

Exhibit B

070913JasBrown (2).txt

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1 STATE OF SOUTH CAROLINA

2 COUNTY OF AIKEN

CIRCUIT COURT
2008-CP-02-01647

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5 HENRY DARGAN McMASTER, et al,
6 Plaintiff,

6 -vs-

TRANSCRIPT OF RECORD

7 ALBERT H. DALLAS, et al,
8 Defendant.

8

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Heard on Tuesday, July 9, 2013

10

Aiken, South Carolina

11

BEFORE:

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THE HONORABLE DOYET A. EARLY, III

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APPEARANCES:

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Adele J. Pope, Esq. J. David Black, Esq.
Erin Richardson Stuckey, Esq. David Bell, Esq.
Albert P. Shahid, Jr., Esq.
Fred L. Kingsmore, Esq. Robert N. Rosen, Esq.
Christopher Patton, Esq. Rodney A. Peeples, Esq.
James R. Gilreath, Esq. Mary Frances G. Jowers, Esq.
Norma Anne Turner Jett, Esq.

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21 COURT REPORTER NOTE: NOT EVERYONE PRESENT GAVE APPEARANCE
22 TO COURT REPORTER. LISTING MAY NOT BE INCLUSIVE.

22

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Cheri L. Young, RPR
Circuit Court Reporter
P O Box 5232
Aiken, SC 29804-5232

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EXHIBIT INDEX

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4 Defendant Bauknight's:

MAR

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1 ON TUESDAY, JULY 9, 2013 AT 1:02 P.M.:

2 THE COURT: Good afternoon. Please be seated.

3 On June 13 of this year I signed an administrative

4 order wherein I ruled that Mrs. Pope did not have standing

5 other than her claim for fees and/or commissions.

6 Ms. Pope has filed a motion to reconsider under the

7 appropriate rules. I have set that to be heard first

8 today. I have limited arguments to 20 minutes per side,

9 Ms. Pope, and I think you sent me an e-mail that you

10 wanted it divided such-and-such a way.

11 MS. POPE: Well, Your Honor, unfortunately I did my
12 speech on the 4th of July, and it's very close to 20
13 minutes. So if I could have just a minute or two in
14 rebuttal if I need it, I would appreciate it.

15 THE COURT: Certainly. Do you need a podium?

16 MS. POPE: Oh, yes. Thank you. (Pause.)

17 May it please the Court.

18 THE COURT: Yes, ma'am.

19 MS. POPE: Case 1647 was appealed by Bob Buchanan and
20 me to the Supreme Court of South Carolina. Nobody joined
21 us in that appeal. We did the duty Your Honor appointed
22 us to do even though neither of us had sought that
23 appointment. We vigorously defended the estate plan of
24 James Brown as required by his will, by his trust and by
25 the law.

4

1 The Supreme Court on May 8th agreed and overturned the
2 settlement, and it gave everything else we sought except
3 our continued service as fiduciaries. As it stands now,
4 nobody is looking after the interests of the estate of
5 James Brown.

6 For that and other reasons set out in my memos, Bob
7 and I have standing to be in this case and in every James
8 Brown case that affects the legitimacy of James Brown's
9 estate plan for our claims as its former fiduciaries. I
10 ask the Court to reconsider and void the June 13th orders
11 and confirm that Bob and I have standing in all Aiken
12 County cases.

13 I ask the Court to acknowledge that it has no
14 jurisdiction to control the schedules or the outcome of

15 Case 4900 in Richland County which must proceed, the FOIA
16 cases which must proceed, and the Forlando federal case
17 which is now scheduled for trial shortly after September
18 15th, 2013.

19 I incorporate without repeating all arguments made in
20 my written filings since May 8, 2013, including my
21 complaint in Case 1337.

22 Four years ago in your order dated April 8th, 2008,
23 Your Honor wisely spoke of the extraordinary twists and
24 turns which the estate and trust of James Brown had taken.
25 Then you went on to say: This Court finds that Buchanan

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1 and Pope were properly appointed, have properly performed
2 and should continue in both capacities.

3 I do not believe, Your Honor, that you, nor Bob, nor I
4 could have anticipated that one of the twists and turns
5 that would occur would be that three years later a private
6 attorney speaking for the State of South Carolina would
7 tell a Richland County Court that your April 8th order was
8 mere victor. [sic "dicta"] arr

9 I don't believe Your Honor or we would have
10 anticipated that the attorney general would work for four
11 years to secure 20 million dollars of fees and commissions
12 for Mr. Bauknight and the attorneys involved in the
13 settlement, taking it from the I Feel Good Foundation in a
14 settlement which was now -- is now void and then just when
15 he was needed to help enforce James Brown's I Feel Good
16 Trust, he would quit. But he has. That surprising State
17 action follows three years of other extraordinary State
18 action of which Your Honor was a very small part.

19 It can be traced to March 15, 2010. That was the day

20 Your Honor ordered the clerk of court to deliver to Bob
21 and me the fee arrangements of Mr. Bauknight and all of
22 the attorneys for the settling parties. Those fee
23 arrangements you directed the clerk to deliver to us were
24 not in the clerk's office. They are not in the clerk's
25 office today.

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1 The attorney general will not release them. The
2 attorneys will not release them. If details of the 20
3 million dollars that Attorney General Wilson's predecessor
4 thought it was okay to pay Mr. Bauknight and all those
5 attorneys for the settling parties had been released back
6 in 2010, maybe the attorney general would not have been so
7 quick to call Bob Buchanan a felon because he asked for a
8 2.1 million dollar commission for five and a half years of
9 valuable service to the I Feel Good Trust.

10 Maybe he would not have accused me of being a felon
11 for asking for a fair fee for defending the I Feel Good
12 Foundation for five and a half years against Tommie Rae's
13 lawyers, against seven taxpayer-paid lawyers working for
14 the attorney general, and against about 35 more lawyers
15 seeking to feed on the carcass of the I Feel Good
16 Foundation and the scholarships for needy children they
17 were trying to destroy.

18 Your Honor's June 13th order should be voided because
19 the state acting through Your Honor is violating Bob's and
20 my rights in Richland County and attempting to violate
21 them in Aiken County and attempting to violate them in
22 Richland County and in the federal court.

23 Your June 13th order and the order of the clerk
24 prevent me from protecting my property rights to a fair

25 commission, most of which has been approved by Your

7

1 Honor's January 8th, 2008 order.

2 They prevent Bob and me from restoring our careers and
3 our reputations. They prevent me from defending against
4 the false claims of the Attorney General of South
5 Carolina. They even threaten my liberty where the State's
6 highest criminal officer has falsely accused me of being a
7 federal felon.

8 Your Honor, I do have standing to protect myself in
9 this court and all other courts. I have the right to file
10 motions and have them heard without Your Honor or any
11 other judge directing that they be stricken from the
12 public record before they are heard.

13 I have the right to be ungagged or at least to seek to
14 be ungagged from Your Honor's five-year-old gag orders
15 issued with no hearing and without supporting affidavits.

16 I have this standing based on the Fifth, the First,
17 and the 14th Amendments of the Constitution of the United
18 States of America that governs you and me and every
19 citizen of this state.

20 I also have some plain old standing under the probate
21 code. I am an interested person. I am a creditor with
22 rights.

23 And I have standing as an other under the South
24 Carolina trust code. Someone interested in the
25 enforcement of the I Fee] Good Trust because my claim

8

1 rests on the reasonableness of the defense of that trust.

2 That standing includes a right to participate in every
3 case which affects my fair commission for services as

4 personal representative of James Brown's estate as that
5 term is defined in the probate code. It is not 18
6 months. It is five and a half years. It is based on my
7 rights under the probate code as a creditor and an
8 interested person.

9 The June 13th order should be voided because they
10 distort the playing field. They do not do justice. They
11 leave the protections of the James Brown estate plan and
12 my own claim and Bob's claim in the hands of a fiduciary
13 who has fought the estate plan of James Brown for four
14 years, who has not accounted, who has defrauded the Court,
15 who has intentionally misstated facts about the heirs of
16 James Brown and their rights and who has not, cannot and
17 will not protect the 2000 or the '99 will of James Brown
18 or give me a fair hearing on my claim.

19 The State through this Court and the attorney general
20 has deprived Bob and me of our property rights and even
21 threatened our liberty.

22 Many of the questions which must be decided are not
23 pending before you. They are in Richland County where the
24 State represented by a private attorney and as a
25 co-Plaintiff with Tommie Rae Hynie sued Bob and me in 2010

9

1 for conducting the Wilson versus Dallas appeal.

2 On September 16, 2012, the Attorney General of South
3 Carolina told our Supreme Court since late 2008 "the family
4 and the attorney general have been in agreement that the
5 litigation must end." "So," he said, "similarly the family
6 and attorney general are in agreement that Pope's conduct
7 must come to an end. "

Quotation marks
added
AK

8 I have standing to show in this and every court that

9 Tommie Rae is not James Brown's family, that the attorney
10 general should not have joined as her co-Plaintiff to sue
11 me for conducting the Wilson versus Dallas appeal, nor
12 Bob.

13 And I have standing to show that it is the State's
14 conduct, not mine, the State's attempt to crush anyone who
15 protects James Brown's two valid estate plans. That is
16 the conduct which must come to an end.

17 The June 13th orders must be voided so that I may
18 exercise my rights, protect my freedom and protect my
19 claim and Bob may do the same. Someone has committed
20 fraud in connection with the valuation of James Brown's
21 Worldwide Music Empire.

22 The Attorney General of South Carolina says that it is
23 Bob and me. On September 12, 2012, the attorney general
24 told the Supreme Court this: "There is no conflict of
25 interest like self-interest, Pope's 2.5 million dollar

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1 conflict of interest. She had -- and these are what he
2 said in the brief. She had the audacity to file a claim
3 for that amount. Her claim is simply egregious when
4 viewed against the backdrop of her actual work and the
5 value of the estate and trust. The value of the estate
6 and trust."

7 " Mr. Bauknight did, says the attorney general,
8 "Mr. Bauknight did what a personal representative should
9 have done. He obtained an independent, professional
10 valuation of the intellectual property. Mr. Bauknight
11 valued James Brown's Worldwide Music Empire which had
12 earned six million dollars a year for the three years
13 before his death at less than 4.7 million dollars. "

Quotation
marks added
ak

14 where is that valuation? It is hidden under lock and
15 key. The attorney general will not release it under
16 FOIA. Mr. Bauknight will not release it, although he is
17 required to do so by the probate code.

18 4.7 million dollars for royalties to 800 published
19 songs. 4.7 million dollars for those royalties and the
20 right to exploit James Brown's image and persona for
21 decades.

22 The Attorney general of South Carolina told the
23 Supreme Court that Mr. Bauknight's valuation was right.
24 He said that the other five fiduciaries who had served
25 James Brown for over 15 years were wrong about the value.

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1 He said that the five of us had haphazardly claimed the
2 date-of-death value in varying amounts around a hundred
3 million. He said we provided no substantiation for the
4 figure.

5 He was not correct.

6 The Attorney General of South Carolina also told the
7 Supreme Court in 2011 that there never was an offer to buy
8 James Brown's Music Empire.

9 Now, you and I were there when the first one came.

10 The attorney general said there was never an offer at
11 the same time he was suing Bob and me for tens of millions
12 of dollars for not accepting a hundred million dollar
13 offer.

14 The attorney general has clung to his 4.7 million
15 dollar valuation. And he's clung to the accusations
16 against Bob and me even though James Brown's Music Empire
17 earned five million in 2010, and 10 million in 2011. The
18 year James Brown earned 10 million dollars the attorney

19 general agreed, as Mr. Bauknight told the Supreme Court,
20 that Mr. Brown's estate and trust had no corpus to speak
21 of.

22 The attorney general endorsed Bauknight's false claim
23 that but for the McMaster settlement there would be
24 nothing in the I Feel Good Trust in 2023.

25 The attorney general nodded approval as Mr. Bauknight

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1 told the Supreme Court that Tommie Rae Hynie's elective
2 share claim was a slam dunk. He did so even though the
3 attorney general was gagged from discussing Tommie Rae's
4 own handwritten notes which her own lawyer admits would
5 cause irrevocable damage to that claim.

6 The State's protector of charities was gagged by Your
7 Honor's orders from doing his public duty to protect the I
8 Feel Good Foundation. But it's worse than that. He
9 wasn't just gagged, but he worked for years to prevent the
10 ungagging of his own office. That is truly unprecedented.

11 Let me tell you, he did this by filing vitriolic
12 briefs with Tommie Rae Hynie in the Supreme Court. Why is
13 this happening? Why is the State holding felon David
14 Cannon hostage when they named him as a witness against
15 Bob and me in case 4900? Why are they calling his
16 sentencing proceeding a part of the civil cases? Why is
17 Russell Bauknight, not the State, listed as the
18 Plaintiff? Is it a fear perhaps that Mr. Cannon if not
19 threatened might no longer be a good witness against Bob
20 and me? That he might actually tell what is contained in
21 those documents which he and Mr. Dallas transcribed and we
22 all discussed for a year before the gag order? Could it
23 be that Mr. Cannon will confirm that the assets were worth

24 a hundred million dollars and everyone knew it? He might
25 even say that he hated Bob and me, especially me, but that

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1 we were not felons.

2 And he will say that James Brown had two iron-clad
3 estate plans.

4 Now all of these questions are pending in Richland
5 County Case 49, Your Honor -- 4900, Your Honor. Judge
6 Manning has exclusive jurisdiction over those cases. And
7 here's why. Because the State of South Carolina and
8 Tommie Rae and the other co-Plaintiffs didn't want you to
9 hear it at the time. They argued against us that Aiken
10 was not the right place, Richland was the right place.
11 And they won.

12 I respectfully submit that this Court and the clerk
13 should void the June 13th orders, restore my motions to
14 the public record, hear them, confirm that this Court has
15 no jurisdiction over the Forlando suit, Case 4900, or the
16 FOIA suit, confirm my standing and right to participate in
17 every pending James Brown hearing where value, heirs, the
18 estate plan or any fee claims are pending.

19 To do so will level the playing field. It will
20 promote justice, not only for me and the pursuit of my
21 claim but for the thousands of needy and deserving
22 students James Brown considered to be his family and
23 intended to benefit with the I Feel Good Trust.

24 Thank you.

25 THE COURT: Thank you. All right. Who's going to

14

1 handle the other side?

1 any scheduling orders until I address carving out however
2 I handle the administration of the estate, whether it be
3 leaving some of it with Bauknight and carving out the
4 contest or however, but I can't do that until my 45 days
5 is up.

6 But assuming I appoint somebody, then obviously I've
7 got to set out with them with you involved, see how much
8 time it will take them to become acclimated and then be in
9 a position to argue dispositive motions and then depending
10 on the ruling in those where they would go as far as any
11 other final disposition of those cases.

12 And then Mr. Levenson's situation is entirely
13 different because I got to set a trial date and then fill
14 in between the trial date and now what all has to be done,
15 i.e., discovery then dispositive motions, et cetera. So
16 that's where we stand.

17 Ms. Pope?

18 MS. POPE: Your Honor, I'm extremely concerned that a
19 fiduciary is appointed to conduct the litigation on behalf
20 of the will and trust. That's -- the first thing they'll
21 have to consider is the matters over which the Richland
22 County Court has exclusive jurisdiction.

23 It has before it in a case filed on May 19th, 2010 in
24 which Ms. Hynie told the Richland County Court that
25 everything over here was over. The State told the

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1 Richland County Court everything here was over. And that
2 case has now been pending since May 19th, 2010. We are
3 four depositions away from trial. That's the first
4 decision for the person appointed to protect the estate
5 and trust in litigation --

6 THE COURT: Ms. Pope, in all due respect and all due
7 respect to you, you know, I respect you personally and
8 professionally, I've gotten my marching orders from the
9 Supreme Court. I'm going to handle the will contest,
10 Mr. Rosen's client's contest, Mr. Shahid's young man's
11 contest and my courtroom -- and this courtroom, and I'm
12 going to do it with all the efficiency that I can.

13 I have nothing to do with the case in Richland
14 County. That's Judge Manning's case. I don't know what's
15 going on in it. I don't want to know what's going on
16 it -- well, I shouldn't say that. I just don't have
17 anything in that case.

18 MS. POPE: Your Honor, the fiduciary appointed to
19 protect the estate plan of James Brown wants to know
20 what's going on in that case.

21 THE COURT: Well --

22 MS. POPE: And my FOIA rights are being held up in
23 that case.

24 THE COURT: Well, Ms. Pope, I can't tell you anything
25 to do but go to Judge Manning and complain by motion or

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1 whatever. I don't have any jurisdiction over your
2 Columbia case.

3 MS. POPE: And in the Columbia case the question
4 squarely before the Court is, is Tommie Rae the wife of
5 James Brown.

6 THE COURT: Well --

7 MS. POPE: Squarely before that Court with sole and
8 exclusive jurisdiction until it's resolved.

9 THE COURT: Well, I think there's a rule where the
10 same issue's pending in two cases. I mean, obviously one

10 THE COURT: Thank you.

11 MR. BELL: We'll just file a motion. And we will get
12 that before Your Honor.

13 THE COURT: Just tell me what you want to tell me.

14 MR. BELL: Your Honor, Mr. Rosen mentioned the summary
15 judgment motion filed in Tommie Rae Hynie's matter, status
16 of the case.

17 The history of that, and I refresh the memory of the
18 Court, because it was so far back, I filed a notice to
19 take Ms. Hynie's deposition. Right before that was taken,
20 Wayne Byrd sent out an e-mail with a copy of Ms. Hynie's
21 personal diary. Mr. Rosen filed a motion with Your Honor
22 to stay the proceedings until the issue of the diary could
23 be resolved. And at that time you indicated to me that we
24 would be given adequate discovery time before there was a
25 ruling.

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1 while the stay was in place, the discovery, Mr. Rosen
2 filed a motion for summary judgment. He is absolutely
3 correct on the record as it stands, there's no issue. That
4 is because there has been no discovery proceedings.

5 And what we would ask for is an adequate time to
6 conduct discovery and the Court's ruling on whether the
7 diary of Ms. Hynie would be admissible in those
8 proceedings.

9 THE COURT: That's why I'm asking for a scheduling
10 order.

11 MR. BELL: Yes, Your Honor.

12 THE COURT: But I'm sort of at a standstill until I
13 address this issue of the application that the Court has
14 told me to do. So as soon as that is done which will be

15 in early April -- strike that -- in early August, I would
16 urge all of you to think about a scheduling order because
17 I'm going to issue one. And it's much easier for me to
18 let y'all give me some dates, but if not we're going to
19 move forward with all the deliberate speed we can. I'm
20 going to finish this up.

21 MR. ROSEN: Your Honor, I think the most important
22 thing is getting the cases divided up.

23 THE COURT: Well, make the motion.

24 MR. ROSEN: We'll make that motion and perhaps that
25 could either be handled over the phone. I mean, it's

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1 administrative.

2 And then if Mr. Bell wants to be heard in any
3 particular case, he could move to be admitted in that
4 particular case.

5 THE COURT: Well, does anybody have any opposition to
6 severing, I'm just going to use it by lawyers' names,
7 Mr. Levenson's claim, Mr. Rosen's claim or Mr. Shahid's
8 claim?

9 MS. POPE: I do, Your Honor.

10 THE COURT: Thank you.

11 MS. POPE: Because we do not even yet have proper
12 parties in 872. Vorhees has not been added. There is no
13 guardian ad litem for Vanisha who is jailed.
14 USC-Salkehatchie has not been added. USC-Aiken has not
15 been added. The parties are not even correct. The notion
16 of severing before we even get 872 in a position to
17 protect the estate plan is premature.

18 THE COURT: Thank you. Mr. Rosen, make your motion.

19 MR. ROSEN: We'll make the motion.

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20 THE COURT: Thank you. Anything else?

21 AS to Ms. Pope's motion to reconsider, I respectfully
22 deny the same. I have obviously read and reread many
23 times my orders of my responsibility from the Supreme
24 Court.

25 With all due respect to Ms. Pope, it is unquestionable

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1 that the Supreme Court has upheld her removal as a
2 fiduciary. And by no longer being a fiduciary in this
3 court, I find that she does not have standing other than
4 the fact that she has obviously all the rights in the
5 world to protect herself concerning her personal
6 representative and trustee commissions and any other type
7 of remuneration that she deems that she is entitled to.
8 And obviously that will be heard at the appropriate time
9 by this Court.

10 And I will issue an order affirming my original
11 administrative order and we'll move forward. I'll have it
12 probably in a form order within a day or two.

13 Thank y'all very much. I hope you have a wonderful
14 rest of the week. Thank you.

15 MR. ROSEN: Thank you, Your Honor.

16 MR. BLACK: Thank you, Your Honor.

17 MR. SHAHID: Thank you, Your Honor.

18 END OF PROCEEDINGS: 2:15 P.M.

19 * * * *

20 CERTIFICATE OF REPORTER

21 STATE OF SOUTH CAROLINA)

22 COUNTY OF AIKEN)

23 I, Cheri L. Young, Registered Professional Reporter
24 and Official Court Reporter for the State of South

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