

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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APPEALS FROM CHARLESTON COUNTY
Court of Common Pleas

SC Court of Appeals

J.C. Nicholson, Jr., Circuit Court Judge

Appellate Case No. 2014-002020
Circuit Case No. 2011-CP-10-7819

BETTY FISHER.....Appellant

v.

BESSIE HUCKABEE.....Respondent
Betty Fisher, Appellant,

v.

Bessie Huckabee, Respondent.

Appellate Case No. 2014-002020

Appellate Case No. 2014-002020
Circuit Case No. 2011-CP-10-7821

Lisa Fisher, Appellant,

LISA FISHER.....Appellant

v.

BESSIE HUCKABEE.....Respondent
v.

Bessie Huckabee, Respondent.

// Appellate Case No. 2014-002028

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Lisa Fisher, Appellant,

v.

Appellate Case No. 2014-002034
Circuit Case No. 2011-CR-10-3657

Bessie Huckabee, Respondent.

Appellate Case No. 2014-002034 Appellant

v.

BESSIE HUCKABEE Respondent

**CONSOLIDATED RECORD ON APPEAL
VOLUME 1**

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO.: 2008-GC-10- 87

ELISABETH SPENCER,

Petitioner,

-versus-

ALICE SHAW-BAKER, an alleged
incapacitated person,

Respondent.

**ORDER FOR EMERGENCY
APPOINTMENT OF GUARDIAN**

On the basis of the above Petition for an emergency appointment of Guardian, and upon a review of the letter dated July 29, 2008 from Dr. William F. Maguire, Jr., physician for Respondent Alice Shaw-Baker, regarding the mental and medical conditions of Respondent Alice Shaw-Baker,

IT IS HEREBY ORDERED and this Court finds that venue is proper, that there is strong evidence that the allegedly incapacitated person is incapacitated, and there is a need to appoint a Guardian for Alice Shaw-Baker immediately on an emergency basis.

The Court further finds the following facts concerning the nature and degree of the incapacitated person: There is strong evidence that Respondent Alice Shaw-Baker is unable to make sound decisions about her well being. Respondent Alice Shaw-Baker's physician, William F. Maguire, Jr., issued a letter dated July 29, 2008, concerning Mrs. Shaw-Baker's well being. He expressed that Mrs. Shaw-Baker made numerous telephone calls to his office sometimes within fifteen minute of the previous telephone call. Further, Dr. Maguire stated that the

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appointment of a Guardian would be in the best interest of Respondent Alice Shaw-Baker so her health needs can be monitored.

Having considering the needs of the incapacitated person concerning her care, counsel, treatment, placement, service and supervision, the letter dated July 29, 2008 from Dr. William Maguire, Jr., the Petition of the proposed Guardian, and the scope and duration of the emergency guardianship.

IT IS ORDERED that Walter Kaufman is appointed as the Guardian of the incapacitated person on a temporary emergency basis and that the Letter of Guardianship shall be issued to the Guardian to make all necessary decisions for the incapacitated person's welfare including medical and placement decisions. Further, Walter Kaufman as the Temporary Guardian is authorized to make emergency medical decisions for Respondent Alice Shaw-Baker, an alleged incapacitated person, pending a final hearing on this matter.

IT IS FURTHER ORDERED that a hearing on these matters shall take place on

DATE:

TIME:

PLACE: Charleston County Probate Court, Commitment Division
Charleston County Judicial Center
100 Broad Street, Room 469, Charleston, SC

Execute this 4th day of August, 2008.

SKL
JUDGE OF PROBATE OF AND FOR THE
COUNTY OF CHARLESTON, STATE OF
SOUTH CAROLINA.

Charleston, South Carolina

ATTEST: A TRUE COPY

DEPUTY CLERK PROBATE COURT
CHARLESTON COUNTY, SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PROBATE COURT

IN THE MATTER OF ALICE SHAW-BAKER

CASE NUMBER 2008GC10-088

CERTIFICATE OF APPOINTMENT

This is to certify that

WALTER R. KAUFMANN, ESQUIRE and JANE ORENSTEIN

is the duly qualified

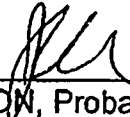
☐ PERSONAL REPRESENTATIVE
☒ TEMPORARY CO-GUARDIANS
☐ CONSERVATOR
☐ TRUSTEE

in the above matter and that this appointment, having been executed on the 14th day of August, 2008, is now in full force and effect; and that **WALTER R. KAUFMANN, ESQUIRE and JANE ORNESTEIN** is expressly empowered to consent to medical treatment of any kind, including, but not limited to diagnostic evaluations as to **ALICE SHAW-BAKER'S** medical and/or psychiatric condition; to the administration of antipsychotic or any other psychiatric medications.

RESTRICTIONS:

None.

Executed this 14th day of August, 2008.



IRVIN G. CONDON, Probate Court Judge

Do not accept a copy of this
certificate without the raised
seal of the Probate Court.
Form #141PC (7/87)
SCPC 1-305, 3-103, 5-304, 5-421, 7-201

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STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PROBATE COURT

IN THE MATTER OF ALICE SHAW-BAKER

CASE NUMBER 2008GC10-088

CERTIFICATE OF APPOINTMENT

This is to certify that

FAMILY SERVICES, INC.

is the duly qualified

— PERSONAL REPRESENTATIVE
— GUARDIAN
☒ TEMPORARY CONSERVATOR
— TRUSTEE

in the above matter and that this appointment, having been executed on the 14th day of August, 2008, is now in full force and effect; including authorization to receive all monies, income, principal, interest and dividends of and belong to said estate.

RESTRICTIONS:

Family Services, Inc., as Conservator, shall not sell or dispose of any real or personal property belonging to ALICE SHAW-BAKER, without prior Probate Court approval. THIS EXCLUDES THE FAMILY SERVICES, INC. SMITH BARNEY INVESTMENT ACCOUNT.

Executed this 18th day of August, 2008.



IRVIN G. CONDON, Probate Court Judge

Do not accept a copy of this
certificate without the raised
seal of the Probate Court.
Form #141PC (7/87)
SCPC 1-305, 3-103, 5-304, 5-421, 7-201

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO.: 2008-GC-10-088

ELISABETH SPENCER,

Petitioner,

-versus-

ALICE SHAW-BAKER, an alleged
incapacitated person, and LISA FISHER,
her next of kin,

Respondents.

ORDER

Hearing Date: September 9, 2008
Judge: Hon. Tamara Curry
Petitioner: Elisabeth Spencer
Petitioner's Attorney: C. Mac Gibson, Jr.
Respondent: Lisa Fisher
Respondent's Attorney: John Hughes Cooper and
Cain Denny
Temporary Co-Guardians: Walter Kaufman and Jane Orenstein

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This matter came before this Court on a Motion for a Temporary Restraining Order filed by Respondent Lisa Fisher and a Preliminary Injunction against Removal of Alice Shaw-Baker from her home. Such Motions were filed with this Court on or about September 4, 2008.

Respondent Lisa Fisher's Motions were heard by this Court on September 9, 2008. After hearing the testimony, the Court finds that the venue is proper and required notices were given or waived.

Based on the testimony of the witnesses and the argument of counsel, the Court makes the following findings of fact and conclusion of law:

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FINDING OF FACTS

1. That the Respondent, Alice Shaw-Baker lives alone in her home.
2. That the status of her house is questionable as to whether it is habitable and that she hoards food, clothing, and personal items.
3. That in order for her to remain in her home, it needs to be thoroughly cleaned and made habitable.
4. That Petitioner Elisabeth Spencer, of City of Charleston Elder Support, took pictures of the interior of Alice Shaw-Baker's house, and the pictures and her testimony conclusively reveal that Alice-Shaw Baker's house is not currently habitable.
5. That Alice Shaw-Baker has failed to recognize the danger of her smoking habit, and she has cigarette stains in her carpet and such smoking habit has the potential to create fire hazards in her home.
6. That due to the potential fire hazards and the livings conditions in Alice Shaw-Baker's house, the Co-Guardians, Walter Kaufman and Jane Orenstein, recommended that Alice Shaw-Baker be removed to the Savannah House, an assisted living facility at James Island, South Carolina.
7. That Alice Shaw-Baker informed Respondent Lisa Fisher that she does not wish to be removed from her home, temporarily or permanently, and Respondent Lisa Fisher contended that such removal would be detrimental to Alice Shaw-Baker's well being.

CONCLUSION OF LAW

1. The Court grants Respondent Lisa Fisher's Motion for a Temporary Restraining Order to remove Alice Shaw-Baker from her home.
2. The Court finds and concludes that Alice Shaw-Baker is in need of Temporary Co-Guardians due to her inability to protect her well being.
3. The Court finds and concludes that the appointment of Temporary Co-Guardians is necessary and desirable as a mean of providing supervision of Alice Shaw-Baker's well being.
4. The Court concludes that Respondent Lisa Fisher, a blood relative of Alice Shaw-Baker, should be appointed as a Co-Guardian with Jane Orenstein, and Walter Kaufman is to be relieved as a Co-Guardian.

5. The Court concludes that Respondent Lisa Fisher and Jane Orenstein as temporary Co-Guardians for Alice Shaw-Baker shall undertake the following duties:

- i) they shall make arrangements to have the existing carpet in Alice Shaw-Baker's house removed and replaced and to have Alice Shaw-Baker's house cleaned and organized so the house is deemed habitable. Such arrangements shall be completed within two weeks from the date of this Order, and the costs of the arrangements shall be borne by Alice Shaw-Baker's estate; and if Alice Shaw-Baker interferes or impedes with such arrangements, then the Co-Guardians shall remove Alice Shaw-Baker to an assisted living facility until a further Order from this Court;
- ii) they shall contact Family Services, Inc., the temporary Conservator, to request Family Service, Inc. to undertake an inventory and take possession of Alice Shaw-Baker's financial records that are located at her home;
- iii) they shall make arrangements for a caretaker or caretakers to supervise Alice Shaw-Baker's daily meals, hygiene, and medical needs;
- iv) they shall inform Alice Shaw-Baker that she is not permitted to smoke cigarettes inside of her house. However, she is permitted to smoke cigarettes on the porch or the exterior of her house. If any of the Co-Guardians or caretaker(s) determines that Alice Shaw-Baker is smoking or has smoked

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cigarettes inside of her house, then the Co-Guardians shall report such conduct to the Court and the Court will make a determination as to the appropriate action;

v) they shall made a good faith effort to reach an agreement on the arrangements as mandated herein, and if they are not able to reach said agreement on any of the mandated requirements, then either party shall immediately inform their respective attorneys, and the attorneys shall immediately notify this Court of such disagreement and the Court will make a determination as to the appropriate action.

The Court directs the issuance of Letters of Temporary Guardianships as

follows:

ORDER

IT IS ORDERED that Respondent Lisa Fisher's Motion for a Temporary Restraining Order to remove Alice Shaw-Baker from her home is granted; and it is further

ORDERED that Alice Shaw-Baker is in need of Temporary Co-Guardians due to her inability to protect her well being; and it is further

ORDERED that the appointment of Temporary Co-Guardians is necessary and desirable as a mean of providing supervision of Alice Shaw-Baker's well being; and it is further

ORDERED that Respondent Lisa Fisher, a blood relative of Alice Shaw-Baker, is appointed as a Co-Guardian with Jane Orenstein, and Walter Kaufman is relieved as a Co-Guardian for Alice Shaw-Baker; and it is further

ORDERED that Respondent Lisa Fisher and Jane Orenstein as Temporary Co-Guardians for Alice Shaw-Baker shall undertake the following duties:

i) they shall make arrangements to have the existing carpet in Alice Shaw-Baker's house removed and replaced and to have Alice Shaw-Baker's house cleaned and organized so the house is deemed habitable. Such arrangements shall be completed within two weeks from the date of this Order, and the costs of the arrangements shall be borne by Alice Shaw-Baker's estate; and if Alice Shaw-Baker interferes or impedes with such arrangements, then the Co-Guardians shall remove Alice Shaw-Baker to an assisted living facility until a further Order from this Court;

ii) they shall contact Family Services, Inc., the temporary Conservator, to request Family Service, Inc. to undertake an inventory and take possession of Alice Shaw-Baker's financial records that are located at her home;

iii) they shall make arrangements for a caretaker or caretakers to supervise Alice Shaw-Baker's daily meals, hygiene, and medical needs;

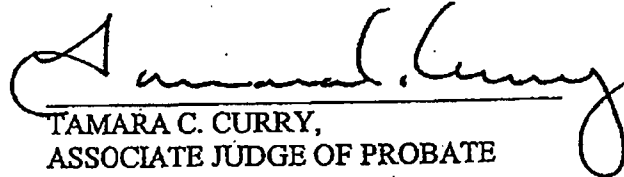
iv) they shall inform Alice Shaw-Baker that she is not permitted to smoke cigarettes inside of her house. However, she is permitted to smoke cigarettes on the porch or the exterior of her house. If any of the Co-Guardians or caretaker(s) determines that Alice Shaw-Baker is smoking or has smoked cigarettes inside of her house, then the Co-Guardians shall report such conduct to the Court and the Court will make a determination as to the appropriate action;

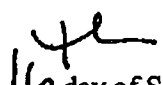
v) they shall made a good faith effort to reach an agreement on the arrangements as mandated herein, and if they are not able to reach said agreement on any of the mandated requirements, then either party shall immediately inform their respective attorneys, and the attorneys shall immediately notify this Court of such disagreement and the Court will make a determination as to the appropriate action.

ORDERED a letter of Temporary Guardianship shall be filed with the Charleston County RMC office; and it is further

ORDERED that this Order is subject to such further Orders of the Probate Court of Charleston County as may be or shall become necessary for the custody, control, conduct, and administration of the person of the said Alice-Shaw-Baker.

AND IT IS SO ORDERED.


TAMARA C. CURRY,
ASSOCIATE JUDGE OF PROBATE


This 16 day of September, 2008.
Charleston, South Carolina

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9/16/08

ATTEST: A TRUE COPY

DEPUTY CLERK PROBATE COURT
CHARLESTON COUNTY, SOUTH CAROLINA

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF CHARLESTON

OF CHARLESTON COUNTY
Case No: 2008-GC-10- 0088

ELISABETH SPENCER

Petitioner,

-versus-

ALICE SHAW-BAKER, an
alleged incapacitated person,
Respondent.**ORDER
AWARDING FEES TO
TEMPORARY CO-GUARDIANS**

The Temporary Co-Guardians in this matter, Walter R. Kaufmann, Esquire and Mrs. Jane Orenstein, have submitted for the Court's review and approval their itemized bill for services rendered to Alice Shaw-Baker between August 29, 2008, and September 9, 2008.

FINDINGS OF FACT

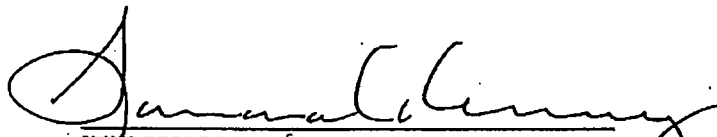
After reviewing the itemized bill, I find that the professional fees requested by the Temporary Co-Guardians, Walter R. Kaufmann, a member in good standing of the South Carolina and Charleston County Bar Associations, and who regularly appears before this Court as a Guardian and Temporary Guardian, and Mrs. Jane Orenstein, for their collective services rendered to Ms. Shaw-Baker during the dates above-referenced in the amount of \$2,571.00 are appropriate, fair, and reasonable. I find that their hourly rates of \$120.00 and \$65.00, respectively, and their collaborative rate of \$150.00, are fair and reasonable in light of their respective experience, education, and training, and that these rates are within the prevailing rates of Guardians of similar experience and training. I find that the services of the Co-Guardians have been of benefit to Ms. Shaw-Baker and the other parties in this matter.

It is therefore **ORDERED** that Ms. Shaw-Baker's Temporary Conservator, Family

RE : A. Shaw-Baker
2008-GC-10-0061

Services, Inc., pay to the Temporary Co-Guardians professional fees in the amount of \$2,571.00 (Two Thousand Five Hundred Seventy-One Dollars) for their services rendered during the dates above referenced.

SO ORDERED this the 10th day of November 2008, at Charleston, South Carolina.


THE HONORABLE TAMARA C. CURRY
ASSOCIATE JUDGE
PROBATE COURT OF CHARLESTON COUNTY

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STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF CHARLESTON

OF CHARLESTON COUNTY

Case No: 2008-GC-10- 0088

ELISABETH SPENCER

Petitioner,

-versus-

ALICE SHAW-BAKER, an
alleged incapacitated person,
Respondent.

**ORDER
AWARDING FEES TO
TEMPORARY CO-GUARDIANS**

The Temporary Co-Guardians in this matter, Walter R. Kaufmann, Esquire and Mrs. Jane Orenstein, have submitted for the Court's review and approval their itemized bill for services rendered to Alice Shaw-Baker between July 31, 2008, and August 27, 2008.

FINDINGS OF FACT

After reviewing the itemized bill, I find that the professional fees requested by the Temporary Co-Guardians, Walter R. Kaufmann, a member in good standing of the South Carolina and Charleston County Bar Associations, and who regularly appears before this Court as a Guardian and Temporary Guardian, and Mrs. Jane Orenstein, for their collective services rendered to Ms. Shaw-Baker during the dates above-referenced in the amount of \$1,747.00 are appropriate, fair, and reasonable. I find that their hourly rates of \$120.00 and \$65.00, respectively, and their collaborative rate of \$150.00, are fair and reasonable in light of their respective experience, education, and training, and that these rates are within the prevailing rates of Guardians of similar experience and training. I find that the services of the Co-Guardians have been of benefit to Ms. Shaw-Baker and the other parties in this matter.

It is therefore **ORDERED** that Ms. Shaw-Baker's Temporary Conservator, Family

Page One of Two

40

RE : A. Shaw-Baker
2008-GC-10-0061

Services, Inc., pay to the Temporary Co-Guardians professional fees in the amount of \$1,747.00 (One Thousand Seven Hundred Forty-Seven Dollars) for their services rendered during the dates above referenced.

SO ORDERED this the 10 day of November, 2008, at Charleston, South Carolina.

Irvin G. Condon
THE HONORABLE IRVIN G. CONDON, JUDGE
PROBATE COURT OF CHARLESTON COUNTY

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

ELISABETH SPENCER

Petitioner,

-versus-

ALICE SHAW-BAKER, an
alleged incapacitated person,
Respondent.

IN THE PROBATE COURT
OF CHARLESTON COUNTY

Case No: 2008-GC-10- 0088

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**ORDER
AWARDING FEES TO
TEMPORARY CO-GUARDIANS**

The Temporary Co-Guardians in this matter, Walter R. Kaufmann, Esquire and Mrs. Jane Orenstein, have submitted for the Court's review and approval their itemized bill for services rendered to Alice Shaw-Baker between July 31, 2008, and August 27, 2008.

FINDINGS OF FACT

After reviewing the itemized bill, I find that the professional fees requested by the Temporary Co-Guardians, Walter R. Kaufmann, a member in good standing of the South Carolina and Charleston County Bar Associations, and who regularly appears before this Court as a Guardian and Temporary Guardian, and Mrs. Jane Orenstein, for their collective services rendered to Ms. Shaw-Baker during the dates above-referenced in the amount of \$1,747.00 are appropriate, fair, and reasonable. I find that their hourly rates of \$120.00 and \$65.00, respectively, and their collaborative rate of \$150.00, are fair and reasonable in light of their respective experience, education, and training, and that these rates are within the prevailing rates of Guardians of similar experience and training. I find that the services of the Co-Guardians have been of benefit to Ms. Shaw-Baker and the other parties in this matter.

It is therefore **ORDERED** that Ms. Shaw-Baker's Temporary Conservator, Family

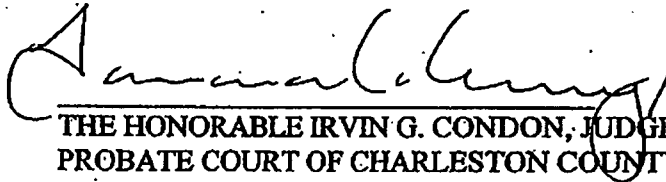
Page One of Two

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RE : A. Shaw-Baker
2008-GC-10-0061

Services, Inc., pay to the Temporary Co-Guardians professional fees in the amount of \$1,747.00 (One Thousand Seven Hundred Forty-Seven Dollars) for their services rendered during the dates above referenced.

SO ORDERED this the 10 day of November 2008, at Charleston, South Carolina.

 Assoc.
THE HONORABLE IRVIN G. CONDON, JUDGE
PROBATE COURT OF CHARLESTON COUNTY

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

2008 NOV 04 PM 11:54
IN THE PROBATE COURT
FILED PROBATE DIVISION
COMMITMENT DIVISION
CASE NO. 2008-GC-10-088

IN THE MATTER OF ALICE SHAW-BAKER

ELISABETH SPENCER,

Petitioner,

-versus-

ALICE SHAW-BAKER, an alleged incapacitated
person, et al.

Respondents.

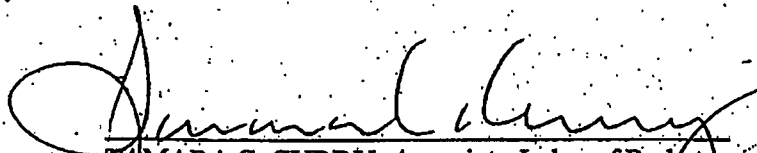
ORDER FOR ATTORNEY'S FEES
AND COSTS

Elisabeth Spencer of the City of Charleston Elder Supportline retained C. Mac Gibson, Jr. to pursue the appointment of a Guardian and Conservator for Alice Shaw-Baker, an alleged incapacitated person.

Pursuant to §62-5-414 of the South Carolina Probate Code, 1987, as amended, any visitor, lawyer, and physician is entitled to be compensated for his services in a protective proceeding from the assets of Alice Shaw-Baker. Therefore, it is

ORDERED that C. Mac Gibson, Jr. shall be entitled a sum of \$ 7,192.18, for his services and costs through October 29, 2008 for this protective proceeding in accordance with §62-5-414 of the South Carolina Probate Code, 1987, as amended, and C. Mac Gibson, Jr. shall be paid within thirty (30) days from the date of this Order.

AND IT IS SO ORDERED.


TAMARA C. CURRY, Associate Judge of Probate
of and for the County of Charleston, South Carolina

Charleston, South Carolina
November 12, 2008

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STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

ELIZABETH SPENCER)

Petitioner,)

-versus-)

ALICE SHAW-BAKER, an)

Alleged Incapacitated person)IN THE PROBATE COURT
OF CHARLESTON COUNTY
Case # 2008-GC-10-0088ORDER
AWARDING FEES TO
TEMPORARY CO-GUARDIAN
JANE ORENSTEIN

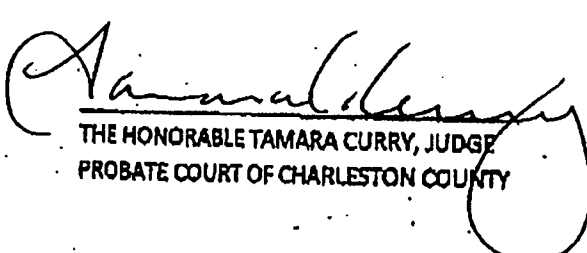
The Temporary Co-Guardian in this matter, Jane Orenstein, has submitted for the Court's review and approval her itemized bill for services rendered to Alice Shaw-Baker between Sept. 10 and Sept. 19, 2008.

FINDINGS OF FACT

After reviewing the itemized bill, I find that the professional fees requested by the temporary co-guardian, Jane Orenstein, who has appeared before this Court as a Temporary Guardian, for services rendered to Ms. Shaw-Baker during the dates above-referenced in the amount of \$2832.90 are appropriate, fair and reasonable. I find that her hourly rate of \$65 is fair and reasonable in light of her experience, and education, and that this rate is within the prevailing rate of Guardians of similar experience and training. I find that the services of Ms. Orenstein have been of benefit to Ms. Shaw-Baker and the other parties in this matter.

It is Therefore ORDERED that Ms. Shaw-Baker's Temporary Conservator, Family Services, Inc. pay to Ms. Orenstein professional fees in the amount of \$2832.90 for services rendered during the dates above referenced.

SO ORDERED this 18 day of November, 2008, at Charleston, South Carolina


THE HONORABLE TAMARA CURRY, JUDGE
PROBATE COURT OF CHARLESTON COUNTY

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO: 2008-GC-10-088

ELISABETH SPENCER,)
)
Petitioner,)

vs.)

ALICE SHAW-BAKER, an alleged)
Incapacitated person, and)
LISA FISHER, her next of kin,)

Respondents.)
_____)

ORDER APPOINTING
LISA FISHER AS GUARDIAN
AND CONSERVATOR OF
ALICE SHAW-BAKER

Hearing Date: October 29, 2008
Judge: Hon. Tamiara Curry
Petitioner: Elisabeth Spencer
Attorney for Petitioner: C. Mac Gibson, Jr.
Alleged Incapacitated Person: Alice Shaw-Baker
Guardian ad Litem: Peter A. Kouten, Esq.
Other Respondent: Lisa Fisher
Attorneys for Lisa Fisher: John Hughes Cooper, Esq.
Cain Denny, Esq.
John Townsend Cooper, Esq.
Temporary Co-Guardians: Lisa Fisher and Jane Orenstein
Temporary Conservator: Family Services, Inc.

This matter came before this Court for a hearing on appointment of Guardian and Conservator.

PROCEDURAL HISTORY

1. On July 31, 2008, Elizabeth Spencer filed Petitions for a Finding of Incapacity and for Appointment of Walter R. Kaufman, Esquire, as Guardian and for Appointment of Family Services, Inc. as Conservator.
2. On August 4, 2008 the Court appointed Walter Kaufman as Temporary Guardian.
3. After hearing on August 14, 2008 the Court appointed Walter Kaufman and Jane Orenstein as Temporary Co-Guardians and Family Services, Inc. as Conservator of Alice Shaw-Baker.

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4. On August 19, 2008, Respondents filed Petitions for appointment of Alice Shaw-Baker's great-niece, Lisa Fisher, Esquire, as both Guardian and Conservator.
5. On September 4, 2008, Lisa Fisher filed a Motion for Temporary Restraining Order and a Preliminary Injunction against Removal of Alice Shaw-Baker from her home. On September 9, 2008, this Court heard Ms. Fisher's Motions.
6. By Order issued September 16, 2008, this Court:

- a. granted Lisa Fisher's Motion for a Temporary Restraining Order against Removal of Alice Shaw-Baker from her home;
- b. appointed Lisa Fisher and Jane Orenstein as Temporary Co-Guardians; and
- c. granted a request by Mr. Kaufman to be relieved as Co-Guardian.

7. By the same Order, this Court required that within two weeks Temporary Co-Guardians Lisa Fisher and Jane Orenstein:

- a. have the carpet replaced in Ms. Shaw-Baker's house;
- b. have Ms. Shaw-Baker's house cleaned and organized;
- c. contact Family Services, Inc. to inventory and take possession of Ms. Shaw-Baker's financial records;
- d. make arrangements for caretakers to supervise Ms. Shaw-Baker's daily meals, hygiene, and medical needs;
- e. inform Ms. Shaw-Baker that she is not permitted to smoke cigarettes inside the house but is permitted to smoke cigarettes on the porch or the exterior of the house.

8. By various orders issued September 30, 2008, this Court:

- a. appointed Peter A. Kouten, Esquire, as Guardian ad Litem and as counsel for Alice Shaw-Baker;
- b. ordered that Mr. Kouten be sent as a visitor to Alice Shaw-Baker's residence;
- c. appointed L. William Mulbry, M.D. as a physician Examiner; and
- d. appointed Rebecca McCrudden, M.A., L.P.C., as an Examiner.

REPORTS

1. Alice Shaw-Baker was interviewed in her home by the following, who each issued a report:
 - a. court-appointed Examiner Leonard W. Mulbry, Jr., M.D. on October 7, 2008;
 - b. court-appointed Visitor Peter A. Kouten, Esquire, on October 8, 2006; and
 - c. court-appointed Examiner Rebecca S. McCrudden, M.A., L.P.C., on October 16, 2008.

On October 29, 2008, this Court heard the Petitions for Appointment of Guardian and Conservator. Based on the testimony of the witnesses, the reports submitted by the Examiners, the Visitor, and Ms. Shaw-Baker's physician, the Court makes the following findings of fact:

FINDINGS OF FACT

Background

1. Alice Shaw-Baker was born August 14, 1929 in San Francisco, California and is currently 79.
2. Her most closely related family members are Betty Fisher, her niece, and her great-niece, Lisa Fisher (Betty Fisher's daughter), who live in California.

Medical History

3. Ms. Shaw-Baker has diabetes, which she controls by diet.
4. She has no history of hospitalizations and only one surgery. The surgery was on her mastoid at age seven.
5. Ms. Shaw-Baker takes Boniva for her bones.
6. There is no evidence that Ms. Shaw-Baker has any history of psychiatric treatment.
7. There is no evidence that she has ever been diagnosed with depression, anxiety, or sleep disorders; however, per family members, she suffered mood deterioration after the death of her dog about a year ago.
8. She smokes approximately two packs of cigarettes a day.
9. Dr. Mulbry has diagnosed Ms. Shaw-Baker with Nicotine Dependence.

Recent Circumstances

10. Ms. Shaw-Baker resides at 306 Cassina Drive, Charleston, S.C. 29407, a single-story house which she owns with no mortgage.
11. In late December 2007, a neighbor reported that Ms. Shaw-Baker's house was becoming cluttered and unkempt.
12. She was hoarding junk mail and small items associated with Chihuahua dogs, neglecting daily hygiene, and it was not clear that she was maintaining adequate nutrition.
13. The Court intervened through this action and appointed as Temporary Co-Guardians Lisa Fisher and Jane Orenstein.

Current Circumstances

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14. Ms. Shaw-Baker's house has been de-cluttered, cleaned, and repaired.
 15. New fire-resistant carpeting has been installed and the home has been freshly painted.
 16. A fire sprinkler system and hard-wired smoke detectors have been installed in the house.
 17. A fire extinguisher is installed in the kitchen.
 18. During various visits by the Court-appointed Examiners and Visitor, Ms. Shaw-Baker presented well, was well-groomed, and was properly dressed.
 19. Currently she has around-the-clock caregivers who cook and clean.
 20. Per the Court Order in place during the cleaning and repair of her home, she has been smoking on her back porch.
 21. Ms. Shaw-Baker accepts the presence of her caregivers.
 22. Ms. Shaw-Baker desires to live at home and is very opposed to moving to assisted living.
 23. If at this time or in the future she must move into an assisted living or other facility, she would prefer to do so in California.

24. Dr. Mulbry has given Ms. Shaw-Baker the following diagnoses:

AXIS I: Cognitive impairment Not Otherwise Specified versus Early Dementia
Nicotine Dependence

AXIS II: Deferred

AXIS III: Diet controlled by Onset Diabetes Mellitus.

25. Dr. Mulbry recommends that Ms. Shaw-Baker not drive until she successfully undergoes a formal driving evaluation.

Impairment

26. Based primarily upon the report and testimony of Leonard W. Mulbry, Jr., M.D., which contain cognitive evaluations and diagnoses, the Court finds that Alice Shaw-Baker is impaired by reason of mental deficiency due to limited problems with her memory and executive functions.

27. Presently, Ms. Shaw-Baker does require routine in-home assistance, but whether she requires around-the-clock assistance is unclear. She does not require placement outside her home at this time.

28. A full neuropsychological evaluation and a full medical evaluation of Alice Shaw-Baker would be helpful in determining how much care and supervision is presently necessary.

Finances

29. An inventory and appraisal of Ms. Shaw-Baker's assets has been filed by Family Services, Inc.

30. According to the sworn testimony of Mr. Ed Jellison of Family Services, Inc., Ms. Shaw-Baker has liquid assets of \$233,000, a home with no mortgage, and total monthly income of \$2,900 per month.

Nomination

31. Ms. Shaw-Baker has the mental capacity to nominate a Guardian and a Conservator. She has nominated and consents to appointment of her grand-niece, Lisa Fisher, as her sole Guardian and Conservator.
32. Lisa Fisher, Esquire, is qualified to serve as Alice Shaw-Baker's Guardian and Conservator.

ANALYSIS

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1. This Court must exercise its authority so as to encourage the development of maximum self-reliance and independence of the incapacitated person and make appointive and other orders only to the extent necessitated by the incapacitated person's mental and adaptive limitations or other conditions warranting the procedure. S.C. Code Ann. § 62-5-304(A) (2007).
 2. Subject to a finding of good cause by the courts, persons who are not disqualified have priority for appointment as guardian in the following order: "... (1) a person nominated to serve as guardian by the incapacitated person; ... (6) another relative of the incapacitated person; ..." S.C. Code Ann. § 62-5-311 (2007).
 3. As a general rule, close relatives are preferred as guardians or conservators of incompetent persons since they are regarded as the ones most solicitous of the ward's welfare and the ones most likely to rehabilitate the ward. 39 Am. Jur. 2d Guardian and Ward § 41 (2008).
 4. In the present case, Ms. Shaw-Baker has nominated Lisa Fisher, Esquire, to serve as guardian, and Ms. Fisher is a relative of Ms. Shaw-Baker. Ms. Fisher is not disqualified to serve. For these reasons, Ms. Fisher has priority for appointment as guardian.

CONCLUSIONS OF LAW

1. "Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person or property. S.C. Code Ann. § 62-5-101(1) (2007).

2. Alice Shaw-Baker is an incapacitated person as defined by S.C. Code Ann. § 62-5-101(1) (2007) due to limited problems with her executive functions and memory.
3. Appointment of a guardian pursuant to S.C. Code Ann. § 62-5-304(B) (2007) is desirable as a means of providing continuing care and supervision of Alice Shaw-Baker.
4. At the present time, the evidence currently before the Court indicates that Ms. Shaw-Baker lacks capacity to:
- a. Dispose of real or personal property, except that she may make purchases up to \$50;
 - b. Enter into contracts;
 - c. Execute instruments;
 - d. Execute a valid power of attorney;
 - e. Manage her financial affairs;
 - f. Marry or divorce; and
 - g. Drive an automobile.

At the present time, Alice Shaw-Baker has the capacity make purchases up to \$50 and has the capacity to vote.

6. The Court grants Alice Shaw-Baker's Petitions for Appointment of her great-niece, Lisa Fisher as Guardian and Conservator.

ORDER

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Lisa Fisher, is appointed as sole Guardian and as Conservator for Alice Shaw-Baker; and it is

FURTHER ORDERED that the contents of Alice Shaw-Baker's safety deposit box at Bank of America be turned over to Temporary Conservator, Family Services, Inc. Upon receipt of the contents of said safety deposit box, Family Services shall promptly file a copy of Alice Shaw-Baker's last will and testament with this Court. Neither Alice Shaw-Baker nor anyone on her behalf may revise or revoke her will or execute a new will, unless specifically ordered by this Court; and it is

FURTHER ORDERED that Alice Shaw-Baker's Power of Attorney and Health Care Power of Attorney are hereby revoked; and it is

FURTHER ORDERED that, as soon as can be arranged, Alice Shaw-Baker shall have a full neuropsychological evaluation by Randolph Waid, Ph.D., who shall report to this Court on Alice Shaw-Baker's mental condition. This report should summarize diagnosis, treatment options, and prognosis, and should address whether or not Alice Shaw-Baker has dementia or one or more other condition(s) which may affect her cognitive function, whether or not medication may be helpful, whether or not Alice Shaw-Baker should be allowed to drive an automobile, whether or not Alice Shaw-Baker requires 24 hour daily care/supervision, whether or not less care/supervision may be sufficient. If less care/supervision may be sufficient, this report should contain a recommendation on the appropriate level of care/supervision or the proper procedure to determine same; and it is

FURTHER ORDERED that, as soon as can be arranged, Alice Shaw-Baker shall have a full medical evaluation by a medical doctor, who shall report to this Court on Alice Shaw-Baker's medical condition. This report should summarize diagnosis, treatment options, and prognosis, and should address whether or not Alice Shaw-Baker has diabetes, hypertension, elevated cholesterol, or one or more other medical condition(s) which may affect her cognitive function, whether or not medication may be helpful, whether or not her 1,200 calorie diet should be modified, whether or not Alice Shaw-Baker should be allowed to drive an automobile, the extent of Alice Shaw-Baker's limitations, whether or not Alice Shaw-Baker requires 24 hour daily care/supervision, and whether or not less care/supervision may be sufficient. If less care/supervision may be sufficient, this report should provide a recommendation on the appropriate level of care/supervision or the proper procedure to determine same; and it is

FURTHER ORDERED that upon receipt of the neuropsychological and medical reports in this matter, the Guardian shall file a copy of same with this Court and serve copies upon counsel for all parties; a status conference or hearing will be set upon receipt of the neuropsychological and medical reports in this matter; and it is

FURTHER ORDERED that until receipt of the said reports and until further order of this Court, Alice Shaw-Baker shall have 24 hour daily care/supervision in her home or in a day program; and it is

FURTHER ORDERED that Alice Shaw-Baker shall not smoke cigarettes inside her home, but she may smoke outside. In inclement weather only, Alice Shaw-Baker may smoke inside her home only in the pantry (with a cement floor) or in the kitchen (with a tile floor); and it is

FURTHER ORDERED that Temporary Conservator Family Services shall ensure that Alice Shaw-Baker's home is covered by appropriate homeowners insurance; and it is

FURTHER ORDERED that Alice Shaw-Baker shall not be removed from her home for placement elsewhere without further order of this Court; and it is

FURTHER ORDERED that the Guardian shall consult with Alice Shaw-Baker regarding her placement, medical care, and other major life decisions, but the Guardian shall have final decision making authority with regard to all such decisions; and it is

FURTHER ORDERED that Alice Shaw-Baker may make purchases up to \$50.00. Other than making purchases up to \$50.00, Alice Shaw-Baker may not sell personal or real property. Alice Shaw-Baker may not enter into contracts, execute instruments, execute powers of attorney, manage her financial affairs, marry, divorce, drive an automobile, or hold a driver's license. Alice Shaw-Baker can vote; and it is

FURTHER ORDERED that until receipt of the neuropsychological and medical reports, the Guardian ad Litem Peter A. Kouten shall visit Alice Shaw-Baker on a weekly basis and shall submit to this Court a brief written report on the condition of Alice Shaw-Baker on a monthly basis; and it is

FURTHER ORDERED that Lisa Fisher shall report the condition of Alice Shaw-Baker and her estate annually on or before the 1st of November of each year starting November 1, 2009; and it is

FURTHER ORDERED that the Conservator shall be bonded in an amount and in such form *as may be approved by the Court*. Upon approval and filing of said bond, the Conservator shall take possession and control of the financial affairs of Ms. Shaw-Baker; and it is

FURTHER ORDERED that Family Services, Inc. (and/or the Conservator upon posting a bond) shall promptly pay out of Ms. Shaw-Baker's funds all of her just debts, including, without limitation, the costs of home repair and improvements, food, clothing, living expenses, medical care, elder care, the costs of this action, reasonable fees and expenses of the Court Appointed Examiners,

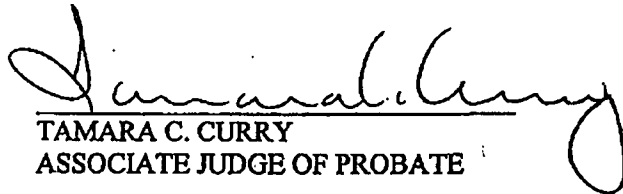
Dr. Mulbry and Ms. McCrudden, costs and premiums for the Conservator's bond, and all other reasonable expenses of the administration of Ms. Shaw-Baker's financial affairs; and it is

FURTHER ORDERED that the attorneys shall submit affidavits and proposed orders for their attorneys' fees; and it is

FURTHER ORDERED that this matter shall be set for review in six months; and it is

FURTHER ORDERED that this Order is subject to such further Orders of the Probate Court of Charleston County as may be or shall become necessary for the custody, control, conduct, and administration of the person and estate of Alice-Shaw Baker.

IT IS SO ORDERED at Charleston, South Carolina on November 19, 2008.


TAMARA C. CURRY
ASSOCIATE JUDGE OF PROBATE

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ATTEST: A TRUE COPY

DEPUTY CLERK PROBATE COURT
CHARLESTON COUNTY, SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO: 2008-GC-10-088

ELISABETH SPENCER,
Petitioner,

vs.

**ORDER APPROVING
ATTORNEYS' FEES**

ALICE SHAW-BAKER, an alleged
Incapacitated person, and
LISA FISHER, her next of kin,
Respondents.

Hearing Date: October 29, 2008
Judge: Hon. Tamara Curry
Petitioner: Elisabeth Spencer
Attorney for Petitioner: C. Mac Gibson, Jr.
Alleged Incapacitated Person: Alice Shaw-Baker
Guardian ad Litem: Peter A. Kouten, Esq.
Other Respondent: Lisa Fisher
Attorneys for Lisa Fisher: John Hughes Cooper, Esq.
Cain Denny, Esq.
John Townsend Cooper, Esq.
Temporary Co-Guardians: Lisa Fisher and Jane Orenstein
Temporary Conservator: Family Services, Inc.

On July 31, 2008, Petitioner Elizabeth Spencer filed Petitions for a Finding of Incapacity and for Appointment of Guardian and Conservator. Respondent Lisa Fisher filed competing Petitions seeking appointment. On October 29, 2008, this matter came before this Court for a hearing on appointment of Guardian and Conservator. As set forth in this Court's Order of November 19, 2008, Lisa Fisher was appointed Guardian and Conservator of Alice Shaw-Baker.

In accordance with the Court's request, Respondent Lisa Fisher, has submitted for this Court's review and approval time detail for the legal services of her attorneys in this matter and a supporting Affidavit Regarding Attorneys' Fees.

FINDINGS OF FACT

After presiding over two contested hearings in this matter, and after reviewing the Affidavit Regarding Attorneys' Fees and attached attorney time detail, I find that the legal services rendered by counsel for Ms. Fisher substantially benefited Ms. Alice Shaw-Baker. I find that these legal services were rendered both before and during the service of the Guardian Ad Litem, Mr. Kouten. I find that ~~these legal services directly resulted in Ms. Alice Shaw-Baker's remaining in her home rather than~~ being sent to an assisted living nursing facility, directly resulted in the repair and upgrading of Ms. Alice Shaw-Baker's home, directly resulted in the appointment of Ms. Alice Shaw-Baker's choice of Guardian, and directly resulted in the appointment of Ms. Alice Shaw-Baker's choice of Conservator. I find that the nature and extent of the legal services rendered by counsel for Ms. Fisher were wide ranging and involved various issues which were hotly contested by the parties. I find that the nature and extent of the services ranged from motions practice, attendance at hearings, and examination of witnesses to arranging for repair of Ms. Alice Shaw-Baker's home and arranging for care givers to allow her to stay at home. I find that the legal issues and the legal services provided were of medium difficulty. I further find that the time and labor necessarily devoted to this matter was the 266.8 attorney hours actually spent on this matter. As is often the case in hotly contested matters, the amount of legal effort necessary depends at least in part on the actions of the opposing party and willingness of the opposing party to discuss settlement. I find that the time and labor expended were necessary and reasonable. I find that John Hughes Cooper, Cain Denny, and John Townsend Cooper, who served as counsel for Ms. Fisher, are in good professional standing in this and in other Courts, and that John Hughes Cooper, who performed most of the services, is well qualified with over 27 years experience in civil litigation. I find that this is not a contingent case, but that counsel agreed to provide representation of Ms. Fisher at \$225.00 per attorney hour. I further find that counsel provided 266.8 attorney hours of legal service in this matter through October 31, 2008, but that counsel only charged \$44,530.00, a fee equivalent to \$166.90 per hour. I find that the fees customarily charged in the Charleston area for similar services would be hourly fees in the range of \$150.00 to \$250.00 per attorney hour. I find that counsel's charges equivalent to \$166.90 per attorney hour are fair and reasonable. I find that all the results obtained by her counsel were beneficial to Ms.

Fisher and to Ms. Alice Shaw-Baker. Counsel successfully challenged improper notice of an early hearing and obtained another full hearing on the issues; counsel moved for and obtained an injunction preventing Ms. Alice Shaw-Baker from being moved from her home into assisted living; counsel moved for and obtained appointment of Ms. Fisher as Co-Guardian until the October hearing; and counsel sought and obtained appointment of Ms. Fisher as Guardian and Conservator at the October hearing.

Based upon the above, I find that the reimbursement of professional fees requested by Ms. Fisher in the amount of \$44,530.00 is appropriate, fair and reasonable under the circumstances of this case and after consideration of the factors set forth above.

CONCLUSIONS OF LAW

The plain language of S.C. Code Ann. § 62-5-414 authorizes reasonable compensation to attorneys that are appointed in protective proceedings. However, counsel for Ms. Fisher were not appointed by this Court, but were privately retained.

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The Court of Appeals has ruled that a Petitioner who is never appointed Guardian or Conservator is not entitled to an award of attorneys' fees. *Dowaliby v. Chambless*, 344 S.C. 558, 544 S.E.2d 646 (Ct. App. 2001). And the converse is also true, as set forth in the *Dowaliby* opinion, "an appointed guardian may be able to recover expenses incurred prior to the formal appointment if such expenditures benefited the ward." *Dowaliby v. Chambless*, 344 S.C. 558, at 563; 544 S.E.2d 646, at 648 (Ct. App. 2001). In the instant case, Ms. Fisher was appointed as Guardian and Conservator of Ms. Alice Shaw Baker and the legal services of counsel for Ms. Fisher directly benefited Ms. Alice Shaw-Baker.

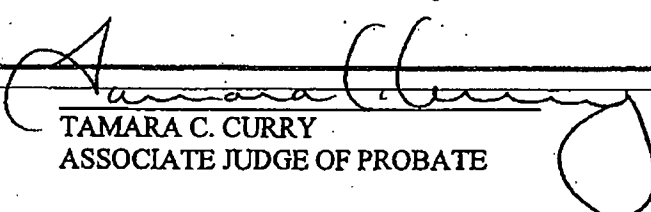
When determining reasonableness of attorneys' fees, factors to consider are: nature, extent, and difficulty of case; time necessarily devoted to case; professional standing of counsel; the contingency of compensation; the fee customarily charged in the locality for similar services; and the beneficial results obtained. *Johnson v. Johnson*, 296 S.C. 289, 372 S.E.2d 107 (Ct. App. 1988), *cert. den.*, 298 S.C. 117, 378 S.E.2d 445 (1989).

I conclude that the requested reimbursement of \$44,530.00 attorneys' fees is fair and reasonable under the circumstances of this case; wherefore, it is

HEREBY ORDERED, ADJUDGED AND DECREED that Ms. Fisher, as Conservator for Alice Shaw-Baker, shall reimburse herself \$44,530.00 for her attorneys' fees from Ms. Alice Shaw-Baker's estate.

IT IS SO ORDERED at Charleston, South Carolina on November 27, 2008.

February 27, 2009


TAMARA C. CURRY
ASSOCIATE JUDGE OF PROBATE

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FILED PROBATE CLERK S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO: 2008-GC-10-088

ELISABETH SPENCER,)
Petitioner,)
vs.)
ALICE SHAW-BAKER, an alleged)
Incapacitated person, and)
LISA FISHER, her next of kin,)
Respondents.)

**ORDER GRANTING FEES
BY COURT-APPOINTED
GUARDIAN AD LITEM FOR
ALICE SHAW-BAKER
(NOVEMBER 1 THROUGH DECEMBER 1, 2008)**

This Court, with the Honorable Judge Tamara C. Curry presiding on October 29, 2008, heard arguments regarding the Appointment of a Guardian and Conservator for Ms. Alice Shaw-Baker. Pursuant to the Guardian and Conservator Appointment Orders for Ms. Shaw-Baker, Respondent, Lisa Fisher, has assumed the duties as permanent Guardian and Conservator for Ms. Shaw-Baker.

The Court further ordered that "until receipt of the neuropsychological and medical reports, the Guardian ad Litem Peter A. Kouten shall visit Alice Shaw-Baker on a weekly basis and shall submit to this Court a brief written report on the condition of Alice Shaw-Baker on a monthly basis."

The Guardian ad litem Peter A. Kouten submits the monthly report for the time period November 1 through December 1, 2008 as Exhibit A to this report, now incorporated by reference. The Court further Ordered that the GAL submit monthly fee requests to the Court for approval.

FINDINGS OF FACT

After reviewing the Guardian *ad litem*'s itemized bill, I find that the professional fees requested by the GAL, Peter A. Kouten, Esquire, for the services rendered to Ms. Shaw-Baker and for disbursements during the above referenced dates in the amount of

Five Hundred and Eighty Five dollars and 00/100 (\$585.00) are appropriate, fair and reasonable. Mr. Kouten is a member in good standing of the South Carolina and Charleston County Bar Associations who regularly appears before this Court. I find that the GAL's hourly rate of \$150.00 in this matter is fair and reasonable in light of his experience and training, and is within the prevailing rates of attorneys and GAL's of similar experience and training. I find that his services have been of benefit to Ms. Shaw-Baker and the other parties in this matter.

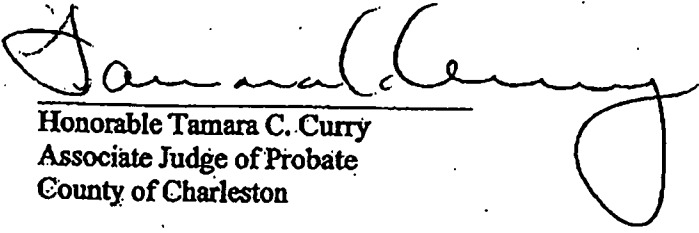
Based on the above, it is therefore

ORDERED, ADJUDGED AND DECREED that the Conservators pay to the court appointed attorney and Guardian *ad litem* professional fees in the amount of Five Hundred and Eighty Five dollars and 00/100 (\$585.00) for his services rendered and disbursements during the above referenced dates; and it is further,

ORDERED, ADJUDGED AND DECREED that Attorney Kouten submit future periodic bills for his continued services as attorney and Guardian *ad litem* for Ms. Alice Shaw-Baker, including visits and reports to the Court, until such time as this Court deems that his services are no longer necessary in reference to the case at bar.

IT IS SO ORDERED.

ju
This 5 day of December, 2008
Charleston, South Carolina


Honorable Tamara C. Curry
Associate Judge of Probate
County of Charleston

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO: 2008-GC-10-088

ELISABETH SPENCER,)
Petitioner,)
vs.)
ALICE SHAW-BAKER, an alleged)
Incapacitated person, and)
LISA FISHER, her next of kin,)
Respondents.)

**ORDER GRANTING FEES
BY COURT-APPOINTED
GUARDIAN AD LITEM FOR
ALICE SHAW-BAKER
(DECEMBER 12 - DECEMBER 29, 2008)**

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This Court, with the Honorable Judge Tamara C. Curry presiding on October 29, 2008, heard arguments regarding the Appointment of a Guardian and Conservator for Ms. Alice Shaw-Baker. Pursuant to the Guardian and Conservator Appointment Orders for Ms. Shaw-Baker, Respondent, Lisa Fisher, has assumed the duties as permanent Guardian and Conservator for Ms. Shaw-Baker.

The Court further ordered that "until receipt of the neuropsychological and medical reports, the Guardian ad Litem Peter A. Kouten shall visit Alice Shaw-Baker on a weekly basis and shall submit to this Court a brief written report on the condition of Alice Shaw-Baker on a monthly basis."

The Guardian ad litem Peter A. Kouten submits the monthly report for the time period December 1 through December 31, 2008 as Exhibit A to this report, now incorporated by reference. The Court further Ordered that the GAL submit monthly fee requests to the Court for approval.

FINDINGS OF FACT

After reviewing the Guardian *ad litem*'s itemized bill, I find that the professional fees requested by the GAL, Peter A. Kouten, Esquire, for the services rendered to Ms. Shaw-Baker and for disbursements during the above referenced dates in the amount of

Six Hundred and Ninety dollars and 00/100 (\$690.00) are appropriate, fair and reasonable. Mr. Kouten is a member in good standing of the South Carolina and Charleston County Bar Associations who regularly appears before this Court. I find that the GAL's hourly rate of \$150.00 in this matter is fair and reasonable in light of his experience and training, and is within the prevailing rates of attorneys and GAL's of similar experience and training. I find that his services have been of benefit to Ms. Shaw-Baker and the other parties in this matter.

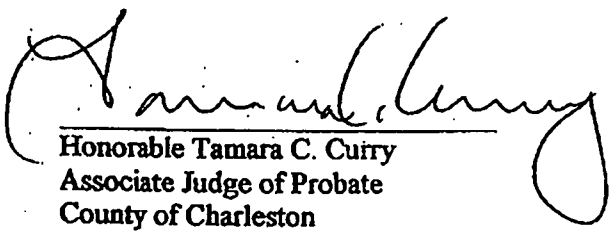
Based on the above, it is therefore

ORDERED, ADJUDGED AND DECREED that the Conservator pays to the court appointed attorney and Guardian *ad litem* professional fees in the amount of Six Hundred and Ninety dollars and 00/100 (\$690.00) for his services rendered and disbursements during the above referenced dates; and it is further,

ORDERED, ADJUDGED AND DECREED that Attorney Kouten submit future periodic bills for his continued services as attorney and Guardian *ad litem* for Ms. Alice Shaw-Baker, including visits and reports to the Court, until such time as this Court deems that his services are no longer necessary in reference to the case at bar.

IT IS SO ORDERED.

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This 8 day of January, 2009
Charleston, South Carolina


Honorable Tamara C. Curry
Associate Judge of Probate
County of Charleston

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

ELISABETH SPENCER,)

Petitioner,)

vs.)

ALICE SHAW-BAKER, an alleged)
Incapacitated person, and)
LISA FISHER, her next of kin,)

Respondents.)

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO: 2008-GC-10-088

**ORDER GRANTING FEES
BY COURT-APPOINTED
GUARDIAN AD LITEM FOR
ALICE SHAW-BAKER**

**(JANUARY 1 - FEBRUARY 25, 2009)
AND FINAL DISCHARGE OF GAL**

This Court, with the Honorable Judge Tamara C. Curry presiding on October 29, 2008, heard arguments regarding the Appointment of a Guardian and Conservator for Ms. Alice Shaw-Baker. Pursuant to the Guardian and Conservator Appointment Orders for Ms. Shaw-Baker, Respondent, Lisa Fisher, has assumed the duties as permanent Guardian and Conservator for Ms. Shaw-Baker.

The Court further ordered that "until receipt of the neuropsychological and medical reports, the Guardian ad Litem Peter A. Kouten shall visit Alice Shaw-Baker on a weekly basis and shall submit to this Court a brief written report on the condition of Alice Shaw-Baker on a monthly basis."

The Guardian ad litem Peter A. Kouten submits the monthly reports for the time periods of January and February, 2009 as Exhibit A to this report, now incorporated by reference. The Court further Ordered that the GAL submit monthly fee requests to the Court for approval.

FINDINGS OF FACT

After reviewing the Guardian *ad litem*'s itemized bill, I find that the professional fees requested by the GAL, Peter A. Kouten, Esquire, for the services rendered to Ms. Shaw-Baker and for disbursements during the above referenced dates in the amount of

Thirteen Hundred and Twenty dollars and 00/100 (\$1320.00) are appropriate, fair and reasonable. Mr. Kouten is a member in good standing of the South Carolina and Charleston County Bar Associations who regularly appears before this Court. I find that the GAL's hourly rate of \$150.00 in this matter is fair and reasonable in light of his experience and training, and is within the prevailing rates of attorneys and GAL's of

similar experience and training. I find that his services have been of benefit to Ms. Shaw-Baker and the other parties in this matter.

Further, as evidenced by Mr. Kouten's final report that Ms. Shaw-Baker has deceased on or about 3:30 p.m. on February 25, 2009, the Court finds that his discharge of service and termination of appointment is appropriate.

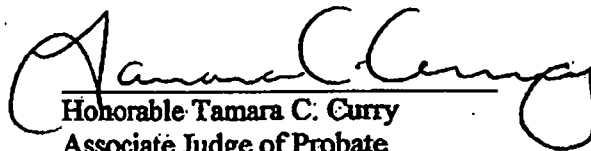
Based on the above, it is therefore

ORDERED, ADJUDGED AND DECREED that the Conservator pays to the court appointed attorney and Guardian *ad litem* professional fees in the amount of Thirteen Hundred and Twenty dollars and 00/100 (\$1320.00) for his services rendered and disbursements during the above referenced dates; and it is further,

ORDERED, ADJUDGED AND DECREED that the Court deems that Attorney Kouten's services are no longer necessary in reference to the case at bar. Attorney Kouten is hereby discharged and his GAL appointment is hereby terminated.

IT IS SO ORDERED.

This 21 day of January, 2009.
Charleston, South Carolina


Honorable Tamara C. Curry
Associate Judge of Probate
County of Charleston

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO: 2008-GC-10-088

ELISABETH SPENCER,)

Petitioner,)

vs.)

ALICE SHAW-BAKER, an alleged)
Incapacitated person, and)
LISA FISHER, her next of kin,)

Respondents.)

**ORDER GRANTING FEES
BY COURT-APPOINTED
GUARDIAN AD LITEM FOR
ALICE SHAW-BAKER
(FEBRUARY 9-28, 2009)**

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This Court, with the Honorable Judge Tamara C. Curry presiding on October 29, 2008, heard arguments regarding the Appointment of a Guardian and Conservator for Ms. Alice Shaw-Baker. Pursuant to the Guardian and Conservator Appointment Orders for Ms. Shaw-Baker, Respondent, Lisa Fisher, has assumed the duties as permanent Guardian and Conservator for Ms. Shaw-Baker.

The Court further ordered that "until receipt of the neuropsychological and medical reports, the Guardian ad Litem Peter A. Kouten shall visit Alice Shaw-Baker on a weekly basis and shall submit to this Court a brief written report on the condition of Alice Shaw-Baker on a monthly basis."

The Guardian ad litem Peter A. Kouten submits the monthly report for the time period February 9 through February 28, 2009 as Exhibit A to this report, now incorporated by reference. The Court further Ordered that the GAL submit monthly fee requests to the Court for approval.

FINDINGS OF FACT

After reviewing the Guardian *ad litem*'s itemized bill, I find that the professional fees requested by the GAL, Peter A. Kouten, Esquire, for the services rendered to Ms. Shaw-Baker and for disbursements during the above referenced dates in the amount of

Seven Hundred and thirty-five dollars and 00/100 (\$735.00) are appropriate, fair and reasonable. Mr. Kouten is a member in good standing of the South Carolina and Charleston County Bar Associations who regularly appears before this Court. I find that the GAL's hourly rate of \$150.00 in this matter is fair and reasonable in light of his ~~experience and training, and is within the prevailing rates of attorneys and GAL's of~~

similar experience and training. I find that his services have been of benefit to Ms. Shaw-Baker and the other parties in this matter.

Based on the above, it is therefore

ORDERED, ADJUDGED AND DECREED that the Conservator pays to the court appointed attorney and Guardian *ad litem* professional fees in the amount of Seven Hundred and Thirty-five dollars and 00/100 (\$735.00) for his services rendered and disbursements during the above referenced dates.

IT IS SO ORDERED.

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This 20 day of March, 2009.
Charleston, South Carolina.

Tamara C. Curry

Honorable Tamara C. Curry
Associate Judge of Probate
County of Charleston

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ORDER APPROVING ATTORNEYS' FEES

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ORDER APPROVING ATTORNEYS' FEES

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STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

ELISABETH SPENCER,)

Petitioner,)

vs.)

ALICE SHAW-BAKER, an alleged)
Incapacitated person, and)
LISA FISHER, her next of kin,)

Respondents.)

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO: 2008-GC-10-088

**ORDER TERMINATING
CONSERVATORSHIP, FILING
OF FINAL ACCOUNTING AND
RELEASE OF ESTATE ASSETS**

09 MAY 11 PM 2:46

Date of Hearing:
Presiding Judge:
Petitioner:

Petitioner's Attorney:
Respondent:
Respondent's Attorney:
Court Reporter:

May 6, 2009
Honorable Tamara C. Curry
Bessie Huckabee, as Personal
Representative
Peter A. Kouten, Esquire
Lisa Fisher
John Hughes Cooper, Esquire
Lora McDaniel, RPR
Roberts & Assoc.

This Court finds that it has jurisdiction over this matter and that venue is proper.

Petitioner has provided proof of notice to Respondent, Lisa Fisher.

FINDINGS OF FACT

On October 29, 2008, this Court appointed Lisa Fisher as Guardian and Conservator for Ms. Alice Shaw-Baker. Ms. Alice Shaw-Baker died on February 25, 2009 at Roper Hospital in Charleston County, South Carolina. Bessie Wyndham Huckabee has been appointed by this Court as Personal Representative for the Estate of Alice Shaw-Baker (2009-ES-10-0378) based on her nomination in the Last Will and Testament delivered to this Court by the Conservator. Ms. Fisher was ordered to account to this Court annually.

Further, every Conservator must account to the Court for her administration of the estate upon termination.

CONCLUSIONS OF LAW

The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. ~~*Dreher v. Dreher* 370 S.C. 75 (2006)~~ The words of the statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute's operation. *Hitachi Data Sys. Corp. v. Leatherman*, 309 S.C. 174 (1992).

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South Carolina Probate Code Section 62-5-425(c)(1) states that the Conservator, when satisfied that the disability has ceased, shall petition the court. That Petition is one for discharge. Subpart (d) of Section 425 informs the conservator, as part of her duty and under the jurisdiction of this Court, that if a protected person dies, the Conservator shall delivery the estate assets. The Court finds that, upon the death of Ms. Shaw-Baker, the conservator should have petitioned this Court for discharge. The unambiguous meaning of this statute is to terminate the authority of the Conservator and deliver the estate assets to the Personal Representative of the estate.

South Carolina Probate Code Section 62-5-430 states that any interested party may petition this Court to terminate the conservatorship. Here, Ms. Huckabee is an interested party. This Court finds that the Petitioner has properly moved this Court for an Order of Termination of Conservator, a Final Accounting by Conservator and the Release of Estate Assets. This Court finds that the conservatorship shall terminate based on the death of the ward, Alice Shaw-Baker.

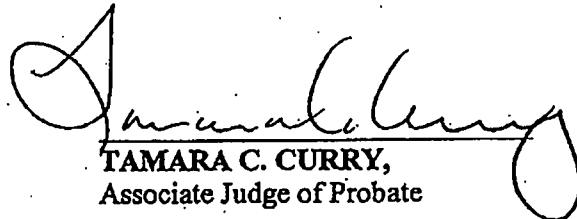
THEREFORE, based on the forgoing findings of fact and conclusions of law, it is hereby

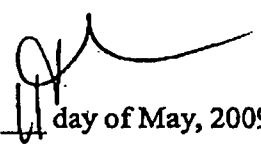
ORDERED, ADJUDGED AND DECREED that pursuant to S.C. Code Ann. §62-5-430, Conservator Lisa Fisher is discharged from her duties as Conservator; and it is further

~~ORDERED, ADJUDGED AND DECREED that Conservator Ms. Lisa Fisher~~
provide an estate accounting including the opening estate balance, account activity during her conservatorship and the closing balance of the estate within 15 days of execution of this Order. Delivery of all estate assets is not contingent upon final accounting; and it is further

ORDERED, ADJUDGED AND DECREED that Conservator Lisa Fisher turn over all estate assets in her possession within 15 days of execution of this Order to be delivered to Bessie Huckabee, as Personal Representative of the Estate.

AND IT IS SO ORDERED!


TAMARA C. CURRY,
Associate Judge of Probate

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This 11 day of May, 2009
Charleston, South Carolina

ADJUDICATED
CLERK PROBATE COURT
CHARLESTON COUNTY, SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO: 2008-GC-10-088

In the Conservatorship of)
ALICE SHAW-BAKER,)
Deceased.)
Lisa Fisher, Conservator,)
Respondent.)

**ORDER APPOINTING
SPECIAL FIDUCIARY**

HEARING DATE:
PRESIDING JUDGE:
PETITIONER:
ATTORNEY FOR PETITIONER:
RESPONDENT:
ATTORNEY FOR RESPONDENT:
COURT REPORTER:

August 17, 2011
Honorable Tamara C. Curry
Bessie Huckabee
Peter A. Kouten, Esquire
Lisa Fisher
John Hughes Cooper, Esquire
A. William Roberts and Assoc.

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This matter comes before the Court on Motion of Personal Representative for Appointment of Special Fiduciary in the Estate of Alice Shaw-Baker who died testate on February 25, 2009 in Charleston County, South Carolina. Respondent has moved this Court for Extension to turn over estate assets and has filed a Motion to Strike movant Bessie Huckabee's Motion to Appoint Special Fiduciary. Present at the hearing were Bessie Huckabee, Petitioner, and Peter A. Kouten, Esquire, Lisa Fisher, Respondent, and John Hughes Cooper, Esquire.

DISCUSSION

Decedent Alice Shaw-Baker came under the jurisdiction of this Court upon appointment of guardian and conservator on her behalf. Lisa Fisher was the court-appointed guardian and conservator. Ms. Fisher filed her Petition for Discharge to terminate the guardianship and conservatorship of Alice Shaw Baker and requested that the Court consider and approve final accounting covering the period January 1, 2009 through May 26, 2009. Lisa Fisher was discharged as the Guardian and Conservator by

Order dated May 11, 2009. Ms. Fisher has held estate assets since her discharge and was granted extensions to turn over the estate assets until "resolution of the issue of who can accept the assets of the estate." The decedent's estate is seized and possessed with real estate.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This court has jurisdiction over this matter and venue is proper. Respondent Lisa Fisher was discharged as Conservator by Order of this Court on May 11, 2009. Movant Bessie Huckabee has argued that requests for account of estate assets have been made on several occasions and these accountings had been denied. Lisa Fisher continues to object to the jurisdiction of this Court with regard to the Estate of Alice Shaw Baker, in part due to the fact that any ruling by this Court would intrude on decisions properly to be made in the Supreme Court and/or the Circuit Court. Respondent filed a final accounting on May 26, 2009. Respondent has sought and been granted extensions of time to turn over the estate and has held these estate assets in trust. Respondent has, on June 1, 2011, filed with the Court annual accountings for the estate assets for the years 2009 or 2010.

In reviewing the 2009 and 2010 accountings, it is determined that there are real property assets in the estate of decedent Alice Shaw-Baker and there are continuing requirements for upkeep and repair on this property. Further, review of the filed accountings indicate that there are needs for authority to deal with third parties with regard to this estate. Bessie Huckabee, as personal representative of the estate of decedent Alice Shaw-Baker (2009-ES-10-0378) is currently respondent to pending probate actions including action to appoint a special administrator. The Court finds an emergent need for authority as to these estate assets.

Whether or not a vacancy exists as to administration of these assets held in trust, the Court has the authority to appoint a special fiduciary. (South Carolina Probate Code 62-7-704(e))

THEREFORE, based on the forgoing, it is hereby

ORDERED, ADJUDGED AND DECREED that Respondent's motion to strike and motion for extension to turn over estate assets be **DENIED** and that a special fiduciary be appointed, and it is further

ORDERED, ADJUDGED AND DECREED that Heyward Harvey, Esquire, be appointed Special Fiduciary for the estate assets of Alice Shaw-Baker, and it is further

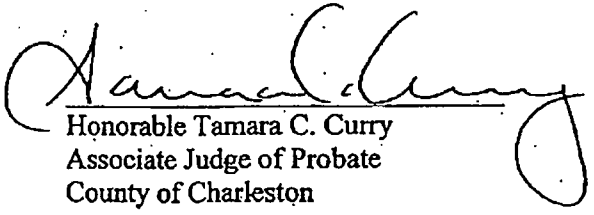
ORDERED, ADJUDGED AND DECREED that Heyward Harvey receive all assets held by Lisa Fisher within fifteen days of execution of this Order. That Mr. Harvey:

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- a. marshal all assets, review accounts and 2009 and 2010 accountings with all the powers and discretions as authorized by law with regard to same.
 - b. seek formal approval of the final accounting and 2009 and 2010 accountings with authority to amend same, if necessary, and further, seek to close the conservatorship estate.
 - c. review needs for maintenance, taxes and insurance on real property with authority as fiduciary over same.
 - d. maintain authority and control over all estate assets.
 - e. keep records of his time devoted to this file and seek approval of his fees through separate order of this Court, and it is further

ORDERED, ADJUDGED AND DECREED that Mr. Harvey's appointment shall terminate upon final determination of proper authority over administration of the estate of Alice Shaw-Baker.

IT IS SO ORDERED!

This 28 day of September, 2011
Charleston, South Carolina


Honorable Tamara C. Curry
Associate Judge of Probate
County of Charleston

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ATTEST: A TRUE COPY

DEPUTY CLERK PROBATE COURT
CHARLESTON COUNTY, SOUTH CAROLINA

STATE OF SOUTH CAROLINA)

PROBATE COURT
CASE #2008GC10-088

COUNTY OF CHARLESTON)

LISA FISHER,
Conservator.)

and)

ALICE SHAW-BAKER,
Incapacitated Person, now
Deceased.)

ORDER FREEZING ASSETS

Lisa Fisher was appointed as Conservator for Alice Shaw-Baker , an
Incapacitated adult, on November 19, 2008.

Lisa Fisher was terminated as Conservator for Alice Shaw-Baker on May 11,
2009. Alice Shaw-Baker died on February 25, 2009 and her estate was opened with
the Charleston County Probate Court, Estate File #2009ES10-0378. There is current
ongoing litigation in Alice Shaw-Baker's estate.

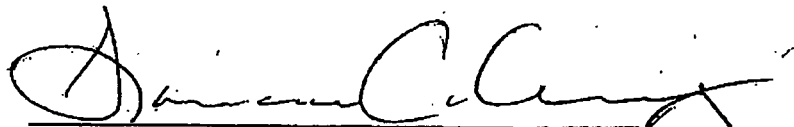
The Estate of Alice Shaw-Baker currently has funds held in an account(s) with
Wachovia under the name of Alice Shaw-Baker and/or Lisa Fisher or Alice Shaw-Baker
individually.

The Court has received information that funds are being withdrawn without
authorization from the Probate Court.

The Court has appointed J. Heyward Harvey, Jr., Esquire to serve as Special
Fiduciary and he shall be the only party who is allowed to make any transactions;
therefore,

IT IS ORDERED that the assets in any and all accounts under the name of
Alice Shaw-Baker and/or Lisa Fisher or Alice Shaw-Baker individually being held with
Wachovia shall be frozen until J. Heyward Harvey, Jr., Esquire as Special Fiduciary
takes control of the account.

AND IT IS SO ORDERED.


TAMARA C. CURRY, ASSOCIATE JUDGE OF PROBATE
OF AND FOR THE COUNTY OF CHARLESTON,
STATE OF SOUTH CAROLINA

Charleston, South Carolina
October 14, 2011

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STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

COUNTY OF CHARLESTON)

CASE NO.: 2008-GC-10-088

LISA FISCHER
Personal Representative,
Petitioner.

IN THE CONSERVATORSHIP of
ALICE SHAW-BAKER,
Deceased.

Lisa Fisher, Conservator,
Respondent.

ORDER DENYING MOTIONS FOR
RECONSIDERATION AND OPPOSITION OF
PROBATE COURT ORDER APPOINTING
SPECIAL FIDUCIARY, MOTION TO
STRIKE, AND RENEWED MOTION FOR
APPROVAL OF EXPENSES OF GUARDIAN
AND CONSERVATOR

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Here comes before the Court on Lisa Fischer's Motions for Reconsideration Of Probate Court Order dated September 28, 2011 Appointing Special Fiduciary and Motion to Strike and Opposition to Motion to Appoint Special Fiduciary, a Renewed Motion for Approval of Fees and Expenses of Guardian and Conservator and Betty Fischer's Motion to Set Aside Void Probate Court Order dated September 28, 2011 by and through their attorney, John Hughes Cooper, Esq., filed on October 7, 2011. Petitioner asks the Court to reconsider the Court's Order, dated September 28, 2011. This motion is based on the Court's order concerning the Motion to Appoint a Special Fiduciary for Conservatorship Assets filed by Bessie Huckabee dated May 20, 2011 by and through her attorney, Peter A. Kouten, Esq. in response to Lisa Fischer's Motion for Extension filed May 13, 2011, and her Motion to Strike file June 1, 2011 by and through her attorney, John Hughes Cooper, Esq. This Court's order denied the Respondents Motion to Strike and Motion for Extension to turn over assets and further ordered that a special fiduciary be appointed. The court further ordered that J. Heyward Harvey, Esq. be appointed Special Fiduciary for the estate assets of Alice Shaw-Baker and that Lisa Fischer within fifteen days turn over these said assets to Heyward Harvey, Esq.

At this time, having reviewed the Motions and the record, the Court hereby denies Respondents Motions. The probate court has jurisdiction of proceedings initiated by interested parties concerning the internal affairs over protective proceedings and guardianship proceedings (South Carolina Probate Code 62-5-102) This Court finds that Lisa Fischer's fiduciary role as Guardian and Conservator was terminated by this Court's Order dated May 11, 2009. Since Ms. Fischer's discharge she has held estate assets; has requested and been granted several extensions to perform the same, due to the ongoing litigation in the estate matter. The Court became aware at the August 17, 2011 hearing that Lisa Fischer has continued to expend funds since Alice Shaw-Baker's death from the Conservator accounts of Alice Shaw-Baker.

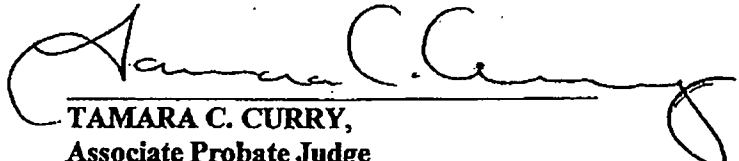
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The Court finds that Lisa Fischer has been terminated as Conservator and no longer has the authority to withdraw or pay expenses out of the estate which is being withdrawn without authorization from the Probate Court. The decedent's estate is seized with real property. On the court's own motion, to preserve the estate of Alice Shaw-Baker, this Court is freezing all money and assets in the name of Alice Shaw-Baker.

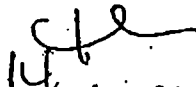
THEREFORE, IT IS ORDERED ADJUDGED AND DECREED THAT:

1. The Motion for Reconsideration of Probate Order Dated September 28, 2011 Appointing a Special Fiduciary, the Motion to Strike and Opposition to the Motion to Appoint A Special Fiduciary, the Renewed Motion for Approval of Fees and Expenses of Guardian and Conservator and the Motion to Set Aside Void Probate Court Order dated September 28, 2011 Appointing A Special Fiduciary is hereby Denied; it is further ordered
2. That Alice Shaw-Baker has funds currently in a number of banking institutions under the name of Alice-Shaw Baker Conservatorship and Lisa Fischer Conservatorship or individually. It is ordered that the assets in any and all accounts in the name of Alice Shaw-Baker Conservatorship and Lisa Fischer Conservatorship, or individually being

held with any banking institution shall be frozen until J. Heyward Harvey, Jr., Esq., as
Special Fiduciary takes control of said accounts.

AND IT IS SO ORDERED.


TAMARA C. CURRY,
Associate Probate Judge


This 14 day of October, 2011

Charleston, South Carolina

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ATTEST: A TRUE COPY

DEPUTY CLERK PROBATE COURT
CHARLESTON COUNTY, SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE PROBATE COURT

CASE NO.: 2008-GC-10-88

ELISABETH SPENCER,
Petitioner.

vs.

ALICE SHAW BAKER,
an alleged incapacitated
person, and
LISA FISHER,
her next of kin,

Respondents.

DENIAL OF MOTION TO ALTER OR AMEND
THE ORDERS FREEZING ASSETS DATED
OCTOBER 14, 2011

This matter comes before the Court on a Motion to Alter or Amend Orders Freezing Assets dated October 20, 2011, by Lisa Fischer, by and through her attorney, John Hughes Cooper, Esq. Lisa Fischer moves this Court to Alter or Amend its October 14, 2011 Order.

At this time, having reviewed the Motion and the record, the Court hereby denies Lisa Fischer's Motion to Alter or Amend Orders Freezing Assets dated October 20, 2011. The Court's position remains that Lisa Fischer's fiduciary role as Guardian and Conservator was terminated by this Court's Order dated May 11, 2009, and that Ms. Fischer withdrew monies from the Conservatorship account without having the legal fiduciary authority to do so.

THEREFORE, IT IS ORDERED ADJUDGED AND DECREED THAT:

1. The Motion to Alter or Amend the Orders Freezing Assets dated 10/20/2011 is hereby denied;
2. That any assets in the name of the Alice Shaw-Baker Conservatorship and Lisa Fischer Conservatorship or individually remain frozen;
3. That J. Heyward Harvey retains control of the assets in the name of the Alice Shaw-Baker Conservatorship and Lisa Fischer Conservatorship.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE PROBATE COURT

CASE NO.: 2008-GC-10-88

ELISABETH SPENCER,
Petitioner.

vs.

ALICE SHAW BAKER,
an alleged incapacitated
person, and
LISA FISHER,
her next of kin,

Respondents.

DENIAL OF MOTION TO ALTER OR AMEND
DENIAL OF RENEWED MOTION FOR
APPROVAL OF FEES AND EXPENSES OF
GUARDIAN AND CONSERVATOR

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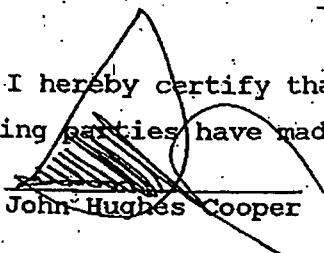
This matter comes before the Court on a Motion to Alter or Amend Denial of Renewed Motion for Approval of Fees and Expenses of Guardian and Conservator dated October 20, 2011, by Lisa Fischer, by and through her attorney, John Hughes Cooper, Esq. Lisa Fischer moves this Court to Alter or Amend its October 14, 2011 denial of her Renewed Motion for Approval of Fees and Expenses of Guardian and Conservator.

At this time, having reviewed the Motion and the record, the Court hereby denies Lisa Fischer's Motion to Alter or Amend Denial of Renewed Motion for Approval of Fees and Expenses of Guardian and Conservator dated October 20, 2011. The Court's position remains that Lisa Fischer's fiduciary role as Guardian and Conservator was terminated by this Court's Order dated May 11, 2009, and that Ms. Fischer withdrew monies from the Conservatorship account without having the legal fiduciary authority to do so. There is ongoing litigation in the Estate of Alice Shaw-Baker and the court has appointed J. Heyward Harvey, Esq. as Special Fiduciary during the pendency of the litigation to take control of all accounts in the name of Alice Shaw-Baker, and until Attorney Harvey takes control of the said accounts, no further transactions are authorized.

JP

CERTIFICATE OF SERVICE

I hereby certify that to date no opposing parties or counsel for opposing parties have made an appearance in this action.


John Hughes Cooper

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2011- CP-10-7819

Betty Fisher

PLAINTIFF(S)

Bessie Huckabee

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ 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 4(f), 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: Appellant Fisher's appeal, filed on October 25, 2011, came before this Court on July 16, 2014. Upon a review of the case, this Court affirms the probate court's order of September 28, 2011, appointing a Special Fiduciary and affirms the probate court's order of October 14, 2011, denying Fisher's Motion to Set Aside Void Probate Court Order.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

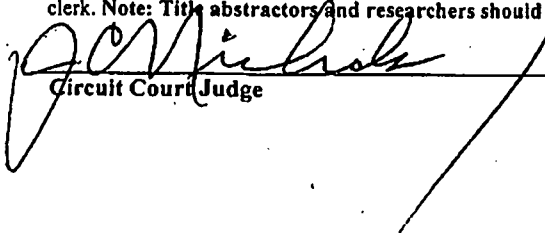
INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		\$

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 interest or additional taxable 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.


Circuit Court Judge

2117
Judge Code

8/14/14
Date

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2011- CP-10-7821

Lisa Fisher
PLAINTIFF(S)

Bessie Huckabee
DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ 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: Appellant Fisher's appeal, filed on October 25, 2011, came before this Court on July 16, 2014. Upon a review of the case, this Court affirms the probate court's order of September 28, 2011, appointing a Special Fiduciary and denying Lisa Fisher's Motion to Strike and Opposing the Motion Appointing Special Fiduciary, and affirms the probate court's order of October 14, 2011, denying Lisa Fisher's Motion for Reconsideration of the court's order of September 28, 2011. Appellant Fisher has thirty (30) days from the date of this Order to turn over estate assets to the appointed Special Fiduciary, Heyward Harvey.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

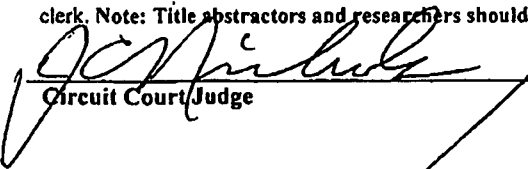
INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

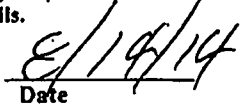
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		\$

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 interest or additional taxable 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.


Circuit Court Judge

2117
Judge Code


Date

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2011- CP-10-8657

Lisa Fisher
PLAINTIFF(S)

Bessie Huckabee
DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ 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: Appellant Fisher's appeal, filed on November 21, 2011, came before this Court on July 16, 2014. Upon a review of the case, this Court affirms the probate court's order of November 9, 2011, denying Appellant's motion to amend the probate court's order freezing the estate assets, and affirms the probate court's order of November 9, 2011, denying the Appellant's motion to amend the court's order denying the approval of fees and expenses of guardian and conservator.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

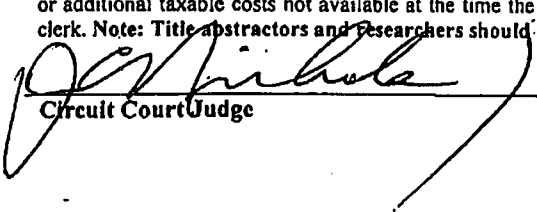
INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		\$

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 interest or additional taxable 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.


Circuit Court Judge

2117
Judge Code

8/14/14
Date

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT

PETITION FOR

CASE NUMBER: 2008-GC-10-

- ☐ PROTECTIVE ORDER
☒ APPOINTMENT OF CONSERVATOR

08 JUL 31 PM 1:56
PROBATE COURT
TDB

Applicant/Petitioner: Elisabeth Spencer

Address: City of Charleston Elder Support, 180 Lockwood Blvd., Charleston, SC 29403

Telephone: (843) 766-7180

1. Nature of interest of undersigned:
Coordinator for Elder Support

2. Information – Minor/Incapacitated Person

Name: Alice Shaw-Baker Age: 78
Date of Birth: August 14, 1929
Social Security Number: 562-32-9423
Address: 306 Cassina Road
City/State/Zip: Charleston, SC 29407
Telephone (Home): (843) 556-2475 (Office/other): _____

To my knowledge, the above-named ☒ DOES ☐ DOES NOT have a will

To my knowledge, the above-named ☒ DOES ☐ DOES NOT have a power of attorney

3. Venue for this proceeding is proper in this county because the above minor/incapacitated person:

- ☒ resides in this county
☐ does not reside in this county but has property in this county

4. The name and address of the above person's guardian, if any, is:
None

5. Information – Family (list nearest relative first) of allegedly incapacitated person, including dates of birth of minors:

Name	Date of Birth Adult	Address	Relationship
Lisa Fisher		Palm Beach, CA	great aunt
			granddaughter

(use additional sheet if necessary)

6. The following is a general statement of the property, assets and income of the above person, together with an estimate of the value thereof: (A full inventory, Form #550PC, shall be completed and filed with the Court within thirty days of appointment.)

Description	Value
Unknown	

7. The appointment of a conservator for the above person is necessary because (state reasons justifying appointment):

Mrs. Alice Shaw-Baker shows signs of being paranoid, and she is uable to make prudent decisions to protect her well being.

8. I request the appointment of:

Name: Family Services, Inc.
 Address: 4925 LaCross Road
North Charleston, SC 29406
 Telephone (O): (843) 744-1348
 Telephone (H): _____

whose priority for appointment as conservator for the above person is as follows:

- ☐ fiduciary appointed or recognized by the appropriate court of any other jurisdiction in which the protected person resides
☐ individual or corporation nominated by the protected person (if fourteen or more years of age and deemed mentally capable of making such a choice)
☐ attorney-in-fact appointed by protected person (Pursuant to S.C. Code Ann. Section 62-5-501)
☐ spouse of protected person
☐ adult child of protected person
☐ parent of protected person or person nominated by will of deceased parent
☐ other relative of protected person (specify): _____
☐ person nominated by the person who is caring for protected person or paying benefits to him/her
☐ nominated by one with priority to serve in his/her stead (specify): _____
☒ other (specify): non-profit organization that provides financial services

9. The following persons are required by statute to be given notice of the time and place of hearing on this Petition:

Name	Address	Relationship
Lisa Fisher	P.O. Box 91112, Palm Beach, CA 90809	great aunt granddaughter

10. I request that the Court set a time and place of hearing on this Petition; that the Court determine that the above person is a person for whom appointment of a conservator is proper; that the Court appoint Family Services, Inc. as the conservator for the above minor/incapacitated person; and that Letters of Conservatorship be issued to the conservator.

Executed this 31st day of July, 2008.

Signature: _____

VERIFICATION

The undersigned, being sworn, states: That the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief.

SWORN to before me this 31st day of July, 2008

Notary Public for South Carolina

My Commission Expires: Feb. 10, 2009

Signature: _____

Name: Elisabeth Spencer

Address: 180 Lockwood Blvd., City of Chas. P.D.
Charleston, SC 29403

E-mail: _____

Telephone (O): (843) 766-7180

(H): _____

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Conservator of the conservatorship of Alice Shaw-Baker.

Executed this _____ day of _____, 2008.

SWORN to before me this _____ day of _____, 2008

Notary Public for South Carolina

My Commission Expires: _____

Signature: _____

Name: _____

Address: 4925 Lacross Road
North Charleston, SC 29406

E-mail: _____

Telephone (O): (843) 744-1348

(H): _____

Signature: _____

Name: _____

Address: _____

E-mail: _____

Telephone (O): _____

(H): _____

Signature: _____

Name: _____

Address: _____

E-mail: _____

Telephone (O): _____

(H): _____

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT

PETITION FOR FINDING

CASE NUMBER: 2008-GC-10-

- ☒ INCAPACITY
☒ APPOINTMENT OF
☒ GUARDIAN
☐ SUCCESSOR GUARDIAN

TDD
PROBATE COURT
08 JUL 31 PM 1:55

Applicant/Petitioner: Elisabeth Spencer

Address: City of Charleston Elder Support, 180 Lockwood Blvd., Chas., SC 29403

Telephone: (843) 766-7180

I. ALL PETITIONERS MUST COMPLETE THIS SECTION.

1. Nature of interest of undersigned: Coordinator of the City of Charleston Elder Support

2. Information — Allegedly Incapacitated Person

Name: Alice Shaw-Baker Age: 78
Date of Birth: August 14, 1929
Address: 306 Cassina Road
City/State/Zip: Charleston, South Carolina 29407
Telephone: (843) 556-2475

To my knowledge, above named ☐ DOES ☐ DOES NOT have a health care power of attorney.

To my knowledge, above named ☐ DOES ☐ DOES NOT have a living will (Declaration of a Desire for a Natural Death.)

3. Venue for this proceeding in this county because the subject:

- ☒ resides in this county.
☐ is present in this county.
☐ is admitted to an institution pursuant to an order of a court of competent jurisdiction in this county.

4. Information—Family of allegedly incapacitated person, including dates of birth of minors. If there are no minors, so state.

Name	Date of Birth	Address	Relationship to Incapacitated Person
Lisa Fisher	Adult	Palm Beach, CA	great aunt granddaughter

(use additional sheet if necessary)

5. The nature and degree of incapacity is as follows:

Mrs. Alice Shaw-Baker is unable to make health decisions, and she shows signs of being paranoid.

II. COMPLETE THIS SECTION IF APPOINTMENT IS SOUGHT.

1. Is it your belief that the allegedly incapacitated person is in need of a guardian/successor guardian as a means of providing continuing care and supervision of the person of said incapacitated person?
☒ YES ☐ NO If no, please explain.

2. The extent to which the guardian should be permitted to give consents or approvals that may be necessary to enable the allegedly incapacitated person to receive medical or other professional care, counsel, treatment or services is as follows:
Complete control

3. The nature and extent of the care, assistance, protection, or supervision which is necessary or desirable for the allegedly incapacitated person under the circumstances is as follows:
Complete control

4. Has a guardian appointed by a Will accepted such appointment?
☒ NO ☐ YES If yes, please explain.

5. I request the appointment of:

Name: Walter R. Kaufman
Address: P.O. Box 1173
Mt. Pleasant, S.C. 29465
Telephone (O): (843) 881-2445
(H): _____
E-mail: _____

whose priority for appointment as guardian for the subject is as follows:

- ☐ a person nominated to serve as guardian by the allegedly incapacitated person
☐ an attorney-in-fact appointed by the allegedly incapacitated person pursuant to Section 62-5-501
☐ spouse of the allegedly incapacitated person
☐ adult child of the allegedly incapacitated person
☐ parent of the allegedly incapacitated person
☐ other relative of the allegedly incapacitated person (Specify): _____
☐ nominated by the person who is caring for the allegedly incapacitated person or paying benefits to him/her
☒ Other (specify) attorney as Guardian

6. Is it necessary to appoint a temporary guardian for the subject until a hearing can be held on this Petition?
☐ NO ☒ YES If yes, please state reasons.

Mrs. Shaw Baker is unable to maintain her health, and she is making constant calls to her doctor without realizing what she is doing.

III. ALL PETITIONERS MUST COMPLETE THIS SECTION.

1. ☒ I request that the Court set a time and place of hearing on this Petition and that the Court determine that the above person is incapacitated.
2. ☒ I request that the Court determine that the need for the appointment of a guardian is proper, and that the Court appoint Walter R. Kaufman as the guardian for the above person: and that Letters of Guardianship be issued to the guardian.
3. The following persons are required by statute to be given notice of the time and place of hearing on this Petition: (SCPC 5-309).

Name	Address	Relationship
Lisa Fisher	P.O. Box 91112, Palm Beach, CA	great aunt granddaughter

VERIFICATION

The undersigned, being sworn states: That the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief.

SWORN to before me this 31st day of 20 08

Notary Public for South Carolina

My Commission Expires: Feb. 10, 2009

Signature: [Signature]
 Name: Elisabeth Spencer
 Address: 180 Lockwood Blvd. City of Chas. P.D.
Charleston, SC 29403
 E-mail:
 Telephone (O): (843) 766-7180
 (H):

Attorney: C. Mac Gibson, Jr.
 Address: 764 St. Andrews Blvd.
Charleston, SC 29407
 E-mail: cmacgibson@yahoo.com
 Telephone (O): (843) 852-4646

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Guardian of the incapacitated person of Alice Shaw-Baker.

SWORN to before me this day of , 20

Notary Public for South Carolina

My Commission Expires:

Signature:
 Name: Walter R. Kaufman
 Address: P.O. Box 1173
Mt. Pleasant, SC 29465-1173
 E-mail:
 Telephone (O): (843) 881-3445
 (H):

STATE OF SOUTH CAROLINA PROBATE COURT
COUNTY OF CHARLESTON
JUL 31 PM 1:53

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO.: 2008-GC-10-88

ELISABETH SPENCER,

Petitioner,

-versus-

ALICE SHAW-BAKER, an alleged
incapacitated person,

Respondent.

**PETITION FOR EMERGENCY
APPOINTMENT OF GUARDIAN**

Petitioner Elisabeth Spencer of the City of Charleston Elder Support complaining of the Respondent Alice Shaw-Baker, an alleged incapacitated person, alleges and says as follows:

1. That Respondent Alice Shaw-Baker, an alleged incapacitated person, is a resident and citizen of the County of Charleston, South Carolina.

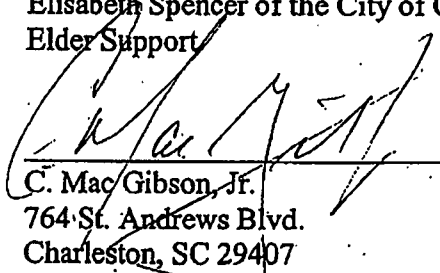
2. That on July 31, 2008, Petitioner Elisabeth Spencer of the Charleston Elder Support filed an action for an appointment of Guardian and Conservator concerning Respondent Alice Shaw-Baker, an alleged incapacitated person.

3. That Respondent Alice Shaw-Baker's physician, Dr. William F. Maguire, Jr., stated in his letter dated July 29, 2008, that Mrs. Shaw-Baker has been making numerous telephone calls to his office sometimes within fifteen minutes of the preceding phone call. Further, Dr. Maguire expressed concerns that Mrs. Shaw-Baker is exhibiting unusual behavior, and he has recommended an appointment of a "Guardian to monitor her health needs." Dr. Maguire's letter dated July 29, 2008, is attached hereto as Exhibit "1" and made a part hereof as if fully set forth verbatim.

4. That Petitioner Elisabeth Spencer of the Charleston Elder Support avers that it is in the best interest of Respondent Alice Shaw-Baker, an alleged incapacitated person, to have the Walter Kaufman appointed as the Guardian on an emergency immediate basis, due to Respondent Alice Shaw-Baker's inability to provide necessary care which includes but not limited to placement, medications, and medical decisions as recommended by her physician, Dr. William F. Maguire, Jr.

WHEREFORE, the Petitioner Elisabeth Spencer of the City of Charleston Elder Support prays that this Honorable Court issue an Order for the appointment of Walter Kaufman as the emergency Guardian to make all medical and placement decisions for Respondent Alice Shaw Baker, and costs and disbursement for this action; and such further relief as this Court deems just and proper.

Attorney for the Petitioner
Elisabeth Spencer of the City of Charleston
Elder Support



C. Mac Gibson, Jr.
764 St. Andrews Blvd.
Charleston, SC 29407
(843) 852-4646

Charleston, South Carolina
July 31, 2008



Lowcountry
Medical Associates

Internal Medicine

Robert W. Cain, M.D.

Keith W. Lackey, M.D.

William F. Maguire, Jr., M.D.

Robert R. Oliverio, Jr., M.D.

July 29, 2008

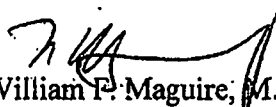
To Whom It May Concern:

Ms. Alice Shaw-Baker is under my medical care. Recently Ms. Shaw-Baker started calling my office repeatedly asking when her next appointment, sometimes calling within 15 minutes of the last call. She says that she can't remember anything because her blood sugars are so high but when asked what that reading is she says that she can not take her reading because she is so shaky. She has also stated to my staff that she was not going to answer her door because a woman had brought her child over there who tore through her house and moved everything in her house to where she can't find anything.

Ms. Shaw-Baker has told us that she has no family that lives locally and I feel that it is her best interest that she be appointed a guardian that can help monitor her health needs.

If you require additional information, please feel free to contact my office.

Sincerely,



William F. Maguire, M.D.

EXHIBIT "1"

615 Wesley Drive, Suite 300
Charleston, South Carolina 29407
Phone (843) 266-4400 • Fax (843) 577-0455

Law Offices of
LISA FISHER
P.O. Box 91112
Long Beach, CA 90809-1112
(866) 206-9066 Ext. 9861 [Toll-free]
cell: (562) 965-3267

January 2, 2008

Doris Thees
320 Cassina Rd.
Charleston, SC 29407

RE: Alice Baker

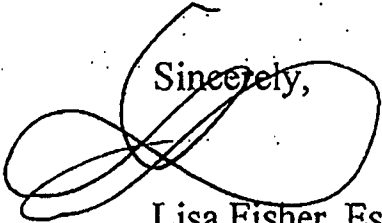
Dear Ms. Thees,

Thank you for your letter concerning my great Aunt, Alice Shaw Baker. She is lucky to have a good friend like you. I have been in contact with Alice, and am sure that maybe she just got behind. Sometimes things aren't as bad as they look! I will check and see if I can be of assistance. Although your concerns are worrisome, I know that Alice doesn't want or need to go to a nursing home.

Please feel free to call me if you have any other concerns, I have a toll free number: (866) 206-9066 ext. 9861, where you can leave a message. [Or you can call my cell phone: (562) 965-3267, I am happy to reimburse you for any charges that may be incurred.]

It's nice to know that people care about their neighbors and help when they get a bit overwhelmed. Thank you again and don't hesitate to call me.

Sincerely,



Lisa Fisher, Esq.

↔↔↔
Law Offices of
LISA FISHER
P.O. Box 91112
Long Beach, CA 90809-1112
(866) 206-9066 Ext. 9861 [Toll-free]
cell: (562) 965-3267

January 2, 2008

Doris Thees
320 Cassina Rd.
Charleston, SC 29407

RE: Alice Baker

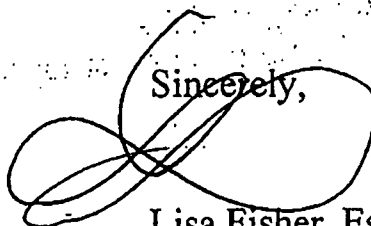
Dear Ms. Thees,

Thank you for your letter concerning my great Aunt, Alice Shaw Baker. She is lucky to have a good friend like you. I have been in contact with Alice, and am sure that maybe she just got behind. Sometimes things aren't as bad as they look! I will check and see if I can be of assistance. Although your concerns are worrisome, I know that Alice doesn't want or need to go to a nursing home.

Please feel free to call me if you have any other concerns, I have a toll free number: (866) 206-9066 ext. 9861, where you can leave a message. [Or you can call my cell phone: (562) 965-3267, I am happy to reimburse you for any charges that may be incurred.]

It's nice to know that people care about their neighbors and help when they get a bit overwhelmed. Thank you again and don't hesitate to call me.

Sincerely,

A handwritten signature in black ink, appearing to be 'Lisa Fisher', written over the word 'Sincerely,'.

Lisa Fisher, Esq.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PROBATE COURT

IN THE MATTER OF ALICE SHAW-BAKER

CASE NUMBER 2008GC10-088

CERTIFICATE OF APPOINTMENT

This is to certify that

FAMILY SERVICES, INC.

is the duly qualified

— PERSONAL REPRESENTATIVE
— GUARDIAN
☒ TEMPORARY CONSERVATOR
— TRUSTEE

in the above matter and that this appointment, having been executed on the 14th day of August, 2008, is now in full force and effect; including authorization to receive all monies, income, principal, interest and dividends of and belong to said estate.

RESTRICTIONS:

Family Services, Inc., as Conservator, shall not sell or dispose of any real or personal property belonging to ALICE SHAW-BAKER, without prior Probate Court approval. THIS EXCLUDES THE FAMILY SERVICES, INC. SMITH BARNEY INVESTMENT ACCOUNT.

Executed this 18th day of August, 2008.



IRVIN G. CONDON, Probate Court Judge

Do not accept a copy of this
certificate without the raised
seal of the Probate Court.
Form #141PC (7/87)
SCPC 1-305, 3-103, 5-304, 5-421, 7-201

15

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PROBATE COURT

IN THE MATTER OF ALICE SHAW-BAKER

CASE NUMBER 2008GC10-088

CERTIFICATE OF APPOINTMENT

This is to certify that

WALTER R. KAUFMANN, ESQUIRE and JANE ORENSTEIN

is the duly qualified

☐ PERSONAL REPRESENTATIVE
☒ TEMPORARY CO-GUARDIANS
☐ CONSERVATOR
☐ TRUSTEE

in the above matter and that this appointment, having been executed on the 14th day of August, 2008, is now in full force and effect; and that WALTER R. KAUFMANN, ESQUIRE and JANE ORENSTEIN is expressly empowered to consent to medical treatment of any kind, including, but not limited to diagnostic evaluations as to ALICE SHAW-BAKER'S medical and/or psychiatric condition; to the administration of antipsychotic or any other psychiatric medications.

RESTRICTIONS:

None.

Executed this 14th day of August, 2008.



IRVIN G. CONDON, Probate Court Judge

Do not accept a copy of this
certificate without the raised
seal of the Probate Court.
Form #141PC (7/87)
SCPC 1-305, 3-103, 5-304, 5-421, 7-201

14

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE PROBATE COURT

PETITION FOR FINDING

IN THE MATTER OF: Alice Shaw Baker

CASE NUMBER: 2005-GC-10-042

- ☐ INCAPACITY
☒ APPOINTMENT OF
☒ GUARDIAN
☒ SUCCESSOR GUARDIAN

Applicant/Petitioner: John Hughes Cooper

Address: 1808 Middle Street, Sullivan's Island, South Carolina 29482

Telephone: 843-883-9099

I. ALL PETITIONERS MUST COMPLETE THIS SECTION.

1. Nature of interest of undersigned: Attorney for Alice Shaw Baker

2. Information -- Allegedly Incapacitated Person

Name: Alice Shaw Baker Age: 79
Date of Birth: August 14, 1929
Address: 306 Cassina Road
City/State/Zip: Charleston, South Carolina 29407
Telephone: 556-2475

To my knowledge, above named ☒ DOES ☐ DOES NOT have a health care power of attorney.

To my knowledge, above named ☐ DOES ☒ DOES NOT have a living will (Declaration of a Desire for a Natural Death.)

3. Venue for this proceeding in this county because the subject:

- ☒ resides in this county.
☐ is present in this county.
☐ is admitted to an institution pursuant to an order of a court of competent jurisdiction in this county.

4. Information—Family of allegedly incapacitated person, including dates of birth of minors. If there are no minors, so state.

Name	Date of Birth	Address	Relationship to Incapacitated Person
Betty Fisher	Adult	P.O. Box 91112, Long Beach, CA 90809-1112	Niece
Lisa Fisher	Adult	P.O. Box 91112, Long Beach, CA 90809-1112	grand niece

(use additional sheet if necessary)

5. The nature and degree of incapacity is as follows:

Alice Shaw Baker exhibits short term memory loss and some confusion. Alice Shaw Baker needs

II. COMPLETE THIS SECTION IF APPOINTMENT IS SOUGHT.

1. Is it your belief that the allegedly incapacitated person is in need of a guardian/successor guardian as a means of providing continuing care and supervision of the person of said incapacitated person?
☒ YES ☐ NO If no, please explain.
2. The extent to which the guardian should be permitted to give consents or approvals that may be necessary to enable the allegedly incapacitated person to receive medical or other professional care, counsel, treatment or services is as follows:
To be determined after further evaluation.
3. The nature and extent of the care, assistance, protection, or supervision which is necessary or desirable for the allegedly incapacitated person under the circumstances is as follows:
To be determined after further evaluation.
4. Has a guardian appointed by a Will accepted such appointment?
☒ NO ☐ YES If yes, please explain.
5. I request the appointment of:

Name: Lisa Fisher
Address: P.O. Box 91112
Long Beach, CA 90809-1112
Telephone (O): 562-965-3267
(H): _____
E-mail: _____

whose priority for appointment as guardian for the subject is as follows:

- ☒ a person nominated to serve as guardian by the allegedly incapacitated person
 - ☐ an attorney-in-fact appointed by the allegedly incapacitated person pursuant to Section 62-5-501
 - ☐ spouse of the allegedly incapacitated person
 - ☐ adult child of the allegedly incapacitated person
 - ☐ parent of the allegedly incapacitated person
 - ☐ other relative of the allegedly incapacitated person (Specify): _____
 - ☐ nominated by the person who is caring for the allegedly incapacitated person or paying benefits to him/her
 - ☐ Other (specify) _____
6. Is it necessary to appoint a temporary guardian for the subject until a hearing can be held on this Petition?
☒ NO ☐ YES If yes, please state reasons.

III. ALL PETITIONERS MUST COMPLETE THIS SECTION.

1. ☒ I request that the Court set a time and place of hearing on this Petition and that the Court determine that the above person is incapacitated.
2. ☒ I request that the Court determine that the need for the appointment of a guardian is proper, and that the Court appoint Lisa Fisher as the guardian for the above person; and that Letters of Guardianship be issued to the guardian.
3. The following persons are required by statute to be given notice of the time and place of hearing on this Petition: (SCPC 5-309)

Name	Address	Relationship
Betty Fisher	P.O. Box 91112, Long Beach, CA 90809-1112	Niece
Walter R. Kaufman	P.O. Box 1173, Mt. Pleasant, SC 29465	Guardian
Family Services, Inc.	4925 LaCross Road, N. Charleston, SC 29405	Conservator
C. Mac Gibson, Esquire	764 St. Andrews Blvd., Charleston, SC 29407	Attorney for Elisabeth Spencer
Alice Shaw Baker	306 Cassina Road, Charleston, SC 29407	incapacitated person

VERIFICATION

The undersigned, being sworn states: That the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief.

SWORN to before me this 19th day of August, 2008

EKP

Notary Public for South Carolina
My Commission Expires: 7/17/2016



Signature: [Signature]
Name: John Hughes Cooper
Address: 1808 Middle Street
Sullivan's Island, SC 29482
E-mail: shiplaw@jhcooper.com
Telephone (O): 843-883-9099
(H): _____

Attorney: John Townsend Cooper, Esquire
Address: P.O. Box 395
Sullivan's Island, SC 29482
E-mail: jtc@jhcooper.com
Telephone (O): 843-883-9099

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Guardian of the incapacitated person of Alice Shaw Baker.

SWORN to before me this _____ day of _____, 20____

Notary Public for South Carolina
My Commission Expires: _____

Signature: _____
Name: Lisa Fisher
Address: P.O. Box 91112
Long Beach, CA 90809-1112
E-mail: _____
Telephone (O): 562-965-3267
(H): _____

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE PROBATE COURT

PETITION FOR

IN THE MATTER OF: Alice Shaw Baker

08 AUG 19 PM 2:14

CASE NUMBER: 2005-GC-10-042

- ☐ PROTECTIVE ORDER
☒ APPOINTMENT OF CONSERVATOR

Applicant/Petitioner: John Hughes Cooper

Address: 1808 Middle Street, Sullivan's Island, SC 29482

Telephone: 843-883-9099

1. Nature of interest of undersigned:
Attorney for Alice Shaw Baker
2. Information – Minor/Incapacitated Person

Name: Alice Shaw Baker Age: 79
Date of Birth: August 14, 1929
Social Security Number: 562-32-9423
Address: 306 Cassina Road
City/State/Zip: Charleston, SC 29407
Telephone (Home): 843-556-2475 (Office/other):

To my knowledge, the above-named ☐ DOES ☐ DOES NOT have a will

To my knowledge, the above-named ☒ DOES ☐ DOES NOT have a power of attorney

3. Venue for this proceeding is proper in this county because the above minor/incapacitated person:
☒ resides in this county
☐ does not reside in this county but has property in this county

4. The name and address of the above person's guardian, if any, is:

5. Information – Family (list nearest relative first) of allegedly incapacitated person, including dates of birth of minors:

Name	Date of Birth	Address	Relationship
Betty Fisher	Adult	P.O. Box 91112, Long Beach, CA 90809-1112	Niece
Lisa Fisher	Adult	P.O. Box 91112, Long Beach, CA 90809-1112	Grand niece

(use additional sheet if necessary)

6. The following is a general statement of the property, assets and income of the above person, together with an estimate of the value thereof: (A full inventory, Form #550PC, shall be completed and filed with the Court within thirty days of appointment.)

Description	Value
house and lot at 306 Cassina Road, Charleston, SC 29407	\$80,000
bank accounts	20,000
Long Term Care Insurance	unknown
Social Security	unknown

7. The appointment of a conservator for the above person is necessary because (state reasons justifying appointment):

Alice Shaw Baker exhibits short term memory loss and some confusion. Alice Shaw Baker needs proper medical evaluation.

8. I request the appointment of:

Name: Lisa Fisher
 Address: P.O. Box 91112
Long Beach, CA 90809-1112
 Telephone (O): 562-688-9109
 Telephone (H): _____

whose priority for appointment as conservator for the above person is as follows:

- ☐ fiduciary appointed or recognized by the appropriate court of any other jurisdiction in which the protected person resides
- ☒ individual or corporation nominated by the protected person (if fourteen or more years of age and deemed mentally capable of making such a choice)
- ☐ attorney-in-fact appointed by protected person (Pursuant to S.C. Code Ann. Section 62-5-501)
- ☐ spouse of protected person
- ☐ adult child of protected person
- ☐ parent of protected person or person nominated by will of deceased parent
- ☐ other relative of protected person (specify): _____
- ☐ person nominated by the person who is caring for protected person or paying benefits to him/her
- ☐ nominated by one with priority to serve in his/her stead (specify): _____
- ☐ other (specify): _____

9. The following persons are required by statute to be given notice of the time and place of hearing on this Petition:

Name	Address	Relationship
Betty Fisher	P.O. Box 91112, Long Beach, CA 90809-1112	Niece
Walter R. Kaufman	P.O. Box 1173, Mt. Pleasant, SC 29465	Guardian
Family Services, Inc.	4925 LaCross Road, N. Charleston, SC 29405	Conservator
C. Mac Gibson, Esquire	764 St. Andrews Blvd., Charleston, SC 29407	Attorney for Elisabeth Spencer
Alice Shaw Baker	306 Cassina Road, Charleston, SC 29407	protected person

10. I request that the Court set a time and place of hearing on this Petition; that the Court determine that the above person is a person for whom appointment of a conservator is proper; that the Court appoint Lisa Fisher as the conservator for the above minor/incapacitated person; and that Letters of Conservatorship be issued to the conservator

Executed this 19th day of August, 2008.

Signature: _____

VERIFICATION

The undersigned, being sworn, states: That the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief.

SWORN to before me this, 19th day of August, 2008

Notary Public for South Carolina

My Commission Expires: 7/17/2016

Signature: _____

Name: John Hughes Cooper

Address: 1808 Middle Street

Sullivan's Island, SC 29482

E-mail: shiplaw@jhcooper.com

Telephone (O): 843-883-9099

(H): _____

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Conservator of the conservatorship of Alice Shaw Baker.

Executed this _____ day of _____, 20____

SWORN to before me this _____ day of _____, 20____

Notary Public for South Carolina

My Commission Expires: _____

Signature: _____

Name: Lisa Fisher

Address: P.O. Box 91112

Long Beach, CA 90809-1112

E-mail: _____

Telephone (O): 562-965-3267

(H): _____

Signature: _____

Name: _____

Address: _____

E-mail: _____

Telephone (O): _____

(H): _____

Signature: _____

Name: _____

Address: _____

E-mail: _____

Telephone (O): _____

(H): _____

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

COUNTY OF CHARLESTON)

COMMITMENT DIVISION

CASE NO.: 2008-GC-10-042

IN THE MATTER OF ALICE SHAW-BAKER, an alleged incapacitated person

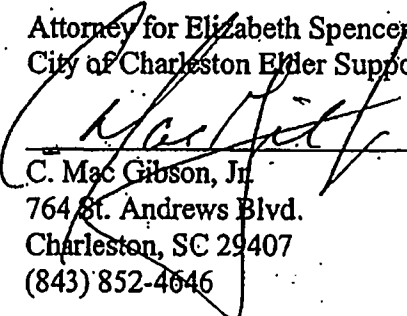
**ELISABETH SPENCER'S ANSWER TO PETITIONER
JOHN HUGHES COOPER'S PETITION FOR SUCCESSOR GUARDIAN**

Elisabeth Spencer of City of Charleston Elder Supportline answers the Petitioner John Hughes Cooper's Petition for Successor Guardian by alleging and saying as follows:

1. Elisabeth Spencer denies that Lisa Fisher should be appointed as the Successor Guardian on the basis that Ms. Fisher resides in Long Beach, California; therefore, she cannot protect and serve the well-being of Alice Shaw-Baker, an alleged incapacitated person.
2. Upon information and belief, Elisabeth Spencer denies that Mrs. Shaw-Baker has the mental capacity to nominate a successor Guardian and to understand the consequences of such nomination.

Elisabeth Spencer requests this Court to dismiss the Petition for Successor Guardian and to order that Walter Kaufman and Jane Orenstein shall continue to serve as the Temporary Co-Guardians and further shall be appointed as the Co-Guardians for Alice Shaw-Baker at the hearing on the merits and to grant such further relief as this Court deems proper.

Attorney for Elisabeth Spencer of
City of Charleston Elder Supportline


C. Mac Gibson, Jr.
764 St. Andrews Blvd.
Charleston, SC 29407
(843) 852-4646

Charleston, South Carolina
August 21, 2008

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

ELISABETH SPENCER,

Petitioner,

vs.

ALICE SHAW-BAKER, an alleged
Incapacitated person, and
LISA FISHER, her next of kin,

Respondents.

FILED
60 SEP -4 2008
PROBATE COURT
CHARLESTON COUNTY

IN THE PROBATE COURT

COMMITMENT DIVISION

CASE NO: 2008-GC-10-042 and

CASE NO: 2008-GC-10-088

MOTION FOR A TEMPORARY RESTRAINING ORDER
AND A PRELIMINARY INJUNCTION AGAINST
REMOVAL OF ALICE SHAW-BAKER FROM HER HOME

COME NOW Alice Shaw-Baker and her next-of-kin, Lisa Fisher, Esquire, by and through their undersigned counsel, and move for a Temporary Restraining Order and a Preliminary Injunction Against Removal of Alice Shaw-Baker from her Home.

Facts

1. On July 31, 2008, Elisabeth Spencer filed Petitions for a finding that Alice Shaw-Baker is incapacitated and for appointment of a Guardian and a Conservator.
2. According to his August 7, 2008, letter, Ms. Spencer's counsel, C. Mac Gibson, Jr., Esquire, appeared before the Probate Court on that date and the Probate Court granted his request to appoint Walter Kaufman, Esquire, and Jane Orenstein as Temporary Co-Guardians and Family Services, Inc. as Temporary Conservator. According to the same letter, that day Mr. Gibson submitted proposed orders for those appointments. (Exhibit A, Gibson Letter of 8/7/08).
3. Although Ms. Spencer had identified Lisa Fisher, Esquire, as Ms. Shaw-Baker's relative in her Petition filed July 31, 2008 (Exhibit B, Petition, p. 1), Ms. Fisher was not given notice of the August 7, 2008 hearing and was not informed about it until after it occurred. (Exhibit B, Gibson Letter of 8/7/08; Exhibit C, Fisher Affidavit).
4. On August 14, 2008, without notice to Ms. Fisher, a review hearing was held regarding the Guardian and Conservator appointments.
5. Mr. Gibson sent a letter to Ms. Fisher enclosing Ms. Spencer's Petition and other pleadings dated August 7, 2008; however, Ms. Fisher never received it and did not learn about the review hearing until August 15,

2008, the day after it occurred, which was more than a week after the August 7, 2008 hearing appointing the temporary guardians and the temporary conservator, and which was two weeks after she was identified as Ms. Shaw-Baker's relative in Ms. Spencer's Petition. (Exhibit C, Fisher Affidavit).

6. The day she learned of this matter, Ms. Fisher attempted to contact Mr. Gibson by telephone. (Exhibit C, Fisher Affidavit).
7. The next day, August 16, 2008, Ms. Fisher retained below-signed South Carolina counsel. (Exhibit C, Fisher Affidavit).
8. Ms. Shaw-Baker has nominated Ms. Fisher as her Guardian and Conservator. (Exhibit C, Fisher Affidavit).
9. The proposed orders submitted by Mr. Gibson on August 7, 2008 for appointment of Temporary Co-Guardians and a Temporary Conservator were signed by the Probate Court on August 18, 2008.
10. On August 19, 2008, Ms. Shaw-Baker filed Petitions for Appointment of Ms. Fisher as Successor Guardian and as Conservator. On August 20, 2008, these Petitions were served on Mac Gibson, Esquire, attorney for Elisabeth Spencer; Walter Kaufman, Esquire; Family Services, Inc.; and Alice Shaw-Baker.
11. On August 21, 2008, Elisabeth Spencer filed an Answer to Ms. Shaw-Baker's Petition for Successor Guardian alleging that Ms. Fisher should not be appointed Guardian on the bases that (1) Ms. Fisher resides in California and therefore allegedly cannot protect the well-being of Ms. Shaw-Baker and (2) Ms. Shaw-Baker lacks the mental capacity to nominate a successor Guardian.
12. However, Ms. Spencer's Answer did not allege that Ms. Fisher was disqualified to be a guardian. It further alleged no reason Ms. Fisher could not employ local assistance for the protection of Ms. Shaw-Baker or move her to California. Also, it cited no authority that an incapacitated person may not nominate a guardian.
13. By separate Motion, Ms. Fisher is moving to set aside the August 18, 2008, appointments on the basis that she did not receive the required notice for the August 14, 2008 appointment review hearing.
14. The only medical evidence in the record is a letter allegedly written by William F. Maguire, M.D., Ms. Shaw-Baker's treating physician, which merely opines that it is in Ms. Shaw-Baker's best interest to be appointed a guardian to "help monitor her health needs." The letter does not opine that she needs to be placed in assisted living.

Further, the letter's authorship is suspect because it contains grammar and phrasing uncharacteristic of trained physician. (Exhibit D, Maguire Letter of 7/29/08).

15. No physician has certified to the court that Ms. Shaw-Baker is incapacitated.
16. Based on a personal in-home visit by below-signed counsel, John Hughes Cooper, Esquire, Ms. Shaw-Baker does not require placement in assisted living.
17. Periodic in-home assistance will likely cost less than placement in assisted living.
18. However, by facsimile dated September 2, 2008, Temporary Co-Guardian Jane Orenstein stated that she intends to remove Ms. Shaw-Baker from her home and place her in assisted living "by the end of this week."

Law

No Evidence of Incapacitation

1. Appointment of a temporary guardian requires a finding by the court that "a physician has certified to the court, orally or in writing, that a person is incapacitated." S.C. Code Ann. § 62-5-310 (2007). In the present case, no physician has so certified. There is an insufficient record for appointment of temporary guardians.
2. The only medical evidence in the record is a 7/29/08 letter allegedly written by Ms. Shaw-Baker's treating physician, William F. Maguire, M.D. Its grammar and phrasing make its authorship suspect. However, regardless of its authenticity, while the letter recommends appointment of a guardian, it does not state that immediate action is required. Moreover, it does not certify that Ms. Shaw-Baker is incapacitated as required for the appointment of a temporary guardian.

Lack of Required Notice

3. "If a temporary guardian is appointed without notice under this section, a hearing to review the appointment must be held after notice and within thirty days after the appointment of the temporary guardian." S.C. Code Ann. § 62-5-310(D) (2007).
4. Notice of such a hearing must be given to at least one of the ward's closest relatives, if one can be found. S.C. Code Ann. § 62-5-309(3).

5. Ms. Fisher was identified as early as July 31, 2008 in Ms. Spencer's Petition as Ms. Shaw-Baker's relative.
6. Ms. Fisher is a practicing attorney. Her contact information was readily obtainable through reasonable diligence and was in fact obtained by the Petitioner's counsel for his letter dated August 7, 2008.
7. Ms. Fisher was statutorily entitled to twenty days' notice of the hearing for review of the appointment of the temporary guardian. S.C. Code § 62-1-401 (2007). However, she received no prior notice and learned of the hearing only after it occurred. (Exhibit C, Fisher Affidavit).

Ms. Fisher's Priority for Appointment as Guardian

8. "Any competent person or a suitable institution may be appointed guardian of an incapacitated person." S.C. Code Ann. § 62-5-311.
9. There is no evidence or even an allegation that Lisa Fisher is not competent. In fact, she is a licensed attorney in good standing in the State of California. (Exhibit C, Fisher Affidavit).
10. Ms. Spencer alleges that Ms. Fisher should not be appointed because she resides in California, but, per S.C. Code Ann. § 62-5-311, any competent person may be appointed guardian of an incapacitated person.
11. A guardian shall make provision for the care, comfort, and maintenance of his ward, but nothing requires him to do so unassisted, and nothing precludes him from enlisting the services of local health care providers. See S.C. Code Ann. § 62-5-312 (2007).
12. Further, nothing precludes Ms. Fisher from moving Ms. Shaw-Baker to California. Per S.C. Code Ann. § 62-5-312 (2007), a guardian may establish the ward's place of abode within or without the State.
13. There is no allegation that Ms. Fisher is "disqualified."
14. "Subject to a finding of good cause by the court, persons who are not disqualified have priority for appointment as guardian in the following order: (1) a person nominated to serve as guardian by the incapacitated person . . ." S.C. Code Ann. § 62-5-311(B)(1). In the present case, Ms. Shaw-Baker has nominated Ms. Fisher to serve as guardian.
15. Ms. Spencer argues that Ms. Shaw-Baker lacks mental capacity to nominate Ms. Fisher. First, Ms. Spencer proffers no medical evidence to support this allegation. Moreover, the plain language of S.C. Code Ann. § 62-5-311(B)(1) contemplates that an incapacitated person may

nominate a guardian: ". . . (1) a person nominated to serve as guardian by the incapacitated person (emphasis added)."

16. If Ms. Spencer's argument were valid, it would render § 62-5-311(B)(1) meaningless, because only persons who do not need guardians (those not incapacitated) could nominate guardians for themselves.

Analysis

1. No physician has certified that Ms. Shaw-Baker is incapacitated and there is an insufficient record for appointment of temporary guardians.
2. No physician has indicated that Ms. Shaw-Baker is in immediate danger or that she requires immediate placement in assisted living.
3. Any placement decision should be made after a noticed review of the appointment of the temporary guardians and the conservator, wherein Ms. Fisher receives the statutorily required notice.
4. Further, any placement decision should be made after resolution of Ms. Shaw-Baker's Petition for appointment of Ms. Fisher as Successor Guardian.

Motion

For the foregoing reasons, Alice Shaw-Baker and her next-of-kin, Lisa Fisher, Esquire, move for a Temporary Restraining Order and a Preliminary Injunction against Removal of Ms. Shaw-Baker from her home pending a noticed review of the appointment of the temporary co-guardians and the conservator and resolution of Alice Shaw-Baker's Petitions to appoint Lisa Fisher, Esquire, as Guardian and as Conservator.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By:

JOHN HUGHES COOPER, ESQUIRE

Federal Court ID 298

South Carolina Bar 1387

State Bar of Georgia 185986

1808 Middle Street

Post Office Box 395

Sullivan's Island, SC 29482

shiplaw@jhcooper.com

843-883-9099; fax 843-883-9335

and

CAIN DENNY, ESQUIRE

CAIN DENNY, P.A.

P.O. Box 1205

Charleston, S.C. 29402

843-965-5400

ATTORNEYS FOR RESPONDENTS,

ALICE SHAW BAKER AND LISA FISHER

Sullivan's Island, South Carolina

September 4, 2008

C E R T I F I C A T E O F S E R V I C E

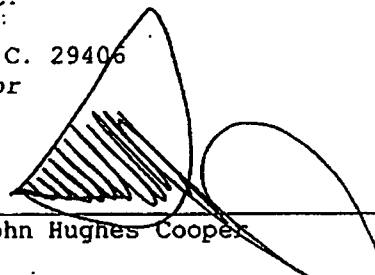
I hereby certify that on September 4, 2008 a copy of the foregoing Motion for a Temporary Restraining Order and for a Temporary Injunction Against Removal of Alice Shaw-Baker from Her Home was served by first class mail with sufficient postage affixed thereto on:

C. Mac Gibson, Jr., Esquire
764 St. Andrews Blvd.
Charleston, SC 29407
*Counsel for Petitioner,
Elisabeth Spencer.*

Walter R. Kaufmann, Esquire
P.O. Box 1173
Mt. Pleasant, S.C. 29465
Temporary Co-Guardian

Jane Ornestein
Temporary Co-Guardian
C/o Walter R. Kaufman, Esquire
P.O. Box 1173
Mt. Pleasant, S.C. 29465

Family Services, Inc.
4925 LaCross Road
North Charleston, S.C. 29406
Temporary Conservator



John Hughes Cooper

C. MAC GIBSON, JR.

Attorney At Law
764 St. Andrews Blvd.
Charleston, SC 29407

Telephone: (843) 852-4646

Facsimile: (843) 852-9860

August 7, 2008

Ms. Lisa Fisher, Esquire
P.O. Box 91112
Long Beach, CA 90809-1112

Re: In the Matter of Alice Shaw-Baker
Case No.: 2008-GC-10-088

Dear Ms. Fisher:

I am representing Elisabeth Spencer of the City of Charleston Elder Supportline in regard to Alice Shaw-Baker. I have learned that you are the closest living relative of Mrs. Shaw-Baker; therefore, I am serving a filed copy of the following documents:

1. Summons;
2. Notice Nisi;
3. Petition for Appointment of Guardian;
4. Petition for Appointment of Conservator;
5. Petition for Emergency Appointment of Guardian;
6. Order for Emergency Appointment of Guardian;
7. Proposed Order for Appointment of Temporary Co-Guardians; and
8. Proposed Order for Appointment of Temporary Conservator.

I appeared at the Charleston County Probate Court this morning to seek an Order for the temporary appointment of Co-Guardians and temporary Appointment of Conservator for Alice Shaw-Baker. The presiding judge granted the request, and the proposed Orders have been submitted to the presiding judge for his signature.

I would like to know if you have any objection to the enclosed proposed Orders for the temporary appointment of Co-Guardians and temporary Appointment of Conservator for Alice Shaw-Baker. Further, do you know of any other living relatives of Mrs. Shaw-Baker? If so, then please provide their names and addresses.

Please be advised that a final hearing on the merits will be within six months, and you will be promptly notified of such hearing.

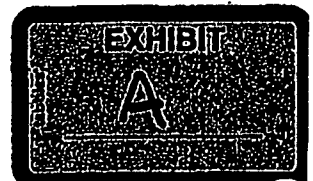
With kind regards, I am

Sincerely,

C. Mac Gibson, Jr.
C. Mac Gibson, Jr.

Enclosures (as stated)

cc: Charleston County Probate Court (w/o encls.)



(See) letter dated Aug. 7-2008
We never received such a letter or
any thing until yesterday via phone.

JANE WELTON ORENSTEIN

128 Wainwright Manor, Summerville, SC 29485
Cell phone 843-860-3727 FAX 843-821-4253 guardianjane@bellsouth.net
September 19, 2008

08 SEP 23 PM 1:34
TDB
PROBATE COURT

The Honorable Tamara Curry
Judge, Probate Court of Charleston County
100 Broad Street
Charleston, SC 29401

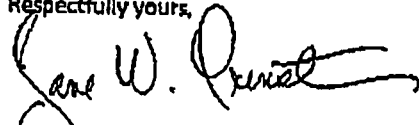
RE: Alice Shaw-Baker 2008-GC-10-0088

Dear Judge Curry,

Following please find a copy of an itemized bill and a proposed fee order regarding my services as temporary co-guardian for Ms. Shaw-Baker rendered during the past two weeks. If the order meets with your Honor's approval, kindly sign it and return a copy of it to me in the enclosed self-addressed, stamped envelop. As always, if your Honor has any questions about the bill or the proposed order, or requires any changes in them, please let me know.

I thank the Court for the opportunity to serve as temporary co-guardian for Ms. Shaw-Baker.

Respectfully yours,



Jane Welton Orenstein

Encl: Itemized bill September 10 - September 19, 2008
Proposed fee order
SASE
Cc: C. Mac Gibson, Esquire

FILED
08 SEP 19 PM 2:31
PROBATE COURT
CHARLESTON COUNTY

JANE WELTON ORENSTEIN

128 Wainwright Manor, Summerville, SC 29485

Cell phone 843-860-3787 FAX 843-821-9353 guardianjane@bellsouth.net

October 30, 2008

The Honorable Tamara Curry
Judge, Probate Court of Charleston County
100 Broad Street
Charleston, SC 29401

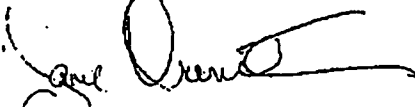
RE: Alice Shaw-Baker 2008-GC-10-0088

Dear Judge Curry,

Following please find a copy of my final itemized bill and a proposed fee order regarding my services as temporary co-guardian for Ms. Shaw-Baker rendered since. If the order meets with your Honor's approval, kindly sign it and return to Family Services, Inc. As always, if your Honor has any questions about the bill or the proposed order, or requires any changes in them, please let me know.

I thank the Court for the opportunity to have served as temporary co-guardian for Ms. Shaw-Baker.

Respectfully yours,



Jane Welton Orenstein

Encl: itemized bill October 19 – 30, 2008
 Proposed fee order
Cc: C. Mac Gibson, Esquire
 John Hughes Cooper, Esquire

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
ELIZABETH SPENCER)
Petitioner,)
)
-versus-)
)
ALICE SHAW-BAKER, an)
Alleged incapacitated person)

IN THE PROBATE COURT
OF CHARLESTON COUNTY
Case # 2008-GC-10-0088

ORDER
AWARDING FEES TO
TEMPORARY CO-GUARDIAN
JANE ORENSTEIN

The Temporary Co-Guardian in this matter, Jane Orenstein, has submitted for the Court's review and approval her itemized bill for services rendered to Alice Shaw-Baker between Oct. 18 and Oct. 30, 2008.

FINDINGS OF FACT

After reviewing the itemized bill, I find that the professional fees requested by the temporary co-guardian, Jane Orenstein, who has appeared before this Court as a Temporary Guardian, for services rendered to Ms. Shaw-Baker during the dates above-referenced in the amount of \$1027. are appropriate, fair and reasonable. I find that her hourly rate of \$65 is fair and reasonable in light of her experience, and education, and that this rate is within the prevailing rate of Guardians of similar experience and training. I find that the services of Ms. Orenstein have been of benefit to Ms. Shaw-Baker and the other parties in this matter.

It is therefore ORDERED that Ms. Shaw-Baker's Temporary Conservator, Family Services, Inc. pay to Ms. Orenstein professional fees in the amount of \$1027.00 for services rendered during the dates above referenced.

SO ORDERED this ____ day of _____, 2008, at Charleston, South Carolina

THE HONORABLE TAMARA CURRY, JUDGE
PROBATE COURT OF CHARLESTON COUNTY

ALICE SHAW BAKER EXPENSES JANE ORENSTEIN, 123 WAINWRIGHT MANOR, SUMMERVILLE 29485

20-Oct alterations on clothing	\$20.00
29-Oct parking-merits hearing	<u>\$20.00</u>
TOTAL	\$40.00

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

ELISABETH SPENCER,

Petitioner,

vs.

ALICE SHAW BAKER, an alleged
Incapacitated person, and
LISA FISHER, her next of kin,

Respondents.

FILED
IN THE PROBATE COURT
COMMITMENT DIVISION
08 SEP - 9 54 11 AM
CASE NO: 2008-GC-10-042 and
CASE NO: 2008-GC-10-088
PROBATE COURT
CHARLESTON COUNTY

ANSWER

COME NOW Alice Shaw Baker and Lisa Fisher, Respondents in the above captioned matter, and, answering the Petitions of Elisabeth Spencer, show this Honorable Court as follows:

ANSWER TO PETITION OF ELISABETH SPENCER FOR
APPOINTMENT OF GUARDIAN

Form #530PC, Page 1 of 3

1. Admitted.
2. Admitted, except that Alice Shaw Baker has given a health care power of attorney to her long time friend Ms. Bessie Huckabee, telephone 552-2096, cell 709-6860.
3. Admitted.
4. Admitted that Lisa Fisher is an adult and is a member of Alice Shaw Baker's family. Denied that Lisa Fisher lives in Palm Beach, CA. Denied that Lisa Fisher is the granddaughter of Alice Shaw Baker. Admitted that Alice Shaw Baker is Lisa Fisher's great aunt. Further, Betty Fisher, P.O. Box 91112, Long Beach, CA 90809-1112 is Alice Shaw Baker's adult niece.
5. Denied that Alice Shaw Baker is unable to make health decisions. Denied that Alice Shaw Baker shows signs of being paranoid. Admitted that Alice Shaw Baker exhibits short term memory loss and some confusion. Admitted that Alice Shaw Baker needs proper medical evaluation.

1. Admitted.
2. Denied. The extent of control should be determined after further evaluation.
3. Denied. The extent of supervision should be determined after further evaluation.
4. Admitted.
5. Denied. Respondents request appointment of Lisa Fisher, who has first priority.
6. Denied that Alice Shaw Baker is unable to maintain her health. Denied that Alice Shaw Baker is making constant calls to her doctor.

1. Admitted.
2. Denied. Respondents request appointment of Lisa Fisher, who has first priority.
3. Admitted that Lisa Fisher was entitled to Notice of the time and place of hearing. Denied that Lisa Fisher lives, maintains an office, or receives mail in Palm Beach, CA. Denied that Lisa Fisher received Notice until after the August 4, 2008 Emergency Hearing and after the August 14, 2008 Review Hearing in this matter.

WHEREFORE Respondents pray for appointment of Lisa Fisher as Guardian or Successor Guardian for Alice Shaw Baker.

ANSWER TO PETITION OF ELISABETH SPENCER FOR
APPOINTMENT OF CONSERVATOR

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted that there was no guardian at the time of the Petition. Co-guardians have been subsequently appointed by this Court.
5. Admitted that Lisa Fisher is an adult and is a member of Alice Shaw Baker's family. Denied that Lisa Fisher lives in Palm Beach, CA. Denied that Lisa Fisher is the granddaughter of Alice Shaw Baker. Admitted that Alice Shaw Baker is Lisa Fisher's great aunt. Further,

Betty Fisher, P.O. Box 91112, Long Beach, CA 90809-1112 is Alice Shaw Baker's adult niece.

Form #540PC, Page 2 of 3

6. A general statement of the property, assets, and income of Alice Shaw Baker includes: Alice Shaw Baker has total assets of approximately \$400,000, liquid assets of approximately \$300,000, and an annual income of approximately \$47,000, as best it can be determined at this time. Alice Shaw Baker has purchased long term care insurance and has purchased pre-need funeral services.

7. Denied that Alice Shaw Baker shows signs of being paranoid. Denied Alice Shaw Baker is unable to make prudent decisions to protect her well being. Admitted that Alice Shaw Baker exhibits short term memory loss and some confusion. Admitted that Alice Shaw Baker needs proper medical evaluation.

8. Denied. Respondents request appointment of Lisa Fisher, who has first priority to serve as Conservator.

9. Admitted that Lisa Fisher was entitled to Notice of the time and place of hearing. Denied that Lisa Fisher lives, maintains an office, or receives mail in Palm Beach, CA. Denied that Lisa Fisher received Notice until after the August 4, 2008 Emergency Hearing and after the August 14, 2008 Review Hearing in this matter.

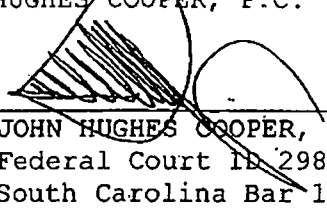
10. Denied. Respondents request appointment of Lisa Fisher, who has first priority to serve as Conservator.

WHEREFORE Respondents pray for appointment of Lisa Fisher as Conservator for Alice Shaw Baker.

RESPECTFULLY SUBMITTED.

JOHN HUGHES COOPER, P.C.

By:


JOHN HUGHES COOPER, ESQUIRE
Federal Court ID 298
South Carolina Bar 1387
State Bar of Georgia 185986
1808 Middle Street
Post Office Box 395
Sullivan's Island, SC 29482
shiplaw@jhcooper.com
843-883-9099; fax 843-883-9335

and

CAIN DENNY, ESQUIRE
CAIN DENNY, P.A.
P.O. Box 1205
Charleston, S.C. 29402
843-965-5400

ATTORNEYS FOR RESPONDENTS,
ALICE SHAW BAKER AND LISA FISHER

Sullivan's Island, South Carolina

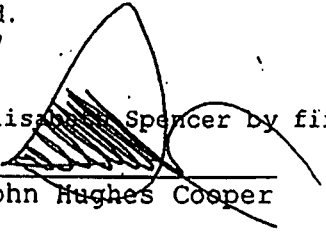
September 9, 2008

C E R T I F I C A T E O F S E R V I C E

I hereby certify that on September 9, 2008 we served a copy of the foregoing Answer on:

C. Mac Gibson, Jr., Esquire
Attorney at Law
764 St. Andrews Blvd.
Charleston, SC 29407

counsel for Petitioner, Elisabeth Spencer by first class mail.


John Hughes Cooper

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

TDD
PROBATE COURT IN THE PROBATE COURT

IN THE MATTER OF: ALICE SHAW BAKER

DOCTOR'S AFFIDAVIT REGARDING CAPACITY

05 OCT -8 PM 3:32
CASE NUMBER: 2008-6C-10-88

PERSONALLY APPEARED BEFORE ME Sharon Honney MD
Physician

who being duly sworn deposes and says:

I am (Please set forth your medical credentials):

MD

Business address and phone:

337 Folly Rd, Chas., SC 29412

Date and Place of this examination:

August 28, 2008

I have had previous opportunities to evaluate the patient?

☒ Yes ☐ No

(If yes, indicate dates and circumstances within the last year and/or reference if you have been the patient's personal physician for a period of time and the time frame.)

Is the patient oriented to time and place?

What is the physical condition and age of the patient? (Detail any other significant factors that may be relevant to the Court.)

Set forth the results of any tests which bear on the issue of incapacity and

BASED UPON MY EVALUATION OF THIS PATIENT:

☒ I **DO NOT** believe this patient is an "incapacitated person".¹ I do not find any impairment by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause to the extent that he/she lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his/her person, property, or finances.

☐ I **DO BELIEVE THIS PATIENT IS AN "INCAPACITATED PERSON"** and in need of a Guardian and/or Conservator as I find him/her to be impaired by reason of (CHECK ALL THAT APPLY AND SET OUT AND DESCRIBE THE LIMITATIONS RESULTING FROM EACH.)

- ☐ Mental Illness
- ☐ Mental Deficiency
- ☐ Physical Illness or Disability
- ☐ Advanced Age
- ☐ Chronic Use of Drugs
- ☐ Chronic Intoxication
- ☐ Other

¹"Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person or property. (Section 62-5-101 of the South Carolina Code of Laws)

Is this condition permanent or temporary? _____

Can Patient perform activities of daily living? yes

What other information do you believe would assist the Court in making a determination of capacity?

Ms. Baker appears to understand current medical problems, has been compliant with treatment and follow up. She was clean and appropriately dressed at her appointment. She appeared to be well nourished and hydrated.

FURTHER AFFIANT SAYETH NOT.

Physician's Signature: _____

Print Name: Sharon Horney

Examiner: MD

Credentials (M.D., Ph.D., D.O., R.N.)

Address: 537 Folly Rd.

Chas. St. 29412

Telephone: 843-406-4948

SWORN to before me this 8th day of October, 2008

Notary Public for South Carolina

My Commission Expires: 5-11-2014

FAILURE TO PROVIDE DETAILED RESPONSES TO THE QUESTIONS ON THIS AFFIDAVIT MAY OBLIGATE YOU TO APPEAR AT THE PROBATE COURT HEARING.

All information MUST be typed or clearly printed.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

ELISABETH SPENCER,

Petitioner,

vs.

ALICE SHAW-BAKER, an alleged

Incapacitated person, and

LISA FISHER, her next of kin,

Respondents.

IN THE PROBATE COURT

COMMITMENT DIVISION

CASE NO: 2008-GC-10-042 and

CASE NO: 2008-GC-10-088

TDD

PROBATE COURT

03 OCT 08 PM 3:32

C E R T I F I C A T E O F S E R V I C E

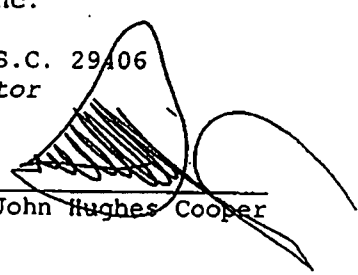
I hereby certify that on October 8, 2008 we served all counsel of record and interested parties with a copy of the foregoing Doctor's Affidavit of Shannon Honney, M.D. by first class mail addressed as follows:

C. Mac Gibson, Jr., Esquire
764 St. Andrews Blvd.
Charleston, SC 29407
Counsel for Petitioner,
Elisabeth Spencer

Lisa Fisher, Esquire
Law Offices of Lisa Fisher
P.O. Box 91112
Long Beach, CA 90809-1112
Temporary Co-Guardian

Ms. Jane Ornestein
Temporary Co-Guardian
128 Wainwright Manor
Summerville, SC 29485
Temporary Co-Guardian

Family Services, Inc.
4925 LaCross Road
North Charleston, S.C. 29406
Temporary Conservator


John Hughes Cooper

COUNTY OF Charleston

TOD
PROBATE COURT

IN THE MATTER OF Alice Shaw-Baker

08 OCT 16 PM 3:11

CASE NUMBER 2008GC10-088

INVENTORY AND APPRAISEMENT

☒ ORIGINAL☐ SUPPLEMENTAL # _____Conservator: Family Services, Inc.

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisal of all real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

Copies of this inventory have been sent to the following persons:*

SWORN to before me this 13 day ofOctober, 2008John M. McAllister

Notary Public for South Carolina

My Commission Expires: 9-8-2009Signature: [Signature]Name: Ed JellisonAddress: 4925 Lacross Rd, Suite 215North Charleston, Sc 29406Telephone (O): 843-744-1348 ext 19

(H): _____

The gross fair market valuation of all assets, regardless of situs, should be given as of the date of appointment. List all out-of-state assets on appropriate schedules. A Supplemental Inventory should be utilized for correcting, adjusting, or adding to an original inventory.

The type and amount of any encumbrances that may exist with reference to any item should be disclosed.

RECAPITULATION

Schedule A - Real Estate	92,200
Schedule B - Investments	233,788.01
Schedule C - Anticipated Annual Receipts	35,308.82
Schedule D - Life Insurance	9,625.56
Schedule E - Jointly Owned Property	0.00
Schedule F - Other Miscellaneous	0.00
Schedule G - Transfers prior to incapacity	0.00
Schedule H - Powers of Appointment	0.00
Schedule I - Annuities	17,133.24
TOTAL GROSS VALUE	\$ 388,055.13
ENCUMBRANCES	(0.00)
TOTAL NET WORTH	\$ 388,055.13

*Within thirty (30) days following appointment, the original inventory shall be filed with the Probate Court. A copy must be provided to the protected person, if he/she has attained the age of 14 years, and to any parent or guardian with whom the protected person resides and to other interested persons as directed by the Court.

Investments (con't.)

6. Bank of America	Certificate of Deposit Acct # 910 000 3385 0100	\$27,207.67
7. Bank of America	Certificate of Deposit Acct # 910 000 3385 0113	\$31,057.88
8. Bank of America	Certificate of Deposit Acct # 910 000 4497 0011	\$7,469.71
Total		\$233,788.01

SCHEDULE D - Life Insurance owned by the Protected Person. (If none, so state.) Specify type of insurance, e.g., "whole life," "universal life," or "term." If there are loans against the policy, so indicate.

Item No.	Description - type, company, name, policy number, premium amount	Insured	Beneficiary	Face Value	Cash Value
1	National Life Insurance	Alice Shaw-Baker	None	18,179.10	9,625.56

TOTAL CASH VALUE

(also enter under recapitulation, page 1)

\$ 9,625.56

Other Insurance - Health, Disability, Supplement, Long Term Care

Item No.	Description - type provided	Company Name	Policy Number	Coverage	Premium Amount	When Payable
1.	Health	Medicare	562-32-9423A	Full		
2.	Health	BC/BS	ZCN05736883743	GAP	213.17	Monthly
3.	Prescriptions	Instil health	056873178987	Medicine		
4.	Long-Term	John Alden Life Insurance	04 040014359	Nursing Home	898.00	Annually

SCHEDULE E - Property owned jointly with right of survivorship (if none, so state.)

Item No.	Description - include kind, location and co-owner(s)	Appraised Value(s)	Percentage Ownership	Value of Protected Person's Interest
1.	NONE			0.00

TOTAL SCHEDULE E

(also enter under recapitulation, page 1)

\$ 0.00

(If more space is required, insert tax schedules or additional sheets of same size.)

SCHEDULE F - Miscellaneous Personal Property - (If none, so state.) List tangible personal property items, title assets, employment bonus or award, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, etc.)

Item No.	Description	Location	Value of Protected Person's Interest
	NONE		0.00

TOTAL SCHEDULE F

(also enter under recapitulation, page 1)

\$ 0.00

(If more space is required, insert tax schedules or additional sheets of same size.)

SCHEDULE G - Transfers Within Three Years of Incapacity - Transfers intended to take effect at death. United States Government Bonds payable on Death*. Trust created by Incapacitated Person prior to incapacity in which income for life was retained. Power to revoke or other incidents of ownership retained, life insurance transfers. Lifetime transfers of real property in which Incapacitated Person retains a life estate or other incidents of ownership. (If none, so state.)

Item No.	Description	Value
1.	NONE	0.00

TOTAL SCHEDULE G

(also enter under recapitulation, page 1)

\$ 0.00

(If more space is required, insert tax schedules or additional sheets of same size.)

SCHEDULE H - Powers of Appointment - Property, both real and personal, over which Incapacitated Person possesses a Power of Appointment whether Testamentary or otherwise. (If none, so state.)

Item No.	Description	Value
1.	NONE	0.00

TOTAL SCHEDULE H

(also enter under recapitulation, page 1)

\$0.00

SCHEDULE I - Annuities (If none, so state.) (IRA's, Keogh's, etc.)

Item No.	Description & Name of Beneficiary	Value
	Wachovia IRA Account # 4342100501050039	17,133.24

TOTAL SCHEDULE I

(also enter under recapitulation, page 1)

\$

(If more space is required, insert tax schedules or additional sheets of same size.)

ENCUMBRANCES - (e.g., mortgages, liens, judgments, etc., but not general debts of the estate) - List specific assets encumbered

Item No.	Schedule & Item Number Encumbered Thereby	Description & Amount
..	NONE	0.00

TOTAL ENCUMBRANCES*(also enter under recapitulation, page 1)***\$ 0.00**

(If more space is required, insert tax schedules or additional sheets of same size.)

2008 OCT 20 AM 10:28
FILED PROBATE CT CHAS CO

IN THE PROBATE COURT

VISITOR'S REPORT

CASE NUMBER: 2008-GC-10-088

The undersigned court-appointed visitor in this guardianship proceeding submits the following report concerning the investigation which I conducted pursuant to Section 62-5-303 of the South Carolina Probate Code. In my visit to the place where the allegedly incapacitated person resides, I observed the following.

REPORT ON THE INCAPACITATED PERSON

1. Date and place of interview: October 8, 2008
306 Cassina Drive, Charleston, SC 29407
2. Oriented as to the time and place? ☒ YES ☐ NO
3. Physical Appearance: Ms. Shaw-Baker presented well. She was well-groomed and properly dressed.
4. Who are his/her closest family members? Ms. Shaw-Baker has family in Long Beach, CA
5. Does he/she have a doctor? ☐ NO ☒ YES If yes, please list the doctor's name, address, and phone number.
Dr. McGuire, Jr., M.D. 615 Wesley Dr., Ste 300 Charleston, S.C. 29407 (843) 266-4400
6. Does he/she have an attorney? ☐ NO ☒ YES If yes, please list the attorney's name, address, and phone number.
John Hughes Cooper, Esquire
PO Box 395
Sullivan's Island, SC 29482
Cain Denny, Esquire
PO Box 1205
Charleston, SC 29402
7. Does he/she think he/she needs help caring for himself/herself? ☒ NO ☐ YES If yes, in what areas?
Ms. Shaw-Baker is enjoying the company that she gets from having helpers with her. She does not believe she requires assistance.
8. Would he/she like help in caring for himself/herself? ☒ YES ☐ NO
9. Does he/she know the proposed Guardian? ☒ YES ☐ NO
10. How does he/she feel about having that person appointed as his/her guardian?
Ms. Shaw-Baker is well aware of the fact that she has co-Guardians. She is opposed to the Court's insistence that she is in need of such protection. Ms. Shaw-Baker does not want Ms. Orenstein to continue in her duties. She sees Ms. Orenstein as "cold." Ms. Shaw-Baker is related by blood to her other co-Guardian, Ms. Lisa Fisher of California. Although, Ms. Shaw-Baker does not feel the need for the protection of a Guardian, she is comforted by knowing Lisa can and will assist her when it is necessary.
11. Does he/she feel any of the guardian powers or duties should be limited or restricted in any way? If so, how?

Ms. Shaw-Baker feels she should have the final decision with regard to her own care and person. She has stated that she likes having the assistants with her. She stated that she feels she is likely to continue to seek assistance and she will make these decisions with the counsel of her great-niece, Lisa Fisher. Ms. Shaw-Baker would request that no Guardian be appointed for her at this time.

2. How does he/she feel about the proposed guardianship?

Ms. Shaw-Baker would request that no Guardian be appointed for her at this time.

13. How does he/she feel about the proposed scope and duration of the proposed guardianship?

Ms. Shaw-Baker would request that no Guardian be appointed for her at this time.

REPORT ON THE PROPOSED GUARDIAN

1. Has an adult protective service case or family management case ever been opened on this person? ☒ NO ☐ YES
If yes, please explain.

If yes, does the DSS record reveal anything you believe the court should know? ☒ NO ☐ YES If yes, please explain.

2. Does your investigation of the proposed guardian reveal anything that you believe the court should know? ☒ NO
☐ Yes If yes, please explain.

3. Does your investigation reveal any other person who should be considered to be appointed the guardian in this matter? ☒ NO ☐ YES If yes, please explain, including name, address, telephone, age, and relationship to allegedly incapacitated person.

REPORT ON CONDITION OF PRESENT PLACE OF RESIDENCE

1. Date and time visited: October 8, 2008
1530 hrs (3:30 pm)
2. Address (include street, city, county, state, zip): 306 Cassina Drive, Charleston, Charleston County,
SC 29407
3. Type of abode: single story ranch house
4. Condition:
- a. exterior clean, no repairs needed
 - b. Interior: clean, no repairs needed. 1 bedroom is filled with boxes, however, there is new carpet and the walls and ceilings have been freshly painted.
 - c. utilities working: yes
 - d. cleanliness: above average
 - e. fire hazards: none noted

f. other (explain): Ms. Shaw-Baker's house has been cleaned up and made habitable as the result of a Charleston County Probate Court Order. Ms. Shaw-Baker has had around the clock care since then and she has had help with cooking and cleaning.

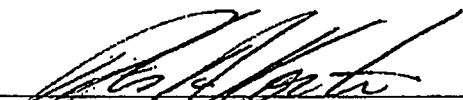
CONCLUSIONS AND ADDITIONAL COMMENTS:

Prior to your visit, did you know the person who is alleged to be incapacitated? ☒ NO ☐ YES If yes, please explain.

Prior to your visit, did you know the person who is seeking appointment? ☒ NO ☐ YES If yes, please explain.

Prior to your visit, did you or do you now have a personal interest in these proceedings? ☒ NO ☐ YES If yes, please explain.

Executed this 9th day of October, 2008.

Signature: 
Name: Peter A. Kouten, Esquire
Address: 7013 Dorchester Rd, Ste E, Box 5
N Charleston, SC 29418
Telephone (O): 843-767-5284
(H): 843-670-3919

FILED

OCT 27 PM 12:37

PROBATE COURT
CHARLESTON COUNTY

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO. 2008GC10-088

REPORT OF
DESIGNATED EXAMINER

ALICE SHAW-BAKER,
an alleged incapacitated person,

Respondent.

I, the designated examiner, having been appointed, designated and directed by written order of the court to do so, have examined the above named ALICE SHAW-BAKER and am of the opinion that the said ALICE SHAW-BAKER is/is not an incapacitated person to an extent that she has/lacks sufficient understanding or capacity to make responsible decisions concerning her person or property; and/or she is able/unable to manage her person or property effectively and I do hereby certify that her capacity/incapacity is such as to require/does not require the appointment of a guardian to provide continued care and supervision of her person and a conservator to manage her property. *limited*

My detailed findings and conclusions in connection with my examination are as follows:

see report
WSD



Signature

33

EVALUATION FOR CONSERVATORSHIP AND CUSTODIANSHIP

NAME: Alice Shaw-Baker
CASE NUMBER: 2008GC10-088
DATE OF BIRTH: August 14, 1929
DATE OF EXAMINATION: October 7, 2008
EXAMINER: Leonard W. Mulbry, Jr., M.D.

REQUIRES APPOINTMENT OF A GUARDIAN: Yes: It is my professional opinion, to a reasonable degree of medical certainty, that Ms. Alice Shaw-Baker is an incapacitated person to such an extent that she lacks sufficient understanding or capacity to make responsible decisions concerning her person. She is not able to manage your personal effects. I hereby certify that her incapacity is such as to require the appointment of a LIMITED Guardian to provide continued care and supervision of her person.

REQUIRES APPOINTMENT OF A CONSERVATOR: Yes it is my professional opinion to a reasonable degree of medical certainty, that Ms. Alice Shaw-Baker is an incapacitated individual to such an extent that she lacks sufficient understanding or capacity to make responsible decisions concerning her property. I hereby certify that his incapacity is such at as to require the appointment of a Conservator to manage, protect, and preserve her assets and property.

DISCLOSURE OF CONFIDENTIALITY LIMITS: Prior to the onset of the evaluation, I informed Ms. Alice Shaw-Baker that any statements that she made would not be confidential. Specifically, I informed her that I would be writing a report for the probate court. I also informed her that we did not have a therapeutic relationship, and I would not be providing treatment. Ms. Shaw-Baker was able to verbalize an understanding of her limits of confidentiality; she signed a release of confidentiality form and willingly proceeded with the evaluation

REASON FOR REFERRAL: A petition was filed by Elizabeth Spencer, City of Charleston Elder Support, requesting the evaluation for the appointment of a Guardian and Conservator in Charleston County Probate Court on July 31, 2008.

SOURCES OF INFORMATION:

1. Clinical psychiatric evaluation of Ms. Alice Shaw-Baker on her back porch at her home in Charleston on October 7, 2008, at 1:30 p.m., lasting approximately two hours.
2. Petition for the appointment of a Guardian and Conservator dated July 31, 2008.

BACKGROUND HISTORY: The following background history was provided by Ms. Shaw-Baker: She gave her age as "70 something." She was born on August 14, 1929 in San Francisco, California, and had two sisters and one brother, all of who are deceased. Her father was a streetcar conductor in San Francisco. Her parents remained married throughout their lives and are now deceased. She lived in San Francisco until "about 1950," when she joined the Navy. The Navy stationed her in Charleston after boot camp, and she has been in Charleston ever since. She reported no history of physical trauma or sexual abuse.

EDUCATIONAL HISTORY: Ms. Shaw-Baker stated that she graduated from Lowell High School in San Francisco and was an "A-student." She reported no other formal education, though she has taken courses in accounting.

RELATIONSHIP HISTORY: Ms. Shaw-Baker reported that she married after she finished high school to "Ralph." She remembered that they split up after "a couple of years" though she could not remember quite how long they were married or when they divorced. She remarried "while I was in the Navy... about 1952 or 1953." She was married "not very long," and stated that this marriage was annulled. She has no children.

MILITARY HISTORY: Ms. Shaw-Baker reported that she enlisted in the Navy in 1950, and served three years as a yeoman, working as a typist. She received a "good conduct" discharge.

VOCATIONAL HISTORY: Ms. Shaw-Baker reported that after leaving the Navy, she worked doing accounting at Naco Fertilizer for "a period of time." She then worked three years for Ruscon and then for an attorney named Henry Yasick for about three or four years also doing accounting. She then took a job at Charleston Memorial Hospital "running the accounting system" and "training the people to use it," and she retired after 20 years of service.

LEGAL HISTORY: Ms. Shaw-Baker reported no legal difficulties.

MEDICAL HISTORY: Ms. Shaw-Baker reported that she has diabetes, which is diet controlled. She has had this for about three or four years. She reported that she takes no medications. She is "very allergic to penicillin." She had only one operation, on her mastoid at age seven. She has had no other hospitalizations and no history of head injuries, loss of consciousness or seizures. Her family doctor is William McGuire.

COROLLARY HISTORY: I have requested records from Dr. Maguire's office.

PSYCHIATRIC HISTORY: Ms. Shaw-Baker reported no history of psychiatric hospitalizations, medications, illnesses or treatment.

PSYCHIATRIC REVIEW OF SYSTEMS: Ms. Shaw-Baker reported no history of depressed mood, sadness, or tearfulness. She did not feel that she had ever been depressed. She reported no disturbances of sleep or appetite, focus, or concentration. She reported that she enjoys reading and still does this on a daily basis. She reported no history of sleeplessness or increased goal-directed activity or episodes of elevated mood. She reported no history of worrying significantly, nightmares, flashbacks, rituals or odd habits. She reported no history of auditory or visual hallucinations, delusions or paranoia.

COROLLARY HISTORY: Family and caregivers have noted that Ms. Shaw-Baker's mood deteriorated significantly after the death of her dog about a year ago. They feel this has improved significantly in the past few months.

SUBSTANCE USE HISTORY: Ms. Shaw-Baker reported that she did occasionally drink a glass of wine, but has had none since being diagnosed with diabetes. She reported no use of any illicit substances. She has never had any trouble with overuse of prescription medications. She does smoke approximately two packs of cigarettes each day.

MENTAL STATUS EXAM: Ms. Shaw-Baker was interviewed sitting on her back porch so that she could smoke. Her caretaker, Denise, was present at Ms. Shaw-Baker's request. She displayed no abnormal movements. She was appropriately dressed and groomed, pleasant, calm and cooperative. She made good eye contact. She often deflected answering questions with humor. She described her mood as "upbeat." She appeared euthymic. Her speech was of normal rate, volume and prosody. Her thought processes were linear and goal-directed. Her thought content

displayed no evidence of auditory or visual hallucinations, delusions or paranoia. Her memory was impaired both on formal testing and on historical facts. Her concentration was good, and she was not distracted during the evaluation. Her judgment about the management of her upcoming hearing was impaired and her insight into the impact of her memory loss was impaired.

Cognitive Exam: Ms. Shaw-Baker provided the address of her home, the city, and state, and county. She did not remember the purpose of my evaluation. She could not state the date, day of week, date, month, or year, other than "2000 something." Ms. Shaw-Baker was able to register but not retain three unrelated items. She was able to name three common items that were present and follow a three-step command. She was able to spell the word "world," but when asked to spell it backwards, reported, "I won't even try." She recognized the similarities between apples and oranges as fruit, and bicycle and airplane as travel, but could not think of anything that an elephant and a mouse would have in common nor a table and a giraffe. Her interpretation of proverbs when they were very simple was good, but when asked about "grass looking greener on the other side," reported, "They would be living in a dreamworld." When asked to interpret the proverb, "You can't read a book by its cover," she reported, "You don't know your subject." Ms. Shaw-Baker was able to name five states, compass directions, geographic features, and recognized spatial relationships. She, however, was not able to name the current president of the United States or any president in the last two decades. Ms. Shaw-Baker was unable to name or describe any world events. Her understanding of concepts of day-to-day activities was concrete and diminished, stating that stamps on letters were "so the mail will take them out," and that uniforms for policemen were "to tell them from the public," and that we should not tell lies because, "It's a sin, not the truth," and we should not get in fights with people smaller than ourself because, "I've always been the smaller person."

When asked to subtract seven serially from one hundred, she did the first three correctly but then lost track of the number she was subtracting. She made change from a dollar without difficulty. When asked to draw a clock, she placed all twelve numbers in the first three quadrants, but was able to draw the hands correctly for ten minutes after eleven.

EVALUATION FOR GUARDIANSHIP: Ms. Shaw-Baker reported her illnesses as diabetes. She remembered that this was a "sugar problem," and that she controlled it with diet. She knew that should she not control it, "My sugars would go sky-high, and it would affect my kidney, heart, and circulation problems." She knew that alternatives would include pills or shots but chose diet control because, "I don't like to take drugs...they don't take as much energy...I might need it later." She did state that she would take medications if she needed to.

Ms. Shaw-Baker knew that she should not take penicillin because it would harm her.

Ms. Shaw-Baker knew that the one and a half to two packs a day of cigarettes that she smokes could cause breathing problems and cancer. Ms. Shaw-Baker knew that should she have chest pain and shortness of breath she should call EMS; then to do so, she would call 911.

Ms. Shaw-Baker reported that she was still driving, that she owned a 1992 Corsica insured by State Farm, and that she had had no tickets. She had one accident, in 1987, that was "not my fault." She reported that up until recently, she was driving to the grocery store. She reported that she did not get lost.

Ms. Shaw-Baker knew that should she remarry, that her assets might be "joint," but she was not sure of South Carolina law.

Ms. Shaw-Baker could not name anyone who was running for president. She could not remember when she last voted or whom this was for.

When asked directly, she reported that she did own her own home and estimated its value at about \$40,000. She reported that after her death, it was in a will to go to Kate Pasalay, who she described as "a good friend." She was asked about her monthly costs, and she reported that this was utilities, and that she paid these by writing a check every month. She could not remember how much utilities ran; "maybe \$45." She could not remember any other charges. She knew that she owned four credit cards but could not remember what balances she kept on these. I asked why she had four, "So that if I want to travel to California, I can do it." She knew that if she wanted to buy a new home, she would look for one in the newspaper and talk to two or three realtors and tell them what she wanted, saying that she would live in the same area. She was emphatic about not wanting to do this and was happy living where she was. She did not want to buy a bigger home because, "It would cut into my estate."

Ms. Shaw-Baker reported that she reads books on a very regular basis but could not name the last book she read or the plot of the book or name of the book she was presently reading. She stated that she liked to read mysteries but could not name any mysteries that she remembered. She reported that she bought her clothes "out of a catalog and through the mail," and estimated the cost to be \$500 to \$600 a month. She reported the value of a car at \$800 to \$900. I asked her if she was considering buying a new car, and she reported, "No," and when asked if she did buy a new car, what type would she buy, she did not know. I asked her if she would buy a Mercedes Benz, and she reported that she would think about it, stating that she could afford to buy any car that she wished. I asked if she would consider buying a Lamborghini which might run 200,000 dollars at nearby Baker Motors and she reported that she would consider it and could not see a reason not to.

I asked Ms. Shaw-Baker about her upcoming hearing for guardianship and custodianship. I asked if she had talked to her attorney, and she reported that she did not know who her attorney was, though I had given her his name the day before when I called. She did not feel that she needed an attorney; "I don't see why I need one." She reported that her great niece, Lisa Fisher, from California, was going to defend her in court. I asked whether Ms. Fisher who lived in California would be able to defend her actively in court, and she reported, "I don't see why not." She did not feel there was any need to discuss any upcoming or legal action with an attorney. Ms. Shaw-Baker stated the Ms. Fisher visited her occasionally and that they talked on the phone "every week." I asked where in California Ms. Fisher lived and Ms. Shaw-Baker did not know.

Ms. Shaw-Baker perceived her recent problems as "some idiot trying to cause trouble." She felt that one of her neighbors "got into it for my property." She felt strongly that one of her neighbors had reported her having difficulty taking care of herself as a part of a plan to obtain ownership of the property that she lives on.

She reported that Denise, who was present, was visiting, "popping in and out" for the last few months, and that Denise was there to talk and to take her out occasionally for shopping. She could not better explain what had happened to initiate these "proceedings," or the need for someone to be with her. She did not feel that she needed any assistance with her money or life, saying, "I know my desires, and I know them well...I make my own decisions...this is one big farce." She felt that she could look after herself. We talked about her dietary restrictions, of which she had a good grasp of a diabetic diet.

COROLLARY HISTORY: I talked to Denise, her morning caregiver. She reported that

Ms. Shaw-Baker has 24-hour a day care. This care started about three to four weeks ago when, upon report from neighbors that the house was becoming cluttered and not taken care of, family members and the court intervened. The house has been cleaned out and repaired. Ms. Shaw-Baker reportedly had been "hoarding" small items associated with Chihuahua dogs, of which she cared for deeply. Reportedly, she was not taking care of grooming and her activities of daily living.

Denise reported that with occasional reminders, Ms. Shaw-Baker takes care of all of her activities of daily living and has never done anything Denise thought was dangerous. They do insist that she smoke outside for her own safety, which Ms. Shaw-Baker questions repeatedly, as she had been smoking inside of her own house for many years. She accepts their reasoning and smokes on the back porch. She manages her own diet and diabetes with minimal or no supervision, and she has not been observed to do anything that Denise would be perceived as dangerous.

Denise feels that based on her conversations with Ms. Shaw-Baker that Ms. Shaw-Baker's primary concern is her desire to live at home, and that she has been told that she may have to move to an assisted living situation, which she is very opposed to.

DIAGNOSES:

AXIS I:

1. Cognitive Impairment Not Otherwise Specified versus Early Dementia.
2. Nicotine Dependence.

AXIS II: Deferred.

AXIS III: Diet Controlled Adult Onset Diabetes Mellitus.

DIAGNOSTIC FORMULATION: The diagnosis of Cognitive Impairment Not Otherwise Specified versus Dementia is given based on Ms. Shaw-Baker's memory and cognitive deficits. She had significant difficulty remembering items on today's cognitive exam. She cannot name recent books that she has read or any world events, the city her great-niece lives in or any current presidents. She does not know the date, day, month or year. She could not remember our conversation on the phone the day prior to my evaluation. She could not name her monthly bills or recognize her most valuable assets. Her approach to the upcoming hearings suggests impaired executive function.

The diagnosis of Nicotine Dependence is given based on Ms. Shaw-Baker's chain smoking during my evaluation, and her use of one half to two packs of cigarettes each day despite their significant impact on her diabetes and overall health. The amount that she smokes indicates a tolerance and her inability to give them up, though she knows that she should, suggests the presence of withdrawal symptoms.

OPINION ON APPOINTMENT OF EVALUATION FOR GUARDIAN: Yes: It is my professional opinion, to a reasonable degree of medical certainty, that Ms. Alice Shaw-Baker is an incapacitated person to such an extent that she lacks sufficient understanding or capacity to make responsible decisions concerning her person. She is not able to manage her personal effects. I hereby certify that her incapacity is such as to require the appointment of a LIMITED Guardian to provide continued care and supervision of her person.

This opinion is based on the following:

1. Ms. Shaw-Baker displayed significant memory deficits including deficits on today's cognitive exam as well as inability to name the books that she has recently read, any world events, remember phone messages from yesterday. She was not oriented to time.

Alice Shaw-Baker
October 7, 2008

Recently she has been found to be neglecting her daily hygiene, and it is not clear that she was maintaining adequate nutrition, in an attempt to control her diabetes. The combination of memory loss and regular smoking presents a significant risk of fire. Ms. Shaw-Baker however accepts the presence of caretakers and their advice without difficulty suggesting reasonable judgment. This fact coupled with her long history of an independent lifestyle suggests that the guardianship could be limited and should be designed to maximize her autonomy and minimize interference with her day-to-day affairs. Every effort to allow her to live in an independent situation would be important given her long history of independence. Regular supervision appears to be needed primarily considering the smoking and risk of fire.

2. Ms. Shaw-Baker displayed significant deficits in executive function including inability to understand the events leading up to this evaluation, her inability to understand the motivation of her neighbor, her need for a caretaker, and her dismissal of the need to discuss her situation with her attorney prior to the hearing. Her difficulty objectively evaluating her own behavior over the past few months and what she is not doing to insure her long term safety suggests impaired executive function. Again she appears to make most of her the day-to-day decisions in a safe and proficient manner suggesting that the guardianship should be designed to minimize interference with her day-to-day lifestyle.

REQUIRES APPOINTMENT OF A CONSERVATOR: Yes it is my professional opinion to a reasonable degree of medical certainty, that Ms. Alice Shaw-Baker is an incapacitated individual to such an extent that she lacks sufficient understanding or capacity to make responsible decisions concerning her property. I hereby certify that his incapacity is such at as to require the appointment of a Conservator to manage, protect, and preserve her assets and property.

This opinion is based on the following:

1. Ms. Shaw-Baker was unable to report an accurate account of her assets or month-to-month financial liabilities.
2. Ms. Shaw-Baker's cognitive and memory deficits do prevent her from being aware of her finances and inquiring into financial concern, as suggested by her dismissive attitude toward the upcoming hearing. She does not recognize that her great niece does not have a license to practice in this state, and she perceives no need to consult with her attorney, though she feels strongly about the outcome of the hearings.
3. Ms. Shaw-Baker understands the steps in purchasing or selling items, but she does not have a good grasp of their values, and her memory and difficulties with executive function will interfere with her ability to understand contractual relationships.
4. Ms. Shaw-Baker's cognitive and memory deficits do interfere with her ability to recognize political figures and events and do interfere with her ability to be a qualified voter.
5. Ms. Shaw-Baker reports no difficulty driving, but, based on her memory and cognitive deficits, I would recommend a formal driving evaluation prior to allowing her to drive by herself. If regular assistance were available it would be safer to allow them to assist Ms. Shaw-Baker with driving.
6. Ms. Shaw-Baker's memory and cognitive deficits did not prevent her from understanding the financial and legal components of marriage, but her difficulty with executive function and memory make her vulnerable to exploitation.

SUMMARY: Ms. Alice Shaw-Baker is a 79-year-old Caucasian female with the psychiatric diagnosis of Cognitive Impairment Not Otherwise Specified versus Dementia and Nicotine Dependence. Her cognitive and memory deficits are significant enough to impair her ability to make decisions regarding her property to such an extent that she cannot do so effectively alone. It is my professional opinion, to a reasonable degree of medical certainty, that Ms. Shaw-Baker

does require the appointment of a conservator to ensure her long-term financial security. This will be particularly important, as efficient management of her assets will maximize her ability to live independently. Her cognitive and memory deficits have impaired her executive function to such an extent that she needs 24-hour a day assistance specifically to address the issue of smoking. With this assistance, I have seen no reason that she cannot live safely in her home with a reduced level of assistance. Ms. Shaw-Baker highly values her independence and is capable of managing her daily lifestyle with minimal assistance. Her Guardianship should be designed to minimally intrude on this lifestyle. .

Respectfully submitted,

Leonard W. Mulbry, Jr., M.D.

Date: _____

Alice Shaw-Baker
October 7, 2008

Dependence. Her cognitive and memory deficits are significant enough to impair her ability to make decisions regarding her property to such an extent that she cannot do so effectively alone. It is my professional opinion, to a reasonable degree of medical certainty, that Ms. Shaw-Baker does require the appointment of a conservator to ensure her long-term financial security. This will be particularly important, as efficient management of her assets will maximize her ability to live independently. Her cognitive and memory deficits have impaired her executive function to such an extent that she needs 24-hour a day assistance specifically to address the issue of smoking. With this assistance, I have seen no reason that she cannot live safely in her home with a reduced level of assistance. Ms. Shaw-Baker highly values her independence and is capable of managing her daily lifestyle with minimal assistance. Her Guardianship should be designed to minimally intrude on this lifestyle. .

Respectfully submitted,



Leonard W. Mulbry, Jr., M.D.

Date: 10/26/08

Alice Shaw-Baker
October 7, 2008

7

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	COMMITMENT DIVISION
COUNTY OF CHARLESTON	)	CASE NO: 2008-GC-10-042 and
	)	CASE NO: 2008-GC-10-088

ELISABETH SPENCER,

Petitioner,

vs.

ALICE SHAW-BAKER, an alleged
Incapacitated person, and
LISA FISHER, her next of kin,

Respondents.

**MEMORANDUM IN SUPPORT OF
APPOINTMENT OF LISA FISHER
AS GUARDIAN AND CONSERVATOR**

COME NOW Alice Shaw-Baker and Lisa Fisher, through their undersigned counsel, and submit this Memorandum in Support of Lisa Fisher's Appointment as Guardian and Conservator.

Facts

1. Alice Shaw-Baker's closest relatives are her niece, Betty Fisher, and her great-niece, Lisa Fisher, Esquire (Betty Fisher's daughter).
2. Alice Shaw-Baker ("Ms. Shaw-Baker") has nominated Lisa Fisher, Esquire ("Ms. Fisher") as her sole Guardian and Conservator.
3. Ms. Fisher is an attorney in good standing and licensed to practice law in California.
4. Ms. Fisher has been appointed in over one-hundred cases involving alleged incapacitated persons in California.
5. Ms. Fisher is pre-approved for bonding to serve as conservator.
6. Ms. Shaw-Baker sees Temporary Co-Guardian Jane Orenstein as "cold" and does not wish her to serve as sole Guardian or to continue as Co-Guardian.
7. At this time, Ms. Shaw-Baker wishes to remain in her home and not be placed in assisted living.

8. If Ms. Shaw-Baker is now or eventually placed in assisted living, she would prefer to be placed in a facility in California, close to her living relatives.
9. Ms. Orenstein has stated her objection to ever allowing Ms. Shaw-Baker to move to California.
10. Since the September 9, 2008 hearing, the home has been cleaned, decluttered, and freshly painted. Numerous items were placed in storage.
11. Fire retardant carpet has been installed. Hard wired smoke detectors with battery back up have been installed in the bedroom, hall, and living area. A fire extinguisher has been installed in the kitchen. A residential fire sprinkler system has been installed with 3 heat activated sprinkler heads in the bedroom and living area.
12. Since the September 9, 2008, hearing, Ms. Shaw-Baker has had around-the-clock caregivers who cook and clean. She accepts the presence of the caregivers. At times she likes having them with her, and at other times she would prefer to be alone.
13. During various visits by the Court-appointed Examiners and Visitor, Ms. Shaw-Baker presented well, was well-groomed, and was properly dressed.
14. Court-appointed Physician Examiner, Leonard W. Mulbry, Jr., M.D. opines that, at this time, Ms. Shaw-Baker is capable of remaining in her home, does not need to be placed in assisted living, and, with fire protection equipment installed, the caregiver assistance may be minimized.

Priority of Appointment

1. Subject to a finding of good cause by the courts, persons who are not disqualified have priority for appointment as guardian in the following order: ". . . (1) a person nominated to serve as guardian by the incapacitated person; . . . (6) another relative of the incapacitated person; . . ." S. C. Code Ann. § 62-5-311(B)(1) and (6) (2007).
2. In the present case, Ms. Shaw-Baker has nominated Lisa Fisher, Esquire, to serve as guardian, and Ms. Fisher is a relative of Ms. Shaw-Baker. For these reasons, Ms. Fisher has priority for appointment as guardian.
3. Petitioner's position appears to be that Ms. Fisher should not be appointed because Ms. Fisher resides in California, but S.C. Code Ann. § 62-5-311, provides that *any competent person* may be appointed guardian of an incapacitated person.¹
4. A guardian shall make provision for the care, comfort, and maintenance of her ward, but nothing requires her to do so unassisted, and nothing precludes her from enlisting the services of local caregivers. See S.C. Code Ann. § 62-5-312 (2007).
5. Additionally, Ms. Fisher may move Ms. Shaw-Baker to California. Per S.C. Code Ann. § 62-5-312 (2007), a guardian may establish the ward's place of abode within or without the State.
6. Petitioner has alleged that Ms. Shaw-Baker lacks the mental capacity to nominate Ms. Fisher, but there is insufficient evidence in the record to support that allegation.

¹ Further, Article IV, § 2, cl. 1 of the United States Constitution, the Privileges and Immunities Clause, which states, "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States," prevents states from discriminating against out-of-state individuals.

7. A party opposing appointment of a person with priority must establish by a preponderance of the evidence that the appointment of that person as guardian is not in the best interests of the ward. 39 Am. Jur. 2d Guardian and Ward § 65 (2008). Here, Petitioner has failed to prove that appointment of Ms. Fisher is not in the best interests of Ms. Shaw-Baker.
8. The South Carolina Supreme Court long ago rejected the common law rule of England requiring appointment of a stranger as guardian, characterizing it as "uncharitable and unreasonable." See *Ex Parte Richards*, 2 Brev. 375, 1810 WL 257 (1810).
9. As a general rule, close relatives are preferred as guardians or conservators of incompetent persons since they are regarded as the ones most solicitous of the ward's welfare and the ones most likely to rehabilitate the ward. 39 Am. Jur. 2d Guardian and Ward § 41 (2008).
10. Strangers will not be appointed guardian of the person or property of an incompetent unless it is impossible to find within the family circle, or their nominees, one who is qualified to serve. 39 Am. Jur. 2d Guardian and Ward § 41 (2008).
11. Despite Dr. Mulbry's opinion that Ms. Shaw-Baker may remain in her home, Ms. Shaw-Baker's desire to do so, and the recent improvements to her home, Ms. Orenstein opposes Ms. Shaw-Baker's remaining in her home, which is inconsistent with maximizing Ms. Shaw-Baker's self-reliance. See S.C. Code Ann. § 62-5-304(A) (2007) ("The Court shall exercise the authority conferred in this part so as to encourage the development of maximum self-reliance and independence of the incapacitated person . . .").
12. Appointment of a family member such as Ms. Fisher would provide Ms. Shaw-Baker with benefits a stranger could not. Among those are love, concern, affection, and consanguinity, all of which are

important. Ms. Orenstein serves as guardian for multiple wards, while Ms. Fisher would be responsible for only Ms. Shaw-Baker. Ms. Shaw-Baker's needs would not be treated as a business obligation, but as a personal family responsibility.

13. For these reasons, appointment of Ms. Fisher as the sole Limited Guardian and as Conservator is appropriate.

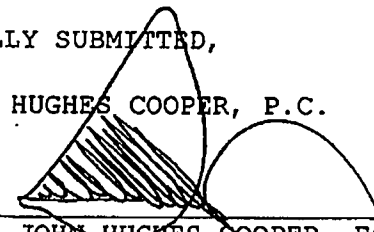
Relief Requested

Alice Shaw-Baker and Lisa Fisher move for appointment of Lisa Fisher as sole Guardian and Conservator.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By:


JOHN HUGHES COOPER, ESQUIRE
Federal Court ID 298
South Carolina Bar 1387
State Bar of Georgia 185986
1808 Middle Street
Post Office Box 395
Sullivan's Island, SC 29482
shiplaw@jhcooper.com
843-883-9099; fax 843-883-9335

and

CAIN DENNY, ESQUIRE
CAIN DENNY, P.A.
P.O. Box 1205
Charleston, S.C. 29402
843-965-5400

ATTORNEYS FOR RESPONDENTS,
ALICE SHAW BAKER AND LISA FISHER

Sullivan's Island, South Carolina

October 29, 2008

October 29, 2008

Renee C. Newman, Esquire
764 St. Andrews Blvd.
Charleston, SC 29407

RE: ALICE SHAW-BAKER

Dear Ms. Newman:

My fee for services rendered in the above entitled matter is \$ 300.00

Please forward payment to:

Rebecca McCrudden
104 Wood Ridge Court
Chas, SC 29414

Sincerely,

A handwritten signature in cursive script, appearing to read "Rebecca McCrudden", followed by a stylized monogram or set of initials.

Rebecca McCrudden

TDD
PROBATE COURT

American Contractors Indemnity Company



08 NOV 19 PM 4:05

IN THE Probate COURT OF THE STATE OF South Carolina
IN AND FOR THE COUNTY OF Charleston

Bond No. 444472

Premium: _____
Per Annum

IN THE MATTER OF

Alice Shaw-Baker,
an alleged incapacitated person

Case No. 2008-GC-10-088

All papers and notices may be served at:
American Contractors Indemnity Company
9841 Airport Blvd., 9th Floor
Los Angeles, CA 90045

☒ Bond Upon Qualifying ☐ Additional Bond

KNOW ALL MEN BY THESE PRESENTS:

That we, Lisa Fisher as Principal
and the AMERICAN CONTRACTORS INDEMNITY COMPANY as Surety, are held and firmly bound unto
Alice Shaw-Baker, an alleged incapacitated person in the sum of
FOUR HUNDRED ONE THOUSAND, SEVEN HUNDRED ~~99~~ DOLLARS (\$ 401,700.00) for which
payment, well and truly to be made, we bind ourselves, our heirs, executors, successors, and assigns, jointly and severally, firmly by
these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT,

WHEREAS, an order was duly made and entered by the Probate Court of the State of South Carolina, for the County of
Charleston on October 29, 2008

☒ Appointing the above Principal, Guardian and Conservator of the estate of
Alice Shaw-Baker, an alleged incapacitated person

☐ Directing the said Principal to execute an additional bond according to law in sum above named.

NOW, THEREFORE, if the said Principal shall faithfully execute the duties of the trust according to law, then this obligation shall be
void, otherwise to remain in full force and effect.

Executed at

Long Beach

Ca on 11-17-08

Lisa Fisher,

As Principal

AMERICAN CONTRACTORS INDEMNITY COMPANY

IN WITNESS WHEREOF, The corporate seal and name of said Surety Company is hereto affixed and attested by _____

Will Mingram,, who declares under penalty of perjury that he is duly authorized Attorney-in-Fact acting
under an unrevoked power of attorney on file with the Clerk of the County in which above entitled Court is located.

Will Mingram Attorney-in-Fact

35

American Contractors Indemnity Company



9841 Airport Blvd., 9th Floor Los Angeles, California 90045

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That American Contractors Indemnity Company of the State of California, a California corporation, does hereby appoint,
**Jennifer Wayne, Kevin J. Phillips, Christopher M. Haenel, Alfonso Lujan, Will Mingram, Jeff Aase, John G. Slater,
Sylvia Diane Caneva, John D. Strong, or Ryan Tash of Los Angeles, California**

its true and lawful Attorney(s)-in-Fact, with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed \$ ***3,000,000.00***. This Power of Attorney shall expire without further action on November 3, 2011.

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the Board of Directors of AMERICAN CONTRACTORS INDEMNITY COMPANY at a meeting duly called and held on the 6th day of December, 1990.

"RESOLVED that the Chief Executive Officer, President or any Vice President, Executive Vice President, Secretary or Assistant Secretary, shall have the power and authority

1. To appoint Attorney(s)-in-Fact and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and,
2. To remove, at any time, any such Attorney-in-Fact and revoke the authority given.

RESOLVED FURTHER, that the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached."

I WITNESS WHEREOF, American Contractors Indemnity Company has caused its seal to be affixed hereto and executed by its authorized officer on the 20th day of June, 2008.

AMERICAN CONTRACTORS INDEMNITY COMPANY

By: [Signature]
Name: Leon B. Back, Jr. its Senior Vice President

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

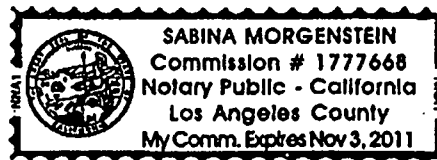
On June 20, 2008 before me, Sabina Morgenstein, a notary public

personally appeared Leon B. Back, Jr.
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Sabina Morgenstein (Seal)



I, Jeannie J. Kim, Corporate Secretary of American Contractors Indemnity Company, do hereby certify that the Power of Attorney and the resolutions adopted by the Board of Directors of said Company as set forth above, are true and correct transcripts thereof and that neither the said Power of Attorney nor the resolutions have been revoked and they are now in full force and effect.

I WITNESS HEREOF, I have hereunto set my hand this 14th day of November, 2008.

Bond No. 444472

Agency No. 2505

[Signature]
Jeannie J. Kim, Corporate Secretary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

County of Los Angeles

On _____ before me, Jennifer Wayne, a notary public
Date Here Insert Name and Title of the Officer

personally appeared Will Mingram
Name(s) of Signer(s)



Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature _____
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

**RIGHT THUMBPRINT
OF SIGNER**

Top of thumb here

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

**RIGHT THUMBPRINT
OF SIGNER**

Top of thumb here

L. Randolph Waid, Ph.D.
Licensed Clinical Psychologist

The Oaks Business Center
1459 Stuart Engals Blvd.
Suite 204-A
Mt. Pleasant, S.C. 29464

Telephone
(843) 881-2778
Fax
(843) 881-6878

REPORT OF NEUROPSYCHOLOGICAL CONSULTATION
CONFIDENTIAL - FOR PROFESSIONAL USE ONLY

Name: Alice Shaw Baker
Age: 79 (DOB: 8/14/29)
Sex: Female
Date of Consultation: November 20, 2008

Identifying Information: Alice Shaw Baker was referred to this office for evaluation per a court order by Tamara C. Curry, Associate Judge of Probate Court, Charleston County. Review of the court order revealed the history of the case with Ms. Alice Shaw Baker being assessed as an incapacitated person in need of an appointment of a Guardian and Conservator. Ms. Lisa Fisher, Esquire, is Ms. Alice Shaw Baker's great-niece and was appointed as Guardian and Conservator. It was also ordered by Tamara C. Curry that Alice Shaw Baker undergo neuropsychological evaluation in this office. The evaluation was to assess Ms. Alice Shaw Baker's mental condition with a report summarizing the diagnosis, treatment options, prognosis, and whether Ms. Alice Shaw Baker has dementia or one or more other conditions which may affect her cognitive functioning. There was also request regarding potential treatment interventions that may be helpful; whether or not Alice Shaw Baker should be allowed to drive an automobile; whether or not Alice Shaw Baker requires 24 hour daily care/supervision; or whether less care/supervision may be sufficient.

Background: Ms. Alice Shaw Baker was transported to the office by Ms. Lisa Fisher, on November 20, 2008. Ms. Baker presented appropriately attired but with agitated and oppositional behaviors. A clinical interview was pursued and I also consulted with Ms. Lisa Fisher. Ms. Fisher reported that she should have made the appointment later in the day as Ms. Shaw Baker tends to be more difficult in her behaviors during the morning hours. There was review of how Ms. Shaw Baker has been living alone with concerns regarding how the home had become "cluttered and unkempt". Apparently, Ms. Shaw Baker has been residing in the Charleston area for numerous years. She is a widow. Ms. Shaw Baker was a poor historian and denied any difficulties that led up to the need for Probate Court intervention. In interview, Ms. Shaw Baker also denied having any problems with memory or depression. Yet, Ms. Fisher reported that Ms. Shaw Baker lost a pet dog approximately one year ago and became depressed. Reportedly, Ms. Shaw Baker had three dogs that were well trained and all of the dogs have died within the last few years.

Review of records revealed that Ms. Shaw Baker was previously assessed by Leonard W. Mulbry, Jr., MD. Dr. Mulbry assessed Ms. Baker as having a Cognitive Impairment, Not Otherwise Specified vs. Early Dementia. He also assessed Ms. Shaw Baker as having Nicotine Dependence. Dr. Mulbry deferred with any Axis II Personality Disorder. It was noted that Ms. Baker also had Diabetes Mellitus that was supposedly being controlled by diet. Dr. Mulbry recommended Ms. Shaw Baker not drive until she successfully underwent a formal driving evaluation.

A structured symptom evaluation revealed Ms. Shaw Baker revealed her to deny any difficulties with sensory perceptual functioning. There was no report of motor dysfunction such as coordination/balance problems. Ms. Shaw Baker denied that she has had any recent falls. She denied having any disruptive bodily pain or headaches. There was no report of dizziness/vertigo. Ms. Shaw Baker denied any history for seizures.

In interview, Ms. Shaw Baker denied that she has any attention/concentration difficulties or memory problems. Yet, this appeared to be inconsistent with her presentation in interview as well as the results obtained from neuropsychological testing.

In interview, Ms. Shaw Baker denied any problems with sadness/depression or sleep disturbance. There was no report of being disruptively anxious or tense. She did acknowledge that there is an ease in which she becomes annoyed and irritable. Clinical evaluation failed to reveal paranoid ideation or delusional thinking. There was no report of phobic symptomatology. Ms. Shaw Baker denied hallucinatory activity and there was no evidence of psychotic symptomatology. She denied any difficulties with appetite.

Ms. Shaw Baker reported that her primary care physician is Dr. McGuire. Yet, it was unclear exactly what medications she was taking. She denied previous head or neck injury. Ms. Shaw Baker was not an accurate historian with regard to previous surgeries. She did acknowledge having diabetes and it appears that diabetes has been present for approximately ten years. There was no report of any other compromising medical problems.

Ms. Shaw Baker denied previous investment in formal psychiatric treatment. Reportedly, she does not consume alcohol or illicit drugs. There has been no history of formal substance abuse treatment. She does smoke tobacco products and further stated that she has "no plan to give up the smoking of cigarettes".

Family History: Apparently non-contributory for psychiatric illness or substance abuse problems. There was no report that family members have suffered a senile dementia of the Alzheimer's type.

Psychosocial History: Ms. Shaw Baker apparently grew up in San Francisco, California. She is a high school graduate. She had four years' service in the Navy and apparently was employed during her adult life in medical settings.

Ms. Lisa Fisher, Esquire, is an attorney in Long Beach, California. She is currently serving as Guardian and Conservator. Ms. Fisher reported that actions have been taken to assist Ms. Alice Shaw Baker to remain in her home. The house has been completely refurbished and fire-retardant carpet and sprinklers were installed. There are fire extinguishers in the house. Ms. Fisher is planning to contact the fire department to assure if there is immediate notice in the event of a fire. Ms. Fisher is also looking into Lifeline which would allow Ms. Alice Shaw Baker the ability to contact emergency services if she is injured. In response to expressed concern by this psychologist over Ms. Shaw Baker's isolation, Ms. Fisher stated that Ms. Shaw Baker has friends who visit on a regular basis. Reportedly, Ms. Shaw Baker has also agreed to participate at the Animal Shelter as a volunteer. Ms. Fisher is also going to look into adult daycare as this may be an appropriate option to facilitate more socialization on the part of Ms. Shaw Baker. The stated goal is for Ms. Shaw Baker to remain in her residence with appropriate daily care/supervision.

Procedures: The goal of the current evaluation was to assess Ms. Shaw Baker's brain behavior and independent living skills. The current evaluation included administration of the CERAD Neuropsychological Battery, Stroop Test, Trail Making Test, Controlled Oral Word Association Test, and Independent Living Scales (ILS).

Examination Results:

Neurobehavioral Observations: Ms. Shaw Baker was difficult to engage in testing. She was oppositional regarding testing and, at times, was hostile and demanding. It appeared that this was partially attributable to the manner in which she simply could not meet the demands of testing. Ms. Shaw Baker was observed to ambulate without difficulty or need for use of an assistive device. She did not demonstrate disruptive psychomotor retardation or excitement. Yet, she was oppositional to testing and there was a constant need to encourage her and ask her to comply with the demands of testing. At times, Ms. Shaw Baker became perseverative in her behaviors. On one occasion, when Ms. Lisa Fisher left the facility, Ms. Shaw Baker was not willing to return to the demands of testing until her return.

Ms. Shaw Baker was negative about testing. It was evident that she was poorly oriented and experiencing disruptive neurocognitive impairments. Later, in the testing process, she became worried about her blood sugars and need for provision of food. Overall, Ms. Shaw Baker was assessed as angry, hostile, and labile in her moods with repetitive need for breaks in the testing in order to smoke cigarettes. Indeed, Ms. Shaw Baker was observed to be a chain smoker with nicotine stains on her fingers. While the neuropsychological test results were compromised by Ms. Shaw Baker's behavioral extremes, it was our view that she was experiencing considerable neurocognitive impairments likely reflective of a dementia. Enclosed is a summary of the results obtained in the neuropsychological testing conducted on Ms. Alice Shaw Baker. There is also provision of responses to the referral questions posed in the Probate Court order by Tamara C. Curry, Associate Judge.

CERAD Neuropsychological Battery: To commence the evaluation, Ms. Alice Shaw Baker was administered the CERAD Neuropsychological Battery which was specifically developed to assess for the neurocognitive impairments associated with a senile dementia of the Alzheimer's type and normed on an elderly cohort (mean age=72). Below are Ms. Shaw Baker's scores and level of impairment for each of the CERAD tests:

<u>Test:</u>	<u>Score:</u>	<u>Level of Impairment:</u>
Verbal Fluency	16	Normal
Modified Boston Naming Test	13	Questionable
Mini-Mental State Exam	13	Moderate
Word List Memory	1	Severe
Constructional Praxis	5	Moderate
Word List Free Recall	0	Severe
Word List Recognition	2	Moderate
Visual Free Recall	0	Severe
Visual Recognition Recall	2	Mild

As can be seen, Ms. Shaw Baker is performing quite deviant from expected performance even considering her advanced age. Of note, she was generally efficient in her performance on executive functioning tests involving category fluency and confrontational naming. Yet, she demonstrated considerable impairment on learning/memory tests and recognition and cuing did not assist her in recall of information.

Mental Status Examination revealed Ms. Shaw Baker to not be oriented to the year, season of the year, date, day of the week, or month. She could identify that she was in Charleston, South Carolina, but was unable to name the current office or floor of the building in which the testing took place. Ms. Shaw Baker was alert and able to register information. Yet, she was not able to spell "world" correctly in backward order.

Ms. Shaw Baker was also unable to recall any of the previously learned three objects after a brief delay. Yet, cuing did assist her in recalling two out of three objects. Simple naming abilities were intact. Ms. Shaw Baker was not able to correctly follow a three stage command. Yet, she did correctly draw the intersecting pentagons. Ms. Shaw Baker attained a mental status examination score of 13/30.

Language Functions: Ms. Shaw Baker did not demonstrate any aphasic or agnostic symptoms. Her conversational speech was generally of normal rate and tone, with occasional mild shurring. Ms. Shaw Baker had difficulties being responsive to the examiner's inquiries without tangentiality and derailment. Ms. Shaw Baker performed in the average range on a category fluency test but was impaired on a more demanding phonemic verbal fluency test placing her in the mild to moderately impaired range (T=30) for an individual of her age and educational level. There was no evidence of receptive language dysfunction.

Attention/Memory Functioning: Ms. Shaw Baker experienced considerable difficulties meeting the demands of neurocognitive testing. This appeared due to both behavioral/psychiatric overlay as well as a dementing disorder. Ms. Baker was administered the Stroop Test demonstrating slow and impaired processing speed for word stimuli (T=26). Yet, we could not proceed further with the Stroop Test due to color blindness.

Ms. Shaw Baker's performance on the CERAD Word List Memory Test revealed the ability to recall 0, 0, and 1 word after three administrations of a ten word list with two intrusive errors. Ms. Shaw Baker was unable to recall any of the previously administered words after a brief delay. She remained impaired in her performance on a recognition format demanding that she discriminate previously administered from non-administered words. Ms. Shaw Baker was severely impaired in her performance on a free recall paradigm in which she had to recall and reproduce previously administered visual designs. On a recognition format, she correctly discriminated two out of five previously administered visual designs.

Other Neurocognitive Tests: Evaluation failed to reveal any evidence that Ms. Shaw Baker experiences systematic visual inattention or neglect processes. Ms. Shaw Baker demonstrated some constructional dyspraxia. She could not draw a three dimensional design. On a visuographic sequencing test involving the serial processing of numbers, Ms. Shaw Baker was able to complete the test though her performance was in the moderate to severely impaired range (T=21) for an individual of her age and educational level. We attempted to administer Trail Making Test-Part B which demands alternate sequencing between numbers and letters and rendered Ms. Shaw Baker to become quite confused. The test was discontinued to avoid excessive frustration.

Independent Living Scales: Ms. Shaw Baker was administered the Independent Living Scales (ILS) which is an ecologically valid measure that assists in determining an individual's competency, particularly as it relates to independent living or level of needed care. The Independent Living Scales consist of five subscales assessing individuals with regard to memory/orientation, managing money, managing home and transportation, health and safety, and social adjustment. These combine to result in a Full Scale standard score. In administering the Independent Living Scale, Ms. Shaw Baker generally participated well though clearly experienced difficulties as items became more difficult.

Ms. Shaw Baker's responses to the ILS resulted in low functioning level for memory/orientation (standard score=20), managing money (standard score=20), managing home and transportation (standard score=32), health and safety (standard score=26), and social judgment (standard score=32). Ms. Shaw Baker's Full Scale standard score of 55 was also in the low functioning area. Her performance, again, was reflective of some oppositional behaviors and easy agitation but also associated with a decline in her intellectual and neurocognitive abilities.

Summary/Response to Referral Questions: One of the most salient findings from the current evaluation was the manner in which Ms. Alice Shaw Baker was easily agitated and belligerent in her behaviors and difficult to engage in neuropsychological testing. Yet, despite the manner in which psychiatric and behavioral difficulties interfered with Ms. Shaw Baker's test performance, she was assessed as having definitive neurocognitive impairments. Ms. Shaw Baker was poorly oriented, slow in her mental/information processing speed, with disruptive difficulties following multistep tasks, and impaired anterograde memory. There was evidence of constructional difficulties and significant executive dysfunction.

I believe that Ms. Shaw Baker is experiencing a dementia with comorbid psychological/emotional difficulties. It is difficult to disentangle whether the etiology of the dementing illness is associated with an Alzheimer's disease or representative of a vascular etiology. Considering Ms. Shaw Baker's history for diabetes, there is potential for a vascular etiology. Ms. Shaw Baker's comorbid mood, agitation, and perseverative thinking serve to further compromise her cognitive functioning.

It certainly would be useful for Ms. Shaw Baker to pursue treatment, particularly with a geriatric psychiatrist. Potential to profit from use of medications to assist her with any psychiatric overlay to her neurocognitive decline may be of assistance. There is also need for Ms. Shaw Baker to be compliant with medical treatments including treatment for diabetes. If medical and behavioral difficulties are able to be managed, it would be more possible to determine the extent and severity of any dementing disorder and its etiology. If the etiology is potentially Alzheimer's disease, certainly placement on one of the medications appropriate for that diagnosis would be warranted such as Aricept.

Based on the current evaluation, both considering the evidence of neurocognitive impairments, as well as psychiatric overlay, I do not believe that Ms. Alice Shaw Baker should be allowed to drive a motor vehicle. Certainly, if there could be improvement in her functioning via the above recommended treatments, the question regarding her ability to drive could be re-assessed.

Finally, there are referral questions regarding the level of daily care/supervision that Ms. Alice Shaw Baker requires. Once again, with appropriate medical and psychiatric treatment, Ms. Shaw Baker may function in an improved manner which would certainly alter the level of daily care and supervision she would need. A primary concern is Ms. Shaw Baker's excessive smoking of cigarettes and potential for a fire within the home. Currently, I understand that Ms. Shaw Baker is ordered to not smoke cigarettes in the home or, if there is inclement weather, she can smoke only in the pantry or in the kitchen where there are cement and tile floors, respectively. Yet, the current evaluation raises concern whether Ms. Shaw Baker is going to be compliant with the court order when not under supervision.

There is also concern whether Ms. Shaw Baker would be compliant with use of medications without provision of assistive care. Currently, I am informed that Ms. Shaw Baker sleeps throughout the night and does not demonstrate any increased confusion or "sun downing" during night hours. As such, Ms. Shaw Baker may not need 24-hour supervision. Yet, it is evident from the current evaluation that Ms. Shaw Baker does need care and supervision on a daily basis. While there are different ways to arrange this, I believe there is need for care/supervision for preparation of all meals throughout the day into the early evening. I believe, at a minimum, that care/supervision should be for a course of twelve hours such as 8:00 a.m. to 8:00 p.m. Certainly, continuing monitoring of Ms. Shaw Baker's level of functioning, as well as the potential to improve from investing in the above recommended treatments may alter her need for daily care/supervision. If Ms. Shaw Baker was able to participate as a volunteer at the Animal Shelter or invest in adult day care, this would also serve to alter her need for supervision. I am not impressed from the current evaluation that Ms. Shaw Baker will follow through with those possible activities.

I also believe that Ms. Shaw Baker needs to be followed on a regular basis by a primary care physician with regard to her diabetes, hypertension, potential elevated cholesterol, and other medical compromises. I believe that referral for an MRI study of the brain would be appropriate to help delineate the potential causal factors for her neurocognitive decline. Clearly, it is appropriate for Ms. Shaw Baker to be assessed as an incapacitated person who is in need of a Guardian and Conservator. I would also add that as a part of the Independent Living Scale assessment, Ms. Shaw Baker was able to correctly identify the purpose of a will.

Once again, Ms. Alice Shaw Baker was difficult to assess due to her disruptive agitated behaviors, anger, negativity, and perseverative behaviors. Yet, Ms. Shaw Baker's disruptive behaviors are considered to be overlay to a dementing disorder that renders her with compromises and impairments of her brain behavior functioning. Pursuit of appropriate medical and psychiatric treatment clearly is warranted and may result in improvement in Ms. Shaw Baker's level of functioning. Yet, until that is evident, I believe that Ms. Shaw Baker is in need of supervised care at a minimum level as stated above.

I will be happy to respond to further inquiries or alter my opinions if other information is provided that would justify such. Please feel free to contact me.

L. Randolph Wald, Ph.D.
Licensed Clinical Psychologist (SC # 333)
Clinical Associate Professor in Psychiatry and Neurology, MUSC

C.: Lisa Fisher, Esquire
John Hughes Cooper, Esquire

LRW/plr

2008 DEC 01 PM 01:31

FILED PROBATE CT CHAS CO

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

COUNTY OF CHARLESTON)

COMMITMENT DIVISION

CASE NO: 2008-GC-10-088

ELISABETH SPENCER,)

Petitioner,)

vs.)

AFFIDAVIT REGARDING

ATTORNEYS' FEES

ALICE SHAW-BAKER, an alleged)

Incapacitated person, and)

LISA FISHER, her next of kin,)

Respondents.)

PERSONALLY APPEARED John Hughes Cooper who, first being duly sworn, deposes and says:

1. My name is John Hughes Cooper and I am an attorney in good standing admitted to the bar of this Court. I am a citizen of South Carolina and a resident of Charleston County. I am over 18 years of age, of sound mind, and I am lead counsel for Respondent, Lisa Fisher ("Ms. Fisher"), in the above captioned action. I make this affidavit upon my own personal knowledge.
2. Counsel for Ms. Fisher agreed to provide legal services in this matter at the rate of \$225.00 per attorney hour.
3. Through October 31, 2008, counsel for Ms. Fisher reasonably spent over 266.8 contemporaneously recorded attorney hours on this matter (attorney time detail for August, September, and October attached). In connection with these legal services Ms. Fisher has incurred expenses for attorneys' fees totaling \$44,530.00 through October 31, 2008. Because of certain reductions to the invoices by counsel, these legal services were provided at the actual effective rate of \$166.90 per attorney hour.
4. An analysis of the six (6) factors to be considered by the Court in awarding reasonable attorneys' fees as set forth in *Johnson v. Johnson*, 296 S.C. 289, 372 S.E.2d 107 (Ct. App. 1988), cert. den., 298 S.C. 117, 378 S.E.2d 445 (1989), is as follows:

(1) the nature, extent, and difficulty of the services rendered -- The nature and extent of the services included objections to improper notice, a motion for injunction to keep Ms. Alice Shaw-Baker from being moved out of her home into an assisted living facility, a concerted effort to make the home habitable as ordered by the Court, and litigation of the priority issues for Guardianship and Conservatorship. The extent and difficulty of the services was

increased by the refusal of opposing counsel to meet or to discuss possible settlement.

(2) the time and labor necessarily devoted to the case -- The time and labor necessarily devoted to the case was 266.8 attorney hours. As stated above, this case should probably have been settled between the parties, but opposing counsel refused to meet or discuss possible settlement.

(3) the professional standing of counsel -- Most of the legal services in this matter were provided by John Hughes Cooper, who is a member in good standing of the South Carolina Bar, the State Bar of Georgia, and the bars of the South Carolina Supreme Court, the Georgia Supreme Court, the United States District Courts for the District of South Carolina and for the Southern District of Georgia, the United States Courts of Appeal for the Fourth Circuit, Eleventh Circuit, and Federal Circuit, the United States Court of International Trade, and the Supreme Court of the United States of America. John Hughes Cooper has over 27 years experience in civil litigation. Some legal services were also provided by Cain Denny and by John Townsend Cooper, both of whom are attorneys in good standing with the South Carolina Bar and the South Carolina Supreme Court and with various other courts.

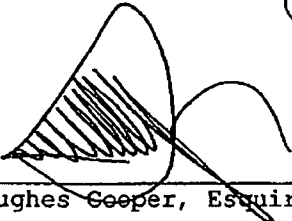
(4) the contingency of compensation -- The compensation in this matter was not contingent.

(5) the fee customarily charged in the locality for similar services -- The fee customarily charged in the locality for similar services would be an hourly fee in the range of \$150.00 to \$250.00 per attorney hour. Although contracted at \$225.00 per hour, legal services were provided to Ms. Fisher at the actual rate of \$166.90 per attorney hour in this matter.

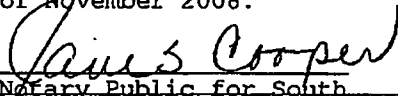
(6) the beneficial results accomplished -- The beneficial results accomplished were that the Court acknowledged improper notice of the earlier hearing and gave Ms. Fisher a full hearing, that the Court granted Ms. Fisher's motion for an injunction against moving Ms. Alice Shaw-Baker out of her home, that the Court appointed Ms. Fisher Temporary Co-Guardian until the hearing, and that at the hearing the Court appointed Ms. Fisher Guardian and Conservator. These results were directly beneficial to Ms. Alice Shaw-Baker.

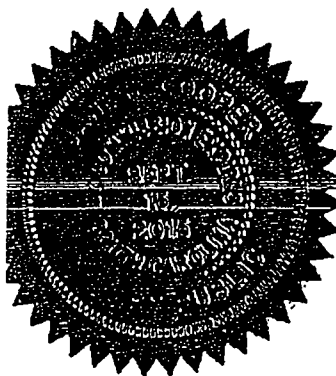
5. Under the circumstances of this case and considering the above six factors, attorneys' fees of \$44,530.00 in this matter are reasonable.

6. Further affiant sayeth naught.


John Hughes Cooper, Esquire

Sworn to and subscribed
before me this 26th day
of November 2008.


Notary Public for South
Carolina; My Commission
Expires: 9-15-2015



John Hughes Cooper, P.C.

P.O. Box 395

Sullivan's Island, SC 29482

Ph:843-883-9099

Fax:843-883-9335

Lisa Fisher

August 29, 2008

P.O. Box 91112

File #: 161-002

Long Beach, CA 90809-1112

Inv #: 407

RE:

DATE	DESCRIPTION	HOURS	AMOUNT
Aug-15-08	receiving telephone message; telephoning Ms. Fisher; searching online for pleadings; meeting with staff at Probate Court Commitment Division; telephoning for Mr. Gibson, Mr. Kaufman, Ms. Betty Fisher, Ms. Lisa Fisher; receiving fax; conferring by telephone with Ms. Orenstein; meeting with Mrs. Alice Shaw Baker and Mr. Mitchum; drafting fax to Mr. Mitchum; opening new file; reviewing documents; telephoning Ms. Betty Fisher; telephoning Ms. Bessie Huckabee	4.70	1,057.50
Aug-16-08	researching provisions of Probate Code; reviewing pleadings and documents in file	2.10	472.50
Aug-18-08	conferring by telephone with Ms. Lisa Fisher; telephoning for Ms. LeBlanc; telephoning Ms. Betty Fisher; conferring by telephone with Mr. Mitchum; researching law; visiting Ms. Alice Shaw Baker at her home; telephoning Ms. Betty Fisher	3.70	832.50

Aug-19-08	drafting Petition for Appointment of Guardian and Successor Guardian; drafting Petition for Appointment of Conservator; telephoning Ms. Betty Fisher numerous times; drafting several faxes to Ms. Fisher; meeting with Ms. LeBlanc and Ms. Sykes at Probate Court; telephoning Ms. Shirley Brown for application form for Bond; drafting fax to Ms. Fisher; telephoning Mr. Gamble; arranging for service of Petitions on various parties; obtaining copy of Probate Court file documents; drafting fax to Ms. Fisher; telephoning Mr. Gibson several times; telephoning Mr. Kaufman; telephoning for Mr. Ed Jellison; telephoning Ms. Lisa Fisher	5.20	1,170.00
Aug-19-08	conferring by telephone with Ms. Alice Shaw Baker about her concerns; receiving telephone message from Ms. Lisa Fisher concerning co-guardianship	0.70	157.50
Aug-20-08	telephoning for Ms. Sykes at Probate Court and leaving message; telephoning Mr. Jellison at Family Services; receiving faxed insurance billing documents; drafting letter to John Alden Life Insurance Company; conferring by telephone with Ms. Lisa Fisher; meeting with Ms. Alice Shaw Baker at her home concerning diabetes and concerning money; concerns; telephoning for Lisa Fisher; telephoning Helen Sloan, M.D.; drafting short letter to Ms. Lisa Fisher; continuing drafting work on Answer	3.90	877.50
Aug-21-08	conferring by telephone with Ms. Alice Shaw Baker; telephoning Ms. Bessie Huckabee; visiting at Alice Shaw Baker residence; telephoning Dr. Honney's office and making appointment for evaluation; telephoning Ms. Lisa Fisher; telephoning Ms. Alice Shaw Baker	1.80	405.00
Aug-21-08	conferring by telephone with Ms. Alice Shaw Baker	0.20	45.00
Aug-21-08	telephoning Mr. Rhodes concerning long term care policy	0.20	45.00
Aug-22-08	meeting with Ms. Alice Shaw Baker at her home	5.20	1,170.00
Aug-23-08	arranging for medical appointment; scanning important documents; visiting with Alice in her home; receiving letter from Mr. Gibson and enclosed Elisabeth Spencer's Answer to Petitioner John Hughes Cooper's Petition for Successor Guardian and Elisabeth Spencer's Answer to Petitioner John Hughes Cooper's Petition for Successor Conservator; drafting short letter to client; conferring by telephone with Ms. Alice Shaw Baker	3.30	742.50
Aug-25-08	drafting letter to client; telephoning Dr. Honney's office to reschedule appointment; telephoning Ms. Huckabee	0.30	67.50

Invoice #: 407

Page: 3

August 29, 2008

Aug-29-08

Write down bill per JHC

0.00 -3,500.00

Totals

31.30 \$3,542.50

John Hughes Cooper, P.C.

P.O. Box 395
Sullivan's Island, SC 29482

Ph:843-883-9099

Fax:843-883-9335

Lisa Fisher

September 30, 2008

P.O. Box 91112

File #: 161-002

Long Beach, CA 90809-1112

Inv #: 431

RE:

DATE	DESCRIPTION	HOURS	AMOUNT
Aug-25-08	telephoning Liz concerning Bessie's taking Alice to Dr. Honney for appointment on Thursday; arranging for filing Affidavits of Service	0.50	112.50
Aug-29-08	conferring by telephone with Ms. Orenstein; receiving message from Alice Shaw Baker; receiving 4 filed Affidavits of Service	0.30	67.50
Aug-30-08	conferring by telephone with Lisa Fisher; telephoning Alice Shaw Baker	0.20	45.00
Sep-01-08	conferring by telephone with Alice; visiting Alice in her home; conferring with Ms. Laureen Deibert	1.90	427.50
Sep-02-08	Drafting Motion for Temporary Restraining Order and Preliminary Injunction Against Removal of Alice Shaw Baker from her Home; Drafting Motion to Set Aside Previous Orders for Lack of Service on Next of Kin.	5.80	1,305.00
Sep-02-08	receiving fax from Ms. Orenstein suggesting move to assisted living; conferring with Mr. Denny; drafting documents; reading statutes; telephoning Ms. Alice Shaw Baker; telephoning Ms. Lisa Fisher; drafting Motion	2.40	540.00
Sep-03-08	conferring with Mr. Denny; reviewing Motion	0.60	135.00
Sep-03-08	drafting motions	1.90	427.50

Sep-04-08	receiving faxed Affidavit from Ms. Fisher; filing and serving Motion; conferring by telephone with Mr. Kaufman; telephoning Ms. Bessie Huckabee; conferring with Mr. Denny; conferring by telephone several times with Ms. Alice Shaw Baker; taking Ms. Alice Shaw Baker to lock box at Bank; drafting letter to Dr. Honney; conferring with Ms. Sykes at Probate Court	3.70	832.50
Sep-05-08	conferring by telephone with Ms. Fisher concerning hearing	0.30	67.50
Sep-06-08	telephoning Ms. Alice Shaw Baker; telephoning Ms. Betty Fisher; reviewing financial records and drafting estimated balance sheet and estimated income statement; receiving message from Mr. Kaufman; telephoning for Mr. Kaufman and leaving message; telephoning Ms. Alice Shaw Baker; reviewing financial records	4.30	967.50
Sep-08-08	conferring by telephone with Ms. Lisa Fisher; preparing for hearing; reviewing file; arranging to file Answer; conferring with Mr. Denny	2.20	495.00
Sep-09-08	picking up Ms. Lisa Fisher at airport; dropping Ms. Lisa Fisher off at Alice's house; picking up Ms. Lisa Fisher; preparing for hearing; attending hearing in Probate Court before Judge Tamara Curry; meeting briefly with Alice and Lisa; taking Lisa to airport	5.20	1,170.00
Sep-10-08	telephoning Ms. Orenstein; telephoning Ms. Fisher; telephoning care givers; meeting with Ms. Alice Shaw Baker, Mr. Denny, and Linda at house; cleaning out important papers and bank records	7.70	1,732.50
Sep-11-08	meeting with Ms. Alice Shaw Baker, Mr. Denny, Linda, and Mr. McGrew; meeting man from PODS; meeting with Ms. Orenstein; meeting man from Fennell; meeting with Mark Nettles; obtaining carpet samples from McGrew's and taking samples to Alice Shaw Baker; telephoning Ms. Lisa Fisher; telephoning Ms. Mona Dayhoff; meeting with Ms. Alice Shaw Baker and Kathryn; telephoning Ms. Wrixson	9.20	2,070.00
Sep-11-08	obtaining documents from house; scanning documents	3.60	810.00

Sep-12-08	meeting at Motel with Ms. Wrixson; Rene; Alice and Cain; meeting at Alice's home with Cain and Mr. Nettles; supervising Ms. Orenstein; Laureen and Connie during packing of property; telephoning Ms. Fisher; writing letter to Mr. Jellison enclosing checks; scanning documents; writing letter to Mr. Jellison enclosing documents; telephoning Probate Court concerning hearing date; telephoning Mr. Gibson concerning hearing date; meeting with Alice, Ms. Orenstein and Ms. Wrixson; telephoning Ms. Lisa Fisher and Ms. Betty Fisher; telephoning Linda; telephoning Ms. Dayhoff	11.70	2,632.50
Sep-12-08	supervising removal of property from Alice's home	9.30	2,092.50
Sep-13-08	meeting with Ms. Alice Shaw Baker and Ms. Shirley Wrixson at motel; arranging for grocery purchase; meeting at house with Ms. Jane Orenstein and Mr. Denny; telephoning Ms. Mona Dayhoff; telephoning Ms. Lisa Fisher; telephoning Mr. Mark Nettles	3.70	832.50
Sep-13-08	supervising removal of property from house	6.10	1,372.50
Sep-14-08	conferring by telephone with Renee Stelljes; telephoning Denise Ferguson several times; telephoning Ms. Lisa Fisher	0.30	67.50
Sep-14-08	supervising removal of property from home	7.70	1,732.50
Sep-15-08	telephoning Ms. Alice Shaw Baker and Renee Stelljes; receiving email from Ms. Orenstein; receiving letter; telephoning for Betty and speaking with Lisa concerning check; conferring by telephone with Ms. Orenstein; conferring by telephone with Ms. Wrixson	0.80	180.00
Sep-16-08	checking on painting; arranging for carpet installation; reviewing and scanning documents	3.10	697.50
Sep-17-08	drafting letter to Mr. Ed Jellison; arranging for delivery of documents; meeting briefly with Mr. Jellison; meeting with Ms. Alice Shaw Baker briefly at motel; inspecting painting and carpet installation at house; meeting briefly with Ms. Orenstein; telephoning for Ms. Fisher; arranging payment for care takers; sending fax to Ms. Orenstein; arranging for unloading furniture at house	5.70	1,282.50
Sep-18-08	telephoning Ms. Lisa Fisher; meeting Lisa at airport; visiting with Alice Shaw Baker; moving Alice Shaw Baker back into home; telephoning McGrew's Carpet concerning invoice and key; telephoning Ms. Wrixson concerning care tonight; telephoning Linda Curry	6.30	1,417.50

Sep-18-08	assisting with replacing furniture and belongings into home	4.60	1,035.00
Sep-19-08	meeting with Lisa and Alice at her home; meeting with Lisa Fisher and Mr. Denny concerning case strategy; continuing process of furnishing house; conferring by telephone with Ms. Lisa Fisher concerning planned Saturday visit by Ms. Huckabee and Ms. Passalague	6.30	1,417.50
Sep-20-08	meeting briefly with Alice Shaw Baker and Ms. Wrixon; preparing pay checks; telephoning Ms. Dayhoff, Ms. Nowalski, and Ms. Curry; meeting with Ms. Bessie Huckabee and Ms. Kay Passalague at Alice's home; receiving email from Ms. Orenstein	4.20	945.00
Sep-22-08	Drafting a memo to the caregivers regarding the cleaning schedule; Receiving a call from Ms. Fisher; Placing a call to Ms. Orenstein.	0.50	112.50
Sep-23-08	receiving emails from Ms. Orenstein; conferring with Mr. Denny; telephoning Ms. Orenstein; telephoning Ms. Fisher	0.60	135.00
Sep-24-08	telephoning Ms. Shirley Brown at Triest Agency concerning Bond; telephoning for Dr. Honney; telephoning Ms. Lisa Fisher; conferring several times with Kathryn Magwood concerning hair appointment and clothing items; reviewing caregiver memo; receiving emails from Ms. Orenstein; receiving copy of email from Ms. Lisa Fisher to Ms. Orenstein	3.40	765.00
Sep-25-08	conferring by telephone with Ms. Orenstein; contacting Eric Lebkicher at Bank of America concerning safety deposit box; drafting letter to Mr. Ed Jellison at Family Services; telephoning for Dr. Honney to arrange conference call; meeting with caregivers concerning clothing; emailing documents to Ms. Lisa Fisher; telephoning for Ms. Betty Fisher and leaving messages; telephoning Ms. Lisa Fisher	2.20	495.00
Sep-25-08	Receiving letter from Mac Gibson re Order Granting TRO and Certificate of Appointment. Drafting and getting HIPPA and General Releases signed. Receiving letter from Walter Kauffman enclosing itemized invoice and proposed Order Awarding Attorney's Fees. Receiving fax from client attaching letter and email correspondence with Jane Orenstein.	1.10	247.50

Sep-26-08	telephoning Kathryn Magwood concerning hair appointment; conferring by telephone with Ms. Orenstein concerning consent order to allow smoking in home when caregiver is present; telephoning Mr. Jellison; telephoning Gigi at Dr. Honney's office; conferring by telephone with Dr. Honney; meeting briefly with Ms. Alice Shaw Baker and Kathryn; telephoning for Jerome concerning car; telephoning Ms. Lisa Fisher	2.70	607.50
Sep-29-08	drafting short letter to Mr. Jellison enclosing keys; drafting ~~faxes to Mr. Jellison requesting reimbursement; conferring~~ by telephone with Ms. Lisa Fisher; preparing HIPPA release; obtaining Alice Shaw Baker's signature on completed release; delivering completed HIPPA release to Dr. Honney's office; making appointment with Dr. Honney; conferring with Ms. Wrixon concerning hours and pay rates for caregivers; drafting letter to Dr. McGuire requesting copies of medical records	3.60	810.00
Sep-30-08	drafting short letter to Mr. Jellison enclosing uncashed SouthCoast Community Bank checks; making calls about probate bond; telephoning Ms. Alice Shaw Baker	2.40	540.00
Sep-30-08	Fee Adjustment per JHC	0.00	-5,000.00
	Totals	136.10	\$25,622.50

John Hughes Cooper, P.C.
P.O. Box 395
Sullivan's Island, SC 29482

Ph:843-883-9099

Fax:843-883-9335

Lisa Fisher

October 31, 2008

P.O. Box 91112

File #: 161-002

Long Beach, CA 90809-1112

Inv #: 457

RE:

Partial
payment from
Trust

DATE	DESCRIPTION	HOURS	AMOUNT
Oct-01-08	preparing pay checks for care givers; faxing petition to Mr. Alex Hanley; telephoning Ms. Lisa Fisher; telephoning Ms. Betty Fisher; visiting Ms. Alice Shaw Baker at her home; conferring by telephone with Ms. Wrixon and with Ms. Magwood	1.70	382.50
Oct-02-08	receiving copy of Ms. Orenstein's letter to Judge Curry and enclosed order; drafting letter to Mr. Gibson requesting copy of itemized bill; drafting requests for reimbursement to Mr. Jellison; telephoning Claire at Family Services; telephoning Mr. Hanley; drafting fax to Family Services concerning past due cable bill; conferring by telephone with Ms. Lisa Fisher; drafting letter to Mr. Jellison concerning AT&T bill; researching law; telephoning Ms. Linda Curry	4.40	990.00
Oct-03-08	receiving documents; receiving medical record from Dr. Honney; drafting email to Ms. Lisa Fisher; receiving fax from Mr. Gibson concerning billing statement; drafting fax to Mr. Gibson; receiving fax from Mr. Gibson denying receipt of a detailed invoice from Ms. Orenstein; receiving letter from Mr. Gibson and enclosed Notice of Hearing, Order for Appointment of Guardian ad Litem; Order Appointing Counsel; Order Appointing Physician/Examiner; Order to Send Visitor; Summons; Notice Nisi; Petition for Appointment of Guardian; and Petition for Appointment of Conservator; drafting letter to Ms. Lisa Fisher; drafting short email to Ms. Lisa Fisher; conferring by telephone with Ms. Mona Dayhoff	1.80	405.00

Oct-06-08	conferring with Kathryn Magwood concerning interview; conferring with John Townsend concerning research on recoverability of attorneys' fees; reading case; receiving message from Ms. Lisa Fisher; telephoning Ms. Lisa Fisher concerning bond, concerning doctor's affidavit, concerning possibility of Bessie and Kay testifying in court; receiving email concerning pick up of POD	0.70	157.50
Oct-07-08	telephoning Ms. Lisa Fisher; printing form for Doctor's Affidavit; telephoning Alice Shaw Baker and Denise concerning Dr. Mulbry's visit; telephoning Peter Kouten, Esquire; telephoning PODS representative about pick up; telephoning Dr. Honney's office concerning conference call; calling Ms. Lisa Fisher	2.60	585.00
Oct-08-08	meeting with Dr. Honney at her office; telephoning Ms. Lisa Fisher; preparing Doctor's Affidavit Regarding Capacity; submitting Affidavit; meeting briefly with Alice Shaw Baker and with Renee and Kathryn at Alice's home; telephoning Village Plumbing; telephoning Dr. Sam Rosen concerning appointment for evaluation; receiving fax from Ms. Orenstein concerning her time; drafting fax to Mr. Gibson; filing Doctor's Affidavit in Probate Court; telephoning Mr. Nettles concerning driveway; drafting letter to Dr. Mulbry; drafting email to Mr. Kouten	4.60	1,035.00
Oct-09-08	telephoning for Dr. Mulbry and leaving message; revising HIPPA release; arranging for plumber; submitting request for reimbursement to Family Services; arranging for Ms. Alice Shaw Baker to execute release; receiving calls from Shirley and from Kathryn concerning eye surgery	2.70	607.50
Oct-10-08	meeting briefly with Ms. Alice Shaw Baker and Kathryn; getting Alice to execute HIPPA release for Dr. Honney to speak to Lisa; delivering release to Dr. Honney's office; telephoning Dr. Mulbry several times; telephoning for Mr. Peter Kouten and leaving message; receiving message from Ms. Betty Fisher; receiving email from Ms. Orenstein; telephoning Ms. Orenstein concerning records request	2.90	652.50
Oct-10-08	Contacting a fire sprinkler installation company, Affordable Fire Protection, about obtaining an estimate.	0.30	67.50
Oct-11-08	conferring by telephone with Ms. Betty Fisher	0.30	67.50

Oct-13-08	conferring by telephone with Kathryn Magwood concerning flu shot for Alice; telephoning Mr. Kouten concerning his assessment of Ms. Alice Shaw Baker; telephoning Mr. Gibson concerning meeting to discuss possible settlement; telephoning Mr. Kouten to discuss Mr. Gibson's reaction to proposal for meeting; telephoning Ms. Orenstein concerning flu shot; telephoning Ms. Lisa Fisher concerning discussions with Mr. Gibson and Mr. Kouten and concerning flu shot	3.60	810.00
Oct-14-08	conferring by telephone with Kathryn Magwood; receiving message from Ms. Lisa Fisher	0.20	45.00
Oct-15-08	conferring by telephone with Mr. Kouten; receiving fax from Mr. Kouten with proposed letter; telephoning Mr. Kouten; receiving fax from Ms. Kathryn Magwood with receipts and time records; conferring by telephone with Ms. Magwood concerning Alice's elevated blood sugar; telephoning doctors to get appointment; preparing checks; drafting fax to Mr. Jellison for reimbursement	3.80	855.00
Oct-16-08	receiving email from Ms. Orenstein; submitting requests for reimbursement to Mr. Jellison; meeting with Shirley and Ms. Alice Shaw Baker; conferring with doctor's office staff; telephoning Ms. Orenstein; receiving fax from Mr. Gibson; drafting fax to Mr. Gibson; telephoning Dr. Rosen concerning evaluation; meeting with Mr. Denny concerning witnesses and concerning documents; conferring at length by telephone with Ms. Lisa Fisher concerning status and trial preparation	5.20	1,170.00
Oct-17-08	conferring by telephone with Denise Ferguson; reviewing statement of reimbursements; drafting letter to Mr. Jellison; telephoning Ms. Sykes concerning Dr. Mulbry's report	0.40	90.00
Oct-17-08	Receiving letter from Peter A. Kouten, Esquire, the GAL.	0.30	67.50
Oct-20-08	receiving medical records from Dr. McGuire; drafting letters to Messrs. Gibson, Orenstein, Fisher, and Kouten and Drs. Honney and Rosen; arranging for hand delivery of records to Dr. Rosen; telephoning for Ms. Sykes at Probate Court; meeting briefly with Alice, Denise and Jean	1.30	292.50
Oct-20-08	Receiving and reviewing Visitor's Report of Peter A. Kouten, Esquire and Designated Examiner Report from Rebecca S. McCruden, M.A..	0.40	90.00

Oct-21-08	conferring with Mr. Wheeler concerning fire sprinkler system; conferring by telephone with Denise; telephoning Ms. Ann Lawson concerning medicare advantage insurance; drafting short email to Ms. Lisa Fisher; conferring with Ms. Orenstein; drafting letter to Mr. Gibson; conferring at length by telephone with Ms. Lisa Fisher; visiting briefly with Denise, Alice and Jean	2.20	495.00
Oct-22-08	receiving letter and email from Mr. Kouten; receiving fax from Mr. Gibson; receiving fax from Ms. Orenstein; ~~drafting fax to Mr. Gibson; drafting email to Ms. Orenstein;~~ telephoning Ms. Denise Ferguson; receiving telephone message from Ms. Lisa Fisher; receiving brief from Lisa Fisher	3.80	855.00
Oct-23-08	telephoning Denise; receiving message from Ms. Orenstein; meeting at home with Denise, Shirley, and Alice; taking Alice Shaw Baker to appointment with Dr. Rosen; receiving documents	2.50	562.50
Oct-23-08	drafting bench memo	3.00	675.00
Oct-24-08	receiving sprinkler heads; telephoning Mr. Wheeler; conferring with Mr. Denny and with John Townsend about hearing; reviewing Dr. Mulbry's report; drafting email to Ms. Lisa Fisher; telephoning Ms. Betty Fisher; preparing for trial	3.20	720.00
Oct-24-08	Drafting proposed Order and Bench Memorandum.	4.00	900.00
Oct-24-08	drafting Memorandum	2.00	450.00
Oct-24-08	drafting memorandum of law	2.70	607.50
Oct-25-08	Researching Law; Drafting Proposed Order for Appointment of Lisa Fisher as Limited Guardian and Conservator.	3.00	675.00
Oct-25-08	conferring at length with Ms. Lisa Fisher; emailing Dr. Mulbry's report to Ms. Lisa Fisher; meeting with contractor at 306 Cassina	2.30	517.50
Oct-27-08	receiving fax from Dr. Rosen attaching bill for visit; faxing Dr. Rosen client's insurance and medicare information	0.30	67.50
Oct-27-08	preparing for trial	7.20	1,620.00
Oct-28-08	meeting at Alice's home; taking photos and video; meeting with Kathryn and Ms. Alice Shaw Baker; preparing for trial	8.30	1,867.50

Oct-29-08	preparing for trial; attending hearing before Judge Curry; meeting with Ms. Lisa Fisher, Ms. Betty Fisher, Alice Shaw Baker and others at Alice's home	10.30	2,317.50	
Oct-30-08	conferring with Mr. Denny; receiving various invoices; telephoning for Dr. Waid; receiving transcript of ruling; drafting Order; telephoning Ms. Lisa Fisher	1.30	292.50	
Oct-31-08	drafting Order; receiving fax from State Farm concerning homeowner's insurance; receiving fax from Family Services; telephoning Dr. Randy Waid to schedule appointment	6.10	1,372.50	
Oct-31-08	Credit per JHC	0.00	-7,000.00	
	Totals	99.40	\$15,365.00	from Jan

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ELISABETH SPENCER,)

Petitioner,)

vs.)

ALICE SHAW-BAKER, an alleged)
Incapacitated person, and)
LISA FISHER, her next of kin,)

Respondents.)

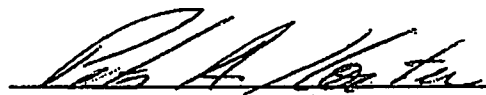
TDD
IN THE PROBATE COURT PROBATE COURT
COMMITMENT DIVISION
CASE NO: 2008-GC-10-088 DEC -2 AM 11:19

**MONTHLY VISITOR'S REPORT
BY COURT-APPOINTED
GUARDIAN AD LITEM FOR
ALICE SHAW-BAKER
(NOVEMBER 1 THROUGH DECEMBER 1, 2008)**

This Court, with the Honorable Judge Tamara C. Curry presiding on October 29, 2008, heard arguments regarding the Appointment of a Guardian and Conservator for Ms. Alice Shaw-Baker. Pursuant to the Guardian and Conservator Appointment Orders for Ms. Shaw-Baker, Respondent, Lisa Fisher, has assumed the duties as permanent Guardian and Conservator for Ms. Shaw-Baker.

The Court further ordered that "until receipt of the neuropsychological and medical reports, the Guardian ad Litem Peter A. Kouten shall visit Alice Shaw-Baker on a weekly basis and shall submit to this Court a brief written report on the condition of Alice Shaw-Baker on a monthly basis."

The Guardian ad litem Peter A. Kouten submits the monthly report for the time period November 1 through December 1, 2008 as Exhibit A to this report, now incorporated by reference.


Peter A. Kouten, Esquire
7013 Dorchester Road, Suite E, Box 5
North Charleston, SC 29418
Tel: (843) 767-5284
Fax: (843) 767-5286
Cell: (843) 670-3919
pkouten@gmail.com

This first day of on December, 2008.
Charleston, South Carolina

Re: Matter of Alice Shaw-Baker
Case No.: 2008-GC-10-088
Post-Hearing Court Ordered Visits

November 7, 2008

Ms. Shaw-Baker was at the rear patio with the caregiver. She was not overjoyed to see me and was of the mind that the subsequent visits were not necessary. Although agitated, she was cordial and alert. The appointment for a full neuropsychological evaluation by Randolph Waid, Ph.D. per Court's order has been set. It is in two weeks (November-20) in Mt. Pleasant. Ms. Shaw-Baker smokes outside on the patio or in the kitchen.

November 14, 2008

Alice was happier and in better spirits. The house is clean and the heater is operational. It is colder. She is awaiting her doctor's appointment next week. She has a hair appointment this afternoon. She is smoking outside in better weather but on cold days she smokes in the kitchen. She remains in the tiled areas of the house when smoking. The caregivers state she is sleeping well and eating properly. Lisa Fisher calls regularly and sent the caregivers each a gift (peanut brittle and box candy)

November 21, 2008

Alice had her doctor's visit yesterday. She was sleeping. She spent most of yesterday taking a battery of tests. The caregiver stated that she got home yesterday and slept from 10:30 pm to 6:00 am. It was tiring. She has been in good spirits. The POD (mobile storage unit) was re-delivered to the house so Alice could get her winter clothes. She is considering purchasing a shed for her things so that the POD can be emptied. The Guardian is awaiting doctor's results.

December 1, 2008

Alice had just woken from a nap. She has retrieved more stuffed animals from the POD. They are cleaning an area in a rear shed to accommodate the things in the POD. It is a process. The house is well-kept and uncluttered. Alice continues to smoke outside or in the kitchen per Court-Order. I spoke with Lisa Fisher regarding the doctor's report and he has not completed the final draft. She will forward the test result to the Court when they are complete. Ms. Fisher further stated that Alice will also be seeing a physician regarding her medical conditions.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO: 2008-GC-10-088

ELISABETH SPENCER,)
Petitioner,)

vs.)

ALICE SHAW-BAKER, an alleged)
Incapacitated person, and)
LISA FISHER, her next of kin,)
Respondents.)

**ORDER
GRANTING FEES TO
APPOINTED ATTORNEY AND
GUARDIAN AD LITEM**

08 NOV 12 AM 9:59
PROBATE COURT
TDB

Hearing Date: October 29, 2008
Judge: Hon. Tamara Curry
Petitioner: Elisabeth Spencer
Attorney for Petitioner: C. Mac Gibson, Jr.
Alleged Incapacitated Person: Alice Shaw-Baker
Guardian ad Litem: Peter A. Kouten, Esq.
Other Respondent: Lisa Fisher
Attorneys for Lisa Fisher: John Hughes Cooper, Esq.
Cain Denny, Esq.
John Townsend Cooper, Esq.
Temporary Co-Guardians: Lisa Fisher and Jane Orenstein
Temporary Conservator: Family Services, Inc.

ACC
10/2
11/1/08

This matter came before this Court for a hearing on appointment of Guardian and Conservator. On July 31, 2008, Elizabeth Spencer filed Petitions for a Finding of Incapacity and for Appointment of Guardian and Conservator. The Court appointed Attorney Peter A. Kouten to represent the interests of Ms. Alice Shaw-Baker in this matter. Based on the Court's request resulting from the hearing on October 29, 2008, Peter A. Kouten, Esquire has submitted for the Court's review and approval his bill for services as Ms. Shaw-Baker's attorney and Guardian *ad litem* incurred from October 6, 2008 through November 3, 2008.

FINDINGS OF FACT

After reviewing the Guardian *ad litem*'s itemized bill, I find that the professional fees requested by the GAL, Peter A. Kouten, Esquire, for the services rendered to Ms. Shaw-Baker and

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mailed
11/3/08

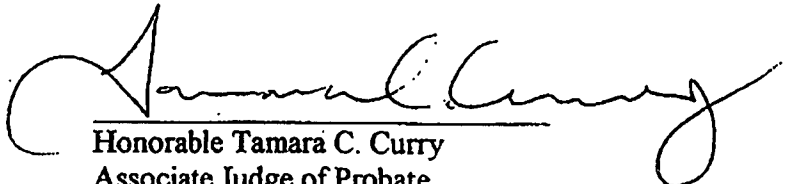
for disbursements during the above referenced dates in the amount of \$3915.84 (THREE THOUSAND NINE HUNDRED AND FIFTEEN DOLLARS AND EIGHTY FOUR CENTS) are appropriate, fair and reasonable. Mr. Kouten is a member in good standing of the South Carolina and Charleston County Bar Associations who regularly appears before this Court. I find that the GAL's hourly rate of \$150.00 in this matter is fair and reasonable in light of his experience and training, and is within the prevailing rates of attorneys and GAL's of similar experience and training. I find that his services have been of benefit to Ms. Shaw-Baker and the other parties in this matter.

Based on the above, it is therefore

16C
76 12
att 108
ORDERED, ADJUDGED AND DECREED that the Conservators for Ms. Hopkins pay to the court appointed attorney and Guardian *ad litem* professional fees in the amount of \$3915.84 (THREE THOUSAND NINE HUNDRED AND FIFTEEN DOLLARS AND EIGHTY FOUR CENTS) for his services rendered and disbursements to Ms. Shaw-Baker during the above referenced dates; and it is further,

ORDERED, ADJUDGED AND DECREED that Attorney Kouten submit future periodic bills for his continued services as attorney and Guardian *ad litem* for Ms. Alice Shaw-Baker, including visits and reports to the Court, until such time as this Court deems that his services are no longer necessary in reference to the case at bar.

IT IS SO ORDERED.


Honorable Tamara C. Curry
Associate Judge of Probate
County of Charleston

qr
This 12 day of November, 2008
Charleston, South Carolina

THE KOUTEN LAW FIRM, LLC

7013 DORCHESTER ROAD, SUITE E
NORTH CHARLESTON, SOUTH CAROLINA 29418

TEL: (843) 767-5284

FAX: (843) 767-5286

November 3, 2008

Ms. Elizabeth Sykes
Charleston County probate Court
100 Broad Street, Suite 469
Charleston, SC 29401

Re: Matter of Alice Shaw- Baker
Case No.: 2008-GC-10-088

DATE	DESCRIPTION	HOURS	AMOUNT
10/6/08	rec'd file via US Mail from CCPC. Reviewed file. Returned acceptance as GAL and Counsel. Postage	1.4	210.00 .84
10/7/08	TC with Attny JH Cooper. Counsel for Lisa Fisher Discussed case and appointment Reviewed case law and statutes	1.6 .6	240.00 90.00
10/8/08	Reviewed Ms Spencer petition- W Kaufman/ Jane Orenstein appt as G Family Svs as C. Subsequent Petitions by Attny Cooper for G/C appt HCPOA; last Will VALUE OF ESTATE: Review Long Term Care insurance policy PRIOR ORDER OF APPT: Review Dr William McGuire- ltr of July 29, 2008	1.7	255.00
10/8/08	3:30 pm visit w/ Ms SB. She was lucid.	1.75	262.50
10/9/08	Review notes from visit Draft Visitor's Report	1.5	225.00
10/13/08	TC J Cooper re: visit w/ Ms Alice. Discussed my Impressions. Capacity. G/C. Possible meeting w/ Mac Gibson to withdraw Petition. Asked that I		

	contact Attny Gibson(2 calls- 1 st 45 min; 2 nd 30 min)	1.25	187.50
10/15/08	research statute re: appointment, priority Case law. Draft letter Attorney Gibson Re: Meeting on these issues. Possible agreement	1.4	210.00
	TC (2 calls) John Hughes Cooper, Re: draft ltr	.6	90.00
10/21/08	Copy John Hughes Cooper w/ Visitor's Report	.2	30.00
10/22/08	Rec'd med docs JHC, Esq. Reviewed docs. EM JHC, Esq.	1.75	262.50
10/27/08	TC JHC re: hearing, planning, draft Petitions	.4	60.00
	Meet JHC office Sullivan's Island	1.6	240.00
10/28	review file and prepare case	2.2	330.00
10/29	hearing at 100 Broad St (8 hrs)	7.75	1,162.50
11/3/08	review draft Order and forward changes to Attny Cooper	.4	60.00
26.1 @ \$150	\$3915.00		
Postage, copies	.84		
SUBTOTAL FOR SERVICES THROUGH Nov 3, 2008=			<u>\$3915.84</u>

Re: Matter of Alice Shaw-Baker
Case No.: 2008-GC-10-088

Affidavit of Attorney

PERSONALLY APPEARED before me, Peter A. Kouten, Esquire, who being duly sworn deposes and says:

1. I am the Court-appointed attorney and Guardian *ad litem* for Ms. Alice Shaw-Baker in the above referenced matter.
2. This case is an action to Appoint a Guardian and Conservator in Charleston County, South Carolina. After a hearing before the Honorable Tamara C. Curry, Associate Judge of Probate for Charleston County, the matter of attorney's fees and costs were Ordered to be submitted to the Court for approval.
3. That an Exhibit to this Affidavit, which is a listing of my billing in this matter, as well as the costs incurred and reflects the attorney's fees actually incurred through the date of this Affidavit. These fees total \$3915.00 in connection with this action. The hourly rate charged was \$150.00 per hour. The Affidavit further reflects that costs incurred through the date of this Affidavit amount to \$.84. The total of attorney's fees and costs actually incurred are \$3915.84.
4. The Supreme Court has set forth the factors to be considered in a grant of attorney's fees. These factors include nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fees charged in the locality for similar services, and the beneficial result obtained. These factors, as applied in this case, are as follows:
 - a. Nature, Extent and Difficulty of the Legal Services Rendered. This case involved issues of Guardianship and Conservatorship law. A contested hearing was held by the Probate Court, who asked for an order to be prepared by Respondent's counsel. Petitioner, through her counsel, raised numerous issues at the hearing. Accordingly, the factual and legal issues presented were complex and detailed in nature, the extent of the work performed was necessary to adequately prepare and try these matters.
 - b) Time and Labor Necessarily Devoted to the Case. As stated above, this case involved difficult issues of both legal and factual natures. Approximately 26 hours were devoted to the case by my firm. This is reflected through the facts stated earlier, as well as from the listing of services performed in the Exhibit. Accordingly, the time and labor devoted to this case were necessary to properly prepare and try this case.
 - c) Professional Standing of Counsel. I am a licensed member of the Bar of the State of South Carolina and I am a member of the Charleston County Bar Association and the American Bar Association. Approximately 90% of my practice consists of Probate

matters, including commitment representation, special administrator appointments, probating estates, and contested and uncontested Guardianship and Conservatorships. Accordingly, I submit that I have a high professional standing in general and in this area of practice.

d) Contingency of Compensation. Compensation in this case is based on the hourly rate of \$150.00 per hour.

e) Customary Fee Charged on the Locality for Similar Services. I am aware from discussions with clients, other attorneys in the Charleston area, and from my general familiarity with the legal profession that the fees charged for services similar to those in this case are, in the Charleston area, from \$120.00 to \$300.00 per hour. As stated earlier, my hourly rate is within this range in this case. Accordingly, this hourly rate is the fee customarily charged in this locality for similar services.

f) Beneficial Results Obtained. This attorney obtained beneficial results for Ms. Shaw-Baker in this action by successfully arguing that her choice of Guardian and Conservator has statutory priority. Accordingly, it is submitted that beneficial results were obtained by this firm on Ms. Shaw-Baker's behalf.

6. After due consideration of the nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fee charged in the locality for similar services, and the beneficial result obtained, I respectfully submit that an award of attorney's fees and costs to the full extent set forth in this Affidavit is appropriate; therefore, Peter A. Kouten, attorney and GAL for Ms. Hopkins, is entitled to \$3915.00 in attorney's fees.

7. The costs in this matter, which are documented in the Exhibit, total \$.84. These costs include postage and are reasonable and necessary to pursue this action and are not, I believe, excessive given the nature, extent and difficulty of the legal services in this case, the time and labor devoted to this case, and the beneficial result obtained.

8. Accordingly, the total attorney's fees and costs sought in this case total \$3915.84.

SWORN to before me this 4th
day of November, 2008.

Patrice Williams
Notary Public for South Carolina
My Commission Expires: 7/24/2013

Peter A. Kouten
Peter A. Kouten, Esquire

2008 DEC 19 AM 10:31

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

FILED PROBATE CT CHASN CO PROBATE COURT

IN THE MATTER OF

ALICE SHAW-BAKER

CASE NUMBER

2008GC10-088

PETITION FOR DISCHARGE

☐ GUARDIANSHIP
☒ CONSERVATORSHIP

Petitioner: Family Services, Inc.

1. Nature of interest of undersigned:
Court appointed Conservator.

2. Other pending proceedings relating to the above ward/protected person are:

3. RELIEF SOUGHT:

A. Termination/Discharge because:

☐ Ward/Protected Person died on _____

☐ Guardian/Conservator died on _____

☐ Protected Person has reached the age of eighteen, Probate Court ordered release of Family Services as Conservator.

☐ Guardian/Conservator was adjudicated incapacitated on _____, _____, at _____.

☒ Guardian/Conservator hereby offers resignation and requests Court acceptance.

☐ Will establishing Testamentary Guardianship was denied probate in a formal hearing on _____, at _____.

B. Readjudication of Incapacity

☐ The ward/protected person is no longer incapacitated.

☐ Special leave of Order dated _____ prohibiting petition prior to _____, _____, is hereby requested because:

4. I request that the Court:

(check all that apply)

A. ☒ Consider and approve the final accounting

B. ☐ Adjudicate as to all unsettled liabilities

C. ☒ Discharge, or set forth the conditions of the termination of the appointment of the Guardian/Conservator, and the release of the Fiduciary's bond, if any

D. ☒ Terminate the office.

E. ☐ Other:

F. Issue an Order of same, together with such other Orders as the law may require and as the Court may deem applicable and proper.

By copy of this petition, notice has been given to all interested persons as required by law.

SWORN to before me this 18 day of

December 2008

Signature: [Signature]

Ed Jellison

Name: Family Services, Inc.

Address: 4925 Lacross Road, Suite 215

North Charleston, South Carolina, 29406

Telephone (O): (843) 744-1348

Notary Public for South Carolina

My Commission Expires: 9-8-2009

PROBATE COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE MATTER OF

Alice Shaw-Baker

CASE NUMBER

2008GC10-088

RECEIPT AND RELEASE

The undersigned hereby acknowledges receipt from the Conservator in this matter of the following property for Alice Shaw-Baker

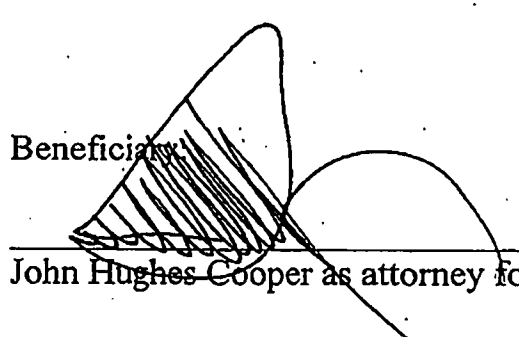
1. Check #194565 made out to Lisa Fisher in the amount of \$52,025.77.
2. 5 Pieces of Jewelry
3. 2 keys to Safe Deposit Box
4. \$17,800.00 in Savings Bonds
5. Statements from Edward Jones for Sept. 27-Nov 28, 2008

Executed this 18th day of December 2008.

Witness:



Beneficiary:



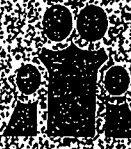
John Hughes Cooper as attorney for Lisa Fisher

2008 DEC 18 PM 10:31
FILED PROBATE CLERK'S OFFICE

Check # 194565
Date 12/18/2008
Amount \$52,025.77

Client Alice Shaw-Baker
Pay To Lisa Fisher
Category CLOSE ACCOUNT
Memo Shaw-Baker, Alice - CLOSE ACCOUNT

THIS DOCUMENT MUST HAVE A COLORED BACKGROUND, ULTRAVIOLET FIBERS AND CONTAINS A WATERMARK - VERIFY FOR AUTHENTICITY

 FAMILY SERVICES INC.
2000 FAMILY FINANCIAL MANAGEMENT
2000 FAMILY FINANCIAL MANAGEMENT
1925 LA GRASS RD SUITE 200
CHARLESTON, SC 29405-5575

NATIONAL BANK
OF SOUTH CAROLINA

194565

DATE
12/18/2008

AMOUNT
\$52,025.77

PAY TO THE ORDER OF

NOT VALID AFTER 180 DAYS

194565 053200666 170768941901

2008 DEC 19 AM 10:31
FILED PROBATE CT CHRSN CO

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

PROBATE COURT

IN THE MATTER OF Alice Shaw-Baker

CASE NUMBER 2008-GC10-088

ACCOUNTING

X FINAL
INTERIM

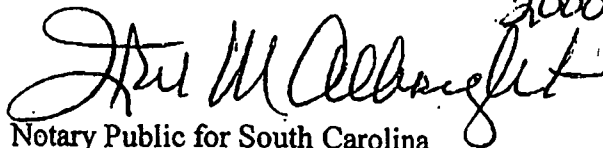
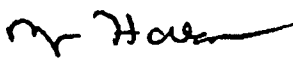
The undersigned Conservator submits this accounting, which covers the period from August 14, 2008 through December 18, 2008.

The documentation on the reverse side of this form sets forth a complete accounting for the period specified, which is summarized as follows:

Beginning Balance	\$	-
Plus: Receipts	\$	247,964.99
Subtotal	\$	247,964.99
Less: Disbursements	\$	(247,964.99)
Ending Balance:	\$	0.00

The Conservator declares that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and is true to the best knowledge and belief of the Conservator.

Executed this 18th day of December 2008

SWORN to before me this <u>18</u> day of <u>Dec.</u> <u>2008</u>  Notary Public for South Carolina My Commission Expires: <u>7-8-2009</u>	Signature:  Name: Family Services, Inc. Address: 4925 Lacross Road, Suite 215 North Charleston, SC 29406 Telephone (O): (843) 744-1348 (H):

FORM #562PC (1/91)

Receipts (assets received into estate)		Disbursements (assets disbursed/paid out from estate)	
INITIAL DEPOSIT Bank Of America	37,000.00	ATTORNEY FEES	3,915.84
Close Account First Federal	151,049.49	AUTOMOBILE PURCHASE/EXPENSE	10.71
Close Account Bank Of America	41,512.82	CABLE	238.26
Other Deposit	555.77	CAREGIVER EXPENSE	31,284.49
REFUND - DEPOSIT	29.00	CLOTHING	196.57
RETIREMENT	7,530.67	COURT FEES	830.00
SOC SEC	1,056.90	CREDIT CARD PAYMENT	3,715.31
SOCIAL SECURITY	2,113.80	ELECTRIC/WATER/GAS	411.18
TAX REFUND	30.00	FMS CONSERVATOR FEE	1,903.94
Interest	304.16	FOOD	68.91
Edward Jones	6,782.38	GUARDIAN FEES	8,254.40
		HOUSEHOLD MAINTENANCE	2,512.35
		INSURANCE	1,688.87
		LAWN CARE	35.00
		LEGAL FEES	7,192.18
		MEDICAL	227.26
		PERSONAL	498.37
		PET CARE	1,136.00
		REALESTATE TAX	294.95
		TELEPHONE	619.09
		Net Change	3,308.17
		Edward Jones Transferred to Admin	6,782.38
		Close Account	52,025.77
		Smith Barney Transferred to Admin	120,814.99
TOTAL	247,964.99		247,964.99

Assets - Detail

Asset Type: All

Client Type: All

Thru Date: 12/18/2008

Client Type: Conservator

Name	Asset Type	Date	Amount	Description
Shaw-Baker, Alice	INVESTMENT	09/05/2008	\$35,000.00	SMITH BARNEY 65J-02140-16
		09/30/2008	(\$587.05)	DEPREC SEP08
		09/30/2008	\$60,000.00	TRANSFER FROM CHECKING
		09/30/2008	\$27.79	INT/DIV SEP08
		10/16/2008	\$40,000.00	TRANSFER FROM CHECKING
		10/31/2008	(\$1,345.85)	DEPREC OCT08
		10/31/2008	\$133.66	INT/DIV OCT08
		10/31/2008	(\$1,181.00)	FMS QUARTERLY FEE
		11/13/2008	(\$10,000.00)	TRANSFER TO CHECKING
		11/30/2008	(\$1,375.27)	DEPREC NOV08
		11/30/2008	\$142.71	INT/DIV NOV08
		INVESTMENT Total:		\$120,814.99
	OUTSIDE INVESTMENTS	10/23/2008	\$6,782.38	EDWARD JONES #714-04013-1-1
	OUTSIDE INVESTMENTS Total:		\$6,782.38	
	SAFE DEPOSIT BOX	10/16/2008	\$0.00	#488469 - Box #187 - In - (5) pieces of jewelry
		10/16/2008	\$0.00	#488467 - Box #187 - In - (2) additional safety deposit box keys
		10/16/2008	\$0.00	#488466 - Box #187 - In - Bonds: (1)\$50, (1)\$100, (3)\$200, (2)\$500, (16)\$1,000
		SAFE DEPOSIT BOX Total:		\$0.00
	Total Assets For Shaw-Baker, Alice			\$127,597.37

Transactions By Client By Acct Mgr.

174

Account: Checking-FINANCIAL MGMT SERVIC

Acct Mgr: All

Client Type: All

Date Range: 8/14/2008 thru 12/18/2008

Client Name: Alice Shaw-Baker

Acct Mgr: Ed Jellison

SSN: 562-32-9423

Date	Check #	Withdraw	Deposit	Reconciled	Trans. Type	Pay To	Check Memo	Balance
Totals:		\$250,878.45	\$250,878.45		Transactions for Period: 81			\$0.00
Payment		Total			Deposit		Total	
ATTORNEY FEES		\$3,915.84			CLOSE ACCOUNT - DEPOSIT		\$192,562.31	
AUTOMOBILE PURCHASE/E		\$10.71			INITIAL DEPOSIT		\$37,000.00	
CABLE		\$238.26			Other Deposit		\$555.77	
CAREGIVER EXPENSE		\$31,284.49			REFUND - DEPOSIT		\$29.00	
CLOSE ACCOUNT		\$52,025.77			RETIREMENT		\$7,530.67	
CLOTHING		\$196.57			SOC SEC		\$1,056.90	
COURT FEES		\$830.00			SOCIAL SECURITY		\$2,113.80	
CREDIT CARD PAYMENT		\$3,715.31			TAX REFUND		\$30.00	
ELECTRIC/WATER/GAS		\$411.18			TFR FROM INVESTMENT		\$10,000.00	
FMS CONSERVATOR FEE		\$722.94			Deposit Total		\$250,878.45	
FOOD		\$68.91						
GUARDIAN FEES		\$8,254.40						
HOUSEHOLD MAINTENANC		\$2,512.35						
INSURANCE		\$1,688.87						
LAWN CARE		\$35.00						
LEGAL FEES		\$7,192.18						
MEDICAL		\$227.26						
PERSONAL		\$498.37						
PET CARE		\$1,136.00						
REAL ESTATE TAX		\$294.95						
TELEPHONE		\$619.09						
TFR TO INVESTMENT		\$135,000.00						
Payment Total		\$250,878.45						

Transactions By Client By Acct Mgr.

Account: Checking-FINANCIAL MGMT SVCIC

Client Type: All

Acct Mgr: All

Date Range: 8/14/2008 thru 12/18/2008

Client Name: Alice Shaw-Baker

Acct Mgr: Ed Jellison

SSN: 562-32-9423

Date	Check #	Withdraw	Deposit	Reconciled	Trans. Type	Pay To	Check Memo	Balance
08/26/2008	Deposit		\$37,000.00	☐	INITIAL DEPOSIT			\$37,000.00
09/02/2008	177374	\$292.58		☐	TELEPHONE	AT&T	Shaw-Baker, Alice - Acct # 843 5	\$36,707.42
09/04/2008	Deposit		\$64,679.22	☐	CLOSE ACCOUNT -			\$101,386.64
09/04/2008	178196	\$35,000.00		☐	TFR TO INVESTME	Smith Barney	Shaw-Baker, Alice - TFR TO INV	\$66,386.64
09/04/2008	178361	\$10.00		☐	COURT FEES	Charleston County RMC	Shaw-Baker, Alice - COURT FEE	\$66,376.64
09/09/2008	178839	\$407.78		☐	CREDIT CARD PAY	Discover	Shaw-Baker, Alice - Acct # xxxx9	\$65,968.86
09/09/2008	178856	\$215.00		☐	MEDICAL	Roper Hospital	Shaw-Baker, Alice - 0034-5512	\$65,752.86
09/09/2008	178866	\$75.00		☐	CAREGIVER EXPEN	Walter Kaufmann	Shaw-Baker, Alice - CAREGIVE	\$65,677.86
09/10/2008	178996	\$187.50		☐	CAREGIVER EXPEN	Alfred Duchene	Shaw-Baker, Alice - CAREGIVE	\$65,490.36
09/11/2008	179015	\$30.15		☐	ELECTRIC/WATER/	Charleston Water System	Shaw-Baker, Alice - Acct # 02290	\$65,460.21
09/11/2008	179050	\$414.03		☐	HOUSEHOLD MAIN	Jane Orenstein	Shaw-Baker, Alice - HOUSEHOL	\$65,046.18
09/15/2008	Deposit		\$555.77	☐	Other Deposit			\$65,601.95
09/15/2008	Deposit		\$900.00	☐	RETIREMENT			\$66,501.95
09/15/2008	Deposit		\$899.59	☐	RETIREMENT			\$67,401.54
09/15/2008	Deposit		\$29.00	☐	REFUND - DEPOSIT			\$67,430.54
09/15/2008	179335	\$60,000.00		☐	TFR TO INVESTME	Smith Barney	Shaw-Baker, Alice - transfer to in	\$7,430.54
09/16/2008	179623	\$505.04		☐	CREDIT CARD PAY	Cardmember Service	Shaw-Baker, Alice - Acct # 4408	\$6,925.50
09/16/2008	179643	\$105.00		☐	ELECTRIC/WATER/	SCE & G	Shaw-Baker, Alice - 7-1975-0210	\$6,820.50
09/22/2008	180119	\$230.87		☐	INSURANCE	Insurance Support Center	Shaw-Baker, Alice - Policy # 366	\$6,589.63
09/23/2008	180365	\$111.90		☐	CABLE	Comcast Cable	Shaw-Baker, Alice - acct # 15552	\$6,477.73
09/23/2008	180379	\$2,832.90		☐	GUARDIAN FEES	Jane Orenstein	Shaw-Baker, Alice - GUARDIAN	\$3,644.83
09/23/2008	180488	\$125.00		☐	HOUSEHOLD MAIN	Titan Termite And Pest Con	Shaw-Baker, Alice - Invoice # 12	\$3,519.83
09/25/2008	180709	\$279.00		☐	HOUSEHOLD MAIN	Jane Orenstein	Shaw-Baker, Alice - HOUSEHOL	\$3,240.83
09/30/2008	Deposit		\$1,910.36	☐	RETIREMENT			\$5,151.19
10/06/2008	182440	\$193.20		☐	TELEPHONE	AT&T	Shaw-Baker, Alice - Acct # 843 5	\$4,957.99
10/06/2008	182512	\$11.26		☐	MEDICAL	Cain Lackey & Maguire	Shaw-Baker, Alice - Acct # xxx22	\$4,946.73
10/08/2008	Deposit		\$41,512.82	☐	CLOSE ACCOUNT -			\$46,459.55
10/08/2008	182985	\$65.60		☐	HOUSEHOLD MAIN	John Hughes Cooper Pc	Shaw-Baker, Alice - CK# 10617	\$46,393.95

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Family Services, Inc.

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Transactions By Client By Acct Mgr.

176

Account: Checking-FINANCIAL MGMT SVCIC

Client Type: All

Acct Mgr: All

Date Range: 8/14/2008 thru 12/18/2008

Client Name: Alice Shaw-Baker

Acct Mgr: Ed Jellison

SSN: 562-32-9423

Date	Check #	Withdraw	Deposit	Reconciled	Trans. Type	Pay To	Check Memo	Balance
10/08/2008	182986-001	\$525.31		☐	HOUSEHOLD MAIN	John Hughes Cooper Pc	ck#10574	\$45,868.64
10/08/2008	182986-002	\$735.50		☐	HOUSEHOLD MAIN	John Hughes Cooper Pc	Shaw-Baker, Alice - ck#'s 10587,	\$45,132.14
10/08/2008	182986-003	\$60.00		☐	HOUSEHOLD MAIN	John Hughes Cooper Pc	Shaw-Baker, Alice - ck# 10625	\$45,072.14
10/09/2008	183231	\$32.04		☐	ELECTRIC/WATER/	Charleston Water System	Shaw-Baker, Alice - Acct # 02290	\$45,040.10
10/10/2008	Deposit		\$1,056.90	☐	SOC SEC.			\$46,097.00
10/14/2008	183588	\$306.91		☐	HOUSEHOLD MAIN	John Hughes Cooper Pc	ck#10598 and 10638	\$45,790.09
10/16/2008	183880-144	\$64.39		☐	FMS CONSERVATO	FAMILY SERVICES - CO	Shaw-Baker, Alice - FMS CONSE	\$45,725.70
10/16/2008	183916	\$40,000.00		☐	TFR TO INVESTME	Smith Barney	Shaw-Baker, Alice - TFR TO INV	\$5,725.70
10/20/2008	184082	\$105.00		☐	ELECTRIC/WATER/	SCE & G	Shaw-Baker, Alice - 7-1975-0210	\$5,620.70
10/20/2008	184140	\$1,103.50		☐	GUARDIAN FEES	Jane Orenstein	Shaw-Baker, Alice - GUARDIAN	\$4,517.20
10/20/2008	184141	\$196.57		☐	CLOTHING	John Hughes Cooper Pc	Shaw-Baker, Alice - CLOTHING	\$4,320.63
10/20/2008	184355	\$127.87		☐	PERSONAL	Jane Orenstein	Shaw-Baker, Alice - PERSONAL	\$4,192.76
10/20/2008	184356	\$350.00		☐	PERSONAL	John Hughes Cooper Pc	Shaw-Baker, Alice - # 14	\$3,842.76
10/20/2008	184357	\$30.43		☐	FOOD	John Hughes Cooper Pc	Shaw-Baker, Alice - #10	\$3,812.33
10/20/2008	184358	\$20.50		☐	PERSONAL	John Hughes Cooper Pc	Shaw-Baker, Alice - #12	\$3,791.83
10/23/2008	186255	\$277.00		☐	PET CARE	Veterinary Medical Care, Ll	Shaw-Baker, Alice - PET CARE	\$3,514.83
10/23/2008	186256	\$293.00		☐	PET CARE	Veterinary Medical Care, Ll	Shaw-Baker, Alice - PET CARE	\$3,216.83
10/23/2008	186257	\$267.00		☐	PET CARE	Veterinary Medical Care, Ll	Shaw-Baker, Alice - PET CARE	\$2,949.83
10/23/2008	186258	\$294.00		☐	PET CARE	Veterinary Medical Care, Ll	pet	\$2,655.83
10/27/2008	186304	\$65.39		☐	CABLE	Comcast Cable	Shaw-Baker, Alice - acct # 15552	\$2,590.44
10/27/2008	186326	\$35.00		☐	LAWN CARE	John Hughes Cooper Pc	Shaw-Baker, Alice - LAWN CAR	\$2,555.44
10/27/2008	186531	\$127.87		☐	CLOTHING	Jane Orenstein	Shaw-Baker, Alice - clothing	\$2,427.57
10/28/2008	186626	\$299.95		☐	REAL ESTATE TAX	Charleston County Treasure	Shaw-Baker, Alice - PID#: 349-07	\$2,132.62
10/28/2008	186698	\$33.48		☐	FOOD	John Hughes Cooper Pc	Shaw-Baker, Alice - Food	\$2,094.14
10/30/2008	186726	\$41.27		☐	TELEPHONE	AT&T	Shaw-Baker, Alice - Acct # 843 5	\$2,052.87
10/30/2008	186766	\$300.00		☐	COURT FEES	Rebecca S. Mccrudden	Shaw-Baker, Alice - COURT FEE	\$1,752.87
10/30/2008	186776	\$729.00		☐	INSURANCE	State Farm Insurance	Shaw-Baker, Alice - Acct # 27098	\$1,023.87
10/31/2008	Deposit		\$1,910.36	☐	RETIREMENT			\$2,934.23

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Family Services, Inc.

Page 2 of 4

Transactions By Client By Acct Mgr.

177

Account: Checking-FINANCIAL MGMT SVC

Client Type: All

Acct Mgr: All

Date Range: 8/14/2008 thru 12/18/2008

Client Name: Alice Shaw-Baker

Acct Mgr: Ed Jellison

SSN: 562-32-9423

Date	Check #	Withdraw	Deposit	Reconciled	Trans. Type	Pay To	Check Memo	Balance
11/03/2008	Deposit		\$1,056.90	☐	SOCIAL SECURITY			\$3,991.13
11/03/2008	187865	\$10.71		☐	AUTOMOBILE PUR	Charleston County Treasure	Shaw-Baker, Alice - Receipt# 200	\$3,980.42
11/03/2008	187890	\$729.00		☐	INSURANCE	Insurance Support Center	Shaw-Baker, Alice - Acct #1119-2	\$3,251.42
11/04/2008	188240	\$200.00		☐	CREDIT CARD PAY	Cardmember Service	Shaw-Baker, Alice - Acct # 5401	\$3,051.42
11/06/2008	186531V	(\$127.87)		☐	CLOTHING	Jane Orenstein	Void	\$3,179.29
11/06/2008	188538	\$350.00		☐	CREDIT CARD PAY	Discover	Shaw-Baker, Alice - Acct# ***58	\$2,829.29
11/06/2008	188539	\$508.86		☐	CREDIT CARD PAY	Discover	Shaw-Baker, Alice - Acct # ***91	\$2,325.43
11/10/2008	188793	\$38.99		☐	ELECTRIC/WATER/	Charleston Water System	Shaw-Baker, Alice - Acct # 02290	\$2,291.44
11/13/2008	Deposit		\$86,370.27	☐	CLOSE ACCOUNT -			\$88,661.71
11/13/2008	Deposit		\$10,000.00	☐	TFR FROM INVEST			\$98,661.71
11/14/2008	Deposit		\$30.00	☐	TAX REFUND			\$98,691.71
11/17/2008	189695	\$25.00		☐	CREDIT CARD PAY	Cardmember Service	Shaw-Baker, Alice - Acct # 4408	\$98,665.71
11/17/2008	189730	\$105.00		☐	ELECTRIC/WATER/	SCE & G	Shaw-Baker, Alice - 7-1975-0210	\$98,560.71
11/17/2008	189752	\$7,192.18		☐	LEGAL FEES	C. Mac Gibson, Jr.	Shaw-Baker, Alice - LEGAL FEE	\$91,368.53
11/17/2008	189788	\$4,318.00		☐	GUARDIAN FEES	Walter Kaufmann	Shaw-Baker, Alice - GUARDIAN	\$87,050.53
11/20/2008	190212	\$520.00		☐	COURT FEES	Clark And Associates Inc.	Shaw-Baker, Alice - COURT FEE	\$86,530.53
11/20/2008	190258	\$1,708.63		☐	CREDIT CARD PAY	Discover	Shaw-Baker, Alice - Acct # ***58	\$84,826.90
11/24/2008	190544	\$60.97		☐	CABLE	Comcast Cable	Shaw-Baker, Alice - acct # 15552	\$84,765.93
11/24/2008	190623	\$31,021.99		☐	CAREGIVER EXPEN	John Hughes Cooper Pc	Shaw-Baker, Alice - Reimburse	\$53,743.94
12/01/2008	Deposit		\$1,910.36	☐	RETIREMENT			\$55,654.30
12/03/2008	Deposit		\$1,056.90	☐	SOCIAL SECURITY			\$56,711.20
12/04/2008	192740	\$92.04		☐	TELEPHONE	AT&T	Shaw-Baker, Alice - Acct # 843 5	\$56,619.16
12/04/2008	192845	\$19.00		☐	CREDIT CARD PAY	Cardmember Service	Shaw-Baker, Alice - Acct # 4408	\$56,600.16
12/08/2008	193134	\$3,915.84		☐	ATTORNEY FEES	Peter A. Kouten, Esquire	Shaw-Baker, Alice - ATTORNEY	\$52,684.32
12/18/2008	194554-002	\$658.55		☐	FMS CONSERVATO	FAMILY SERVICES - CO	Shaw-Baker, Alice - FMS CONSE	\$52,025.77
12/18/2008	194565	\$52,025.77		☐	CLOSE ACCOUNT	Lisa Fisher	Shaw-Baker, Alice - CLOSE ACC	\$0.00

Alice Shaw-Baker
08/14/08-12/18/08
Client's Final Accounting

Beginning Balance 08/14/08
Checking
Investment

INITIAL DEPOSIT Bank Of America	37,000.00
Close Account First Federal	151,049.49
Close Account Bank Of America	41,512.82
Other Deposit	555.77
REFUND - DEPOSIT	29.00
RETIREMENT	7,530.67
SOC SEC	1,056.90
SOCIAL SECURITY	<u>2,113.80</u>
TAX REFUND	<u>30.00</u>
	240,878.45

TFR FROM INVESTMENT 10,000.00

Close Account	52,025.77
ATTORNEY FEES	3,915.84
AUTOMOBILE PURCHASE/EXPEN	10.71
CABLE	238.26
CAREGIVER EXPENSE	31,284.49
CLOTHING	196.57
COURT FEES	830.00
CREDIT CARD PAYMENT	3,715.31
ELECTRIC/WATER/GAS	411.18
FMS CONSERVATOR FEE	722.94
FOOD	68.91
GUARDIAN FEES	8,254.40
HOUSEHOLD MAINTENANCE	2,512.35
INSURANCE	1,688.87
LAWN CARE	35.00
LEGAL FEES	7,192.18
MEDICAL	227.26
PERSONAL	498.37
PET CARE	1,136.00
REAL ESTATE TAX	294.95
TELEPHONE	<u>619.09</u>
	(115,878.45)

TFR TO INVESTMENT 135,000.00

Smith Barney

09/05/2008	35,000.00
09/30/2008	27.79
10/31/2008	133.66
11/30/2008	<u>142.71</u>
	304.16

SMITH BARNEY 65J-02140-16

INT/DIV SEP08
INT/DIV OCT08
INT/DIV NOV08

09/30/2008	(587.05)
10/31/2008	(1,345.85)
11/30/2008	<u>(1,375.27)</u>
	(3,308.17)

DEPREC SEP08
DEPREC OCT08
DEPREC NOV08

09/30/2008	60,000.00
10/16/2008	<u>40,000.00</u>
	100,000.00

TRANSFER FROM CHECKING
TRANSFER FROM CHECKING

11/13/2008	(10,000.00)
10/31/2008	<u>(1,181.00)</u>
	(1,181.00)

TRANSFER TO CHECKING
FMS QUARTERLY FEE

10/23/2008	<u>6,782.38</u>
	6,782.38

EDWARD JONES #714-04013-1-1

Alice Shaw-Baker
08/14/08-12/18/08
Client's Final Accounting

Investment Smith Barney
Investment Edward Jones

(120,814.99)
(6,782.38)

Investment Will Be Transferred to Special Administrator
Investment Will Be Transferred to Special Administrator

Ending Balance
Checking
Investment Smith Barney
Investment Edward Jones

-
-
-
-

Alice Shaw-Baker
08/14/08-12/09/08
Client's Final Accounting

Investment Smith Barney
Investment Edward Jones

(120,814.99)
(6,782.38)

Investment Will Be Transferred to Special Administrator
Investment Will Be Transferred to Special Administrator

Ending Balance
Checking

52,684.32

Investment Smith Barney
Investment Edward Jones

52,684.32 ✓

Alice Shaw-Baker
08/14/08-12/09/08
Client's Final Accounting

Beginning Balance 08/14/08
Checking
Investment

INITIAL DEPOSIT Bank Of America	37,000.00 ✓
Close Account First Federal	151,049.49 ✓
Close Account Bank Of America	41,512.82 ✓
Other Deposit	555.77 ✓
REFUND - DEPOSIT	29.00 ✓
RETIREMENT	7,530.67 ✓
SOC SEC	1,056.90 ✓
SOCIAL SECURITY	2,115.80 ✓
TAX REFUND	30.00 ✓
	<u>240,878.45</u>

TFR FROM INVESTMENT	10,000.00 ✓
ATTORNEY FEES	3,915.84
AUTOMOBILE PURCHASE/EXPEN	10.71
CABLE	238.26
CAREGIVER EXPENSE	31,284.49
CLOTHING	196.57
COURT FEES	830.00
CREDIT CARD PAYMENT	3,715.31
ELECTRIC/WATER/GAS	411.18
FMS CONSERVATOR FEE	64.39
FOOD	68.91
GUARDIAN FEES	8,254.40
HOUSEHOLD MAINTENANCE	2,512.35
INSURANCE	1,688.87
LAWN CARE	35.00
LEGAL FEES	7,192.18
MEDICAL	227.26
PERSONAL	498.37
PET CARE	1,136.00
REAL ESTATE TAX	294.95
TELEPHONE	619.09 ✓
	<u>(63,194.13)</u>

TFR TO INVESTMENT	135,000.00 ✓

Smith Barney
09/05/2008

35,000.00 ✓

SMITH BARNEY 65J-02140-16

09/30/2008

27.79 ✓

INT/DIV SEP08

10/31/2008

133.66 ✓

INT/DIV OCT08

11/30/2008

142.71 ✓

INT/DIV NOV08

304.16

09/30/2008

(587.05) ✓

DEPREC SEP08

10/31/2008

(1,345.85) ✓

DEPREC OCT08

11/30/2008

(1,375.27) ✓

DEPREC NOV08

(3,308.17)

09/30/2008

60,000.00 ✓

TRANSFER FROM CHECKING

10/16/2008

40,000.00 ✓

TRANSFER FROM CHECKING

100,000.00

11/13/2008

(10,000.00) ✓

TRANSFER TO CHECKING

10/31/2008

(1,181.00) ✓

FMS QUARTERLY FEE

(1,181.00)

10/23/2008

6,782.38 ✓

EDWARD JONES #714-04013-1-1

6,782.38

Transactions By Client By Acct Mgr.

Account: Checking-FINANCIAL MGMT SVC

Acct Mgr: All

Client Type: All

Date Range: 8/14/2008 thru 12/8/2008

Client Name: Alice Shaw-Baker

Acct Mgr: Ed Jellison

SSN: 562-32-9423

Date	Check #	Withdraw	Deposit	Reconciled	Trans. Type	Pay To	Check Memo	Balance
Totals:		\$198,194.13	\$250,878.45		Transactions for Period: 79			\$52,684.32
Payment		Total	Deposit		Total			
ATTORNEY FEES		\$3,915.84	CLOSE ACCOUNT - DEPOSIT		\$192,562.31			
AUTOMOBILE PURCHASE/E		\$10.71	INITIAL DEPOSIT		\$37,000.00			
CABLE		\$238.26	Other Deposit		\$555.77			
CAREGIVER EXPENSE		\$31,284.49	REFUND - DEPOSIT		\$29.00			
CLOTHING		\$196.57	RETIREMENT		\$7,530.67			
COURT FEES		\$830.00	SOC SEC		\$1,056.90			
CREDIT CARD PAYMENT		\$3,715.31	SOCIAL SECURITY		\$2,113.80			
ELECTRIC/WATER/GAS		\$411.18	TAX REFUND		\$30.00			
FMS CONSERVATOR FEE		\$64.39	TFR FROM INVESTMENT		\$10,000.00			
FOOD		\$68.91	Deposit Total		\$250,878.45			
GUARDIAN FEES		\$8,254.40						
HOUSEHOLD MAINTENANC		\$2,512.35						
INSURANCE		\$1,688.87						
LAWN CARE		\$35.00						
LEGAL FEES		\$7,192.18						
MEDICAL		\$227.26						
PERSONAL		\$498.37						
PET CARE		\$1,136.00						
REAL ESTATE TAX		\$294.95						
TELEPHONE		\$619.09						
TFR TO INVESTMENT		\$135,000.00						
Payment Total		\$198,194.13						

OK
CH

Transactions By Client By Acct Mgr.

183

Account: Checking-FINANCIAL MGMT SERVIC

Acct Mgr: All

Client Type: All

Date Range: 8/14/2008 thru 12/8/2008

Client Name: Alice Shaw-Baker

Acct Mgr: Ed Jellison

SSN: 562-32-9423

Date	Check #	Withdraw	Deposit	Reconciled	Trans. Type	Pay To	Check Memo	Balance
08/26/2008	Deposit		\$37,000.00	☐	INITIAL DEPOSIT	Bank of America		\$37,000.00
09/02/2008	177374	\$292.58		☐	TELEPHONE	AT&T	Shaw-Baker, Alice - Acct # 843 5	\$36,707.42
09/04/2008	Deposit		\$64,679.22	☐	CLOSE ACCOUNT -	First Federal		\$101,386.64
09/04/2008	178196	\$35,000.00		☐	TFR TO INVESTME	Smith Barney	Shaw-Baker, Alice - TFR TO INV	\$66,386.64
09/04/2008	178361	\$10.00		☐	COURT FEES	Charleston County RMC	Shaw-Baker, Alice - COURT FEE	\$66,376.64
09/09/2008	178839	\$407.78		☐	CREDIT CARD PAY	Discover	Shaw-Baker, Alice - Acct # xxx9	\$65,968.86
09/09/2008	178856	\$216.00		☐	MEDICAL	Roper Hospital	Shaw-Baker, Alice - 0034-5512	\$65,752.86
09/09/2008	178866	\$75.00		☐	CAREGIVER EXPEN	Walter Kaufmann	Shaw-Baker, Alice - CAREGIVE	\$65,677.86
09/10/2008	178996	\$187.50		☐	CAREGIVER EXPEN	Alfred Duchene	Shaw-Baker, Alice - CAREGIVE	\$65,490.36
09/11/2008	179015	\$30.15		☐	ELECTRIC/WATER/	Charleston Water System	Shaw-Baker, Alice - Acct # 02290	\$65,460.21
09/11/2008	179050	\$414.03		☐	HOUSEHOLD MAIN	Jane Orenstein	Shaw-Baker, Alice - HOUSEHOL	\$65,046.18
09/15/2008	Deposit		\$899.59	☐	RETIREMENT			\$65,945.77
09/15/2008	Deposit		\$900.00	☐	RETIREMENT			\$66,845.77
09/15/2008	Deposit		\$555.77	☐	Other Deposit	Wachovia		\$67,401.54
09/15/2008	Deposit		\$29.00	☐	REFUND - DEPOSIT	State Farm		\$67,430.54
09/15/2008	179335	\$60,000.00		☐	TFR TO INVESTME	Smith Barney	Shaw-Baker, Alice - transfer to in	\$7,430.54
09/16/2008	179623	\$505.04		☐	CREDIT CARD PAY	Cardmember Service	Shaw-Baker, Alice - Acct # 4408	\$6,925.50
09/16/2008	179643	\$105.00		☐	ELECTRIC/WATER/	SCE & G	Shaw-Baker, Alice - 7-1975-0210	\$6,820.50
09/22/2008	180119	\$230.87		☐	INSURANCE	Insurance Support Center	Shaw-Baker, Alice - Policy # 366	\$6,589.63
09/23/2008	180365	\$111.90		☐	CABLE	Comcast Cable	Shaw-Baker, Alice - acct # 15552	\$6,477.73
09/23/2008	180379	\$2,832.90		☐	GUARDIAN FEES	Jane Orenstein	Shaw-Baker, Alice - GUARDIAN	\$3,644.83
09/23/2008	180488	\$125.00		☐	HOUSEHOLD MAIN	Titan Termite And Pest Con	Shaw-Baker, Alice - Invoice # 12	\$3,519.83
09/25/2008	180709	\$279.00		☐	HOUSEHOLD MAIN	Jane Orenstein	Shaw-Baker, Alice - HOUSEHOL	\$3,240.83
09/30/2008	Deposit		\$1,910.36	☐	RETIREMENT			\$5,151.19
10/06/2008	182440	\$193.20		☐	TELEPHONE	AT&T	Shaw-Baker, Alice - Acct # 843 5	\$4,957.99
10/06/2008	182512	\$11.26		☐	MEDICAL	Cain Lackey & Maguire	Shaw-Baker, Alice - Acct # xxx22	\$4,946.73
10/08/2008	Deposit		\$41,512.82	☐	CLOSE ACCOUNT -	Bank of America		\$46,459.55
10/08/2008	182985	\$63.60		☐	HOUSEHOLD MAIN	John Hughes Cooper Pc	Shaw-Baker, Alice - CK# 10617	\$46,393.95

Printed 12/8/2008 2:21:00 PM

Family Services, Inc.

Page 1 of 4

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF:

Alice Shaw Baker

IN THE PROBATE COURT

ANNUAL REPORT OF GUARDIAN

CASE NUMBER: *2008-GC-10-88*

Guardian:

Address:

Telephone (O):

(H):

Lisa Fisher Esq.

P.O. Box 91112

Long Beach, Ca 90809-1112

(562) 965-3267 or (562) 234-6635

(866) 206-9066 x 9861

FILED
09 JAN 30 PM 2:57
CLERK OF COURT
CHARLESTON COUNTY

PLEASE ANSWER THE FOLLOWING QUESTIONS
(Attach additional sheets if necessary. Please type or print in ink)

1. Where is the incapacitated person living?

*at her home located at: 306 Cassina Rd.
Charleston, SC 29407*

2. What is the general physical and/or mental condition of the incapacitated person? List any significant changes since your last report or appointment.

*~~FAIR~~ FAIR Condition - Change in
Medication. Still in Process of Evaluation*

3. Has the incapacitated person been seen by a physician this past year? ☐ NO ☒ YES

(If yes, please give doctor(s) names, approximate dates of visits, complaints and doctor's findings.)

Dr. Alan JACKSON

Dr. Don Schweiger

Dr. Rose

Dr. Shannon Honey

Dr. Schwenzfeier

Dr. Waic

4. What medical or other professional care or treatment, housing, education, therapy, or training needs do you foresee the incapacitated person, as needing during the upcoming year?

Additional Testing & Continued Treatment

5. Are you in control of any tangible property of the incapacitated person? ☐ NO ☒ YES

(If yes, describe and report on its condition.)

Real Property / home of Alice Shaw Baker Good Condo

Personal Property / Home Furnishings Good condition

6. Are you also the Conservator for the incapacitated person? ☐ NO ☒ YES

(Answer the following questions only if your answer is NO to the above.)

7. Did you receive any money from any source on behalf of the incapacitated person? ☐ NO ☒ YES

(If yes, attach a sheet detailing receipts and expenditures including dates.)

N/A

8. Have you been paid any funds for care of the incapacitated person during the reporting time? ☐ NO ☒ YES

N/A

45

JURAT

STATE OF CALIFORNIA

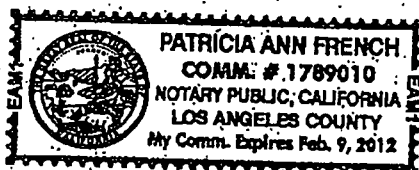
COUNTY OF Los Angeles

Subscribed and sworn to (or affirmed) before me on

this 29th day of January, 20 09,

by Lisa Fisher

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



(seal)

Signature Patricia French

Alice Shaw-Baker

- 1) Dr. Alan Jackson-December 19, 2008
Placement on Medications. Obtained MRI/CT Scans. Alice Shaw Baker requested another doctor.
- 2) Dr. Shannon Honey-October, 2008
Finding that Alice Shaw Baker was compliant with treatment and follow up, clean and appropriately dressed...and appeared well nourished and hydrated.
- 3) Dr. Schwieger-new doctor
Findings to be forwarded upon receipt of report
- 4) Dr. Don Schwenzfeier-new ear doctor
Cleaned ears and removed portion of tubing in ear.
- 5) Dr. Samuel Rosen-geriatric psychiatrist
Changed medications. Filing a report with the court.
- 6) Dr. L. Randall Waid-neuropsychologist
Court ordered evaluation of November 20, 2008 filed with the court.

2009 JAN 16 AM 10:06

FILED PROBATE CT CHARSCO

THE KOUTEN LAW FIRM, LLC

7013 DORCHESTER ROAD, SUITE E
NORTH CHARLESTON, SOUTH CAROLINA 29418
TEL: (843) 767-5284
FAX: (843) 767-5286

January 14, 2009

Elizabeth Sykes
Charleston County Probate Court
100 Broad Street, Ste 469
Charleston, SC 29401

Re: Matter of Alice Shaw-Baker
Case No.: 2008-GC-10-088

Dear Ms. Sykes:

As a condition of the Court's Guardianship and Conservatorship Appointment Order for Ms. Alice Shaw-Baker dated 11/19/08, I was to "visit Alice Shaw-Baker on a weekly basis" until receipt of reports from neuropsychological and medical evaluations. The neuropsychological evaluation was purposed by Dr. Waid per Court Order.

The Order sought to clarify whether Ms. Shaw-Baker:

1. has dementia and, if so, can it be addressed with medication;
2. could competently and safely drive an auto;
3. requires 24 hour care and, if not, a recommendation of appropriate care levels and a proper procedure to determine the same.

It is Dr. Waid's medical opinion that Alice has "definitive neurocognitive impairment" which gives rise to "a dementia." Dr. Waid is unsure whether the difficulty is associated with her diet/ diabetes. He does recommend she be assessed by a geriatric psychiatrist to determine if she can profit from diabetes medications. He also suggests an MRI to help determine the "causal factors of her neurocognitive decline."

Dr. Waid does not believe Alice should drive in her current state, however, her condition may improve from the above course of action.

Dr. Waid is of the belief that Alice can have less than 24 hour supervision and suggests a minimum of 12 hours daily between the hours of 8 am and 8 pm to include the preparation of all her meals. Dr. Waid suggests continued monitoring may alter Alice's need for care. She may need less if she responds to diabetes medications if they are necessary based on the evaluation.

Additionally, Dr. Waid suggests Alice maintain primary care on a regular basis concerning her diabetes, hypertension, cholesterol, and other medical conditions.

If you have any questions, please contact my office.

Sincerely,



Peter A. Kouten
Kouten Law Firm, LLC

cc: Lisa Fisher
John Hughes Cooper

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE PROBATE COURT

CONSERVATOR ANNUAL ACCOUNTING

THE MATTER OF:

Alice Shaw-Baker

CASE NUMBER: 2008 - GC-10 - 88

~~Please provide Bank Statement with Accounting~~

10/29/08

The undersigned Conservator submits this accounting, which covers the period from ~~04/01/2008~~ through 12/31/2008.

The documentation on page 2 of this form sets forth a complete accounting for the period specified, which is summarized as follows:

Beginning Balance

Plus: Receipts

Subtotal

Less: Disbursements

Ending Balance

0
179,216.¹⁰
179,216.¹⁰
20,694.09
158,522.⁰¹

FILED
OCT 30 PM 2:57
PROBATE COURT
CHARLESTON COUNTY

The Conservator declares that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and is true to the best knowledge and belief of the Conservator.

Executed this

day of

1-29th 20 09

SWORN to before me this 20 day of

Signature:

Name:

Address:

Telephone (O):

(H):

Notary Public for South Carolina

My Commission Expires:

SEE ATTACHED NOTARY CERTIFICATE

[Signature]
Name: Lisa Fisher
Address: P.O. Box 91112
Long Beach, CA 90809-1112
Telephone (O): _____
(H): _____

2-17-09
[Signature]

44

RECEIPTS (assets received into estate)	DISBURSEMENTS (assets disbursed/paid out from estate)
See Attached	See attached
TOTAL	

JURAT

STATE OF CALIFORNIA

COUNTY OF Los Angeles

Subscribed and sworn to (or affirmed) before me on

this 29th day of January, 20 09

by Lisa Fisher

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



Signature Patricia French

(seal)

ALICE SHAW BAKER 12-23-08 to 12/31/08

ASSETS RECEIVED INTO ESTATE

DISBURSEMENTS

INITIAL DEPOSIT 12/23/08 Transfer from Jellison	\$52,025.77	Caregiver expense (See attachment)	\$18,124.09
CONSERVATORSHIP ACCT.-Edward Jones Valued as of November, 2008	\$5,381.61	Bond (See attachment)	\$1,465.00
CONSERVATORSHIP -Smith Barney Valued as of December 2008	\$121,739.57	Living Expenses (See attachment)	\$1,105.00
Cash	\$69.15	Note: (Monies not received from Family Services until 12/23/08)	
TOTAL	179216.1		20694.09

Alice Shaw Baker

DISBURSEMENTS

CAREGIVER EXPENSE

10-2008 through 12/12/2009	Caregivers	\$12,941.59
12/13 to 12/27/08	Caregivers	\$5,182.50
		18124.09

BOND

12/25/08	Bond Services	\$1,465.00

LIVING EXPENSES

12/29/08	Deposit to Cover past due Blue Shield Payments	\$1,000.00
12/29/08	SCE & G	\$105.00
12/30/08	Chase Card Services	\$24.11
		1105

ASSETS-Detail

ALICE SHAW BAKER

RECEIPTS FROM FAMILY SERVICES

12/23/08	5 pieces of jewelry	\$0.00
	Safe Deposit Box Keys (2)	\$0.00
	Bonds (1) \$50.00, (1) \$100.00, (3) \$200.00; (2) \$500.00; (16) \$1,000.00 *** Items will be transferred to Estate Assets in January 2009	\$0.00

SAFE DEPOSIT BOX CONTENTS

	Bonds-HH (4) \$10,000.00, (6) \$5,000.00, (16) \$1000.00, (40) \$500.00 *** Items will be transferred to Estate Assets in January 2009	\$0.00
12/13 to 12/27/08	Caregivers	\$0.00
		0



AT SMITH BARNEY

Client Statement

December 1 - December 31, 2008

Page 1 of 6

sf: 00013287 00109701

L08000013287 308366A101 CPGFO038A
 LISA FISHER, CONSERVATOR
 FOR ALICE SHAW BAKER
 2155 BELLFLOWER BLVD, #7
 LONG BEACH CA 90815-3127

Your Broker/Dealer is
 CITIGROUP GLOBAL MKTS INC.

Account number ~~6000200101000~~

200 MEETING STREET
 SUITE 402
 CHARLESTON SC 29401
 843-727-7700
 www.smithbarney.com



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Account value

	Last period	This period	%
Bank Deposit Program SM -principal	\$ 24,223.11	\$ 24,568.32	20.18
Mutual funds	96,591.88	97,171.25	79.82
Total value	\$ 120,814.99	\$ 121,739.57	100.00

Earnings summary

	This period		This year	
	Taxable	Non-taxable	Taxable	Non-taxable
Dividends	\$ 357.98	\$ 51.95	\$ 558.29	\$ 151.90
Bank Deposit Program Interest	21.85	0.00	127.70	0.00
Total	\$ 379.83	\$ 51.95	\$ 683.99	\$ 151.90

Additional summary information

	This period	This year
Check-up tax withheld	\$ 86.57	\$ 86.57

Cash, money fund, bank deposits

	This period	This year
Opening balance	\$ 24,223.11	
Deposits	0.00	135,000.00
Withdrawals	0.00	(11,181.00)
Dividends credited	329.48	
Bank Deposit Program SM Interest reinvested	15.73	
Closing balance	\$ 24,568.32	

A free credit balance in any securities account may be paid to you on demand. Although properly accounted for on our books and records, these funds may be used for our business purposes.

Portfolio summary

	This period	This year
Beginning total value (excl. accr. Int.)	\$ 120,814.99	\$ 0.00
Net security deposits/withdrawals	0.00	0.00
Net cash deposits/withdrawals	0.00	123,819.00
Beginning value net of deposits/withdrawals	120,814.99	123,819.00
Total value as of 12/31/2008 (excl. accr. Int.)	\$ 121,739.57	\$ 121,739.57
Change in value	\$ 924.58	(\$ 2,079.43)



00032347 01 AT 0.346 01 TR 00113 EJADD022 010000
ALICE SHAW-BAKER
306 CASSINA PARKWOOD ROAD
CHARLESTON SC 29407-0000



Market Volatility: What Do You Want to Know?

Edward Jones clients just like you recently had the chance to bring their questions about investing in today's market to Alan Skrainka, our chief market strategist. View a video of the event at www.edwardjones.com/townhall to find out what's on their minds and hear what Alan has to say.

Jimmy Legal

Total Account Value

\$5,381.61

Value on Sep 27
\$6,782.38

Value One Year Ago
\$7,314.70

Value Summary

	This Period	This Year
Beginning value	\$6,782.38	\$7,301.15
Assets added to account	0.00	0.00
Income	125.00	283.05
Assets withdrawn from account	0.00	0.00
Change in value	-1,525.77	-2,202.59
Ending Value	\$5,381.61	

Summary of Assets (as of Nov 28, 2008)

additional details at www.edwardjones.com/accountlink

Cash & Money Market					Ending Balance
Cash					\$375.00
Municipal Bonds	Maturity Date	Maturity Value	Amount Invested	Amount Withdrawn	Value
SC Jobs Economic Dev Hosp Facs 5.00%	11/1/2026	5,000.00	4,981.00	—	3,647.55
Mutual Funds	Price	Quantity	Amount Invested	Amount Withdrawn	Value
Investment Co of America Fd A	20.73	65.56	1,626.87	—	1,359.06
Total Account Value					\$5,381.61

Investment and Other Activity

Date	Description	Quantity	Amount
11/03	Interest on SC Jobs Economic Dev Hosp Facs Due 11/01/2026 5.000 % on 5,000 @ 0.025		\$125.00

Account Type Single



Farmers & Merchants Bank®

Date 1/07/09

Account No.

Enclosures

Page

1

11

Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator
PO Box 91112
Long Beach CA 90809-1112

Please visit our website for online banking at www.fmb.com.
"California's Strongest Bank"

Account Title: Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator

Interest On Checking		Number of Enclosures	11
Account Number	1846817	Statement Dates	12/23/08 thru 1/07/09
Beginning Balance	.00	Days in the statement period	16
2 Deposits/Credits	52,125.77	Average Ledger	42,565.78
12 Checks/Debits	20,553.20		
Service Charge	.00	Interest Earned	.93
Interest Paid	.93	Annual Percentage Yield Earned	0.05%
Ending Balance	31,573.50	2009 Interest Paid	.93

Deposits and Other Credits

Date	Description	Amount
12/23	Deposit	100.00
12/23	Deposit	52,025.77
1/07	Interest Deposit	.93

Checks and Other Debits

Date	Description	Amount
12/31	CHASE EPAY 021000023461637 5760039224TEL	24.11-

--- CHECKS IN NUMBER ORDER ---

Date	Check No	Amount	Date	Check No	Amount	Date	Check No	Amount
12/30		1,000.00	1/05		510.00	1/06		105.00
12/30		1,465.00	1/05		667.50	1/06		472.50
12/30		12,941.59	1/05		862.50	1/06		682.50
1/05		660.00	1/05		1,162.50			

* Denotes missing check numbers



Member FDIC



197

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN THE MATTER OF: ALICE SHAW-BAKER

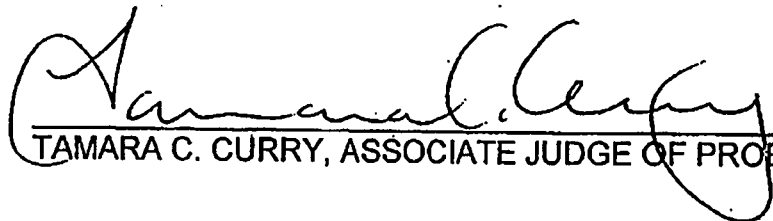
CASE NUMBER: 2008GC10-088

CERTIFICATE OF DISCHARGE

FAMILY SERVICES, INC.

appear(s) to have fully administered the above matter,
having filed the receipts and other necessary proof that
that all Orders Closing the Estate have been compiled with.
IT IS HEREBY ORDERED that this Conservatorship
is hereby ended.

Effective the 18 day of February, 2009


TAMARA C. CURRY, ASSOCIATE JUDGE OF PROBATE

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO: 2008-GC-10-088

ELISABETH SPENCER,)

Petitioner,)

vs.)

ALICE SHAW-BAKER, an alleged)
Incapacitated person, and)
LISA FISHER, her next of kin,)

Respondents.)

**MOTION FOR ORDER
OF TERMINATION OF
CONSERVATORSHIP, FILING
OF FINAL ACCOUNTING AND
DISTRIBUTION OF ESTATE
ASSETS TO COURT-APPOINTED
PERSONAL REPRESENTATIVE**

09 MAR -2 AM 10:06
PROBATE COURT
TOD

THE PETITIONER AND PERSONAL REPRESENTATIVE OF

the Estate of Alice Shaw-Baker (2009-ES-10-0378), Bessie Wyndham Huckabee, hereby moves this Court for an Order of Termination of Conservator, the filing of the Final Accounting by Conservator and the proper distribution of estate assets to the Court-Appointed Personal Representative, Bessie Wyndham Huckabee. In support of this Motion, movant would show unto this Court as follows:

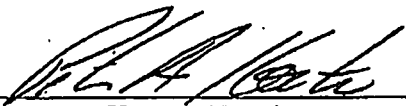
1. This Court, with the Honorable Judge Tamara C. Curry presiding on October 29, 2008, appointed Lisa Fisher Conservator for Ms. Alice Shaw-Baker;
2. Ms. Alice Shaw-Baker died on February 25, 2009 at Roper Hospital in Charleston County, South Carolina;
3. Ms. Fisher, in performance of her duties as Conservator for Ms. Shaw-Baker and pursuant to South Carolina Probate Code Section 62-5-425(d), has delivered to the Court Decedent Shaw-Baker's Last Will and Testament and has informed the executor of her death;
4. Executor Bessie Wyndham Huckabee has been appointed by this Court as Personal Representative for the Estate of Alice Shaw-Baker (2009-ES-10-0378);
5. The duties and powers of the Personal Representative commence upon her appointment;

6. Ms. Huckabee has provided per South Carolina Probate Code, via ordinary first class mail, Information to Heirs. This Information to Heirs was mailed to Ms. Fisher;
7. Ms. Huckabee has a duty under Section 62-3-709 to take possession of the estate assets and is entitled to seek Order from this Court for termination of the Conservatorship under Section 62-5-430;

8. ~~Every Conservator must account to the Court for her administration of the estate upon termination.~~

WHEREFORE the movant prays that

1. the Probate Court, pursuant to S.C. Code Ann. §62-5-430, provide an Order Terminating Conservator Lisa Fisher from her appointment as Conservator;
2. prior to termination, the Probate Court orders Ms. Lisa Fisher to provide an estate accounting including the opening estate balance, account activity during her conservatorship and the closing balance within 30 days of receipt of the order;
3. the Probate Court order that the Conservator turn over all estate assets in her possession within 5 business days of receipt of the order;
4. any such relief as the Court deems just and equitable.



Peter A. Kouten, Esquire
Attorney for Petitioner
7013 Dorchester Rd., Ste E, Box 5
North Charleston, SC 29418
Phone: 843-767-5284
e-mail: pkouten@gmail.com

This 31st day of March, 2009.

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT

PETITION FOR DISCHARGE

CASE NUMBER: 2008-GC-10-0088

09 MAR -2 AM 10:06
PROBATE COURT
TOD

☒ GUARDIANSHIP
☒ CONSERVATORSHIP

Petitioner: BESSIE WYNDHAM HUCKABEE

1. Nature of interest of undersigned: COURT-APPOINTED PERSONAL REPRESENTATIVE OF THE ESTATE OF ALICE SHAW-BAKER (2009-ES-10-0378)

2. Other pending proceedings relating to the above ward/protected person are:

3. RELIEF SOUGHT:

- ☒ A. Termination/Discharge because:
- ☒ Ward/Protected Person died on FEBRUARY 25, 2009
 - ☐ Guardian/Conservator died on _____
 - ☐ Protected Person has reached the age of eighteen or has married.
 - ☐ Guardian/Conservator was adjudicated incapacitated on _____, at _____
 - ☐ Guardian/Conservator hereby offers resignation and requests Court acceptance.
 - ☐ Will establishing Testamentary Guardianship was denied probate in a formal hearing on _____ at _____
- ☐ B. Readjudication of Incapacity
- ☐ The ward/protected person is no longer incapacitated.
 - ☐ Special leave of Order dated _____ prohibiting petition prior to _____ is hereby requested because: _____

4. I request that the Court: (check all that apply)

- ☐ A. Consider and approve the final accounting.
- ☐ B. Adjudicate as to all unsettled liabilities
- ☒ C. Discharge, or set forth the conditions of the termination of the appointment of the Guardian/Conservator, and the release of the Fiduciary's bond, if any.
- ☐ D. Terminate the office.
- ☐ E. Other: Determine schedule Order for final accounting and turning over assets in possession of Conservator.
- ☐ F. Issue an Order of same, together with such other Orders as the law may require and as the Court may deem applicable and proper.

5. By copy of this petition, notice has been given to all interested persons as required by law.

SWORN to before me this 16th day of
MARCH, 20 09

Patrice Williams
Notary Public for South Carolina
My Commission Expires: 7/24/2013

Signature: Bessie Huckabee
Name: Bessie Huckabee
Address: 5319 McRoy Street
North Charleston, SC 29418
Telephone (O): 843-552-2096
(H): _____

**ORDER TO SEND VISITOR
(Guardianship Only)**

IT IS HEREBY ORDERED that _____ be sent as visitor to the place where the incapacitated person resides to observe conditions and report in writing to the Court (Form #531PC) prior to the hearing date set below.

Executed this _____ day of _____, 20____

_____, Probate Court Judge

ORDER FOR HEARING

IT IS HEREBY ORDERED that a hearing on this matter be set for:

DATE: _____
TIME: _____
PLACE: _____

Pursuant to 62-1-401, the petitioner is ordered to give notice of this hearing at least twenty (20) days prior to the hearing date.

Executed this _____ day of _____, 20____

_____, Probate Court Judge

CERTIFICATE OF VITAL RECORD

State of South Carolina
Department of Health and Environmental Control
CERTIFICATE OF DEATH

State Birth Number

State File Number
09 006237

1. DECEDENT'S LEGAL NAME (Include AKA, if any) (First, Middle, Last) Alice E Shaw-Baker		2. SEX Female		3. SOCIAL SECURITY 562-32-9423	
4a. AGE-Last Birthday (Year) 79		4b. UNDER 1 YEAR Months 08 Days 14		5. DATE OF BIRTH (MM/DD/YYYY) 08/14/1929	
6. BIRTHPLACE (City and State or Foreign Country) San Francisco, CA					
7a. RESIDENCE-STATE South Carolina		7b. COUNTY Charleston		7c. CITY OR TOWN Charleston	
7d. STREET AND NUMBER 306 Cessing Road		7e. APT. NO. 		7f. ZIP CODE 29407	
7g. INSIDE CITY LIMIT ☒ Yes ☐ No					
8. EVER IN U.S. ARMED FORCES? ☐ Yes ☒ No		9. MARITAL STATUS AT TIME OF DEATH ☐ Married, but separated ☐ Widowed ☒ Divorced ☐ Never Married ☐ Unknown		10. SURVIVING SPOUSE'S NAME (If WfW, give name prior to first marriage) 	
11. FATHER'S NAME (First, Middle, Last) John Gus Lucas		12. MOTHER'S NAME PRIOR TO FIRST MARRIAGE (First, Middle, Last) Bartha Marie Boultinger			
13a. INFORMANT'S NAME Usha Fisher		13b. RELATIONSHIP TO DECEDENT Great-Niece		13c. MAILING ADDRESS (Street and Number, City, State, Zip Code) PO Box 91112 Long Beach, California 90809	
14. PLACE OF DEATH (Check only one; see instructions)					
15. IF DEATH OCCURRED IN HOSPITAL: ☒ Inpatient ☐ Emergency Room/Outpatient ☐ Death on Arrival					
16. IF DEATH OCCURRED SOMEWHERE OTHER THAN A HOSPITAL: ☐ Nursing home/Long term care facility ☐ Decedent's home ☐ Other (Specify)					
17. FACILITY NAME (If not institution, give street and number) Roper Hospital, Inc.		18. CITY OR TOWN, STATE AND ZIP CODE Charleston, South Carolina 29401		19. COUNTY OF DEATH Charleston	
20. METHOD OF DISPOSITION ☐ Burial ☒ Cremation ☐ Donation ☐ Entombment ☐ Removal from state ☐ Other (Specify)		21. PLACE OF DISPOSITION (Name of Cemetery, Crematory, other place) Palmetto Cremation Society			
22. LOCATION-CITY, TOWN AND STATE Charleston, South Carolina		23. NAME AND ADDRESS OF FUNERAL FACILITY Palmetto Cremation Society, Inc.			
24. SIGNATURE OF PERSON WHO SERVICE LICENSEE OR OTHER AGENT Mark H. Smith		25. LICENSE NUMBER (If Licensee) 2340		26. CUNNINGHAM AVE. CHARLESTON, SC 29405	
27. EMBALMER LICENSE NUMBER 430		28. LICENSE NUMBER (If Facility) 430			
29. ITEMS 24-32 MUST BE COMPLETED BY PERSON WHO PROMULGATES OR CERTIFIES DEATH					
30. DATE PROMULGATED DEAD (MM/DD/YYYY) February 25, 2009		31. TIME PROMULGATED DEAD 1513 pm		32. TIME PROMULGATED DEAD 	
33. SIGNATURE OF PERSON PROMULGATING DEATH (Only when applicable)		34. LICENSE NUMBER		35. DATE SIGNED (mm/dd/yyyy)	
36. ACTUAL OR PRESUMED DATE OF DEATH (See instructions)					
37. ACTUAL OR PRESUMED TIME OF DEATH (See instructions)					
38. WAS CORONER OR MEDICAL EXAMINER CONTACTED? ☐ Yes ☒ No					
39. PART I. Enter the chain of events - diseases, injuries, or complications - that directly caused the death. DO NOT enter any terminal events. Enter the immediate cause (Final disease or injury that, if not preceded, the events resulting in death) LAST.					
END Stage Chronic Obstructive Pulmonary Disease Due to (or as a consequence of): Due to (or as a consequence of): Due to (or as a consequence of): Due to (or as a consequence of):					
PART II. Enter other diseases, complications, or conditions - but not resulting in the underlying cause given in PART I.					
moderate small cell cancer of lung; dominant Due to (or as a consequence of):					
40. DID TOBACCO USE CONTRIBUTE TO DEATH? ☒ Yes ☐ Probably ☐ No ☐ Unknown		41. IF FEMALE: ☐ Not pregnant within past year ☐ Pregnant at time of death ☐ Not pregnant, but pregnant within 42 days of death ☐ Not pregnant, but pregnant 43 days to one year before death ☐ Unknown if pregnant within the past year		42. MANNER OF DEATH ☐ Homicide ☐ Natural ☐ Accident ☐ Pending investigation ☐ Suicide ☐ Could not be determined	
43. DATE OF INJURY (Spec. Month)		44. TIME OF INJURY		45. PLACE OF INJURY (e.g., Decedent's home, construction site, restaurant, crossed street)	
46. LOCATION OF INJURY: State		City or Town		County	
47. Street & Number		Apartment Number		Zip Code	
48. DESCRIBE HOW INJURY OCCURRED:					
49. CERTIFIER (Check only one) ☒ Certifying physician To the best of my knowledge, death occurred due to the cause(s) and manner stated. ☐ Forensic physician To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner stated. ☐ Coroner/Medical Examiner On the basis of examination and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner stated.					
Signature of certifier: Don G. Schuler MD					
50. NAME, ADDRESS AND ZIP CODE OF PERSON COMPLETING CAUSE OF DEATH (Item 32) Donna Schuler 644 IVI W. Main St. Charleston, SC 29405		51. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER 		52. FOR REGISTRAR ONLY: DATE FILED (MM/DD/YYYY) Mar 05 2009	
53. TITLE OF CERTIFIER MD		54. LICENSE NUMBER SC 1354		55. DATE CERTIFIED (MM/DD/YYYY) 2/27/09	
56. SIGNATURE OF REGISTRAR					

SC 00335191

ISSUED MAR 10 2009

This is a true certification of the facts on file in the Division of Vital Records, SC Department of Health and Environmental Control.

C. Earl Hunter
Commissioner and State Registrar

Guang Zhao
Assistant State Registrar

This copy is not valid unless prepared on an engraved border displaying the state seal and Issuing agency logo.

Revision Date: 05/01/2008



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE MATTER OF ALICE SHAW-BAKER

CASE NUMBER 2009ES10-00378

CERTIFICATE OF APPOINTMENT

This is to certify that

BESSIE WYNDHAM HUCKABEE

is/are the duly qualified

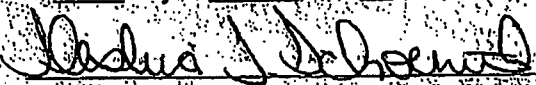
☒ PERSONAL REPRESENTATIVE
☐ GUARDIAN
☐ CONSERVATOR
☐ TRUSTEE

in the matter and that this appointment, having been executed on the
11TH Day of March, 2009, is now in full force and effect, including
authorization to receive all monies, income principle, interest & dividends
of and belonging to said estate.

Restrictions:

None

Executed this 11TH day of March, 20 09.


Irvin G. Condon, Probate Court Judge
By Estate Clerk

Do not accept a copy of this certificate without
the raised seal of the Probate Court.

FORM #141PC (1/91)
62-1-305, 62-3-103, 62-5-304, 62-5-421, 62-7-201

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

ELISABETH SPENCER,

Petitioner,

vs.

ALICE SHAW-BAKER, an alleged
Incapacitated person, and
LISA FISHER, her next of kin,

Respondents.

FILED

09 APR 27

AM 10:05

IN THE PROBATE COURT

COMMITMENT DIVISION

CASE NO: 2008-GC-10-088

PROBATE COURT
CHARLESTON COUNTY

~~MOTION FOR APPROVAL OF~~

~~ATTORNEYS' FEES and~~

~~MEMORANDUM~~

COMES NOW Lisa Fisher, Conservator of the estate of Alice Shaw-Baker, and moves this Honorable Court for approval of attorneys' fees for legal services rendered to the Conservator and Guardian of Alice Shaw-Baker from November 1, 2008 through February 25, 2009 as follows:

1. Counsel for the Conservator and Guardian agreed to provide legal services in this matter at the rate of \$225.00 per attorney hour.
2. This Court previously approved attorneys' fees in this matter up through October 31, 2008.
3. From November 1, 2008 until Ms. Shaw-Baker's death on February 25, 2009, counsel reasonably spent 32.7 contemporaneously recorded attorney hours on this matter. An Affidavit Regarding Attorneys' Fees, including detailed time records for November, December, January, and February, is filed herewith. Due to reduction of the January invoice by \$750.00 attorneys' fees totaled \$6,607.50.
4. An analysis of the six (6) factors to be considered by the Court in awarding reasonable attorneys' fees as set forth in *Johnson v. Johnson*, 296 S.C. 289, 372 S.E.2d 107 (Ct. App. 1988), cert. den., 298 S.C. 117, 378 S.E.2d 445 (1989), is as follows:

(1) The nature and extent of the services provided included drafting proposed Orders, Affidavits, and other Court papers; working with Conservator to obtain and file Bond with the Court; assisting with contacting Dr. Randy Waid to arrange consult; working with Mr. Jellison at Family Services for reimbursements and for turn ~~over of assets and records; recording Certificate of appointment in~~

RMC; assisting with obtaining will from safe deposit box and bank and filing copy of same with Court; assisting with tax return issues; assisting with Ms. Alice Shaw-Baker's care givers; arranging for plumbing repairs; obtaining medical report from Dr. Randy Waid and filing same with Court; filing Conservator Annual Accounting and Annual Report of Guardian with Court; requesting hearing from Court; and advising the Conservator and Guardian about a range of issues. The difficulty of these matters could accurately be described as routine and not especially difficult.

(2) The time and labor necessarily devoted to this matter was 32.7 hours.

(3) John Hughes Cooper, Esquire, who provided most of the services, is an attorney in good standing with the South Carolina Bar, the State Bar of Georgia, and many state and federal courts. John Hughes Cooper has over 27 years experience in civil litigation. Some legal services were provided by Cain Denny, Esquire, who is an attorney in good standing with the South Carolina Bar, the South Carolina Supreme Court, and with various other Courts.

(4) The compensation in this matter was not contingent.

(5) The fee customarily charged in the locality for similar services would be an hourly fee in the range of \$150 to \$250 per attorney hour. These legal services were provided to Ms. Fisher during this time period at the actual rate of \$202.06 per hour.

(6) The beneficial results accomplished included the Guardian being provided with assistance in managing the care givers, the Conservator being assisted with tax matters, Court filings, and other matters, and the Conservator obtaining legal advice on various matters. All this allowed Ms. Shaw-Baker to live in her home with 24 hour care while declining with cancer and related medical issues.

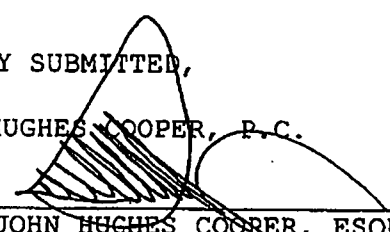
5. Under the circumstances of this case and considering the above six factors, attorneys' fees of \$6,607.50 in this matter are fair and reasonable.

6. Therefore, the requested attorneys' fees should be approved by this Court for payment from the estate of Ms. Shaw-Baker.

WHEREFORE, Lisa Fisher, Conservator for Alice Shaw-Baker prays for an Order Approving Attorneys' Fees in the amount of \$6,607.50.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By: 

JOHN HUGHES COOPER, ESQUIRE
Federal Court ID 298
South Carolina Bar 1387
State Bar of Georgia 185986
1808 Middle Street
Post Office Box 395
Sullivan's Island, SC 29482
shiplaw@jhcooper.com
843-883-9099; fax 843-883-9335

and

CAIN DENNY, ESQUIRE
CAIN DENNY, P.A.
P.O. Box 1205
Charleston, S.C. 29402
843-965-5400

ATTORNEYS FOR CONSERVATOR,
LISA FISHER

Sullivan's Island, South Carolina

April 24, 2009

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

ELISABETH SPENCER,

Petitioner,

vs.

ALICE SHAW-BAKER, an alleged
Incapacitated person, and
LISA FISHER, her next of kin,
Respondents.

IN THE PROBATE COURT
COMMITMENT DIVISION
CASE NO: 2008-GC-10-088

FILED
MAR 27 AM 10:03
PROBATE COURT
CHARLESTON COUNTY

AFFIDAVIT REGARDING
ATTORNEYS' FEES

PERSONALLY APPEARED John Hughes Cooper who, first being duly sworn, deposes and says:

1. My name is John Hughes Cooper and I am an attorney in good standing admitted to the bar of this Court. I am a citizen of South Carolina and a resident of Charleston County. I am over 18 years of age, of sound mind, and I am counsel for Lisa Fisher, Guardian and Conservator, in the above captioned matter. I make this affidavit upon my own personal knowledge.
2. I agreed to provide legal services in this matter at the rate of \$225.00 per attorney hour.
3. This Court has previously approved my attorneys' fees for Ms. Fisher in this matter up through October 31, 2008. Since November 1, 2008 until Ms. Alice Shaw-Baker's death on February 25, 2009, I reasonably spent 32.7 contemporaneously recorded attorney hours on this matter (attorney time detail for November, December, January, and February attached). Although 32.7 attorney hours at \$225 per hour would total \$7,357.50, I reduced the January bill by \$750.00. Attorneys' fees incurred during the stated time totaled \$6,607.50.

4. An analysis of the six (6) factors to be considered by the Court in awarding reasonable attorneys' fees as set forth in *Johnson v. Johnson*, 296 S.C. 289, 372 S.E.2d 107 (Ct. App. 1988), cert. den., 298 S.C. 117, 378 S.E.2d 445 (1989), is as follows:

(1) the nature, extent, and difficulty of the services rendered; ~~the nature and extent to the services included drafting~~ proposed Orders, Affidavits, and other Court papers; working with Conservator to obtain and file Bond with the Court; assisting with contacting Dr. Randy Waid to arrange consult; working with Mr. Jellison at Family Services for reimbursements and for turn over of assets and records; recording Certificate of appointment in RMC; assisting with obtaining will from safe deposit box and bank and filing copy of same with Court; assisting with tax return issues; assisting with Ms. Alice Shaw-Baker's care givers; arranging for plumbing repairs; obtaining medical report from Dr. Randy Waid and filing same with Court; filing Conservator Annual Accounting and Annual Report of Guardian with Court; requesting hearing from Court; and advising the Conservator and Guardian about a range of issues. The difficulty of these matters could accurately be described as routine and not especially difficult.

(2) the time and labor necessarily devoted to the case: The time and labor necessarily devoted to this matter was 32.7 hours.

(3) the professional standing of counsel: Most of the legal services in this matter were provided by John Hughes Cooper, Esquire, who is an attorney in good standing with the South Carolina Bar, the State Bar of Georgia, and many state and federal courts. John Hughes Cooper has over 27 years experience in civil litigation. Some legal services were also provided by Cain Denny, Esquire, who is an attorney in good standing with the South Carolina Bar and the South Carolina Supreme Court and with various other Courts.

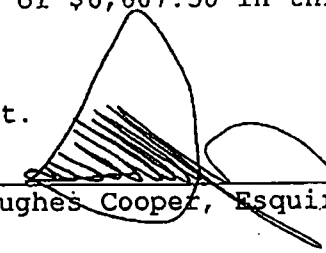
(4) the contingency of compensation: The compensation in this matter was not contingent.

(5) the fee customarily charged in the locality for similar services: The fee customarily charged in the locality for similar services would be an hourly fee in the range of \$150 to \$250 per attorney hour. ~~Although contracted at \$225 per hour, legal services~~ were provided to Ms. Fisher at the actual rate of \$202.06 per hour in this matter.

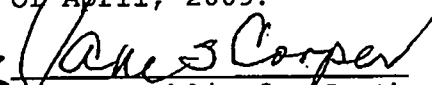
(6) the beneficial results accomplished: The beneficial results accomplished included the Guardian being provided with assistance in managing the care givers, the Conservator being assisted with tax matters, Court filings, and other matters, the Conservator obtaining legal advice on various matters. All this allowed Ms. Alice Shaw-Baker to live in her home with 24 hour care while declining with cancer and related medical issues.

5. Under the circumstances of this case and considering the above six factors, attorneys' fees of \$6,607.50 in this matter are reasonable.

6. Further affiant sayeth naught.


John Hughes Cooper, Esquire

Sworn to and Subscribed
Before me this 24th Day
Of April, 2009.


Notary Public for South
Carolina; My Commission
Expires: 9-15-2015



John Hughes Cooper, P.C.

P.O. Box 395
Sullivan's Island, SC 29482

Ph:843-883-9099

Fax:843-883-9335

~~Lisa Fisher~~

~~November 30, 2008~~

P.O. Box 91112
Long Beach, CA 90809-1112

File #: 161-002
Inv #: 470

RE:

DATE	DESCRIPTION	HOURS	AMOUNT
Nov-03-08	revising Order; conferring by telephone with Ms. Lisa Fisher	0.90	202.50
Nov-03-08	E-mailing and hand-delivering to Judge Curry a proposed order appointing Lisa Fisher, Esquire, as Guardian and Conservator with copies to Mssrs. Gibson and Kouten.	0.30	67.50
Nov-06-08	receiving emails from Mr. Gibson and Mr. Kouten; conferring by telephone with Ms. Lisa Fisher; conferring by telephone with Denise; meeting with Shirley and Alice at Alice's home; meeting briefly with Elizabeth Sykes at Probate Court; telephoning for Mr. Ed Jellison and leaving message	0.90	202.50
Nov-17-08	conferring by telephone with Ms. Lisa Fisher; meeting briefly at the home with Ms. Alice Shaw Baker and Kathryn; meeting briefly with Denise at our offices	0.40	90.00
Nov-18-08	receiving faxed copy of Bond; telephoning Ms. Sykes at Probate Court; telephoning Ms. Lisa Fisher; receiving coins from Ms. Shaw Baker's house; conferring by telephone with Jerome Mauldin; receiving letter from Mr. Kouten; drafting letter to Mr. Jellison; drafting fax to Ms. Sykes at Probate Court	0.80	180.00
Nov-19-08	receiving copy of letter from Mr. Gibson to Mr. Jellison; meeting with Ms. Lisa Fisher at Probate Court	0.90	202.50
Nov-19-08	talk w lisa fisher -	2.30	517.50

Nov-20-08	meeting with Ms. Lisa Fisher and Ms. Alice Shaw Baker in preparation for appointment with Dr. Waid; telephoning for Mr. Jellison and leaving message; drafting fax to Mr. Jellison; conferring with Ron and Dr. Waid's office	1.30	292.50
Nov-21-08	receiving filed Certificate of Appointment; receiving receipts from Denise; conferring by telephone with kathryn concerning pod	0.20	45.00
~~Nov-24-08~~	~~receiving copy of letter from Ms. Fisher to Dr. Waid;~~ ~~receiving copy of letter from Ms. Fisher to Mr. Kouten;~~ ~~conferring by telephone with Kathryn~~	~~0.40~~	~~90.00~~
Nov-26-08	drafting Affidavit Regarding Attorneys' Fees; drafting proposed Order Approving Attorneys' Fees	2.30	517.50
		10.70	\$2,407.50

 **Chicago Title***can 7*

John Hughes Cooper, P.C.

P.O. Box 395
Sullivan's Island, SC 29482

Ph:843-883-9099

Fax:843-883-9335

Lisa Fisher

December 30, 2008

P.O. Box 91112

File #: 161-002

Long Beach, CA 90809-1112

Inv #: 473

RE:

DATE	DESCRIPTION	HOURS	AMOUNT
Dec-01-08	arranging for filing Affidavit and proposed Order in Probate Court; conferring by telephone with Ms. Lisa Fisher; telephoning Kathryn and Denise; reviewing pay checks for care givers	0.70	157.50
Dec-08-08	conferring by telephone with Ms. Lisa Fisher	0.20	45.00
Dec-10-08	receiving telephone message from Ms. Lisa Fisher; receiving recorded copy of Certificate of Appointment	0.20	45.00
Dec-11-08	receiving fax from Kathryn concerning care giver work hours; receiving letter from Ms. Lisa Fisher; sending email to Ms. Lisa Fisher concerning payment of care givers; sending email to Ms. Lisa Fisher concerning filed Certificate of Appointment	0.40	90.00
Dec-12-08	telephoning for Ms. Lisa Fisher	0.20	45.00
Dec-15-08	telephoning for Mr. Jellison; telephoning Ms. Lisa Fisher	0.20	45.00
Dec-18-08	conferring by telephone with Ms. Alice Shaw-Baker; meeting with Mr. Ed Jellison at Family Services; telephoning Ms. Lisa Fisher	2.30	517.50
Dec-19-08	telephoning Ms. Lisa Fisher; delivering funds, documents, and property obtained from Mr. Jellison; accompanying Ms. Lisa Fisher to Bank of America and to First Federal; arranging for filing original Will with Probate Court	3.30	742.50

Invoice #: 473

Page 2

December 30, 2008

Dec-20-08	conferring by telephone with Ms. Lisa Fisher; searching records; drafting email to Ms. Lisa Fisher with 2007 tax return and related information	0.50	112.50

Dec-23-08	obtaining cash for Ms. Alice Shaw-Baker; visiting Alice at her home; conferring by telephone with Mr. Kouten; telephoning Ms. Orenstein; receiving fax from Court; telephoning for Ms. Lisa Fisher	1.30	292.50

Dec-29-08	receiving message from Ms. Lisa Fisher; telephoning to arrange pick up of POD; conferring by telephone with Alice Shaw-Baker and Mona	0.20	45.00

Totals		9.50	\$2,137.50

John Hughes Cooper, P.C.

P.O. Box 395
Sullivan's Island, SC 29482

Ph:843-883-9099

Fax:843-883-9335

Lisa Fisher

December 31, 2008

P.O. Box 91112
Long Beach, CA 90809-1112

File #: 161-002

Inv #: 485

RE:

DATE	DESCRIPTION	HOURS	AMOUNT
Dec-30-08	telephoning for Ms. Huckabee, Mr. Jellison, Ms. Orenstein and Ms. Sykes; reviewing records for Health Care Power of Attorney; arranging for plumbing services; drafting letter to Mr. Gibson concerning visitation	0.80	180.00
	Totals	0.80	\$180.00

John Hughes Cooper, P.C.

P.O. Box 395
Sullivan's Island, SC 29482

Ph:843-883-9099

Fax:843-883-9335

Lisa Fisher

January 30, 2009

P.O. Box 91112
Long Beach, CA 90809-1112

File #: 161-002

Inv #: 489

RE:

DATE	DESCRIPTION	HOURS	AMOUNT
Jan-02-09	receiving health care power of attorney; forwarding health care power of attorney to Ms. Lisa Fisher; receiving emails from Ms. Lisa Fisher and Mr. Kouten; conferring by telephone with Ms. Lisa Fisher; telephoning Probate Court; telephoning Danny Wheeler concerning plumbing at Alice's home; drafting email to Ms. Fisher and Mr. Kouten; receiving copy of email from Ms. Orenstein; receiving another email from Ms. Orenstein	0.90	202.50
Jan-02-09	Obtaining certified copies of the Guardian/Conservator Appointment Order from the Probate Court, delivering them to Ms. Fisher.	0.50	112.50
Jan-06-09	receiving email from Mr. Jellison; receiving email from Mr. Kouten; conferring by telephone with Ms. Lisa Fisher; receiving faxed documents from Ms. Sykes at Probate Court; scanning and emailing documents to Ms. Lisa Fisher; conferring with Candy at Ms. Alice Shaw-Baker's home about plumbing; telephoning Danny Wheeler concerning plumbing	0.60	135.00
Jan-07-09	telephoning Village Plumbing; receiving report from Dr. Waid; sending Dr. Waid's report to Ms. Lisa Fisher by email; arranging for filing report with Court; providing a copy to Mr. Kouten	0.70	157.50
Jan-08-09	conferring by telephone with Ms. Lisa Fisher; telephoning Danny Wheeler; drafting email with data for 1099s	0.60	135.00

Jan-09-09	receiving telephone message from Ms. Lisa Fisher; receiving invoice from Village Plumbing and Electric; drafting letters to Ms. Elizabeth Sykes and to Mr. Kouten	0.40	90.00
Jan-14-09	receiving email from Ms. Lisa Fisher	0.20	45.00
Jan-19-09	telephoning for Ms. Lisa Fisher concerning sending Dr. Waid's report to Mr. Kouten and concerning smoke alarm connection to fire department	0.20	45.00
Jan-20-09	conferring by telephone with Dr. Mulbry; receiving invoice from Dr. Mulbry; drafting email to Ms. Lisa Fisher	0.30	67.50
Jan-21-09	telephoning Ms. Lisa Fisher; receiving faxed copy of letter to Mr. Jellison; receiving faxed letter from Ms. Fisher	0.20	45.00
Jan-22-09	telephoning Dr. Rosen's staff concerning continued appointments for Alice	0.20	45.00
Jan-25-09	receiving copy of fax from Ms. Lisa Fisher to Mr. Jellison; receiving email request from Ms. Lisa Fisher for copy of will; sending copy of will to Ms. Lisa Fisher; drafting short email to Ms. Lisa Fisher concerning possible VA benefits	0.40	90.00
Jan-26-09	conferring by telephone with Dr. Rosen; telephoning Ms. Lisa Fisher	0.20	45.00
Jan-26-09	researching pay on death accounts in Probate Code; researching case law	2.10	472.50
Jan-27-09	meeting with Ms. Lisa Fisher, Kay from Life Line, and Alice at 306 Cassina	0.50	112.50
Jan-28-09	conferring with Ms. Lisa Fisher concerning Alice's trip to California	0.20	45.00
Jan-29-09	conferring by telephone with Ms. Lisa Fisher concerning filing; receiving copy of email from Ms. Lisa Fisher to caregivers; receiving copy of letter from Dr. Rosen to Dr. Schweiger; drafting email to Ms. Lisa Fisher with copy of Dr. Rosen's letter	0.80	180.00
Jan-29-09	conferring by telephone with Ms. Lisa Fisher	0.20	45.00
Jan-30-09	receiving Fedex delivery; arranging for filing documents with Probate Court; telephoning Ms. Millender	0.80	180.00
Jan-30-09	Credit Invoice per JHC	0.00	-750.00

John Hughes Cooper, P.C.

P.O. Box 395
Sullivan's Island, SC 29482

Ph:843-883-9099

Fax:843-883-9335

Lisa Fisher

February 25, 2009

P.O. Box 91112

File #: 161-002

Long Beach, CA 90809-1112

Inv #: 501

RE:

DATE	DESCRIPTION	HOURS	AMOUNT
Feb-02-09	telephoning Ms. Millender concerning motion for substituted judgment; conferring by telephone with Ms. Lisa Fisher concerning weekly delivery of cash to Alice	0.50	112.50
Feb-06-09	receiving letter from Ms. Lisa Fisher	0.20	45.00
Feb-09-09	conferring by telephone with Ms. Lisa Fisher concerning obtaining Letters of Appointment, concerning a letter to Doris Thees, and concerning setting a hearing with the Court; drafting letter to Ms. Doris Thees; drafting short email to client; telephoning for Ms. Sykes; drafting email to Ms. Elizabeth Sykes at Probate Court	0.80	180.00
Feb-19-09	telephoning Ms. Lisa Fisher; telephoning Mr. Gamble concerning checking on house	0.20	45.00
	Totals	1.70	\$382.50

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

ELISABETH SPENCER,

Petitioner,

vs.

ALICE SHAW BAKER, an alleged
Incapacitated person, and
LISA FISHER, her next of kin,

Respondents.

IN THE PROBATE COURT

COMMITMENT DIVISION

CASE NO: 2008-GC-10-088

FILED

APR 29 PM 4:44
PROBATE COURT
CHARLESTON COUNTY

MEMORANDUM IN OPPOSITION
TO PETITION FOR DISCHARGE, AND
TO MOTION FOR ORDER OF
TERMINATION OF CONSERVATORSHIP,
FILING OF ACCOUNTING, AND
DISTRIBUTION OF ESTATE ASSETS
TO COURT-APPOINTED PERSONAL
REPRESENTATIVE, and MOTION FOR
CONTINUANCE and MEMORANDUM

COMES NOW Lisa Fisher, Conservator for Alice Shaw-Baker, and, (1) opposes the Petition for Discharge, (2) opposes the Motion for Order of Termination of Conservatorship, and (3) Moves for a Continuance, and in support thereof shows this Honorable Court as follows:

Factual Background

1. On or about October 29, 2008 Lisa Fisher, Esquire was appointed by this Honorable Court as Conservator for Alice Shaw-Baker in this case number 2008-GC-10-088.

2. Lisa Fisher, as Conservator, is fully bonded with regard to the liquid assets in her charge.

3. Alice Shaw-Baker died on February 25, 2009.

4. An estate was opened for Alice Shaw-Baker and Bessie Huckabee was informally appointed to serve as Personal Representative without bond in 2009-ES-10-0378.

5. A Petition for Formal Testacy and Appointment and Addendum has been filed in 2009-ES-10-0378, inter alia, challenging the appointment of Bessie Huckabee as Personal Representative, and requesting appointment of Betty Fisher as Personal Representative.

Opposition to Termination/Discharge as Premature

Conservator for Alice Shaw-Baker, Lisa Fisher, Esquire, opposes the Petition for Discharge and opposes the Motion for Order of Termination of Conservatorship, Filing of Final Accounting and

Distribution of Estate Assets to Court-Appointed Personal Representative as premature.

On April 27, 2009, Betty Fisher filed a competing Petition for Formal Testacy and for Formal Appointment as Personal Representative in case number 2009-ES-10-0378. Said petition alleges, *inter alia*, that Bessie Huckabee breached her fiduciary duties and unduly

~~influenced Alice Shaw-Baker in order to improperly profit and with~~
others improperly obtain all of decedent's worldly goods. Further, it alleges that Alice Shaw-Baker's estate has a survival action against Bessie Huckabee and others for neglect of Alice Shaw-Baker, and for breach of express fiduciary duties. As set forth in the verified complaint, filed in case number 2009-ES-10-0378, Bessie Huckabee cannot equitably act as Personal Representative and at the same time adequately prosecute the Estate's survival action against herself.

The Conservator, Lisa Fisher joined in the Petition for the appointment of Betty Fisher, seeking declaratory relief, so that the funds can be disbursed to the proper Personal Representative once the contested matter is resolved.

Demanding a final accounting in this case prior to the determination of the proper person to serve as Personal Representative in 2009-ES-10-0378 is not in the best interests of the estate, nor does it serve judicial economy to have duplicative proceedings prior to formal appointment of the proper Personal Representative.

At this time, all powers of Bessie Huckabee are stayed and she is restrained from acting pending formal testacy proceedings under S.C. Code Ann. § 62-3-401. Therefore, Conservator Lisa Fisher objects to Bessie Huckabee's standing to continue the Petition for Discharge and Motion for Termination, pending the formal determination of competing petitions to serve as Personal Representative in 2009-ES-10-0378.

Until resolution of 2009-ES-10-0378 and the legal disputes as to Formal appointment of a Personal Representative and as to proper distribution of the probate and other assets, it would be premature to terminate the Conservatorship in this action. Premature distribution of assets to an informally appointed and unbonded Personal Representative, whose powers are stayed by § 62-3-401, when there is a

Petition for Formal Appointment pending, would needlessly jeopardize the assets of the estate.

The Petition for Formal Testacy and Formal Appointment in 2009-ES-10-0378 should be determined first, and then the Conservatorship in this case can be terminated in an orderly fashion. The Conservator will then know who is entitled to receive the assets. In the interim, ~~the assets are safe with the Conservator who is appropriately bonded.~~

In the interim, the Conservator can report to the Court concerning the assets as often as required by the Court.

Motion for Continuance

This Court has set a hearing on Wednesday, May 6, 2009 at 10:00 a.m. to take up the issues of Termination of the Conservatorship and Discharge of the Conservator. For the reasons set forth above, such a hearing would be premature. Accordingly, Conservator, Lisa Fisher, hereby moves for a continuance of said hearing until the Petition for Formal Appointment is decided in Case Number 2009-ES-01-0378.

Prayer

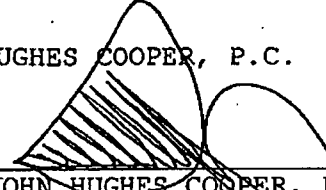
WHEREFORE Lisa Fisher, Conservator, prays:

- a. that the Petition for Discharge be denied at this time; and
- b. that the Motion for Order of Termination be denied at this time; and
- c. that the Court continue the hearing set in this case for May 6, until the issues are resolved as to who will serve as Personal Representative in case number 2009-ES-10-0378; and
- d. that the Court Order the Conservator to hold and manage all estate assets until the issues are resolved as to who will serve as Personal Representative in case number 2009-ES-10-0378; and
- e. that this Court grant such other and further relief as may be in the interests of justice.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By:


JOHN HUGHES COOPER, ESQUIRE
Federal Court ID 298
South Carolina Bar 1387
State Bar of Georgia 185986

1808 Middle Street
Post Office Box 395
Sullivan's Island, SC 29482
shiplaw@jhcooper.com
843-883-9099; fax 843-883-9335

and

CAIN DENNY, ESQUIRE
CAIN DENNY, P.A.
P.O. Box 1205
Charleston, S.C. 29402
843-965-5400

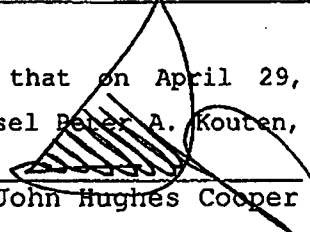
ATTORNEYS FOR CONSERVATOR,
LISA FISHER

Sullivan's Island, South Carolina

April 29, 2009

C E R T I F I C A T E O F S E R V I C E

I hereby certify that on April 29, 2009 we served a copy of the foregoing Answer on counsel Peter A. Kouten, Esquire by first class mail.


John Hughes Cooper

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

ELISABETH SPENCER,

Petitioner,

vs.

ALICE SHAW-BAKER, an alleged
Incapacitated person, and
LISA FISHER, her next of kin,

Respondents.

TDD
PROBATE COURT IN THE PROBATE COURT
COMMITMENT DIVISION
09 MAY -7 PM 12:08
CASE NO: 2008-GC-10-088

~~AMENDED MOTION FOR APPROVAL OF~~
~~ATTORNEYS' FEES and~~
~~MEMORANDUM~~

COMES NOW Lisa Fisher, Conservator of the estate of Alice Shaw-Baker, and moves this Honorable Court for approval of attorneys' fees for legal services rendered to the Conservator and Guardian of Alice Shaw-Baker from November 1, 2008 through February 25, 2009 as follows:

1. Counsel for the Conservator and Guardian agreed to provide legal services in this matter at the rate of \$225.00 per attorney hour.
2. This Court previously approved attorneys' fees in this matter up through October 31, 2008.
3. From November 1, 2008 until Ms. Shaw-Baker's death on February 25, 2009, counsel reasonably spent 32.7 contemporaneously recorded attorney hours on this matter. An Affidavit Regarding Attorneys' Fees, including detailed time records for November, December, January, and February, is filed herewith. Due to reduction of the January invoice by \$750.00 attorneys' fees totaled \$6,607.50.
4. On May 6, 2009 Peter A. Kouten, Esquire, questioned the time entry for November 26, 2008 consisting of 2.30 attorney hours for "drafting Affidavit Regarding Attorneys' Fees; drafting Proposed Order Approving Attorneys' Fees." The charge for this time was

\$517.50 and counsel agreed to reduce the bill by \$517.50. With the reduction of the bill by \$517.50, from \$6,607.50 down to \$6,090.00, Mr. Kouten consented to payment of the reduced bill from the estate as fair and reasonable.

5. An analysis of the six (6) factors to be considered by the Court ~~in awarding reasonable attorneys' fees as set forth in Johnson v~~
~~Johnson~~, 296 S.C. 289, 372 S.E.2d 107 (Ct. App. 1988), cert.
den., 298 S.C. 117, 378 S.E.2d 445 (1989), is as follows:

(1) The nature and extent of the services provided included drafting proposed Orders, Affidavits, and other Court papers; working with Conservator to obtain and file Bond with the Court; assisting with contacting Dr. Randy Waid to arrange consult; working with Mr. Jellison at Family Services for reimbursements and for turn over of assets and records; recording Certificate of appointment in RMC; assisting with obtaining will from safe deposit box and bank and filing copy of same with Court; assisting with tax return issues; assisting with Ms. Alice Shaw-Baker's care givers; arranging for plumbing repairs; obtaining medical report from Dr. Randy Waid and filing same with Court; filing Conservator Annual Accounting and Annual Report of Guardian with Court; requesting hearing from Court; and advising the Conservator and Guardian about a range of issues. The difficulty of these matters could accurately be described as routine and not especially difficult.

(2) The time and labor necessarily devoted to this matter was 32.7 hours.

(3) John Hughes Cooper, Esquire, who provided most of the services, is an attorney in good standing with the South Carolina Bar, the State Bar of Georgia, and many state and federal courts. John Hughes Cooper has over 27 years experience in civil litigation. Some legal services were provided by Cain Denny, Esquire, who is an

attorney in good standing with the South Carolina Bar, the South Carolina Supreme Court, and with various other Courts.

(4) The compensation in this matter was not contingent.

(5) The fee customarily charged in the locality for similar services would be an hourly fee in the range of \$150 to \$250 per attorney hour. These legal services were provided to Ms. Fisher during this time period at the actual rate of \$186.24 per hour.

(6) The beneficial results accomplished included the Guardian being provided with assistance in managing the care givers, the Conservator being assisted with tax matters, Court filings, and other matters, and the Conservator obtaining legal advice on various matters. All this allowed Ms. Shaw-Baker to live in her home with 24 hour care while declining with cancer and related medical issues.

6. Under the circumstances of this case and considering the above six factors, attorneys' fees of \$6,090.00 in this matter are fair and reasonable.

7. Therefore, the requested attorneys' fees should be approved by this Court for payment from the estate of Ms. Shaw-Baker.

WHEREFORE, Lisa Fisher, Conservator for Alice Shaw-Baker prays for an Order Approving Attorneys' Fees in the amount of \$6,090.00.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By:

JOHN HUGHES COOPER, ESQUIRE
Federal Court ID 298
South Carolina Bar 1387
State Bar of Georgia 185986
1808 Middle Street
Post Office Box 395
Sullivan's Island, SC 29482
shiplaw@jhcooper.com
843-883-9099; fax 843-883-9335

and

TOD

STATE OF SOUTH CAROLINA PROBATE COURT IN THE PROBATE COURT
COUNTY OF CHARLESTON 09 MAY -7 PM 12:08 COMMITMENT DIVISION
CASE NO: 2008-GC-10-088

ELISABETH SPENCER,

Petitioner,

vs.

AMENDED AFFIDAVIT REGARDING
ATTORNEYS' FEES

ALICE SHAW-BAKER, an alleged
Incapacitated person, and
LISA FISHER, her next of kin,

Respondents.

PERSONALLY APPEARED John Hughes Cooper who, first being duly sworn, deposes and says:

1. My name is John Hughes Cooper and I am an attorney in good standing admitted to the bar of this Court. I am a citizen of South Carolina and a resident of Charleston County. I am over 18 years of age, of sound mind, and I am counsel for Lisa Fisher, Guardian and Conservator, in the above captioned matter. I make this affidavit upon my own personal knowledge.
2. I agreed to provide legal services in this matter at the rate of \$225.00 per attorney hour.
3. This Court has previously approved my attorneys' fees for Ms. Fisher in this matter up through October 31, 2008. Since November 1, 2008 until Ms. Alice Shaw-Baker's death on February 25, 2009, I reasonably spent 32.7 contemporaneously recorded attorney hours on this matter (attorney time detail for November, December, January, and February attached). Although 32.7 attorney hours at \$225 per hour would total \$7,357.50, I reduced the January bill by \$750.00. Attorneys' fees incurred during the stated time totaled \$6,607.50.

4. On May 6, 2009 Peter A. Kouten, Esquire, questioned the time entry for November 26, 2008 consisting of 2.30 attorney hours for "drafting Affidavit Regarding Attorneys' Fees; drafting Proposed Order Approving Attorneys' Fees." The charge for this time was \$517.50 and I agreed to reduce the bill by \$517.50. With the reduction of the bill by \$517.50, from \$6,607.50 down to

\$6,090.00, Mr. Kouten has consented to payment of the reduced bill from the estate as fair and reasonable.

5. An analysis of the six (6) factors to be considered by the Court in awarding reasonable attorneys' fees as set forth in *Johnson v. Johnson*, 296 S.C. 289, 372 S.E.2d 107 (Ct. App. 1988), cert. den., 298 S.C. 117, 378 S.E.2d 445 (1989), is as follows:

(1) the nature, extent, and difficulty of the services rendered: the nature and extent to the services included drafting proposed Orders, Affidavits, and other Court papers; working with Conservator to obtain and file Bond with the Court; assisting with contacting Dr. Randy Waid to arrange consult; working with Mr. Jellison at Family Services for reimbursements and for turn over of assets and records; recording Certificate of appointment in RMC; assisting with obtaining will from safe deposit box and bank and filing copy of same with Court; assisting with tax return issues; assisting with Ms. Alice Shaw-Baker's care givers; arranging for plumbing repairs; obtaining medical report from Dr. Randy Waid and filing same with Court; filing Conservator Annual Accounting and Annual Report of Guardian with Court; requesting hearing from Court; and advising the Conservator and Guardian about a range of issues. The difficulty of these matters could accurately be described as routine and not especially difficult.

(2) the time and labor necessarily devoted to the case: The time and labor necessarily devoted to this matter was 32.7 hours.

(3) the professional standing of counsel: Most of the legal services in this matter were provided by John Hughes Cooper, Esquire, who is an attorney in good standing with the South Carolina Bar, the State Bar of Georgia, and many state and federal courts. John Hughes Cooper has over 27 years experience in civil litigation.

~~Some legal services were also provided by Cain Denny, Esquire, who~~
is an attorney in good standing with the South Carolina Bar and the South Carolina Supreme Court and with various other Courts.

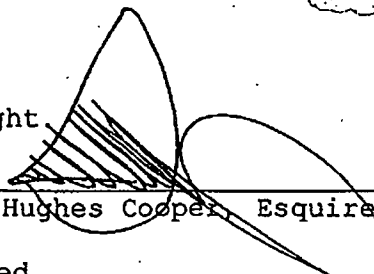
(4) the contingency of compensation: The compensation in this matter was not contingent.

(5) the fee customarily charged in the locality for similar services: The fee customarily charged in the locality for similar services would be an hourly fee in the range of \$150 to \$250 per attorney hour. Although contracted at \$225 per hour, legal services were provided to Ms. Fisher at the actual rate of \$186.24 per hour in this matter.

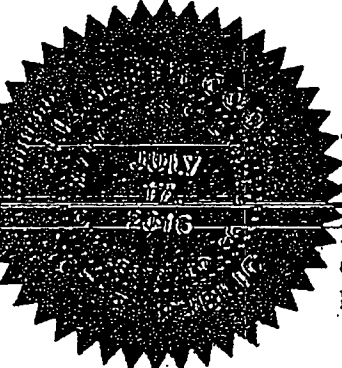
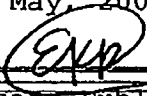
(6) the beneficial results accomplished: The beneficial results accomplished included the Guardian being provided with assistance in managing the care givers, the Conservator being assisted with tax matters, Court filings, and other matters, the Conservator obtaining legal advice on various matters. All this allowed Ms. Alice Shaw-Baker to live in her home with 24 hour care while declining with cancer and related medical issues.

6. Under the circumstances of this case and considering the above six factors, attorneys' fees of \$6,090.00 in this matter are reasonable.

7. Further affiant sayeth naught.


John Hughes Cooper, Esquire

Sworn to and Subscribed
Before me this 6th Day
Of May, 2009.



Notary Public for South
Carolina; My Commission
Expires: 7/17/2016

John Hughes Cooper, P.C.

P.O. Box 395
Sullivan's Island, SC 29482

Ph:843-883-9099

Fax:843-883-9335

Lisa Fisher
P.O. Box 91112
Long Beach, CA 90809-1112

November 30, 2008

File #: 161-002

Inv #: 470

RE:

DATE	DESCRIPTION	HOURS	AMOUNT
Nov-03-08	revising Order; conferring by telephone with Ms. Lisa Fisher	0.90	202.50
Nov-03-08	E-mailing and hand-delivering to Judge Curry a proposed order appointing Lisa Fisher, Esquire, as Guardian and Conservator with copies to Msrs. Gibson and Kouten.	0.30	67.50
Nov-06-08	receiving emails from Mr. Gibson and Mr. Kouten; conferring by telephone with Ms. Lisa Fisher; conferring by telephone with Denise; meeting with Shirley and Alice at Alice's home; meeting briefly with Elizabeth Sykes at Probate Court; telephoning for Mr. Ed Jellison and leaving message	0.90	202.50
Nov-17-08	conferring by telephone with Ms. Lisa Fisher; meeting briefly at the home with Ms. Alice Shaw Baker and Kathryn; meeting briefly with Denise at our offices	0.40	90.00
Nov-18-08	receiving faxed copy of Bond; telephoning Ms. Sykes at Probate Court; telephoning Ms. Lisa Fisher; receiving coins from Ms. Shaw Baker's house; conferring by telephone with Jerome Mauldin; receiving letter from Mr. Kouten; drafting letter to Mr. Jellison; drafting fax to Ms. Sykes at Probate Court	0.80	180.00
Nov-19-08	receiving copy of letter from Mr. Gibson to Mr. Jellison; meeting with Ms. Lisa Fisher at Probate Court	0.90	202.50
Nov-19-08	talk w lisa fisher -	2.30	517.50

Invoice #: 470

Page 2

November 30, 2008

Nov-20-08	meeting with Ms. Lisa Fisher and Ms. Alice Shaw Baker in preparation for appointment with Dr. Waid; telephoning for Mr. Jellison and leaving message; drafting fax to Mr. Jellison; conferring with Ron and Dr. Waid's office	1.30	292.50
Nov-21-08	receiving filed Certificate of Appointment; receiving receipts from Denise; conferring by telephone with kathryn concerning pod	0.20	45.00
Nov-24-08	receiving copy of letter from Ms. Fisher to Dr. Waid; receiving copy of letter from Ms. Fisher to Mr. Kouten; conferring by telephone with Kathryn	0.40	90.00
Nov-26-08	drafting Affidavit Regarding Attorneys' Fees; drafting proposed Order Approving Attorneys' Fees	2.30	517.50
Totals		10.70	\$2,407.50

John Hughes Cooper, P.C.

P.O. Box 395
Sullivan's Island, SC 29482

Ph:843-883-9099

Fax:843-883-9335

Lisa Fisher
P.O. Box 91112
Long Beach, CA 90809-1112

December 30, 2008
File #: 161-002
Inv #: 473

RE:

DATE	DESCRIPTION	HOURS	AMOUNT
Dec-01-08	arranging for filing Affidavit and proposed Order in Probate Court; conferring by telephone with Ms. Lisa Fisher; telephoning Kathryn and Denise; reviewing pay checks for care givers	0.70	157.50
Dec-08-08	conferring by telephone with Ms. Lisa Fisher	0.20	45.00
Dec-10-08	receiving telephone message from Ms. Lisa Fisher; receiving recorded copy of Certificate of Appointment	0.20	45.00
Dec-11-08	receiving fax from Kathryn concerning care giver work hours; receiving letter from Ms. Lisa Fisher; sending email to Ms. Lisa Fisher concerning payment of care givers; sending email to Ms. Lisa Fisher concerning filed Certificate of Appointment	0.40	90.00
Dec-12-08	telephoning for Ms. Lisa Fisher	0.20	45.00
Dec-15-08	telephoning for Mr. Jellison; telephoning Ms. Lisa Fisher	0.20	45.00
Dec-18-08	conferring by telephone with Ms. Alice Shaw-Baker; meeting with Mr. Ed Jellison at Family Services; telephoning Ms. Lisa Fisher	2.30	517.50
Dec-19-08	telephoning Ms. Lisa Fisher; delivering funds, documents, and property obtained from Mr. Jellison; accompanying Ms. Lisa Fisher to Bank of America and to First Federal; arranging for filing original Will with Probate Court	3.30	742.50

Invoice #: 473

Page 2-

December 30, 2008

Dec-20-08	conferring by telephone with Ms. Lisa Fisher; searching records; drafting email to Ms. Lisa Fisher with 2007 tax return and related information	0.50	112.50

Dec-23-08	obtaining cash for Ms. Alice Shaw-Baker; visiting Alice at her home; conferring by telephone with Mr. Kouten; telephoning Ms. Orenstein; receiving fax from Court; telephoning for Ms. Lisa Fisher	1.30	292.50

Dec-29-08	receiving message from Ms. Lisa Fisher; telephoning to arrange pick up of POD; conferring by telephone with Alice Shaw-Baker and Mona	0.20	45.00

Totals		9.50	\$2,137.50

John Hughes Cooper, P.C.

P.O. Box 395
Sullivan's Island, SC 29482

Ph:843-883-9099

Fax:843-883-9335

Lisa Fisher
P.O. Box 91112
Long Beach, CA 90809-1112

December 31, 2008
File #: 161-002
Inv #: 485

RE:

DATE	DESCRIPTION	HOURS	AMOUNT
Dec-30-08	telephoning for Ms. Huckabee, Mr. Jellison, Ms. Orenstein and Ms. Sykes; reviewing records for Health Care Power of Attorney; arranging for plumbing services; drafting letter to Mr. Gibson concerning visitation	0.80	180.00
	Totals	0.80	\$180.00

John Hughes Cooper, P.C.

P.O. Box 395
Sullivan's Island, SC 29482

Ph:843-883-9099

Fax:843-883-9335

Lisa Fisher
P.O. Box 91112
Long Beach, CA 90809-1112

January 30, 2009

File #: 161-002

Inv #: 489

RE:

DATE	DESCRIPTION	HOURS	AMOUNT
Jan-02-09	receiving health care power of attorney; forwarding health care power of attorney to Ms. Lisa Fisher; receiving emails from Ms. Lisa Fisher and Mr. Kouten; conferring by telephone with Ms. Lisa Fisher; telephoning Probate Court; telephoning Danny Wheeler concerning plumbing at Alice's home; drafting email to Ms. Fisher and Mr. Kouten; receiving copy of email from Ms. Orenstein; receiving another email from Ms. Orenstein	0.90	202.50
Jan-02-09	Obtaining certified copies of the Guardian/Conservator Appointment Order from the Probate Court, delivering them to Ms. Fisher.	0.50	112.50
Jan-06-09	receiving email from Mr. Jellison; receiving email from Mr. Kouten; conferring by telephone with Ms. Lisa Fisher; receiving faxed documents from Ms. Sykes at Probate Court; scanning and emailing documents to Ms. Lisa Fisher; conferring with Candy at Ms. Alice Shaw-Baker's home about plumbing; telephoning Danny Wheeler concerning plumbing	0.60	135.00
Jan-07-09	telephoning Village Plumbing; receiving report from Dr. Waid; sending Dr. Waid's report to Ms. Lisa Fisher by email; arranging for filing report with Court; providing a copy to Mr. Kouten	0.70	157.50
Jan-08-09	conferring by telephone with Ms. Lisa Fisher; telephoning Danny Wheeler; drafting email with data for 1099s	0.60	135.00

Invoice #: 489

Page 2

January 30, 2009

Jan-09-09	receiving telephone message from Ms. Lisa Fisher; receiving invoice from Village Plumbing and Electric; drafting letters to Ms. Elizabeth Sykes and to Mr. Kouten	0.40	90.00
Jan-14-09	receiving email from Ms. Lisa Fisher	0.20	45.00
Jan-19-09	telephoning for Ms. Lisa Fisher concerning sending Dr. Waid's report to Mr. Kouten and concerning smoke alarm connection to fire department	0.20	45.00
Jan-20-09	conferring by telephone with Dr. Mulbry; receiving invoice from Dr. Mulbry; drafting email to Ms. Lisa Fisher	0.30	67.50
Jan-21-09	telephoning Ms. Lisa Fisher; receiving faxed copy of letter to Mr. Jellison; receiving faxed letter from Ms. Fisher	0.20	45.00
Jan-22-09	telephoning Dr. Rosen's staff concerning continued appointments for Alice	0.20	45.00
Jan-25-09	receiving copy of fax from Ms. Lisa Fisher to Mr. Jellison; receiving email request from Ms. Lisa Fisher for copy of will; sending copy of will to Ms. Lisa Fisher; drafting short email to Ms. Lisa Fisher concerning possible VA benefits	0.40	90.00
Jan-26-09	conferring by telephone with Dr. Rosen; telephoning Ms. Lisa Fisher	0.20	45.00
Jan-26-09	researching pay on death accounts in Probate Code; researching case law	2.10	472.50
Jan-27-09	meeting with Ms. Lisa Fisher, Kay from Life Line, and Alice at 306 Cassina	0.50	112.50
Jan-28-09	conferring with Ms. Lisa Fisher concerning Alice's trip to California	0.20	45.00
Jan-29-09	conferring by telephone with Ms. Lisa Fisher concerning filing; receiving copy of email from Ms. Lisa Fisher to caregivers; receiving copy of letter from Dr. Rosen to Dr. Schweiger; drafting email to Ms. Lisa Fisher with copy of Dr. Rosen's letter	0.80	180.00
Jan-29-09	conferring by telephone with Ms. Lisa Fisher	0.20	45.00
Jan-30-09	receiving Fedex delivery; arranging for filing documents with Probate Court; telephoning Ms. Millender	0.80	180.00
Jan-30-09	Credit Invoice per JHC	0.00	-750.00

John Hughes Cooper, P.C.

P.O. Box 395
Sullivan's Island, SC 29482

Ph:843-883-9099

Fax:843-883-9335

Lisa Fisher
P.O. Box 91112
Long Beach, CA 90809-1112

February 25, 2009

File #: 161-002

Inv #: 501

RE:

DATE	DESCRIPTION	HOURS	AMOUNT
Feb-02-09	telephoning Ms. Millender concerning motion for substituted judgment; conferring by telephone with Ms. Lisa Fisher concerning weekly delivery of cash to Alice	0.50	112.50
Feb-06-09	receiving letter from Ms. Lisa Fisher	0.20	45.00
Feb-09-09	conferring by telephone with Ms. Lisa Fisher concerning obtaining Letters of Appointment, concerning a letter to Doris Thees, and concerning setting a hearing with the Court; drafting letter to Ms. Doris Thees; drafting short email to client; telephoning for Ms. Sykes; drafting email to Ms. Elizabeth Sykes at Probate Court	0.80	180.00
Feb-19-09	telephoning Ms. Lisa Fisher; telephoning Mr. Gamble concerning checking on house	0.20	45.00
	Totals	1.70	\$382.50

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

THE MATTER OF

Alice Shaw-Baker

Final

IN THE PROBATE COURT

CONSERVATOR ANNUAL ACCOUNTING

CASE NUMBER: *2008-GC-10-88*

Please provide Bank Statement with Accounting

The undersigned Conservator submits this accounting, which covers the period from *1/1/09* through *5/26/09*

The documentation on page 2 of this form sets forth a complete accounting for the period specified, which is summarized as follows:

Beginning Balance

158,522.01

Plus: Receipts

111,100.77

Subtotal

269,622.78

Less: Disbursements

123,405.45

Ending Balance

\$146,217.33

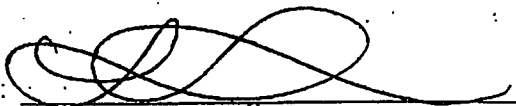
5/26/09
2/25/09
09 MAY 27 PM 3:16
PROBATE COURT

The Conservator declares that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and is true to the best knowledge and belief of the Conservator.

Executed this *26* day of *May*, 2009

SWORN to before me this _____ day of _____

20

Signature: 

Name: *Lisa Fisher*

Address: *P.O. Box 91112*

Long Beach, GA 30809

Telephone (O): *(562) 965-3267*

(H): *(866) 206-9066 x 9861*

Notary Public for South Carolina

My Commission Expires: *SEE ATTACHED NOTARY*

CERTIFICATE

RECEIPTS
(assets received into estate)

DISBURSEMENTS
(assets disbursed to aid out from estate)

See Attached

See attached

TOTAL	11,100.77	123,405.45

JURAT

STATE OF CALIFORNIA

COUNTY OF Los Angeles

Subscribed and sworn to (or affirmed) before me on

this 26th day of May, 2009

by Lisa Fisher

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



(seal)

Signature Patricia French

Conservatorship of Alice Shaw Baker
Final Account 2008-GC-IO-88

RECEIPTS

Deposit-Account not marshaled by Family Services	BofA	\$67,438.88
Deposit-Account not marshaled by Family Services	First Federal	\$34,367.85
Social Security Deposits (1,168.00 and 1,168.00)		\$2,336.00
State Retirement		\$1,910.36
Wachovia Disbursement		\$834.16
Tax Refund-Federal		\$3,444.00
Discover Refund		\$375.03
Tax Refund-South Carolina		\$384.00
Interest (Jan. thru May, 2009)		\$10.49
		111100.77

DISBURSEMENTS

Caregivers	28813.50
Household Expense	11731.26
Administrative Costs	53906.00
Bills	2131.08
Donations	2855.00
Medical Expenses	17473.05
Final Expenses	1113.95
Edward Jones Acct. (Refuse to Release funds -due death of conservatee. Please see attached for monies not marshaled)	\$5,381.61
	123405.45

Conservatorship of Alice Shaw Baker
Final Account 2008-GC-10-88

ADDITIONAL ASSETS PROTECTED UNDER THE CONSERVATORSHIP

Monies outside estate | Bank notified of conservatorship:

Edward Jones-Will not release funds (originally in assets account)	\$6,186.00
Bank America -small checking account not closed due to automatic deposit for insurance	\$67.20
Wachovia IRA-Will not release funds pending appointment of special /successor administrator	\$16,431.38
Check from Jellison, Family Services (Would not release monies while Alice was alive) Fam. Services 3/2/09 no. 202989	\$3,012.46
Refund from Blue Shield no. 9923860	\$246.21
T-mobile refund due (PR must request in writing)	\$24.81
	25968.06

Bonds-HH Treasury dept. given notice of conservatorship, however not marshaled due to high rate of interest	1-\$50.00 1-\$100.00 3-\$200.00 2-\$500.00 16-\$1,000.00 4-\$10,000.00 6-\$5,000.00 16-\$1,000.00 40-\$500.00
Personal Property in the home	not appraised
Jewelry-8 pieces of jewelry	not appraised

Conservatorship of Alice Shaw Baker
Final Account 2008-GC-IO-88

NOTICE TO THE COURT:

Conservator Lisa Fisher has learned that Bessie Huckabee had an additional set of keys which she never disclosed. Bessie Huckabee, through her Peter Kouten, represented that she entered the whenever she wanted. Conservator does not know, if during her tenure as conservator, Bessie Huckabee entered the premises and removed assets without notice to this conservator. Conservator knows that at the death of Alice Shaw Baker, Bessie Huckabee obtained the only other keys from the caretaker without conservator's knowledge or consent, and through deception. The Conservator was forced to change all locks on the Conservator believes that the property is now secure.

Additionally, the bank receipts attached do not reflect the most current deposits, nor the outstanding checks. However, the representations in said ending balance reflect the accurate known ending balance.

Snapshot History for Interest On Checking #1846817 as of 05/26/09 10:35 AM

Account Details

Current Balance	\$83,042.61	Collected Balance	\$83,042.61
Interest Rate	.050%	Overdraft Limit	\$.00
Last Interest Paid	\$3.27	Current Overdraft Balance	\$.00
This Year's Interest	\$10.49	Available Overdraft Protection	\$518.00
Last Year's Interest	\$.00	Total Holds	\$.00
Available Balance	\$82,787.61		

Date ↓	Description	Withdrawals	Deposits	Balance
	Balance After Memo Postings			\$82,787.61
****	VTXTLR !Teller Cash Transaction	255.00		82,787.61
	Balance Before Memo Postings			\$83,042.61
05/21/09	Check Inclearing #590 View Image	36.30		83,042.61
05/19/09	Check Inclearing #611 View Image	895.00		83,078.91
05/19/09	Check Inclearing #585 View Image	235.21		83,973.91
05/19/09	Check Inclearing #573 View Image	215.88		84,209.12
05/19/09	Check Inclearing #581 View Image	204.40		84,425.00
05/19/09	Check Inclearing #557 View Image	165.00		84,629.40
05/19/09	Check Inclearing #610 View Image	75.00		84,794.40
05/19/09	Check Inclearing View Image	62.32		84,869.40

* Note: Entries noted with a * are "memo" entries which have not yet been officially posted to your account.

This is a snapshot view of this account's history since 5/19/09; for a more complete view, enter a starting date and press the button.

View History Since 04/11/2009 |



Member FDIC

**Snapshot History for Market Rate Savings #1588336
as of 05/26/09 10:36 AM****Account Details**

Current Balance	\$20,497.20	Overdraft Limit	\$0.00
Interest Rate	.100%	Current Overdraft Balance	\$0.00
Last Interest Paid Date	03/31/2009	Available Overdraft Protection	\$0.00
Last Interest Paid	\$3.36	One Day Float	\$0.00
This Year's Interest	\$3.36	Two Day Float	\$0.00
Last Year's Interest	\$0.00	Three Day Float	\$0.00
Available Balance	\$20,497.20	Total Holds	\$0.00

This is a snapshot view of this account's history since 5/19/09; for a more complete view, enter a starting date and press the submit button.

View History Since 04/11/2009

SubmitE-Mail

Member FDIC

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE MATTER OF: ALICE SHAW-BAKER
CASE NUMBER: 2008-GC-10-0088

FILED

09 MAY 26 PM 3:59

PETITION FOR DISCHARGE

X GUARDIANSHIP
X CONSERVATORSHIP

Petitioner: LISA FISHER

1. Nature of interest of undersigned: *Guardian / Conservator*
2. Other pending proceedings relating to the above ward/protected person are:
3. A. Termination/Discharge because:
X Ward/Protected Person died on 2/25/09
Guardian/Conservator died on _____
Protected Person has reached the age of eighteen or has married.
Guardian/Conservator was adjudicated incapacitated on _____, 20__, at _____
Guardian/Conservator hereby offers resignation and requests Court acceptance.
Will establishing Testamentary Guardianship was denied probate in a formal hearing on _____, 20__, at _____
B. Readjudication of incapacity.
Ward/protected person is no longer incapacitated.
_____ Special leave of Order dated _____ prohibiting petition prior to _____
20__ is hereby requested because:
4. I request that the Court: (check all that apply)
X A. Consider and approve the final accounting.
B. Adjudicate as to all unsettled liabilities.
X C. Discharge, or set forth the conditions of the termination of the appointment of the Guardian/Conservator, and the release of the Fiduciary's bond, if any.
D. Terminate the office.
E. (Other)
X F. Issue an Order of same, together with such other Orders as the law may require and as the Court may deem applicable and proper.
5. By copy of this petition, notice has been given to all interested persons as required by law.

SWORN to me before this _____ day of _____, 20__.

Signature: _____
Name: Lisa Fisher

Address: 60 Box 91112
Long Beach, GA 40809

Telephone (O): 562 965 3267
(H): 0866 206 9066 x 9861

N _____ Public for South
My Commission Expires: SEE ATTACHED NOTARY

CERTIFICATE

Form 571PC

JURAT

STATE OF CALIFORNIA

COUNTY OF Los Angeles

Subscribed and sworn to (or affirmed) before me on

this 26th day of May .20 09

by Lisa Fisher _____

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



Signature

(seal)

COUNTY OF CHARLESTON

THE MATTER OF ALICE SHAW-BAKERCASE NUMBER 2008-GC-1D-088

MOTION FOR EXTENSION

- ☐ INVENTORY AND APPRAISEMENT
☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: DELIVERY OF ASSETS

Applicant: LISA FISHER, ESQUIRE

1. Nature of interest of undersigned:

LISA FISHER, ESQUIRE WAS THE CONSERVATOR.

2. _____ is/are the duly qualified and acting Personal Representative(s) of the above estate.

3. I request an extension of 90 FORMER CONSERVATOR days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s): DELIVERY OF THE ESTATE ASSETS, FOR THE FOLLOWING REASONS:

ON MAY 22, 2009, THE HONORABLE THOMAS L. HOUGHSTON, JR. IN CASE NO. 2009-CP-10-3010, ISSUED AN ORDER PROVIDING, "TEMPORARY ORDER RESTRAINING PR FROM DOING ANYTHING REGARDING THE ESTATE GRANTED." THIS EXTENSION IS TO SEEK APPOINTMENT OF A SPECIAL ADMINISTRATOR OR SUCCESSOR P, TO WHOM TO DELIVER THE ESTATE ASSETS.

Execute this 26th Day of MAY, 2009.Signature: Cain DennyName: CAIN DENNY, ESQUIREAddress: PO BOX 1205
CHARLESTON, SC 29402Telephone (O): (843) 965-5400

(H):

ATTORNEY FOR LISA FISHER

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

ORDER FOR EXTENSION

LISA FISHER, ESQ.IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due on the _____ day of _____, 20____.Executed this 26th day of May, 2009.

IRVIN G. CONDON, PROBATE COURT JUDGE
TAMARA C. CURRY, ASSOCIATE PROBATE JUDGE

TDD

STATE OF SOUTH CAROLINA PROBATE COURT IN THE PROBATE COURT
COUNTY OF CHARLESTON 09 JUL 21 10:28 AM COMMITMENT DIVISION
CASE NO: 2008-GC-10-088

ELISABETH SPENCER,

Petitioner,

VS.

ALICE SHAW-BAKER, an alleged
Incapacitated person, and
LISA FISHER, her next of kin,
Respondents.

MOTION FOR APPROVAL OF FEES AND
EXPENSES OF GUARDIAN AND
CONSERVATOR and MEMORANDUM IN
SUPPORT

COMES NOW Lisa Fisher, previously appointed as Guardian and
Conservator for Alice Shaw-Baker, and moves this Honorable Court for
approval of reasonable fees and expenses for services rendered as
Guardian and Conservator of Alice Shaw-Baker as follows:

1. On or about August 14, 2008 Lisa Fisher, Esquire ("Ms. Fisher")
began assisting her great aunt, Alice Shaw-Baker (Ms. Shaw-
Baker"), with proceedings instituted against her in the Probate
Court by Elisabeth Spencer.
2. On October 29, 2008, Ms. Fisher was appointed by this Court as
Guardian and Conservator for Ms. Shaw-Baker in this case.
3. Ms. Fisher served as Guardian until Ms. Shaw-Baker's death on
February 25, 2009.
4. Ms. Fisher served as Conservator until termination of the
Conservatorship on May 11, 2009.
5. The house and lot at 306 Cassina Road has been valued in the
range of \$100,000 in the current market and is not encumbered by
any mortgage or other liens.
6. The final Conservator Annual Accounting filed May 26, 2009
indicates \$146,217.33 marshaled liquid assets in the estate and

another \$149,718.06 in unmarshaled semi-liquid assets, primarily high interest U.S. Treasury Bonds which cannot be marshaled without substantial interest reduction.

7. Accordingly, the net estate is currently valued at approximately \$395,935.39.

~~8. Ms. Fisher provided services which benefited Ms. Shaw-Baker~~

during her lifetime and which benefited her estate after her death.

9. Ms. Fisher's verified billing statement (attached as "Exhibit A") reflects detailed entries for 465.85 hours spent by Ms. Fisher as Guardian and Conservator, which directly benefited Ms. Shaw-Baker and her estate.

10. The billing statement does not include all time spent by Ms. Fisher in providing services in this case. For instance, travel time was substantial, but travel time is not included on the billing statement. Also, Ms. Fisher spent substantial time with Ms. Shaw-Baker during the holidays, but Ms. Fisher elected not to include that time on the billing statement. There are other times which Ms. Fisher did not include on the billing statement. The total time for which payment is requested is 465.85 hours spent as Guardian and Conservator in this case.

11. This Court approved Guardianship fees at the rate of \$120 per hour for Walter Kaufman, Esquire, when he was serving as Guardian for Ms. Shaw-Baker in the early stages of this case (Order Awarding Fees to Temporary Co-Guardians, November 10, 2008).

12. Accordingly, Ms. Fisher requests approval of her fees at the rate of \$120 while serving as Guardian and Conservator for her great aunt, Ms. Shaw-Baker in this case. Fees for Ms. Fisher

in this case for 465.85 hours at the rate of \$120 per hour would total \$55,902.00.

13. Ms. Fisher's billing statement also reflects her air fare and other travel expenses totaling \$11,912.50 for necessary trips from Ms. Fisher's home in California to South Carolina to carry out her duties as Guardian and Conservator. Although the billing
-

statement does include travel expenses, it does not include travel time. Although Ms. Fisher paid for Ms. Betty Fisher (Ms. Shaw-Baker's niece) to travel to visit Ms. Shaw-Baker during the Christmas and New Year's holidays, Ms. Fisher does not request reimbursement for that \$2,201.00 expense.

14. Fees of \$55,902.00 and expenses of \$11,912.50 for Ms. Fisher at the above rates would total \$67,814.50.

15. Ms. Fisher has not been otherwise compensated in this case.

16. Ms. Fisher requests payment of \$67,814.50 fees and expenses for her service as Guardian and Conservator in the above case.

Applicable Law

The South Carolina Probate Code provides for reasonable compensation to Guardians and Conservators appointed in protective proceedings.

With regard to Conservators, S.C. Code Ann. § 62-5-414 provides, "If not otherwise compensated for services rendered, any visitor, lawyer, physician, conservator, or special conservator appointed in a protective proceeding is entitled to reasonable compensation from the estate, as determined by the court (emphasis added)."

With regard to Guardians, S.C. Code Ann. § 62-5-312(b) provides in pertinent part, "Any guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward and is entitled to receive reasonable sums for his services and for room and board furnished to the ward as agreed upon between him and the

conservator, provided the amounts agreed upon are reasonable under the circumstances (emphasis added)." In *Dowaliby v. Chambless*, 344 S.C. 558, 544 S.E.2d 646 (Ct. App. 2001), the court stated that, "an appointed guardian may be able to recover expenses prior to the formal appointment if such expenditures benefited the ward."

Discussion

In the instant case, Ms. Fisher was appointed Guardian and Conservator and served Ms. Shaw-Baker in both capacities. Ms. Fisher assisted Ms. Shaw-Baker to remain in her home, and to avoid placement in an institution. This was a great benefit to Ms. Shaw-Baker, who often expressed that remaining in her home was her primary goal. Ms. Fisher handled Ms. Shaw-Baker's many financial, elder care, and medical needs. Ms. Fisher attended most of Ms. Shaw-Baker's appointments with Dr. Alan Jackson, Dr. Shannon Honey, Dr. Schwieger, Dr. Schwenzfeirer (ENT), Dr. Sam Rosen (geriatric psychiatrist), and Dr. Waid (neuropsychologist). The number of hours was reasonable for the services provided and the rate of \$120 is within the range customarily charged for similar services in the Charleston area.

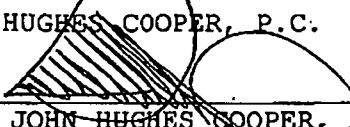
In the instant case, fees and expenses of \$67,814.50, over the time involved, for the services provided, and at the rate requested are reasonable. Since the net estate is currently valued at approximately \$395,935.39, an award of \$67,814.50 to the appointed Guardian and Conservator is approximately 17% of the estate and is not disproportionate. The services provided by Ms. Fisher were very beneficial to Ms. Shaw-Baker and her estate.

WHEREFORE, Lisa Fisher prays for an Order Approving Fees and Expenses of Guardian and Conservator in the amount of \$67,814.50.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By:


JOHN HUGHES COOPER, ESQUIRE
Federal Court ID 298
South Carolina Bar 1387
State Bar of Georgia 185986

~~1000 Middle Street~~

Post Office Box 395

Sullivan's Island, SC 29482

shiplaw@jhcooper.com

843-883-9099; fax 843-883-9335

and

CAIN DENNY, ESQUIRE

CAIN DENNY, P.A.

P.O. Box 1205

Charleston, S.C. 29402

843-965-5400

ATTORNEYS FOR LISA FISHER

Sullivan's Island, South Carolina

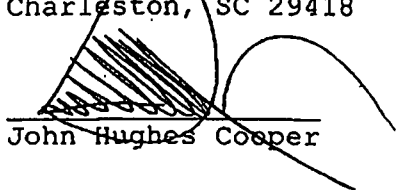
July 16, 2009

CERTIFICATE OF SERVICE

I hereby certify that we served a copy of the foregoing Motion For Approval of Fees and Expenses of Guardian and Conservator and Memorandum and attached Exhibit A upon opposing counsel and the Guardian ad Litem by first class mail on July 17, 2009 as follows:

C. Mac Gibson, Jr., Esquire
Attorney at Law
764 St. Andrews Blvd.
Charleston, SC 29407

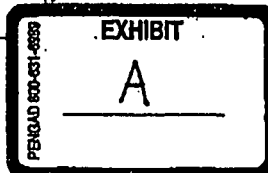
Peter A. Kouten, Esquire
Attorney at Law
7013 Dorchester Road, Suite E, Box 5
Charleston, SC 29418


John Hughes Cooper

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

08/14/08	Telephone call from Mac Gibson re: pending hearing; request for information; review of documents; contact Alice re: events; contact John Hughes Cooper (JHC)	2.00
~~08/15/08~~	~~Telephone call to JHC; Call to Alice; faxing documents to JHC~~	~~1.50~~
08/16/08	Call to Alice; review of pleadings; call to Animal Shelter; Correspondence to Animal Shelter	1.50
08/17/08	Call to Alice	.25
08/18/08	Call to JHC; Call to Alice	.50
08/19/08	Review of faxes from Mr. Cooper; Telephone conversation w/ JHC; Call to Alice	1.50
08/20/08	Telephone conference w/ JHC; w/ Alice; Call re: Doctors; Review of Documents from JHC	1.50
08/21/08	Call to Alice; Receive call from JHC	.50
08/22/08	Review of Documents; Call to Alice	.50
08/23/08	Review correspondence from JHC; Call to Alice	.50
08/24/08	Call to Alice	.25
08/25/08	Review letter from JHC; Call to Alice	.25
08/26/08	Call to Alice	.25
08/27/08	Call to Alice	.25
08/28/08	Call to Alice	.50
08/29/08	Call to Alice	.25
08/30/08	Conferred with Mr. Cooper; w/ Alice	.25
09/01/08	Call to Alice	.25
09/02/08	Telephone conference with Mr. Cooper; call to Alice	.50
09/03/08	Call to Alice	.25
09/04/08	Review documents from Mr. Cooper; signed Affidavit; telephone call to Alice	1.00



Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

09/05/08	Telephone conference with Mr. Cooper re: hearing; call to Alice	.50
09/06/08	Research into alternative programs for Alice to help her stay at home; call to Alice	2.50
09/07/08	Telephone call to Alice	.10
09/08/08	Telephone call to Mr. Cooper; Reviewing documents	1.00
09/09/08	Fly to Charleston; Meet with Mr. Cooper; Meet with Alice; Attend hearing at Probate (reduced)	8.00
09/10/08	Telephone call to Mr. Cooper; w/ Alice and caregivers	1.00
09/11/08	Telephone calls to Mr. Cooper ; w/ Alice and Caregivers; Review of plan from Orenstein (2 emails); emails to Orenstein	2.50
09/12/08	Telephone call to Alice and Mr. Cooper; review documents	2.00
09/13/08	Telephone call to Mr. Cooper and Alice	1.00
09/14/08	Telephone call to Mr. Cooper and Alice	.50
09/15/08	Telephone call to Mr. Cooper and Alice	.30
09/16/08	Telephone call to Alice	.25
09/17/08	Telephone call to Mr. Cooper and Alice and caregivers	.50
09/18/18	Fly to and Visit to Charleston re: supervision and checking on property: See Alice! And help her move home (reduced)	8.00
09/19/08	Visit w/ Alice and Mr. Cooper and Mr. Denny re: case (reduced)	8.00
09/20/08	Telephone call to JHC and Alice	.25
09/21/08	Telephone call to Alice	.10
09/22/08	Telephone call to JHC and Alice	.25
09/23/08	Telephone call to JHC and Alice; send email to Mr. Cooper and Orenstein; Research issues for email	1.50
09/24/08	Review email from Mr. Cooper; call to Alice; Review documents from JHC and Orenstein; telephone call from JHC	1.25
09/25/08	Fax to JHC; Review documents from JHC; sent email to JHC	.75

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

09/26/08	Call re: Hair Appointment; caregivers; Alice; Call from JHC	.75
09/27/08	Call to Alice	.10
09/28/08	Call to Alice	.10
09/29/08	Telephone call w/ JHC; Call to Alice	.25
09/30/08	~~Calls re: Bond; Calls re: Alice~~	~~.50~~
10/01/08	Telephone conference w/ JHC; Call w/ Alice; Review info re: elder care; Email re: bond	.75
10/02/08	Review of documents from JHC; telephone conference w/ JHC; Review documents from Defense department; possible benefits; forms to fill out	2.50
10/03/08	Review of email from JHC; Review of documents; review of email; review of letter; call to Alice; Look into grant programs for assistance re: Alzheimers; Day care; optional programs; Discuss w/ Alzheimers office other options for assistance in home; Research possible options; research	3.50
10/04/08	Telephone call to Alice	.10
10/05/08	Telephone call to Alice	.10
10/06/08	Telephone call to JHC; calls re: bond;	.50
10/07/08	Telephone call w/ JHC; call to Alice; Calls to JHC	1.00
10/08/08	Telephone call to JHC re: Dr. Honney; Calls re: plumbing; Review of Documents; Calls to Alice; Conference w/ Dr. Honney	1.50
10/09/08	Telephone call to JHC; Calls to Alice; Calls re: Alice day care	.75
10/10/08	Telephone message to JHC re: fire sprinkler estimate; Call to Alice	.50
10/11/08	Telephone call to Alice	.25
10/12/08	Telephone call to Alice	.10
10/13/08	Telephone conference with JHC re: Gibson and, Kouten, flu shot; possible settlement; Call to Alice	1.25
10/14/08	Telephone call to JHC; Call to Alice	.25

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

10/15/08	Telephone call w/ JHC and Alice; review information re: elder care	.75
10/16/08	Telephone call w/ Alice; JHC; reviewing documents	1.00
10/17/08	Telephone call to Alice; Review letter from Kouten	.25
10/18/08	Telephone call to Alice	.10
10/19/08	Telephone call to Alice; telephone calls re: bond	.50
10/20/08	Review of Letter from JHC; Telephone call w/ Alice; Reviewing documents for court	1.00
10/21/08	Telephone call w/ JHC and Alice; Review email; and letters	1.50
10/22/08	Drafting brief of issues; review of documents; call to JHC; call to Alice	3.00
10/23/08	Telephone call to Alice; message to JHC; Review of Fee order proposal by Orenstein; Review correspondence from JHC	.75
10/24/08	Review of email from JHC; review documents; call to Alice	.75
10/25/08	Review of medical documents; Telephone call w/ JHC; Reviewing Dr. Mulbry's report; Call to Dr. Mulbry	2.00
10/26/08	Call to Alice	.10
10/27/08	Call to Alice	.10
10/28/08	Call to Alice; review of documents	1.00
10/29/08	Travel to SC with Betty Fisher; Meet w/ JHC, JTC, and CD; Attended hearing on appointment of Guardian and Conservator; Visit w/ Alice Shaw Baker	11.00
10/30/08	Telephone call w/ JHC ; review documents; review elder care	.50
10/31/08	Telephone call w/ Alice; review documents	.50
11/01/08	Telephone call to JHC; Telephone call w/ Alice	.50
11/02/08	Telephone call w/ Alice	.10
11/03/08	Review of email of order from JHC; review Kouten email; review bond email; call to bond company	1.00
11/04/08	Telephone call w/ Alice	.10

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

11/05/08	Telephone call w/ Alice; Visit to Post Office to Change Address	.50
11/06/08	Reviewing emails; Telephone call w/ JHC; call to Alice	.50
11/07/08	Telephone calls w/ Alice and caregivers	.25
11/08/08	Telephone calls w/ Alice and caregivers; calls re: doctors	.75
11/09/08	Telephone calls w/ Alice and caregivers	.25
11/10/08	Telephone calls w/ Alice and caregivers	.25
11/11/08	Telephone calls w/ Alice and caregivers	.25
11/12/08	Telephone calls w/ Alice and caregivers	.25
11/13/08	Telephone calls w/ Alice and caregivers	.25
11/14/08	Telephone calls w/ Alice and caregivers	.25
11/15/08	Telephone calls w/ Alice and caregivers	.25
11/16/08	Telephone calls w/ Alice and caregivers	.25
11/17/08	Telephone call w/ JHC; Call to Alice; Review info re: elder care; info re: prescription; calls re: doctors	2.50
11/18/08	Telephone call to Alice; to Bond companies; discussion re: car repair; lawn maintenance and sprinkler heads.	.50
11/19/08	Travel to South Carolina to see Alice; review status; go to Probate Court; Confer w/ JHC (reduced)	10.00
11/20/08	Go to Appointment w/ Alice at Dr. Waid; Meeting w/ h Alice at house; Buy Alice lunch/dinner; talking to Dr. Waid (reduced)	8.00
11/21/08	Telephone call w/ Alice; Correspondence to Dr. Waid; correspondence to Kouten; message to JHC; call to Jellison; go to Bank open account	2.50
11/22/08	Call to Alice; Telephone calls re: Thanksgiving; arranging meal (no need-supposed to go to party w/ caregivers)	.50
11/23/08	Call to Alice and Caregivers	.50
11/24/08	Call to Dr. Waid's office; correspondence to Dr. Waid; Correspondence to Mr. Kouten	1.50

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

11/25/08	Call to Alice	.10
11/26/08	Call to Alice; review documents from JHC; email from JHC	.75
11/27/08	Thanksgiving— Alice did not go to party; caregivers said church brought her meal; Spoke to Alice—very concerned	.50
11/28/08	Call to Alice	.25
11/29/08	Call to Alice; Review elder care	.50
11/30/08	Call to Alice; Review Edward Jones documents; review Alden Life Insurance documents	1.50
12/01/08	Review documents re: Affidavit; call w/ JHC; Call to Alice; correspondence to Jellison	1.00
12/02/08	Telephone call w/ Alice; review elder care; Correspondence to Jellison; calls to doctors; emails from JHC	1.25
12/03/08	Telephone call w/ Alice and caregivers; call for appointments	.10
12/04/08	Telephone call w/ Alice; Talk to VA re: discharge papers; emails from JHC	.50
12/05/08	Telephone call w/ Alice; calls re: bonds	.75
12/06/08	Telephone call to Alice and caregivers	.50
12/07/08	Telephone call to Alice	.10
12/08/08	Telephone call w/ JHC; w/ Alice; Correspondence to Jellison; to JHC; Call w/ Jellison; emails from JHC	.50
12/09/08	Telephone call w/ Alice; Telephone call to Smith Barney	.25
12/10/08	Telephone call to JHC; Call to Alice	.25
12/11/08	Telephone call to Alice; Correspondence to JHC; Review of emails from JHC	1.00
12/12/08	Telephone call from JHC; review elder care	.20
12/13/08	Telephone call to JHC; Call to Alice	.25
12/14/08	Telephone call to Alice and caregivers	.25
12/15/08	Telephone call from JHC; pay to Caregivers	.20

Billing

Guardianship of /Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

12/16/08	Telephone call to Alice	.10
12/17/08	Telephone call to Alice	.10
12/18/08	Telephone call w/ JHC; call to Alice; Get supplies for Alice	1.00
12/19/08	Telephone call from JHC; Meet w/ JHC; go to Bank of America and First Federal; Visit w/ Alice; Go to Bessingers	10.00
	for Alice; Go to Dr. Jackson appointment; Research caregivers; get MRI; go to Post Office	
12/20/08	Telephone call to JHC; review of tax return and related documents; email from JHC	2.00
12/21/08	Telephone calls to Alice; Find new doctor for Alice	2.25
12/22/08	Telephone call to Alice; Receive fax from ELI inc re: caregivers	1.00
12/23/08	Telephone call from JHC; call to Alice; call to caregivers verifying schedule; Go to Bank; open account; order checks; discuss options; discuss Calendaring; review report from Kouten; Review request for reimbursement; review emails from Kouten and JHC	2.75
12/24/08	Call to Alice; Travel to South Carolina; No caregivers on Christmas. Betty Fisher traveled w/ me to see Alice for the holidays; Mail reimbursements to JHC; Pay Bond company	.75
	12/25 No charge for care of Alice on Christmas; went to Christmas breakfast and dinner; outing and family event	
12/26/08	Travel back to California; call to Alice; Correspondence to JHC; Reimbursement of invoices	.75
12/27/08	Call to Alice; Review documents for Accounting	1.00
12/28/08	Telephone call to Alice; review checks, deposits, etc. for accounting; Start to draft disbursements and receipts	1.00
12/29/08	Telephone call to Alice; message to JHC; checks to caregivers; review bill for SCE&G; Go to BofA for deposit to account to cover insurance; Correspondence to caregivers re: orenstein; Research papers and review documents; Research air cleaner; order Argenus; call to banks	4.25

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

12/30/08	Finalize Accounting; reviewing documents from JHC; calls re: visitation of Orenstein; calls re: plumbing; Review statement from B of A; call to try and arrange Blue Cross-difficulties in making initial change; Correspondence to Kouten; emails to JHC	2.75
12/31/08	Telephone call to Alice; Travel to South Carolina for care on New Years No charge for care of Alice on holiday; outings; discussion about revocation; discussion re: holiday gifts; go to movies; lunch; shopping	.25
01/02/09	Visit w/ Alice; Go to Doctors; Lunch; Review of documents from JHC; emails to JHC; telephone calls w/ JHC; review emails from JHC and Orenstein; obtaining copies of Orders of Appointment; Review calendaring; Pay Caregivers	7.50
01/03/09	Telephone call w/ Alice and Caretakers; letter to Caretakers	1.00
01/04/09	Telephone call w/ Alice and Caretakers; Review Citibank statement; calls to Jellison; Telephone call w/ Accountant; Correspondence w/ Accountant	1.50
01/05/09	Telephone call w/ Alice; Go to Bank to Address Cashier Check for Caregivers; Pay for Nucleus Medical supplies; Review calendaring	1.75
01/06/09	Telephone call w/ JHC; Receiving documents from JHC; call re: plumbing, to Alice; pay bills; ltr 2 Edward Jones, social security, taxes; email to JHC re: Jellison's failure to respond	2.25
01/07/09	Telephone call to Alice; review Dr. Waid's report	1.50
01/08/09	Telephone call w/ Mr. Cooper; Review of emails for 1099's; call to Alice; Go to bank for deposit	1.50
01/09/09	Telephone call to JHC; review correspondence from JHC and Village Plumbing invoice; call to Alice; allowance for Alice; Correspondence to Dr. Waid and payment in full; Review Bank statements; Go to Post Office re: Change of Address problems	2.75
01/10/09	Telephone call w/ Alice; Review bank statements; correspondence to Dr. Schweiger; email from Kouten	1.00
	Telephone call w/ Alice; Review documents from JHC; pay	

Billing

Guardianship of /Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

01/11/09	bill	.50
01/12/09	Telephone call w/ Alice; Call to Accountant re: 1099 for caregivers; calculate pay for year; emails from caregivers re: hours	1.00
01/13/09	Telephone call w/ Alice; Pay Bills; Telephone conference w/ ~~Louis Tiel Edward Jones~~ need tax id; Telephone conference w/ Dr. Schweiger re: lexapro	2.25
01/14/09	Email to JHC; Telephone call to Alice; Review changes in calendaring	.75

01/15/09	Telephone call to Alice; Review correspondence from Citibank	.25
01/16/09	Telephone call to Alice; Calendaring of Caregivers	1.00
01/17/09	Telephone call to Alice; Pay Caregivers	.50
01/18/09	Telephone call to Alice; Arrange for Dinner for Alice through Manny's	1.25
01/19/09	Telephone call to Alice; w/ JHC re: Dr. Waid's report	.50
01/20/09	Telephone call to Alice; Reviewing email from JHC	.50
01/21/09	Telephone call from JHC; Letter to Jellison; Letter to JHC; Calls to Alice (2)	1.25
01/22/09	Telephone calls to Alice (2); Call to Dr. Rosen	.50
01/23/09	Telephone call to Alice; Reviewed deferred compensation plan documents; review 1099's to find missing documents	1.25
01/24/09	Telephone call to Alice; Pay Bills; Correspondence to Jellison	.50
01/25/09	Correspondence to Ed Jellison; Email to JHC re: will; Review of Will; Review of email re: possible vet benefits; Calls to Alice (2); Arrange for payment of paper; past due; Pay Bills	1.50
01/26/09	Telephone call to/from Alice (4); Calls w/ JHC; Arrange for Mannys and Ye Ole Ice Cream; Doctors for Alice; Pick up Records from Tri-County	5.25
01/27/09	Review case law from JHC; Calls to/from Alice (5); Meet re:	9.00

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

	<i>Lifeline; Appointment; Paid billings owed to caregivers; appointment for Doctors; Went to Wachovia; Bank of America; 1st Federal; Call to Gail Suggs; Called Insurance re: Change of Address (reduced)</i>	
<i>01/28/09</i>	<i>Calls to/from Alice (8); Conference w/ Mr. Cooper re: trip to California; Payment to SCE & G; Correspondence to Dr. Rosen, to Dr. Schweiger, to National; calls to Doctors offices; Correspondence to caretakers re: failure to obtain medication; Call to Dr. Schweiger re: Glucerna/Ensure; Kouten; w/ Kmart re: Medication</i>	<i>5.50</i>
<i>01/29/09</i>	<i>Go to Bank to Notarize accounting; Get Copies; Calls to/from Alice (6); Telephone conferences w/ JHC; email to</i>	<i>3.25</i>
<i>01/30/09</i>	<i>Telephone calls to JHC; Call to Alice (4); Pay Bills</i>	<i>2.00</i>
<i>01/31/09</i>	<i>Call to/from Alice(5); Calls to JHC</i>	<i>1.25</i>
<i>02/01/09</i>	<i>Call to/from Alice(11); Correspondence to Dr. Rosen; Calendaring; Paperwork re: citibank; Call to Dr. Schweiger; Kmart</i>	<i>2.75</i>
<i>02/02/09</i>	<i>Telephone calls to JHC; Telephone calls to/from Alice (6); Go to Bank; deposit; Pay bills</i>	<i>2.50</i>
<i>02/03/09</i>	<i>Call to Alice; Calls to JHC; Correspondence to JHC re: Billings; Review Citibank documents; ; email from Sagas</i>	<i>1.00</i>
<i>02/04/09</i>	<i>Calls to/from Alice (5); Go to Bank deposit; Pay Bills; Telephone calls to banks and deferred compensation; correspondence to Bank of America; Correspondence to First Federal and South Carolina; Go to Social Security office</i>	<i>4.75</i>
<i>02/05/09</i>	<i>Telephone call to Alice; Wachovia; Correspondence to Wachovia; Correspondence to State Compensation, complete withholding certificate; Telephone calls to JHC; email from acct.</i>	<i>1.25</i>
<i>02/06/09</i>	<i>Telephone calls to/from Alice (3); Go to Bank; deposit</i>	<i>1.00</i>
<i>02/07/09</i>	<i>Calls to/from Alice (5); Letter to Dr. Schweiger re: Seroquel; and Home Health</i>	<i>1.50</i>
<i>02/08/09</i>	<i>Calls to/from Alice (5); Spoke w/ Katherine re: Intrepid Home Health; to speak w/ Penny LaMace; Call to JHC re: Doris Thees</i>	<i>1.50</i>

Billing

Guardianship of /Conservatorship of Alice Shaw Baker
Case Nō: 2008-GC-10-088

02/09/09	Call to JHC; Calls to/from Alice (12); Correspondence to Blessed Sacrament; Correspondence to Dr. Schweiger; emails re: hours; Review letter to Doris Thees	2.50
02/10/09	Discuss contributions w/ Alice (4); Start making contributions to animal charities	1.25

02/11/09	Call to/from Alice; Review bank statements; Call AT&T; Pay Bills	2.00
02/12/09	Calls to Alice(3); Calendaring for 2 nd half of February; Review bank statements	1.50
02/13/09	Calls to JHC; Calls to/from Alice (8); W/ caregivers re: Availability	1.50
02/14/09	Arrange for Dinner through Mannys; Numerous calls from Alice(13), Caregivers, Lifeline; and Police; Arrange Travel to South Carolina; arrange for sitters	4.50
02/15/09	Calls to JHC; Go to Hospital; speak to nurses; doctors; arrange for food; visit with Alice; Stay with Alice to help her; arrange for sitters; Pay off caregivers; go to Wachovia; Telephone Wachovia	13.00
02/16/09	Visit Alice at hospital; talk to Doctors; Calls to JHC	12.00
02/17/09	Visit Alice; Calls to JHC (3); Message w/ Dr. Coon re: Pneumonia; Dr. Brice re: Biopsy; w/ Sherry in ICU; Travel back to California	2.50
02/18/09	Calls to JHC; Calls to Alice (3); Review Bank of America statements; Call Bank of America re: checks; Review correspondence from South Carolina Deferred Compensation Program; Call to ATC	1.50
02/19/09	Calls to Alice at hospital; Calls to JHC; speak to Nurses and Doctors; Make contributions to charities; Call to Credit card company; Go to Post office; Call to Maxim	2.75
02/20/09	Calls to Alice and hospital; caregivers; arrange for Sitters	1.25
02/21/09	Calls to Alice and hospital; caregivers; arrange for Sitters	1.25
02/22/09	Call to Alice and Hospital; Caregivers; Arrange for Air ambulance; Faxes;	2.50

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

02/23/09	Calls to Alice and Hospital; to Banks; Pay bills	1.25
02/24/09	Telephone calls to Alice; make payment; Pay Caregivers/sitters; Travel to South Carolina; arrange to have medical room set up; call to agencies for caretakers; call to Betty to assist w/ supplies	3.00

02/25/09	Arrive at hospital to travel to California; Go to pharmacy to get medication; deal w/ nurses; air ambulance; Peter Kouten; doctors; request hospice at home due to problems w/ Air Ambulance; call to California hospitals Alice dies. Have to rush to house, because Bessie Huckabee and the caretakers get the keys from Candy; They remove property from the house; arrange for locksmith; change all locks	18.00
02/26/09	Check house; arrange for caretaker; safety precautions for home (reduced); arrange for pre-need, call to funeral home, hospital, etc.	6.00
		445.15

POST DEATH

02/27/09	Call Citibank re: transfer; Talk to Caregivers re: house; Review documents in house; search for missing documents	4.25
03/01/09	Review invoice from Maxim	.10
03/02/09	Transfer from the bank	.25
03/09/09	Go to Bank; Transfer money over for accounting; Go to Social Security repay monies	2.00
03/09/09	Go to Bank; Deposit Citibank transfer	1.00
03/14/09	Review bank statement; Call Bank of America re: promo checks; make sure account closed	.25
03/16/09	Pay Chase bill; misc. billings	.25
03/18/09	Finalize Tax forms; go to Social security for 1099; Pay off Back pay	2.00
04/01/09	Call to JHC	.10
04/10/09	Review Bank statements	.10
04/21/09	Close out Medical billing re: Value Medical; pay billings	.10

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

04/30/09	Review billing from Accountant; pay	.10
05/06/09	Review Bank Statement; Tax Refund deposited; Conference w/ JHC; Attend hearing	3.00
05/13/09	Review Order	.10
05/14/09	Review statutory compliance letter; review emails; review faxed letter re: Edward Jones	.10
05/15/09	Emails re: Edward Jones	.25
05/18/09	Go to Bank and deposit Discover refund and State Tax Refund	.25
05-26-09	Finalize accounting; go to Notary; fed ex to JHC for filing	2.00
06-30-09	Go to Social Security re: overpayment	1.50
02-27-09 through 07-01-09	Ensure that house is protected; check on status; caregiver; lawn care (reduced)	3.00
		20.7

08-08 THROUGH 02-26-09	445.15
POST DEATH	20.7
	465.85

Guardianship of /Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

REQUESTED REIMBURSEMENT FOR TRAVEL

TRAVEL EXPENSES:

09/08	Airfare-Delta	\$1544.84
10/08	Airfare-Delta	\$1925.22
11/08	Airfare-Delta	\$1449.43
12/08	Airfare-Delta	\$3357.19
01/13/09	Airfare-Delta	\$369.90
02/14/09	Airfare-Delta	\$387.21
02/17/09	Airfare-Delta	\$382.71
02/26/09	Airfare-Delta	\$1,073.70
		10490.2

Car Expenses:

10/30/08	Avis Rent A car	\$219.04
	Gas	\$12.07
11/20/08	Best Western	\$71.94
11/21	Avis	\$178.65
12/19	Sunoco	\$7.38
12/19	Best Western	\$68.57
12/26	Hertz	\$185.09
12/27	Holiday Inn	\$159.64
12/19	Avis	\$71.42
01/3	Best Western	\$155.70

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

01/2	Kangaroo Express	\$8.52
01/0	Thrifty Car	\$118.29
02/14	Best Western	\$62.32
02/17	Thrifty	\$94.67
02/17	Citgo-gas	\$9.00
		1422.3

**EXPENSES FOR BETTY FISHER TO TRAVEL TO SOUTH CAROLINA FOR TRIAL
AND CHRISTMAS**

\$2201.00

V E R I F I C A T I O N

COMES NOW Lisa Fisher who deposes and says:

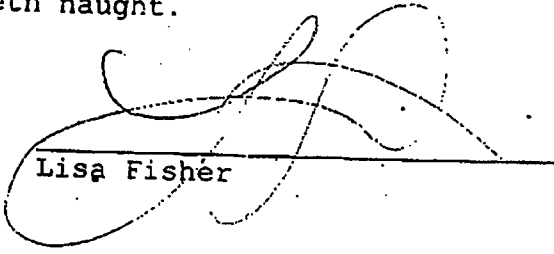
1. My name is Lisa Fisher.

~~2. I am a citizen of the United States, over 18 years of age,~~
and of sound mind.

3. I have read the foregoing MOTION FOR APPROVAL OF FEES AND
EXPENSES OF GUARDIAN CONSERVATOR and MEMORANDUM IN SUPPORT
and know the contents of thereof and the same are true to the
best of my knowledge, except as to the matters therein stated to
be on information and belief, and as to those matters I believe
them to be true.

4. The sources of my information and the grounds of my belief
are my personal knowledge and documents in my possession.

5. Further affiant sayeth naught.



Lisa Fisher

Long Beach, California
July 16th, 2009

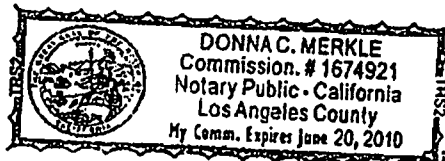
[See Attached Notarization]

JURAT

STATE OF CALIFORNIA

COUNTY OF Los Angeles

Subscribed and sworn to (or affirmed) before me on
this 16th day of July 2009, by Lisa Fisher proved to me on the basis of
satisfactory evidence to be the person who appeared before me.



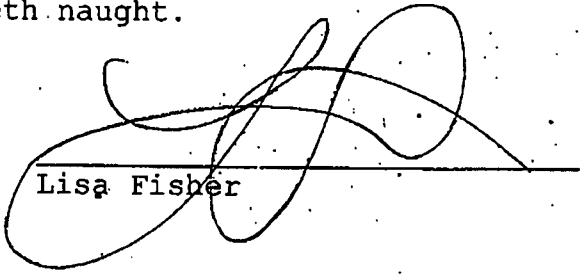
Signature Donna C. Merkle

(seal)

V E R I F I C A T I O N

COMES NOW Lisa Fisher who deposes and says:

1. My name is Lisa Fisher.
2. I am a citizen of the United States, over 18 years of age, and of sound mind.
3. I have read the foregoing MOTION FOR APPROVAL OF FEES AND EXPENSES OF GUARDIAN CONSERVATOR and MEMORANDUM IN SUPPORT and know the contents of thereof and the same are true to the best of my knowledge, except as to the matters therein stated to be on information and belief, and as to those matters I believe them to be true.
4. The sources of my information and the grounds of my belief are my personal knowledge and documents in my possession.
5. Further affiant sayeth naught.



Lisa Fisher

Long Beach, California
July 16th, 2009

[See Attached Notarization]

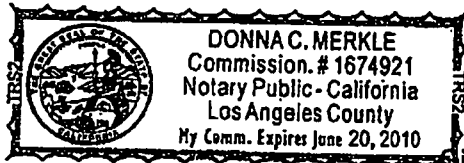
JURAT

STATE OF CALIFORNIA

COUNTY OF Los Angeles

Subscribed and sworn to (or affirmed) before me on

this 16th day of July 2009, by Lisa Fisher proved to me on the basis of
satisfactory evidence to be the person who appeared before me.



Signature Donna C. Merkle

(seal)

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT

MOTION FOR EXTENSION

09 AUG 14) PM 12:55 CASE NUMBER: 2008-GC-10-088

FILED
PROBATE COURT
CHARLESTON COUNTY

- ☐ INVENTORY AND APPRAISEMENT
☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: DELIVERY OF ASSETS

Applicant: LISA FISHER, ESQUIRE

1. Nature of interest of undersigned:

LISA FISHER, ESQUIRE WAS THE CONSERVATOR.

2. _____ is/are the duly qualified and acting Personal Representative(s) of the above estate.

3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):

ON MAY 26, 2009 THIS COURT GRANTED AN EXTENSION OF UP TO 90 DAYS TO ALLOW APPOINTMENT OF A SPECIAL ADMINISTRATOR OR PERSONAL REPRESENTATIVE IN THE ESTATE OF ALICE SHAW-BAKER 2009-CP-10-3010, PROVIDING THAT THE ASSETS HELD BY LISA FISHER, ESQUIRE BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT. TO DATE NO HEARING HAS BEEN HELD IN THE CIRCUIT COURT AND NO APPOINTMENT HAS BEEN MADE. VIRGINIA DRUCE HAS INDICATED THAT A HEARING MAY BE SCHEDULED IN SEPTEMBER OR OCTOBER. THE CURRENT EXTENSION WILL EXPIRE ON OR ABOUT AUGUST 24, 2009. WE REQUEST AN EXTENSION OF UP TO AN ADDITIONAL 90 DAYS, PROVIDING THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 13TH day of AUGUST, 2009.

Signature:

Name: JOHN HUGHES COOPER, ESQUIRE

Address: 1808 MIDDLE STREET

SULLIVAN'S ISLAND, SC 29482

Telephone (O): 883-9099

(H): _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due on the 22ND day of NOVEMBER, 2009 within 19 days of the appointment of a Special Administrator or Personal Representative.

Executed this

14th day of

AUGUST, 2009

Probate Court Judge

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT

MOTION FOR EXTENSION

FILED
CASE NUMBER: ~~2008-SC-10-088~~
09 NOV 12 AM 10:41 2009-ES-10-378

PROBATE COURT INVENTORY AND APPRAISEMENT
CHARLESTON COUNTY ACCOUNTING/PROPOSAL FOR DISTRIBUTION
☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: TO TURN OVER ASSETS

Applicant: LISA FISHER

1. Nature of interest of undersigned:

LISA FISHER WAS THE CONSERVATOR

2. _____ is/are the duly qualified and acting Personal Representative(s) of the above estate.

3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):

ON MAY 26, 2009 THIS COURT GRANTED A 90 DAY EXTENSION. THE ORDER MODIFYING POWERS OF THE INFORMALLY APPOINTED PR IS ON APPEAL TO THE SOUTH CAROLINA COURT OF APPEALS. LISA FISHER NEEDS RESOLUTION OF THE ISSUE OF WHO CAN ACCEPT THE ASSETS OF THE ESTATE BEFORE SHE CAN TURN OVER THE ASSETS. THE CURRENT EXTENSION WILL EXPIRE ON NOVEMBER 22. WE REQUEST AN EXTENSION OF UP TO 90 DAYS, PROVIDED THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 9th day of November, 2009.

Signature: _____

Name: John Hughes Cooper, Esquire.

Address: 1808 Middle Street

Sullivan's Island, SC 29482

Telephone (O): 883-9099

(H): _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED ~~up~~ to a 90 day extension in this matter. The filing is now due ~~on the~~ within 10 days of appointment or at latest the 22nd day of February, 2010.

Executed this 20th day of November, 2009.

AS SOLI
Probate Court Judge

STATE OF SOUTH CAROLINA
COUNTY OF: CHARLESTON
IN THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT
FILED
MOTION FOR EXTENSION
CASE NUMBER: 2008 GC-10-088
10 FEB 16 PM 12:09

- ☐ PROBATE COURT
- ☐ PROBATE COURT AND APPRAISEMENT
- ☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
- ☐ PERIOD FOR ACTION ON CLAIMS
- ☒ OTHER: TO TURN OVER ASSETS

Applicant: LISA FISHER

1. Nature of interest of undersigned:

LISA FISHER WAS THE CONSERVATOR
2. _____ is/are the duly qualified and acting Personal Representative(s) of the above estate.
3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):
ON MAY 26, 2009 THIS COURT GRANTED A 90 DAY EXTENSION. THE ORDER MODIFYING POWERS OF THE INFORMALLY APPOINTED PR IS ON APPEAL TO THE SOUTH CAROLINA COURT OF APPEALS. LISA FISHER NEEDS RESOLUTION OF THE ISSUE OF WHO CAN ACCEPT THE ASSETS OF THE ESTATE BEFORE SHE CAN TURN OVER THE ASSETS. THE CURRENT EXTENSION WILL EXPIRE ON FEBRUARY 22, 2010. BRIEFING IS COMPLETE IN THE COURT OF APPEALS. WE REQUEST AN EXTENSION OF UP TO 90 DAYS, PROVIDED THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 11TH day of FEBRUARY, 2010.

Signature: _____
Name: JOHN HUGHES COOPER, ESQUIRE
Address: 1808 MIDDLE STREET
SULLIVAN'S ISLAND, SC 29482
Telephone (O): 883-9099
(H): _____

Signature: _____
Name: _____
Address: _____
Telephone (O): _____
(H): _____

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due ~~on the~~ WITHIN 10 DAYS OF APPOINTMENT OR AT THE LATEST THE 22ND day of MAY, 2010.

Executed this 1st day of March, 2010.

Probate Court Judge

STATE OF SOUTH CAROLINA)
)
COUNTY OF: CHARLESTON)
)
IN THE MATTER OF: ALICE SHAW-BAKER)

IN THE PROBATE COURT
MOTION FOR EXTENSION

CASE NUMBER: 2008-GC-10-088

- ☐ INVENTORY AND APPRAISEMENT
☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: TO TURN OVER ASSETS

Applicant: LISA FISHER

1. Nature of interest of undersigned:

LISA FISHER WAS THE CONSERVATOR

2. _____ is/are the duly qualified and acting Personal Representative(s) of the above estate.

3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):

SINCE MAY 26, 2009 THIS COURT GRANTED A SERIES OF EXTENSIONS. THE ORDER MODIFYING POWERS OF THE INFORMALLY APPOINTED PR IS ON APPEAL TO THE SOUTH CAROLINA COURT OF APPEALS. LISA FISHER NEEDS RESOLUTION OF THE ISSUE OF WHO CAN ACCEPT THE ASSETS OF THE ESTATE BEFORE SHE CAN TURN OVER THE ASSETS. THE CURRENT EXTENSION WILL EXPIRE ON MAY 22, 2010. BRIEFING IS COMPLETE IN THE COURT OF APPEALS. WE REQUEST AN EXTENSION OF UP TO 90 DAYS, PROVIDED THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 10 day of MAY, 2010.

Signature: _____

Name: JOHN HUGHES COOPER, ESQUIRE

Address: 1808 MIDDLE STREET

SULLIVAN'S ISLAND, SC 29482

Telephone (O): 843.883.9099

(H): _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due on the 22 day of AUGUST, 2010.

Executed this

day of

2010

Probate Court Judge

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT

MOTION FOR EXTENSION

PROBATE COURT
10 AUG 11 AM 8:45

CASE NUMBER: 2008-GC-10-088

- ☐ INVENTORY AND APPRAISEMENT
☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: TO TURN OVER ASSETS

Applicant: LISA FISHER

1. Nature of interest of undersigned:

LISA FISHER WAS THE CONSERVATOR

2. _____ is/are the duly qualified and acting Personal Representative(s) of the above estate.

3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):

SINCE MAY 26, 2009 THIS COURT GRANTED A SERIES OF EXTENSIONS, BASED UPON THE PENDING APPEAL. LISA FISHER NEEDS RESOLUTION OF THE ISSUE OF WHO CAN ACCEPT THE ASSETS OF THE ESTATE BEFORE SHE CAN TURN OVER THE ASSETS. WE REQUEST AN EXTENSION OF UP TO 90 DAYS, PROVIDED THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 9TH day of AUGUST, 2010.

Signature: _____

Name: JOHN HUGHES COOPER

Address: 1808 MIDDLE STREET
SULLIVANS ISLAND, SC 29482

Telephone (O): 883-9099

(H): _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due on the 22ND day of NOVEMBER, 2010 AND WITHIN 10 DAYS OF APPOINTMENT.

Executed this _____ day of _____, 2010

[Signature]
9550L Probate Court Judge

Filed &
mailed
8/28

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

THE MATTER OF: ALICE SHAW-BAKER

2010 NOV 10 PM 02:42

FILED PROBATE CT CHASN CO

IN THE PROBATE COURT

MOTION FOR EXTENSION

CASE NUMBER: 2008-GC-10-088

- ☐ INVENTORY AND APPRAISEMENT
☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: TO TURN OVER ASSETS

Applicant: LISA FISHER

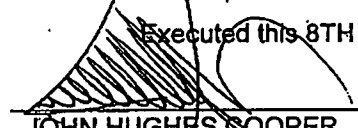
1. Nature of interest of undersigned:

LISA FISHER WAS THE CONSERVATOR

2. is/are the duly qualified and acting Personal Representative(s) of the above estate.

3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):
SINCE MAY 26, 2009 THIS COURT HAS GRANTED A SERIES OF EXTENSIONS, BASED UPON THE PENDING APPEAL LISA FISHER NEEDS RESOLUTION OF THE ISSUE OF WHO CAN ACCEPT THE ASSETS OF THE ESTATE BEFORE SHE CAN TURN OVER THE ASSETS. WE REQUEST AN EXTENSION OF UP TO 90 DAYS, PROVIDED THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 8TH day of NOVEMBER, 2010.

Signature: 

Name: JOHN HUGHES COOPER

Address: 1808 MIDDLE STREET
SULLIVANS ISLAND, SC 29482

Telephone (O): 883-9099

(H):

Signature:

Name:

Address:

Telephone (O):

(H):

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due on the 22nd day of FEBRUARY, 2011.

Executed this 10 day of NOV, 20 10



Probate Court Judge

STATE OF SOUTH CAROLINA
COUNTY OF: CHARLESTON
IN THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT
MOTION FOR EXTENSION

CASE NUMBER: 2008-GC-10-088

- ☐ INVENTORY AND APPRAISEMENT
☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: TO TURN OVER ASSETS

Applicant: LISA FISHER

1. Nature of interest of undersigned:

LISA FISHER WAS THE CONSERVATOR

2. _____ is/are the duly qualified and acting Personal Representative(s) of the above estate.

3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):

SINCE MAY 26, 2009 THIS COURT HAS GRANTED A SERIES OF EXTENSIONS, BASED UPON THE PENDING APPEAL. LISA FISHER NEEDS RESOLUTION OF THE ISSUE OF WHO CAN ACCEPT THE ASSETS OF THE ESTATE BEFORE SHE CAN TURN OVER THE ASSETS. WE REQUEST AN EXTENSION OF UP TO 90 DAYS, PROVIDED THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 7TH day of FEBRUARY, 2011.

Signature: _____

Name: JOHN HUGHES COOPER

Address: 1808 MIDDLE STREET

SULLIVANS ISLAND, SC 29482

Telephone (O): 883-9099

(H): _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due on the 20 day of MAY, 2011.

Executed this _____ day of _____, 2011.

Q. S. D. C.
Probate Court Judge

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT

MOTION FOR EXTENSION

CASE NUMBER: 2008-GC-10-088

- ☐ INVENTORY AND APPRAISEMENT
☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: TO TURN OVER ASSETS

Applicant: LISA FISHER

1. Nature of interest of undersigned:

LISA FISHER WAS THE CONSERVATOR

2. _____ is/are the duly qualified and acting Personal Representative(s) of the above estate

3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):

SINCE MAY 26, 2009 THIS COURT HAS GRANTED A SERIES OF EXTENSIONS, BASED UPON THE PENDING APPEAL. LISA FISHER NEEDS RESOLUTION OF THE ISSUE OF WHO CAN ACCEPT THE ASSETS OF THE ESTATE BEFORE SHE CAN TURN OVER THE ASSETS. WE REQUEST AN EXTENSION OF UP TO 90 DAYS, PROVIDED THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 13TH day of MAY, 2011.

Signature: _____

Name: JOHN HUGHES COOPER

Address: 1808 MIDDLE STREET

SULLIVANS ISLAND, SC 29482

Telephone (O): 883-9099

(H): _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due on the _____ day of AUGUST, 2011.

Executed this _____ day of MAY, 2011.

_____, Probate Court Judge

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

COUNTY OF CHARLESTON)

COMMITMENT DIVISION

CASE NO: 2008-GC-10-088

In the Conservatorship of)

ALICE SHAW-BAKER,)

Deceased.)

Lisa Fisher, Conservator,)

Respondent.)

**MOTION TO APPOINT
SPECIAL FIDUCIARY
FOR CONSERVATORSHIP ASSETS**

11 MAY 20 AM 9:13
PROBATE COURT
TDP

WHEREAS interested party, Bessie Huckabee, files her response and reply to Conservator's Motion for Extension to turn over estate assets and seeks appointment of a Special Fiduciary to act as financial intermediary pending outcome of estate proceedings, and who shall oppose Motion for Extension and show unto this Court:

1. Petitions were filed with this Court on or about July 31, 2008 by City of Charleston Elder Support seeking protection of Alice Shaw-Baker.
2. On or about August 4, 2008 this Court appointed Temporary Guardian and Conservator for Ms. Shaw-Baker.
3. Lisa Fisher was appointed Guardian and Conservator for Ms. Shaw-Baker on November 19, 2008.
4. Alice Shaw-Baker died, testate, on February 25, 2009.
5. Estate was opened as estate number 2009-ES-10-0378 and Bessie Huckabee was appointed Personal Representative
6. Lisa Fisher, as Petitioner for on-going estate proceedings, along with Betty Fisher, removed estate actions to be heard in the 9th Judicial Circuit.
7. Estate actions are pending in the circuit court and have not been docketed.
8. Lisa Fisher, as Conservator, filed annual accounting for the estate of Alice Shaw-Baker for year end 2008.
9. Aforementioned accounting valued the liquid assets of the estate at approximately One hundred and forty seven thousand dollars (\$147,000).

10. Alice Shaw-Baker owned a house at Cassini Drive, Charleston, S.C. and said house is an asset of the estate.
11. Lisa Fisher was discharged as Conservator by Order of this Court on May 11, 2009.
12. Lisa Fisher has sought and been granted extensions of time to turn over the estate assets.
13. The aforementioned extensions have been granted to Lisa Fisher at least six (6) times.
14. Lisa Fisher has not filed with the Court annual accountings for the estate for 2009 or 2010.
15. Bessie Huckabee, as Respondent to pending actions, has sought through discovery requests and subpoena to have these annual accountings provided and Lisa Fisher has not responded to these requests.
16. This Court, through correspondence, has sought annual accountings from Lisa Fisher and the Court has no record of response from her in the Court's Conservatorship file.
17. The Charleston County Probate Court does not accept Interpleader funds from estates as deposits into the Court.
18. The estate is seized and possessed with real property and, as such, possible needs for maintenance, taxes and insurance and receipt of rents create the necessity for open account in this matter.
19. Interpleading the assets is not practical due to the real property in the estate.

WHEREFORE, Bessie Huckabee respectfully prays:

- A. That this Court DENY any further continuances and extensions to Conservator in releasing estate assets.
- B. That this Court require Conservator to file the delinquent accountings within thirty days.

- C. That this Court require Conservator, who has been Discharged as Conservator, to release estate funds.
- D. That this Court appoint a third party Special Fiduciary to accept all assets of the estate of Alice Shaw-Baker.
- E. That said Fiduciary review assets and accountings to determine accuracy of account balances and that (s)he be granted authority to seek any documentation necessary from Lisa Fisher, financial institutions or otherwise to ensure such accuracy of accounts.
- F. That said Fiduciary has the authority to inspect the real property, including any leases/ rental agreements that may be in place and to determine that the real property is properly insured.
- G. That the Court grant any such further relief that this Honorable Court deem appropriate, necessary, fair and equitable.

RESPECTFULLY SUBMITTED,



This 19th day of May, 2011
Charleston, South Carolina

Peter A. Kouten, Esquire
PO Box 340
Charleston, SC 29457
Tel: (843) 670-3919
Fax: (843) 559-4102
pkouten@gmail.com

CERTIFICATE OF SERVICE
CASE NO.: 2008-GC-10-00088

I certify that Motion to Appoint Special Fiduciary in the above matter has been sent by US Mail, this date to the following:

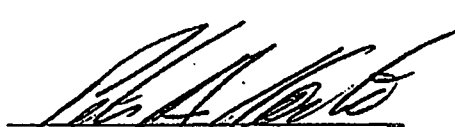
~~John Hughes Cooper, Esquire~~
Cain Denny, Esquire
1808 Middle St.
Sullivans Island, SC 29482

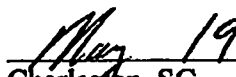
Ms. Bessie Huckabee
5319 McRoy Street
North Charleston, SC 29418

Ms. Kay Passailaigue
4446 Paramount Drive
North Charleston, SC 29405

Ms. Sandra Byrd
254 Jean Wells Drive
Goose Creek, SC 29445

11 MAY 20 AM 9:13
PROBATE COURT
TDB


Peter A. Kouten, Esquire
PO Box 340
Johns Island, SC 29457
843-670-3919

 19, 2011
Charleston, SC

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

FILED

COUNTY OF CHARLESTON)

CASE NUMBER: 2008-GC-10-088 JUN -1 PM 4:19

IN THE MATTER OF:)

LISA FISHER, ESQUIRE'S

PROBATE COURT
CHARLESTON COUNTY

ALICE SHAW-BAKER)

MOTION TO STRIKE AND

MEMORANDUM IN OPPOSITION TO

BESSIE HUCKABEE'S MOTION TO

TO APPOINT SPECIAL FIDUCIARY

COMES NOW Lisa Fisher, Esquire ("Fisher"), and submits this Motion to Strike and Memorandum in Opposition to Bessie Huckabee's Motion to Appoint Special Fiduciary for Conservatorship Assets.

Facts

Motion to Strike

Fisher respectfully moves to strike Huckabee's Motion for failure to contain the required Rule 11(a), SCRCP affirmation of consultation.¹ Huckabee's counsel filed the Motion without attempting to resolve the matter contained in it with Fisher's counsel.

Huckabee's Motion is Moot

The basis of Huckabee's Motion is Fisher's not having filed accountings for 2009 and 2010.² At the time Huckabee filed her Motion, although there had previously been no direction to do so from

¹ The South Carolina Rules of Civil Procedure apply in probate courts to the extent they are not inconsistent with the statutes and rules governing those courts. Rule 81, SCRCP; SC Code Ann. § 62-1-304 (2010).

² Huckabee's Motion asserts that the decedent died testate and that Huckabee was appointed as Personal Representative; however, these issues are contested, were removed to the Circuit Court in Civil Action 2009-CP-10-3010, and are currently on appeal.

the Court,³ in response to the Court's April 8, 2011 correspondence, Fisher was preparing annual accountings for 2009 and 2010. Those accountings are being simultaneously filed with this Motion and Memorandum. As always, the Conservatorship assets remain protected by Fisher's bond for 1.5 times their value. The current arrangement is fair to all parties, economical, preserves the status quo until a final judicial determination, and respects Alice Shaw-Baker's stated desires.

Huckabee's counsel could have resolved Huckabee's Motion by first consulting with Fisher's counsel. Had he done so, he would have learned that Fisher was preparing the accountings for filing.

Huckabee is Not an Interested Person

Huckabee is not a party in this case, is not an interested person within the meaning of S.C. Code Ann. § 62-5-406, and lacks standing in this matter.⁴

³ Conservators must account to the Court annually, or as ordered by the Court. However, on May 11, 2009, Lisa Fisher was discharged from her duties as Conservator in this case. See May 11, 2009, Order Terminating Conservatorship, Filing of Final Accounting and Release of Estate Assets, p. 3. Although she held the estate assets as a bonded fiduciary, she was no longer serving as Conservator. No statute required an annual accounting. The Probate Court extended the time to turn over the assets during pendency of an appeal to the Court of Appeals, which appeal remains pending. On or about April 8, 2011, the Clerk by letter requested Accountings for 2009 and 2010, but gave no deadline for filing. Lisa Fisher has filed herewith Accountings for 2009 and 2010.

⁴ Although the Court made a finding that "Ms. Huckabee is an interested party" in its May 11, 2009 Order Terminating Conservatorship, Filing of Final Accounting and Release of Estate Assets, that finding was interlocutory. The validity of Huckabee's appointment as Personal Representative and the validity of the will by which she claims a devise are issues currently on appeal.

The law regarding standing is well settled. One must have a personal stake in the subject matter of the lawsuit; i.e. one must be the "real party in interest." Bailey v. Bailey, 312 S.C. 454, 441 S.E.2d 325 (1994).

Huckabee Has Shown No Entitlement to Receive Copies

While these accountings are being filed for the benefit of the Probate Court, Huckabee has made no showing of entitlement to inspect or receive copies of the accountings.

Issues Regarding Huckabee are on Appeal

The issues in Civil Action No. 2009-CP-10-3010 currently on appeal include whether the will by which Huckabee claims a devise is invalid or revoked. Huckabee has no claim regarding Shaw-Baker's estate beyond the contested will, because she was not a relative of Shaw-Baker.

Kouten's Conflict of Interest

Additionally, an issue which the South Carolina Court of Appeals declined to hear, but which it gave the Fishers leave to raise before the Circuit Court or Probate Court, is whether Huckabee's counsel, Peter A. Kouten, Esquire, is disqualified from representing Huckabee because Huckabee's interests conflict with those of Kouten's former ward, Shaw-Baker. See Townsend v. Townsend, 323 S.C.309, 474S.E.2d 424 (1996).

Ethics rules establish that a lawyer must withdraw if continued representation would cause the lawyer to violate an ethical rule. See In re Brown, 317 S.C. 25, 450 S.E.2d 586 (1984) (lawyer failed to withdraw after conflict arose).

In this case, Kouten has a mandatory duty to withdraw from representation of Huckabee. He undisputedly represented Alice Shaw-Baker as her attorney Guardian ad Litem during a vulnerable time in her life.

In said representation, Alice Shaw-Baker and the Court were entitled to repose trust and confidence in his representation. The case before the Probate Court is "substantially related" to his representation of Alice Shaw-Baker. It directly relates to information which Kouten, as a guardian ad litem, either directly or "reasonably could have gained" regarding Alice Shaw-Baker's wishes. See Townsend, supra.

Public policy demands that a guardian ad litem has the duty of advocating the best interests of his ward and should not, in future proceedings, represent parties with interests opposed to the best interests of his former ward. Townsend, supra.

Finally, said representation undermines the position of the guardian ad litem and the trusted role it represents before this probate court.

Kouten represented Shaw-Baker as her Guardian ad Litem but is now attempting to represent Huckabee, despite the allegations that the will by which Huckabee claims a devise is invalid or revoked and despite the allegations that Shaw-Baker's estate has a potential claim

against Huckabee, who had a health-care power-of-attorney for Shaw-Baker, for neglect of Shaw-Baker as a vulnerable adult.

Law

Rule 11(a), SCRCP provides in pertinent part:

All motions filed shall contain an affirmation that the movant's counsel prior to filing has communicated, orally or in writing, with opposing counsel and has attempted in good faith to resolve the matter contained in the motion, unless the movant's counsel certifies that consultation would serve no useful purpose, or could not be timely held.

Rule 11(a) further provides:

If a pleading, motion or other paper is not signed or does not comply with this Rule, it *shall be stricken* unless it is signed promptly after the omission is called to the attention of the pleader or movant (emphasis added).

Here, Huckabee's counsel cannot in good faith cure his Rule 11 violation by now adding an affirmation of consultation, because he made the motion without consulting. Therefore, Rule 11 requires that his Motion "shall be stricken."

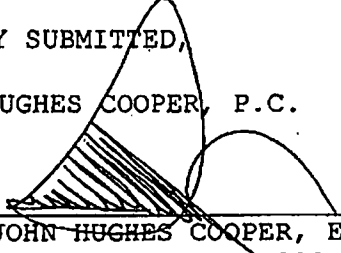
While the accountings are being contemporaneously filed for the benefit of the Probate Court, Huckabee has shown no entitlement to receive copies of them.

Conclusion

WHEREFORE, Fisher respectfully moves to strike Huckabee's Motion for failure to contain the Rule 11(a) affirmation of consultation, further opposes her Motion as moot as set forth herein, and requests that the Court sign the proposed order extending the time to deliver assets.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By: 

~~JOHN HUGHES COOPER, ESQUIRE~~
Federal Court ID 298
South Carolina Bar 1387
State Bar of Georgia 185986
JOHN TOWNSEND COOPER, ESQUIRE
Federal Court ID 10172
South Carolina Bar 76087
1808 Middle Street
Post Office Box 395
Sullivan's Island, SC 29482
shiplaw@jhcooper.com
843-883-9099; fax 843-883-9335

and

CAIN DENNY, ESQUIRE
CAIN DENNY, P.A.
P.O. Box 1205
Charleston, S.C. 29402
843-478-0692; fax 843-883-9335

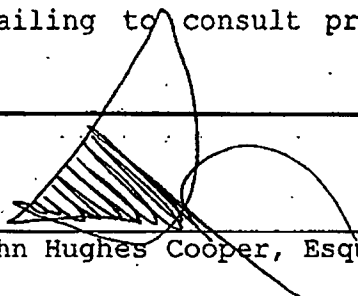
ATTORNEYS FOR LISA FISHER, ESQUIRE

Sullivan's Island, South Carolina

June 1, 2011

AFFIRMATION REGARDING CONSULTATION

Consulting with Huckabee's counsel regarding Conservator's Motion to Strike would serve no useful purpose, since, at this point, his Rule 11 violation of failing to consult prior to filing the motion cannot be cured.

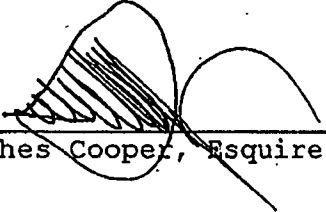


John Hughes Cooper, Esquire

CERTIFICATE OF SERVICE

Lisa Fisher, Esquire's Motion to Strike and Memorandum in Opposition to Bessie Huckabee's Motion to Appoint Special Fiduciary was served on opposing counsel by first class mail on June 1, 2011 as follows:

Peter A. Kouten, Esquire
P.O. Box 340
Johns Island, SC 29457



John Hughes Cooper, Esquire

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF: ALICE SHAW BAKER

IN THE PROBATE COURT

CONSERVATOR ANNUAL ACCOUNTING

FILED
11 JUN - 9 PM CASE NUMBER: 2008-GC-10-0088

PROBATE COURT
CHARLESTON COUNTY

AMENDED

The undersigned Conservator submits this accounting, which covers the period from 12/23/08 through 12/31/09.

The documentation on page 2 of this form sets forth a complete accounting for the period specified, which is summarized as follows:

Beginning Balance	0
Plus: Receipts	381394.30
Subtotal	381394.30
Less: Disbursements	233378.99
Ending Balance	148015.31

The Conservator declares that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and is true to the best knowledge and belief of the Conservator.

Executed this 31ST day of MAY, 2011.

SWORN to before me this _____ day of _____
20 _____

Notary Public for South Carolina

My Commission Expires: _____

Signature: 

Name: LISA FISHER

Address: PO BOX 91112

LONG BEACH, CA 90809-1112

Telephone (O): 562-965-3267

(H): 562-965-3267

See Attached

RECEIPTS (assets received into estate)	DISBURSEMENTS (assets disbursed/paid out from estate)
see attached	see attached
	0
TOTAL	381394.30
	\$233378.99

Conservatorship of Alice Shaw Baker
Final Account 2008-GC-10-88

RECEIPTS:	
To open account	\$100.00
Receipt from Family Services	\$52,025.77
Deposits closing	\$67,438.88
Bank of America accounts	
Deposit State Retirement	\$1,910.36
Deposit Wachovia Distribution	\$834.16
Transfer from Savings	\$14,500.00
Transfer from Savings	\$30,000.00
1 st Federal CD	\$34,367.85
Smith Barney Proceeds	\$75,000.00
Tax Refund (Federal)	\$3,444.00
Deposit from Discovery Bank	\$375.03
South Carolina State Tax Return	\$384.00
Refund/Air Travel	\$13,544.15
Smith Barney Proceeds	\$46,749.04
Smith Barney proceeds	\$40.96
Deposit/Family Services and Blue Cross	\$3258.67
T. Mobile Refund	\$24.81
Transfer from CD	\$15000.00
Transfer from CD	\$19,993.84
Social Security	\$2,336.00
Interest (Checking)	\$47.98
Interest (Savings)	\$18.80
TOTAL RECEIPTS	381394.3

DISBURSEMENTS:	
Caregivers	\$27,540.68
Household Expense	\$12,405.64
Administrative/Legal Fees	\$68,523.79
Bills/Credit	\$6538.91
Donations	\$2555.00
Medical	\$32,672.36
Funeral Services/Final	\$1,313.95
Bank charges	\$43.25
Transfers to Bank Account	\$80,500.00
Insurance	\$1253.98
Taxes	\$31.43
TOTAL DISBURSEMENTS	233378.99

JURAT

State of California

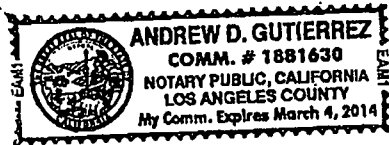
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on

this 31st day of May, 2011

by LISA Fisher

personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



(seal)

Signature

A large, stylized handwritten signature in black ink, which appears to be "A. Gutierrez", written over a horizontal line.

Re. Conservator Annual Account

Conservatorship of Alice Shaw Baker
Final Account 2008-GC-10-88

Monies outside the Estate/Notification of Hold due to Pending Litigation:

Edward Jones Investments	\$ 6,819.69
Wachovia --IRA	\$16,431.38
Bank of America --small account not closed due to insurance payments	\$ 247.85
	23498.92

Other Property:

BONDS-HH	1- \$ 50.00
Treasure dept. given notice of conservatorship/not marshalled due to high rate of interest	1- \$ 100.00
	3- \$ 200.00
	2- \$ 500.00
	16- \$ 1,000.00
	4- \$10,000.00
	6- \$ 5,000.00
	16- \$ 1,000.00
	40- \$ 500.00
Personal Property in house	not appraised
Jewelry-8 pieces of jewelry	not appraised

ALL FEDERAL AND STATE INCOME TAXES HAVE BEEN PAID,
AND CURRENT FIDUCIARY TAX RETURNS HAVE BEEN FILED.

**Conservatorship of Alice Shaw Baker
Final Account 2008-GC-10-88**

NOTICE TO COURT:

Bessie Huckabee has admitted that she had an Additional set of keys which she never disclosed.

She represented that she entered my great-aunt's house whenever she wanted.

~~Conservator does not know, if during her tenure as conservator, Bessie Huckabee entered the premises and removed assets without notice to this conservator.~~

Conservator knows that at the death of Alice Shaw Baker, Bessie Huckabee obtained the only other keys from the caretaker without conservator's knowledge or consent within minutes of Alice Shaw Baker's death through deception. Conservator was forced to obtain a locksmith's assistance to gain access to the property which had already been entered by Bessie Huckabee.

checking

Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator
PO Box 91112
Long Beach CA 90809-1112

Please visit our website for online banking at www.fmb.com.
"California's Strongest Bank"

Account Title: Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator

Interest On Checking		Number of Enclosures	2
Account Number		Statement Dates	12/10/09 thru 1/11/10
Beginning Balance	128,282.25	Days in the statement period	33
Deposits/Credits	.00	Average Ledger	127,814.49
7 Checks/Debits	779.58		
Service Charge	.00	Interest Earned	5.77
Interest Paid	5.77	Annual Percentage Yield Earned	0.05%
Ending Balance	127,508.44	2010 Interest Paid	5.77

Deposits and Other Credits		
Date	Description	Amount
1/11	Interest Deposit	5.77

Checks and Other Debits		
Date	Description	Amount
12/14	ATT Payment 021000028545144 9864031005WEB	88.46-✓
12/15	CHARLESTON CPW CPW DRAFT 053904481822797 1576000227 P	32.95-✓
12/15	AT&T SERVICES CHECKPAYMT CHECK # 0677 ARC	88.46-✓
	021200021586476 1742782655	
12/16	SCE&G/PSNC DRAFT 111000020528116 9570248695WEB	115.00-✓
12/29	THE POST AND COU ACH DIRECT 111000752476562 1000106682	14.25-

--- CHECKS IN NUMBER ORDER ---

Date	Check No	Amount	Date	Check No	Amount	Date	Check No	Amount
12/15	677	-See above-	12/29	678	64.71	12/29	679	375.75

* Denotes missing check numbers

Date 1/11/10

Account No.

Enclosures

Page * 2

2

Interest On Checking

(Continued)

Checking Account Daily Balances

Date	Balance	Date	Balance	Date	Balance
12/10	128,282.25	12/15	128,072.38	12/29	127,502.67
12/14	128,193.79	12/16	127,957.38	1/11	127,508.44

Interest Rate Summary

Date	Rate
12/09	0.050000%

* * * * End of Statement * * * *

Thank you for banking with Farmers and Merchants Bank.



Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator
PO Box 91112
Long Beach CA 90809

Please visit our website for online banking at www.fmb.com.
"California's Strongest Bank"

Account Title: Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator

Market Rate Savings		Number of Enclosures	0
Account Number	[REDACTED]	Statement Dates	10/01/09 thru 12/31/09
Beginning Balance	20,507.47	Days in the statement period	92
Deposits/Credits	.00	Average Ledger	20,507.47
Checks/Debits	.00		
Service Charge	.00	Interest Earned	5.17
Interest Paid	5.17	Annual Percentage Yield Earned	0.10%
Ending Balance	20,512.64	2009 Interest Paid	18.80

Savings Account Activity		
Date	Transaction Description	Amount
12/31	Interest Deposit	5.17
		20,512.64

Interest Rate Information	
Date	Rate
9/30	0.100000%

* * * * End of Statement * * * *

Thank you for banking with Farmers and Merchants Bank.

Elizabeth Sykes

From: shiplaw@jhcooper.com
Sent: Thursday, May 26, 2011 11:55 AM
To: Elizabeth Sykes
Cc: pkouten@gmail.com; Lisa Fisher; Cain Denny; John Townsend Cooper
Subject: Requested Accountings and Opposition to Motion
Attachments: 2011 05-26 letter re accountings 2008-88.pdf

Dear Elizabeth:

~~Thank you for your telephone message yesterday. Yes, we would like to be heard in opposition to Mr. Kouten's motion.~~

Please advise the Court that the issues on appeal in civil action 2009-CP-10-3010 are still pending in the SC Court of Appeals.

Ms. Lisa Fisher intends to file the requested accountings by next Wednesday, June 1st. We will also file a formal opposition to Mr. Kouten's motion by that date. The assets remain protected by the Bond previously posted by Ms. Fisher. Thank you.

Best regards.

Very truly yours,

John Hughes Cooper

*** eSafe scanned this email for malicious content ***

*** IMPORTANT: Do not open attachments from unrecognized senders ***

*Elizabeth
Set for hearing*

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF: ALICE SHAW BAKER

IN THE PROBATE COURT

FILED

CONSERVATOR ANNUAL ACCOUNTING

CASE NUMBER 2008-GC-10-0088

PROBATE COURT
CHARLESTON COUNTY

The undersigned Conservator submits this accounting, which covers the period from 01/01/10 through 12/31/10.

The documentation on page 2 of this form sets forth a complete accounting for the period specified, which is summarized as follows:

Beginning Balance	148,015.31
Plus: Receipts	454.15
Subtotal	148,469.46
Less: Disbursements	12669.85
Ending Balance	135,799.61

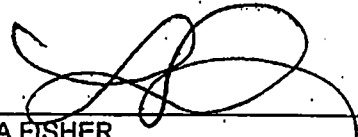
The Conservator declares that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and is true to the best knowledge and belief of the Conservator.

Executed this 31ST day of MAY, 2011.

SWORN to before me this _____ day of _____, 20____

Notary Public for South Carolina

My Commission Expires: _____

Signature: 

Name: LISA FISHER

Address: PO BOX 91112

LONG BEACH, CA 90809-1112.

Telephone (O): 562-965-3267

(H): 562-965-3267

See Attached

RECEIPTS (assets received into estate)		DISBURSEMENTS (assets disbursed/paid out from estate)	
INTEREST ON CHECKING	\$61.63	INSURANCE	\$2,470.61
INTEREST ON SAVINGS	\$20.52	ADMINISTRATION/BOND	\$2,405.00
SOUTH CAROLINA TAX REFUND	\$32.00	HOME MAINTENANCE	\$2,092.50
~~FEDERAL TAX REFUND~~	~~\$340.00~~	~~TAXES~~	~~\$1,770.06~~
RECEIPTS TOTAL	\$454.15	REPAIRS	\$661.00
		HOUSEHOLD EXPENSE	3270.68
		DISBURSEMENT TOTAL	\$12,669.85
TOTAL	\$454.15		\$12,669.85

JURAT

State of California

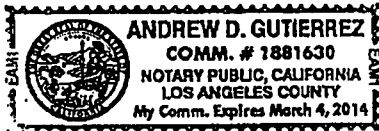
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on

this 31st day of May, 2011,

by Lisa Fisher

personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



(seal)

Signature [Signature]

Re: Conservator Annual Accounts

Conservatorship of Alice Shaw Baker
Final Account 2008-GC-10-88

Monies outside the Estate/Notification of Hold due to Pending Litigation:

Edward Jones Investments	\$ 6,819.69
Wachovia --IRA	\$16,431.38
Bank of America --small account not closed due to insurance payments	\$ 247.85
	23498.92

Other Property:

BONDS-HH	1- \$ 50.00
Treasure dept. given notice of	1- \$ 100.00
conservatorship/not marshalled due to high	3- \$ 200.00
rate of interest	2- \$ 500.00
	16- \$ 1,000.00
	4- \$10,000.00
	6- \$ 5,000.00
	16- \$ 1,000.00
	40- \$ 500.00
Personal Property in house	not appraised
Jewelry-8 pieces of jewelry	not appraised

ALL FEDERAL AND STATE INCOME TAXES HAVE BEEN PAID, AND CURRENT FIDUCIARY TAX RETURNS HAVE BEEN FILED.

***Conservatorship of Alice Shaw Baker
Final Account 2008-GC-10-88***

NOTICE TO COURT:

Bessie Huckabee has admitted that she had an Additional set of keys which she never disclosed.

She represented that she entered my great-aunt's house whenever she wanted. Conservator does not know, if during her tenure as conservator, Bessie Huckabee entered the premises and removed assets without notice to this conservator.

Conservator knows that at the death of Alice Shaw Baker, Bessie Huckabee obtained the only other keys from the caretaker without conservator's knowledge or consent within minutes of Alice Shaw Baker's death through deception. Conservator was forced to obtain a locksmith's assistance to gain access to the property which had already been entered by Bessie Huckabee.

checking

Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator
PO Box 91112
Long Beach CA 90809-1112

Please visit our website for online banking at www.fmb.com.
"California's Strongest Bank"

Account Title: Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator

Interest On Checking		Number of Enclosures	5
Account Number	██████████	Statement Dates	12/09/10 thru 1/10/11
Beginning Balance	116,224.24	Days in the statement period	33
Deposits/Credits	.00	Average Ledger	115,702.19
8 Checks/Debits	1,357.79		
Service Charge	.00	Interest Earned	5.23
Interest Paid	5.23	Annual Percentage Yield Earned	0.05%
Ending Balance	114,871.68	2011 Interest Paid	5.23

Deposits and Other Credits

Date	Description	Amount
1/10	Interest Deposit	5.23

Checks and Other Debits

Date	Description	Amount
12/13	SCE&G/PSNC DRAFT 111000027847541 9570248695WEB	152.00-
12/16	AT&T SERVICES CHECKPAYMT CHECK # 0691 ARC	42.24-
	053105203900787 1742782655	
12/31	STATE FARM RO 27 FYMT CHECK # 695 ARC	390.00-
	021000021664298 9000307003	

--- CHECKS IN NUMBER ORDER ---

Date	Check No	Amount	Date	Check No	Amount	Date	Check No	Amount
12/16	691	-See above-	12/27	694	260.00	12/31	697*	68.06
12/16	693*	45.49	12/31	695	-See above-	1/07	698	100.00

* Denotes missing check numbers



Date 1/10/11

Account No.

Enclosures

Page 2

5

Interest On Checking

(Continued)

--- CHECKS IN NUMBER ORDER ---

Date	Check No	Amount
1/07	69201*	300.00

* Denotes missing check numbers

Checking Account Daily Balances

Date	Balance	Date	Balance	Date	Balance
12/09	116,224.24	12/27	115,724.51	1/10	114,871.68
12/13	116,072.24	12/31	115,266.45		
12/16	115,984.51	1/07	114,866.45		

Interest Rate Summary

Date	Rate
12/08	0.050000%

* * * * End of Statement * * * *

Thank you for banking with Farmers and Merchants Bank.



Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator
PO Box 91112
Long Beach CA 90809

Please visit our website for online banking at www.fmb.com.
"California's Strongest Bank"

Account Title: Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator

Market Rate Savings		Number of Enclosures	0
Account Number	[REDACTED]	Statement Dates	10/01/10 thru 12/31/10
Beginning Balance	20,527.99	Days in the statement period	92
Deposits/Credits	.00	Average Ledger	20,527.99
Checks/Debits	.00		
Service Charge	.00	Interest Earned	5.17
Interest Paid	5.17	Annual Percentage Yield Earned	0.10%
Ending Balance	20,533.16	2010 Interest Paid	20.52

Savings Account Activity		
Date	Transaction Description	Amount
12/31	Interest Deposit	5.17
		20,533.16

Interest Rate Information

Date	Rate
9/30	0.100000%

* * * * End of Statement * * * *

Thank you for banking with Farmers and Merchants Bank.



STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

COUNTY OF CHARLESTON)

CASE NUMBER: 2008-GC-10-088

PROBATE COURT
IN THE MATTER OF)

ALICE SHAW-BAKER)

OBJECTIONS BY LISA FISHER TO
PROPOSED ORDER BY BESSIE HUCKABEE

COMES NOW Respondent Lisa Fisher, Esquire ("Fisher"), and objects to this Court's consideration of Bessie Huckabee's Proposed Order re: Motion to Appoint Special Fiduciary for Conservatorship Assets heard in this court on August 17, 2011.

Lisa Fisher continues to object to the jurisdiction of this Court with regard to the Estate of Alice Shaw Baker, in part due to the fact that any ruling by this Court would intrude on decisions properly to be made in the Supreme Court and/or the Circuit Court.

Fisher further objects on the basis that the proposed order by Petitioner Huckabee includes factual averments that were not considered by the Court, nor supported by any evidence. This Court did not take testimony at the hearing. Petitioner did not present any admissible evidence, and the order is based on conjecture, speculation, and false statements. Contrary to the statements by Huckabee, there is no evidence that the court considered the 2009 - 2010 accountings. The court refused to allow Lisa Fisher to address the court to deny the allegations. Therefore, she was denied due process and equal protection under the United States Constitution and South Carolina Constitution.

Additionally, the status of Huckabee as "personal representative of the Estate of decedent Alice Shaw-Baker (2009-ES-10-0378)" is contested here, in the Circuit Court, and before the South Carolina Supreme Court.

Also, Fisher objects that the scope of the orders set forth in the Proposed Order are beyond the scope of the motion, not requested at the hearing, and not referenced during these proceedings. Further, no evidence or testimony was presented at the hearing to support said proposed orders. Therefore, Fisher contends that the Court's consideration of these orders is improper.

Furthermore, the appointment of Heyward Harvey, Esquire was *sua sponte* by the Court, without any information and/or inquiry into potential conflicts of interest for which Fisher objects.

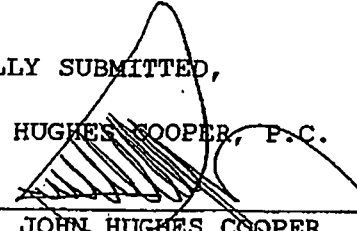
Finally, Fisher asserts that Huckabee's attempt to gain this unnecessary order and appointment of a special fiduciary is intended to deplete the estate, and interfere with the intentions of the decedent, Alice Shaw Baker, that her lifeworks benefit animal charities.

CONCLUSION

WHEREFORE, Fisher respectfully objects to this Court's consideration of Huckabee's Proposed Order, and objects to the signing of any order which will interfere with the jurisdictional authority of the Supreme Court and the Circuit Court.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By: 

JOHN HUGHES COOPER, ESQUIRE

Federal Court ID 298

South Carolina Bar 1387

State Bar of Georgia 185986

JOHN TOWNSEND COOPER, ESQUIRE

Federal Court ID 10172

South Carolina Bar 76087

1808 Middle Street

Post Office Box 395

Sullivan's Island, SC 29482

shiplaw@jhcooper.com

843-883-9099; fax 843-883-9335

and

CAIN DENNY, ESQUIRE

CAIN DENNY, P.A.

P.O. Box 1205

Charleston, S.C. 29402

843-478-0692; fax 843-883-9335

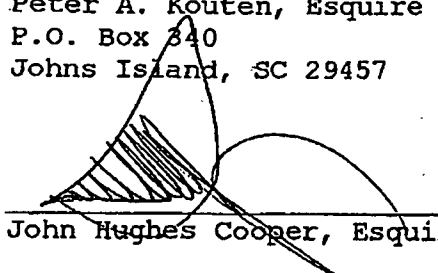
ATTORNEYS FOR LISA FISHER, ESQUIRE

Sullivan's Island, South Carolina
September 21, 2011

CERTIFICATE OF SERVICE

I hereby certify that (1) the above Objections and (2) Lisa Fisher, Esquire's proposed Order Appointing Special Fiduciary were both served on opposing counsel on September 21, 2011 by email and by first class mail as follows:

Peter A. Kouten, Esquire
P.O. Box 840
Johns Island, SC 29457



John Hughes Cooper, Esquire

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

COUNTY OF CHARLESTON)

CASE NUMBER: 2008-12-10-088

IN THE MATTER OF:)

LISA FISHER, ESQUIRE'S

ALICE SHAW-BAKER)

OBJECTION TO COURT'S CONSIDERATION
OF HUCKABEE'S MOTION TO
APPOINT SPECIAL FIDUCIARY

COMES NOW Lisa Fisher, Esquire ("Fisher"), and objects to this Court's consideration of Bessie Huckabee's Motion to Appoint Special Fiduciary for Conservatorship Assets.

Factual Background

The conservatorship assets here involved are to be turned over to the Estate of Alice Shaw-Baker. The Probate Estate case was removed to the Circuit Court for litigation of, inter alia, will contest, a decision on appointment of a Personal Representative, a motion for appointment of a Special Administrator, and other issues, which issues are now on appeal to the Supreme Court of South Carolina on Petition for Writ of Certiorari. There is also a motion pending in the Circuit Court. Consideration of Huckabee's Motion to Appoint Special Fiduciary for Conservatorship Assets is beyond the jurisdiction of this Court, and any ruling by this Court would intrude on decisions properly to be made in the Supreme Court and/or the Circuit Court.

Objection

The probate court is a court of limited jurisdiction, *Norwood v Atlantic Coast Line R. Co.*, 203 S.C. 456, 27 S.E.2d 803 (1943), owing its present existence to creation by statute, rather than the Constitution, and as such, can exercise only such powers as are

directly conferred upon it by legislative enactment and such as may be necessarily incident to the execution of the powers expressly granted. *McCullough v. McCullough*, 242 S.C. 108, 130 S.E.2d 77 (1963); accord: *Judy v. Judy*, ____ S.C. ____, 2011 WL 2446858 (June 20, 2011) (Reh'g Den. August 5, 2011)

Personal jurisdiction may be waived, but subject matter jurisdiction may not be waived. *Eaddy v. Eaddy*, 283 S.C. 582, 584, 324 S.E.2d 70, 72 (1984). Lack of subject matter jurisdiction can be raised at any time, even for the first time on appeal, by a party or by the court. *Lake v. Reeder Constr. Co.*, 330 S.C. 242, 248, 498 S.E.2d 650, 653-54 (Ct. App. 1998). "Subject matter jurisdiction is the power to hear and determine cases of the general class to which the proceedings in question belong." *Majors v. S.C. Sec. Comm'n*, 373 S.C. 153, 159, 644 S.E.2d 710, 713 (2007). "The jurisdiction of a court over the subject matter of a proceeding is determined by the Constitution, the laws of the state, and is fundamental." *Peterson v. Peterson*, 333 S.C. 538, 547, 510 S.E.2d 426, 431 (Ct. App. 1998).

S.C. Code Ann. § 62-3-202 (d) provides: "Notwithstanding the exclusive jurisdiction of the probate court over the foregoing matters, any action or proceeding filed in the probate court and relating to the following subject matters, on motion of a party, or by the court on its own motion, made not later than ten days following the date on which all responsive pleadings must be filed, must be removed to the circuit court and in these cases the circuit court shall proceed upon the matter de novo:

(1) formal proceedings for the probate of wills and for the appointment of general personal representatives;

(2) construction of wills;

(3) actions to try title;

~~(4) trusts;~~

(5) actions in which a party has a right to trial by jury and which involve an amount in controversy of at least five thousand dollars in value; and

(6) actions concerning gifts made pursuant to the South Carolina Uniform Gifts to Minors Act, Article 5, Chapter 5, Title 63.

In light of the fact that the circuit court is in the position of deciding appointments of "personal representatives" and is in the process of doing so, this court does not have jurisdiction to hear this matter. Moreover, this court is precluded from appointing any special administrator unless the prior informal appointment has been terminated, or "in a formal proceeding by order of the court on the petition of any interested person and finding, after notice and hearing, that appointment is necessary to preserve the estate or to secure its proper administration including its administration in circumstances where a general personal representative cannot or should not act... (emphasis added)"

This makes it clear that in a "formal proceeding" notice is required to the heirs, not merely to the conservator, and that it should be the circuit court that hears the motion (which is the subject of the Writ of Certiorari and/or the "pending" hearing in the

Circuit court. There is no emergency so interference by this court is inappropriate. Fisher is protecting the status quo of the estate pending appropriate determination by the circuit court, and Huckabee's current motion would o disrupt the appellate process.

At this juncture, this court set this motion for hearing without

any reference to Fisher's request to strike the motion. It is clear that the court must consider the motion to strike at or before consideration of Huckabee's Motion. Fisher is forced to appear at this hearing, due to the importance of pending litigation, however she was not the only person entitled to notice. Allowing strangers to Ms. Shaw Baker's estate to act as interlopers, when the will by which they appear before this court was revoked, is contrary to decency and mandates proper due process considerations. As part of the appeal, the Supreme Court of South Carolina will determine the status of the Special Administration petition.

Respondent's return to Petition for Writ of Certiorari on page 9 makes it obvious that counsel for Respondent is aware that the Circuit Court has jurisdiction to have its hearing completed prior to this Court acting on any motion affecting the Estate.

Conclusion

WHEREFORE, Fisher respectfully objects to this Courts' consideration of Huckabee's Motion to Appoint Special Fiduciary on the above grounds, and requests that the Court sign the proposed order extending the time to deliver assets.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By:


JOHN HUGHES COOPER, ESQUIRE
Federal Court ID 298
South Carolina Bar 1387
State Bar of Georgia 185986

JOHN TOWNSEND COOPER, ESQUIRE
Federal Court ID 10172
South Carolina Bar 76087

1808 Middle Street
Post Office Box 395
Sullivan's Island, SC 29482
shiplaw@jhcooper.com
843-883-9099; fax 843-883-9335

and

CAIN DENNY, ESQUIRE
CAIN DENNY, P.A.
P.O. Box 1205
Charleston, S.C. 29402
843-478-0692; fax 843-883-9335

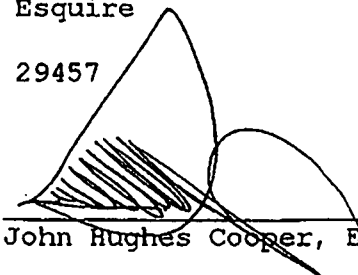
ATTORNEYS FOR LISA FISHER, ESQUIRE

Sullivan's Island, South Carolina
August 12, 2011

CERTIFICATE OF SERVICE

Lisa Fisher, Esquire's Objection to Court's Consideration of
Huckabee's Motion to Appoint Special Fiduciary was served on opposing
counsel by first class mail on August 12, 2011 as follows:

Peter A. Kouten, Esquire
P.O. Box 340
Johns Island, SC 29457


John Hughes Cooper, Esquire

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE PROBATE COURT

CASE NUMBER: 2008-GC-10-

IN THE MATTER OF:)

ALICE SHAW-BAKER)

OBJECTIONS BY LISA FISHER, ESQ. TO
SECOND, DUPLICATE PROPOSED
ORDER BY BESSIE HUCKABEE

COMES NOW Lisa Fisher, Esquire ("Fisher"), and objects to this Court's consideration of Bessie Huckabee's Second Proposed Order re: Motion to Appoint Special Fiduciary for Conservatorship Assets heard in this court on August 17, 2011.

The second proposed Order was served on Fisher's counsel via email on September 27, 2011. To ensure no claim of waiver of objections, Fisher resubmits her objections as set forth herein in their entirety. In light of the fact that no explanation was provided as to the resubmission of the proposed Order by Huckabee and the importance of the issues involved, Fisher does not waive any objection that may be discovered once it becomes clear the purpose of the second proposed Order.

Fisher continues to object to the jurisdiction of this court with regard to the Estate of Alice Shaw Baker, in part due to the fact that any ruling by this Court would intrude on decisions properly to be made in the Supreme Court and/or the Circuit Court.

Fisher further objects on the basis that the proposed Order by Huckabee includes factual averments that were not considered by the court, nor supported by any evidence. This court did not take testimony at the hearing. Petitioner did not present any admissible evidence, and the Order is based on conjecture and speculation and false statements. Contrary to the statements by Huckabee, there is no evidence that the court considered the 2009 and 2010 accountings. The court refused to allow Lisa Fisher to address the court to deny the allegations. Therefore, she was denied due process and equal protection under the United States Constitution and South Carolina Constitution.

Additionally, the status of Huckabee as "personal

representative of the Estate of decedent Alice Shaw-Baker (2009-ES-10-0378)" is contested here, in the Circuit Court, and before the South Carolina Supreme Court.

Also, Fisher objects that the scope of the orders set forth in the Proposed Order are beyond the scope of the motion, not requested at the hearing, and not referenced during these proceedings. Further, no evidence or testimony was presented at the hearing to support said proposed orders. Therefore, Fisher contends that the Courts' consideration of these orders is improper.

Furthermore, the appointment of Heyward Harvey, Esquire was appointed sua sponte by the court, without any information and/or inquiry into potential conflicts of interest.

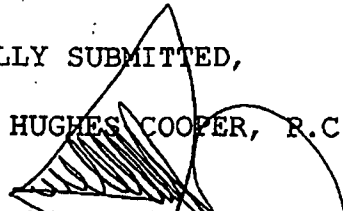
Finally, Fisher asserts that Huckabee's attempt to gain this unnecessary order and appointment of a special fiduciary is intended to deplete the estate, and interfere with the intentions of the decedent, Alice Shaw Baker, that her lifeworks benefit animal charities.

CONCLUSION

WHEREFORE, Fisher respectfully objects to this Courts' consideration of Huckabee's proposed Order, and objects to the signing of any Order which will interfere with the jurisdictional authority of the Supreme Court and the Circuit Court.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, R.C.

By: 

JOHN HUGHES COOPER, ESQUIRE

Federal Court ID 298

South Carolina Bar 1387

State Bar of Georgia 185986

JOHN TOWNSEND COOPER, ESQUIRE

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ATTORNEYS FOR LISA FISHER, ESQUIRE

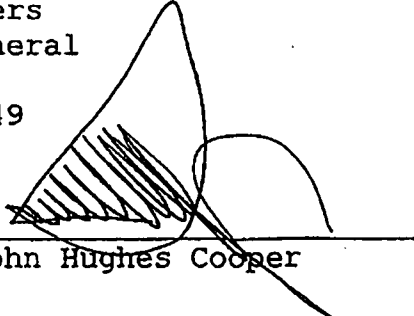
Sullivan's Island, South Carolina
September 29, 2011

CERTIFICATE OF SERVICE

I hereby certify that OBJECTIONS BY LISA FISHER, ESQ. TO
SECOND, DUPLICATE PROPOSED ORDER BY BESSIE HUCKABEE were served
on all counsel on September 29, 2011 by email and by first class
mail as follows:

Peter A. Kouten, Esquire
Kouten Law Firm, LLC
P.O. Box 340
John's Island, SC 29457

Hon. Mary Frances Jowers
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211-1549



John Hughes Cooper

STATE OF SOUTH CAROLINA) IN THE PROBATE COURT
) COMMITMENT DIVISION
 COUNTY OF CHARLESTON) CASE NO.: 2008-GC-10-88

ELISABETH SPENCER,)

Petitioner,)

vs.)

ALICE SHAW-BAKER,)

an alleged incapacitated)
 person, and)

LISA FISHER,)

her next of kin,)

Respondents.)

MOTION FOR RECONSIDERATION OF
 PROBATE COURT ORDER DATED
 SEPTEMBER 28, 2011 APPOINTING
 SPECIAL FIDUCIARY and LISA
 FISHER'S MOTION TO STRIKE and
 OPPOSITION TO MOTION TO APPOINT
 SPECIAL FIDUCIARY;
 AFFIDAVIT OF LISA FISHER;
 AFFIRMATION OF CONSULTATION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that 10 days after service hereof or as soon thereafter as they may be heard, Conservator, Lisa Fisher ("Fisher") by and through her undersigned counsel, will move this Honorable Court pursuant to South Carolina Rules of Civil Procedure, Rules 59 and 60(b) for an Order reconsidering and vacating this court's order of September 28, 2011 granting Bessie Huckabee's ("Huckabee") Motion for Appointment of Special Fiduciary, and to Reconsider the Fisher's Motion to Strike.

The grounds for this motion are that: 1) No evidence exists for the Court's Ruling; 2) No statutory authority exists for the

Court's order; 3) there was no proper Notice and Hearing in Violation of Due process considerations; and 4) the Probate Court has no jurisdiction to make any orders while there is a pending motion for special administrator.

This Motion is based on the South Carolina Probate Code, the South Carolina Rules of Civil Procedure, and applicable case and statutory law.

MEMORANDUM

I.

THIS MOTION IS GOVERNED BY SCRCP, RULE 59 AND RULE 60(b)

South Carolina Rules of Civil Procedure, Rule 59 (e) provides that: "A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order."

Further, South Carolina Rules of Civil Procedure, Rule 60(b) provides in pertinent part that: "On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(3) fraud, misrepresentation, or other misconduct of an adverse party;

(4) the judgment is void..."

The order for Appointment of Special Fiduciary is improper as outlined herein.

II.

STATEMENT OF THE CASE

On August 17, 2011, this court issued its tentative order to grant Bessie Huckabee's Motion for Special Fiduciary without any admissible evidence, without statutory authority, without jurisdiction, and without cause.

Huckabee filed her motion on or about May 20, 2011. Said motion was not supported by any evidence, nor affidavits. Huckabee did not present any testimony at the hearing. Huckabee failed to consult opposing counsel pursuant to Rule 11. Said motion was not served on Betty Fisher, plaintiff in the Estate matter, nor on the Attorney General, interested parties in the Estate matter.

Fisher filed her Motion to Strike and Opposition to Motion for Special Fiduciary on June 1, 2011.

Fisher also filed objections to said Motion on or about August 12, 2011.

On or about September 14, 2011, counsel for Huckabee served a proposed order with findings of fact and specific orders for the Special Fiduciary to follow.

On or about September 21, 2011, Fisher filed objections to said order, and submitted an alternate proposed order.

On or about September 27, 2011, counsel for Huckabee emailed his original order to the court clerk, Elizabeth Sykes, without any explanation for such communication.

On or about September 29, 2011, Fisher filed a second objection to the order to ensure no waiver of objection could be found.

However, it appears that on or about September 28, 2011, this court signed counsel for Huckabee's order as originally drafted. Said order was served by Clerk, Elizabeth Sykes, via email on September 29, 2011. This order includes findings not requested in the original motion and includes the court's sua sponte appointment of Heyward Harvey, without providing the parties with any information about Mr. Harvey and/or allowing

the parties to object. Fisher had no ability to determine prejudice and/or conflict of interest. This is an unnecessary cost to the estate and in direct contravention to the desires of the decedent that her monies be used to benefit animal charities.

The order requires the Special Fiduciary Heyward Harvey to:
"receive all assets held by Lisa Fisher within fifteen days of execution of this Order. That Mr. Harvey:

- a. marshall all assets, review accounts and 2009 and 2010 accountings with the powers and discretions as authorized by law with regard to same.
- b. seek formal approval of the final accounting and: 2009 and 2010 accountings with authority to amend same, if necessary and further, seek to close the conservatorship estate.
- c. review needs for maintenance, taxes and insurance on real property with authority over same.
- d. maintain authority and control over all estate assets.
- e. keep records of his time devoted to this file and seek approval of his fees through separate order of this Court and it is further."

Fisher contends that said order was obtained by false representations by Huckabee and her counsel that Fisher engaged in misconduct. There was no truth to said statements, no evidence introduced to support said statements (nor could there be), and that the interference by Huckabee is an unwarranted intrusion into the Estate of Alice Shaw Baker, when there is pending litigation.

The court's order includes orders to grant authority to a Special Fiduciary to review the "2009 and 2010 accountings with authority to amend same, if necessary and further, seek to close the conservatorship estate." It also sought powers to "review needs for maintenance, taxes, and insurance on real property", however Huckabee's counsel already knows, by his improper inquiry into the private information of Alice Shaw Baker's insurance without subpoena, that she is properly insured and that the property is being well taken care of.

These orders are in excess of any statutory authority, and imply wrongdoing by Fisher. Additionally, it is but one example of relief not sought in the original petition,

The conservatorship assets here involved are to be turned over to the Estate of Alice Shaw-Baker. The Probate Estate case was removed to the Circuit Court for litigation of, inter alia, Will Contest, a decision on appointment of a Personal Representative, a motion for

appointment of a Special Administrator, and other issues, which issues are now on appeal to the Supreme Court of South Carolina on Petition for Writ of Certiorari. There is also a motion pending in the Circuit Court.¹

As outlined by the Affidavit of Lisa Fisher, she has protected the Estate since the death of her beloved great aunt Alice Shaw Baker. Moments after Alice Shaw Baker's death, Bessie Huckabee, with the help of her agents and conspirators, wrongfully took possession of the keys to Alice Shaw Baker's home. Thereafter, Lisa Fisher is informed and believes that they entered the real property and took personal property and papers. Despite her grief and sorrow, Ms. Fisher took action to regain control of the real property and protect it pending final determination of the subsequently filed Will Contest. Said Will Contest is based, in part, on the fact that the decedent Alice Shaw Baker intended for her estate to benefit animal charities, that upon discovery of the betrayal of Bessie Huckabee and Kay Passailaigue Slade, Alice Shaw Baker revoked her Will to prevent these individuals from interfering with her true intent to benefit animal charities, and the abuse of the decedent, a vulnerable adult, by Bessie Huckabee and Kay Passailaigue Slade.

¹ This court also failed to rule on Fisher's Objections to Court's Consideration of Huckabee's Motion for Special Fiduciary. Fisher does not

Conservator Lisa Fisher contends that pending final determination of the above matters, this Probate Court does not have jurisdiction to hear this matter and as such the Order is void. Lisa Fisher is acting in good faith on behalf of Alice Shaw Baker's estate and the benefit of animal charities. So reconsideration of the September 28, 2011 order will be to the benefit of these beneficiaries and preservation of the status quo.

Finally, contrary to the false representations of Huckabee, Fisher at all times acted pursuant to the permission of this court and the proper extensions granted by the Probate Court.

III.

THERE ARE NO GROUNDS FOR THIS COURT'S INTERVENTION,
GOOD CAUSE CONTINUES FOR LISA FISHER TO PROTECT THE ASSETS OF
THE ESTATE OF ALICE SHAW BAKER PENDING FINAL DETERMINATION OF
THE APPEAL IN THE ESTATE MATTER.

A. This court has no Jurisdiction to Issue any Orders due
to the Appeal in the Estate Matter.

waive these objections.

Huckabee's counsel brought this motion in this court to interfere with both the circuit court's jurisdiction over the Estate of Alice Shaw Baker, and to interfere with the Current Appeal before the Supreme Court.

By undermining the Supreme Court's jurisdiction, he attempts to garner favor before this court through innuendo and misrepresentation. In fact, even if Huckabee were a proper interested party under S.C. Code Ann. § 62-1-201(20), which she is not, when there is a pending appeal and the alleged Will that she claims under is revoked, Huckabee is precluded from bringing additional actions in the probate court.²

Fisher cannot transfer assets to any party until there is final resolution of the proper person. Huckabee's argument that

² Under § 62-1-201(20): "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding." (Emphasis added) Bessie Huckabee had no standing while Ms. Shaw Baker was alive to involve herself in the conservatorship.

Unless and until the court determines her interest and Kay Passailague's interest, they are merely interlopers attempting to sully Fisher's name and interfere with the proper administration of the estate. These individuals proved that they were not even friends to Alice Shaw Baker in the end.

Fisher has no authority to handle the assets; prior to a proper order, is disingenuous. Fisher is duty bound to maintain the property pending final "receipt" by the proper administrator. A party cannot use innuendo to gain control, or interfere with the estate, while they are a party to a known appeal dealing with the same subject. Said action implicates Due Process considerations, and Equal protections under the United States and South Carolina Constitutions.

B. No Admissible Evidence Was Presented at the Hearing which Support this Court's Appointment of a Special Fiduciary.

On August 17, 2011, Counsel for Huckabee³ improperly argued that Lisa Fisher had used estate funds in excess of \$100,000.00, had failed to account, had failed to lawfully abide by court orders/subpoenas,⁴ and that she was not permitted to protect the

³ Fisher does not waive her objections to the continuing representation of Peter Kouten as counsel to Huckabee, in light of his non-waivable representation of Alice Shaw Baker. This issue is not before this court.

⁴ This argument is not merely false, it fails to recognize that Huckabee's subpoena was the improper vehicle (Rule 45 subpoena vs. Rule 34 request for production) and is not subject to this court's jurisdiction or consideration. It is an improper attempt to impugn Lisa Fisher's character. (See *Toyota v. Florence Inv. V. Lynch* (1994) 314 S.C. 257 [vicious, inflammatory argument resulting in clear prejudice support new trials].)

Estate of Alice Shaw Baker by timely paying the bills and the Taxes of the Estate.

Counsel for Huckabee failed to present any admissible evidence to support the motion, and as such the orders are improper. (*In re Estate of Pallister*, 363 S.C. 437, 611 S.E.2d 250, 256 (2005) (orders of the probate court reversible if there is no evidence to support them.)

Additionally, Counsel for Huckabee knew or should have known that his argument was false, that it was an improper attempt to mislead this court, and is contrary to the statutory provisions mandating protection of the estate.⁵

As outlined in the affidavit of Lisa Fisher, there has been no losses to the estate, only monies used were for the correct expenditure of funds for the Estate, that she has taken all action to properly protect the estate and preserve the status quo, and has abided by all requests by this court to file accountings when requested. Said action is for the benefit of the estate. ⁶

⁵ South Carolina Rules of Professional Conduct, Rules 3.3, 4.1, 8.4(a), 8.4(d), and 8.4(e) provide that an attorney cannot provide a false statement of material fact to the court.

⁶ This court seemed concerned that Ms. Fisher was still using the conservatorship bank account to protect the estate, however under § 62-5-425(d), had Ms. Fisher been able to petition for appointment as personal representative, the court's order does not require "retransfer to the

Due to the charitable nature of the estate, and Alice Shaw Baker's wishes, Ms. Fisher's actions will preclude the dissipation of the estate by the improper appointment of a Special Fiduciary (as outlined below).

C. No Statutory Authority Exists for the Court's Order.

1. *Huckabee's Reliance on Trust Law is Error, and the Grant of the Motion is improper.*

Huckabee cannot have it both ways. She argues that Fisher was only to hold the estate pending determination of the court, since the court terminated the conservatorship. However, if Fisher had acted in such a way, she would have been subject to arguments of waste and harm to the Estate.⁷ Fisher contends

conservator as personal representative." It is important to note that Ms. Fisher could not take this action, because of the "involuntary appointment" of Huckabee. Therefore, resolution of that appointment is necessary.

However, this legal principle governing handling of conservatorship proceedings after death demonstrates that the intent does not require "form over substance", and Ms. Fisher's acts in protecting the estate, pending final determination, can easily and appropriately be accomplished pending final determination of the issues in the Supreme Court and the circuit court.

Ms. Fisher is aware of these requirements and has at all times acted in accordance with them.

⁷ As set forth by the affidavit of Lisa Fisher, she has at all times acted in adherence to the requirements of protecting the conservatorship assets. Huckabee's contention that Ms. Fisher's acts are governed by Trust law is not controlling. Although § 62-7-804 requires that a trustee "...shall administer the trust as a prudent person would by considering the purposes, terms, distributional requirements, and other circumstances of the trust. In satisfying this standard the trustee shall exercise care, skill

that she took on this responsibility to prevent Huckabee and her agents from pilfering the Estate, and to enforce her great aunt's last wishes that her monies go to animal charities.

While Fisher does not agree that this case involves a "trust", there is no doubt that she has behaved in an appropriate manner, under relevant trust law. The law is explicit as governed by South Carolina Probate Code § 62-7-303(a)(4), "a trustee may represent and bind the beneficiaries of the trust with respect to questions or disputes involving the trust."

Under § 62-7-404 provides "A trust may be created only to the extent its purposes are lawful and possible to achieve."

A trust and its terms must be for the "benefit of its beneficiaries." Alice Shaw Baker's intentions made known, and evidenced in writing, did not require a formal trust document. (See § 62-7-407 ["...a trust need not be evidence by a trust instrument."]) This estate belongs to Animal Charities.

Moreover, § 62-7-418(a) provides in pertinent part: "When any person shall be seized of any lands...the person or body

and caution." Under § 62-7-809, "A trustee shall take reasonable steps to take control of and protect the trust property."

Further, § 62-7-815 (a)(2)(b), a trustee without authorization by the court may exercise: "...any other powers appropriate to achieve the proper investment, management, and distribution of the trust property."

politic that shall have such use, confidence, or trust...shall be deemed and adjudged in lawful seizing...to all intents, constructions, and purposes in law of and in such like estates as they shall have in use, trust, or confidence of or in them." (Emphasis added).

It is clear that South Carolina protects estates under both formal and informal trusts. Lisa Fisher is protecting the assets pending proper transfer. Huckabee relies on trust law for this improper order, however § 62-7-701 (A)(2) provides that: "...if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or Performing duties as trustee, or otherwise indicating acceptance of the trusteeship." (Emphasis added)

So even under Huckabee's argument, Fisher had an obligation to protect the assets. Huckabee's counsel cites that this court has authority to appoint a special fiduciary under § 62-7-704(e). However, the purpose of the code is to provide the means for appointment of a special fiduciary when there is a "Vacancy in trusteeship." There is no vacancy in the trusteeship. Subsection (e)'s provision for appointment "whether

Here, Fisher has at all times acted appropriately. However, she can not turn over property when there is proper objection to the appointment of a

or not a vacancy exists" still is not unlimited, if it were, than any person without standing could act as an interloper and interfere. Here, assuming that the Will contest is successful, Huckabee has no standing to interfere with this case.⁸

The will was revoked and her actions are contrary to the decedent's wishes. There are no grounds for the motion except conjecture and speculation, and allowing such argument is adverse to the interests of justice. Moreover, this court's appointment of a stranger to the Estate compromises the purpose of the "trust" to benefit animal charities and allows dissipation of the trust at the whims of a stranger to the estate.

Further, even if there were, this court was required to follow the provisions for notice for special administrators under South Carolina Code section 62-3-614. (See § 62-7-704(e), and are at this time subject to pending motion/review.)

representative.

⁸ It is also important to note that Huckabee is not a "beneficiary" of the Estate, she is merely the purported personal representative, so she has no standing to seek the appointment of a "special fiduciary". The issue of a vacancy relates to "beneficiaries" not "representatives". Further, the Restatement (Third) of Trusts, § 34 concludes that the court's decision to fill a vacancy must be tempered by the court's consideration of the "objectives" and probable intention of the settlor, the promotion of the proper administration of the trust, and the interests and wishes of the beneficiaries, Betty Fisher and the Attorney General on behalf of the Animal Charities are the persons who should have say for the appointment. This court's unilateral choice of an "unknown" fiduciary, without opportunity to review his record and/or object is improper.

Finally, this court's sua sponte appointment of a stranger to the case is improper. The beneficiaries (Attorney General on behalf of the Animal Charities) and Alice Shaw Baker's family (e.g. Betty Fisher) had a right to object to said appointment, to determine whether there was a conflict of interest, and/or determine prejudice. The court's appointment of Mr. Heyward without providing the parties with an opportunity to object. There is no statutory authority for the court's action.

Under any scenario, Ms. Fisher was required to protect the estate. This idea that a former conservator can hold on to estate property, without protecting it, is contrary to common sense and statutory law.

Even when a trustee is properly removed, not as here, under 62-7-707 (a): "...until the trust property is delivered to a successor trustee or other person entitled to it, a trustee who has resigned or been removed has the duties of a trustee and the powers necessary to protect the trust property." (Emphasis added). Finally, under a "trust", Ms. Fisher would be required to "...administer the trust solely in the interests of the beneficiaries." (§ 62-7-802) The beneficiaries of the trust are animal charities, and pending final determination of the litigation on their behalf, Ms. Fisher is required to take all

action to protect the trust properties. Therefore, Ms. Fisher's acts are in the best interests of the estate.

2. Ms. Fisher has no Ability to Transfer the Estate to a Lawful Representative, therefore Ms. Fisher properly exercised her Lawful Authority by Obtaining Motions for Extension.

Once Bessie Huckabee was appointed as personal administrator in the informal probate,⁹ this court can not interfere with the circuit court's decisions relating to the estate administration. Heir at law and relative of the decedent, Betty Fisher, filed a Motion for Appointment of a Special Administrator. There is pending litigation concerning this Motion, and as such, there must be a determination before a proper transfer of authority.

Under South Carolina Probate Code § 62-3-614:

"A special administrator may be appointed:

- (1) informally by the court on the application of an interested person when necessary:

⁹ Ms. Fisher does not contend that this appointment was proper. She continues to argue that the Informal Order was Void. She does not waive this argument.

(a) to protect the estate of a decedent prior to the appointment of a general personal representative or if a prior appointment has been terminated as provided in Section 62-3-609..." (Emphasis added)

In this case, there was an appointment of a general personal representative which is contested as void and under review, so it is improper to interfere with that appointment until the Supreme Court decides. Even when the decision is rendered, it is appropriate for the Circuit Court, not this Court to make such appointment.

Huckabee has been silent since Ms. Fisher originally filed her original Motion for Extension. She now complains, without any evidence, of misuse by Ms. Fisher, however Ms. Fisher is acting under the law and in an effort to protect the estate.

There is no evidence that appointment of a Special Administrator is even necessary (and that is not the Petition filed in this court.)

It is well settled law that a court can not interfere with another court's order which is subject to the pending litigation. (See *Dukes & Dukes v. Hygrade Food Products*, 236 S.C. 69 (1960).) The order is binding and effecting upon other

departments of these courts, therefore resolution of the underlying matter is mandated.

Certainly, the principles of Laches and Waiver also argue against this improper motion.

Any action by this court would interfere with the pending litigation. Ms. Fisher's "removal" without proper hearing, without cause and/or statutory authority is improper and a violation of Due process.

Therefore, Ms. Fisher asks this court to reconsider its order. There are no grounds for the appointment of a Special Fiduciary.

Finally, it is important that costs be diminished to accomplish Alice Shaw Baker's intent that her Estate benefit Animal Charities, not attorneys and/or fiduciaries. Public policy mandates this court's consideration of these important interests.

D. Due Process Considerations Mandate Relief of the September 28, 2011 Order.

Pursuant to Rule 60(b)(4), SCRCP, the court may relieve a party from an order where the judgment is void.

A void judgment is one that from its inception is a complete nullity and without legal effect. *Thomas v. Howard Co. & T.W. Graham and Co.*, 318 S.C. 286, 291, 457 S.E.2d 340, 343 (1995).

The requirements of due process include notice and an opportunity to be heard. *S.C. Dep't of Soc. Serv. v. Holden*, 319 S.C. 72, 78, 459 S.E.2d 846, 849 (1995).

It is fundamental that no judgment or order affecting the rights of a party to the cause shall be made or rendered without notice to the party whose rights are to be affected. *Tyron Fred. Sav. & Loan Ass'n v. Phelps*, 307 S.C. 361, 362, 415 S.E.2d 397, 398 (1992).

In proceedings in the probate court where notice is required, an order is binding only as to persons given notice of the proceedings. See Code Ann. § 62-3-106).

Pursuant to Rule 60(b)(4), SCRCP, the court may relieve a party from a an order where the judgment is void.

V.

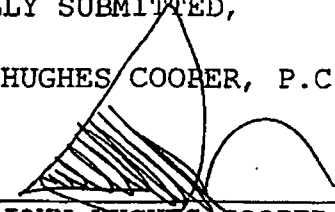
REMEDY SOUGHT

For the foregoing reasons, pursuant to Rule 59(e) and Rule 60(b), SCRCF, Lisa Fisher requests that the court reconsider its order appointing a Special Fiduciary and Fisher's motion to strike Huckabee's motion.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By:



JOHN HUGHES COOPER, ESQUIRE
Federal Court ID 298
South Carolina Bar 1387
State Bar of Georgia 185986
JOHN TOWNSEND COOPER, ESQUIRE
Federal Court ID 10172
South Carolina Bar 76087
1808 Middle Street
Post Office Box 395
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shiplaw@jhcooper.com
843-883-9099; fax 843-883-9335

ATTORNEYS FOR
FORMER CONSERVATOR LISA FISHER

Sullivan's Island, South Carolina

AFFIDAVIT OF LISA FISHER

PERSONALLY APPEARED before me Lisa Fisher, who being first duly sworn, stated as follows:

1. My name is Lisa Fisher, and I am over the eighteen and of sound mind.

2. I have personal knowledge of the matters set forth herein and if called and sworn to testify, I could and would competently do so.

3. I am a resident of California.

4. I was the guardian and conservator of My great aunt Alice Shaw Baker's estate. While I was her conservator, Ms. Shaw Baker revoked her will, and repeated her intentions that all of her property go to animal charities.

5. During my tenure as conservator of the estate, and during the pendency of the estate litigation, I have at all times protected her assets. After her death, when Bessie Huckabee and her conspirators, gained the keys to Ms. Shaw Baker's house without my knowledge, while I was in the room with

my aunt's body, praying, and grieving over my family's loss, I was forced to take action to secure the property. I believe that property was removed from the house during the period I was out of control of the house.

6. There have been no losses to the estate, only monies used were for the correct expenditure of funds for the Estate and protection of the assets. I have taken all action to properly protect the estate and preserve the status quo.

7. I have always abided by all requests by this court to file accountings *when requested*. The amended accountings that I filed were done after I had to call the department to find out the time table for filing the accountings. Due to the strangeness of the forms and the times requested on the accountings, I believed that the probate court's representation concerning the time tables was correct.

8. I have taken all action to ensure that Alice Shaw Baker's estate has been protected, that no penalties have been assessed, and that the estate value is maintained.

9. The statements made at the court hearing on August 17, 2011 are completely false. There are no losses to the estate. Alice Shaw-Baker was greatly loved by my mother and I. These accusations are defamatory. Review of the accountings demonstrates that only minimal amounts of monies were used to maintain the property, pay taxes, pay insurance, and protect the property. *LP*

10. FURTHER, AFFIANT SAYENT BROUGHT

By: 

Lisa Fisher

Subscribed and sworn to before me
This 10th day of October, 2011.

(SEAL)

- See attached Grant -

Notary Public of California

My Commission Expires: June 20, 2014

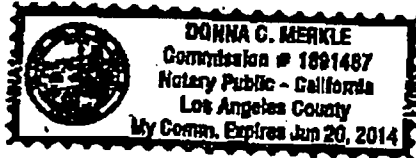
JURAT

STATE OF CALIFORNIA

COUNTY OF Los Angeles

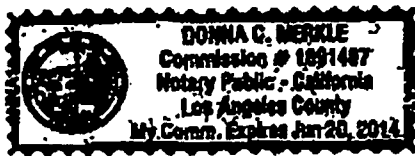
Subscribed and sworn to (or affirmed) before me on

this 6th day of October 2011, by Lisa Fisher proved to me on the basis of
satisfactory evidence to be the person who appeared before me.



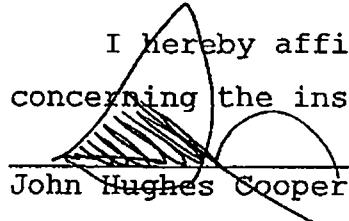
Signature Donna C. Merkle

(seal)



AFFIRMATION OF CONSULTATION

I hereby affirm that consultation with opposing counsel concerning the instant Motion would serve no useful purpose.


John Hughes Cooper

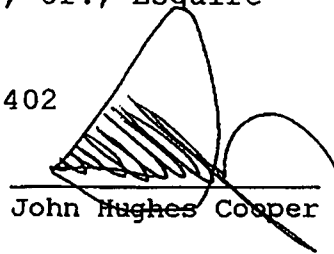
CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2011 we served a copy of the MOTION FOR RECONSIDERATION OF PROBATE COURT ORDER DATED SEPTEMBER 28, 2011 APPOINTING SPECIAL FIDUCIARY and LISA FISHER'S MOTION TO STRIKE and OPPOSITION TO MOTION TO APPOINT SPECIAL FIDUCIARY; AFFIDAVIT OF LISA FISHER; AFFIRMATION OF CONSULTATION upon all counsel of record by email and by first class mail as follows:

Peter A. Kouten, Esquire
Kouten Law Firm, LLC
P.O. Box 340
John's Island, SC 29457

Hon. Mary Frances Jowers
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

J. Heyward Harvey, Jr., Esquire
Attorney at Law
P.O. Box 1056
Charleston, SC 29402


John Hughes Cooper

STATE OF SOUTH CAROLINA) IN THE PROBATE COURT
) COMMITMENT DIVISION
COUNTY OF CHARLESTON) CASE NO.: 2008-GC-10-88

ELISBETH SPENCER,)

Petitioner,)

vs.)

ALICE SHAW-BAKER,)
an alleged incapacitated)
person, and)
LISA FISHER,)
her next of kin,)

Respondents.)

INTERESTED PARTY BETTY FISHER'S
RULE 60(b)(4) MOTION TO SET ASIDE
VOID PROBATE COURT ORDER DATED
SEPTEMBER 28, 2011 APPOINTING
SPECIAL FIDUCIARY and MEMORANDUM
OF LAW IN SUPPORT OF MOTION

AFFIRMATION OF CONSULTATION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that 10 days after service hereof or as soon thereafter as they may be heard, Interested Party Betty Fisher ("Ms. Fisher"), will move this Honorable Court pursuant to South Carolina Rules of Civil Procedure, Rule 60(b)(4) to set aside the void order of September 28, 2011 granting Bessie Huckabee's ("Huckabee") Motion for Appointment of Special Fiduciary.

The basis of this Motion is that 1) Huckabee failed to provide Betty Fisher with the statutorily and constitutionally required notice of her intent to seek appointment of the Special

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Fiduciary, rendering the Probate Court without jurisdiction to issue the subject order, and rendering the subject order void; 2) Huckabee has no standing to bring said motion; and 3) Betty Fisher is an Interested Party to this litigation, as niece to the decedent and Appellant in the current matter before the South Carolina Supreme Court, and she was entitled to object to the sua sponte appointment of Heyward Harvey, Esquire.

This Motion is based on the South Carolina Probate Code, the South Carolina Rules of Civil Procedure, and applicable case and statutory law.

MEMORANDUM

I.

THIS MOTION IS GOVERNED BY SCRPC, RULE 60(b)

South Carolina Rules of Civil Procedure, Rule 60(b) provides in pertinent part that: "On motion and upon such terms as are just, the court may relieve a party of his legal representative from a final judgment, order, or proceeding for the following reasons:

(4) the judgment is void..."

The order for Appointment of Special Fiduciary is improper as outlined herein.

II.

STATEMENT OF FACTS

Huckabee filed her motion on or about May 20, 2011. Said motion was not supported by any evidence, nor affidavits. Huckabee did not present any testimony at the hearing. Said motion was not served on Betty Fisher,¹ plaintiff in the Estate matter, nor on the Attorney General, interested parties in the Estate matter.

The court signed its order on or about September 28, 2011. Said order was served by Clerk, Elizabeth Sykes, via email, on September 29, 2011.

This order includes findings not requested in the original motion and includes the court's sua sponte appointment of Heyward Harvey, without providing the parties with any information about Mr. Harvey and/or allowing the parties to object. Fisher had no ability to determine prejudice and/or conflict of interest. This is an unnecessary cost to the estate and in direct contravention to the desires of the decedent that her monies be used to benefit animal charities.

The order requires the Special Fiduciary Heyward Harvey to:

¹ Ms. Fisher is entitled to her own notice of these proceedings which interfere with her rights in the Estate matter and prevented her from objecting to this unnecessary and improper interference into her Aunt's

"receive all assets held by Lisa Fisher within fifteen days of execution of this Order. That Mr. Harvey:

- a. marshall all assets, review accounts and 2009 and 2010 accountings with the powers and discretions as authorized by law with regard to same.
- b. seek formal approval of the final accounting and 2009 and 2010 accountings with authority to amend same, if necessary and further, seek to close the conservatorship estate.
- c. review needs for maintenance, taxes and insurance on real property with authority over same.
- d. maintain authority and control over all estate assets.
- e. keep records of his time devoted to this file and seek approval of his fees through separate order of this Court and it is further."

Ms. Fisher contends that in light of the pending litigation in the Estate matter, this motion was improper on its face and she should not be forced to litigate the matter while there is a pending matter on Appeal. Ms. Fisher is fighting to preserve her Aunt's wishes that all monies benefit Animal Charities in the Estate matter, in light of the revoked will, Bessie

Estate. The litigation in the Estate matter (2009-CP-10-3010) deals with the

Huckabee's interference prior to final determination in this matter is improper.

III.

LAW

Huckabee's Failure to Provide Notice

1. Ms. Fisher contends that there is no statutory authority under the law governing conservatorships for appointment of a Special Fiduciary.
2. Huckabee's reliance on South Carolina Code Ann. § 62-7-704(e) does not control. This case does not involve a trust. It deals with the appropriate transfer of assets to a proper representative. Currently the matter is on appeal about the appointment of Huckabee, as personal representative. Therefore, there is no vacancy. Instead the matter is on appeal, and pursuant to SCACR, Rule 205, this court has no jurisdiction and any orders issued are improper.
3. The law governing a conservatorship is set forth in § 62-5-425(d) provides:

"If a protected person dies, the conservator shall deliver to the court for safekeeping any will of the deceased protected person which may have come into his possession, inform the executor or a beneficiary named therein that he has done so, and retain the estate for delivery to a duly appointed personal representative

issues at hand in this litigation, therefore direct notice was necessary.

of the decedent or other persons entitled thereto. If after thirty days from the death of the protected person no other person has been appointed personal representative and no application or petition for appointment is before the court, the conservator may apply to exercise the powers and duties of a personal representative so that he may proceed to administer and distribute the decedent's estate. Upon application for an order granting the powers of a personal representative to a conservator, after notice to any person demanding notice under Section 62-3-204 and to any person nominated executor in any will of which the applicant is aware, the court may order the conferral of the power upon determining that there is no objection, and endorse the letters of the conservator to note that the formerly protected person is deceased and that the conservator has acquired all of the powers and duties of a personal representative. The making and entry of an order under this section shall have the effect of an order of appointment of a personal representative as provided in Section 62-3-308 and Parts 6 through 10 of Article 3 [Sections 62-3-601 et seq. through Sections 62-3-1001 et seq.] except that estate in the name of the conservator, after administration, may be distributed to the decedent's successors without prior retransfer to the conservator as personal representative." (Emphasis added).

Under this scenario, the controlling issue is who is duly appointed and/or entitled to delivery of the property.

4. However, even if trust law did control, the motion requires notice as follows pursuant to § 62-7-704(e):

"(e) Whether or not a vacancy in a trusteeship exists or is required to be filled, the court may appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust. The procedure for such appointment and the notice requirement shall be the same as set forth for

special administrators under South Carolina Code Section 62-3-614."

5. Thus, §62-7-704(e) and § 62-3-614 required Huckabee to provide notice to Betty Fisher.

6. The notice required is the same as for appointment of a special administrator:

"A special administrator may be appointed:

(1) informally by the court on the application of an interested person when necessary:

(a) to protect the estate of a decedent prior to the appointment of a general personal representative or if a prior appointment has been terminated as provided in Section 62-3-609; or

(b) for a creditor of the decedent's estate to institute any proceeding under Section 62-3-803©;

(2) in a formal proceeding by order of the court on the petition of any interested person and finding, after notice and hearing, that appointment is necessary to preserve the estate or to secure its proper administration including its administration in circumstances where a general personal representative cannot or should not act. If it appears to the court that an emergency exists, appointment may be ordered without notice."

Therefore, appointment pursuant to this code is inappropriate when a general personal representative has been appointed. This is the subject of the appeal.

7. Under subsection (2), the only time that this is appropriate is in a circumstance involving an interested person, where an administrator cannot act, or where an emergency exists.

There is no evidence that an emergency exists, because there is no emergency. Rather, Lisa Fisher's continued protection is the most cost efficient way to protect the estate of Alice Shaw Baker.

8. The notice required by §62-7-704(e) and § 62-3-614 is the type of notice described in S.C. Code Ann. § 62-1-401.
9. Section 62-1-401 requires twenty days' notice.
10. Section 62-1-401 also requires a hearing.
11. Independently, the fundamental requirements of due process under the South Carolina and United States Constitutions include notice and an opportunity to be heard. U.S. Const. amends. V and XIV, § 1; S.C. Const. art. 1, § 22. Ms. Fisher is the rightful family member of Alice Shaw Baker who can and will object to the improper interference of Huckabee into the Estate of Alice Shaw Baker.

Failure to Provide Notice Rendered Order Void

12. Huckabee's failure to provide Betty Fisher the statutorily and constitutionally required notice of her intent to seek appointment of the Special Fiduciary rendered the Probate Court without jurisdiction to issue the order of appointment and rendered that order void.
13. Pursuant to Rule 60(b)(4), SCRCP, the court may relieve a party from a an order where the judgment is void.

4. A void judgment is one that from its inception is a complete nullity and without legal effect. *Thomas v. Howard Co. & T.W. Graham and Co.*, 318 S.C. 286, 291, 457 S.E.2d 340, 343 (1995).

15. The requirements of due process include notice and an opportunity to be heard. *S.C. Dep't of Soc. Serv. v. Holden*, 319 S.C. 72, 78, 459 S.E.2d 846, 849 (1995).

16. It is fundamental that no judgment or order affecting the rights of a party to the cause shall be made or rendered without notice to the party whose rights are to be affected. *Tyron Fred. Sav. & Loan Ass'n v. Phelps*, 307 S.C. 361, 362, 415 S.E.2d 397, 398 (1992).

17. In proceedings in the probate court where notice is required, an order is binding only as to persons given notice of the proceedings. See Code Ann. § 62-3-106:

In proceedings within the jurisdiction of the court where notice is required by this Code or by rule . . . An order is binding as to all who were given notice of the proceeding though less than all interested persons are notified.

S.C. Code Ann. § 62-3-106.

18. Pursuant to Rule 60(b)(4), Betty Fisher seeks to set aside the void order appointing Heyward Harvey, Esquire as Special Fiduciary.

Huckabee has no Standing to Bring this Motion and the Court's Sua Sponte's appointment of Mr. Harvey was improper.

19. In light of the fact that Alice Shaw Baker revoked the Will naming Huckabee as excecutor of her Estate, Huckabee has no standing to interfere with the assets pending final determination. (See S.C. Code Ann. § 62-1-201(20):

"Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding." (Emphasis added).

Bessie Huckabee had no standing while Ms. Shaw Baker was alive to involve herself in the conservatorship.

20. Further, it is also important to note that Huckabee is not a "beneficiary" of the Estate, she is merely the purported personal representative, so she has no standing to seek the appointment of a "special fiduciary". The issue of a vacancy relates to "beneficiaries" not "representatives".

21. Additionally, the Restatement (Third) of Trusts, § 34 concludes that the court's decision to fill a vacancy must be

tempered by the court's consideration of the "objectives" and probable intention of the settlor, the promotion of the proper administration of the trust, and the interests and wishes of the beneficiaries, Betty Fisher and the Attorney General on behalf of the Animal Charities are the persons who should have say for the appointment.

22. This court's unilateral choice of an "unknown" fiduciary, without opportunity to review his record and/or object is improper. Pursuant to § 62-7-704:

"(c) A vacancy in a trusteeship of a noncharitable trust that is required to be filled must be filled in the following order of priority:

- (1) by a person designated in the terms of the trust to act as successor trustee;
- (2) by a person appointed by unanimous agreement of the qualified beneficiaries; or
- (3) by a person appointed by the court."

23. However, the stated intentions of Alice Shaw Baker is that her monies were to benefit animal charities, so under § 62-7-704:

"(d) A vacancy in a trusteeship of a charitable trust that is required to be filled must be filled in the following order of priority:

- (1) by a person designated in the terms of the trust to act as successor trustee;
- (2) by a person selected by the charitable organizations expressly designated to receive distributions under the terms of the trust if the Attorney General concurs in the selection; or
- (3) by a person appointed by the court."

24. . . . Therefore, even if there were a need for appointment,
notice to all parties is required..

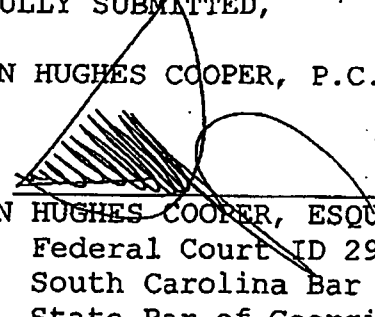
IV.

REMEDY SOUGHT

For the foregoing reasons, pursuant to Rule 60(b)(4),
SCRCF, Plaintiff Betty Fisher seeks to set aside the September
28, 2011 order appointing Heyward Harvey, Esquire as the Special
Fiduciary of the Estate of Alice Shaw-Baker as void.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By: 
JOHN HUGHES COOPER, ESQUIRE
Federal Court ID 298
South Carolina Bar 1387
State Bar of Georgia 185986
JOHN TOWNSEND COOPER, ESQUIRE
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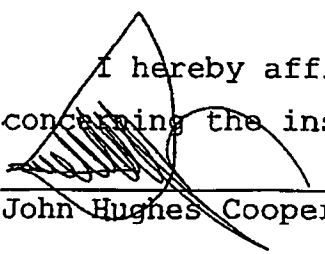
and

CAIN DENNY, ESQUIRE
CAIN DENNY, P.A.
P.O. Box 1205
Charleston, S.C. 29402
843-965-5400

ATTORNEYS FOR LISA FISHER

AFFIRMATION OF CONSULTATION

I hereby affirm that consultation with opposing counsel concerning the instant Motion would serve no useful purpose.


John Hughes Cooper

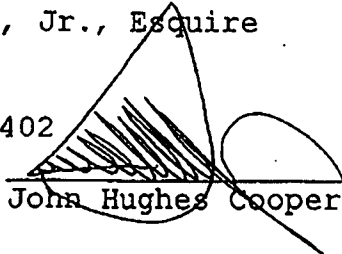
CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2011 we served a copy of the foregoing INTERESTED PARTY BETTY FISHER'S RULE 60(B) (4) MOTION TO SET ASIDE VOID PROBATE COURT ORDER DATED SEPTEMBER 28, 2011 APPOINTING SPECIAL FIDUCIARY and MEMORANDUM OF LAW IN SUPPORT OF MOTION upon all counsel of record by email and by first class mail as follows:

Peter A. Kouten, Esquire
Kouten Law Firm, LLC
P.O. Box 340
John's Island, SC 29457

Hon. Mary Frances Jowers
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

J. Heyward Harvey, Jr., Esquire
Attorney at Law
P.O. Box 1056
Charleston, SC 29402


John Hughes Cooper

STATE OF SOUTH CAROLINA) IN THE PROBATE COURT
COUNTY OF CHARLESTON) COMMITMENT DIVISION
CASE NO.: 2008-GC-10-88

ELISBETH SPENCER,

Petitioner,

vs.

LISA FISHER'S
MOTION TO ALTER OR AMEND
DENIAL OF RENEWED MOTION FOR
APPROVAL OF FEES AND EXPENSES
OF GUARDIAN AND CONSERVATOR

ALICE SHAW-BAKER,
an alleged incapacitated
person, and
LISA FISHER,
her next of kin,

Respondents.

COMES NOW Lisa Fisher, by and through her undersigned attorneys, and respectfully moves this Honorable Court pursuant to Rule 59(e), SCRCP, to Alter or Amend its Denial of her Renewed Motion for Approval of Fees of Guardian and Conservator.

Background

1. On July 17, 2009, Lisa Fisher filed a Motion for Approval of Fees and Expenses as Guardian and Conservator, but that Motion was not decided.
2. On October 7, 2011, Ms. Fisher filed a Renewed Motion for Approval of Fees and Expenses as Guardian and Conservator ("Renewed Motion").
3. Attached to her Renewed Motion, Ms. Fisher submitted an itemization of 465.85 hours she spent assisting Ms. Alice Shaw-Baker with this matter prior to and during Ms.

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PROBATE COURT
CHARLESTON COUNTY

Fisher's formal appointment as Guardian and Conservator and an itemization of expenses she incurred in her role as Guardian and Conservator.

4. On October 14, 2011, this Court issued an Order denying Fisher's Renewed Motion, denying certain of Ms. Fisher's other Motions, and appointing J. Heyward Harvey, Esquire, as Special Fiduciary ("October 14, 2011 Order").
5. Also on October 14, 2011, this Court issued four other Orders Freezing Assets.
6. Since the October 14, 2011 Order does not grant leave to Ms. Fisher to renew her request for fees and expenses after the conclusion of the litigation or another alternative time, for the purposes of this Motion, the October 14, 2011 Order is construed as a permanent denial of Ms. Fisher's request for fees and expenses.

Facts

1. On or about August 14, 2008, Lisa Fisher, Esquire ("Ms. Fisher") began assisting her great aunt, Alice Shaw-Baker ("Ms. Shaw-Baker"), regarding the above-captioned matter.
2. On October 29, 2008, this Court appointed Ms. Fisher as Ms. Shaw-Baker's Guardian and Conservator.
3. Ms. Fisher assisted Ms. Shaw-Baker with her expressed and primary goal to stay in her home, and avoid placement in an institution.

4. Ms. Fisher handled Ms. Shaw-Baker's many financial, elder care, and medical needs, and she attended Ms. Shaw-Baker's appointments with her doctors, her geriatric psychiatrist, and her neuropsychologist. She provided her with emotional support and companionship, taking her to the beauty parlor,

shopping, movies, lunches, and sharing the holidays with Ms. Shaw Baker.
5. Ms. Fisher remained Guardian until Ms. Shaw-Baker's death on February 25, 2009 and remained Conservator until termination of the Conservatorship on May 11, 2009.
6. After termination of the Conservatorship, through a series of orders by this Court, Ms. Fisher's time to turn over the assets of the Conservatorship was extended due to litigation in Case Number 2009-ES-10-3010 regarding the appointment of the Personal Representative of Ms. Shaw-Baker's estate.
7. A detail of Ms. Fisher's fees and expenses is attached as "Exhibit A."¹

¹ It should be noted that in a November 10, 2008, Order in this matter, this Court approved Guardianship fees for Walter Kaufman, who served as Co-Guardian for Ms. Shaw-Baker in the early stages of this case, at a rate of \$120 per hour. All other individuals involved with the guardianship/conservatorship received payment for this pre-death services, including Ed Jellison, Jane Orenstein, Mac Gibson, Esquire, the in-home caregivers, and Court appointed counsel, Peter Kouten (now, Bessie Huckabee's counsel). Ms. Fisher continues to object to

Law

Probate Code Provides for Compensation

1. The South Carolina Probate Code provides for reasonable compensation to Guardians and Conservators appointed in protective proceedings.
-

Mr. Kouten's representation, due to the non-waivable conflict of interest.

(Even Ms. Fisher's counsel received payment of their attorney fees after noticed hearing.)

It is well settled that "A judge's impartiality might reasonably be questioned when his [or her] factual findings are not supported by the record." *Simpson v. Simpson*, 660 S.E.2d 274, 377 S.C. 519 (S.C.App. 02/08/2008)

In this instance, this court did not make any factual findings regarding the denial of Ms. Fisher's motion. Ms. Fisher was the person who came to her great-aunt's aid, when her power of attorney (Bessie Huckabee) renounced her duties, turned Ms. Shaw Baker into Adult Protective Services, and abandoned her.

Ms. Fisher showed her love and respect for Ms. Shaw Baker by travelling repeatedly to see her, help her, and attend to her needs. Ms. Fisher did not charge for all of the time expended to help her aunt, nor did she request fees for the travel fees for her mother, so that Ms. Shaw Baker had family present for Christmas.

Only Ms. Fisher's counsel fees were approved by a noticed hearing, all other individuals involved (e.g. Walter Kaufman, Jane Orenstein, Peter Kouten) received approval of their fees without hearing, without notice to Ms. Fisher or Ms. Shaw Baker, and without any opportunity to object. Here, Ms. Fisher filed a proper motion for approval of her fees, which this court did not rule on, and now denies said motion without explanation.

2. With regard to Guardians, S.C. Code Ann. § 62-5-312(b) provides in pertinent part, "Any *guardian* of one for whom a conservator also has been appointed shall control the custody and care of the ward and *is entitled to receive reasonable sums for his services* and for room and board furnished to the ward as agreed between him and the conservator, provided the amounts agreed upon are reasonable under the circumstances" (emphasis added).
3. In *Dowaliby v. Chambless*, 344 S.C. 558, 563, 544 S.E.2d 646, 648, n.4 (Ct. App. 2001), the court, in footnote 4, discussed South Carolina authority holding that, "an appointed guardian may be able to recover expenses prior to the formal appointment if such expenditures benefited the ward."
4. With regard to Conservators, S.C. Code Ann. § 62-5-414 provides, "If not otherwise compensated for services rendered, any visitor, lawyer, physician, *conservator*, or special conservator appointed in a protective proceeding is entitled to reasonable compensation from the estate, as determined by the court" (emphasis added).

Equal Protection and Takings Clauses Require Compensation

5. As discussed above, Ms. Fisher is statutorily entitled to compensation for serving as Guardian and Conservator. S.C.

Code Ann. 62-5-312(b) (Guardian); S.C. Code Ann. § 62-5-414 (Conservator).

6. Denial of fees and expenses to Ms. Fisher treats her differently from other similarly situated citizens who have served as Guardians and Conservators and thereby violates the Equal Protection Clauses of the United States and South Carolina Constitutions. U.S. Const. Amend. 14; S.C. Const., Art. I, § 3.
7. Ordering Ms. Fisher to serve as Conservator and Guardian then denying her just compensation for doing so constitutes a taking under both the South Carolina and United States Constitutions. U.S. Const. Amend. V; S.C. Const. Art. I, § 13(A); See Ex Parte Brown, 393 S.C. 214, 711 S.E.2d 899 (2011) (holding that a court-appointed attorney's service is property for purposes of the Takings Clause).

Motion

WHEREFORE, Lisa Fisher respectfully moves this Honorable Court pursuant to Rule 59(e), SCRCP, to Alter or Amend its October 14, 2011 denial of her Renewed Motion for Approval of Fees and Expenses of Guardian and Conservator.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By:

JOHN HUGHES COOPER, ESQUIRE

Federal Court ID 298

South Carolina Bar 1387

State Bar of Georgia-185986

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and

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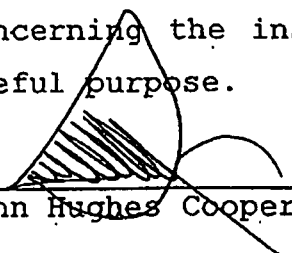
Charleston, S.C. 29402

843-965-5400

ATTORNEYS FOR LISA FISHER

AFFIRMATION OF CONSULTATION

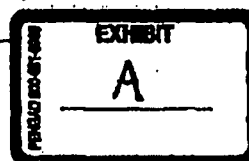
I hereby affirm that consultation with opposing counsel concerning the instant Motion to Alter or Amend would serve no useful purpose.


John Hughes Cooper

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

08/14/08	Telephone call from Mac Gibson re: pending hearing; request for information; review of documents; contact Alice re: events; contact John Hughes Cooper (JHC)	2.00
08/15/08	Telephone call to JHC; Call to Alice; faxing documents to JHC	1.50
08/16/08	Call to Alice; review of pleadings; call to Animal Shelter; Correspondence to Animal Shelter	1.50
08/17/08	Call to Alice	.25
08/18/08	Call to JHC; Call to Alice	.50
08/19/08	Review of faxes from Mr. Cooper; Telephone conversation w/ JHC; Call to Alice	1.50
08/20/08	Telephone conference w/ JHC; w/ Alice; Call re: Doctors; Review of Documents from JHC	1.50
08/21/08	Call to Alice; Receive call from JHC	.50
08/22/08	Review of Documents; Call to Alice	.50
08/23/08	Review correspondence from JHC; Call to Alice	.50
08/24/08	Call to Alice	.25
08/25/08	Review letter from JHC; Call to Alice	.25
08/26/08	Call to Alice	.25
08/27/08	Call to Alice	.25
08/28/08	Call to Alice	.50
08/29/08	Call to Alice	.25
08/30/08	Conferred with Mr. Cooper; w/ Alice	.25
09/01/08	Call to Alice	.25
09/02/08	Telephone conference with Mr. Cooper; call to Alice	.50
09/03/08	Call to Alice	.25
09/04/08	Review documents from Mr. Cooper; signed Affidavit; telephone call to Alice	1.00



Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

09/05/08	Telephone conference with Mr. Cooper re: hearing; call to Alice	.50
09/06/08	Research into alternative programs for Alice to help her stay at home; call to Alice	2.50
09/07/08	Telephone call to Alice	.10
09/08/08	Telephone call to Mr. Cooper; Reviewing documents	1.00
09/09/08	Fly to Charleston; Meet with Mr. Cooper; Meet with Alice; Attend hearing at Probate (reduced)	8.00
09/10/08	Telephone call to Mr. Cooper; w/ Alice and caregivers	1.00
09/11/08	Telephone calls to Mr. Cooper ; w/ Alice and Caregivers; Review of plan from Orenstein (2 emails); emails to Orenstein	2.50
09/12/08	Telephone call to Alice and Mr. Cooper; review documents	2.00
09/13/08	Telephone call to Mr. Cooper and Alice	1.00
09/14/08	Telephone call to Mr. Cooper and Alice	.50
09/15/08	Telephone call to Mr. Cooper and Alice	.30
09/16/08	Telephone call to Alice	.25
09/17/08	Telephone call to Mr. Cooper and Alice and caregivers	.50
09/18/08	Fly to and Visit to Charleston re: supervision and checking on property: See Alice! And help her move home (reduced)	8.00
09/19/08	Visit w/ Alice and Mr. Cooper and Mr. Denny re: case (reduced)	8.00
09/20/08	Telephone call to JHC and Alice	.25
09/21/08	Telephone call to Alice	.10
09/22/08	Telephone call to JHC and Alice	.25
09/23/08	Telephone call to JHC and Alice; send email to Mr. Cooper and Orenstein; Research issues for email	1.50
09/24/08	Review email from Mr. Cooper; call to Alice; Review documents from JHC and Orenstein; telephone call from JHC	1.25
09/25/08	Fax to JHC; Review documents from JHC; sent email to JHC	.75

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

09/26/08	Call re: Hair Appointment; caregivers; Alice; Call from JHC	.75
09/27/08	Call to Alice	.10
09/28/08	Call to Alice	.10
09/29/08	Telephone call w/ JHC; Call to Alice	.25
09/30/08	Calls re: Bond; Calls re: Alice	.50
10/01/08	Telephone conference w/ JHC; Call w/ Alice; Review info re: elder care; Email re: bond	.75
10/02/08	Review of documents frn JHC; telephone conference w/ JHC; Review documents from Defense department; possible benefits; forms to fill out	2.50
10/03/08	Review of email from JHC; Review of documents; review of email; review of letter; call to Alice; Look into grant programs for assistance re: Alzheimers; Day care; optional programs; Discuss w/ Alzheimers office other options for assistance in home; Research possible options; research	3.50
10/04/08	Telephone call to Alice	.10
10/05/08	Telephone call to Alice	.10
10/06/08	Telephone call to JHC; calls re: bond;	.50
10/07/08	Telephone call w/ JHC; call to Alice; Calls to JHC	1.00
10/08/08	Telephone call to JHC re: Dr. Honney; Calls re: plumbing; Review of Documents; Calls to Alice; Conference w/ Dr. Honney	1.50
10/09/08	Telephone call to JHC; Calls to Alice; Calls re: Alice day care	.75
10/10/08	Telephone message to JHC re: fire sprinkler estimate; Call to Alice	.50
10/11/08	Telephone call to Alice	.25
10/12/08	Telephone call to Alice	.10
10/13/08	Telephone conference with JHC re: Gibson and, Kouten, flu shot; possible settlement; Call to Alice	1.25
10/14/08	Telephone call to JHC; Call to Alice	.25

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

10/15/08	Telephone call w/ JHC and Alice; review information re: elder care	.75
10/16/08	Telephone call w/ Alice; JHC; reviewing documents	1.00
10/17/08	Telephone call to Alice; Review letter from Kouten	.25
10/18/08	Telephone call to Alice	.10
10/19/08	Telephone call to Alice; telephone calls re: bond	.50
10/20/08	Review of Letter from JHC; Telephone call w/ Alice; Reviewing documents for court	1.00
10/21/08	Telephone call w/ JHC and Alice; Review email; and letters	1.50
10/22/08	Drafting brief of issues; review of documents; call to JHC; call to Alice	3.00
10/23/08	Telephone call to Alice; message to JHC; Review of Fee order proposal by Orenstein; Review correspondence from JHC	.75
10/24/08	Review of email from JHC; review documents; call to Alice	.75
10/25/08	Review of medical documents; Telephone call w/ JHC; Reviewing Dr. Mulbry's report; Call to Dr. Mulbry	2.00
10/26/08	Call to Alice	.10
10/27/08	Call to Alice	.10
10/28/08	Call to Alice; review of documents	1.00
10/29/08	Travel to SC with Betty Fisher; Meet w/ JHC, JTC, and CD; Attended hearing on appointment of Guardian and Conservator; Visit w/ Alice Shaw Baker	11.00
10/30/08	Telephone call w/ JHC ; review documents; review elder care	.50
10/31/08	Telephone call w/ Alice; review documents	.50
11/01/08	Telephone call to JHC; Telephone call w/ Alice	.50
11/02/08	Telephone call w/ Alice	.10
11/03/08	Review of email of order from JHC; review Kouten email; review bond email; call to bond company	1.00
11/04/08	Telephone call w/ Alice	.10

Billing

Guardianship of /Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

11/05/08	Telephone call w/ Alice; Visit to Post Office to Change Address	.50
11/06/08	Reviewing emails; Telephone call w/ JHC; call to Alice	.50
11/07/08	Telephone calls w/ Alice and caregivers	.25
11/08/08	Telephone calls w/ Alice and caregivers; calls re: doctors	.75
11/09/08	Telephone calls w/ Alice and caregivers	.25
11/10/08	Telephone calls w/ Alice and caregivers	.25
11/11/08	Telephone calls w/ Alice and caregivers	.25
11/12/08	Telephone calls w/ Alice and caregivers	.25
11/13/08	Telephone calls w/ Alice and caregivers	.25
11/14/08	Telephone calls w/ Alice and caregivers	.25
11/15/08	Telephone calls w/ Alice and caregivers	.25
11/16/08	Telephone calls w/ Alice and caregivers	.25
11/17/08	Telephone call w/ JHC; Call to Alice; Review info re: elder care; info re: prescription; calls re: doctors	2.50
11/18/08	Telephone call to Alice; to Bond companies; discussion re: car repair; lawn maintenance and sprinkler heads.	.50
11/19/08	Travel to South Carolina to see Alice; review status; go to Probate Court; Confer w/ JHC (reduced)	10.00
11/20/08	Go to Appointment w/ Alice at Dr. Waid; Meeting w/ h Alice at house; Buy Alice lunch/dinner; talking to Dr. Waid (reduced)	8.00
11/21/08	Telephone call w/ Alice; Correspondence to Dr. Waid; correspondence to Kouten; message to JHC; call to Jellison; go to Bank open account	2.50
11/22/08	Call to Alice; Telephone calls re: Thanksgiving; arranging meal (no need-supposed to go to party w/ caregivers)	.50
11/23/08	Call to Alice and Caregivers	.50
11/24/08	Call to Dr. Waid's office; correspondence to Dr. Waid; Correspondence to Mr. Kouten	1.50

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

11/25/08	Call to Alice	.10
11/26/08	Call to Alice; review documents from JHC; email from JHC	.75
11/27/08	Thanksgiving— Alice did not go to party; caregivers said church brought her meal; Spoke to Alice—very concerned	.50
11/28/08	Call to Alice	.25
11/29/08	Call to Alice; Review elder care	.50
11/30/08	Call to Alice; Review Edward Jones documents; review Alden Life Insurance documents	1.50
12/01/08	Review documents re: Affidavit; call w/ JHC; Call to Alice; correspondence to Jellison	1.00
12/02/08	Telephone call w/ Alice; review elder care; Correspondence to Jellison; calls to doctors; emails from JHC	1.25
12/03/08	Telephone call w/ Alice and caregivers; call for appointments	.10
12/04/08	Telephone call w/ Alice; Talk to VA re: discharge papers; emails from JHC	.50
12/05/08	Telephone call w/ Alice; calls re: bonds	.75
12/06/08	Telephone call to Alice and caregivers	.50
12/07/08	Telephone call to Alice	.10
12/08/08	Telephone call w/ JHC; w/ Alice; Correspondence to Jellison; to JHC; Call w/ Jellison; emails from JHC	.50
12/09/08	Telephone call w/ Alice; Telephone call to Smith Barney	.25
12/10/08	Telephone call to JHC; Call to Alice	.25
12/11/08	Telephone call to Alice; Correspondence to JHC; Review of emails from JHC	1.00
12/12/08	Telephone call from JHC; review elder care	.20
12/13/08	Telephone call to JHC; Call to Alice	.25
12/14/08	Telephone call to Alice and caregivers	.25
12/15/08	Telephone call from JHC; pay to Caregivers	.20

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

12/16/08	Telephone call to Alice	.10
12/17/08	Telephone call to Alice	.10
12/18/08	Telephone call w/ JHC; call to Alice; Get supplies for Alice	1.00
12/19/08	Telephone call from JHC; Meet w/ JHC; go to Bank of America and First Federal; Visit w/ Alice; Go to Bessingers for Alice; Go to Dr. Jackson appointment; Research caregivers; get MRI; go to Post Office	10.00
12/20/08	Telephone call to JHC; review of tax return and related documents; email from JHC	2.00
12/21/08	Telephone calls to Alice; Find new doctor for Alice	2.25
12/22/08	Telephone call to Alice; Receive fax from ELI inc re: caregivers	1.00
12/23/08	Telephone call from JHC; call to Alice; call to caregivers verifying schedule; Go to Bank; open account; order checks; discuss options; discuss Calendaring; review report from Kouten; Review request for reimbursement; review emails from Kouten and JHC	2.75
12/24/08	Call to Alice; Travel to South Carolina; No caregivers on Christmas. Betty Fisher traveled w/ me to see Alice for the holidays; Mail reimbursements to JHC; Pay Bond company	.75
	12/25 No charge for care of Alice on Christmas; went to Christmas breakfast and dinner; outing and family event	
12/26/08	Travel back to California; call to Alice; Correspondence to JHC; Reimbursement of invoices	.75
12/27/08	Call to Alice; Review documents for Accounting	1.00
12/28/08	Telephone call to Alice; review checks, deposits, etc. for accounting; Start to draft disbursements and receipts	1.00
12/29/08	Telephone call to Alice; message to JHC; checks to caregivers; review bill for SCE&G; Go to BofA for deposit to account to cover insurance; Correspondence to caregivers re: orenstein; Research papers and review documents; Research air cleaner; order Argemus; call to banks	4.25

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

12/30/08	Finalize Accounting; reviewing documents from JHC; calls re: visitation of Orenstein; calls re: plumbing; Review statement from B of A; call to try and arrange Blue Cross-difficulties in making initial change; Correspondence to Kouten; emails to JHC	2.75
12/31/08	Telephone call to Alice; Travel to South Carolina for care on New Years No charge for care of Alice on holiday; outings; discussion about revocation; discussion re: holiday gifts; go to movies; lunch; shopping	.25
01/02/09	Visit w/ Alice; Go to Doctors; Lunch; Review of documents from JHC; emails to JHC; telephone calls w/ JHC; review emails from JHC and Orenstein; obtaining copies of Orders of Appointment; Review calendaring; Pay Caregivers	7.50
01/03/09	Telephone call w/ Alice and Caretakers; letter to Caretakers	1.00
01/04/09	Telephone call w/ Alice and Caretakers; Review Citibank statement; calls to Jellison; Telephone call w/ Accountant; Correspondence w/ Accountant	1.50
01/05/09	Telephone call w/ Alice; Go to Bank to Address Cashier Check for Caregivers; Pay for Nucleus Medical supplies; Review calendaring	1.75
01/06/09	Telephone call w/ JHC; Receiving documents from JHC; call re: plumbing, to Alice; pay bills; ltr 2 Edward Jones, social security, taxes; email to JHC re: Jellison's failure to respond	2.25
01/07/09	Telephone call to Alice; review Dr. Waid's report	1.50
01/08/09	Telephone call w/ Mr. Cooper; Review of emails for 1099's; call to Alice; Go to bank for deposit	1.50
01/09/09	Telephone call to JHC; review correspondence from JHC and Village Plumbing invoice; call to Alice; allowance for Alice; Correspondence to Dr. Waid and payment in full; Review Bank statements; Go to Post Office re: Change of Address problems	2.75
01/10/09	Telephone call w/ Alice; Review bank statements; correspondence to Dr. Schweiger; email from Kouten	1.00
	Telephone call w/ Alice; Review documents from JHC; pay	

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

01/11/09	bill	.50
01/12/09	Telephone call w/ Alice; Call to Accountant re: 1099 for caregivers; calculate pay for year; emails from caregivers re: hours	1.00
01/13/09	Telephone call w/ Alice; Pay Bills; Telephone conference w/ Louis Tick/ Edward Jones -need tax id; Telephone conference w/ Dr. Schweiger re: lexapro	2.25
01/14/09	Email to JHC; Telephone call to Alice; Review changes in calendaring	.75

01/15/09	Telephone call to Alice; Review correspondence from Citibank	.25
01/16/09	Telephone call to Alice; Calendaring of Caregivers	1.00
01/17/09	Telephone call to Alice; Pay Caregivers	.50
01/18/09	Telephone call to Alice; Arrange for Dinner for Alice through Manny's	1.25
01/19/09	Telephone call to Alice; w/ JHC re: Dr. Waid's report	.50
01/20/09	Telephone call to Alice; Reviewing email from JHC	.50
01/21/09	Telephone call from JHC; Letter to Jellison; Letter to JHC; Calls to Alice (2)	1.25
01/22/09	Telephone calls to Alice (2); Call to Dr. Rosen	.50
01/23/09	Telephone call to Alice; Reviewed deferred compensation plan documents; review 1099's to find missing documents	1.25
01/24/09	Telephone call to Alice; Pay Bills; Correspondence to Jellison	.50
01/25/09	Correspondence to Ed Jellison; Email to JHC re: will; Review of Will; Review of email re: possible vet benefits; Calls to Alice (2); Arrange for payment of paper; past due; Pay Bills	1.50
01/26/09	Telephone call to/from Alice (4); Calls w/ JHC; Arrange for Mannys and Ye Ole Ice Cream; Doctors for Alice; Pick up Records from Tri-County	5.25
01/27/09	Review case law from JHC; Calls to/from Alice (5); Meet re:	9.00

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

	<i>Lifeline; Appointment; Paid billings owed to caregivers; appointment for Doctors; Went to Wachovia; Bank of America; 1st Federal; Call to Gail Suggs; Called Insurance re: Change of Address (reduced)</i>	
01/28/09	<i>Calls to/from Alice (8); Conference w/ Mr. Cooper re: trip to California; Payment to SCE & G; Correspondence to Dr. Rosen, to Dr. Schweiger, to National; calls to Doctors offices; Correspondence to caretakers re: failure to obtain medication; Call to Dr. Schweiger re: Glucerna/Ensure; Kouten; w/ Kmart re: Medication</i>	5.50
01/29/09	<i>Go to Bank to Notarize accounting; Get Copies; Calls to/from Alice (6); Telephone conferences w/ JHC; email to</i>	3.25
01/30/09	<i>Telephone calls to JHC; Call to Alice (4); Pay Bills</i>	2.00
01/31/09	<i>Call to/from Alice(5); Calls to JHC</i>	1.25
02/01/09	<i>Call to/from Alice(11); Correspondence to Dr. Rosen; Calendaring; Paperwork re: citibank; Call to Dr. Schweiger; Kmart</i>	2.75
02/02/09	<i>Telephone calls to JHC; Telephone calls to/from Alice (6); Go to Bank; deposit; Pay bills</i>	2.50
02/03/09	<i>Call to Alice; Calls to JHC; Correspondence to JHC re: Billings; Review Citibank documents; ; email from Sagas</i>	1.00
02/04/09	<i>Calls to/from Alice (5); Go to Bank deposit; Pay Bills; Telephone calls to banks and deferred compensation; correspondence to Bank of America; Correspondence to First Federal and South Carolina; Go to Social Security office</i>	4.75
02/05/09	<i>Telephone call to Alice; Wachovia; Correspondence to Wachovia; Correspondence to State Compensation, complete withholding certificate; Telephone calls to JHC; email from acct.</i>	1.25
02/06/09	<i>Telephone calls to/from Alice (3); Go to Bank; deposit</i>	1.00
02/07/09	<i>Calls to/from Alice (5); Letter to Dr. Schweiger re: Seroquel; and Home Health</i>	1.50
02/08/09	<i>Calls to/from Alice (5); Spoke w/ Katherine re: Intrepid Home Health; to speak w/ Penny LaMace; Call to JHC re: Doris Thees</i>	1.50

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

02/09/09	Call to JHC; Calls to/from Alice (12); Correspondence to Blessed Sacrament; Correspondence to Dr. Schweiger; emails re: hours; Review letter to Doris Thees	2.50
02/10/09	Discuss contributions w/ Alice (4); Start making contributions to animal charities	1.25

02/11/09	Call to/from Alice; Review bank statements; Call AT&T; Pay Bills	2.00
02/12/09	Calls to Alice(3); Calendaring for 2 nd half of February; Review bank statements	1.50
02/13/09	Calls to JHC; Calls to/from Alice (8); W/ caregivers re: Availability	1.50
02/14/09	Arrange for Dinner through Mannys; Numerous calls from Alice(13), Caregivers, Lifeline, and Police; Arrange Travel to South Carolina; arrange for sitters	4.50
02/15/09	Calls to JHC; Go to Hospital; speak to nurses; doctors; arrange for food; visit with Alice; Stay with Alice to help her; arrange for sitters; Pay off caregivers; go to Wachovia; Telephone Wachovia	13.00
02/16/09	Visit Alice at hospital; talk to Doctors; Calls to JHC	12.00
02/17/09	Visit Alice; Calls to JHC (3); Message w/ Dr. Coon re: Pneumonia; Dr. Brice re: Biopsy; w/ Sherry in ICU; Travel back to California	2.50
02/18/09	Calls to JHC; Calls to Alice (3); Review Bank of America statements; Call Bank of America re: checks; Review correspondence from South Carolina Deferred Compensation Program; Call to ATC	1.50
02/19/09	Calls to Alice at hospital; Calls to JHC; speak to Nurses and Doctors; Make contributions to charities; Call to Credit card company; Go to Post office; Call to Maxim	2.75
02/20/09	Calls to Alice and hospital; caregivers; arrange for Sitters	1.25
02/21/09	Calls to Alice and hospital; caregivers; arrange for Sitters	1.25
02/22/09	Call to Alice and Hospital; Caregivers; Arrange for Air ambulance; Faxes;	2.50

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

02/23/09	<i>Calls to Alice and Hospital; to Banks; Pay bills</i>	1.25
02/24/09	<i>Telephone calls to Alice; make payment; Pay Caregivers/sitters; Travel to South Carolina; arrange to have medical room set up; call to agencies for caretakers; call to Betty to assist w/ supplies</i>	3.00
02/25/09	<i>Arrive at hospital to travel to California; Go to pharmacy to get medication; deal w/ nurses; air ambulance; Peter Kouten; doctors; request hospice at home due to problems w/ Air Ambulance; call to California hospitals Alice dies. Have to rush to house, because Bessie Huckabee and the caretakers get the keys from Candy; They remove property from the house; arrange for locksmith; change all locks</i>	18.00
02/26/09	<i>Check house; arrange for caretaker; safety precautions for home (reduced); arrange for pre-need, call to funeral home, hospital, etc.</i>	6.00
		445.15

POST DEATH

02/27/09	Call Citibank re: transfer; Talk to Caregivers re: house; Review documents in house; search for missing documents	4.25
03/01/09	Review invoice from Maxim	.10
03/02/09	Transfer from the bank	.25
03/09/09	Go to Bank; Transfer money over for accounting; Go to Social Security repay monies	2.00
03/09/09	Go to Bank; Deposit Citibank transfer	1.00
03/14/09	Review bank statement; Call Bank of America re: promo checks; make sure account closed	.25
03/16/09	Pay Chase bill; misc. billings	.25
03/18/09	Finalize Tax forms; go to Social security for 1099; Pay off Back pay	2.00
04/01/09	Call to JHC	.10
04/10/09	Review Bank statements	.10
04/21/09	Close out Medical billing re: Value Medical; pay billings	.10

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

04/30/09	Review billing from Accountant; pay	.10
05/06/09	Review Bank Statement; Tax Refund deposited; Conference w/ JHC; Attend hearing	3.00
05/13/09	Review Order	.10
05/14/09	Review statutory compliance letter; review emails; review faxed letter re: Edward Jones	.10
05/15/09	Emails re: Edward Jones	.25
05/18/09	Go to Bank and deposit Discover refund and State Tax Refund	.25
05-26-09	Finalize accounting; go to Notary; fed ex to JHC for filing	2.00
06-30-09	Go to Social Security re: overpayment	1.50
02-27-09 through 07-01-09	Ensure that house is protected; check on status; caregiver; lawn care (reduced)	3.00
		20.7

08-08 THROUGH 02-26-09	445.15
POST DEATH	20.7
	465.85

Billing

Guardianship of/Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

REQUESTED REIMBURSEMENT FOR TRAVEL

TRAVEL EXPENSES:

09/08	Airfare-Delta	\$1544.84
10/08	Airfare-Delta	\$1925.22
11/08	Airfare-Delta	\$1449.43
12/08	Airfare-Delta	\$3357.19
01/13/09	Airfare-Delta	\$369.90
02/14/09	Airfare-Delta	\$387.21
02/17/09	Airfare-Delta	\$382.71
02/26/09	Airfare-Delta	\$1,073.70
		10490.2

Car Expenses:

10/30/08	Avis Rent A car	\$219.04
	Gas	\$12.07
11/20/08	Best Western	\$71.94
11/21	Avis	\$178.65
12/19	Sunoco	\$7.38
12/19	Best Western	\$68.57
12/26	Hertz	\$185.09
12/27	Holiday Inn	\$159.64
12/19	Avis	\$71.42
01/3	Best Western	\$155.70

Billing

Guardianship of /Conservatorship of Alice Shaw Baker
Case No: 2008-GC-10-088

01/2	Kangaroo Express	\$8.52
01/0	Thrifty Car	\$118.29
02/14	Best Western	\$62.32
02/17	Thrifty	\$94.67
02/17	Citgo -gas	\$9.00
		1422.3

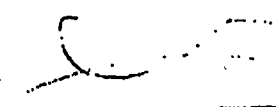
**EXPENSES FOR BETTY FISHER TO TRAVEL TO SOUTH CAROLINA FOR TRIAL
AND CHRISTMAS**

\$2201.00

VERIFICATION

COMES NOW Lisa Fisher who deposes and says:

1. My name is Lisa Fisher.
2. I am a citizen of the United States, over 18 years of age, and of sound mind.
3. I have read the foregoing **MOTION FOR APPROVAL OF FEES AND EXPENSES OF GUARDIAN CONSERVATOR and MEMORANDUM IN SUPPORT** and know the contents of thereof and the same are true to the best of my knowledge, except as to the matters therein stated to be on information and belief, and as to those matters I believe them to be true.
4. The sources of my information and the grounds of my belief are my personal knowledge and documents in my possession.
5. Further affiant sayeth naught.



Lisa Fisher

Long Beach, California
July 16th, 2009

[See Attached Notarization]

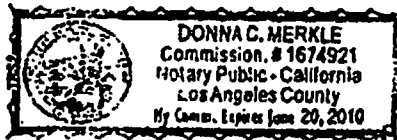
JURAT

STATE OF CALIFORNIA

COUNTY OF Los Angeles

Subscribed and sworn to (or affirmed) before me on

this 16th day of July 2008, by Lisa Fisher proved to me on the basis of
satisfactory evidence to be the person who appeared before me.



Signature Donna C. Merkle

(seal)

STATE OF SOUTH CAROLINA) IN THE PROBATE COURT
COUNTY OF CHARLESTON) COMMITMENT DIVISION
CASE NO.: 2008-GC-10-88

ELISBETH SPENCER,)

Petitioner,)

vs.)

ALICE SHAW-BAKER,)
an alleged incapacitated)
person, and)
LISA FISHER,)
her next of kin,)

Respondents.)

LISA FISHER'S
MOTION TO ALTER OR AMEND THE
ORDERS FREEZING ASSETS
DATED 10/14/11

FILED
11 OCT 20 PM 1:59
PROBATE COURT
CHARLESTON COUNTY

COMES NOW Lisa Fisher ("Ms. Fisher"), by and through her undersigned attorneys, and respectfully moves this Honorable Court pursuant to Rule 59(e), SCRPC, to Alter or Amend the Court's four Orders dated October 14, 2011 ("Orders Freezing assets"),¹ specifically relating to Wachovia account, Edward Jones Investments, Farmers & Merchants Account, and Bank of America Account, and its order that J. Heyward Harvey Jr. takes control of the accounts.

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¹ The individual Orders Freezing Assets are specifically referenced in the October 14, 2011 Order Denying Motions for Reconsideration and Opposition of Probate Court Order Appointing Special Fiduciary Motion to Strike and Renewed Motion for Approval of Expenses of Guardian And Conservator. For clarity and to preserve Ms. Fisher's objections, this Order seeks to alter or amend all Orders Freezing Assets.

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Background

1. On October 7, 2011, Ms. Fisher filed a Motion for Reconsideration and Opposition of Probate Court Order Appointing Special Fiduciary, Motion to Strike. Ms. Fisher sought reconsideration of the Court's order dated September 28, 2011 appointing J. Heyward Harvey, Esq.
2. Ms. Fisher contended, in part, that this court does not have jurisdiction to appoint a Special Fiduciary when there are pending Motions for Appointment of Special Administrator in the Circuit Court.
3. Further, Ms. Fisher argued that despite discharge as conservator, she has an affirmative duty to maintain and protect estate assets until the final determination of the "duly appointed" personal representative.
4. Alice Shaw Baker revoked the Will naming Bessie Huckabee, executor. Therefore, Bessie Huckabee has a non-waivable conflict of interest and pending determination by the Supreme Court, she is not an interested party. Her interference with the estate is causing unnecessary losses to the Estate, which is meant to benefit Animal charities.
5. The focus of this motion relates to the freezing orders which were ordered sue sponte.

6. In light of the fact that there was no hearing, there is no support for the court's findings which imply wrongdoing by Ms. Fisher.²
7. Moreover, the Court's order freezing assets unreasonably and illegally seeks to freeze assets in the "name of Lisa Fisher" individually, without cause, without notice, and without a hearing in violation of Due process, equal protection, the Takings Clause, and the statutory scheme.
8. If said order is allowed to stand, Ms. Fisher's individual funds, her client trust accounts, and/or other monies, will be frozen along with conservator funds.

Facts

1. On or about August 14, 2008, Lisa Fisher, Esquire ("Ms. Fisher") began assisting her great aunt, Alice Shaw-Baker ("Ms. Shaw-Baker"), regarding the above-captioned matter.

² It is well settled that "A judge's impartiality might reasonably be questioned when his [or her] factual findings are not supported by the record." *Simpson v. Simpson*, 660 S.E.2d 274, 377 S.C. 519 (S.C.App. 02/08/2008).

In this instance, this court did not make any factual findings supporting the sua sponte orders freezing the accounts. No party brought this motion, filed affidavits in support of it, or provided any legal ground for this court to interpose its own orders while there is a pending appeal.

2. On October 29, 2008, this Court appointed Ms. Fisher as Ms. Shaw-Baker's Guardian and Conservator.
3. Ms. Fisher assisted Ms. Shaw-Baker with her expressed and primary goal to stay in her home, and avoid placement in an institution.
4. Ms. Fisher handled Ms. Shaw-Baker's many financial, elder care, and medical needs, and she attended Ms. Shaw-Baker's appointments with her doctors, her geriatric psychiatrist, and her neuropsychologist. She provided her with emotional support and companionship, taking her to the beauty parlor, shopping, movies, lunches, and sharing the holidays with Ms. Shaw Baker.
5. Ms. Fisher remained Guardian until Ms. Shaw-Baker's death on February 25, 2009 and remained Conservator until termination of the Conservatorship on May 11, 2009.
6. After termination of the Conservatorship, through a series of orders by this Court, Ms. Fisher's time to turn over the assets of the Conservatorship was extended due to litigation in Case Number 2009-ES-10-3010 regarding the appointment of the Personal Representative of Ms. Shaw-Baker's estate.
7. Ms. Fisher has taken care of Alice Shaw Baker's assets pending final determination by the Appellate and now the Supreme Court. She has at all times acted in good faith.

So this Court's order not only improperly freezes her individual accounts, but implies that Ms. Fisher has engaged in some wrongdoing without notice or a hearing, and without evidence.

Law

Probate Code Provides that a Conservator Must Retain Estate Property for Delivery to a "Duly Appointed" Personal Representative

1. The South Carolina Probate Code Section 62-5-425 (d) provides:

"(d) If a protected person dies, the conservator shall ... retain the estate for delivery to a duly appointed personal representative of the decedent or other persons entitled thereto..." (Emphasis added)

2. Also, the South Carolina Probate Code section 62-7-707 provides that: "(a) Unless a cotrustee remains in office or the court otherwise orders, and until the trust property is delivered to a successor trustee or other person entitled to it, a trustee who has resigned or been removed has the duties of a trustee and the powers necessary to protect the trust property." (Emphasis added)

3. This emphasizes the statutory scheme which provides for a continuing duty of a fiduciary/conservator to hold property until it can be delivered to the proper person.
4. "Statutes, as a whole, must receive practical, reasonable, and fair interpretation, consonant with the purpose, design, and policy of lawmakers." *Collins Music Co., Inc. v. IGT*, 365 S.C. 544, 550, 619 S.E.2d 1, 3 (Ct. App. 2005) (quoting *TNS Mills, Inc. v. South Carolina Dep't of Revenue*, 331 S.C. 611, 624, 503 S.E.2d 471, 478 (1998)). Courts will reject a statutory interpretation which would lead to a result so plainly absurd that it could not have been intended by the legislature or would defeat the plain legislative intention. *Jones*, 364 S.C. at 230, 612 S.E.2d at 723 (citing *Unisun Ins. Co. v. Schmidt*, 339 S.C. 362, 368, 529 S.E.2d 280, 283 (2000))."
5. Here, in light of the orders extending the time to turn over the assets of the Conservatorship, Ms. Fisher has at all times acted appropriately, and in furtherance of the statutory scheme to protect the property of Ms. Shaw Baker.
6. Bessie Huckabee cannot now object that the Estate is not protected. Over two years have passed since Ms. Shaw Baker's death. Had Ms. Fisher not acted pursuant to the statutory duties outlined in 62-5-425 (d), and protected the Estate, it would have sustained losses.

The Doctrine of Laches Supports Ms. Fisher's Continued
Protection of the Estate

7. Under *Hallums v. Hallums*, 296 S.C. 195, 198-99, 371 S.E.2d 525, 527 (1988), the doctrine of "Laches" is defined as "neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done."

(Emphasis added)

8. Here, Bessie Huckabee knew that Ms. Shaw Baker owned real property, required insurance, and was in fact, the named Agent under both the Power of attorney for finances and healthcare. Bessie Huckabee abandoned Ms. Shaw Baker in her time of need, so Ms. Fisher helped her great aunt.
9. Therefore, Bessie Huckabee not only waived the argument that the property was not being properly taken care of, but consented to Ms. Fisher's continued protection of the estate pending final determination on Appeal by the doctrine of laches.
10. The disingenuous argument that Ms. Fisher was required to merely hold the assets pending transfer ignores the potential problems that would have resulted:
- a. No taxes would have been paid on the real property leaving it vulnerable to a Tax sale;

- b. Insurance would have lapsed;
- c. No Estate tax returns would have been filed
subjecting the Estate to fines and penalties;
- d. And the value of the real property would have been
dissipated.

This Probate Court Lacks Jurisdiction to Hear this matter, in
light of the fact that the Circuit Court has Control over the
Estate Matter.

11. Since this probate matter was removed to the Circuit
Court, once the conservatorship was terminated, any
recourse regarding the assets would be in the Circuit
Court. (Emphasis added) However, Bessie Huckabee forced
this action back to this Probate Court and avoid the very
protections that Alice Shaw Baker's heir at law, Betty
Fisher, sought by Removal of the Probate action to the
Circuit Court.

12. Ms. Fisher repeats her contention that this court does
not have any jurisdiction. This court's jurisdiction under
South Carolina Probate Code 62-5-102 ended upon the death
of Ms. Shaw Baker, and now authority is conferred in the
Circuit Court as it administers the decedent's probate.

//

No Party Sought these Orders Freezing Assets.

13. It is well settled that an order freezing the accounts is in the nature of an injunction. Grosshuesch v. Cramer, 367 S.C. 1, 5, 623 S.E.2d 833, 835 (2005) (interpreting order freezing assets as an injunction).
14. To obtain an injunction, a party must demonstrate irreparable harm, a likelihood of success on the merits, and the absence of an adequate remedy at law. County of Richland v. Simpkins, 348 S.C. 664, 669, 560 S.E.2d 902, 904 (Ct. App. 2002).
15. In this case, no party requested any orders freezing Ms. Shaw Baker's assets, and pending final resolution of this matter, the Orders place Ms. Shaw Baker's property in jeopardy. Ms. Fisher has maintained the property, and ensured that it is safe and secure. Allowing the property to sit, unmaintained, while strangers to the Estate, here-- Bessie Huckabee, fight over property that rightfully belongs to Alice Shaw Baker's intended beneficiaries, Animal Charities, would be harmful.

//

//

Due Process, Equal Protection, and the Takings Clauses Under the Constitution Prohibit the Imposition of the Order Freezing Assets

16. The orders of October 14, 2011 improperly seek to freeze Ms. Fisher's bank accounts, even those not held on behalf of the conservatorship. These orders are done without notice, include factual findings where no evidence was produced at the hearing and seek to invade Lisa Fisher's financial privacy and interfere with her ability to maintain her expenses.
17. The orders are in violation of Due Process laws. The requirements of due process include notice and an opportunity to be heard. *S.C. Dep't of Soc. Serv. v. Holden*, 319 S.C. 72, 78, 459 S.E.2d 846, 849 (1995).
18. Ordering the freezing of these accounts without a hearing or evidence also denies Ms. Fisher equal protection, and treats her differently from other similarly situated citizens who have served as Guardians and Fiduciaries thereby violates the Equal Protection Clauses of the United States and South Carolina Constitutions. U.S. Const. Amend. 14; S.C. Const., Art. I, § 3.
19. Freezing Ms. Fisher's personal and trust fund accounts also constitute a taking under both the South Carolina and United States Constitutions. U.S. Const. Amend. V; S.C. Const. Art. I, § 13(A); See Ex Parte Brown, 393 S.C. 214,

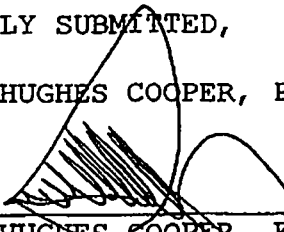
711 S.E.2d 899 (2011) (holding that a court-appointed attorney's service is property for purposes of the Takings Clause).

Motion

WHEREFORE, Lisa Fisher respectfully moves this Honorable Court pursuant to Rule 59(e), SCRPC, to Alter or Amend its October 14, 2011 Orders Freezing Assets.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By: 

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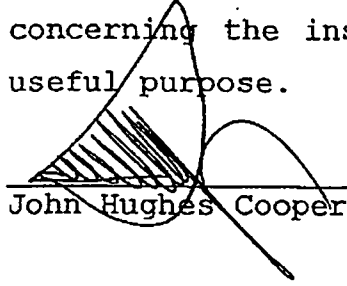
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ATTORNEYS FOR LISA FISHER

AFFIRMATION OF CONSULTATION

I hereby affirm that consultation with opposing counsel concerning the instant Motion to Alter or Amend would serve no useful purpose.



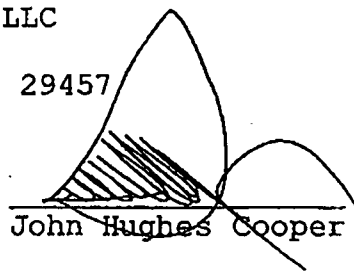
John Hughes Cooper

CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2011 a copy of the foregoing was served upon all counsel of record by email and by first class mail as follows:

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John Hughes Cooper

THE STATE OF SOUTH CAROLINA

In the Court of Court of Common Pleas

APPEAL FROM CHARLESTON COUNTY
Probate Court

Tamara C. Curry, Associate Judge of Probate

Case No. 2008-GC-10-088

Betty Fisher.....Appellant

v.

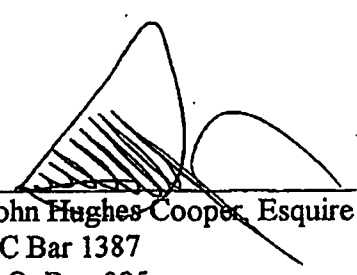
Bessie Huckabee.....Respondent

NOTICE OF INTENT TO APPEAL

Betty Fisher files this notice of intent to appeal pursuant to South Carolina Probate Code, section 62-1-308. This notice directly appeals the orders of the Honorable Tamara C. Curry dated September 28, 2011 appointing Special Fiduciary and October 14, 2011 denying Ms. Fisher's Motion to Set Aside Void Probate Court Order.

Appellant received written notice of entry of the September 28 order on September 29, 2011 and Appellant received written notice of entry of the October 14 order on October 24, 2011.

October 25, 2011



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11 OCT 25 PM 2:22
PROBATE COURT

and

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THE STATE OF SOUTH CAROLINA

In the Court of Court of Common Pleas

APPEAL FROM CHARLESTON COUNTY
Probate Court

Tamara C. Curry, Associate Judge of Probate

Case No. 2008-GC-10-088

Lisa Fisher.....Appellants

v.

Bessie Huckabee.....Respondent

NOTICE OF INTENT TO APPEAL

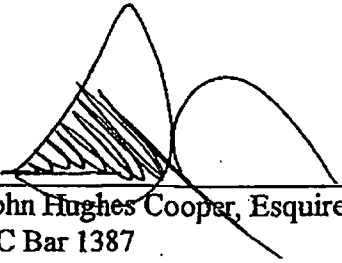
Lisa Fisher files this notice of intent to appeal pursuant to South Carolina Probate Code, section 62-1-308. This notice appeals the orders of the Honorable Tamara C. Curry:

- 1) Order dated September 28, 2011 Appointing Special Fiduciary;
- 2) Order dated September 28, 2011 Denying Lisa Fisher's Motion to Strike and Opposing the Motion Appointing Special Fiduciary;
- 3) Order dated October 14, 2011 denying Lisa Fisher's Motion for Reconsideration of the September 28, 2011 order;

Appellant received written notice of entry of the September 28 orders on September 29, 2011 and Appellant received written notice of entry of the October 14 order on October 24, 2011.

11 OCT 25 PM 2:22
PROBATE COURT

October 25, 2011



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THE STATE OF SOUTH CAROLINA

FILED

In the Court of Court of Common Pleas

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PROBATE COURT
CHARLESTON COUNTY

APPEAL FROM CHARLESTON COUNTY
Probate Court

Tamara C. Curry, Associate Judge of Probate

Case No. 2008-GC-10-088

Lisa Fisher.....Appellants

v.

Bessie Huckabee.....Respondent

NOTICE OF INTENT TO APPEAL

Lisa Fisher files this notice of intent to appeal pursuant to South Carolina Probate Code, section 62-1-308. This notice appeals the orders of the Honorable Tamara C. Curry:

- 1) Order dated November 9, 2011 entitled "Denial of Motion to Alter or Amend the Orders Freezing Assets Dated October 14, 2011", including but not limited to all of the orders that J. Heyward Harvey retains control of the assets in the name of the Alice Shaw-Baker Conservatorship and Lisa Fischer [sic] Conservatorship."
- 2) Order dated November 9, 2011 entitled "Denial of Motion to Alter or Amend Denial of Renewed motion for Approval of Fees and Expenses of Guardian and Conservator."

Appellant received written notice of entry of these orders on November 21, 2011.

2011 DEC 09 PM 04:07

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THE STATE OF SOUTH CAROLINA

In the Court of Court of Common Pleas

APPEAL FROM CHARLESTON COUNTY
Probate Court

Tamara C. Curry, Associate Judge of Probate

Case No. 2011-CP-10-7819

Betty Fisher.....Appellants

v.

Bessie Huckabee.....Respondent

STATEMENT OF GROUNDS BY APPELLANT BETTY FISHER
SUPPORTING HER APPEAL FILED ON OCTOBER 25, 2011
SEEKING TO VOID PROBATE ORDERS IN CASE 2008-GC-088

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Appellant Betty Fisher files these Statement of Grounds supporting her Appeal filed on October 25, 2011 seeking review of the Probate Orders of the Honorable Tamara C. Curry dated September 28, 2011 appointing Special Fiduciary and October 14, 2011 denying Appellant's Motion to Set Aside Void Probate Court Order:

STATEMENT OF GROUNDS ON APPEAL
PURSUANT TO S.C. CODE ANN. § 62-1-308 (a)

- 1) Did the Probate Court have jurisdiction to Appoint a Special Fiduciary in light of the Pending Appeal in the Supreme Court?
- 2) Is the Order Appointing a Special Fiduciary Void because Huckabee failed to provide Betty Fisher with the statutorily and constitutionally required notice of her intent to seek appointment of the Appointment of Special Fiduciary?
- 3) Is the Order Appointing a Special Fiduciary Void because Huckabee has no standing to bring said motion when Alice Shaw Baker revoked the Will naming her personal representative?

Further, Appellant Betty Fisher joins in Lisa Fisher's Statement of Grounds, and requests that the court consider these issues in her appeal.

December 8, 2011



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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF APPELLANT'S
STATEMENT OF GROUNDS

Appellant Betty Fisher ("Appellant") submits these points and authorities in support of her *Statement of Grounds* filed pursuant to S.C. Code Ann. § 62-1-308 (a). The *Notice of Intent to Appeal*, timely filed on October 25, 2011, directly attacks the appointment of a third party *Special Fiduciary* without notice and an opportunity to be heard by Appellant.

Due to the fact that the procedural requirements for a circuit court appeal are vague (i.e. no briefing schedule under S.C. Code Ann. § 62-1-308 (d)), Appellant is unable to refer to the record.

I.
STATEMENT OF THE CASE

On February 25, 2009, Alice Shaw Baker died. Her great niece, Lisa Fisher, Esquire, had helped her since involuntary commitment proceedings were initiated without notice to her family, including her niece, Appellant Betty Fisher ("Appellant"). Though she was already conserved, the family rushed to her side. After a hearing, on October 29, 2008, Lisa Fisher was appointed her guardian and conservator.

Appellant visited with Ms. Shaw Baker before her death, and knew that she had revoked her Will, and reaffirmed her desire that all of her property benefit these animal charities.

After Ms. Shaw Baker's death, Appellant initiated litigation on April 27, 2009 in the Charleston County Probate Court and removed it to the Charleston County Court of Common Pleas on May 13, 2009 (Case no. 2009-CP-10-3010). These Proceedings included Alice Shaw Baker's family's attack of the validity of the informal appointment of Respondent Bessie Huckabee ("Respondent"), the Will Contest, the appointment of a Special Administrator, the effect of Attorney Peter Kouten's ex-parte communication in the lower court proceedings, and bond provisions. These issues are currently on Appeal before the South Carolina Supreme Court.

After nearly three years of preservation of the status quo by Appellant's daughter Lisa Fisher, while these matters are before the Supreme Court. Respondent filed her *Motion for Special Fiduciary*. At no time was Appellant served with her statutory and constitutional notice of the motion or the proceedings.

Respondent knew of her existence, and knew that the appointment of a Third Party Special Fiduciary, would affect the Estate litigation and was contrary to Ms. Shaw Baker's desires that the monies be used for Animal Charities.

Appellant filed her *Motion to Set Aside the Void Order of September 28, 2011*, which the Probate Court denied.

By this Appeal, Appellant attacks the Probate Court's orders of September 29, 2011 and October 14, 2011 appointing J. Heyward Harvey, Esquire as Special Fiduciary and denying Appellant's Motion to Void Orders.¹ The Appointment of the Special Fiduciary without notice to Appellant was in violation of Appellant's Due

¹ This order includes findings not requested in the original motion and includes the court's sua sponte appointment of Heyward Harvey, without providing the parties with any information about Mr. Harvey and/or allowing the parties to object. Appellant had no ability to determine prejudice and/or conflict of interest. This is an unnecessary cost to the estate and in direct contravention to the desires of the decedent that her monies be used to benefit animal charities.

The order requires the Special Fiduciary Heyward Harvey to:

"receive all assets held by Lisa Fisher within fifteen days of execution of this Order. That Mr. Harvey:

- a. marshall all assets, review accounts and 2009 and 2010 accountings with the powers and discretions as authorized by law with regard to same.
- b. seek formal approval of the final accounting and 2009 and 2010 accountings with authority to amend same, if necessary and further, seek to close the conservatorship estate.
- c. review needs for maintenance, taxes and insurance on real property with authority over same.
- d. maintain authority and control over all estate assets.
- e. keep records of his time devoted to this file and seek approval of his fees through separate order of this Court and it is further."

Appellant contends that in light of the pending litigation in the Estate matter, this motion was improper on its face and she should not be forced to litigate the matter while there is a pending matter on Appeal. Appellant is fighting to preserve her Aunt's wishes that all monies benefit Animal Charities in the Estate matter, in light of the revoked will, Bessie Huckabee's interference prior to final determination in this matter is improper.

Process and Equal Protection rights and require immediate reversal.

II. ARGUMENT

A. Standard of Review

It is well settled that the standard of review for Appeals from the probate court are governed by the provisions of the Probate Code. (*Matter of Howard*, 315 S.C. 356, 360, 434 S.E.2d 254, 256 (1993).) The Probate Code provides that a final order or decree of the probate court may be appealed to the circuit court. (S.C. Code Ann. § 62-1-308 (2009).)

Moreover, an issue regarding statutory interpretation is a question of law. (*Univ. of S. Cal. v. Moran*, 365 S.C. 270, 274-75, 617 S.E.2d 135, 137 (Ct. App. 2005).

If the proceeding in the probate court is in the nature of an action at law, neither the circuit court nor the appellate court may "disturb the probate court's findings of fact unless a review of the record discloses there is no evidence to support them." (*Neely v. Thomasson*, 365 S.C. 345, 349-50, 618 S.E.2d 884, 886 (2005).)

- 1) THE PROBATE COURT DID NOT HAVE JURISDICTION TO HEAR THIS MATTER, BECAUSE OF THE PENDING APPEAL.

Appellant contends that the Probate Court had no jurisdiction to hear this matter, because when a matter is on appeal the lower court loses jurisdiction pursuant to Rule 203, SCACR:

"Upon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal; the lower court or administrative tribunal shall have jurisdiction to entertain petitions for writs of supersedeas as provided by Rule 241. Nothing in these Rules shall prohibit the lower court, commission or tribunal from proceeding with matters not affected by the appeal. (Rule 205, SCACR, emphasis added.)

Further, pursuant to S.C. Code Ann. § 62-1-308 (c):

" When an 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." (Emphasis added)

There is currently on appeal the issue of the proper appointment of the personal representative and the appointment of the special administrator, thus the Probate Court had no

jurisdiction to interfere with the Supreme Court's jurisdiction.

It is well settled law that a court can not interfere with another court's order which is subject to the pending litigation.

(See Rule 60, SCACR; See also *Dukes & Dukes v. Hygrade Food Products*, 236 S.C. 69 (1960).)

Therefore, any and all orders issued in relationship to the Motion for Special Fiduciary must be reversed.

- 2) THE ORDER APPOINTING A SPECIAL FIDUCIARY IS VOID, BECAUSE HUCKABEE FAILED TO PROVIDE BETTY FISHER WITH THE STATUTORY AND CONSTITUTIONALLY REQUIRED NOTICE OF HER INTENT TO SEEK APPOINTMENT OF THE APPOINTMENT OF SPECIAL FIDUCIARY

Appellant contends that there is no statutory authority under the law governing conservatorships for appointment of a Special Fiduciary—that the Court's expansive view of Trust law actually constituted an improper interference by the Court in Estate property in a decedent's estate and acted as unwarranted "removal proceedings" of Lisa Fisher.

Respondent's reliance on South Carolina Code Ann. § 62-7-704(e) can not interfere with the Appellate Jurisdiction of the Supreme Court. Currently the matter is on appeal about the very appointment of Respondent Huckabee, as personal representative (and the appointment of a potential special administrator). Therefore, Lisa Fisher must wait to determine the appropriate person to deliver the property.

The law governing a conservatorship is set forth in § 62-5-425(d) provides in pertinent part:

"If a protected person dies, the conservator shall deliver to the court for safekeeping any will of the deceased protected person which may have come into his possession, inform the executor or a beneficiary named therein that he has done so, and retain the estate for delivery to a duly appointed personal representative of the decedent or other persons entitled thereto...." (Emphasis added)

Under this scenario, the controlling issue is who is duly appointed and/or entitled to delivery of the property.

However, even if trust law did control, the motion brought by Respondent would require notice as follows pursuant to § 62-7-704(e):

"(e) Whether or not a vacancy in a trusteeship exists or is required to be filled, the court may appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust. The procedure for such appointment and the notice requirement shall be the same as set forth for special administrators under South Carolina Code Section 62-3-614." (Emphasis added)

Thus, §62-7-704(e) and § 62-3-614 required Huckabee to provide notice to Betty Fisher. The notice required is the type contemplated by § 62-1-401 which requires 20 days notice and a hearing.

The notice required is the same as for appointment of a special administrator:

"A special administrator may be appointed:

(1) informally by the court on the application of an interested person when necessary:

(a) to protect the estate of a decedent prior to the appointment of a general personal representative or if a prior appointment has been terminated as provided in Section 62-3-609; or

(b) for a creditor of the decedent's estate to institute any proceeding under Section 62-3-803@;

(2) in a formal proceeding by order of the court on the petition of any interested person and finding, after notice and hearing, that appointment is necessary to preserve the estate or to secure its proper administration including its administration in circumstances where a general personal representative cannot or should not act. If it appears to the court that an emergency exists, appointment may be ordered without notice." (See S 62-3-614)

In light of the fact that there was no evidence presented at trial, no testimony, and no opportunity to be heard, there could be no support for the finding of an "emergent" situation warranting the Appointment of a Special Fiduciary without notice.

Moreover, the fundamental requirements of due process under the South Carolina and United States Constitutions include notice and an opportunity to be heard. (See U.S. Const. amends. V and XIV, S 1; S.C. Const. art. 1, S 22; S.C. Dep't of Soc. Serv. V. Holden, 319 S.C. 72, 78, 459 S.E. 2d 846, 849 (1995).) Appellant as the family member of Alice Shaw Baker had a right to object to the improper interference of Respondent Huckabee into the Estate

of Alice Shaw Baker, however the lack of notice prevented her from exercising this right.

A void judgment is one that from its inception is a complete nullity and without legal effect. (*Thomas v. Howard Co. & T.W. Graham and Co.*, 318 S.C. 286, 291, 457 S.E.2d 340, 343 (1995).)

It is fundamental that no judgment or order affecting the rights of a party to the cause shall be made or rendered without notice to the party whose rights are to be affected. (*Tyron Fed. Sav. & Loan Ass'n v. Phelps*, 307 S.C. 361, 362, 415 S.E.2d 397, 398 (1992).)

In proceedings in the probate court where notice is required, an order is binding only as to persons given notice of the proceedings. (See S.C. Code Ann. § 62-3-106).

Appellant, Betty Fisher, the niece of Alice Shaw Baker and litigant in the Will Contest, etc. action did not receive actual notice. The Attorney General, on behalf of animal charities, did not receive actual notice.

This failure and refusal by Respondent to give notice to persons entitled to notice deprived them from objecting to the appointment of a Special Fiduciary. It also deprived them from inquiry into the cost, conflict of interest, and role of a Special Fiduciary.

This court's unilateral choice of an "unknown" fiduciary, without opportunity to review his record and/or object is improper and mandates reversal in this case.

- 3) THE ORDER APPOINTING A SPECIAL FIDUCIARY IS VOID, BECAUSE HUCKABEE HAS NO STANDING TO BRING SAID MOTION WHEN ALICE SHAW BAKER REVOKED THE WILL NAMING HER PERSONAL REPRESENTATIVE.

The statutory definition for an "interested party" in a Probate matter is set forth in S.C. Code Ann. § 62-1-201(20).

"Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding. (Emphasis added)

Bessie Huckabee had no standing while Ms. Shaw Baker was alive to involve herself in the conservatorship (S.C. Code § 62-5-309), and Appellant contends that the statutory language and facts of this case preclude her from intervening and attempting to gain favor in the Probate Court by their forum shopping.

The language governing Trusts also makes clear that she did not have standing to bring the motion as a "representative" because it amounted to a removal and only a beneficiary can exercise this right. (See S.C. Code Ann. § 62-7-706 ["a beneficiary may request the court to remove a trustee, or a trustee may be removed by the court on its own initiative."]) Here, the court did not "remove" Lisa Fisher on its own initiative, it was at the insistence of Respondents and in a assault of Lisa Fisher's character without evidence or testimony and without cause.

Due to their lack of standing, both Respondent and Kay Passailague are merely interlopers who have now caused Appellant to incur costs to protect Alice Shaw Baker's Estate, where her daughter Lisa Fisher was properly protecting the assets pending final resolution in the Supreme Court.

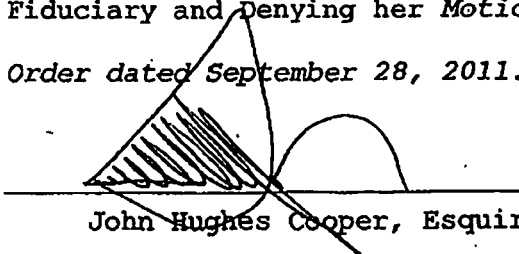
The language of S.C. Code Ann. § 62-1-201(20) makes it clear that the role of an interested party may "vary from time to time" in litigation. Here, while the matter is on Appeal, the issue of Standing of Respondent is also on appeal. Therefore, any order's from the Probate Court in this matter is precluded and constitutes an improper interference with the Circuit Court's jurisdiction. (See S.C. Code Ann. § 62-1-302)

To allow Respondent to come in, seek the appointment of a third party, whose very appointment will squander away funds rightfully held for the protection of the animals, is inherently wrong.

Ms. Shaw Baker's life was about animals and their protection. Respondent Huckabee must not be allowed to interfere with the protection and preservation of these assets. It doesn't take the wisdom of Solomon to understand that a Third Party Fiduciaries appointment, necessitates additional fees and costs to the estate, including attorney fees--all causing unnecessary waste to the estate.

Appellant respectfully requests that the court reverse the Order Appointing Special Fiduciary and Denying her Motion to Set Aside Void Probate Court Order dated September 28, 2011.

December 9, 2011



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CERTIFICATE OF SERVICE

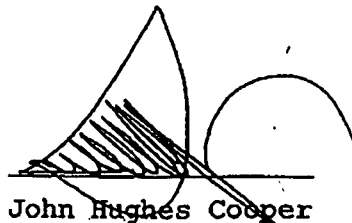
I hereby certify that on December 9, 2011 we served a copy of the STATEMENT OF GROUNDS BY APPELLANT BETTY FISHER SUPPORTING HER APPEAL FILED ON OCTOBER 25, 2011 SEEKING TO VOID PROBATE ORDERS IN CASE 2008-GC-088 upon all counsel of record by first class mail as follows:

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John Hughes Cooper

1 STATE OF SOUTH CAROLINA IN THE PROBATE COURT
2 COUNTY OF CHARLESTON 2008-GC-10088

3
4 IN THE MATTER OF ALICE SHAW-BAKER

5 ORIGINAL
6
7
8
9

10
11 BEFORE: THE HONORABLE TAMARA C. CURRY

12 DATE: August 17, 2011

13 TIME: 10:34 a.m.

14 LOCATION: Charleston County Probate Court
15 100 Broad Street, Room 3C
Charleston, SC

16 REPORTED BY: Ann P. Harris, NCRA Merit Reporter
17
18
19

20
21 A. WILLIAM ROBERTS, JR., & ASSOCIATES

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18 (INDEX AT REAR OF TRANSCRIPT)

1 THE COURT: Ladies and gentlemen, this
2 is case number 2008-GC-10-008 in reference to Alice
3 Shaw Baker. We have Attorney Peter Kouten, who has
4 filed the motion with the Court to appoint a
5 special fiduciary for the conservatorship assets.

6 Are there any preliminary matters we
7 need to begin with?

8 MR. COOPER: Your Honor, I would remind
9 the Court that on May 18th, we filed a motion for a
10 90-day extension, which is still before the Court.
11 Mr. Kouten objected in his filing to that, and, of
12 course, Mr. Kouten filed his motion to appoint a
13 special fiduciary. We have on June 1st filed a
14 motion to strike Mr. Kouten's motion. So there is
15 actually three motions before the Court.

16 THE COURT: We didn't notice the other
17 two. Are you all waiving notice on the other two
18 issues? The notice we sent out was just for that
19 one issue, even though those other two matters have
20 been filed before the Court. Are you all ready to
21 argue the other two motions?

22 MR. KOUTEN: Judge, my motion was in
23 response to the motion for extension, so we will
24 waive any notice if we want to hear it today.

25 THE COURT: That's fine. Thank you.

1 Are you ready to proceed?

2 MR. KOUTEN: I am, your Honor. Thank
3 you.

4 May it please the Court, Peter Kouten
5 for personal representative, Bessie Huckabee. Your
6 Honor, on May 11th, 2009, this Court signed an
7 order discharging Lisa Fisher from her duties as
8 conservator. That Court ordered that she provide
9 an estate accounting, including all account
10 activity. Finally, that order stated that the
11 conservator shall turn over the estate assets
12 within 15 days. That order, dated May 11th, 2009,
13 was not appealed and at this point could not be
14 appealed.

15 The conservator did, however,
16 subsequent to execution of the Court's order, seek
17 a motion for an extension in delivering the estate
18 assets to the personal representative. That first
19 extension was June of 2009. From there, the
20 respondent filed a series of motions for a
21 extension indicating that the conservator wanted to
22 hold the estate assets so that they can turn over
23 those assets to the proper party.

24 The issue here is that the conservator,
25 who has been discharged by this Court, has been

1 continuing her activities as conservator without
2 this Court's authority. The conservator filed the
3 final accounting on May 27th, 2009, which was
4 required by this Court. From that time, over
5 two years ago, the conservator took no action to
6 follow up with the Court to show that the funds
7 were still properly being accounted for. This
8 Court asked the conservator to file these
9 subsequent accountings, and when she did finally
10 respond to the Court's request, it became clear
11 that the discharged conservator did not cease in
12 her actions as conservator.

13 What we would have expected, in
14 addition to the timely filing of these annual
15 accountings, is possible references to interest
16 earned on accounts. What we did find when the
17 discharge conservator did finally file her
18 accounting is that she improperly amended her final
19 accounting, which ran through her date of
20 discharge.

21 THE COURT: She improperly what?

22 MR. KOUTEN: She amended her
23 accounting. She did file a final accounting on
24 May 27th, 2009, as was required by this Court. It
25 ran through May 26th, 2009, and that is labeled

1 final accounting. When responses were made to this
2 Court to indicate that those funds being held in
3 trust were actually still there, she filed an
4 amended accounting that changed the dates, which
5 included the final accounting, and then she filed
6 an accounting for 2010. The problem that we have,
7 your Honor, is not only was that accounting
8 improperly amended, it ran through May 29th -- or
9 May 26th, 2009, and it was labeled final
10 accounting.

11 Her next accounting, as someone who is
12 holding these funds in trust, would be from
13 May 27th, 2009, until the end of the year. So that
14 is an improper filing.

15 In addition to that, your Honor, by
16 filing that amended accounting, after her
17 discharge, she increased the disbursements from the
18 estate by a hundred thousand dollars. She
19 transferred 80,500 from the estate after her
20 authority ceased. She closed the bank account with
21 the Bank of America after her authority had ceased.
22 She executed documents with Smith Barney and
23 received those proceeds.

24 MR. COOPER: Your Honor, I have an
25 objection. Certainly Mr. Kouten in his motion does

1 raise the issue about whether or not annual
2 accountings were filed, and since that time, as he
3 has just stated, they have been filed, but I think
4 it is beyond the scope of this hearing to get into
5 the merits of whether or not those accountings are
6 accurate and those issues. That seems to be way
7 beyond -- at some point there should be a hearing
8 if there are contested issues about whether the
9 accountings are accurate or inaccurate, but this
10 doesn't seem to be the place for that, and so I
11 would object to getting into those issues. Thank
12 you, your Honor.

13 THE COURT: Attorney Kouten, your
14 response?

15 MR. KOUTEN: Your Honor, I would
16 respond in saying that is exactly correct. We
17 don't know whether these accountings are accurate.
18 What we do know is that --

19 THE COURT: Your argument to his
20 response in limiting --

21 MR. KOUTEN: They are filed with the
22 Court. They weren't part of the Court's file when
23 we filed our motion. The basis of appointing a
24 special fiduciary is directly related to the fact
25 that activity is continuing in this account,

1 properly or improperly, and that they are necessary
2 to show that a special fiduciary is needed in this
3 case.

4 THE COURT: I am going to allow
5 limited, but what I am not going to allow is for
6 you to go into specificity, but your arguments as
7 to why a special fiduciary should be appointed but
8 not with specificity amounts and just generalities.

9 MR. KOUTEN: Thank you, your Honor.

10 So without specificity, there is
11 indication that since the conservator has been
12 discharged, there have been activities in those
13 accounts held in trust by the discharged
14 conservator. The conservator proceeds are to be
15 held in trust for the estate. The conservator
16 asked that she be allowed to hold these funds in
17 trust. She was discharged of all authority. She
18 didn't seek through this Court to maintain any
19 authority to act on behalf of the estate, and she
20 has been acting on behalf of the estate without
21 authority. We ask that the Court pursuant to
22 62-7-704(e) appoint a special fiduciary to accept
23 the estate assets and be given the authority to
24 administer, and that no extensions further be
25 granted. Thank you, your Honor.

1 THE COURT: Thank you.

2 Attorney Cooper?

3 MR. COOPER: Yes, your Honor. May it
4 please the Court, as I said, there are three
5 motions pending before this Court, and the first
6 one was our motion for a 90-day extension filed on
7 May 13th.

8 On May 20th, Mr. Kouten objected to any
9 extension and moved to appoint a special fiduciary.

10 On June the 1st, we moved to strike
11 Mr. Kouten's motion based on Rule 81, which makes
12 the Rules of Civil Procedure applicable in Probate
13 Court.

14 MR. KOUTEN: Objection, your Honor.

15 THE COURT: What's the basis of your
16 objection?

17 MR. KOUTEN: We did not waive notice on
18 that, and there has been no hearing set for the
19 motion to strike.

20 MR. COOPER: I think a motion to strike
21 his motion that we are here on a hearing about
22 certainly has to be a part of this hearing. We
23 have moved to strike that because of his failure to
24 comply with Rule 11.

25 At any rate, I'll just state it for the

1 record, your Honor, and you can decide. It seems
2 like it certainly should be taken up at a certain
3 time.

4 THE COURT: Give me a few seconds,
5 please.

6 MR. COOPER: Yes, your Honor.

7 THE COURT: Your motion to strike is
8 only related to the accounting and not to the
9 appointment of a special fiduciary?

10 MR. COOPER: Yes, your Honor.

11 THE COURT: I am going to allow you to
12 deal with your motion to strike, but it's only
13 limited -- the heading appears to be related to
14 both issues, but in terms of his request for the
15 appointment of a special fiduciary, he has a right
16 to file that motion with the Court.

17 Now, in regards to the accounting, I am
18 just trying -- what I'll do, I'll allow you to make
19 your arguments, and then the Court will just make a
20 determination.

21 MR. COOPER: Yes, your Honor. Let me
22 correct one thing. I believe my motion to strike
23 was as to both because he had a duty to consult as
24 to both. It is clear that the accounting, that
25 issue is moot because we filed the accountings, but

1 it is also clear that he had a duty to consult with
2 us before filing a motion for appointment of a
3 special fiduciary. At any rate, as I say, there
4 are four filings before the Court, four different
5 dates of filings. The May 13th is at our request
6 for motion for a 90-day extension.

7 His objection and motion to appoint on
8 May 20th.

9 On June 1st, we moved to strike under
10 Rule 11(a) and Rule 81, and we also at that time
11 filed the annual accountings for 2008 and '09 and
12 2010, as requested by the Court.

13 And then the fourth filing was
14 August 12th. We had a motion -- an objection that
15 we filed to his motion for appointment.

16 Now, I would like to not reiterate
17 everything that is in our briefs, your Honor,
18 because you have those, but what I would like to do
19 is just comment briefly on the issue about the
20 annual accountings. Procedurally under Rule 81 and
21 Rule 11(a), Mr. Kouten's motion is defective
22 because it doesn't comply with Rule 11(a), and we
23 did file a motion to strike, which is the proper
24 course for us to take under the circumstances.

25 In the meantime, with regard to the

1 annual accountings, they have been filed, and so
2 that issue is moot, and that's the substantive and
3 practical effect of that part of it, is that the
4 accountings have been filed as requested by the
5 Court.

6 Now, one other comment I would like to
7 make is that back in May of 2009, your Honor
8 discharged Ms. Fisher from further duties as
9 conservator. However, within a timely fashion she
10 did request an extension, which was granted, and
11 further extensions, and I think there has been six
12 extensions granted so far. And the reason for this
13 is that Ms. Fisher wants to be sure that she turns
14 the assets over to the proper party, and the reason
15 there is a question about the proper party is
16 because in the estate case, which your Honor will
17 remember has been removed to the Circuit Court,
18 then was on appeal to the Court of Appeals and is
19 now before the South Carolina Supreme Court on writ
20 for cert., involves the issues of whether or not
21 Bessie Huckabee is properly appointed as PR,
22 whether or not someone else should be appointed as
23 PR. There is also a motion pending for a special
24 administrator to handle the estate. And there is a
25 motion in the Circuit Court still with regard to a

1 special administrator that has never been heard.
2 So it's our position, your Honor, that, you know,
3 until the Circuit Court, the Supreme Court, whoever
4 ultimately makes that decision about who is going
5 to handle the estate of Alice Shaw-Baker in the
6 estate case, Ms. Fisher can't just hand the assets
7 over to potentially the wrong person.

8 THE COURT: So let me ask you a
9 question.

10 MR. COOPER: Yes, your Honor.

11 THE COURT: The Court discharged her,
12 and so what we have been requesting are annual
13 accountings. Technically she is no longer able to
14 act in her fiduciary capacity as conservator.
15 There has never been a motion filed to have her
16 restored in the interim, so when we look at the
17 accountings, then everything should be status quo,
18 and there should be, other than interest, no
19 activity because she doesn't have the authority,
20 and no one has the authority to act on behalf of
21 the conservatorship because there is no more
22 conservatorship except the fact that those moneys
23 need to be accounted for. So when you look at and
24 one of the arguments has to do with the accuracy of
25 the balances in his petition. So why is there a

1 difference, other than interest, in the
2 conservatorship when she is now discharged and can
3 no longer act as conservator?

4 MR. COOPER: Well, your Honor, let me
5 just say that in addition to having these various
6 savings accounts, funds, bank accounts, those types
7 of things, there is also real estate involved.

8 THE COURT: Correct. But doesn't that
9 go to the argument why there needs to be someone
10 appointed in the interim so that -- like I am
11 looking at one of the accountings, and I am seeing
12 that there is some administration bond. Well, if
13 she is no longer the conservator and discharged,
14 should the bond be coming out of the estate? I see
15 home maintenance. Who technically has the
16 authority to deal with all of the payments, the
17 taxes, and the repairs if she is discharged, and
18 there technically is no conservator, and they are
19 not being paid out of the estate?

20 MR. COOPER: Your Honor, I see the
21 Court's concern. What Ms. Fisher has been doing in
22 good faith, in May of 2009, she was discharged as
23 conservator.

24 THE COURT: Correct.

25 MR. COOPER: She asked an extension to

1 turn over the assets. And that was granted.

2 THE COURT: Correct.

3 MR. COOPER: Obviously, during that
4 time, whether she is officially conservator, she is
5 responsible for those assets.

6 THE COURT: But legally, technically,
7 in an estate when a person is alive, you have
8 conservators appointed. Once that person dies,
9 those assets should go in the estate through either
10 a special administrator, a personal representative,
11 but there has to be someone legally in the middle
12 whether or not there is litigation or not. And so
13 my question is in what capacity is she legally
14 acting if she is no longer the conservator and
15 those assets are not with either a special
16 administrator or personal representative? I
17 understand your argument about her responsibility,
18 but legally, in what authority are these payments
19 being done when there should be a legal entity who
20 has the legal responsibility to deal with the
21 estate whether or not it is through the
22 conservatorship or the estate during the litigation
23 period that you all are currently in? And I really
24 think that that is the real issue in the midst of
25 the litigation.

1 MR. COOPER: Your Honor, I don't
2 disagree that that is the issue. Ms. Fisher, who
3 is an attorney in California, who has been admitted
4 by the Court here to be involved in the estate
5 action, since she has been handling these, can she
6 speak to the Court?

7 THE COURT: No, this is a motion, and
8 this is really between the attorneys, and I just
9 want to know what your position is, legal position,
10 as to what her legal authority is to still disburse
11 moneys when in fact the conservatorship has -- when
12 she has been discharged, and the only thing the
13 Court has been looking for are the annual
14 accountings.

15 MR. COOPER: Well, let me ask the
16 question first. My question is, that I'm not
17 certain what the name of it is, but I know that --
18 I know that the Court is going to hold her --
19 responsible for the proper administration of those
20 assets and the protection of the estate, and
21 whether or not the Court wants to call that, you
22 know, an implied trusteeship, whatever, but she
23 certainly has a duty and is bonded to properly
24 administer those assets, and that is what she has
25 been trying to do.

1 I would like to also comment that
2 although a conservator is required annually to file
3 an annual accounting, here we had extensions of
4 time for her to turn over the assets, but she
5 wasn't technically a conservator.

6 THE COURT: And that is my question.
7 So she is not technically the conservator. There
8 is no personal representative legally who is --- who
9 has the legal responsibility to still pay assets
10 because when a person dies, technically it should
11 be done through their estate and not through the
12 conservatorship. So even if there is a contest,
13 either she could have sought to be appointed the
14 special administrator to pay the funds or to pay
15 for the expenses or an independent third person,
16 but in reality it should not be through the
17 conservatorship because that person is deceased,
18 and so really the funds should be in the estate
19 division through either a third independent person
20 but should not be held, and if it is held, it
21 should be held in status quo until someone next
22 door or in the estate division is appointed because
23 the conservatorship technically should end at the
24 time of death, and there technically is a
25 discharge.

1 MR. COOPER: Your Honor, let me just
2 say that certainly what she has been doing is to
3 maintain the assets in the status quo.

4 THE COURT: But under what legal
5 authority, because she doesn't have -- her
6 certificates would have ended. Even though the
7 Court has granted the extensions, the extension was
8 not for the full conservatorship. It was just to
9 turn the funds over and to do a final accounting,
10 but funds are actually being written out, and so
11 she is signing them under what authority? Is it
12 still in the conservatorship checking account,
13 which technically should have ended at death. And
14 that is my question. In what capacity is she
15 signing the checks, because the discharge says she
16 no longer has a certificate of appointment
17 indicating that she is a conservator once the Court
18 did the discharge.

19 MR. COOPER: I understand, your Honor.

20 THE COURT: So is there still a
21 conservatorship checking account that still exists?

22 MR. COOPER: Yes, your Honor. I am
23 told there is.

24 THE COURT: You can continue.

25 MR. COOPER: Okay. I would just like

1 to point out to the Court that, you know, within a
2 relative short time after the Court asked for the
3 accountings, Ms. Fisher did the accountings, and
4 they are filed with the Court, and they are
5 presumed to be accurate, although certainly
6 whenever this period ends and the assets are turned
7 over, certainly there is going to be an opportunity
8 for any interested parties that would be
9 appropriate to challenge the accountings or
10 challenge how the funds were handled or challenge
11 any of the expenditures to make those objections,
12 and there can be a hearing on it, and Ms. Fisher is
13 fully bonded still to the one and a half times the
14 value of the liquid assets in the estate. The
15 assets are protected as a practical matter.

16 If the Court would feel better
17 appointing Ms. Fisher in some capacity other than
18 conservator, we would certainly be open to that,
19 but what we believe, your Honor, is that the assets
20 are protected, the status quo of the house and the
21 other assets have been preserved. Ms. Fisher, you
22 know, has not done anything wrong. She has
23 properly protected the estate assets until it can
24 be determined by the Supreme Court and Circuit
25 Court as to who they should be turned over to.

1 And the choice for this Court is to
2 interrupt the status quo by handing the assets over
3 to a special fiduciary, as suggested by Mr. Kouten,
4 or to continue the status quo where the assets are,
5 protected by Ms. Fisher's bond and where there's no
6 wrongdoing been shown, and she has properly handled
7 the assets throughout.

8 I would say, your Honor, that you know,
9 these extensions -- the Court has granted six
10 extensions for her to continue to hold the assets.
11 Surely the Court didn't think she was not going to
12 pay the insurance on the house. Surely the Court
13 didn't think she wasn't going to pay the legitimate
14 expenses --

15 THE COURT: Well, because I am not
16 privy to what is happening with the estate, I had
17 no way of knowing whether or not certain assets
18 were being funneled through the estate and whether
19 or not the Circuit Court had authorized -- what
20 normally happens is the general payment, in order
21 to secure the assets and make sure that the assets
22 are not depleted. So I can't tell you that I was
23 privy to what was happening in the estate division
24 until, and so that's not an accurate statement.

25 MR. COOPER: Well, I will just say

1 that, you know, certainly the property has to be
2 maintained in the interim, and that has been done.

3 THE COURT: Where is the litigation in
4 Circuit Court? There is no personal representative
5 appointed; am I correct? Or has there been one
6 appointed?

7 MR. COOPER: There was a personal
8 representative that was informally appointed in the
9 Probate Court. That was challenged in the Circuit
10 Court.

11 THE COURT: There was also a motion
12 made in the Circuit Court for appointment of a
13 special administrator.

14 THE COURT: Was a special administrator
15 appointed?

16 MR. COOPER: No, none of that happened,
17 and the whole thing went up on appeal to the Court
18 of Appeals, and it is now on cert. to the South
19 Carolina Supreme Court. There is still pending in
20 the Circuit Court, I believe, a motion to appoint
21 a special administrator or to have a separate
22 personal representative of Ms. Fisher -- not
23 Ms. Lisa Fisher but Ms. Betty Fisher appointed, but
24 anyhow, there are motions for appointment of her as
25 personal representative. So the whole issue about

1 who is going to serve has not been resolved.
2 That's the bottom line. It hasn't been resolved in
3 the Supreme Court, and it hasn't been resolved in
4 the Circuit Court.

5 THE COURT: And so the Circuit Court
6 didn't appoint anyone in the interim to do anything
7 in relation to the estate?

8 MR. KOUTEN: Bessie Huckabee is in
9 place.

10 THE COURT: So she is still personal
11 representative?

12 MR. KOUTEN: That's correct, your
13 Honor.

14 MR. COOPER: That is on appeal, your
15 Honor.

16 THE COURT: But technically she is
17 still personal representative?

18 MR. KOUTEN: That is correct.

19 THE COURT: With no authority to do
20 anything?

21 MR. KOUTEN: Well, that was the initial
22 appeal. That was the initial Court's ruling. We
23 sought modification of that. The Court granted
24 modification to allow her to do administrative
25 acts. That was the only thing that was hers as to

1 that motion. That particular motion, which granted
2 her the authority to do administrative acts and to
3 not disburse, and also to get bonded, that one
4 issue is on appeal. The Court of Appeals found in
5 favor of the lower court. The Court of Appeals
6 denied a rehearing. In the Court of Appeals
7 response and order, it said that those other
8 issues, which Attorney Hughes just said, this is a
9 pending motion for appointment of a special
10 administrator. It has not been heard. They
11 continue to argue to the higher courts that it has
12 been, and it is on appeal. The only thing on
13 appeal is the motion to reconsider the breadth and
14 width of her authority as personal representative.

15 MR. COOPER: I disagree with that, your
16 Honor, but I would just say that, you know --

17 THE COURT: So technically there is a
18 personal representative, but that is on appeal?

19 MR. COOPER: There has been an informal
20 appointment of a personal representative, and
21 without notice to the heirs that were in the
22 petition. In other words, when the --

23 MR. KOUTEN: Objection, your Honor.
24 The answer to the question is that there is a
25 personal representative. This is an argument that

1 is not before this Court.

2 MR. COOPER: Can I be heard, your
3 Honor?

4 THE COURT: Yes, I am going to allow
5 him to speak. Yes, sir.

6 MR. COOPER: Thank you, your Honor. We
7 are directly on appeal right now in our --

8 THE COURT: You have already gone
9 through Circuit Court, Court of Appeals, and now
10 your current motion is before the Supreme Court?

11 MR. COOPER: Correct. And Mr. Kouten
12 has his view of the evidence, but, you know, the
13 facts are clear, that they didn't -- in the
14 petition for informal appointment of Ms. Bessie
15 Huckabee, Mr. Kouten didn't give proper notice to
16 the heirs, that they knew of, in name of Betty
17 Fisher.

18 THE COURT: But those are issues that
19 are on appeal, correct?

20 MR. COOPER: That's right; they are on
21 appeal.

22 THE COURT: I am just trying to
23 determine procedurally where we are.

24 MR. COOPER: Procedurally where we are,
25 we have a dispute over who should be personal.

1 representative, and that issue is still on appeal.
2 In addition to that, once the appeal is decided,
3 still pending in the Circuit Court is another
4 motion having to do with appointment of a special
5 administrator, Frank Barnwell, or appointment of
6 Betty Fisher as personal representative. So those
7 motions have not been resolved in the Circuit Court
8 level. So it is just our opinion that this Court
9 really doesn't have jurisdiction to deal with that
10 because all of that has either been removed to the
11 Circuit Court and/or is on appeal.

12 THE COURT: Correct, and I agree with
13 that. I am interested in reference to what is
14 happening with the conservatorship accounts.

15 MR. COOPER: Right, that's right, your
16 Honor.

17 THE COURT: And that is why I was
18 asking procedurally where you were.

19 MR. COOPER: Right. Well, procedurally
20 that's where we are. Some motions are still
21 pending, and the Circuit Court hasn't been heard,
22 and some motions are on appeal to the Supreme
23 Court, all of them having to do with who should
24 handle this estate once it is turned over. Our
25 position is that there has been no showing, and

1 then maybe at a later hearing Mr. Kouten can show
2 where Ms. Fisher has done something wrong, but I am
3 not aware of it, and I don't think he will ever be
4 able to show that because I think she has handled
5 the assets properly.

6 I do think in hindsight, 20/20
7 hindsight, your Honor, probably we should have come
8 to the Court and gotten some specific authority,
9 but I think under the circumstances, she is going
10 to have the responsibility to maintain the
11 properties, and the Court is going to have to, you
12 know, impose some sort of implied trust on her.

13 THE COURT: But you have never
14 petitioned the Court asking the Court to grant her
15 any type of implied trust.

16 MR. COOPER: I haven't petitioned yet,
17 your Honor, you are right, but that doesn't mean
18 that Ms. Fisher has done anything improperly.

19 The other thing that I would say,
20 though, is that she is fully bonded. There has
21 been no showing that she has done anything wrong or
22 that the estate assets were in jeopardy in any way,
23 and we think to preserve the status quo with her
24 administering them is a better way to deal with it
25 when, if the Court would like, you know, to appoint

1 her as special fiduciary, special administrator,
2 some other title to give her authority from this
3 point on, you know, when it ends, there will be a
4 bonding company standing behind her, she will
5 answer all of the questions as to how she handled
6 everything, and then the Court will make some
7 decision, but the estate assets are going to be
8 protected by the bond, your Honor, and we just
9 think this is a way better way to do it to preserve
10 the status quo rather than breaking off in the
11 middle and switching horses to someone else.

12 Your Honor, my client, Lisa Fisher,
13 also tells me there is a concept in the law called
14 executor de son tort. I am not familiar with it,
15 but it is her position -- it is our position that
16 that would alleviate any need to come in to have
17 some special -- her be given special authority to
18 just protect the estate assets since she has the
19 responsibility to her bonding company to properly
20 administer the estate assets and to protect the
21 real estate and so forth. And this is true, your
22 Honor, only because we had the proper motions for
23 an extension. I would like to make that. Had we
24 not gotten motions, extensions of the time to turn
25 over the assets -- certainly if we had kept them

1 longer than the Court had ordered them, we would --
2 you know, we would have run afoul of the Court's
3 protection, but since the Court had extended the
4 time, we had to do what was reasonable in the
5 meantime to take care of the estate assets, and I
6 just think that it is going to make it much clearer
7 at the end of the process as to, you know, how the
8 assets were handled if Ms. Fisher is allowed to
9 continue administering them until turnover.

10 THE COURT: Well, in response to that,
11 I mean, the Court was granting the extensions, but
12 we did not receive any additional accountings other
13 than the 2009 until we received these accountings
14 that were brought before the Court's attention in
15 June of 2011. And so there would have been no way
16 for the Court to have been aware, after granting
17 extensions, that payments and expenses were
18 actually still being paid out of the
19 conservatorship accounts because the last time I
20 looked, the last accounting prior to the one that
21 was filed in June was filed with this Court.

22 MR. COOPER: May of 2009.

23 THE COURT: May of 2009.

24 MR. COOPER: At the end of the
25 conservatorship, we filed that within the time

1 allowed by the Court --

2 THE COURT: Correct, so --

3 MR. COOPER: And after that -- if I
4 could be heard, your Honor.

5 THE COURT: Well, excuse me, because I
6 was talking first.

7 MR. COOPER: I am sorry.

8 THE COURT: What I said was that what
9 we had was what was filed in 2009. So the Court
10 was granting extensions, but that was on the basis
11 that those funds were not being expended in the
12 conservator capacity, and we would have had no way
13 of knowing that but for the fact that you filed
14 these additional accountings a couple of months
15 ago. You can continue.

16 MR. COOPER: Your Honor, I would just
17 point out that in hindsight certainly it would have
18 been better to file annual accountings, but I will
19 point out that the statute requires a conservator
20 to file annual accountings, but, you know, Ms.
21 Fisher, you know, was discharged as the
22 conservator. So there was no technical statutory
23 requirement for her to file those, and the Court
24 never asked until I believe it was April of this
25 year, 2011, asked for the accountings, and we

1 promptly filed them with the Court.

2 THE COURT: So you are saying you
3 weren't receiving annual letters from the Court,
4 because I think we have copies in the file where
5 requests for annual accountings were actually going
6 out.

7 MR. COOPER: No, your Honor, I never
8 received those. My client says she didn't receive
9 them either. Certainly if we had received those,
10 we would have complied with them, your Honor.

11 THE COURT: Okay. Anything further?

12 MR. COOPER: We would just say, your
13 Honor, that there are expenses, taxes, insurance,
14 various expenses for real estate, and those have
15 been paid, and those have been expended out of the
16 account, but we have receipts for all of those, all
17 of them are legitimate expenses, and nothing has
18 been expended that was not supposed to, and they
19 were paid timely, your Honor, to avoid penalties
20 and interest and things of that nature, as your
21 Honor knows, that would accrue on those if they
22 weren't paid timely. So the IRS tax returns have
23 been done, the property taxes have been paid, all
24 legitimate expenses of insurance and other repairs
25 and so forth have been done. So the property has

1 been kept up.

2 Your Honor, at the end, let me just say
3 that if your Honor decides to deny Mr. Kouten's
4 motion, we do have another motion for extension I
5 have prepared for your Honor's consideration.

6 THE COURT: Attorney Kouten?

7 MR. KOUTEN: Thank you, your Honor.

8 In the words of Attorney Cooper, we
9 think this is a better way to do it. What about
10 the authority of this Court? They state the reason
11 for extensions is to turn over the assets to the
12 proper party. The discharged conservator is an
13 attorney. She understands legal duties. She
14 surely understands the word "discharge." They
15 state that she has done nothing wrong, but she has.
16 She is asking the Court to allow her to continue to
17 do wrong, to act without authority. A single look
18 at the accounting indicates that she is acting
19 without authority.

20 As to the lack of notice, your Honor,
21 we ask the Court -- we asked Attorney Cooper on
22 October 12th, 2010, we wanted an accounting. He
23 did not recognize that as the proper authority
24 because he does not recognize Bessie Huckabee. He
25 does not recognize the Court's authority that she

1 is the personal representative. We sent him a
2 subpoena for same accountings in November. It
3 doesn't recognize the subpoena of the Circuit
4 Court. Lisa Fisher herself asked this Court, who
5 discharged her, consider and approve my final
6 accounting. As an attorney, she understands that
7 is complete and total discharge. She is asked to
8 hold a box of money. The Court allows it. She has
9 abused this Court's allowance in granting her
10 simple request to hold the estate funds. She has
11 not recognized or given any weight to the Court's
12 order to discharging. She has not recognized or
13 given any weight to the Court revoking all of her
14 authority to act under any circumstances in her
15 capacity as a conservator.

16 THE COURT: And what is your argument
17 regarding why she should not be appointed the
18 special fiduciary?

19 MR. KOUTEN: First, your Honor, is that
20 she has been discharged by this Court. This Court
21 in its order stated that she is no longer to act as
22 the conservator and that she provide an accounting.
23 In lieu of petitioning this Court to pay insurance,
24 upkeep of houses, do maintenance, she took it upon
25 her own authority. As someone who is an attorney,

1 knowing that she doesn't have the rights and the
2 duties to do that, that's wrongdoing, Judge. And
3 then the accounting that she files indicates that
4 there has been a hundred thousand dollars spent,
5 after she has been removed, with no request from
6 this Court to approve these fees, no request from
7 this Court to allow her to act. This is a dispute.
8 It is a dispute between a personal representative,
9 it is a dispute between a decedent's will, and it
10 is a respondent holding on to the basket of money,
11 which is fine if we know that that basket of money
12 is safe, and if we had gotten an accounting showing
13 that the interest accrued and that the money is
14 safe, that's fine, we wouldn't even here. She is
15 spending the money. She is acting without
16 authority. Somebody has to do it. And if she is
17 acting without an authority before this Court, not
18 recognizing the Court's authority, we would prefer
19 that someone be appointed who does recognize this
20 Court's authority. We would ask that a special
21 fiduciary be appointed to receive the estate
22 assets, to review detailed accountings. These
23 accountings may be five line items that accumulate
24 to a hundred thousand dollars. Who knows where
25 that money is? They say: Well, there has been no

1 wrongdoing; why change horses in midstream? That
2 is not an accounting, and that would certainly put
3 anyone uneasy as to where these funds are.
4 Further, they refused to give us a copy of the
5 accountings. They did respond in providing
6 accountings in response to this motion. They
7 didn't respond to this Court's writing them letters
8 in January asking, "Please provide an accounting."

9 We ask that the Court appoint a special
10 fiduciary on behalf of the estate until such time
11 as the contested issues may be resolved. And as
12 respondent has admitted that she has acted
13 unilaterally without this Court's authority, we ask
14 that the Court grant any further relief as the
15 Court deems appropriate.

16 THE COURT: Anything further? Attorney
17 Cooper?

18 MR. COOPER: Your Honor, without going
19 through all of them, there are a lot of things that
20 Mr. Kouten said in terms of factual representations
21 about the expenditure and so forth, we disagree
22 with and certainly we think are beyond the scope of
23 this hearing.

24 THE COURT: Okay. Thank you.

25 MR. COOPER: Your Honor, also, I would