

Exhibit C

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STATE OF SOUTH CAROLINA
In the Court of Appeals

FROM RICHLAND COUNTY
Court of Common Pleas
The Honorable L. Casey Manning, Circuit Court Judge

Case No. 2010-CP-40-4900

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

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 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.

OF WHOM:

Adele J. Pope is thePetitioner.

**PLAINTIFFS' MOTION TO DISMISS NOTICE OF APPEAL
AND PETITION FOR WRIT OF PROHIBITION**

Pursuant to the provisions of Rule 240(e), SCACR, the Plaintiffs respectfully request that this Honorable Court dismiss¹ Petitioner's Writ of Prohibition and notice of appeal.

INTRODUCTION & PROCEDURAL HISTORY

As this Court is aware from the Dallas and Cannon appeals wherein Adele Pope and Bob Buchanan (Pope and Buchanan) filed numerous contentious motions objecting to Mr. Bauknight's substitution, Pope and Buchanan were removed from their prior fiduciary positions on May 26, 2009, pursuant to the global settlement agreement and court order resolving the James Brown Estate and Trust litigation.

The underlying lawsuit concerns several serious breach of fiduciary duty claims filed by Plaintiffs—Tommy Rae Brown (James Brown's surviving spouse), the Brown children, the James Brown's Estate and Trust, and the South Carolina Attorney General—on behalf of the charitable beneficiaries against former Personal Representatives and Trustees Pope and Buchannan. When the James Brown Estate and Trust was turned over to Mr. Bauknight, it was unfortunately in a state of ruin. It had been mismanaged and was on the brink of insolvency. The mismanagement of the James Brown Estate and Trust included, but was not limited to, Pope and Buchanan's failure to conduct and obtain an estate valuation in order to properly ascertain the taxable estate, improperly paying themselves fiduciary fees, and failing to file required estate, trust, and other income tax returns. As a result of Pope and Buchanan's actions, the Estate and Trust have incurred significant damages for which the underlying lawsuit in this matter seeks redress.

Pursuant to the South Carolina Probate Code, the underlying lawsuit was filed in Richland County Probate Court. Later, the case was removed to the circuit court pursuant to

¹ Plaintiffs respectfully reserve the right to file a Return and a motion to dismiss on the merits.

302(d), the probate court has exclusive jurisdiction of proceedings initiated by interested parties concerning the internal affairs of trusts. Proceedings that may be maintained pursuant to this section are those concerning the administration and distribution of trusts, the declaration of rights, and the determination of other matters involving trustees and beneficiaries of trusts." Pursuant to section 62-1-302(d), the matter was removed to the circuit court. Because the lower court has jurisdiction, the writ is not proper.

C. Even Assuming the Circuit Court Improperly Assumed Jurisdiction, the Writ is Not Proper for Petitioner Has an Adequate Remedy by Appeal

Alternatively, Petitioner may not invoke the writ for she has an adequate remedy by appeal. As previously noted, the writ may not be issued for the "correct[ion] [of] errors and irregularities in procedure, or to prevent an erroneous decision or an enforcement of an erroneous judgment, or even in cases of encroachment, usurpation, and abuse of judicial power or the improper assumption of jurisdiction, *where an adequate and applicable remedy by appeal, writ of error, certiorari, or other prescribed methods of review are available.*" *State Bd. of Bank Control v. Sease*, 188 S.C. 133, 198 S.E. 602 (1938).

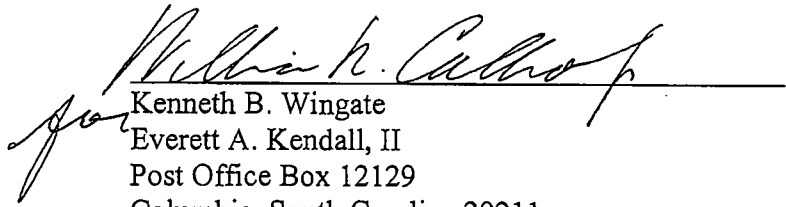
Again, although Petitioner has used grave language to describe the underlying lawsuit, the Honorable Judge Manning did not see it that way and denied the motion to dismiss. If the circuit court made an error of law, then Petitioner may seek appellate review at the appropriate time. Because appellate review of the underlying lawsuit is available at a later stage in the proceeding, as a matter of law, the writ of prohibition does not lie. *State Bd. of Bank Control, supra.*

CONCLUSION

Petitioner has filed a notice of appeal that seeks this Court's review of a circuit order that is not immediately appealable. Without question, the notice of appeal is in direct contravention

of settled South Carolina law. Filed with the notice of appeal is a petition for a writ of prohibition seeking to prevent Plaintiffs from lawfully pursuing civil damages the Estate and Trust incurred from the previous negligent management of Petitioner (and Mr. Buchanan). Petitioner's request should be denied. Based on the foregoing reasons, the Court should dismiss the writ of prohibition and the appeal.

SWEENEY, WINGATE & BARROW, P.A.


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Columbia, South Carolina
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