of racism were scandalous).

2. **There are no grounds for recusal.** “[A] judge should disqualify himself in a proceeding ... where he has a personal bias or prejudice against a party.” *Patel v. Patel*, 359 S.C. 515, 524, 599 S.E.2d 114, 118 (2004) (citing S.C. App. Ct. R. RULE 501 Canon 3(E)(1)(a)). However, “[i]t is not enough for a party seeking disqualification to simply allege bias; the party must show some evidence of that bias or prejudice.” *Roche v. Young Bros. of Florence*, 332 S.C. 75, 85, 504 S.E.2d 311, 316 (1998). Portraying the Court as a hapless victim of Mr. Gende’s machinations, Pope claims the Court has entered “harsh,” “biased,” “vitriolic,” and “racially-motivated” orders against Pope. (Motion at 2.) But Pope fails to provide any *evidence* that the Court is biased or bears racial animus toward her; she does not even identify the orders about which she is complaining. *Cf. Mallett v. Mallett*, 323 S.C. 141, 147, 473 S.E.2d 804, 808 (Ct. App. 1996) (“The fact a trial judge ultimately rules against a litigant is not proof of prejudice by the judge, even if it is later held the judge committed error in his rulings.”).

3. **No Improper Ex Parte Communication.** It is doubtful the February 2022 email to the Court from Mr. Black could even be considered an *ex parte* communication. By February 2022, Case 1337 was essentially closed: Pope’s appeal of the final judgment was pending in the Court of Appeals, but her appeal of the Deposit Order had been dismissed, certiorari had been denied, and the remittitur had issued. Moreover, the email does not discuss the merits of any case; it merely advises the Court of the schedule for oral argument in Pope’s appeals of orders entered in Case 4900 and this case. *See* Canon 3(B)(7)(a), Rule 501, SCACR (recognizing that a judge may communicate separately with parties regarding “scheduling [and] administrative matters”).

4. **No Basis for Return of Funds.** Pope’s motion asks the Court to “void” the Deposit Order but fails to provide any reason for doing so. *Salvo v. Hewitt, Coleman & Assocs., Inc.*, 274 S.C. 34, 39, 260 S.E.2d 708 (1979) (“A notice of motion must apprise the opposing party of the

relief sought by the moving party *and the grounds therefor.*") (emphasis added). The Deposit Order, entered after two rounds of briefing and oral argument, clearly and fully sets forth the Court's reasoning. Pope's motion presents no changed circumstances that would warrant reconsideration. Rather, her basis for voiding the order is her spurious accusation that the Court entered the Deposit Order because it was somehow "infected" by Mr. Gende, who is not counsel in this case and who neither filed nor argued the Estate's motion for leave to deposit the funds.

5. **Pope Improperly Raises Matters Resolved in Other Cases.** Except for the Deposit Order, everything Pope complains about in her motion occurred either in Case 4900 or in recent criminal contempt proceedings against Pope for her continued interference with the Estate. Such matters are not properly considered in this case. More importantly, all of Pope's complaints have been considered and rejected by the Court of Appeals and/or the Supreme Court, and the orders are now the law of the case.

6. **The Motion Is Untimely.** "Timeliness is essential to any recusal motion. To be timely, a recusal motion must be made at counsel's first opportunity after discovery of the disqualifying facts." *Davis v. Parkview Apartments*, 409 S.C. 266, 289, 762 S.E.2d 535, 547 (2014) (internal quotation marks omitted). Pope asserts a litany of bad actions stretching back more than a decade (since well before Your Honor was assigned to Case 4900 and this case). And yet, it is only now, when nothing remains in Case 4900 but the damages hearing and imposition of judgment, that Pope seeks recusal. The timing of the motion is obviously the latest tactic by which Pope seeks to avoid being held to account for the harm she did to the Estate.

This motion is supported by the statutory and common laws of the State of South Carolina, including without limitation the South Carolina Rules of Civil Procedure, as well as such affidavits, evidence, legal memoranda, and arguments which may be presented to the Court at or

prior to the hearing on this motion.

CONCLUSION

Pope's motion proves that she has no intention of constraining herself within the bounds of decorum or professionalism. Even after being sanctioned with default in Case 4900 and found in criminal contempt by the Supreme Court, she has no qualms about making allegations about Mr. Gende and this Court that would be laughable if they were not so deeply offensive. The Court should strike the motion.

Respectfully submitted,

s/ J. David Black

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August 6, 2025
Columbia, South Carolina

Attorneys for Defendant Russell L. Bauknight

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FOR THE FIFTH JUDICIAL CIRCUIT
)

Russell L. Bauknight, as Personal)
Representative of the Estate of James)
Brown and as Trustee of the James)
Brown 2000 Irrevocable Trust, et al.,)

Case No. 2010-CP-40-04900

)
Plaintiffs,)

v.)

FINAL ORDER

Adele J. Pope,)

)
Defendant.)

Before the Court is the Estate of James Brown's (the "Estate")¹ Motion for Entry of Judgment by Default against Defendant Adele J. Pope, filed on May 16, 2023. The Court conducted an evidentiary hearing on the Motion on November 20, 2025 in Aiken County. Present for the Estate were Kenneth B. Wingate, Esq., Mark V. Gende, Esq., and Aaron J. Hayes, Esq., all of Sweeny, Wingate & Barrow, P.A. Defendant Adele J. Pope, Esq. appeared *pro se* after firing her attorney Adam T. Silvernail at the outset of the hearing. After careful consideration of the testimony and exhibits offered by the Estate, as well as the arguments of the parties presented at

¹ This action has been maintained by the real party in interest, Russell L. Bauknight as Personal Representative of the Estate of James Brown and Trustee of the James Brown 2000 Irrevocable Trust (collectively, "the Estate"). See Rule 17(a), SCRCPP ("An executor, *administrator*, guardian, bailee, [and] *trustee of an express trust* . . . may sue in his own name without joining with him the party for whose benefit the action is brought.") (emphasis added).

Exhibits Admitted Upon Judicial Notice

At the beginning of the Estate's evidentiary presentation, the Court took judicial notice of and admitted into evidence documents from Case 4900, its appeals, and Case 1337 relevant to the damages hearing:

1. The Notice of Hearing and Certificate of Service;
2. The Estate's Motion for Entry of Judgment by Default;
3. The May 8 Sanctions Order;
4. The Supreme Court decision affirming the May 8 Sanctions Order and modifying the monetary sanction to reflect a total due of \$31,387.50;
5. The Case 4900 Complaint;
6. The Case 1337 Final Order;
7. The appellate court decisions affirming the Case 1337 Final Order;
8. A June 15, 2023 Court of Appeals order awarding the Estate's costs of \$2,558.64 from a prior Case 4900 pretrial appeal filed by Pope;
9. An August 13, 2025 Supreme Court order awarding the Estate's costs and a sanction—totaling \$15,000—from a prior Case 4900 pretrial appeal filed by Pope;
10. An Order of Judge Early granting summary judgment in the Estate's favor concerning Pope's counterclaims in Case 4900; and
11. The appellate court decisions affirming the granting of summary judgment in the Estate's favor concerning Pope's counterclaims in Case 4900.

Testimony

I. Damages Related to Clearance Requests

The Estate's first witness was Mr. Bradley Sharp, CFA. Mr. Sharp was offered as an expert on "valuation and calculation of musical licensing and lost profit damages, including clearance

calculated the amount of fixed clearance opportunities Pope should have achieved during her period of administration by multiplying \$5.822 million by Pope's 1.4-year period of administration, resulting in \$8.167 million. Mr. Sharp then deducted the \$2.015 million of clearance revenue generated by Pope and arrived at an amount of \$6.152 million, representing lost opportunity caused by Pope's mishandling of the clearances.

II. Damages Related to The Christie's Sale

The Estate next presented Mr. Mike Gutierrez as an expert concerning the appraising and auctioning of celebrity personal property and memorabilia. Transcript, p. 81, ln. 1-3. After *voir dire*, the Court qualified Mr. Gutierrez as an expert. Transcript, p. 83, ln. 5-6. The Court also admitted into evidence Mr. Gutierrez's *curriculum vitae*, Exhibit 14, and his expert report, Exhibit 15.

Mr. Gutierrez is a member of the International Society of Appraisers and is an accredited Uniform Standards of Appraisal Practice (USPAP) appraiser. Mr. Gutierrez was an on-air appraiser for the popular PBS show *Antiques Roadshow* for several seasons. Mr. Gutierrez has evaluated property belonging to numerous musicians and other famous persons, including Sylvester Stallone, Bob Dylan, Janis Joplin, and Gary Rossington (Lynyrd Skynyrd). As held by Judge Early in the Case 1337 Final Order, Pope mismanaged a Christie's auction of James Brown memorabilia that took place during her tenure, rushing the auction and making it take place "with insufficient time to obtain maximum value." *See* Case 1337 Final Order, at p. 55. Mr. Gutierrez

Estate's music royalty income, Mr. Miller then grossed up his projected total sales price by a factor of 1.65, to reach a final projected sales price for the US rights catalog, had termination rights proceeds been consolidated during Pope's administration. Sealed Transcript p. 13, ln. 8-11.

Next, Mr. Miller noted that had the rights been consolidated during Pope's tenure, the Estate would have been in a very strong or, in his words, a "pole position to monetize those [] rights" through exercising terminations and/or renegotiating deals. Transcript, p. 136 ln. 24-25. But because of Pope's failure to consolidate rights, the Estate could not secure this strong, priority position. In fact, the Estate stood only to lose the now-diminishing value of the music copyrights to the heirs. Mr. Miller's analysis assigned a value to the Estate's lost opportunity to monetize. Sealed Transcript p. 15, ln. 2-4.

Finally, and to be fair to Pope, Mr. Miller calculated and then subtracted from the Estate's lost opportunity value a projected reasonable value of termination rights proceeds retained by James Brown's heirs, i.e. certain of the Beneficiary Plaintiffs. Sealed Transcript p. 16, ln. 11-13. Mr. Miller did this to account for the fact that some of the value lost to the Estate due to terminating rights remains with the heirs and would not be available to the Estate. Sealed Transcript p. 13, ln. 19-25; p. 14, ln 1-16.

In short, Mr. Miller calculated the lost value to the Estate by calculating an anticipated US rights catalog sales price (assuming consolidated rights) and adding with it anticipated monetization opportunities (assuming consolidated rights). Sealed Transcript p. 14, ln. 24-25; p. 15, ln 1-4. He then subtracted the value retained by the heirs and not available to the Estate to reach a net damages amount of \$8,540,582 to the Estate due to Pope's mismanagement of the Estate's copyrights. Sealed Transcript p. 16, ln. 11-13.

Closing

resulting from Pope's mismanagement of the Christie's sale by a preponderance of the evidence. Mr. Gutierrez testified, and the Court agrees, that Pope's mismanagement of the auction resulted in a loss to the Estate of \$739,483.09.

Copyrights

Regarding the issue of copyrights, as noted above the Court heard testimony from copyrights expert Roger Miller. The Court finds Mr. Miller's testimony credible and his methodology sound. This Court deems Mr. Miller extremely well-qualified in the field of the valuation of musical rights, including the very complex field of termination rights and their impact on negotiating the value of US musical rights. His testimony, although complex, was logical and well-presented. Mr. Miller's testimony is sufficient to establish that the Estate is owed damages from Pope's mismanagement of the copyrights by a preponderance of the evidence. After consideration of Mr. Miller's testimony the Court finds that Pope's mismanagement of the copyrights resulted in lost opportunities to the Estate valued at \$8,540,582.00.

Unpaid Court Costs, Fees, and Sanctions

The Court takes judicial notice of various orders entered during the life of Case 4900 requiring Pope to pay costs, fees and sanctions to the Estate, which to date are unpaid. These orders are:

- a. The June 15, 2023 appellate case order awarding \$2,558.64 for costs on appeal.
- b. The May 8, 2023 Order, as modified, awarding sanctions of \$31,387.50.
- c. The August 13, 2025 appellate case order awarding \$15,000 in fees and sanctions.

These three orders, added together, total \$48,946.14. The Court is not "re-awarding" these sums, rather the Court simply is adding these already-awarded sums to the final judgment so that the Estate may collect these unpaid monies from Pope.