

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
The Honorable Liz Godard, Clerk of Court

Appellate Case No. 2013-002582

Alan Wilson, in his Capacity as Attorney General of
South Carolina; and others Plaintiffs,

v.

Albert H. Dallas and others .. Defendants.

OF WHOM:

Adele J. Pope, Individually and on Behalf of Others under South Carolina Trust
Code Section 62-7-405, is.....Appellant,

AND:

Terry Brown, Forlando Brown, James B., David G. Cannon, Albert H. Dallas and
Tommie Rae Hynie are.....Respondents

AND:

Alan Wilson in his Capacity as Attorney General of South Carolina, Deanna J.
Brown Thomas and Robert L. Buchanan, Jr., are...Additional Interested Persons.

IN RE:

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

APPELLANT'S REPLY TO BAUKNIGHT'S RETURN TO
MOTION TO HOLD IN ABEYANCE

RECEIVED

FEB 28 2014

SC Court of Appeals

Appellant respectfully submits that the Return of Russell L. Bauknight ("Bauknight") to Appellant's Motion to Hold in Abeyance makes representations which are not supported in the record of the James Brown cases. Without detailing them, she objects to the all statements and conclusions not referenced and agreed to herein. Appellant craves reference to her motion, and supplements it as set out herein.

I. The requested abeyance will not cause unnecessary delay.

Appellant, more than anyone, wishes to bring to an appropriate end the destruction to her own career and reputation, and that of Robert L. Buchanan, Jr. ("Buchanan"), which has been their reward for carrying out their Court-appointed duty to the noble estate plan of James Brown.¹

Appellant has served *pro bono publico* in the Aiken County matters since that duty came to an end on May 8, 2013. James Richardson, Esquire, served *pro bono publico* as lead appellate counsel for almost four years in the *Wilson v. Dallas* appeal. Counsel Tressa Hayes, Esquire and James Bailey, Esquire were efficient and dedicated.

Putting the South Carolina Supreme Court in a position to save James Brown's "I Feel Good" Trust – which it did – was a high stakes operation. But it

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Appellant has not been paid court-ordered payments of \$47,000 for her SA work in 2007. or approximately \$1.4 million – with interest accruing at the legal rate– Judge Early ordered that she be paid for her work, and that of her large staff, from November 20, 2007 until May 26, 2009. The only payment she has received from the Estate not reported on filed accountings with the Court in 2009 and earlier is a check for the costs awarded by the Supreme Court in *Wilson v. Dallas* 403 S.C. 411, 743 S.E.2d 746.

was not high priced.

The legal cost for defending for 4 ½ years against the State/AG's plan to give more than half of Brown's "I Feel Good" Foundation to a non-wife and about half of Brown's claimed children, including 7 days of circuit court hearings: about \$200,000.

The "I Feel Good" Foundation, now at over \$90 million, should be poised under IRS distribution guidelines to pay millions in scholarships to needy students each year. Brown's 7 designated grandchildren who ratify the estate plan should have been receiving their \$285,000 education trust payments since at least 2011.

Fair Termination Rights agreements under the Federal Copyright Act with the most cooperative half of Brown's *real* heirs – including incarcerated son Michael – should now be in place. The DNA & DIGNITY plan to identify non-presumed heirs which was interrupted by the AG in 2008, should have been completed². [See Exhibit A]

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The Toberoff letter {Exhibit B} and the fight of David Bell, Esq. and a limited special administrator ("LSA") appointed by an *ex parte* order of the Probate Court on October 10, 2013 to prevent a GAL for incarcerated son Michael under Rule 17 (c) threaten damage both to Michael and to the "I Feel Good" Trust. They suggest Bauknight and the LSA are allowing Bell and others to siphon off the advantage of Termination Rights cooperation agreements the Estate/"I Feel Good" Trust should have secured by 2011 – but, at a minimum since February 27, 2013 – with Michael (subject to completing the Peeples DNA Protocol), Lisa, LaRhonda, Jeanette, Nicole, James Curtis (subject to the Peeples Protocol) and Tonya (subject to the Peeples Protocol). [These, alone, are the HALF necessary to protect the copyrights for decades.)

Both the LSA and Bell claim that Bell is Michael's lawyer, and insist that Michael does not need Appellant as his *pro bono publico* GAL. The impediments to this position

It has not happened.

Instead, Russell L. Bauknight is still representing non-wife Tommie Rae Hynie in four lawsuits. He is doing so despite her announced intention, with Louis Levenson, Esquire, on May 29, 2013, to dismember the "I Feel Good" Trust again with the same settlement.

include: Bell's fraud on multiple courts, including two material and false affidavits in the Forlando Federal Suit; Bell's conflicts in representing two parties with material opposite positions at the same time (Terry/Forlando); Bell's failure to make an appearance or seek *pro hac vice* status for Michael in the Hynie claims case, where the protection of Michael's heir status is critical; and Bell's protection of Terry in the Hynie claims case – but not Michael – after he claimed to be Michael's lawyer.

Michael called Appellant in an unsolicited call from prison in California AFTER Bell claimed to be his lawyer. He said he wanted to thank her for asking to be GAL and give her his prison number. Appellant declined to talk to him about the James Brown cases because of Bell's claim to be his lawyer, but advised Michael she would report the unsolicited call to Bell and the Court. She did so. Judge Early has declined to conduct a hearing on the GAL appointment, even though Michael has been in prison in CA and seeking DNA testing since 2007.

Bell also recently claimed to represent Lisa, Brown's daughter from his first marriage. Lisa was acknowledged in Brown's divorce agreement from Velma. Bell has not moved for either Lisa or Michael to intervene, or be served, in the Hynie proceeding; the James B. proceeding; or the Levenson Intestacy Suit.

Bell also claims to represent son Daryl, who testified on national television and started a blog to support the "I Feel Good" Trust. But Bell has not filed any notice or appearance or *pro hac vice* admission for Daryl in any case. Nor has he withdrawn Daryl's challenges to the Will/Trust filed by Levenson in late 2007.

Bell's history of dirty tricks includes filing six grievances in two states against Levenson in 2008, including claiming that Levenson forged his \$150,000 + 30% contingency contract with Forlando. Bell also filed two false affidavits in the Forlando Suit which kept Forlando's frivolous complaint alive for several years. In March 2009, after Terry joined the AG's settlement, Bell threatened Buchanan with a judicial grievance (Buchanan is a federal magistrate judge) if he did not resign immediately. Mr. Buchanan reported the letter to Judge Early.

There was no justification for the settlement. All of Brown's fiduciaries other than Mr. Bauknight, and all of the children who joined in the AG's settlement, know Ms. Hynie was not Brown's spouse. [See Exhibit B.] She did not control Brown's termination rights. Nor did they.

On June 13, 2013 The Honorable Doyet A. Early, III enjoined virtually everyone who supports the "I Feel Good" Trust from doing anything about the announced intention to dismember the "I Feel Good" Foundation.

The appeal of his extraordinary orders issued that day are the subject of appellate case No. 2013-00169. The initial brief in that appeal was filed February 21, 2014.

A second appeal, from Aiken County Case 2013-CP-02-1337 (now assigned appellate case number 2014-00250) addresses the summary dismissal of an action to remove Mr. Bauknight for cause based on his continuing service to Tommie Rae Hynie, and other acts.

The brief in that appeal was served on February 11, 2014.

Barring unexpected delay, the full record of these two cases will be in the hands of this Court within 60-90 days.

This is a short period of abeyance which might help save a \$90 million foundation for needy students.

II. Mr. Bauknight's representation that that "Ms. Pope's only personal interest in the Estate Litigation is her outstanding claim for fees..." overlooks five James Brown Estate matters, including three initiated by Mr. Bauknight against Appellant, and her Special Interest Standing under Section 62-7-405.

Mr. Bauknight asserts on page two of the Return:

Finally, Ms. Pope's only personal interest in the Estate litigation is her outstanding claim for fees, which has nothing to do with the orders on appeal and remains pending. [Ret., p. 2.Emphasis supplied.]

This statement overlooks that Appellant is involved in five pending lawsuits involving the Estate. In three, including two FOIA suits, the Estate, acting through Mr. Bauknight during his now-void appointment, initiated inappropriate action against Appellant. In the fourth, Mr. Bauknight's secret dealings have prolonged a frivolous suit which should have been over years ago³.

A brief description of four of the five cases follows:

1. The Forlando Federal Suit District Case No. 3:08-cv-00014-WOB;

Forlando sued the 2000 Trust on January 2, 2008 to enjoin it from taking any action until Brown's original trustees (the "Cannon Group") were reinstated.

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The fifth is the subject of appellate case no. 2014-00250. Appellant was required to file Case 2013-CP-02-1337 because Mr. Bauknight, claiming authority under an *ex parte*, pre-remittitur Probate Court order appointing him SA, served Appellant on May 29, 2013 with a Notice of Disallowance and Notice of Impending Bar. Mr. Bauknight – who has not paid Appellant a dime of her court-ordered partial commission, and only paid Buchanan after extracting benefits for Hynie – asserted that Appellant, Buchanan, Hayes and Bailey were not entitled to be paid. He asserted that Appellant and Buchanan had improperly valued the James Brown assets — referring to his false felony claim.

The Notice of Impending Bar required Appellant to file suit. She did so on June 10, 2013 Under the Probate Code she included a request for all appropriate relief.

The June 13 Orders followed 3 days later. They are the subject of appellate case no 2013-00169.

Appellant respectfully urges the Court to await arrival of these briefs for a full understanding of their relation to this appeal.

Appellant and Buchanan have claims for damages and offset against Forlando's share of the 2000 Trust and Terry's former share of the Estate.

Forlando claimed Judge Early had illegally appointed Buchanan and Appellant, who ousted the innocent Cannon to get the \$5 million commission payable on Brown's \$100 million estate. He claimed they would help Ms. Hynie and not protect his \$285,000 education Trust.

Forlando was really a secret 39% owner of TJBL, seeking to buy the music empire.

In January 2009 Forlando's father Terry, also part of TJBL, joined the AG's settlement which destroyed Forlando's \$285,000 Trust.

From 2009 - 2013 Forlando pretended to object to the AG's settlement while Terry supported it. Both were represented by David Bell, Esq. They said:

Terry/Bell told the Supreme Ct.
Hynie was Brown's spouse

Forlando/Bell told the Federal Ct.
Hynie was not Brown's spouse; knew it; and begged him to marry her.

Brown's music empire was worth \$4.7 million at death

The Bauknight value is "bogus." Offers of \$150 million were available in 2008.

Tommie Rae's son is Brown's son.

Tommie Rae's son is not Brown's son, and cannot be..

Tommie Rae & her son control the Estate's Termination Rights under the Federal Copyright Act.

Tommie Rae has no Copyright Rights.

On May 19, 2010 Bell, Bauknight and others secretly contracted with the law firm of Kenneth Wingate, Esq. ("Wingate") to sue Buchanan and Appellant for conducting the *Wilson v. Dallas* appeal and other claims.

In January 2011 the AG and Terry, with others, secretly amended the Legacy Trust and Terry's right of first refusal to buy Brown's music empire under the AG's settlement (the "ROFR"). Terry then gave his interest in the Estate and ROFR to Forlando.

In April 2012 Forlando's frivolous claims were dismissed. He and Judge William Bertelsman discussed his assets:

THE COURT: Well, do you have any assets, Mr. Brown?

MR. BROWN: I do not.

THE COURT... But you're going to pursue these counterclaims, but if he has no assets – You willing to give us a sworn financial statement?

MR. BROWN: Absolutely.

...
THE COURT: Do you stand to gain any inheritance under the settlement in the State Court?

MR. BROWN: Not unless my father were to pass away. [Hg.4/13/12, pp, 3,46]

In 2013 Mr. Bauknight claimed Forlando had done nothing wrong. He abandoned the 2000 Trust's claim for attorneys' fees for the 4-year prevention of a federal injunction which, among other things, could have stopped the defense of the AG's settlement and the *Wilson v. Dallas* appeal.

In 2013 the Federal Court declined to dismiss the 2000 Trust as a party.

By late 2013 Forlando and Bauknight's collusion appeared to include Bauknight's allowing Bell/Forlando to siphon off contract benefits the Estate/"I Feel Good" Trust should have tied up by 2011 with the HALF of Brown's *real* heirs not challenging the estate plans. If not stopped, this may damage the "I Feel Good" Trust for years.

In late 2013 the federal court make the Wingate Litigation Agreement public. Bauknight had been fighting release under FOIA since 2011.

Current Status of the Forlando Federal Suit: Bauknight still represents Terry/Forlando in the Wingate Suit. A hearing on Buchanan and Pope's counterclaims for Summary Judgment and offset against the Estate/2000 Trust shares of Forlando/formerly Terry is scheduled for March 19, 2014.

2. The Wingate Suit, Case 2010-CP-40-4900.

On May 19, 2010 Bauknight contracted to pay Wingate a 40% contingency to sue Buchanan and Appellant for the Estate,

Hynie, Terry Brown and others to stop the *Wilson v. Dallas* appeal.

The Attorney General (State/AG") and Bauknight as agent for the State/AG were named plaintiffs. It now appears neither Wingate nor Bauknight had legal authority to act for the State/AG or sue in its name.

Bauknight is also a Plaintiff as agent for Tommie Rae Hynie, her son James B. and Terry Brown.

The complaint asserts, among other things:

- a. Buchanan/Appellant should have accepted a \$100 million offer for Brown's music empire ⁴.

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While suing Buchanan/Appellant for not accepting a 2007 \$100 million offer for the music empire, Mr. Bauknight and the State/AG told the Supreme Court there had been no offers and that the at-death value of the music empire was \$4.7 million.

The State/AG and Bauknight knew TJBL had made three \$90 - \$100 million letters of intent between October 2007 and March 2008. Sr. Assistant AG Jones had inquired about the first \$100 million offer on December 6, 2007. He expressed fear it would go away if not accepted. It did not.

Forlando testified in September 2008, the week the estate tax return was filed, that \$150 million offers were still available.

Mr. Bauknight claims Buchanan/Appellant had no basis for their \$84 million value of the music empire on the estate tax return. He claims they intentionally overvalued the assets by \$79 million to get a \$5 million commission. He made this false claim knowing that the \$84 million value was consistent with a valuation formula for the estate tax return presented without objection to Judge Early, the AG and others in November 2007 as follows

$$\begin{aligned} \text{Value of Royalties and Publicity Rights} = \\ 12 \frac{1}{2} - 14 X (\text{annual Royalties} + \frac{1}{2} \text{ Road Revenues}) \end{aligned}$$

Royalties were \$3+ million annually and Road Revenues for 2003-2006 \$18 million.

Mr. Bauknight claimed his "appraisal," which he refuses to disclose despite the Probate Code Requirement to do so, is the first professional appraisal

A March 2006 Term Sheet, within the Estate records made public in 2007, however,

b. The false claim that Buchanan/Appellant improperly valued Brown's music empire, exposing Plaintiffs to unnecessary estate taxes.

c. The false claim that the Christie's sale was improper.⁵

shows that in 2006 a professional appraisal was made in connection with a proposed Royal Bank of Scotland loan. The professional appraisal, just months before Brown died, valued the Royalties --about half of the value of the music empire -- at \$42 million or higher. [For reason unrelated to value, the May 2006 Royal Bank of Scotland loan was cancelled just before closing. See Pullman litigation.]

Mr. Bauknight has attempted to secrete documents formerly made public by Order of the Hon. Doyet A. Early, III dated August 10, 2007. Additional details about the 2006 professional appraisal within the Estate records are in his possession.

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The Grammy issue, like the valuation issue, was not considered by Judge Early. The sale was approved in three court orders. The Grammy was specifically listed in the Christie's Selection for Sale which Judge Early directed Buchanan and Appellant to sign on April 1, 2008. When former PR/Trustee Dallas asked the Court of Appeals to stop the sale, the Grammy was listed in the catalogue filed with the Court of Appeals. The sale was approved by the Court on July 14, 2008 -- just days before the sale. This was the third approval order.

Former Trustee Albert Dallas, Jacque Hollander, Forlando and others, interfered with, and chilled the Christie's sale. According to Forlando, certain family members -- feuding over other matters -- joined together to sabotage the sale.

Neither the AG nor family members asked to remove the Grammy or timely asked for any other item from the Christie's sale, even though family members and Hynie were given time to do so by Judge Early's first Order of February 20, 2008.

In the April 1, 2008 Order directing Buchanan and Appellant to sign the Consignment Agreement -- with the Grammy listed -- Judge Early found that the Levenson clients had interfered with the sale, but had not -- to date-- caused any damage. Because of the illiquidity of the estate, he directed that anyone interfering with the sale would be charged with costs and damage.

Nine days before the Christie's sale, in violation of the sale order, Dallas filed his motion to stop the sale. His counsel William Hammond made public statements intended to chill the sale.

A motion filed by the Academy which issues Grammys in New York objected to the sale of the Grammy. The Academy also made a similar filing to try to stop Stevie Wonder's Grammy sale, the second time it was sold. The Academy, which did not prohibit sale of Brown's Grammy when issued, uses these legal tactics to try to stop legal sales.

With Levenson present, Christie's legal counsel urged Buchanan and Appellant not to withdraw the Grammy, and to resist the Academy's filing. They assured that the sale was perfectly appropriate and legal. [But the cost of legal defense would have been paid from the sale proceeds. It was estimated to be about \$5,000.]

The filing of the Academy's motion did, however, allow the Estate/2000 Trust to withdraw the Grammy from the sale without a withdrawal penalty.

Based on all factors, Buchanan and Appellant made the decision to withdraw the Grammy, which had a sale estimate in the \$15,000 range, without penalty.

The Grammy was returned to the S.C. State Museum which, under the same orders which approved the Christie's sale, held many items of memorabilia for safekeeping during the pendency of the Will/Trust challenges.

There was no need to even respond to the filing, since the matter was moot. Yet the lawyer who filed the motion puffed on his blog that he had "stopped" the sale.

Forlando later confirmed that he, his father, and some of the aunts and uncles – fighting over many other issues – got together to sabotage the Christie's sale. That claim is consistent with the television appearance Deanna Thomas made the morning of the sale to try to chill it.

[Levenson had earlier asked that the Estate/2000 Trust pay for his clients' attendance at the sale. He was told that they would not object to their submitting a request for such payment after the sale.]

Forlando also said that family members had funds to purchase at the sale, but were directed by their attorneys not to do so.

The Estate's motion, filed in accordance with Judge Early's orders, for Dallas to pay the legal cost of interference with the Christie's sale, was filed on July 27, 2008. It has not been heard.

There was no complaint about the Christie's sale during the settlement hearing in 2009. The first complaint about the Christie's sale was raised by Wingate nearly two years after the sale in the Wingate Suit. This was remarkable because the AG, a Plaintiff

On May 18, 2012 Wingate/Bauknight moved to compel Buchanan's compliance with a "settlement."

On July 18 Wingate/Bauknight obtained an emergency order to stop the deposition of their witness Dallas.

On July 20, 2012 Dallas, violating the 2008 Gag Orders (unless void or expired) gave a lengthy sworn statement confirming that Hynie was not Brown's spouse; about the contents of Hynie's handwritten notes; about Mr. Brown's vasectomy and other issues; and about a 2006 3-way conversation he, James Brown and Hynie had about their not being married.

In the summer of 2012 Wingate/Bauknight moved to strike Appellant's offers to Brown's children and grandchildren which, if accepted, might have prevented the *Wilson v. Dallas* decision. Wingate refused to appoint a GAL for the minors.

In November and December 2012 Bauknight secretly paid Wingate \$563,000 from the Estate. The \$563,000 was in addition to Wingate's 40% contingency.

In May 2013 Wingate wrote the Honorable L. Casey Manning referencing the first *Wilson v. Dallas* decision which was replaced on May 8 as follows:

The Supreme Court, in substituting the new opinion has completely eliminated Footnote 29 from the prior opinion. Footnote 29, while only dicta in the now replaced opinion, addressed, among other items, the FOIA matters and called for them to be heard "in the first instance" without

in the Wingate Suit, had asked the South Carolina Court of Appeal to approve the Christie's sale in July 2008 during the Dallas interference. It was also remarkable, because Mr. Bauknight claimed loss on the sale even though the Christie's net proceeds exceeded by tens of thousands of dollars the value he reported on the I&A for ALL of Brown's tangible personal property. The Christie's sale involved only about 350 items of the thousands of pieces of tangible personal property, automobiles, furs and jewelry and memorabilia owned by Brown and his wholly-owned company JBE, Inc. [The Grammy was Item 168]. Many of the pieces not sold were placed for safekeeping at the Augusta Museum of History; the I. P. Stanback Museum at S.C. State; the S.C. State Museum; and the Lucy Craft Laney Museum. More than 40 boxes of music-related items were also transferred by secure transport to a sound storage facility.

any clear definition of what that meant. Such language is totally absent from the new order. . . the court no longer puts any primacy or priority on any court hearing these matters.

...Therefore, Case 4900 Plaintiffs and Proposed FOIA Interveners respectfully request that [the Wingate/FOIA Suits] be held in abeyance in its entirety until all underlying issues related to the Plaintiffs are resolved by the Aiken Court. [Emphasis supplied.] [Ltr. Gende 5/12/13]

Current Status of the Wingate Suit: As of February 26, 2014:

1. Bauknight still represents Hynie and her minor son;
2. Bauknight still represents Terry/Forlando;
3. Bauknight still represents others who are challenging the estate plans of James Brown;
- 4.. Bauknight still claims to speak on behalf of the AG
5. No hearing has been held since Wingate's request.

3. FOIA #1 - In this FOIA Suit, filed August 3, 2011 Appellant seeks a signed copy, with amendments, of the Legacy Trust and the AG's documents related to the Bauknight \$4.7 million appraisal.

The Legacy Trust is one of the Plaintiffs who sued Buchanan and Appellant in the Wingate Suit.

In the fall of 2011, Bauknight, for Terry, Hynie and others, moved to intervene and stop release of these public documents.

In 2012, at the request of AG Wilson and Bauknight, FOIA #1 was moved from Newberry County to Richland County.

In 2013 Wingate/Bauknight asked The Honorable L. Casey Manning to delay FOIA #1 for what may be years.

Current Status of FOIA #1 . As of February 26, 2014

- a. Bauknight still represents Hynie and others in FOIA #1.
- b. No hearing has been held.

4. FOIA #2 - In this FOIA Suit, filed August 10, 2011 Appellant sought a signed copy of the public Wingate Litigation Retention

Agreement under which the State/AG sued Buchanan and Appellant in the 2010 Wingate Suit.

Appellant sought the authorization, if any, for Bauknight to sue Buchanan and Appellant as agent for the State/AG.

In the fall of 2011 Bauknight, for Hynie, Terry and others, moved to intervene and seek sanctions against Appellant.

Current Status of FOIA #2 .

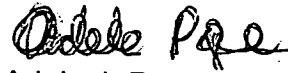
1. Bauknight still represents the Estate, Hynie and others.
2. Bauknight is still trying to intervene and stop FOIA compliance.
3. No hearing has been held.

Appellant's Special Interest status under Section 62-7-405, fully briefed in other cases, is a critical reason why the June 13 Orders should not have enjoined her; and why she has a direct Special Interest Status in this case, as well as status as a creditor and Interested Person. Her pending October 2013 application to be GAL for the incarcerated Michael is another basis for her standing. Bauknight failed to serve either Appellant or Michael with the petition which led to his appointment, which is the subject of this appeal.

CONCLUSION

The matter, if not consolidated with appellate case no. 2013-00169, should be held in abeyance for review of the full record in that case and in appellate case no. 2014-00250.

Respectfully submitted,



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Attorney for Appellants

February 27, 2014

List of Exhibits

Exhibit A - DNA & DIGNITY

Exhibit B - Ltr. of Mr. Toberoff

DNA & DIGNITY

(Proposed Plan for "I Feel Good" Foundation to Protect its Royalties for Needy Students)

1. The "I Feel Good" Foundation's Position and Protocol.

- a. James Brown died unmarried on December 25, 2006. [Toberoff, etc.]
- b. Termination rights agreements will be made only with DNA-proven or Presumed children who support James Brown's noble estate plan.
- c. Current candidates (subject to abandoning any claims) are:
 - a. DNA-Proven: 1. LaRhonda (daughters), 2. Jeanette, 3. Nicole;
 - b. First marriage: 4. Terry, 5. Larry; 6. Lisa;
 - c. Second marriage: 7. Deanna, 8. Yamma;

2. Offer - But do not require – Peeples DNA Protocol for 30 - 60 days.

DNA testing under the Estate's official Peeples DNA Protocol, paid for by the Estate, to be offered for 30-60 days to: 9. Michael (incarcerated), 10. James Curtis, 11. Tonya, 12. James B., 13. DOE Defendants identified as likely heirs by the GAL, Levenson Intestacy Suit.

3. Dignity & Reconciliation for Termination Rights Cooperation of Excluded Heirs.

After above 30-60-days, offer to the first six to accept of: La Rhonda, Jeanette, Nicole, Lisa and anyone passing Peeples DNA Protocol listed above, in exchange for agreement for lifetime termination rights cooperation:

1. Full recognition as heirs by the Estate and "I Feel Good" Foundation at a ceremony to be conducted at Brown's home estate in Beech Island.
2. [If possible] VIP Invitation to, and additional recognition, at the opening of South Carolina screening of "Get on Up!"
3. \$10,000 per year for life, effective 2011.

4. Offer Termination Rights Agreements to some Children Acknowledged in Will.

Make the offer set out above to the first two children acknowledged in the Will to accept – but with payment of \$50,000 per year for life, commencing upon execution of termination rights agreement and withdrawal of all claims against the Will, 2000 Trust and Estate.

5. If two Acknowledged Children do not accept, re-offer to all Excluded Heirs.

6. Consider "splitting heirs" and other available strategies to protect the Royalties for Needy Students as James Brown directed.

7. Update Protocol at death of each child, and as needed.¹

¹
This proposal is consistent with the “Splitting Heirs” technique described in *Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown “I Feel Good” Trust doesn’t....* Also see: The Aspen Institute (supp. 2013). *The artist as philanthropist. strengthening the next generation of artist-endowed foundations.*

The Estate/2000 Trust’s plan to protect its rights to more than 800 published and unpublished songs (the “Royalties”) was started by Brown’s original PR/Trustees in 2007. They established the Estate’s official “Peoples DNA Protocol.” Using the Peoples DNA Protocol, the Estate identified and officially acknowledged La Rhonda, Jeanette and Nicole. Others were excluded. Incarcerated son Michael’s request for testing was interrupted by the AG’s 2008 Settlement.

Buchanan & Pope continued the plan to protect Brown’s Royalties. They consented to a March 8, 2008 Order of the Hon. Doyet A. Early, III which would have proceeded with the official Heirs determination in the Levenson Intestacy Suit although Brown had two valid Wills.

Four months later – and for nearly five years – the AG’s 2008 Settlement stood as an impediment to a proper protection plan for the Royalties.

The completion of a properly-documented Heirs baseline during the probate process would have given the “I Feel Good” Foundation – and gives all charities who have been devised Copyrights -- maximum flexibility to:

1. Contract with the half, or half + 1 needed to protect the copyrights (“Splitting Heirs”) –5 or so in the case of the “I Feel Good” Foundation
2. Avoid later costly federal litigation with a proper Heirs baseline.

A proper heirs determination was particularly important in this case because all fiduciaries, all children and others had overwhelming evidence that Brown died without a spouse. And his companion’s child was not a presumed child. [He is the only claimed child born in the 22 years between Brown’s vasectomy and death.. He has refused DNA testing under the Peoples Protocol for 7 years.] Yet the AG “spoke as one” with the two from August 2008 until May 2013. His appointee became their agent in four separate lawsuits. The AG’s contract “stipulated” that both the companion and her son were heirs. The State/AG exempted companion’s son from DNA testing under the Peoples DNA Protocol. The State/AG contracted to join them in attempting to defeat the interests of real heirs.

Since February 27, 2013 the Estate/“I Feel Good” Trust has been in a position to complete the Peoples DNA Protocol for non-presumed heirs and make Termination Agreements under the above, or a similar, plan. To do so will provide appropriate respect and recognition for all DNA-proven non-presumed children excluded by Brown.

It will also be good for the “I Feel Good” Foundation.

For under \$200,000 per year (and with almost no attorneys’ fees), the above plan would have secured the “I Feel Good” Foundation’s Royalties (about \$3 million a year) for needy students for decades. Starting in 2011. It still can.

To accomplish the same result the AG’s 2008 agreement proposed to give away 52 ½% of the “I Feel Good” Foundation – about \$40 million at the time.

TOBEROFF & ASSOCIATES, P.C.

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September 23, 2013

Via E-mail and U.S. Mail

Scott McDowell
Senior Vice President and
Head of Legal & Business Affairs
Warner/Chappell Music, Inc.
10585 Santa Monica Blvd.
Los Angeles, CA 90025

Re: James Brown/Terminations under the Copyright Act

Dear Mr. McDowell:

We represent James Brown's children, Terry L. Brown, Larhonda Waller, Deanna Brown Thomas, Yamma Brown, Venisha Brown, Jeanette Mitchell Bellinger and Cinnamon Nicole Parris, and James Brown's grandchild, Sarah LaTonya Fegan a.k.a. Tonya Brown (collectively, the "Heirs"), who are believed to constitute all or a super-majority of James Brown's statutory heirs entitled to exercise termination rights under 17 U.S.C. §304. On the Heirs' behalf, we will be serving Warner/Chappell Music and others, in the near future, with statutory notices of termination regarding Mr. Brown's music.

The Heirs are informed and believe that Tomi Rae Hynie and James Brown, Jr., acting as James Brown's putative surviving spouse and child, respectively, have served purported notices of termination regarding his musical compositions (the "Tomi Rae Termination"). The Heirs are further informed and believe that the Tomi Rae Termination is being handled by a representative of the Estate of James Brown, despite the glaring conflicts of interest that this would appear to entail.

This letter is to notify Warner/Chappell Music that the Heirs vigorously contest the validity of the Tomi Rae Termination and the standing of Tomi Rae Hynie and James Brown, Jr. to serve any notices of termination under the Copyright Act regarding James Brown's music.

September 23, 2013
Warner/Chappell Music, Inc.
Page: 2 of 2

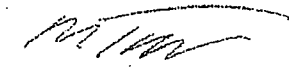
The Heirs' claim is based, without limitation, on the well-known fact that when Ms. Hynie purported to marry James Brown in December 2001 she was already married to Javed Ahmed (since 1997). The Heirs contend that this rendered her 2001 marriage void, and that the 2004 default judgment thereafter obtained by Ms. Hynie from a South Carolina family court, annulling her marriage to Mr. Ahmed, did not resuscitate Ms. Hynie's 2001 marriage to Mr. Brown pursuant to the recent on-point decision of the South Carolina Supreme Court in *Lukich v. Lukich*, 379 S.C. 589, 592 (2008) ("The question is whether the [2003 annulment order declaring Wife's first marriage void *ab initio* relates back so as to validate her purported 1985 marriage." "While an annulment order relates back in most senses, it does not have the ability to validate the bigamous second [1985] 'marriage.'").

Furthermore, Ms. Hynie's default judgment in *Tomi Rae Hynie v. Javed Ahmed* has no claim or issue preclusion effect on the Heirs as they were not parties to that action, and, in any event, the purported findings of fact and conclusions of law in that default judgment have no issue preclusion effect because such issues do not appear to have been "actually litigated" on the merits. See *State v. Bacote*, 331 S.C. 328, 330-31 (1998) ("In the context of a default judgment, collateral estoppel or issue preclusion does not apply because an essential element of that doctrine requires that the claim sought to be precluded actually have been litigated in the earlier litigation."). The Heirs' challenge to James Brown, Jr. is based, among other things, on his refusal to take a simple Court-supervised DNA test verifying that he is James Brown's child.

Please be further advised that these essential legal matters will be the subject of pending litigation in the South Carolina courts or in an alternative forum.

We hope to keep you well advised as this process marches towards a resolution. In the meantime, the Heirs and I look forward to an amicable relationship with Warner/Chappell Music regarding their statutory termination interests, and the future of James Brown's music.

Very truly yours,



Marc Toberoff

cc: Kelly Burnett via E-mail, Senior Director, Legal & Business Affairs
Warner/Chappell Music, Inc.

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

Appellate Case No.2013-002582

Alan Wilson, in his Capacity as Attorney General of
South Carolina; and others, Plaintiffs,

v.

Albert H. Dallas and others, Defendants.

Of whom Adele J. Pope, Individually and on behalf of Others under
South Carolina Trust Code Section 62-7-405, is the.....Appellant,

And Terry Brown, Forlando Brown, James B., David G. Cannon, Albert H. Dallas
and Tommie Rae Hynie are Respondents,

And Alan Wilson in his Capacity as Attorney General of South Carolina, Deanna
J. Brown Thomas and Robert L. Buchanan, Jr., are Additional Interested
Persons.

IN RE:

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

PROOF OF SERVICE

I certify that on the 27th day of February, 2014, I have served the REPLY TO
RETURN TO MOTION TO HOLD IN ABEYANCE on Respondents and others as
shown below by depositing a copy of same in the United States Mail, postage
prepaid, addressed to their attorneys of record as follows:

RECEIVED

FEB 28 2014

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Attorney for Appellants

February 27, 2014