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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Case Tracking No. 2013-2319

APPEAL FROM LAURENS COUNTY
COURT OF COMMON PLEAS

Civil Action No. 2012-CP-30-258
The Honorable Frank R. Addy, Circuit Court Judge

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SC Court of Appeals

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In the Matter of the Estate of Marion M. Kay

Edward D. Sullivan, as Personal Representative
of the Estate of Marion M. Kay Appellant-Respondent,

vs.

Martha Brown and Mary Moses Respondents-Appellants.

APPELLANT-RESPONDENT'S MOTION TO REMAND FOR CONSIDERATION
OF PETITION TO DISTRIBUTE A PORTION OF ESTATE PROCEEDS AND
APPROVAL OF PARTIAL SETTLEMENT

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*Attorneys for Appellant-Respondent
Edward D. Sullivan, PR of the
Estate of Marion M. Kay*

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT OF APPEALS:

Pursuant to Rule 240, SCACR, Appellant-Respondent Edward D. Sullivan, as Personal Representative of the Estate of Marion M. Kay (the "Estate"), respectfully moves this Court for an Order remanding certain issues related to the case to the Probate Court for consideration of the Personal Representative's Petition to Distribute a Portion of Estate Proceeds and approval of partial settlement. In general, this case involves rulings by the Probate Court and Circuit Court related to "reasonable compensation" of the Personal Representative (the "PR"), the responsibility for costs of proceedings and appeals, and awards or denials of attorney's fees to the parties.

After 3 years and 6 months of probating the Estate¹, including litigation between the parties to this appeal involving certain farm acreage owned jointly by

¹ Marion M. Kay passed away on May 4, 2007. Item IV of the Last Will and Testament of Marion M. Kay (attached as Exhibit A pages 8-17) lists the following as residuary beneficiaries of the Estate:

One-fourth (1/4) interest to Lisbon Presbyterian Church, absolutely forever;

One-fourth (1/4) interest to Lisbon Presbyterian Church Cemetery fund, absolutely forever, the interest to be used to keep up the Milam-Kay plot;

One-tenth (1/10) interest to Marla Elizabeth Heard, (per stirpes), to be hers absolutely forever;

One-tenth (1/10) interest to Bart Edward Heard, (per stirpes), to be his absolutely forever;

One-tenth (1/10) interest to Martha Milam Brown (per stirpes), to be hers absolutely forever;

the Estate and Respondents-Appellants, the PR filed documents to settle the Estate and disburse the Estate proceeds. Brown and Moses requested a hearing. The hearing resulted in a ruling by the Probate Court that, in general (among other things), found the Personal Representative's compensation was excessive because (1) the PR should have deeded out real estate jointly owned by Decedent and Respondents-Appellants to the respective beneficiaries rather than pursuing a partition action related to the real estate and (2) the PR failed to sufficiently substantiate the hours he devoted to the estate. The Order (See Attached Probate Court Order dated May 24, 2011 (Exhibit B, pages 18-26) provides in part that the Personal Representative refund "excessive commissions" in the amount of Forty-two Thousand Four Hundred Seventy-five (\$42,475) dollars. (The Order allows a reduction of \$2500 in this amount if the Personal Representative wraps up the Estate.) The Order also provides for payment of the amount of Nineteen Thousand Eight Hundred Sixty (\$19,860) dollars as an "attorney fee pursuant to the common fund doctrine" to John R. Ferguson, counsel for Brown and Moses. This Order, the Probate Court's Order dated March 27, 2012 (Exhibit C, pages 27-30) relating to post-trial motions, the

One-tenth (1/10) interest to Mary Leona Milam
Moses (per stirpes), to be hers absolutely forever;

One-tenth (1/10) interest to Presbyterian Home of
South Carolina, Clinton, South Carolina.

Item V (1) names Edward D. Sullivan as the Personal Representative. Item V (3) provides ". . . the individual Personal Representative shall receive reasonable compensation for the services rendered and reimbursement for reasonable expenses."

Circuit Court Order dated August 20, 2013 affirming the Probate Court rulings (Exhibit D, pages 31-32) and Circuit Court Order dated September 30, 2013 affirming its prior ruling (Exhibit E, pages 33-34) have been appealed by the Personal Representative and Brown and Moses (the "Appeals").

While these appeals have been pending, the PR entered into Settlement Agreements with Beneficiaries Presbyterian Home of South Carolina, Bart Heard and Marla Orias (as reflected in attached Exhibits F-1, F-2 and F-3 respectively, pages 35-47); together the "Settlement Agreements") whereby those respective beneficiaries and the Personal Representative have agreed to settle and release each other from any and all claims arising out of the Estate, rendering the outcome of such Appeals moot as it relates to those parties. In addition to certain direct payments from the PR, the Settlement Agreements provided for pro-rata distributions from the Estate (subject to court approval) to these 10% beneficiaries (less previous advances, if any) (the "Proposed Distributions").

This Court's partial remand is necessary because the Probate Court has determined in a post-appeal Order that it no longer has jurisdiction.

The PR sought relief from the Probate Court based on the Settlement Agreements and relying upon Ulmer v Ulmer, 369 SC 486, 492, 632 SE2d 858 (2006) (in which the South Carolina Supreme Court held that SC Code Section 62-1-308(c) [regarding a probate court's jurisdiction after an appeal] "does not apply to all orders of the probate court concerning the parties. The only proceedings to cease are those proceedings addressed in the orders from which an appeal has been taken". The Petition to Distribute Estate Proceeds in the

Probate Court was filed on July 8, 2013. Respondent-Appellants objected to this Petition resulting in the Probate Court's Order dated January 7, 2014 (Exhibit G, pages 48-49) continuing hearing on the Petition. The PR moved for reconsideration of this Order and also filed a Motion for Reference to Mediation. Again Respondents-Appellants objected resulting in the Probate Court's Order dated January 31, 2014 denying the Motion to Reconsider and motion to remand citing SC Code Section 62-1-308(c) and ruling "all proceedings in pursuance of the Order, sentence or decree appealed from shall cease until the judgment [from the Court of Appeal] is had." (emphasis in Order. See Order attached as Exhibit H, page 50.) These Orders were not appealed.


By letter of December 8, 2014, copy of which is attached as Exhibit I, page 51, counsel for Respondents-Appellants has now given notice of the withdrawal of their objection to the Settlement Agreements and the related distributions (citing medical bills of Bart Heard). Beneficiaries Lisbon Presbyterian Church and Lisbon Presbyterian Church Cemetery Fund, having together the remaining fifty (50%) per cent residual interest, have been given notice that Respondents-Appellants have withdrawn objection to the Settlements and related distributions. In response to the PR's question as to whether the Church (and Cemetery Fund) objects to the Settlement Agreements and the Proposed Distributions, the Church makes reference to the Probate Court's Order of January 7, 2014 and does not object to the distribution to "the Presbyterian Community (sic), Bart Heard and Marla Orias" provided it is authorized by Judge Travis W. Moore

(Special Judge of Probate for Laurens County) in compliance with his earlier court order. See Lisbon Church response attached as Exhibit J, page 52-53.

Except for the ongoing claims against the Estate by the parties hereto and their respective counsel, all other claims of the Estate have been paid and the period for filing claims has expired. In an effort to further wind up the Estate, meet the financial needs of beneficiaries the Presbyterian Home, Bart Heard and Marla Orias, the Personal Representative requests approval of the Settlement Agreements and Proposed Distributions. Such approval will allow this portion of the Estate proceeds to be distributed equitably in accordance with the Last Will and Testament of Marion M. Kay, as well as ensure that the interests of all parties, including those continuing to be directly affected by the ongoing Appeals, be protected.

Based on the foregoing, the Personal Representative respectfully requests that this Court issue an Order remanding the case to the probate court for consideration of the Petition to Disburse a Portion of Estate Proceeds and related Settlement Agreements and Proposed Distributions as provided above and for such further relief as the Court may deem just and proper.

LAW OFFICE OF DARYL G. HAWKINS, LLC

By. 
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January 6, 2015

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Estate of Marion M. Kay*

LYNN W. LANCASTER

2009 MAR -4 A 10: 35

LAURENS COUNTY
CLERK OF COURT

LAST WILL
OF
MARION M. KAY

Edward D. Sullivan
SULLIVAN LAW FIRM, PC
PO BOX 11714
COLUMBIA, South Carolina 29211

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OF
MARION M. KAY

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LAST WILL AND TESTAMENT
OF
MARION M. KAY

Introductory Clause. I, Marion M. Kay, a resident of and domiciled in the County of Laurens and State of South Carolina, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils at any time heretofore made by me.

ITEM I

Direction to Pay Debts. I direct that all my legally enforceable debts, secured and unsecured, be paid as soon as practicable after my death. If at the time of my death any of the real property herein devised is subject to any mortgage, I direct that the devisee taking such mortgaged property shall take it subject to such mortgage and that the devisee shall not be entitled to have the obligation secured thereby paid out of my general estate.

ITEM II

Direction to Pay All Taxes from Residuary Estate. I direct that all estate, inheritance, succession, death or similar taxes (except generation-skipping transfer taxes) assessed with respect to my estate herein disposed of, or any part thereof, or on any bequest or devise contained in this my Last Will (which term wherever used herein shall include any Codicil hereto), or on any insurance upon my life or on any property held jointly by me with another or on any transfer made by me during my lifetime or on any other property or interests in property included in my estate for such tax purposes be paid out of my residuary estate and shall not be charged to or against any recipient, beneficiary, transferee or owner of any such property or interests in property included in my estate for such tax purposes.

ITEM III

General Bequest of Personal and Household Effects With a Mandatory Memorandum. I give and bequeath all my personal and household effects of every kind including but not limited to furniture, appliances, furnishings, pictures, silverware, china, glass, books, jewelry, wearing apparel, boats, automobiles, and other vehicles, and all policies of fire, burglary, property damage, and other insurance on or in connection with the use of this property, as follows:

(1) I may leave written memoranda disposing of certain items of my tangible personal property. Any such item of tangible personal property shall ~~pass according to the terms of such memoranda in existence at the time of my death.~~ If no such written memoranda is found or identified by my Personal Representative within ninety (90) days after my Personal Representative's

Last Will and Testament of Marion M. Kay Page 1

1 of 7
M. M. Kay
M. C. C. R.

qualification, it shall be conclusively presumed that there is no such memoranda and any subsequently discovered memoranda shall be ineffective. Any property given and devised to a beneficiary who is not living at the time of my death and for whom no effective alternate provision has been made shall pass according to the provisions of the following paragraph; and not pursuant to any anti-lapse statute.

(2) In default of such memoranda, or to the extent such memoranda do not completely or effectively dispose of such property, I give and bequeath the rest of my personal and household effects of every kind to my Personal Representative, who shall distribute my personal and household effects to my family and friends as (s)he shall deem appropriate. If any beneficiary hereunder is a minor, my Personal Representative may distribute such minor's share to such minor or for such minor's use to any person with whom such minor is residing or who has the care or control of such minor without further responsibility and the receipt of the person to whom it is distributed shall be a complete discharge of my Personal Representative. The cost of packing and shipping such property shall be charged against my estate as an expense of administration.

ITEM IV

Outright Gift of Residuary. I give, devise and bequeath all the rest, residue and remainder of my property of every kind and description (including lapsed legacies and devises) wherever situate and whether acquired before or after the execution of this Will, absolutely forever, as follows:

One-fourth (1/4) interest to Lisbon Presbyterian Church, absolutely forever;

One-fourth (1/4) interest to Lisbon Presbyterian Church Cemetery fund, absolutely forever, the interest to be used to keep up the Milam-Kay plot;

One-tenth (1/10) interest to Marla Elizabeth Heard, to be hers absolutely forever; *per stipules, M. M. K. CCW*

One-tenth (1/10) interest to Bart Edward Heard, to be his absolutely forever; *per stipules, M. M. K. CCW*

One-tenth (1/10) interest to Martha Milam Brown, to be hers absolutely forever; *per stipules, M. M. K. CCW*

One-tenth (1/10) interest to Mary Leona Milam Moses, to be hers absolutely forever; and *per stipules, M. M. K. CCW*

One-tenth (1/10) interest to the Presbyterian Home of South Carolina, Clinton, South Carolina.

*2 of 7
M. M. K.
CCW*

ITEM V

Naming the Personal Representative, Personal Representative Succession, Personal Representative's Fees and Other Matters. The provisions for naming the Personal Representative, Personal Representative succession, Personal Representative's fees and other matters are set forth below:

(1) Naming an Individual Personal Representative. I hereby nominate, constitute, and appoint as Personal Representative of this my Last Will and Testament Edward D. Sullivan and direct that he shall serve without bond.

(2) Naming Individual Successor or Substitute Personal Representative. If my individual Personal Representative should fail to qualify as Personal Representative hereunder, or for any reason should cease to act in such capacity, the successor or substitute Personal Representative who shall also serve without bond shall be Joann Ball. *M.M.K. R.*

(3) Fee Schedule for Individual Personal Representative. For its services as Personal Representative, the individual Personal Representative shall receive reasonable compensation for the services rendered and reimbursement for reasonable expenses.

ITEM VI

Definition of Personal Representative. Whenever the word "Personal Representative" or any modifying or substituted pronoun therefor is used in this my Will, such words and respective pronouns shall include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the Personal Representative named herein and to any successor or substitute Personal Representative acting hereunder, and such successor or substitute Personal Representative shall possess all the rights, powers and duties, authority and responsibility conferred upon the Personal Representative originally named herein.

ITEM VII

Powers for Personal Representative. By way of illustration and not of limitation and in addition to any inherent, implied or statutory powers granted to Personal Representatives generally, my Personal Representative is specifically authorized and empowered with respect to any property, real or personal, at any time held under any provision of this my Will: to allot, allocate between principal and income, assign, borrow, buy, care for, collect, compromise claims, contract with respect to, continue any business of mine, convey, convert, deal with, dispose of, enter into, exchange, hold, improve, incorporate any business of mine, invest, lease, manage, mortgage, grant and exercise options with respect to, take possession of, pledge, receive, release, repair, sell, sue for, to make distributions or divisions in cash or in kind or partly in each without regard to the income tax basis of such asset, and in general, to exercise all the powers in the management of my Estate which any individual could exercise in the management of similar property owned in his or her own right, upon such terms and conditions as to my Personal Representative may seem best, and to execute and

*3 of 7
M.M.K.
cc
R*

deliver any and all instruments and to do all acts which my Personal Representative may deem proper or necessary to carry out the purposes of this my Will, without being limited in any way by the specific grants of power made, and without the necessity of a court order.

ITEM VIII

Provision for Personal Representative to Act as Trustee for Beneficiary Under Age Twenty-One. If any share or property hereunder becomes distributable to a beneficiary who has not attained the age of Twenty-one (21) years or if any real property shall be devised to a person who has not attained the age of Twenty-one (21) years at the date of my death, then such share or property shall immediately vest in the beneficiary, but notwithstanding the provisions herein, my Personal Representative acting as Trustee shall retain possession of the share or property in trust for the beneficiary until the beneficiary attains the age of Twenty-one (21), using so much of the net income and principal of the share or property as my Personal Representative deems necessary to provide for the medical care, education, support and maintenance in reasonable comfort of the beneficiary, taking into consideration to the extent my Personal Representative deems advisable any other income or resources of the beneficiary or his or her parents known to my Personal Representative. Any income not so paid or applied shall be accumulated and added to principal. The beneficiary's share or property shall be paid over, distributed and conveyed to the beneficiary upon attaining age Twenty-one (21), or if he or she shall sooner die, to his or her personal representatives. Whenever my Personal Representative determines it appropriate to pay any money for the benefit of a beneficiary for whom a trust is created hereunder, then the amounts shall be paid out by my Personal Representative in such of the following ways as my Personal Representative deems best: (1) directly to the beneficiary; (2) to the legally appointed guardian of the beneficiary; (3) to some relative or friend for the care, support and education of the beneficiary; (4) by my Personal Representative using such amounts directly for the beneficiary's care, support and education. My Personal Representative as trustee shall have with respect to each share or property so retained all the powers and discretions conferred upon it as Personal Representative.

ITEM IX

Discretion Granted to Personal Representative in Reference to Tax Matters. My Personal Representative as the fiduciary of my estate shall have the discretion, but shall not be required when allocating receipts of my estate between income and principal, to make adjustments in the rights of any beneficiaries, or among the principal and income accounts to compensate for the consequences of any tax decision or election, or of any investment or administrative decision, that my Personal Representative believes has had the effect, directly or indirectly, of preferring one beneficiary or group of beneficiaries over others; provided, however, my Personal Representative shall not exercise its discretion in a manner which would cause the loss or reduction of the marital deduction as may be herein provided. In determining the state or federal estate and income tax liabilities of my estate, my Personal Representative shall have discretion to select the valuation date and to determine whether any or all of the allowable administration expenses in my

Last Will and Testament of Marion M. Key Page 4

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M. J.
M. Cea
PS

estate shall be used as state or federal estate tax deductions or as state or federal income tax deductions.

ITEM X

Definition of Children. For purposes of this Will, "children" means the lawful blood descendants in the first degree of the parent designated; and "issue" and "descendants" mean the lawful blood descendants in any degree of the ancestor designated; provided, however, that if a person has been adopted, that person shall be considered a child of such adopting parent and such adopted child and his or her issue shall be considered as issue of the adopting parent or parents and of anyone who is by blood or adoption an ancestor of the adopting parent or either of the adopting parents. The terms "child," "children," "issue," "descendant" and "descendants" or those terms preceded by the terms "living" or "then living" shall include the lawful blood descendant in the first degree of the parent designated even though such descendant is born after the death of such parent.

The term "per stirpes" as used herein has the identical meaning as the term "taking by representation" as defined in the South Carolina Probate Code.

ITEM XI

Definition of Words Relating to the Internal Revenue Code. As used herein, the words "gross estate," "adjusted gross estate," "taxable estate," "unified credit," "state death tax credit," "maximum marital deduction," "marital deduction," "pass," and any other word or words which from the context in which it or they are used refer to the Internal Revenue Code shall have the same meaning as such words have for the purposes of applying the Internal Revenue Code to my estate. For purposes of this Will, my "available generation-skipping transfer exemption" means the generation-skipping transfer tax exemption provided in section 2631 of the Internal Revenue Code of 1986, as amended, in effect at the time of my death reduced by the aggregate of (1) the amount, if any, of my exemption allocated to lifetime transfers of mine by me or by operation of law, and (2) the amount, if any, I have specifically allocated to other property of my gross estate for federal estate tax purposes. For purposes of this Will if at the time of my death I have made gifts with an inclusion ratio of greater than zero for which the gift tax return due date has not expired (including extensions) and I have not yet filed a return, it shall be deemed that my generation-skipping transfer exemption has been allocated to these transfers to the extent necessary (and possible) to exempt the transfer(s) from generation-skipping transfer tax. Reference to sections of the Internal Revenue Code and to the Internal Revenue Code shall refer to the Internal Revenue Code amended to the date of my death:

ITEM XII

Statement by Testatrix of Intent Not to Exercise Power of Appointment. I hereby refrain from exercising any power of appointment that I may have at the time of my death.

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M. Kay
ces
ps

ITEM XIII

Simultaneous Death Provision Presuming Beneficiary Predeceases Testatrix.
If any beneficiary and I should die under such circumstances as would make it doubtful whether the beneficiary or I died first, then it shall be conclusively presumed for the purposes of this Will that the beneficiary predeceased me.

ITEM XIV

Option to Purchase. It is my desire and I hereby direct that Charles P. Copeland be permitted to buy my interest in the real estate within eight (8) months after my death at the fair market price on the date of my death, the decision of my Personal Representative regarding the fair market price to be final.

Testimonium, Attestation and Self-Proving Affidavit. I, Marion M. Kay, the Testatrix; sign my name to this instrument this 30th day of October, 1997, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Marion M. Kay
Marion M. Kay

We, Charlene C. Stroud and Pam Simpson, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testatrix signs and executes this instrument as her last will and that she signs it willingly (or willingly directs another to sign for her), and that each of us, in the presence and hearing of the Testatrix, and in the presence of each other, hereby signs this will as witness to the Testatrix's signing, and that to the best of our knowledge the Testatrix is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Charlene C. Stroud
(Witness)
Pam Simpson
(Witness)

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M. M. K.
C.S.
P.S.

The State of South Carolina

County of Laurens

Subscribed, sworn to, and acknowledged before me by Marion M. Kay, the Testatrix, and subscribed and sworn to before me by Charlene C. Stroud and Ram Simpson, witnesses, this 30 day of October, 1997.

Ram Simpson (Seal)
Notary Public for South Carolina

My Commission Expires: 12-18-2005

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M. M. Kay
ccs
RS

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF LAURENS
IN THE PROBATE COURT

JUDGMENT IN A CIVIL CASE

CASE NO.: 2007ES3000208

IN THE MATTER OF
THE ESTATE OF MARION M. KAY

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED. (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other -
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other -
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other
 NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:

- See attached order. (Formal order to follow)
- Statement of Judgment by the Court:

Dated at Laurens, South Carolina, this 24th day of May, 2011.

Donald B. Hocker
PRESIDING JUDGE

This judgment was entered on the 24th day of May, 2011, and a copy mailed first class this 24th day of May, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

John R. Ferguson, Esquire

Daryl G. Hawkins, Esquire

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Betty W. Hocker
Clerk of Court

COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF LAURENS)

IN THE PROBATE COURT

Case No. 2007-ES-30-0208

IN THE MATTER OF MARION M. KAY



FINAL ORDER

This matter came before me on February 21 and 22, 2011 to consider Personal Representative Edward D. Sullivan's Petition for Settlement of the estate and related issues. Those related issues include determining PR commissions and costs, the parties' requests for attorney fees, the consideration of an offset pursuant to S.C. Code § 62-3-903, PR expenses pursuant to S.C. Code § 62-3-715(16) and (19), requested commissions for an unknown amount of PR work preparing tax returns and closing the estate, the treatment of exhibits marked for identification and a Motion to Remove the Personal Representative. Heirs Mary M. Moses and Martha M. Brown (hereinafter the Defendants) oppose the relief sought by the PR.

The Personal Representative has requested approval of the following:

- a) \$ 93,775.00 total commissions already paid;
- b) \$ 13,447.05 additional commissions not yet paid;
- c) \$ 12,195.93 paid to Collins and Lacey for attorney's fees and costs;
- d) \$ 5,000.00 paid to Paul Major for an appraisal;
- e) \$ 1,303.65 paid to Collins and Lacey for additional attorney fees and costs;
- f) \$ 750.00 paid to Wilson Forestry for consultant work;
- g) \$ 7,714.57 billed by Collins and Lacey for attorney's fees and costs but not yet paid;
- h) \$ 4,592.23 billed by Collins and Lacey for attorney's fees and costs but not yet paid;

- I) \$ 13,447.05 to Daryl Hawkins for attorney's fees and costs;
- j) \$ 1,695.00 for expert fees to Major and Co.;
- k) \$ 350.00 for expert fees to Wilson Forestry;
- l) \$ 285.00 court reporting fees to Shorb Court Reporting;
- m) \$ 875.00 court reporting fees to Garber Court Reporting.

Together these fees and costs total \$ 157,179.00; and the PR is claiming an additional unspecified amount for preparation of tax returns and closing the estate. Of this amount, only \$ 7,714.57 (5% of the total) related to litigation outside of litigation costs in connection with approval of all of these fees and expenses in the current action.

I make the following findings of fact:

1. The twin flaws in the PR's position are his failure to provide adequate proof for the hours he claims and his failure to prove a necessity for most of the hours he claims.

2. The PR unnecessarily complicated the Estate by insisting on filing a partition action. This was a fairly basic estate which could have been easily, quickly and cheaply settled by a deed of distribution. This would also have been in conformity with the Testatrix's Will.

3. The PR unnecessarily complicated the Estate by converting an eight month option to purchase the Estate's one half interest in its real estate into an indefinite right to purchase and by giving the option holder the right to buy only a portion of the property contrary to the Will.

4. There was no necessity for a sale of the real estate. The Court understands that a sale of real property generates proceeds.

5. The Court does not understand why the PR began charging the

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DBA

Estate before the Testatrix died on May 3, 2007 and before he was appointed PR on May 16, 2007.

6. The PR did an excellent job in securing the sales price for the real estate, but this does not justify the commission sought.

7. Although the PR argued the existence of novel issues regarding the real estate, I do not find any.

8. The PR failed to provide any legitimate basis for the fees he claimed and instead testified that he had no method or formula for determining the amount for the four draws he gave himself other than by pulling a figure out of the air. Although the PR in Memorandum argued that he had 468.6 hours of time as PR, the proof he provided failed to support this.

9. No explanation was offered to explain or excuse the PR's failure to provide interim accountings until the latter part of 2010 when the final accounting was in the offing, about three and a half years after the estate was opened.

10. The Supplemental Inventory reflects an Estate value, including real estate, of \$ 513,491.00; however, the addition of the personal property value of \$ 122,491.00, real estate proceeds of \$ 365,012.00 and additional income to the Estate of \$ 24,682.47 produces a total Estate value of \$ 512,185.47.

11. The PR's total draws to date equal 18.3% of the estate value. Adding the additional request of \$ 13,447.05 would boost the PR's share to 21.0% of the estate, and this percentage would go even higher if additional compensation were allowed for preparation of tax returns and closing of the estate. By contrast, the

#3
DMS

statutory rate of 5% would produce a commission of \$ 25,650; and a 10% commission would be \$ 51,300.

12. The claimed \$ 157,179.00 in commissions, attorney's fees and expenses would constitute 31% of the Estate's value. Although litigation can deplete an estate, that is not the situation here. Most of the amount claimed is not related to litigation resulting from the demand for a hearing on the final accounting.

13. The commissions sought by the PR are clearly excessive, and he failed to provide the Court with an alternate proposal for valuing his services.

14. I find that a PR fee of \$ 51,300, which is about ten (10%) percent of the Estate, is reasonable. The PR had previously paid himself \$ 93,775.00 without prior court approval. The balance of the commission draws previously taken (\$ 42,475.00) must be promptly refunded to the Estate. This compromise takes into account that not all of the heirs opposed the PR's final accounting and that the PR may face difficulties in obtaining the necessary funds to make the refund. The PR is not entitled to the additional \$ 13,447.05 he has claimed.

15. Although the PR has exemplary credentials and good standing in the Bar, this in and of itself does not justify the relief requested. *Automatically DEN*

16. I do not find bad faith on the part of the PR.

17. I approve the previous payment of \$ 13,499.58 to Collins and Lacey and find that the Collins and Lacey is entitled to be paid an additional \$ 12,306.80. Although the Court questions the

necessity of 204.6 hours of paralegal time, they should be compensated for their work.

18. The PR is entitled to have the Estate pay \$ 5000 to Paul Major for an appraisal and \$ 750 to Wilson Forestry for consultant work.

19. Although Daryl G. Hawkins represented the PR well, his representation was primarily of the PR in his individual capacity seeking approval of the PR's commissions and expenses. I therefore do not find that the Estate should pay Mr. Hawkins or the trial expenses for his three experts, Major, Wilson and Massey.

20. There were three exhibits marked for identification (Plaintiff's L and Defendants' 4 and 14). All of these shall come into evidence and be made part of the record.

21. Defendants have sought attorney's fees for their attorney, John R. Ferguson; and I find that this is warranted. Mr. Ferguson has been in practice for more than 30 years and enjoys a high reputation. He is the author of a legal reference work. He necessarily devoted 99.3 hours to this case to date (all of which appears related to the merits of the matter) and the usual compensation rate in such situations is \$ 200 per hour. Through his efforts the Estate has benefitted substantially. Having considered all the *Glasscock* factors, I therefore find that he is entitled to be paid \$ 19,860.00 as his fee from the Estate.

I make the following conclusions of law:

1. Inasmuch as the Testatrix was a resident of Laurens County, jurisdiction and venue are properly with this court.

5
DBA

2. A personal representative has a duty to settle and distribute the estate in accordance with the terms of the Will and the Code as expeditiously and efficiently as is consistent with the best interests of the Estate. S.C. Code § 62-3-703.

3. A personal representative is a fiduciary and in equity and good conscience is bound to act in good faith and with due regard to the interests of the estate. *Ex Parte Wheeler v. Estate of Green*, 381 S.C. 548, 673 S.E.2d 838 (Ct. App. 2009).

4. Equity requires that all the heirs pay for the work of Defendants' attorney, because his work preserved and protected a common fund, not just for the benefit of the Defendants, but for all the heirs. *Layman v. State*, 376 S.C. 434, 452, 658 S.E.2d 320 (2008).

5. While S.C. Code § 62-3-720 allows litigation expenses, including attorney's fees for the PR, I do not find this statute to be applicable to a situation where the representation was primarily for the benefit of the PR individually and not the Estate.

6. In light of the fact that this Estate is ready to be closed, Defendants' Motion for Removal of Personal Representative is denied. If the PR is willing to finish wrapping up the Estate (including filing the necessary tax forms), he shall be entitled to an additional \$ 2500 in commissions for this. See S.C. Code § 62-3-715(16) and (19).

7. Offset pursuant to S.C. Code § 62-3-903 is denied, as the PR did not present sufficient evidence to grant this relief.

8. In light of my other rulings, I do not reach the

Defendants' contention that the PR is not entitled to enhanced compensation for legal services rendered to himself. See *Hopkins v. Hopkins*, 343 S.C. 301, 540 S.E.2d 545 (2000).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that

a) the PR is granted the right to retain \$ 51,300.00 in commissions;

b) the PR must refund to the Estate within thirty (30) days of this Order all other commissions he has taken. His request for further compensation is denied;

c) the previous payment of \$ 13,499.58 to Collins and Lacey is approved, and Collins and Lacey is entitled to an additional \$ 12,306.80 from the Estate;

d) the payment of \$ 5000.00 to Paul Major for an appraisal and the payment of \$ 750.00 to Wilson Forestry for consultant work by the Estate are approved;

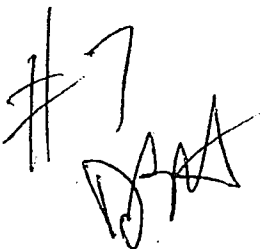
e) the Estate shall pay John R. Ferguson the sum of \$ 19,860.00 for his attorney fee pursuant to the common fund doctrine;

f) attorney fees for Daryl Hawkins are denied, and these are the responsibility of the PR and not the Estate;

g) costs pertaining to the Petition for Settlement and the expert witness fees of Major, Wilson and Massey, must be borne by the PR and not the Estate;

h) the exhibits marked for identification are admitted into evidence;

I) the Motion for Removal of the Personal Representative is

Handwritten signature and initials, possibly "DAA", with a large number "7" written above it.

denied. If Mr. Sullivan is willing to finish winding up the affairs of the Estate, he shall be entitled to an additional \$ 2500 in commissions. If he is not willing to continue, then both sides shall promptly submit the name of a possible successor who is willing to serve so that the Court may select a successor; and

k) offset pursuant to S.C. Code § 62-3-903 is denied.



DONALD B. HOCKER
Associate Judge
Laurens County Probate Court

Laurens, SC

May,
24, 2011

#8

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF LAURENS
IN THE PROBATE COURT

JUDGMENT IN A CIVIL CASE

CASE NO.: 2007ES3000208

IN THE MATTER OF
THE ESTATE OF MARION M. KAY

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.**
- ACTION DISMISSED.** (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other -
- ACTION STRICKEN** (CHECK REASON): Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other -
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
 Affirmed; Reversed; Remanded; Other
 NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:

- See attached order. (Formal order to follow)
- Statement of Judgment by the Court:

Dated at Laurens, South Carolina, this 27th day of March, 2012.

Donald B. Hocker

PRESIDING JUDGE

This judgment was entered on the 27th day of March, 2012, and a copy mailed first class this 28th day of March, 2012, to attorneys of record or to parties (when appearing pro se) as follows:

John R. Ferguson, Esquire
P.O. Box 286
Laurens, SC 29360

Daryl G. Hawkins, Esquire
P.O. Box 11906
Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

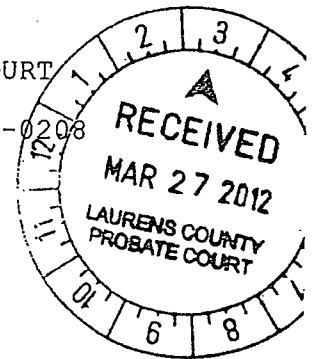
ATTORNEY(S) FOR THE DEFENDANT(S)

Betty W. Hocker

Clerk of Court

STATE OF SOUTH CAROLINA)
)
COUNTY OF LAURENS)

IN THE PROBATE COURT
CASE NO. 2007-ES-30-0208



IN THE MATTER OF MARION M. KAY

ORDER DISPOSING OF POST-TRIAL MOTIONS

This matter comes before me pursuant to the Personal Representative's Motion to Reopen the Record and Motion to Alter or Amend Judgment. He additionally sought attorney fees and a ruling concerning whether the PR had to provide to Mr. Ferguson a copy of a transcript he requested the Court to consider. By Return to the motions, counsel for Mary Moses and Martha Brown raised the additional issues of attorney fees since the merits hearing and the failure to rule on a five acre tract sought by Ms. Brown.

In addition to Daryl G. Hawkins, Esq., counsel for the PR, and John R. Ferguson, Esq., counsel for Ms. Moses and Ms. Brown, George R. McElveen III, Esq., attended the hearing as counsel for Bart Heard.

I have carefully considered the arguments of counsel and the exhibits presented at the hearing. I additionally allowed Mr. Hawkins to provide the PR's time records while at Collins and Lacy and a fee affidavit. No other evidence was considered.

I deny the Motion to Reopen the Record. I cannot find any compelling reason to reopen the record in this case to allow the time records and the Stomski Affidavit into evidence. There was no allegation that these documents were after-discovered evidence and

A handwritten signature in black ink, appearing to be "John R. Ferguson".

could not have been presented at trial.

Reopening the record now would mandate a continuation of the proceedings for cross-examination and the potential admission of new evidence. This case has already been fully litigated for a significant length of time by excellent attorneys. Both sides had a full and fair opportunity to present any existing and available evidence to the Court and are not entitled to re-litigate their cases.

Although I am unclear why the Boddifer bill for tax return preparation is in the Motion to Reconsider, I do find that it is a legitimate Estate expense which the Estate should pay. The Estate is authorized to pay this invoice out of Estate assets.

As to the court reporter bills, it appears that Shorb has been paid and that Garber has been partially paid. Both sides have benefitted and will benefit from these court reporting services, so the Estate shall pay any court reporting bills which are currently unpaid. Ms. Brown and Ms. Moses are responsible for one-half of the total, and their share is to be deducted at the closing of the Estate from their distributions. Any additional court reporting charges to date shall be paid equally from each side. Mr. Hawkins will provide Mr. Ferguson with a copy of the transcript, and the copying charges will be borne by Mr. Ferguson's clients.

I deny the Motion to Alter or Amend Judgment. The Court painstakingly reviewed the entire record in making its original decision and has once again reviewed everything. I find that there is no basis to alter or amend any provisions of the May 24, 2011


#2
DMS

Order.

Martha Brown had requested that I award her a five acre parcel which was allegedly part of a partition/land swap. Insufficient evidence was presented to grant any relief on this issue.

I deny both sides' request for attorney fees. The PR is not entitled to attorney fees because he did not prevail and his motions were primarily for his own benefit. Ms. Moses and Ms. Brown have sought an attorney fee award as well, but I find that the Common Fund Doctrine does not apply because no extra assets were generated for the Estate.

AND IT IS SO ORDERED.



DONALD B. HOCKER
Associate Probate Judge

Laurens, SC

March 27, 2012

#3

STATE OF SOUTH CAROLINA
 COUNTY OF LAURENS
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2012-CP-30-258

IN THE MATTER OF THE ESTATE OF MARION M. KAY

2013 AUG 21 A 11:04

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: LAURENS COUNTY CLERK OF COURT Attorney for Plaintiff Defendant Self-Represented Litigant

Disposition Type (Check One)

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

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: Having fully considered the evidence, argument of counsel at the hearing of July 19, 2013, and the supplemental filings submitted to the court post-hearing, the court affirms the order of the Probate Court dated March 27, 2012. All parties shall bear their own fees and costs associated with the appeal to this court. Finally, due to the fact that sufficient legal fees have been paid to counsel during this litigation, this form order shall constitute the final order in this matter.

Order Information

This order ends does not end the case.

Additional Information for the Clerk : _____

Complete if judgment requires payment of a sum of money or affects title to real or personal property			
JUDGMENT AGAINST PLAINTIFF:		JUDGMENT AGAINST DEFENDANT:	
Judgment Amount	\$ _____	Judgment Amount	\$ _____
Taxable Costs	\$ _____	Taxable Costs	\$ _____
Attorney's Fees	\$ _____	Attorney's Fees	\$ _____
Interest	\$ _____	Interest	\$ _____
Other	\$ _____	Other	\$ _____
Total Amount to be Enrolled:	\$ _____	Total Amount to be Enrolled:	\$ _____
If applicable, describe the property, including tax map information and address, referenced in the order:			

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interests

STATE OF SOUTH CAROLINA
COUNTY OF LAURENS
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2012-CP-30-258

IN THE MATTER OF THE ESTATE OF MARION M.
KAY
LYNN W. LANCASTER

PLAINTIFF(S)

2013 OCT - 1 P 2:50 DEFENDANT(S)

Submitted by:	Attorney for Plaintiff <input type="checkbox"/>
	Defendant <input type="checkbox"/>
	Self-Represented Litigant <input type="checkbox"/>

LAURENS COUNTY
CLERK OF COURT
Disposition Type (Check One)

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

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

This matter comes before the court on competing motions for reconsideration of the court's order of August 20, 2013. The court received permission from counsel to decide the issue on the briefs submitted instead of oral argument. Having considered the arguments presented, the court reaffirms its prior ruling and affirms the order of the Probate Court.

On the question of whether the award against the PR for excessive fees bears post-judgment interest, the court is hesitant to even address this question because the law appears fairly clear. An award made in an action to review compensation under Section 62-3-808(d) falls within the meaning of "[a] money decree or judgment" under 34-31-20 (Supp. 2005). The underlying suit was in the way of an action for an accounting under Section 62-3-808(d). An action for an accounting sounds in equity, and Section 34-31-20(b) applies to equitable actions. *Casey v. Casey*, 311 S.C. 243, 245, 428 S.E.2d 714, 715-16 (S.C. 1993). A party need not request post-judgment interest in the complaint, nor must a party raise the issue at trial or Rule 59 motion, because the prevailing party is entitled to post-judgment interest "as a matter of course." *Calhoun v. Calhoun*, 339 S.C. 96, 102-04, 529 S.E.2d 14, 17-19 (S.C. 2000). Interest runs from the date of the original judgment even during the pendency of an appeal. *Calhoun, supra*, 339 S.C. at 104, 529 S.E.2d at 19. A judgment debtor may stop the running of interest by paying the amount of the judgment into court during the pendency of an appeal. *Horry County v. Woodward*, 291 S.C. 1, 351 S.E.2d 877 (S.C. App. 1986). To the extent further clarification is necessary, the matter should be briefed in the appeal of this court's orders affirming the trial court.

Order Information

This order ends does not end the case.

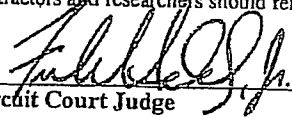
Additional Information for the Clerk :

Complete if judgment requires payment of a sum of money or affects title to real or personal property.	
JUDGMENT AGAINST PLAINTIFF:	JUDGMENT AGAINST DEFENDANT:

Judgment Amount	\$ _____	Judgment Amount	\$ _____
Taxable Costs	\$ _____	Taxable Costs	\$ _____
Attorney's Fees	\$ _____	Attorney's Fees	\$ _____
Interest	\$ _____	Interest	\$ _____
Other	\$ _____	Other	\$ _____
Total Amount to be Enrolled:	\$ _____	Total Amount to be Enrolled:	\$ _____

If applicable, describe the property, including tax map information and address, referenced in the order.

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interests or costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.


 _____ 2159 September 30, 2013
 Circuit Court Judge Judge Code Date

For Clerk of Court Office Use Only

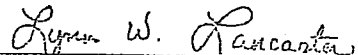
This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:
 Daryl G. Hawkins, Esq. John R. Ferguson, Esq.

 ATTORNEY(S) FOR THE PLAINTIFF(S)

 ATTORNEY(S) FOR THE DEFENDANT(S)

 CLERK OF COURT

A TRUE COPY OF ORIGINAL



 Lynn W. Lancaster
 Laurens County CCCP & CC

EXHIBIT F-1

TELEPHONE
803-451-2775

EDWARD D. SULLIVAN
ATTORNEY AT LAW
Post Office Box 11714
1331 Elmwood Avenue • Suite 305 (29201)
Columbia, South Carolina 29211-1714

FACSIMILE
803-451-2770

esullivan@esullivanlaw.com

April 3, 2013

VIA HAND-DELIVERY

George McElveen
2229 Bull Street
Columbia, SC 29201

RE: Estate of Marion M. Kay

Dear George:

This correspondence is to outline the material terms of my proposal to disburse the cash in the Estate.

The November 2010 Accounting reflected cash in the amount of \$315,981.82 (net of a previous distribution of \$6,000 to Mr. Heard.) The legal and accounting fees which were proposed for distribution and subsequently approved by the court totaled \$13,306.80. Accordingly, the amount proposed for total distribution to the beneficiaries was \$308,675.02 (315,981.82 plus \$6,000.00 less \$13,306.80). Mr. Heard's interest (10%) would have been \$30,867.50 (less a \$6,000 previous advance - \$24,867.50).

As of February 2013, the estate has received \$4,815.67 in interest and other miscellaneous income since the November 2010 accountings. In addition to the distributions approved by the court, the estate has disbursed \$14,344.06. These disbursements are \$1695.96 witness fee; legal fees \$3331.00, \$2917.10 court reporter fees, additional \$400 in professional accounting fees, and a \$6000 advance to Mr. Heard. The balance in the Estate account as of February 28, 2013 is \$293,146.63

As I recall, Mr. Heard did not oppose the accounting, proposed distribution, and settlement of the Estate based on the November 2010 amounts. It is my understanding based on my conversation with you that Mr. Heard continues to be in agreement with the settlement of the Estate provided his interest is not diminished by the ongoing litigation to which he has been, and continues to be, opposed.

I am writing to propose a resolution in which Mr. Heard's interest in the Estate for distribution at this time would be equivalent of that in November 2010 (plus interest that has accrued.) In order to bring a resolution to this matter, I propose the following:

1. I will reimburse the Estate for the total of the legal fees and witness fees in the amount of \$5,026.96.

EXHIBIT F-1

2. I will pay directly to Mr. Heard \$331.71 (\$40 plus \$ 291.71 [\$40 being 10% of the \$400 accounting fees incurred by Mr. Heard in addition to the \$1000 proposed for distribution in November 2010, subsequently approved by the court, and \$291.71 being 10% of the \$2917.10 court reporter costs]).
3. I will execute and deliver a release and hold harmless agreement to Mr. Heard releasing him from any further claim against his interest in the Estate for compensation as Personal Representative, other than that previously received and reported as of November 2010, including the \$2500 contemplated by the Probate Court for completing the Estate, and from any further claim against his interest in the Estate for reimbursement for "reasonable expenses" as indicated by Ms. Kay's will, other than that previously received and reported in November 2010.
4. Mr. Heard will execute a release and hold harmless agreement releasing me from any further obligation to him directly and indirectly, by way of his interest in the Estate, arising out of the ongoing litigation or otherwise.
5. I will promptly petition the court for its approval to disburse the cash of the Estate to the beneficiaries, and will disburse when and if approved. I will also file the final tax return at my expense and wind up the Estate.

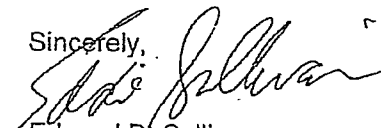
The effect of the foregoing is to put Mr. Heard's interest in the same position as it appeared in November 2010 accounting and proposal for distribution, in addition to his interest of the earnings received in the Estate since November 2010. (See analysis and reconciliation attached.)

Updated formal accountings are being finalized and will be sent out shortly. Mr. Heard's gross share of the distributable estate is estimated to be \$31,309.06. Allowing for the \$12,000 in previous advances, his net distribution is estimated to be \$19,309.06. Cliff Bodiford, CPA, has preliminarily reviewed the worksheets upon which I've based these calculations for accuracy. However, final accountings are subject to his final review.

\$ 19,349.06

If you agree in principle, please ask Mr. Heard to sign below and I'll prepare a definitive agreement and related documents. If you have any questions, please do not hesitate to call.

Sincerely,



Edward D. Sullivan
Personal Representative for
The Estate of Marion M. Kay

I agree:

Edward Bart Heard
Bart Edward Heard
Edward Bart Heard

State of Maine M. King
 Declaration of Distributable Assets - with follow-up

Prepared By	Initials	Date
Approved By		

2/28/13

	1	2	3	4	5
2013					
1	Bd @ Jul 28, 2013	293,148.63			
2	ES Reimbursements	5,026.96			
3	ADVANCES - Head	12,000.00			
4	Tot. Distributable	310,175.59			
5					
6	10% - Head Share	31,017.56			
7	Less Advances	(12,000.00)			
8	Amnt to be dist	190,175.56		190,175.56	
9				* 38,171	not available
10	2010			193,490.5	
11	Bd @ Nov 2010	315,981.80			
12	Ben Dept & Govt 7.00%	13,305.80			
13		302,676.00			
14	Add Back - Head Advance	6,000.00			
15		308,676.00			
16	Interest - Nov 10 - Oct 13	48,156.7			
17		318,490.64			
18					
19	10% Head Share	31,349.07			
20	Less Advance	(12,000.00)			
21		193,490.5			
22					
23					
24					
25	* Diff in 1000 in				
26	amt from approved				
27	in 2010 - 12,000				
28	actually paid -				
29	\$200 diff x 102.5	400			
30					
31	plus 10% of 2917.10 diff	291.71			
32		291.71			
33					
34					
35					
36					
37					
38					
39					
40					

Estate of Maria A. Key
Analysis of Distribution Assets - v/ Bellini Ltd
2/28/13

Prepared By	Initials	Date
Approved By		

1	2	3	4	5
1	Cost @ Nov 2010	365,981.82		
2	Nov 2010 Legend Dist	(133,068.80)		
3		302,675.02		
4	Interest Income - 11/10 - 2/13	68,156.77		
5	Witness Fee	(16,959.60)	16,959.60	
6	Legal Fee	(33,310.00)	33,310.00	
7	Court Reporter	(29,171.00)	50,269.60	
8	Additional Acc't g Fee	(4,000.00)		
9	Advances to Heirs	(6,000.00)		
10	Bal @ 2/28/13	293,146.63		
11				
12				
13				
14				
15	Bal @ 2/28/13	293,146.63		
16	Reimbursement from E&K	50,269.60 ←		
17	Advances to Heirs	120,000.00		
18	Total Dist Assets	310,173.59		
19				
20				
21				
22				
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39				
40				

EXHIBIT F-2

EDWARD D. SULLIVAN

ATTORNEY AT LAW

Post Office Box 11714

1331 Elmwood Avenue • Suite 305 (29201)

Columbia, South Carolina 29211-1714

esullivan@esullivanlaw.com

TELEPHONE
803-451-2775

FACSIMILE
803-451-2770

April 4, 2013

Via email marlaorias@charter.net

Ms. Marla Orias

206 Adair Place

Laurens, South Carolina 29360

RE: Estate of Marion M. Kay

Dear Marla:

This correspondence is to outline the material terms of my proposal to disburse the cash in the Estate and reach a settlement with you (and others).

The November 2010 Accounting reflected cash in the amount of \$315,981.82 (net of a previous distribution of \$6,000 to Mr. Heard). The legal and accounting fees which were proposed for distribution and subsequently approved by the court totaled \$13,306.80. Accordingly, the amount proposed for total distribution to the beneficiaries was \$308,675.02 (\$315,981.82 plus \$6,000.00 less \$13,306.80). Your interest (10%) would have been \$30,867.50.

As of February 2013, the estate has received \$4,815.67 in interest and other miscellaneous income since the November 2010 accountings. In addition to the distributions approved by the court, the estate has disbursed \$14,344.06. These disbursements are \$1,695.96 witness fee; legal fees \$3,331.00; \$2,917.10 court reporter fees; additional \$400 in professional accounting fees, and a \$6,000 advance to Mr. Heard. The balance in the Estate account as of February 28, 2013 is \$293,146.63.

I am writing to propose a resolution in which your interest in the Estate for distribution at this time would be equivalent of that in November 2010 (plus interest that has accrued). In order to bring a resolution to this matter, I propose the following:

1. I will reimburse the Estate for the total of the legal fees and witness fees in the amount of \$5,026.96.
2. I will pay directly to you \$331.71 (\$40 plus \$ 291.71 [\$40 being 10% of the \$400 accounting fees incurred by the Estate in addition to the \$1000 proposed for distribution in November 2010, subsequently approved by the court, and \$291.71 being 10% of the \$2917.10 court reporter costs]).

3. I will execute and deliver a release and hold harmless agreement to you releasing you from any further claim against its interest in the Estate for compensation as Personal Representative other than that previously received and reported as of November 2010, including the \$2500 contemplated by the Probate Court for completing the Estate, and from any further claim against its interest in the Estate for reimbursement for "reasonable expenses" as indicated by Ms. Kay's will, other than that previously received and reported in November 2010.
4. In exchange, you will execute a release, indemnity and hold harmless agreement releasing me from any further obligation to it directly and indirectly, by way of his interest in the Estate, arising out of the ongoing litigation or otherwise.
5. I will promptly petition the court for its approval to disburse the cash of the Estate to the beneficiaries, and will disburse if and when approved. I will also file the final tax returns at my expense and wind up the Estate.

The effect of the foregoing is to put your interest in the same position as it appeared in November 2010 accounting and proposal for distribution, in addition to his interest of the earnings received in the Estate since November 2010. (See analysis and reconciliation attached.)

Updated formal accountings are being finalized and will be sent out shortly. Your gross share of the distributable estate is estimated to be \$31,349.06. Cliff Bodford, CPA, has preliminarily reviewed the worksheets upon which I've based these calculations for accuracy. However, final accountings are subject to his final review.

If you agree in principle, please sign below, scan and return to esullivan@esullivanlaw.com and I'll prepare a definitive agreement and related documents. If you have any questions, please do not hesitate to call.

Sincerely,



Edward D. Sullivan
Personal Representative for
The Estate of Marion M. Kay

I agree:



Marla Orias

Date: 4/7/2013

State of Maria A. Kang
Analysis of Distribution Assets - v/ Bellini et al
 2/28/13

Prepared By	Initials	Date
Approved By		

	1	2	3	4	5
1	Cost @ Nov 2010	315,981.82			
2	Nov 2010 Proposed Dist	(113,326.89)			
3		302,654.93			
4	District Income - 11/11 - 2/13	681,567			
5	Witness Fee	(16,959.6)		16,959.6	
6	Legal fees	(3,331.00)		3,331.00	
7	Court Reporter	(2,917.10)		5,026.96	
8	Additional Acc'y fee	(4,000.00)			
9	Advances to H&A	(6,000.00)			
10	Bd @ 2/28/13	293,146.63			
11					
12					
13					
14					
15	Bd @ 2/28/13	293,146.63			
16	Reimbursement from TB	5,026.96			
17	Advances to H&A	12,000.00			
18	Total Dist Assets	310,173.59			
19					
20					
21					
22					
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Estate of Marion M. Peck
 Reconciliation of Distributable Assets - with Selling Part
 2/28/13

Prepared By	Initials	Date
Approved By		

	1	2	3	4	5
2013					
1	Bel @ Jul 28, 2013	29314663			
2	ES Reimbursement	592696			
3	ADVANCE - HANSON	1200000			
4	Total Distributable	31017359			
5					
6	10% - Marla Owen	3101736			
7					
8				5101736	
9				* 33171	not correct
10	2010			3134907	
11	Balava @ Nov 2010	31598188			
12	Ben Deal & Acct 7.00%	1370582			
13		30267502			
14	Add Back - Hanson Advances	600000			
15		30867502			
16	Interest - Nov 10 - Feb 13	481567			
17		31349069			
18					
19	10% Share to Marla Owen	3134907			
20					
21					
22					
23					
24					
25	* Diff in \$1000 in				
26	acct from approved				
27	in 2010 - 71000				
28	actually paid -				
29	\$200 diff x 10% =	4000			
30					
31	plus 10% of 291710 diff	29171			
32		33171			
33					
34					
35					
36					
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39					
40					

EXHIBIT F-3

TELEPHONE
803-451-2775

EDWARD D. SULLIVAN
ATTORNEY AT LAW
Post Office Box 11714
1331 Elmwood Avenue • Suite 305 (29201)
Columbia, South Carolina 29211-1714

FACSIMILE
803-451-2770

esullivan@esullivanlaw.com

April 3, 2013

Via email angela.smith@preshomesc.org
Presbyterian Home of South Carolina
c/o Ms. Angela Smith
2817 Ashland Road
Columbia, SC 29210

RE: Estate of Marion M. Kay

Dear Ms. Smith:

This correspondence is to outline the material terms of my proposal to disburse the cash in the Estate and reach a settlement with Presbyterian Home of South Carolina (and others).

The November 2010 Accounting reflected cash in the amount of \$315,981.82 (net of a previous distribution of \$6,000 to Mr. Heard.) The legal and accounting fees which were proposed for distribution and subsequently approved by the court totaled \$13,306.80. Accordingly, the amount proposed for total distribution to the beneficiaries was \$308,675.02 (\$315,981.82 plus \$6,000.00 less \$13,306.80). Presbyterian Home's interest (10%) would have been \$30,867.50).

As of February 2013, the estate has received \$4,815.67 in interest and other miscellaneous income since the November 2010 accountings. In addition to the distributions approved by the court, the estate has disbursed \$14,344.06. These disbursements are \$1695.96 witness fee; legal fees \$3331.00, \$2917.10 court reporter fees, additional \$400 in professional accounting fees, and a \$6000 advance to Mr. Heard. The balance in the Estate account as of February 28, 2013 is \$293,146.63

As I recall, Presbyterian Home did not oppose the accounting, proposed distribution, and settlement of the Estate based on the November 2010 amounts. It is my understanding based on my conversation with you that Presbyterian Home continues to be in agreement with the settlement of the Estate based on those amounts.

I am writing to propose a resolution in which Presbyterian Home's interest in the Estate for distribution at this time would be equivalent of that in November 2010 (plus interest that has accrued.) In order to bring a resolution to this matter, I propose the following:

1. I will reimburse the Estate for the total of the legal fees and witness fees in the amount of \$5,026.96.

EXHIBIT F-3

2. I will pay directly to Presbyterian Home \$331.71 (\$40 plus \$ 291.71 [\$40 being 10% of the \$400 accounting fees incurred by Presbyterian Home in addition to the \$1000 proposed for distribution in November 2010, subsequently approved by the court, and \$291.71 being 10% of the \$2917.10 court reporter costs]).
3. I will execute and deliver a release and hold harmless agreement to Presbyterian Home releasing it from any further claim against its interest in the Estate for compensation as Personal Representative, other than that previously received and reported as of November 2010, including the \$2500 contemplated by the Probate Court for completing the Estate, and from any further claim against its interest in the Estate for reimbursement for "reasonable expenses" as indicated by Ms. Kay's will, other than that previously received and reported in November 2010.
4. Presbyterian Home will execute a release, indemnity and hold harmless agreement releasing me from any further obligation to it directly and indirectly, by way of his interest in the Estate, arising out of the ongoing litigation or otherwise.
5. I will promptly petition the court for its approval to disburse the cash of the Estate to the beneficiaries, and will disburse when and if approved. I will also file the final tax return at my expense and wind up the Estate.

The effect of the foregoing is to put Presbyterian Home's interest in the same position as it appeared in November 2010 accounting and proposal for distribution, in addition to his interest of the earnings received in the Estate since November 2010. (See analysis and reconciliation attached.)

Updated formal accountings are being finalized and will be sent out shortly. Presbyterian Home's gross share of the distributable estate is estimated to be \$31,309.06. Cliff Bodiford, CPA, has preliminarily reviewed the worksheets upon which I've based these calculations for accuracy. However, final accountings are subject to his final review.

If you agree in principle, please sign below and I'll prepare a definitive agreement and related documents. If you have any questions, please do not hesitate to call.

Sincerely,



Edward D. Sullivan
Personal Representative for
The Estate of Marion M. Kay

April 3, 2013
Page 3 of 3

We agree:

Presbyterian Home of South Carolina

By: *Kathleen K. Kimm*
Its: *President & CEO*

Date: 04.05.13

Estate of Marvin A. Kay
 Analysis of Distributable Assets - v/bellman
 2/28/13

Prepared By	Initials	Date
Approved By		

	1	2	3	4	5
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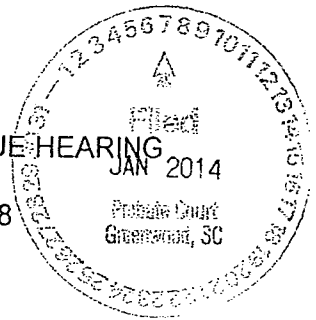
Estate of Martin M. Kay
 Description of Distributable Asset - with Selling Price
 2/28/13

Prepared By	Initials	Date
Approved By		

	1	2	3	4	5
2013					
1	Bd @ Feb 28, 2013	293,146.63			
2	ES Reimbursements	1,286.96			
3	ADVANCES - HEARD	12,000.00			
4	Total Distributable	310,173.59			
5					
6	10% - Prerogative Allowance	31,017.36			
7					
8				51,017.36	
9				33,171	not available
10	2010			313,490.7	
11	Balance @ NW 2010	315,981.80			
12	Rev. Dept & Govt 7-lev	13,305.80			
13		302,676.00			
14	Add Back - Home Advances	6,000.00			
15		308,676.00			
16	Interest - NW 20 - Feb 13	48,156.7			
17		313,490.69			
18					
19	10% Allow to Prerogative Allowance	31,349.07			
20					
21					
22					
23					
24					
25	* Diff in 1000 = in				
26	act fees approved				
27	in 2010 - 41,200				
28	Contracting cost -				
29	400 diff x 10% =	400			
30					
31	plus 10% of 291,710 diff	29,171			
32		313,471			
33					
34					
35					
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40					

STATE OF SOUTH CAROLINA)
)
COUNTY OF LAURENS)
)
IN THE MATTER OF: MARION M. KAY)

ORDER TO CONTINUE HEARING
2007-ES-30-208



This issue came before the court pursuant to a Motion to Distribute Proceeds filed by Deryl G. Hawkins, Esquire who represents Edward D. Sullivan, Esquire, the Personal Representative of the above-reference Estate. A hearing to Distribute Estate Proceeds was scheduled on the matter on Thursday, January 9, 2014 at 11:00 a.m.

Mr. Ferguson, attorney for two of the beneficiaries, wrote a letter dated December 4, 2013 to this court objecting to the hearing based on the fact that portions of the Final Order are currently on appeal in the Court of Appeals. Mr. Ferguson does not believe this Court has jurisdiction due to the appeal.

Upon review of the file, it does appear that a portion of the case is, in fact, on appeal with the South Carolina Court of Appeals. Upon learning of the appeal, this Court was hesitant to conduct the hearing to Distribute Estate Proceeds that was scheduled for Thursday, January 9, 2014 based on S. C. Code § 62-1-308 (c), which states:

Handwritten initials: JAW #

When appeal according to law is taken from any sentence or decree of the probate court, all proceedings in pursuance of the order, sentence, or decree appealed from shall cease until the judgment of the circuit court, court of appeals, or Supreme Court is had. If the appellant, in writing, waives his appeal before the entry of the judgment, proceedings may be had in the probate court as if no appeal had been taken.

This court requested a conference call with the parties on Monday, January 6, 2014 to discuss the issue of jurisdiction. Prior to the call, the court received a Brief in support of Petition to Distribute Estate Proceeds from Edward D. Sullivan, Esquire, who is the PR of the Estate of Marion Kay. No other parties submitted a brief.

A conference call was held on January 6, 2014 at 9:30 am. Present for the conference call were Mr. Sullivan (PR), his attorney Mr. Hawkins, Mr. Ferguson, and George R. McElveen, III, Esquire, who represents one beneficiary (Bart Heard).

At the outset of the conference call, Mr. Sullivan informed the court that the issues on appeal would not affect the distribution. He stated that it has been 3 ½ years and he simply wanted to go ahead and distribute the money in the Estate account, which was approximately \$299,000.00, to the beneficiaries. To support his position, he cited Ulmer vs. Ulmer, 369 SC 486, 492, 632 SE 2d 858 (2006) where the South Carolina Supreme Court held that 62-1-308(c) "does not apply to all orders of the

EXHIBIT G

probate court concerning the parties. The only proceedings required to cease are those proceedings addressed in the orders from which an appeal was taken."

However, Mr. Ferguson believes that the issue(s) before the Court of Appeals would, in fact, affect the proposed distribution and the issue(s) before this court. Specifically, the issue on appeal is whether the PR must reimburse \$42,475.00 to the Estate Account. Mr. Ferguson believes that if the Court of Appeals affirms the lower court's decision, this money may be required to be added back to the Estate Account; which would directly affect the amount of the distribution to the beneficiaries.

Mr. Sullivan simply wants to distribute the funds to the beneficiaries as soon as possible and feels this court does have jurisdiction since the only issues on appeal do not affect the proposed distribution.

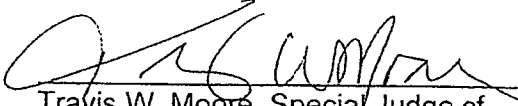
This court finds that § 62-1-308(c) is clear. It states that "all proceedingsshall cease until the judgment of the court of appeals." The statute does not have any exceptions. Mr. Sullivan relies on Ulmer, however this court does feel that the proposed distribution would be affected by the court of appeals ruling. This court finds that the issue(s) before the Court of Appeals would have a direct, or indirect, affect on the amount of distribution to the beneficiaries.

FROM
#2

Moreover, as a matter of judicial economy, this court would like to streamline any and all remaining issues into one final hearing, if possible. If the Court of Appeals remands and/or reverses any portion of the case, it is possible another hearing would be required. All parties involved would benefit by having one final hearing to resolve all the issues at one time rather than piecemealing them. According to the file, all parties have incurred substantial attorney fees and costs, so streamlining the issues into one hearing would be beneficial for everyone.

Therefore, the hearing on the Motion to Distribute Estate Proceeds shall be continued until the Court of Appeals has ruled on all issues before them.

It is so Ordered.


Travis W. Moore, Special Judge of
Probate for Laurens County

January 7, 2014

Greenwood, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF LAURENS)
)
IN THE MATTER OF: MARION M. KAY)

ORDER DENYING MOTION TO
RECONSIDER (RULE 59 MOTION)
2007-ES-30-208

This issue came before the court pursuant to a Rule 59 Motion to Reconsideration and/or to Alter or Amend Judgement filed by Deryl G. Hawkins, Esquire who represents Edward D. Sullivan, Esquire, the Personal Representative of the above-reference Estate.


This Court denies this request for the reasons outlined in the previous Order. S.C. Code § 62-1-308(c) clearly states that when a case is on appeal "all proceedings in pursuance of the Order, sentence or decree appealed from shall cease until the judgement [from the Court of Appeals] is had" (emphasis mine).

This Court hesitates to disburse any of the Estate proceeds while this case is on appeal since the Court of Appeals ruling may reverse, modify, or remand any of the issues, which would certainly affect the size of the Estate. For these reasons, the Court is bound by the statute to cease "all proceedings."

Further, this court denies the motion to Refer the case to mediation since all proceedings should "cease" according to S.C. Code § 62-1-308(c). However, the parties are free to continue discussing the case and working towards a settlement. If all parties agree to disburse a portion of the Estate prior to the ruling of the Court of Appeals, and if all parties agree that disbursement(s) won't be affected by the ruling of the Court of Appeals, this Court would entertain a Consent Order to disburse the funds. Until that time, this court will strictly adhere to the language as set forth in S.C. Code § 62-1-308(c).

It is so Ordered.

January 31, 2014
Greenwood, SC


Travis W. Moore, Special Judge of
Probate for Laurens County

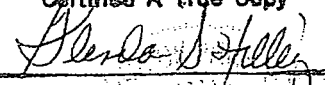
Certified A True Copy

Clerk, Probate Court
Greenwood County, S.C.

EXHIBIT H

COX, FERGUSON & WHAM, LLC

ATTORNEYS AT LAW
P.O. Box 286
LAURENS, SOUTH CAROLINA 29360-0286

W. REID COX, JR.
JOHN R. FERGUSON
ALLEN M. WHAM

PHONE: (864) 984-2126
FAX: (864) 984-7372
E-MAIL: jferg@backroads.net

December 8, 2014

Daryl G. Hawkins, Esq.
Attorney at Law
P.O. Box 11906
Columbia, SC 29211


Re: Marion M. Kay Estate

Dear Daryl:

I can report some settlement movement. My clients have learned that Bart Heard is facing some serious surgery, which will mean big medical bills. Out of compassion for him, they are willing to agree to implement the Estate disbursement he said he would accept as a final settlement of his claim. They are further aware that if they do this for Bart, they would have to do it for his sister, Marla Orias, and for Presbyterian Home, who both signed the same agreement.

Therefore, if Eddie still wants to implement the settlement agreements he has with those three heirs, we will not object. Inasmuch as Eddie has no such agreement with Lisbon Presbyterian Church, we are not agreeing to expand things to include Lisbon; so I would not want anyone to be using this letter to apply settlement pressure to the church. If Lisbon has questions about what is happening, they can contact me directly.

Sincerely,


John R. Ferguson

JRF/wp
CC: Mary M. Moses
Martha M. Brown
Lisbon Presbyterian Church

EXHIBIT I

January 5, 2015

Sullivan Law Firm, PC
Edward D. Sullivan
PO Box 11714
Columbia, SC 29211

Dear Eddie:

The session of Lisbon Presbyterian Church met on January 4, 2015 to consider your request for the session to grant its approval for a partial distribution concerning the Marion M. Kay Estate.

The session of Lisbon Presbyterian Church shares the concern of Judge Travis Moore as expressed in his Order Denying Motion To Reconsider (dated 1/31/2014) in regards to the advisability of a partial distribution prior to the pending decision of the Court of Appeals in the matter of the Marion M. Kay Estate. However, the session does not object to a partial distribution to The Presbyterian Community, Bart Heard, and Marla Orias if authorized by Judge Moore and executed in accordance with conditions outlined in the Order Denying Motion To Reconsider (Rule 59 Motion) 2007-ES-30-208 dated January 31, 2014.

A copy of the Order dated January 31, 2014 is enclosed as information.

Sincerely,



Charles S. Blackmon
Clerk of the Session
Lisbon Presbyterian Church
3771 Highway 56 South
Clinton, SC 29325

Cc: Bart Heard, c/o George R. Elveen, III Esq.
Marla Orias
Presbyterian Community of SC, c/o Kathy Ligon
Mary Moses, c/o John R. Ferguson, Esq., Cox and Ferguson
Martha Brown, c/o John R. Ferguson, Esq., Cox and Ferguson
Travis W. Moore, Special Judge of Probate for Laurens County

EXHIBIT J

STATE OF SOUTH CAROLINA)
)
COUNTY OF LAURENS)
)
IN THE MATTER OF: MARION M. KAY)

ORDER DENYING MOTION TO
RECONSIDER (RULE 59 MOTION)
2007-ES-30-208

This issue came before the court pursuant to a Rule 59 Motion to Reconsideration and/or to Alter or Amend Judgement filed by Deryl G. Hawkins, Esquire who represents Edward D. Sullivan, Esquire, the Personal Representative of the above-reference Estate.

This Court denies this request for the reasons outlined in the previous Order. S.C. Code § 62-1-308(c) clearly states that when a case is on appeal "all proceedings in pursuance of the Order, sentence or decree appealed from shall cease until the judgement [from the Court of Appeals] is had" (emphasis mine).

This Court hesitates to disburse any of the Estate proceeds while this case is on appeal since the Court of Appeals ruling may reverse, modify, or remand any of the issues, which would certainly affect the size of the Estate. For these reasons, the Court is bound by the statute to cease "all proceedings."

Further, this court denies the motion to Refer the case to mediation since all proceedings should "cease" according to S.C. Code § 62-1-308(c). However, the parties are free to continue discussing the case and working towards a settlement. If all parties agree to disburse a portion of the Estate prior to the ruling of the Court of Appeals, and if all parties agree that disbursement(s) won't be affected by the ruling of the Court of Appeals, this Court would entertain a Consent Order to disburse the funds. Until that time, this court will strictly adhere to the language as set forth in S.C. Code § 62-1-308(c).

It is so Ordered.

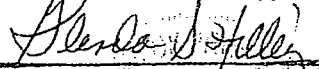
January 31, 2014

Greenwood, SC



Travis W. Moore, Special Judge of
Probate for Laurens County

Certified A True Copy



Clerk, Probate Court
Greenwood County, S.C.



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

Case Tracking No. 2013-2319

JAN 06 2015

APPEAL FROM LAURENS COUNTY SC Court of Appeals
COURT OF COMMON PLEAS

Civil Action No. 2012-CP-30-258
The Honorable Frank R. Addy, Circuit Court Judge

In the Matter of the Estate of Marion M. Kay

Edward D. Sullivan, as Personal Representative
of the Estate of Marion M. Kay Appellant-Respondent,

vs.

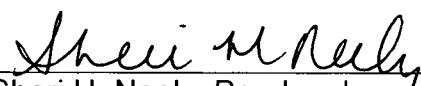
Martha Brown and Mary Moses Respondents-Appellants.

PROOF OF SERVICE

I certify that I served Appellant-Respondent's Motion to Remand for Consideration of Petition to Distribute a Portion of Estate Proceeds and Approval of Partial Settlement via U.S. Mail upon:

John R. Ferguson, Esquire
Cox Ferguson & Wham LLC
PO Box 286
Laurens, SC 29360-0286

LAW OFFICE OF DARYL G. HAWKINS, LLC



Sheri H. Neely, Paralegal

January 6, 2015

TELEPHONE
(803) 733-3531

LAW OFFICE OF
DARYL G. HAWKINS, LLC
1331 Elmwood Avenue • Suite 305 (29201)
Post Office Box 11906
Columbia, South Carolina 29211

FACSIMILE
(803) 744-1949

January 6, 2015

VIA HAND-DELIVERY

The Honorable Jenny Abbott Kitchings
The South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

RECEIVED
JAN 06 2015
SC Court of Appeals

RE: *In the Matter of the Estate of Marion M. Kay*
Edward D. Sullivan, as Personal Representative of
the Estate of Marion M. Kay, Appellant-Respondent v.
Martha Brown and Mary Moses, Respondents-Appellants
Laurens Co Circuit Court Appeals File No. 2012-CP-30-258
Laurens Co Probate Court File No. 2007-ES-30-208
SC Court of Appeals Tracking No. 2013-002319

Dear Ms. Kitchings:

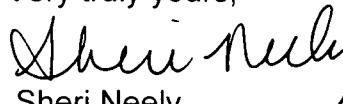
Please find enclosed for filing the original and seven (7) copies of the Appellant-Respondent's Motion to Remand for Consideration of Petition to Distribute a Portion of Estate Proceeds and Approval of Partial Settlement in the above-referenced matter.

I am also enclosing a check in the amount of \$25.00 for the required filing fee.

Please return a clocked-copy with our courier.

If you have any questions, please do not hesitate to call.

Very truly yours,



Sheri Neely
Legal Assistant

Enclosures

cc: John R. Ferguson