

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Hon. Thomas A. Russo, Circuit Court Judge

Appellate Case No. 2017-001196
(Civil Action No. 2007-ES-10-1437)

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SC Court of Appeals

Jacquelin S. Bennett and Kathleen S. Turner as
Personal Representatives of the Estate of
Jacquelin K. Stevenson *Appellants.*

v.

Estate of James Kelly King and Genevieve S. Felder *Respondents.*

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN RE: THE ESTATE OF
JACQUELIN K. STEVENSON

Jacquelin S. Bennett and Kathleen S. Turner as
Personal Representatives of the Estate of
Jacquelin K. Stevenson,

Appellants,

v.

Estate of James Kelly King and Genevieve S.
Felder,

Respondents.

IN THE PROBATE COURT

Case. No. 2007-ES-10-1437

ORDER ON APPEAL

This matter came before the Court on June 3, 2016, at 9:30 A.M. pursuant to Appellant's Notice of Intent to Appeal and Appeal of the Ruling of the Honorable Tamara C. Curry, Judge of the Probate Court for Charleston County, entered July 30, 2015, and subsequent Order Denying Motion to Reconsider, entered September 10, 2015.

PROCEDURAL HISTORY

Jacquelin K. Stevenson died testate on September 17, 2007. She was survived by two daughters, Kathleen S. Turner and Jacquelin S. Bennett (Appellants), and a step-daughter, Genevieve S. Felder (Respondent). She was also survived by two sons, Thomas C. Stevenson, III and Daniel R. Stevenson, and a step son, James Kelly King.¹ The will originally designated Kathleen S. Turner and Thomas C. Stevenson as Co-Personal Representatives.

¹ James Kelly King passed away during the administration of the estate, and his share has been resolved by private agreement.

The will was admitted to probate in the Charleston County Probate Court in October of 2007. The six individuals named above were the devisees under the will. Among the various assets of the estate are four real properties:

Lot 19 Dupree Creek Lane, Mt. Pleasant
("Paradise Island")

Glasgow Island Lane, Edisto Island
("Bailey's Island")

Lots 34, 35, 36, and 37, Lake Front Drive, Hendersonville
("Lake Summit")

2414 Rockland Avenue, Rockville, SC
("Rockville")

Rockville is a waterfront lot with an upscale vacation and rental home and a deep-water dock. The Lake Summit property is a long-time family vacation home, lakefront, also with a dock. Lake Summit carries itself financially and is used by the family when available. Paradise Island and Bailey's Island are unimproved investment lots with significant carrying costs. It is the proposed distribution of these properties that is the basis of this dispute.

Pursuant to the terms of the will, Appellants were devised the Rockville property. Lake Summit was devised to Daniel R. Stevenson and Thomas C. Stevenson, III. Genevieve S. Felder and James Kelley King received monetary bequests roughly equal in value to the real estate shares. Thomas C. Stevenson, III was subsequently removed as Personal Representative due to malfeasance. Both he and Daniel Stevenson lost their inheritance rights to the real properties by order of the Probate Court dated February 11, 2011, also for malfeasance. Accordingly, the disposition of all of the real properties with the exception of Rockville is now governed by the residuary clause, which states:

All the rest, residue, and remainder of my property and estate real and personal, of whatsoever nature, and wheresoever situate,

including any property before mentioned but not effectively disposed of, . . . I give, devise, and bequeath to Kathleen S. Turner, Jacquelin S. Bennett, Thomas S. Stevenson, III, Daniel R. Stevenson, James Kelly King, and Genevieve S. Felder, in equal shares, per stirpes, and not per capita . . . Jacquelin S. Bennett was appointed Co-Personal Representative in place of Thomas C. Stevenson, Jr., so that she and Kathleen S. Turner are currently Co-Personal Representatives.

By Private Agreement executed in March of 2015, the claims of the estate of James Kelly King, who died during the administration of the Stevenson estate, were resolved by monetary payment. Other disbursements were approved, leaving the allocation of the residuary assets between Kathleen S. Turner, Jacquelin S. Bennett, and Genevieve S. Felder to be resolved either by further agreement or the probate court. (The Private Agreement stated that “the remaining residuary assets between them will be resolved by subsequent agreement or will be determined by the Charleston County Probate Court.”)

On September 14, 2011, Respondent Genevieve Felder filed a Demand for Hearing, which was subsequently held on June 16, 2015. The interested parties were Jacquelin S. Bennett and Kathleen S. Turner as Co-Personal Representatives, and Genevieve S. Felder. The proposal of the Co-Personal Representatives was that they divide Lake Summit equally between themselves, with the Bailey’s Island and Paradise Island properties to be divided among the three in various shares. Genevieve S. Felder would receive the large majority of the Bailey’s Island lot, but no interest in Lake Summit. Respondent argued that the proposed distribution was not fair and equitable, and inconsistent with the fiduciary duty of the Personal Representatives.

At the hearing, Appellants argued that the will gave the Co-Personal Representatives broad authority to distribute in kind, so that the only consideration to be made was that the distribution “come out equal” based strictly on monetary value, with no other factors being relevant. Respondent argued that while the language in the will clearly grants the Co-Personal

Representatives broad authority to distribute in kind, such authority is not absolute, and is constrained by fiduciary principals and the duty to treat all beneficiaries equitably and fairly. Respondent further argued that the determination of what was fair and equitable should, in proper circumstances, include non-economic considerations such as sentimental value, utility, and other intangible factors. The position of the Respondent is that in the particular circumstances of this case, only a pro-rata distribution of the remaining real properties can be fair and equitable.

By order dated July 30, 2015, Tamara C. Curry, judge of the probate court, stated that in the absence of an agreement, the probate court, as provided by the private agreement, would decide the allocation of the remaining real properties utilizing fiduciary principals. The Court ruled:

Petitioners . . . acting as Co-Personal Representatives of the Estate of Jacquelin Stevenson, are to divide said properties located on Lots 34, 35, 36, and 37, Lakefront Drive . . . , Lot 19 Dupree Creek Lane . . . , and Glasgow Island Lane . . . in equity and in good faith among the devisees so that each receives an equal ownership interest in each piece of real estate that is before the Court.

Appellant filed a Motion to Alter or Amend on August 12, 2015, which was denied by order dated September 10, 2015, stating that under the circumstances of this case, the language of the residuary clause requires a pro-rata distribution. This appeal followed.

FINDINGS OF FACT

By the express terms of the will, Rockville was devised to Kathleen S. Turner and Jacquelin S. Bennett, who now find themselves in the position of co-Personal Representatives. Lake Summit was devised to Daniel R. Stevenson and Thomas C. Stevenson, III, who have forfeited their interests in the estate. The remaining real properties, Paradise Island and Bailey's Island, were, under the will, to be disposed of pursuant to the residuary clause.

Paradise Island appraised for \$390,000.00, Bailey's Island for \$725,000.00, and Lake Summit for \$1,100,000.00. The distribution proposed by the Appellant Personal Representatives was, at the time Respondent filed her Request for Hearing, as follows:

Paradise Island

Jaquelin Bennet	\$83,000.00
Kathleen Turner	\$83,000.00
Genevieve Felder	\$83,000.00
James Kelly King	\$140,000.00

Bailey's Island

Jaquelin Bennet	\$35,000.00
Kathleen Turner	\$35,000.00
Genevieve Felder	\$548,500.00
James Kelly King	\$106,500.00

Lake Summit

Jaquelin Bennet	\$550,000.00
Kathleen Turner	\$550,000.00

James Kelly King has, by agreement, accepted a monetary settlement and is no longer a factor in these deliberations. The buy-out of his share did not otherwise alter the distribution as among the remaining three beneficiaries.

As a result of the forfeiture of the interests of Daniel R. Stevenson and Thomas C. Stevenson, III, the disposition of all of the real properties of the estate (with the exception of Rockville) is governed by the residuary clause, which states:

All the rest, residue, and remainder of my property and estate real and personal, of whatsoever nature, and wheresoever situate, including any property before mentioned but not effectively disposed of, . . . I give, devise, and bequeath to Kathleen S. Turner, Jacquelin S. Bennett, Thomas S. Stevenson, III, Daniel R. Stevenson, James Kelly King, and Genevieve S. Felder, in equal shares per stirpes, and not per capita . . .

The powers of the personal representatives are set forth in Article 10 of the will, designated "Fiduciary Powers," which states in relevant part:

my personal representatives shall have all of the powers granted by law . . . It is my intention in specifying the following powers to give broad discretion and flexibility to my Personal Representatives . . .

- 10.6 Distributions. Without the consent of any beneficiary, to make distributions (including the satisfaction of any pecuniary bequest) in cash or in specific property, real or personal, or an undivided interest, or partly in cash and partly in such property . . . and without making pro-rata distributions of specific assets.

It is in reliance on this language that Appellants contend authorizes them to select their proposed distribution scheme, that of conveying Lake Summit to themselves, alone, in equal shares, and conveying to Respondent and to themselves varying shares in the remaining properties so that ultimately each receives roughly equal value as determined by the appraisals.

CONCLUSIONS OF LAW

In an action at law, the circuit court should uphold the findings of the probate court if there is any evidence to support them. *See Adams & B & D, Inc.*, 297 S.C. 416, 420, 377 S.E.2d 315, 317 (1989). When the proceeding is equitable in nature, the circuit court, on appeal, may make factual findings according to its own view of the preponderance of the evidence. *See In re Estate of Weeks*, 329 S.C. 251, 261, 495 S.E.2d 454, 460 (Ct. App. 1997). Appellants present two arguments in support of their position:

- 1. The trial court erred in holding that the Testator's intent was that the real property passing through the Residuary Estate shall pass in equal ownership interest shares to each devisee as opposed to as directed by the Personal Representative, provided that the distributions are of equal monetary value.**

The trial court noted Respondent's position that Appellant's distribution scheme was not fair and equitable. Quoting S.C. Code Section 62-3-703 (1976, as amended), the Court found that the Personal Representatives were bound by the duties of a fiduciary, using their authority "for the best interests of the successors to the estate."

The court further quoted *Moore v. Moore*, 360 S.C. 241, 599 S.E.2d 467 (Ct. App. 2004)

in reviewing the duties of a fiduciary, stating as follows:

(a) fiduciary relationship is founded on the trust and confidence reposed by one person in the integrity and fidelity of another. A fiduciary relationship exists when one imposes a special confidence in another, so that the latter, in equity and good conscience, is bound to act in good faith and with due regard to the interests of one imposing the confidence.

Under the circumstances of this case, the court made its determination concerning the disposition of the residue “in light of the duties imposed upon a fiduciary” ruling that equity and good faith required a pro-rata distribution.

On reconsideration, the court further noted that the residuary clause specifically directs that property “not effectively disposed of” by specific devise was to be divided among the residuary beneficiaries “in equal shares,” and that a plain and ordinary reading of this language called for a pro-rata distribution of the residuary estate.

Regardless of whether this interpretation was actually the testator’s intent, however, the Personal Representatives are, as the court observed, subject to the duties of a fiduciary, and I find the lower court’s finding—that here, the fiduciary duty in fact requires a pro-rata distribution—to be appropriate in light of the evidence presented. I find that the allocation of Lake Summit by the Personal Representatives to themselves and the division of the remaining properties among all three beneficiaries—particularly in light of highly disproportionate division of Bailey’s Island to force an overall equal valuation of interests—serves no apparent purpose other than to favor themselves, allowing them to “cherry pick” among the assets at the expense of the remaining beneficiary, which fails the test of equity and good faith.

2. **The trial court erred in holding that the Co-Personal Representatives did not have the broad discretionary authority to make determinations as to what property falls within the general descriptions, and to make distributions in any reasonable manner, pursuant to sections 10.1 and 10.6 of the Last Will and Testament of Jacquelin K. Stevenson.**

A court's consideration of the actions and duties of a fiduciary is equitable in nature. *See, e.g., Farley v. Matthews*, 168 S.C. 294, 167 S.E. 502 (1933).

[I]t is a well-settled rule that anyone acting in a fiduciary relationship not be permitted to make use of that relationship to benefit his own personal interests. It is a doctrine repeatedly announced by the courts of this nation that courts of equity will scrutinize with the most zealous vigilance transactions between parties occupying confidential relations toward each other[.]

Island Car Wash, Inc. v. Norris, 292 S.C. 595, 599, 358 S.E.2d 150, 152 (Ct. App. 1987).

There can be no dispute that pursuant to the language of the "Fiduciary Powers" section of the will that the Personal Representatives enjoy broad discretion in making distributions. The trial court did not rule otherwise. Rather, the trial court correctly observed that such authority is subject to the duties of a fiduciary, and found that in this particular instance, that duty requires a pro-rata distribution of the residuary estate. On its face, the proposed distribution scheme is not related to any apparent reasonable purpose. The unequal distribution of Bailey's Island can only be interpreted so as to allow the Personal Representatives to retain Lake Summit for themselves and exclude Respondent. The record is devoid of any assertion or explanation as to what other purpose the proposed distribution scheme might serve, or why it is in fact "reasonable."

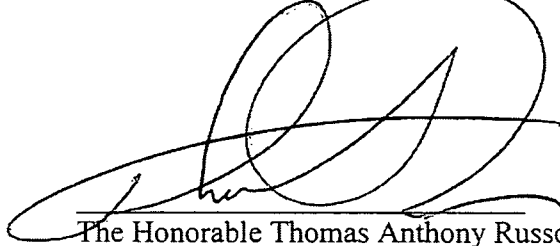
CONCLUSION

Based upon my view of the facts of this case, by a preponderance of the evidence, I find that the Personal Representatives' proposed distribution of the residuary assets is inconsistent with their fiduciary duty to treat all parties fairly and equitably. I further find that, based on the facts of this case, by a preponderance of the evidence presented, and in light of well-settled fiduciary

principals, a pro-rata distribution of the Paradise Island, Bailey's Island, and Lake Summit properties among the three remaining estate beneficiaries is required.

Accordingly, the findings of the Probate Court of Charleston County are ~~are~~ AFFIRMED.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Thomas Russo', written over a horizontal line.

The Honorable Thomas Anthony Russo
Presiding Judge

4/18 2017
Florence, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN RE: THE ESTATE OF
JACQUELINE K. STEVENSON

Jacquelin S. Bennett and Kathleen S. Turner as
Personal Representatives of the Estate of
Jacqueline K. Stevenson,
Petitioners,

vs.

Estate of James Kelly King and Genevieve S.
Felder,

Respondents.

IN THE PROBATE COURT

CASE NO: 2007-ES-10-1437

ORDER DENYING MOTION TO
RECONSIDER

KCC
DJS
11/10/15
THIS MATTER comes before the Court pursuant to Petitioners' Motion to Alter or Amend judgment of this Court dated July 30, 2015. Petitioners filed their Motion on August 12, 2015, and based upon the following, the Court respectfully denies Petitioners' Motion.

1. In their Motion, Petitioners argue that the Last Will and Testament gives the co-Personal Representatives the broad authority to fund the bequests of the Testator using the assets of the Estate.
2. Petitioners seek to distribute the remaining assets of the Estate (specifically real estate that falls through the Residuary Estate) in various combinations so that the real estate that is devised to each respective devisee is of equal monetary value, instead of distributing the real estate so that each respective devisee receives an equal ownership percentage in each piece of real estate.

3. Respondents contend that equal ownership percentage in each piece of real estate is the appropriate manner of distribution.
4. In its Order dated July 30, 2015, this Court held that the Decedent's intent was to distribute property passing through Residuary Estate in equal ownership shares.
5. The Residuary Estate states in full:

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9/10/15

All the rest, residue and remainder of my property and estate, real and person, of whatsoever nature and whosoever situate, including any property before mentioned but not effectively disposed of, and specifically including the principal and undistributed income of the Jacqueline K. Stevenson Marital Trust established under Article VII of the Last Will and Testament of my late husband, Thomas C. Stevenson, Jr., dated February 5, 1985, and as to which I possess a General Power of Appointment (my "Residuary Estate"), I give, devise and bequeath to Kathleen S. Turner, Jacqueline S. Bennett, Thomas C. Stevenson, III, Daniel R. Stevenson, James Kelly King, and Genevieve S. Felder, in equal shares, per stirpes and not per capita. I have previously loaned to my said son Dan the amount of \$100,000 on a stock margin account, and to my son Tom the amount of \$79,601.38 as evidenced by a Promissory Note from Tom dated as of November 1, 1993. I direct that such amount of (i) said \$100,000 principal as has not been repaid to me by Dan at the time of my death, plus all interest thereon which has not been paid by Dan, and of (ii) said \$79,601.38 principal as has not been repaid to me by Tom at the time of my death, plus all interest thereon which has not been paid by Tom shall be deducted from their respective shares hereunder, and re-distributed equally among the said beneficiaries of my residuary estate, including Dan and Tom.

Last Will and Testament, Jacqueline K. Stevenson (October 21, 1996) (emphasis added).

PLAIN LANGUAGE READING

6. The Last Will and Testament makes a specific devise of the Lakefront Drive, Henderson County, North Carolina property, but in a previous Order this Court voided this specific devise as a result of a set-off against the beneficiaries due to breach of fiduciary duty and other reasons. Petitioners assert that the presence of a specific devise of real property

(and a set-off provision in the Residuary Estate) affirms that the Testator's intent was not to require distribution in equal ownership shares.

7. However, the aforementioned Lakefront Drive property was not effectively disposed of, and therefore it falls through the Residuary Estate. Our Supreme Court stated in Epworth Children's Home v. Beasley that "[a] will must be read in the ordinary and grammatical sense of the words employed, unless some obvious absurdity, repugnancy, or inconsistency with the declared intention of the testator, as abstracted from the whole will, would follow from such construction." Epworth Children's Home v. Beasley, 365 S.C. 157 (2005) (emphasis added). Based on the plain language and ordinary sense of the words used in the Residuary Estate, all property "not effectively disposed of" should be divided "in equal shares." This Court recognizes the set-off clause in the Residuary Estate that Petitioners have cited to, but it is this Court's finding that the set-off clause, if implicated, is merely designed to reduce ownership percentage shares.

FIDUCIARY POWERS

8. Petitioners argue Sections 10.1 & 10.6 of the Last Will and Testament speak to the intent of the Testator and allow Petitioners broad discretionary powers. These sections state:

10.1 – Determinations. To determine what property is covered by **general descriptions** in this Will.

10.6 – Distributions. Without the consent of any beneficiary, to make distributions . . . in cash or in **specific** property, real or personal, or an undivided interest, or partly in cash and partly in such property, and to do so without regard to the income tax basis of **specific** property allocated to any beneficiary (including any Trust) and without making pro-rata distributions of **specific** assets.

Last Will and Testament, Jacqueline K. Stevenson (October 21, 1996) (emphasis added).

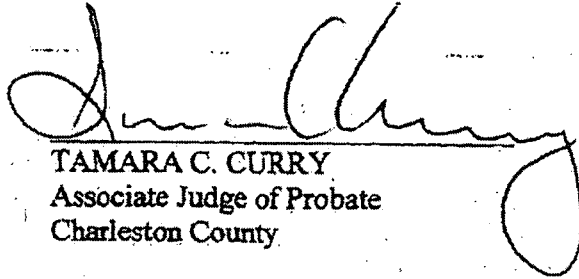
9. Petitioners argue it was the intent of the Testator to allow the co-Personal Representatives to make distributions without regard to "pro-rata distributions" and to devise the Testator's property in whatever manner they see fit in accordance with the instructions of the Testator.
10. Upon review, the language in Section 10.1 refers to property covered by "general descriptions." Based on this language, it is this Court's finding that Section 10.1 allows the co-Personal Representatives to determine what property is covered by a general devise, not the Residuary Estate.
11. Section 10.6 refers to "specific" property/assets three times and, by its plain language, seems to refer to distributions of a specific devise (Article 4). This Court reemphasizes that the property in dispute here is covered by the language of the Residuary Estate, not the provisions of Article 3 or 4 which control general devises and specific devises. Therefore, this Court finds Petitioners' argument unpersuasive, and finds that Sections 10.1 and 10.6 are not controlling of property that is "not effectively disposed of" and consequently falls to the Residuary Estate.

Based upon the foregoing, it is hereby,

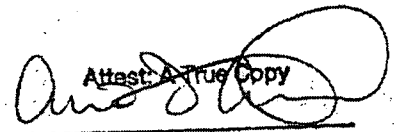
ORDERED, ADJUDGED, AND DECREED that having considered all relevant provisions of the Last Will and Testament, this Court's previous Order is affirmed and that the real property passing through the Residuary Estate shall do so in equal ownership interest shares to each respective devisee. It is further,

ORDERED, ADJUDGED, AND DECREED that this Order shall be subject to any further Orders of this Court that may become necessary.

AND IT IS SO ORDERED!


TAMARA C. CURRY
Associate Judge of Probate
Charleston County

This 10th day of September 2015
Charleston, South Carolina.


Attest: A True Copy
Clerk Probate Court
Charleston County, South Carolina

ACC
5985
11/10/15

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN RE: THE ESTATE OF
JACQUELINE K. STEVENSON

Jacquelin S. Bennett and Kathleen S. Turner as
Personal Representatives of the Estate of
Jacqueline K. Stevenson,
Petitioners,

vs.

Estate of James Kelly King and Genevieve S.
Felder,

Respondents.

IN THE PROBATE COURT

CASE NO: 2007-ES-10-1437

ORDER REGARDING THE DIVISION OF
REAL PROPERTY

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10/5
11/20/15

Date of Hearing:	June 16, 2015
Presiding Judge:	Tamara C. Curry
Petitioner:	Jacquelin Bennett and Kathleen S. Turner, Co- Personal Representatives
Attorney for Petitioner:	Stephen M. Slotchiver, Esq. & Daniel S. Slotchiver, Esq.
Respondents:	Genevieve S. Felder
Respondents' attorney:	George McElveen, Esq.
Court Reporter:	Anna Meyer, Clark & Associates

THIS MATTER comes before the Court pursuant to Petitioners Demand for Hearing, filed by Petitioners Jacquelin S. Bennett and Kathleen S. Turner, Personal Representatives of the Estate of Jacquelin K. Stevenson, on May 4, 2015, said hearing was held on June 16, 2015. The real property which Petitioners are seeking division of are parcels known as the Lake Summit Property at T.M.S. No. 9585.13-03, Bailey Island at T.M.S. No. 013-00-00-041, and the property known as Paradise Island located at T.M.S. No. 617-15-00-020.

Petitioner has presented evidence that a Summons has been issued and served with the Petition on all interested parties as prescribed by Section 62-3-1303 of the South Carolina Code of Laws 1976, as amended.

After having taken this matter under advisement and viewing the record in this matter, the Court finds as follows:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

- 2CC
2015
7/30/15
1. The Decedent, Jacquelin K. Stevenson, died testate on September 17, 2007, a resident of Charleston County, and owning real property in Charleston, South Carolina, Edisto, South Carolina, and Henderson County, North Carolina.
 2. The Court has proper subject matter jurisdiction and venue to hear this case pursuant to Section 62-1-302 of the South Carolina Code of Laws 1976, as amended.
 3. Petitioner's Kathleen Turner and Jacqueline Bennett are the duly appointed Co-Personal Representatives of this Estate pursuant to the Decedent's Last Will and Testament
 4. Respondent Genevieve Felder is the step daughter of the Decedent, and pursuant to the Last Will and Testament, is an interested party to this action.
 5. There are currently no creditor's claims against the Decedent's Estate on file with the Court.
 6. The Decedent owned the following real property at the time of her death: 2414 Rockland Avenue, Town of Rockville, Wadmalaw Island, Charleston County, South Carolina located at T.M.S. No. 150-00-00-051; Lots #34, 35, 36 and 37, Lakefront Drive, Henderson County, North Carolina located at T.M.S. No. 9585.13-03; Lot 19, Dupree Creek Lane, Mt. Pleasant, South Carolina located at T.M.S. No. 617-15-00-020; and

Glasgow Island Lane, Edisto Island, South Carolina located at T.M.S. No. 013-00-00-041.

7. Petitioners have requested authorization to distribute all of the above-named properties except for 2414 Rockland Avenue, which was given to Petitioners pursuant to the Last Will and Testament.
8. It is agreed by the parties that the value of the real estate before the Court is not in dispute. Petitioners argue the Last Will and Testament gives the Personal Representatives broad authority with respect to distribution of assets. Petitioners desire to distribute the properties in various combinations so that the real estate that is devised to each respective devisee is, of equal monetary value, instead of distributing the real estate so that each respective devisee receives an equal ownership percentage in each piece of real estate.
9. Respondent argues that the three remaining properties should not be distributed based strictly upon monetary value, but should be distributed in a fair and equitable manner.
10. After reviewing the Decedent's Last Will and Testament, it appears the Decedent's intent was to have the Residuary Estate distributed equally between the children due to the language of the Will which under the Residuary Estate section states:

All the rest, residue and remainder of my property and estate, real and person, of whatsoever nature and wheresoever situate, including any property before mentioned but not effectively disposed of, and specifically including the principal and undistributed income of the Jacquelin K. Stevenson Marital Trust established under Article VII of the Last Will and Testament of my late husband, Thomas C. Stevenson, Jr., dated February 5, 1985, and as to which I possess a General Power of Appointment (my "Residuary Estate"), I give, devise and bequeath to Kathleen S. Turner, Jacquelin S. Bennett, Thomas C. Stevenson, III, Daniel R. Stevenson, James Kelly King, and Genevive S. Felder, in equal shares, per stirpes and not per capita.

11. Pursuant to the Private Family Settlement Agreement on file, Petitioners and Respondent agreed that the "residuary assets between them would either be resolved by a subsequent agreement or will be determined by the Charleston County Probate Court." Since no subsequent agreement has been presented, the Charleston County Probate Court will make a determination on the residuary assets in light of the duties imposed upon a fiduciary.

12. The South Carolina Probate Code describes the duties of Personal Representative as follows:

A personal representative is a fiduciary who shall observe the standards of care described by Section 62-7-804. A personal representative has a duty to settle and distribute the estate of the decedent in accordance with the terms of a probated and effective will and this code, and as expeditiously and efficiently as is consistent with the best interests of the estate. He shall use the authority conferred upon him by this code, the terms of the will, and any order in proceedings to which he is party for the best interests of successors to the estate.

South Carolina Code Ann. § 62-3-703.

13. In Moore v. Moore, our Court of Appeals explained a fiduciary relationship generally by stating:

[a] fiduciary relationship is founded on the trust and confidence reposed by one person in the integrity and fidelity of another. A fiduciary relationship exists when one imposes a special confidence in another, so that the latter, in equity and good conscience, is bound to act in good faith and with due regard to the interests of the one imposing the confidence.

Moore v. Moore, 360 S.C. 241, 251 (S.C. Ct. App. 2004).

Based upon the foregoing, it is now, therefore:

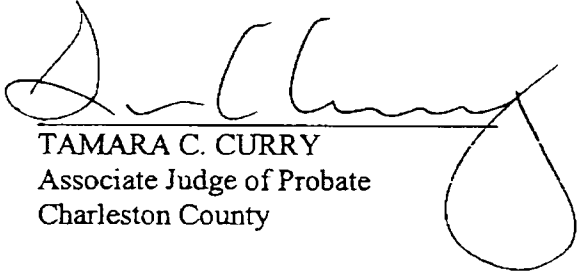
ORDERED, ADJUDGED, AND DECREED that Petitioners Kathleen Turner and Jacquelin Bennett, acting as the Co-Personal Representatives of the Estate of Jacquelin Stevenson, are to divide said properties located on Lots #34, 35, 36 and 37, Lakefront Drive, Henderson County, North Carolina located at T.M.S. No. 9585.13-03, Lot 19, Dupree Creek Lane, Mt. Pleasant, South Carolina located at T.M.S. No. 617-15-00-020, and Glasgow Island Lane, Edisto Island, South Carolina located at T.M.S. No. 013-00-00-041 in equity and good faith among the devisees so that each respective devisee receives an equal ownership interest in each piece of real estate that is before the Court. It is further

ORDERED, ADJUDGED, AND DECREED that Petitioners Kathleen Turner and Jacquelin Bennett are hereby authorized to execute any and all documents necessary to effectuate said division of property. It is further

ORDERED, ADJUDGED, AND DECREED that this Order shall be subject to any further Orders of this Court that may become necessary.

AND IT IS SO ORDERED!

This 30th day of July, 2015
Charleston, South Carolina


TAMARA C. CURRY
Associate Judge of Probate
Charleston County

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Jacquelin S. Bennett, and Kathleen S.
Turner, as Co-Personal Representatives
of the Estate of Jacquelin K Stevenson,

Petitioners,

vs.

Daniel R. Stevenson, II, Thomas C.
Stevenson, III, James, King, Genevieve S.
Felder

Respondents.

) IN THE CHARLESTON COUNTY

) PROBATE COURT

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) CASE NO: 2007-ES-10-1437

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Order Granting Petition to
Setoff

Hearing Date:

February 22, 2011

Judge:

Honorable Tamara Curry

Petitioners:

Jacquelin S. Bennett, Kathleen Turner

Petitioners' Counsel:

(Respectfully) John Hayes, Esq.

Stephen Slotchiver, Esq.

Respondents:

Daniel Stevenson, Thomas Stevenson, III,

James King, and Genevieve Felder

Respondents' Counsel:

John Wilkerson, Esq. for James King;

Robert Hood, Esq. for Daniela Stevenson;

Rob Bunson, Esq. for Thomas Stevenson;

Court Reporter:

Southeastern Transcript, Inc.

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This matter comes before the Charleston County Probate Court pursuant to Petitioners Jacquelin S. Bennett and Kathleen S. Turner, as Co-Personal Representatives of the Estate of Jacquelin K. Stevenson's, Petition to Setoff the amount of Daniell R. Stevenson, II's liquidated indebtedness against his interest in the Estate. A hearing was held on February 22nd, 2011. Present at the hearing was counsel for Petitioner Bennett, John Hayes, Esq.

FINDINGS OF FACT

Upon review of the record, evidence presented, and testimony given at the hearing on February 11th, 2011, this Court makes the following findings of fact:

1. Jacquelin K. Stevenson (the "Decedent") died testate on September 17, 2007, as resident of the Charleston County, South Carolina.
2. The Petitioners, Jacquelin S. Bennett and Kathleen S. Turner, are the duly appointed Personal Representatives of the said Estate.
3. Daniel R. Stevenson, II, is named under the Last Will and Testament of Jacquelin K. Stevenson as a specific beneficiary of a portion of the Estate's personal property under Section 3.3 of Article 3, fifty percent (50%) beneficiary of the Estate's interest in the real estate located at Lake Summit, Henderson County, North Carolina, under Section 4.3 of Article 4, and a residuary beneficiary under Article 5 wherein he is entitled to twenty percent (20%) thereof.
4. The Estate has received a Ten Million Eight Hundred Ten Thousand Five Hundred Forty-One and no/100 Dollar (\$10,810,541.00) Judgment against Daniel R. Stevenson for Breach of a Fiduciary Duty, Breach of Trust, conversion, and Fraud This liquidated indebtedness amount is due to the Estate and a required offset to the debtor's interest under Section 62-3-903, SC Code.
5. The Decedent's Residuary estate, after all taxes, expenses, and claims, is estimated to be Four Million Three Hundred Thousand Dollars (\$4,300,000.00). Daniel R. Stevenson II's interest in the Estate is estimated to be an amount that is grossly under the amount of his aforesaid liquidated indebtedness.

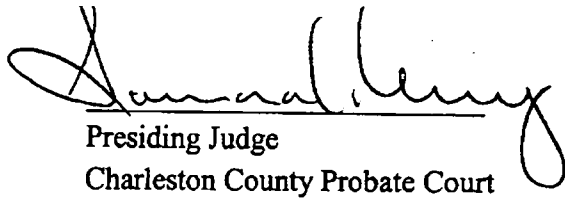
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6. Daniel R. Stevenson, II, filed a Chapter 7 proceeding in the United States Bankruptcy Court for the Western District of North Carolina.
7. The Bankruptcy Court issued an Order on February 8, 2010, allowing the Estate to proceed in the Charleston County Probate Court to determine "the setoff rights of the Estate of Jacquelin K. Stevenson against the indebtedness owed to the Estate of Jacquelin K. Stevenson by Daniel R. Stevenson, II"
8. The Charleston County Probate Court issued an Order on June 8, 2010, granting the Petitioners' Petition to Setoff and allowing the Personal Representatives of the Estate of Jacquelin K. Stevenson to "setoff any entitlement which Daniel R. Stevenson, II, would have otherwise had in the Estate of Jacquelin K. Stevenson by the full amount of the aforesaid Judgment"
9. The Petitioners are seeking an Order granting the right to have a Water Craft, serial # etc741681697, vessel number nc-3962, (hereinafter the "Water Craft") located in North Carolina, re-titled into the name of the Estate of Jacquelin K Stevenson.
10. This Water Craft is in actuality property of the Estate of Jacquelin K. Stevenson, and therefore, is subject to the June 8, 2010 Order granting the right to setoff.
11. A Hearing on this issue was scheduled to be heard on February 22, 2010.
12. All parties have agreed and consented to the motion and granting of this Petition as referenced by the signatures below.

WHEREFORE the Petitioners' Petition to Setoff is **GRANTED**.

IT IS SO ORDERED.

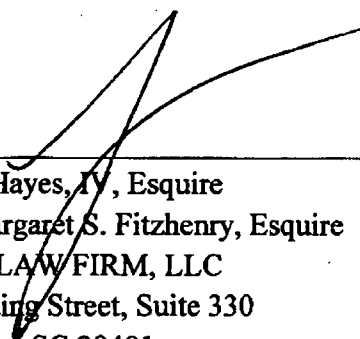
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Presiding Judge
Charleston County Probate Court

February 28, 2011
Charleston, South Carolina

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WE SO MOVE:



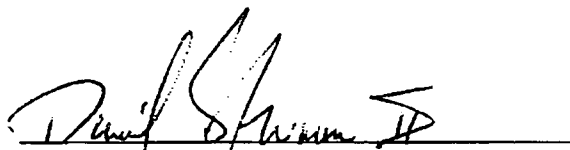
John C. Hayes, IV, Esquire
Mary-Margaret S. Fitzhenry, Esquire
HAYES LAW FIRM, LLC
180 Meeting Street, Suite 330
Charleston, SC 29401
ATTORNEYS FOR PETIONERS

2.14, 2011

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Page 4 of 7

WITH CONSENT:



Daniel Stevenson, II

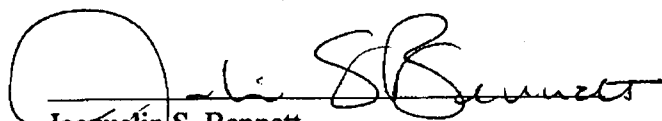
RESPONDENT

Feb 3, 2011

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Page 5 of 7

WITH CONSENT:


Jacquelin S. Bennett
Petitioner(s)

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Page 6 of 7

WITH CONSENT:

Kathleen S. Turner

Kathleen S. Turner

Petitioner(s)

10 Feb, 2011

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) IN THE CHARLESTON COUNTY
) PROBATE COURT

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) Case No. 2007-ES-10-1437

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ORDER TO APPROVE PRIVATE AGREEMENT

Present at the Hearing were Jacquelin S. Bennett and Kathleen S. Turner, as Co-Personal Representatives of the Estate of Jacquelin K. Stevenson, and individually. Stephen M. Slotchiver was present representing Jacquelin S. Bennett and Kathleen S. Turner in their capacity as the Personal Representatives of the Estate (and not individually). Also present at the Hearing was George McElveen as the attorney for Genevieve S. Felder, and Shawn Willis as the attorney for the Estate of James Kelly King.

The Petitioners counsel provided the Court with an update with reference to the administration of the Estate Jacquelin K. Stevenson, as well as with reference to the administration of the Martial Trust established under the Last Will and Testament of Thomas C. Stevenson and the Q-TIP Trust established under the Last Will and Testament of Thomas C. Stevenson.

It was addressed that all interested parties have entered into a Private Agreement to resolve all outstanding concerns of the Estate of James Kelly King, and to resolve the majority of the concerns of Genevieve S. Felder (with the only exception being the allocation of the residuary assets between Jacquelin S. Bennett, Kathleen S. Turner, and Genevieve S. Felder [which will either be resolved by a subsequent agreement or will be determined at a later date by the Charleston County Probate Court]).

It was addressed that the Estate and Trusts will hold back an agreed upon total reserve of \$100,000 that will be retained by the Estate and Trusts to cover all ongoing administration expenses wherein any remaining monies at the end of the Estate will be disbursed wherein the three (3) Beneficiaries of the Q-TIP Trust (Jacquelin S. Bennett, Kathleen S. Turner, and Genevieve S. Felder) will receive 50% of the disbursement, and the four (4) Beneficiaries of the Martial Trust/Estate (Jacquelin S.

Bennett, Kathleen S. Turner, Genevieve S. Felder, and the Estate of James Kelly King) would receive the remaining 50% of the disbursement.

Other than determining the division of the residuary assets between Jacquelin S. Bennett, Kathleen S. Turner, and Genevieve S. Felder, the only other matter left to be resolved regarding the Estate of Jacquelin K. Stevenson, the Marital Trust established under the Last Will and Testament of Thomas C. Stevenson, and the Q-TIP Trust established under the Last Will and Testament of Thomas C. Stevenson, is a pending Malpractice Suit wherein the net proceeds from the Malpractice Suit will be divided in the same percentage as previously done.

All parties agree to sign any and all Deeds or other documents necessary to finalize the distribution as outlined on the Schedules to be distributed to the Estate of James Kelly King, wherein then Jacquelin S. Bennett, Kathleen S. Turner, and Genevieve S. Felder will purchase the Estate of James Kelly King entire interest in all real estate holdings received from the Estate of James Kelly King for \$123,250 promptly thereafter.

Wherein all parties have signed Waivers of Statutory Filing Requirements.

Wherein all parties have agreed to sign the Statements confirming their consent to the four (4) separate Schedules prepared by Herb McGuire, which were forwarded to each of the interested parties on December 17, 2014 by Stephen M. Slotchiver, and received by Stephen M. Slotchiver from Herb McGuire on December 12, 2014 at 4:01 p.m.

WHEREFORE, IT IS HEREBY ORDERED that the Private Agreement signed by Jacquelin S. Bennett, Kathleen S. Turner, Genevieve S. Felder, and Gloria King in her capacity as the Personal Representative of the Estate of James Kelly King is hereby approved.

IT IS FURTHER ORDERED that all parties shall sign any and all Deeds or any documents necessary to finalize the distributions as outlined on the Schedules prepared by Herb McGuire to the Estate of James Kelly King, wherein Jacquelin S. Bennett, Kathleen S. Turner, and Genevieve S. Felder shall then purchase all of the Estate of James Kelly King's interest in all real estate holdings received from the Estate of Jacquelin K. Stevenson for a lump sum cash amount of \$123,250 promptly thereafter.

[Signature]
Charleston County Probate Judge

Charleston, SC
March 3, 2015.

ATTEST: A TRUE COPY
[Signature]
DEPUTY CLERK PROBATE COURT
CHARLESTON COUNTY, SOUTH CAROLINA

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF: JACQUELIN STEVENSON

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IN THE PROBATE COURT

CASE NUMBER: 2007ES10-01437

Decedent's Date of Death (if known): 09/17/2007

Decedent's Last Mailing Address: 58 Meeting Street, Charleston, SC 29401

☐ WAIVER OF
☒ REQUEST/DEMAND FOR HEARING

I. Nature of interest of undersigned:

Attorney for James K. King

II. I waive or request/demand the following pertaining to the above estate as indicated.

WAIVE

☐
☐

DEMAND/REQUEST

☒
☐

Hearing/Rights to appear

Other (specify):

If request/demand for hearing/right to appear, please state issues/reasons:

To address concerns as to the apportionment of certain Estate expenses and the allocation among the heirs of Estate assets and to obtain and be able to evaluate accounting information subsequent to May 31, 2011 and reserves established to conclude the Estate.

III. My address and/or that of my attorney is listed below.

Executed this 16th day of September, 2011.

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

Attorney: Elaine H. Fowler

Address: Elaine H. Fowler

c/o Turner, Padgett, Graham & Laney, P.A.

P.O. Box 22129

Charleston, SC 29413-2129

Telephone: 843-576-2802

STATE OF SOUTH CAROLINA

PROBATE COURT

COUNTY OF CHARLESTON

IN THE MATTER OF

JACQUELIN STEVENSON

CASE NUMBER

2007-ES-10-01437

PROOF OF DELIVERY

On the 16th day of September, 2011, I mailed or delivered a copy of **Request/Demand for Hearing**, a copy of which is attached hereto and incorporated herein, by the following method (check appropriate box):

- ☐ personal delivery
☒ ordinary first class mail
☐ certified mail
☐ registered mail

to each of the following persons at the address shown:

NAME	ADDRESS
Stephen M. Slotchiver, Esquire	Slotchiver & Slotchiver, LLP 44 State Street; Charleston, SC 29401
_____	_____
_____	_____
_____	_____

SWORN to before me this 16th day of
September, 2011.

Amelia S. Aubrey

Notary Public for South Carolina
My Commission Expires: 01/23/2017

Signature: *Elaine H. Fowler*

Name: Elaine H. Fowler

Title: Attorney

Address: Turner, Padgett, Graham & Laney, P.A.

P.O. Box 22129

Charleston, SC 29413-2129

Telephone: 843-576-2802

TURNER PADGET

TURNER PADGET GRAHAM & LANEY P.A.

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

Elaine H. Fowler

Writer's Direct Dial: (843) 576-2802
Writer's Direct Fax: (843) 577-1635
Email: EFowler@turnerpadget.com

September 16, 2011

VIA HAND

Alison V. Atwood, Probate Clerk of Court
Estate Division
Charleston County Probate Court
84 Broad Street, Third Floor
Charleston, SC 29401

Re: The Estate of Jacquelin Stevenson
Estate Number 2007-ES-10-01437
Our File No.: 9543.101

Dear Ms. Atwood:

Enclosed for filing is the original and one copy of a Demand for Hearing in the above-referenced estate. It is my understanding that you will contact my assistant, Amy Aviles at 576-2812, once a hearing date is determined.

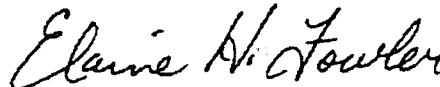
By copy of this letter, we are notifying estate counsel of this Demand for Hearing.

Please give a file-stamped copy of the Demand for Hearing to our courier and return the filed copy to us in the enclosed envelope.

With kind regards, we are

Yours very truly,

TURNER, PADGET, GRAHAM & LANEY, P.A.



Elaine H. Fowler

EHF/asa

Enclosure - as stated

cc: Stephen M. Slotchiver, Esquire

BUSINESS • LITIGATION • SOLUTIONS

Gateway Center • Suite 200 • 40 Calhoun Street (29401) • PO Box 22129 • Charleston, SC 29413
Phone (843) 576-2800 • Fax (843) 577-3369 • turnerpadget.com

TPGL 4033767vi

SLOTCHIVER & SLOTCHIVER, L.L.P.

ATTORNEYS AT LAW

~ EST. 1959 ~

IRVIN J. SLOTCHIVER
DANIEL S. SLOTCHIVER
STEPHEN M. SLOTCHIVER
ANDREW J. McCUMBER

44 STATE STREET
CHARLESTON, SC 29401-2810
TELEPHONE (843) 577-8531
FACSIMILE (843) 577-0261

April 14, 2015

VIA REGULAR MAIL & EMAIL

Alison Atwood, Probate Clerk
Charleston County Probate Court
84 Broad Street, Third Floor
Charleston, SC 29401

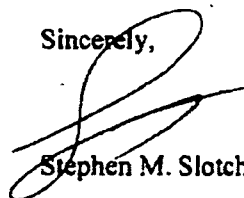
RE: Estate of Jacquelin K. Stevenson
Case No: 2007-ES-10-1437

Dear Alison,

This is a short note to touch base with you regarding the above referenced Estate. As the Probate Court file will reflect, there were two separate Demands for Hearing that were filed regarding this Estate, one was with reference to concerns/issues by the Estate of James King, and the other was with reference to concerns/issues by Genevieve Felder. Approximately a month ago, the Court issued an Order approving a Private Agreement which settled the concerns/issues raised by James King, and limited the concerns/issues by the Genevieve Felder to the division of the remaining assets between Genevieve Felder, Kathleen Turner, and Jacquelin Bennett. That stated, the parties have been unable to reach an amicable resolution and I would therefore respectfully ask that the Court schedule a Hearing date on Genevieve Felder's Demand for Hearing so that the Court can issue an Order with reference to the same. Can you please call me when convenient to provide me with some dates that you may have available in the next couple of months.

With kindest regards,

Sincerely,



Stephen M. Slotchiver

SMS/skl

cc: George R. McElveen, III, Esquire (*via email*)
John S. Wilkerson, III, Esquire (*via email*)
Jacquelin S. Bennett (*via email*)
Kathleen S. Turner (*via email*)

www.slotchiverlaw.com

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Jacquelin S. Bennett, ~~Charleston County~~, as
Co-Personal Representatives of the Estate of
Jacquelin K. Stevenson,

Petitioners,

vs.

Estate of James Kelly King and Genevieve S.
Felder,

Respondents.

IN THE CHARLESTON COUNTY
PROBATE COURT

Case No. 2007-ES-10-1437

**PETITIONERS' MOTION
TO ALTER OR AMEND**

YOU WILL PLEASE TAKE NOTICE that the Petitioners, Jacquelin S. Bennett and Kathleen S. Turner, by and through their undersigned counsel would at this time respectfully and humbly move before this honorable Court in accordance with Rule 59(e) of the South Carolina Rules of Civil Procedure seeking an Order that alters or amends the Court's prior Order Regarding the Division of Real Property, dated July 30, 2015. The Petitioner so moves this Court based largely upon, but not limited to¹, the following:

1. The above-captioned matters came before this Court on or about by way of a Request for a Hearing filed by the Petitioners on or about April 14, 2015 with Respect to the Demand for Hearing originally filed by the Respondents; this Court held a hearing for same on or about June 16, 2015.
2. At the hearing, Petitioners argued that the Last Will and Testament gives the Personal Representatives the broad authority to fund the bequests of the Testator using the assets of the Estate.
3. Petitioners seek to distribute the remaining assets of the Estate, including real and

¹ Petitioner would, at this time, respectfully reserve the right to supplement this Motion with any additional affidavits, memoranda, testimony, arguments, exhibits and the like at request of this Court and as the interests of justice may so require.

SLOTCHIVER
&
SLOTCHIVER,
L.L.P.
ATTORNEYS AT LAW
44 STATE STREET
CHARLESTON, SC
29401-2810

personal property, in shares of equal monetary value.

4. The Respondents argue that equal ownership percentage in each piece of real estate is the appropriate manner of distribution.
5. This Court held in its July 30th, 2015 Order that it "appears the Decedent's intent was to have the Residuary Estate distributed equally between the children," citing only a portion of the Residuary Estate clause. See, "Order Regarding the Division of Real Property", In re Estate of Jacquelin K. Stevenson, 2007-ES-10-1437 at p. 3 (July 30, 2015). (A copy of which is attached hereto as "Exhibit A")
6. However, the remainder of the Residuary Estate clause provides for the setoff of two of the beneficiaries shares in accordance with remaining sums due under loans made by the Testator. See, Last Will and Testament of Jacquelin K. Stevenson, pp. 4-5 (October 21, 1996). (A copy of which is attached hereto as "Exhibit B")
7. Petitioner would assert that the presence of a setoff clause in the Residuary Estate further affirms that while the distribution is to be made equitably in value, the Testator's intent was not to require that the distributions result in equal ownership shares.
8. Further, the Last Will & Testament makes a specific devise of the Lakefront Drive, Henderson County, North Carolina property (T.M.S. No. 9585.1303). See, "Exhibit B" at p. 4.
9. This Court previously ordered that the aforementioned specific bequest was voided as a result of a set-off against the beneficiaries, Daniel Stevenson and Thomas Stevenson, III.² See, "Order Granting Petition to Setoff", In re Estate of Jacquelin K. Stevenson, 2007-ES-10-1437 (February 28, 2011). (A copy of which is attached hereto as

² The aforementioned Residuary Clause provisions relating to the setoff for loans made to the two beneficiaries were also voided as a matter of law by the Court's February 28, 2011 Order.

‘Exhibit C’)

10. While the aforementioned bequest was voided, Petitioners would assert that the presence of specific devises of real property further affirms that the Testator's intent was to create a distribution of assets which was equitable in value, not one which resulted in equal ownership shares.
11. The Court disagrees that Petitioners' have the absolute discretion in dividing the property of the Testator.
12. However, the terms of the Last Will & Testament specifically provide that the intent of the Testator was to allow the Petitioners the following discretionary powers:

10.1 Determinations. To determine what property is covered by general descriptions in this Will.

* * *

10.6 Distributions. Without the consent of any beneficiary, to make distributions (including the satisfaction of any pecuniary bequest) in cash or in specific property, real or personal, or an undivided interest, or partly in cash and partly in such property, and to do so without regard to the income tax basis of specific property allocated to any beneficiary (including any Trust) and without making pro-rata distributions of specific assets.

See, Last Will and Testament of Jacquelin K. Stevenson, pp. 9-10 (October 21, 1996), (emphasis added)

13. The Testator's plain and unambiguous intent was to allow the Personal Representatives to make distributions, without regard to "pro-rata distributions" and to devise of the Testator's property in whatever manner they see fit in accordance with the instructions of the Testator.
14. Further, the Testator's plain and unambiguous intent was to vest the Personal Representatives with the discretion to determine which property was covered by general descriptions and to effectuate the transfer of any devise, specific or general, by

any means necessary and prudent, including hybrid distributions of assets and cash, or distributions of undivided interests in property.

15. The Testator's instructions to use undivided interests, if necessary, in making distributions of real properties plainly and unambiguously contradicts the Respondent's assertions and this Court's Order in that the Testator clearly did not intend for all properties to be divided with equal ownership amongst the parties.
16. As such, the Court's Order violates the rules of construction and vitiates the Testator's intent, in violation of our State's laws:

The rules, in substance, are: The intent must govern; it must be gathered from the Will; every word and clause must, if possible, be given effect; the construction must be by the entirety, and not *per parvella*; the deduced intent must be so strong as to leave no doubt in the mind of the Court, and may not rest on conjecture; ... Courts are not permitted, under the guise of interpretation, to incorporate provisions; of two inconsistent provisions.

Davenport v. Collins, 161 S.C. 387, 159 S.E. 787 (S.C., 1931) citing 21 R. C. L. pages 217-234, and 40 Cyc. 1396 to 1417 (emphasis added)

17. Further, Petitioners would note that the Last Will and Testament's language tracks the S.C. Probate Code's statutory provisions almost verbatim with respect to the powers of Personal Representatives; specifically, the code vests the Personal Representatives with the same reasonable use of discretion to satisfy bequests as the Last Will and Testament provided for. See, S.C. Code Ann. § 62-3-715 cf. Last Will and Testament of Jacquelin K. Stevenson, p. 10 (October 21, 1996).
18. The Personal Representatives retained the services of a Certified Public Account, Mr. Herbert B. McGuire, Jr., in creating the proposed distribution scheme, and Petitioners would argue that this is exactly the type of reasonable discretion contemplated by Section 62-3-715.
19. Finally, Petitioner would argue that any restriction on a Personal Representative to use

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&
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CHARLESTON, SC
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their discretion in satisfying the bequests in a reasonable manner as contemplated by the Will and the statute virtually binds the hands of Personal Representatives and prevents them from being able to efficiently resolve the distribution of the Estate.

20. In light of the foregoing, the Petitioners would respectfully contend that this Court should alter or amend its prior ruling as it contradicts the plain and unambiguous intent of the Testator in providing the Personal Representatives with the necessary discretion to effectuate distribution of the Estate in any form or fashion as they see fit.

21. Further, the Petitioners would respectfully contend that this Court should alter or amend its prior ruling, as it is contradictory to the legislative intent of Section 62-3-715 which tracks, nearly verbatim, the language of the Last Will and Testament.

WHEREFORE, Petitioners would at this time respectfully and humbly pray this honorable Court

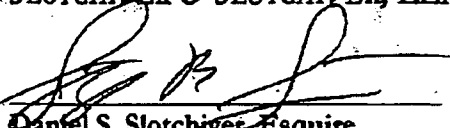
- (a) to alter or amend its prior Orders,
- (b) to reconsider the judgment given the great weight of the evidence and legal authority presented,
- (c) to issue specific findings of facts and law;
- (d) to alter or amend any erroneous findings of fact or law contained therein; and,
- (e) any and other further such relief this Court may deem just and proper whether such remedy lie at law or in equity.

(SIGNATURES CONTAINED ON THE FOLLOWING PAGE)

SLOTCHIVER
&
SLOTCHIVER.
L.L.P.
ATTORNEYS AT LAW
44 STATE STREET
CHARLESTON, SC
29401-2810

Respectfully Submitted,

SLOTCHIVER & SLOTCHIVER, LLP



Daniel S. Slotchiver, Esquire

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Charleston, SC 29401
Phone: (843) 577-6531
Facsimile: (843) 577-0261
dan@slotchiverlaw.com
S.C. Bar No. 15129

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Charleston, SC 29401
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steve@slotchiverlaw.com
S.C. Bar No. 65477

ATTORNEYS FOR THE PETITIONERS

August 12, 2015

Charleston, South Carolina

SLOTCHIVER
&
SLOTCHIVER,
L.L.P.
ATTORNEYS AT LAW
44 STATE STREET
CHARLESTON, SC
29401-2810

FILED

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON PROBATE COURT
CHARLESTON COUNTY

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IN THE PROBATE COURT

CASE NO: 2007-ES-10-1437

**IN RE: THE ESTATE OF
JACQUELINE K. STEVENSON**

Jacquelin S. Bennett and Kathleen S. Turner as
Personal Representatives of the Estate of
Jacqueline K. Stevenson,
Petitioners,

vs.

Estate of James Kelly King and Genevieve S.
Felder,
Respondents.

**ORDER REGARDING THE DIVISION OF
REAL PROPERTY**

EXHIBIT A

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11/30/15

Date of Hearing:
Presiding Judge:
Petitioner:

Attorney for Petitioner:

Respondents:
Respondents' attorney:
Court Reporter:

June 16, 2015
Tamara C. Curry
Jacquelin Bennett and Kathleen S. Turner, Co-
Personal Representatives
Stephen M. Slotchiver, Esq. & Daniel S. Slotchiver,
Esq.
Genevieve S. Felder
George McElveen, Esq.
Anna Meyer, Clark & Associates

THIS MATTER comes before the Court pursuant to Petitioners Demand for Hearing, filed by Petitioners Jacquelin S. Bennett and Kathleen S. Turner, Personal Representatives of the Estate of Jacqueline K. Stevenson, on May 4, 2015, said hearing was held on June 16, 2015. The real property which Petitioners are seeking division of are parcels known as the Lake Summit Property at T.M.S. No. 9585.13-03, Bailey Island at T.M.S. No. 013-00-00-041, and the property known as Paradise Island located at T.M.S. No. 617-15-00-020.

2-30-2

Petitioner has presented evidence that a Summons has been issued and served with the Petition on all interested parties as prescribed by Section 62-3-1303 of the South Carolina Code of Laws 1976, as amended.

After having taken this matter under advisement and viewing the record in this matter, the Court finds as follows:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

- ACC
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1. The Decedent, Jacquelin K. Stevenson, died testate on September 17, 2007, a resident of Charleston County, and owning real property in Charleston, South Carolina, Edisto, South Carolina, and Henderson County, North Carolina.
 2. The Court has proper subject matter jurisdiction and venue to hear this case pursuant to Section 62-1-302 of the South Carolina Code of Laws 1976, as amended.
 3. Petitioner's Kathleen Turner and Jacqueline Bennett are the duly appointed Co-Personal Representatives of this Estate pursuant to the Decedent's Last Will and Testament.
 4. Respondent Genevieve Felder is the step daughter of the Decedent, and pursuant to the Last Will and Testament, is an interested party to this action.
 5. There are currently no creditor's claims against the Decedent's Estate on file with the Court.
 6. The Decedent owned the following real property at the time of her death: 2414 Rockland Avenue, Town of Rockville, Wadmalaw Island, Charleston County, South Carolina located at T.M.S. No. 150-00-00-051; Lots #34, 35, 36 and 37, Lakefront Drive, Henderson County, North Carolina located at T.M.S. No. 9585.13-03; Lot 19, Dupree Creek Lane, Mt. Pleasant, South Carolina located at T.M.S. No. 617-15-00-020; and

Glasgow Island Lane, Edisto Island, South Carolina located at T.M.S. No. 013-00-00-041.

7. Petitioners have requested authorization to distribute all of the above-named properties except for 2414 Rockland Avenue, which was given to Petitioners pursuant to the Last Will and Testament.
8. It is agreed by the parties that the value of the real estate before the Court is not in dispute. Petitioners argue the Last Will and Testament gives the Personal Representatives broad authority with respect to distribution of assets. Petitioners desire to distribute the properties in various combinations so that the real estate that is devised to each respective devisee is of equal monetary value, instead of distributing the real estate so that each respective devisee receives an equal ownership percentage in each piece of real estate.
9. Respondent argues that the three remaining properties should not be distributed based strictly upon monetary value, but should be distributed in a fair and equitable manner.
10. After reviewing the Decedent's Last Will and Testament, it appears the Decedent's intent was to have the Residuary Estate distributed equally between the children due to the language of the Will which under the Residuary Estate section states:

All the rest, residue and remainder of my property and estate, real and person, of whatsoever nature and wheresoever situate, including any property before mentioned but not effectively disposed of, and specifically including the principal and undistributed income of the Jacquelin K. Stevenson Marital Trust established under Article VII of the Last Will and Testament of my late husband, Thomas C. Stevenson, Jr., dated February 5, 1985, and as to which I possess a General Power of Appointment (my "Residuary Estate"), I give, devise and bequeath to Kathleen S. Turner, Jacquelin S. Bennett, Thomas C. Stevenson, III, Daniel R. Stevenson, James Kelly King, and Genevive S. Felder, in equal shares, per stirpes and not per capita.

11. Pursuant to the Private Family Settlement Agreement on file, Petitioners and Respondent agreed that the "residuary assets between them would either be resolved by a subsequent agreement or will be determined by the Charleston County Probate Court." Since no subsequent agreement has been presented, the Charleston County Probate Court will make a determination on the residuary assets in light of the duties imposed upon a fiduciary.

12. The South Carolina Probate Code describes the duties of Personal Representative as follows:

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A personal representative is a fiduciary who shall observe the standards of care described by Section 62-7-804. A personal representative has a duty to settle and distribute the estate of the decedent in accordance with the terms of a probated and effective will and this code, and as expeditiously and efficiently as is consistent with the best interests of the estate. He shall use the authority conferred upon him by this code, the terms of the will, and any order in proceedings to which he is party for the best interests of successors to the estate.

South Carolina Code Ann. § 62-3-703.

13. In Moore v. Moore, our Court of Appeals explained a fiduciary relationship generally by stating:

[a] fiduciary relationship is founded on the trust and confidence reposed by one person in the integrity and fidelity of another. A fiduciary relationship exists when one imposes a special confidence in another, so that the latter, in equity and good conscience, is bound to act in good faith and with due regard to the interests of the one imposing the confidence.

Moore v. Moore, 360 S.C. 241, 251 (S.C. Ct. App. 2004).

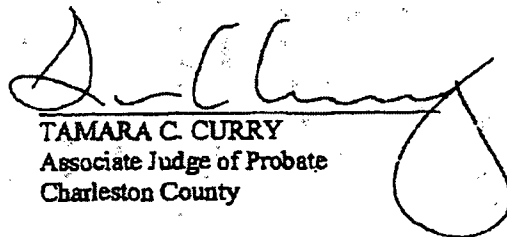
Based upon the foregoing, it is now, therefore:

ORDERED, ADJUDGED, AND DECREED that Petitioners Kathleen Turner and Jacquelin Bennett, acting as the Co-Personal Representatives of the Estate of Jacquelin Stevenson, are to divide said properties located on Lots #34, 35, 36 and 37, Lakefront Drive, Henderson County, North Carolina located at T.M.S. No. 9585.13-03, Lot 19, Dupree Creek Lane, Mt. Pleasant, South Carolina located at T.M.S. No. 617-15-00-020, and Glasgow Island Lane, Edisto Island, South Carolina located at T.M.S. No. 013-00-00-041 in equity and good faith among the devisees so that each respective devisee receives an equal ownership interest in each piece of real estate that is before the Court. It is further

ORDERED, ADJUDGED, AND DECREED that Petitioners Kathleen Turner and Jacquelin Bennett are hereby authorized to execute any and all documents necessary to effectuate said division of property. It is further

ORDERED, ADJUDGED, AND DECREED that this Order shall be subject to any further Orders of this Court that may become necessary.

AND IT IS SO ORDERED!


TAMARA C. CURRY
Associate Judge of Probate
Charleston County

ACC
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7/30/15
This 30th day of July, 2015
Charleston, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

FILED

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PROBATE COURT
CHARLESTON COUNTY

Case #: 07210-1437
Filed: 10-9-22

LAST WILL AND TESTAMENT
OF

JACQUELIN K. STEVENSON

EXHIBIT B

I, JACQUELIN K. STEVENSON, a resident of the County of Charleston and State of South Carolina, and a citizen of the United States, do make, publish and declare this as and for my Last Will and Testament, hereby revoking any and all former Wills and Codicils by me at any time heretofore made.

My children are KATHLEEN S. TURNER, JACQUELIN S. BENNETT, THOMAS C. STEVENSON, III, and DANIEL R. STEVENSON (the children of my marriage to my late husband Thomas C. Stevenson, Jr.), and JAMES KELLY KING. GENEVIVE S. FELDER is my step-daughter, being the child of my said late husband THOMAS C. STEVENSON, JR.

ARTICLE 1

Appointment of Fiduciaries

Personal Representative. I appoint my daughter, KATHLEEN S. TURNER, and my son, THOMAS C. STEVENSON, III, as my Co-Personal Representatives, with the survivor of them as sole Personal Representative.

ARTICLE 2

Payment of Enforceable Claims

2.1 Direction as to Legally Enforceable Claims. Except as may specifically be provided otherwise in this Will, I direct that all of my legally enforceable debts of a current nature, expenses incurred in the administration of my estate, and funeral and burial expenses (including the expenses of my last illness), including the cost of a suitable memorial, be paid out of my residuary estate. With respect to long term notes and debts secured by mortgages on or security interests in specific property, my Personal Representatives, during the administration of my estate, shall pay such installments as they come due out of my residuary estate, and any such

property shall be distributed by my Personal Representatives subject to such debt. My Personal Representatives may continue, renew, and/or refinance any indebtedness upon such terms and with such security for its repayment as they deem advisable.

ARTICLE 1

Gift of Pecuniary Amounts and Personal Property

3.1 **Disposition by Memorandum.** I may leave a list in my handwriting, or signed by me, directing the distribution of specific items of personal property to named individuals as specified in said list. If no such written list is found or identified by my Personal Representative within ninety (90) days after my Personal Representative's qualification, it shall be conclusively presumed that there is no such list and any subsequently discovered list shall be ineffective. It is my direction that my Personal Representative follow my instructions as specified in any such list in the distribution of said articles of personal property.

3.2 **Conflicts.** Should there be a conflict as to the disposition of any specific item or article between any memorandum I have left and a specific gift of such property under this Will, I direct that the list or memorandum which I may have left shall control such disposition over any specific gift provisions of this Will.

3.3 **Remaining Personal Property.** I give, devise and bequeath all tangible personal property not effectively disposed of by memorandum, or by specific gift under this Will, including furniture, furnishings, silver, books and pictures (but not including securities, cash on hand or on deposit, and other personal property relating to investments) which I may own at my death, and all policies of insurance relating to such property, in shares of substantially equal value, to such of KATHLEEN S. TURNER, JACQUELIN S. BENNETT, THOMAS C. STEVENSON, III, DANIEL R. STEVENSON, and GENEVIVE S. FELDER, as shall survive me, to be divided among them in such manner as they shall agree. If, and to the extent that they do not unanimously agree as to the division and distribution of my said property, I direct that they shall choose said property by a system of drawing lots. It is my suggestion and my request that they divide such personal property among themselves in the following manner, if and to the extent that they are unable to agree on its fair distribution:

3.3.1 **Choosing by Lots.** The order in which they shall be allowed to choose among such items shall be determined by lot. The child with the highest order of priority

shall choose first; the child with the next highest order of priority shall choose next, and so on. The child choosing first shall be allowed to choose any object (so long as its value does not exceed the value of such child's then existing share of personal property to pass to such child hereunder) and the value of such object as finally determined for federal estate tax purposes shall be deducted from the value of such child's share at such time. Each child shall so be allowed to choose in order of priority. After every child has so chosen, each shall be allowed to choose again in the same order of priority until the value of each child's share has been expended or exhausted.

3.3.2 Participation. I specifically direct that during the division and distribution of the remainder of my personal property as provided in this Article, §3.3 no grandchild of mine shall be present, nor shall there be present any spouse or in-law of any child of mine.

3.4 Packing and Shipping Expenses. I direct that all costs and expenses, including the expense of packing, shipping, insuring and transporting, incurred by the delivery of the bequests made in this Article shall be borne by my Personal Representative as an expense of administration and shall not be charged against any of said devises.

ARTICLE 4

Specific Bequests and Devises

4.1 James Kelly King. I give, devise and bequeath the sum of FOUR HUNDRED THOUSAND DOLLARS, (\$400,000.00) to my son, JAMES KELLY KING, if he survives me; provided, however, if my said son does not survive me said amount shall pass as part of my residuary estate hereunder.

4.2 Kathleen S. Turner and Jacquelin S. Bennett. I give, devise and bequeath any and all interest which I may own at my death in that real property and improvements which constitute my home at 2414 Rockland Avenue, in the town of Rockville, Wadmalaw Island, Charleston County, South Carolina lots 4 and 4A, (currently designated as TMS # 150-00-00-051), and all furniture and furnishings therein, and all policies of insurance thereon, to my daughters Kathleen S. Turner and Jacquelin S. Bennett in equal shares, per stirpes. It is my intent by this bequest to give my daughters Kathleen and Jacquelin all interests I own at my death in my Rockville house and the lots on which it is situate and which are a part thereof.

4.3 Daniel R. Stevenson and Thomas C. Stevenson, III I give, devise and bequeath any and all interest which I may own at my death in that real property and improvements which constitute my home located at Lake Summit, Henderson County, North Carolina, known as Lots #34, 35, 36, and 37, Lakefront Drive (Map No. 9585.13-03), and all furniture and furnishings located therein, and all policies of insurance thereon, owned by me at my death, to my sons Daniel R. Stevenson and Thomas C. Stevenson, III, in equal shares per stirpes. It is my intent by this devise to give my sons Dan and Tom all interests I own at my death in "the Lake House" and the lots on which it is situate and which are a part thereof.

4.4 Genevive S. Felder. I bequeath the sum of Four Hundred Thousand Dollars (\$400,000.00) to my step-daughter, Genevive S. Felder; provided, however, that if said Genevive S. Felder does not survive me, I give and bequeath said sum to her issue, per stirpes; provided, further, that if neither said Genevive S. Felder nor any of her issue survive me, said amount shall pass as part of my residuary estate hereunder.

ARTICLE 5
Residuary Estate

All the rest, residue and remainder of my property and estate, real and personal, of whatsoever nature and wheresoever situate, including any property before mentioned but not effectively disposed of, and specifically including the principal and undistributed income of the Jacquelin K. Stevenson Marital Trust established under Article VII of the Last Will and Testament of my late husband, Thomas C. Stevenson, Jr., dated February 5, 1985, and as to which I possess a General Power of Appointment (my "Residuary Estate"), I give, devise and bequeath to Kathleen S. Turner, Jacquelin S. Bennett, Thomas C. Stevenson, III, Daniel R. Stevenson, James Kelly King, and Genevive S. Felder, in equal shares, per stirpes and not per capita. I have previously loaned to my said son Dan the amount of One Hundred Thousand Dollars (\$100,000.00) on a stock margin account, and to my son Tom the amount of Seventy-Nine Thousand Six Hundred One and 38/100 Dollars (\$79,601.38) as evidenced by a Promissory Note from Tom dated as of November 1, 1993. I direct that such amount of (i) said One Hundred Thousand Dollars (\$100,000.00) principal as has not been repaid to me by Dan at the time of my death, plus all interest thereon which has not been paid by Dan, and of (ii) said Seventy-Nine Thousand Six Hundred One and 38/100 Dollars (\$79,601.38) principal as has not been repaid to me by Tom at the time of my death, plus all interest thereon which has not been paid by Tom,

shall be deducted from their respective shares hereunder, and re-distributed equally among the said beneficiaries of my residuary estate, including Dan and Tom.

ARTICLE 6

Disabled Persons' Property

6.1 **Title To Property Vested.** Whenever under this Will any property is to be distributed to a person under a disability (the "disabled person"), title to that property shall vest in the disabled person, but payment may be deferred and held by my Personal Representatives, who shall apply so much or all or none of the principal and income as they may determine, in the exercise of their sole and absolute discretion (without regard to the other income or other resources of the disabled person), for the disabled person's comfort and welfare. When the disability ceases, my Personal Representatives shall deliver the property and any accumulated income to the disabled person or to his or her legal representatives. Any income accumulated by my Personal Representatives shall be added to and accounted for as part of the principal.

6.2 **Distributions for Disabled Person's Benefit.** My Fiduciaries may, at any time and from time to time, in the exercise of their sole and absolute discretion, distribute all or a portion of the property to the disabled person's parent, guardian, or custodian under the applicable state Uniform Gifts to Minors Act, committee, conservator, or to an individual with whom the disabled person resides. The receipt of the distributee shall constitute a full and sufficient discharge to my Fiduciaries. The powers granted to my Fiduciaries in this Will shall be applicable to any property dealt within this Article.

ARTICLE 7

Payment of Transfer and Death Taxes

Appointment. I direct that all estate and inheritance taxes assessed with respect to my estate herein disposed of, or any part thereof, or on any bequest or devise contained in this my Last Will and Testament (which term wherever used herein shall include any and all codicils hereto) or on any insurance upon my life, or on any jointly owned property, or any other property, transfers or interests included in my Gross Estate (as that term is defined in Section 2031 of the Internal Revenue Code of 1986, as amended or any successor thereto), be apportioned among all probate as well as non-probate interests which are included in my Gross Estate for the purpose of calculating the taxes payable upon my death. The apportionment shall be based ratably upon the values at which such interests or properties are valued in my Gross

Estate as finally determined for federal estate tax purposes. However, such apportionment shall not apply to any and all interests which qualify for the federal estate tax charitable deduction. So far as practicable my Co-Personal Representative shall deduct the amount of such taxes allocable to each beneficiary from the amount distributable to such beneficiary, and shall recover from all others for the benefit of my estate their allocable parts of such taxes.

7.1 Exercise of Tax Elections.

7.1.1 In General. In determining the estate tax and other transfer tax liability, and the income tax liability, related to my estate, the decision of my Personal Representatives as to all available tax elections (including but not limited to the election whether to deduct certain administration expenses for income tax or for estate tax purposes) shall be conclusive on all persons concerned. My Personal Representatives shall be under no liability to any person as a result of the election made. In addition, no compensating adjustments between principal and income or in the amount of any gift under this Will shall be made as a result of any such election made by my Personal Representatives, nor shall any person be entitled to a right of reimbursement with respect to the economic consequences of any such election.

ARTICLE 8

Removal, Appointment and Succession of Fiduciaries

8.1 Resignation Procedure. Any Personal Representative may resign at any time by written notice to another then acting Co-Personal Representative (if there is one) or to the then beneficiary or one of the then beneficiaries of my Estate, setting forth the effective time and date of such resignation on or before such effective time.

8.2 Appointment of Successor Personal Representatives and Co-Personal Representatives. Subject to the provisions of Article I, hereof, any Personal Representative (including any substitute or successor Personal Representative) shall have the right at any time after qualifying as Personal Representative to appoint a successor Personal Representative to act in the place of the appointing Personal Representative, either immediately or in the future upon any stated contingency. Any such appointment may be changed from time to time prior to the date it becomes effective. If any initial Personal Representative or any such successor, for any reason, fails or ceases to act without having appointed a Personal Representative who succeeds the former Personal Representative, any remaining Personal Representative may appoint another

Personal Representative to act in the former Personal Representative's place.

8.3 **Termination of Fiduciary Powers.** An outgoing Fiduciary, upon the effective date of removal, resignation, or incapacity, shall cease to have any powers or discretion hereunder. At the earliest possible date after a Fiduciary ceases for any reason to be a Fiduciary hereunder, there shall be delivered to such Fiduciary's successor or to another then acting Fiduciary hereunder all of the assets which were in the possession of such Fiduciary and there shall be made available to each successor Fiduciary a complete financial record and inventory of assets affected thereby. With respect to any properties thus transferred by the outgoing Fiduciary or by such Fiduciary's representative, such Fiduciary shall stand and be discharged of all further duties and obligations.

8.4 **Successor Fiduciary Powers and Authority.** Each successor Fiduciary, upon assumption of such position, shall have the same powers, rights, discretion, duties, and obligations as the predecessor Fiduciary. Title to the entire property (of the Trust or otherwise) shall automatically vest in any successor Fiduciary without the necessity of any conveyance. The assumption of authority by a successor Fiduciary shall not be complete until such successor executes a written acceptance of such appointment showing the authority for such succession (a copy of which shall promptly be delivered personally or sent by certified mail to the outgoing Fiduciary or to such Fiduciary's legal representative).

8.5 **Exoneration from Liability for Acts of Prior Fiduciaries.** Each successor Fiduciary shall be exempt from any liability in any way related to the prior actions or omissions of the Fiduciaries hereunder and each shall be entitled to accept as conclusive any accountings and statement of assets furnished by any predecessor Fiduciary.

ARTICLE 9 Fiduciary Provisions

9.1 **Unanimity Requirements and Exceptions.** All powers and discretions conferred by law or by this Will upon the Fiduciaries, including, without limitation, the right to appoint additional or successor Fiduciaries, must be exercised by the unanimous vote of the Personal Representatives in office from time to time (excepting the vote of any Personal Representative who is also a beneficiary who is ineligible to participate in the exercise of the power or discretion because he or she, as a beneficiary, may be affected by the exercise of such power or discretion).

9.2 Fiduciary Compensation. For their services as Fiduciaries, the Fiduciaries are entitled to receive an amount which is reasonable for the services rendered at the time services are rendered. At any time there are multiple Fiduciaries serving, the Fiduciaries, collectively, shall share such fee. If there shall be a corporate Fiduciary serving as Fiduciary, the corporate Fiduciary shall be entitled to reasonable compensation for the services rendered, but in no event shall such compensation be more than an amount which is competitively determined to be reasonable for the services rendered among organizations providing similar such services.

9.3 Inventory; Appraisals; Bond. Except as otherwise required by law, my Personal Representatives shall not be required to file any inventory or appraisal or any annual or other returns or reports to any court or to give bond in any jurisdiction, but shall furnish a statement of receipts and disbursements and an investment review of the assets of the Estate at least annually to each person then entitled to income from my Estate.

9.4 Notice. Any notice or other instrument required or permitted to be given, made, executed, or delivered hereunder shall be in writing duly signed by (or, where permitted hereunder, in behalf of) the party or parties giving, making, or executing the same and shall be physically delivered or sent by certified or express mail (or equivalent postal or private express service) to all parties, if any, entitled thereto (when so sent, such notice or communication shall be plainly addressed to such person at such person's last known address). Any such instrument required to be given or sent to the estate of any deceased or incapacitated person shall be physically delivered or sent, in like manner, to the personal representative (or one of the personal representatives) of such person at such representative's last known address or, if there be no such personal representative known to the sender, to the estate of such person at his or her last known address.

If any instrument is sent by mail (or express service) as provided above, the third day following the date of its receipt by the postal service (or such express service), as evidenced by a dated postal (or express) service receipt showing the addressee's name and proper address (as described above), shall be deemed to be the effective date of delivery of the notice or other communication contained in such instrument. In all other cases, the date of actual physical delivery shall be the effective date of delivery and, except as such instrument may specifically provide for a later effective date, it shall be effective for all purposes from such date.

Copies of all instruments of amendment, revocation, exercise of power, designation, release, disclaimer, etc., as well as of trustee resignation, removal, appointment, and/or acceptance, the original of which shall be attached hereto, shall, upon request, be promptly delivered or sent by mail by the Trustee receiving or initiating the same to each other then interested party (i.e., the other then Trustee or Trustees, if any, of the affected Trust or Trusts, and each present beneficiary of the affected Trust or Trusts).

9.5 Notice to Disabled Parties. If a person under a disability is a party to any legal proceeding relating in any manner to any Trust created by this Agreement, service of process upon the disabled person shall not be required if another individual, not under a disability, is a party to the proceeding and has the same interest as the disabled person.

9.6 Fiduciaries Protected. Each Fiduciary shall be fully protected for any action taken in good faith, in accordance with the advice of counsel, or in reliance thereon. No Fiduciary acting hereunder shall be responsible for the act, default or omission of any other Fiduciary, nor for the default or misconduct of any agent or attorney appointed by the Fiduciary, or any of them, except that any corporate Fiduciary shall be liable for the default or misconduct of its own agents, officers, or employees. Each Fiduciary shall be liable only for his, her or its own willful misconduct or gross negligence.

ARTICLE 10

Fiduciary Powers

In the administration of the Estate and of any Trusts established under this Will, my Personal Representatives shall have all the powers granted by law, including but not limited to the powers granted to Personal Representatives by S. C. Code Section 62-3-715, and to Trustees by the Uniform Trustee Powers Act (S. C. Code Section 62-7-701, et. seq.), which powers shall not be revoked or reduced if said statutes should hereafter be repealed or restrictively amended. It is my intention in specifying the following powers to give broad discretion and flexibility to my Personal Representative and my Trustees. Without limiting the foregoing, my Personal Representatives shall have the following powers:

10.1 Determinations. To determine what property is covered by general descriptions in this Will.

- 10.2 **Payment of Expenses.** To pay all debts and funeral and burial expenses (including the expenses of my last illness, which I direct shall be paid out of my estate) as soon as the convenience of my estate will permit and without regard to any limitation in applicable laws as to the amount of such expenses, and to pay or deliver any legacy without waiting the time prescribed by law.
- 10.3 **Investments and Reinvestments.** To invest or reinvest in such securities or other property, real or personal (whether within or without the United States), and to retain any property received by them for such periods as they determine, including specifically retention of, or investment in, assets which may be for the use of the beneficiary or beneficiaries of any such Trust, even though such asset or assets may not be of a character, or of such a percentage of the total Trust, as would otherwise be deemed proper Trust investments. I request that my Trustees honor the wishes of the Trust beneficiaries as to the disposition or retention of any original property of the Trust, or any Trust asset which is of a personal use nature, unless the Trustees determine that such wishes are clearly in contradiction to the purposes and terms of any such Trust.
- 10.4 **Borrowing.** To borrow such sums, on a secured or unsecured basis, from any source (including themselves), for such period and upon such terms as they deem necessary or convenient in the administration of my estate or of such Trust, and to secure any such loan by mortgage or pledge. No lender shall be bound to see to or be liable for the application of the proceeds, and no Personal Representative or Trustee shall be personally liable, and each such loan shall be payable only out of assets of my estate or the Trust.
- 10.5 **Rental of House.** To rent my house at 58 Meeting Street during the period of the administration of my estate to such tenant and for and upon such rental, term and conditions as my Personal Representatives shall deem advisable and reasonable, but without any duty to rent same.
- 10.6 **Distributions.** Without the consent of any beneficiary, to make distributions (including the satisfaction of any pecuniary bequest) in cash or in specific property, real or personal, or an undivided interest, or partly in cash and partly in such property, and to do so without regard to the income tax basis of specific property allocated to any beneficiary (including any Trust) and without making pro-rata distributions of specific assets.
- 10.7 **Exoneration from Liability.** My Fiduciaries shall not be personally liable to any beneficiary of my Will or of any trust created under my Will, or to any other party interested in my estate or any trust created under my Will, for any claim against my estate or trust for the diminution in value of estate or trust property arising from the compliance by my Fiduciaries with any federal, state, or local law, rule, or regulation including (1) the reporting of, or other response to the contamination

of estate or trust property by substances or materials prohibited or regulated by federal, state, or local law or that are known to pose a hazard to the environment or to human health, (2) the reporting of or other response to violations of any federal, state, or local law or that are known to pose a hazard to the environment or human health, or (3) other matters relating to environmental laws.

- 10.8 **Limitations.** Notwithstanding the foregoing, nothing in this Will shall be construed as permitting a beneficiary who may also be a Trustee of any Trust created hereunder to exercise any rights or powers which may be in excess of any limitations imposed by law or elsewhere in this Will upon the exercise of such powers (such as, for example, those limited by ascertainable standards, or otherwise prohibited to such Trustee).

ARTICLE 11

Definitions

11.1 **Personal Representative, Trustee, Fiduciary.** Whenever the word "Executor", "Trustee", "Fiduciary", and/or "Personal Representative", or any modifying or substituted pronouns therefor are used in this my Will, such words and respective pronouns shall be held and taken to include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the executor, personal representative, fiduciary, or trustee named herein and to any successor or substitute executor, fiduciary, trustee or personal representative acting hereunder, and such successor or substitute shall possess all the rights, powers and duties and the authority and responsibility conferred upon my executor, fiduciary, trustee and/or personal representative originally named herein.

11.2 **Children, Issue, etc.** The terms "children", "issue", "descendant", or words of similar import shall include only children born of the lawful marriage of such child's parents and legally adopted children or their issue, as the case may be (provided the adoption occurs before the adopted person attains the age of fourteen (14) years).

11.3 **Disabled Person.** A "disabled person" is a minor or a person who is deemed by my Trustees, in the exercise of their sole and absolute discretion, to be physically or mentally incapable of managing his or her affairs although a judicial declaration of the incapacity may not have been made.

11.4 **"Per Stirpes".** The term "per stirpes" as used herein is intended to describe the

division of shares at each generation regardless of whether there is surviving issue representing that generation. The term "per stirpes" with reference to the issue of any individual shall mean that the stock begin with the children of such individual and that no distribution at any generational level shall be "per capita". If no issue representing a generation are surviving, the number of shares for that generation shall equal the number of predeceased issue of that generation leaving surviving issue. If issue representing a generation are surviving, the number of shares for that generation shall equal the number of issue of that generation surviving, plus the number of predeceased issue of that generation leaving surviving issue.

ARTICLE 12

Survivorship

No person hereinabove named or described in this Will shall be deemed to have survived me unless he or she is living on the thirtieth (30th) day after the day of my death.

ARTICLE 13

Headings

The article and section headings used in this Last Will and Testament are for convenience only and are not to be considered as part of this Last Will and Testament.

EXECUTION

IN WITNESS WHEREOF, I, JACQUELIN K. STEVENSON, the Testatrix, sign my name to this instrument this 21 day of October, 1996, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Jacquelin K. Stevenson (SEAL)
JACQUELIN K. STEVENSON

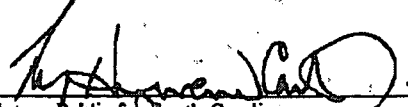
We, T. HEYWARD CARTER, JR. and NOREEN S. HOLDER the witnesses, sign our names to this instrument, and at least one of us, being first duly sworn, does hereby declare generally and to the undersigned authority that the Testatrix signs and executes this instrument as her Last Will and that she signs it willingly and that each of us, in the presence and hearing of the Testatrix, hereby signs this Will as witness to the Testatrix' signing, and that to the best of our knowledge the Testatrix is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

T. Heyward Carter, Jr.
Noreen S. Holder

JCS
13

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

Subscribed, sworn to and acknowledged before me by JACQUELIN K. STEVENSON the
Testatrix and subscribed and sworn to before me by NOREEN S. HOLDER witness,
this 21 day of October, 1996.


_____(SEAL)
Notary Public for South Carolina
My Commission Expires: 2/26/2000

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

) IN THE CHARLESTON COUNTY
) PROBATE COURT

) CASE NO: 2007-ES-10-1437

FILED

Jacquelin S. Bennett, and Kathleen S. Turner, as Co-Personal Representatives of the Estate of Jacquelin K. Stevenson

PROBATE COURT
CHARLESTON COUNTY

Petitioners,

vs.

Daniel R. Stevenson, II, Thomas C. Stevenson, III, James, King, Genevieve S. Felder

Respondents.

Order Granting Petition to
Setoff

EXHIBIT C

Hearing Date:

Judge:

Petitioners:

Petitioners' Counsel:

Respondents:

Respondents' Counsel:

Court Reporter:

February 22, 2011

Honorable Tamara Curry

Jacquelin S. Bennett, Kathleen S. Turner

(Respectfully) John Hayes, Esq.

Stephen Slotchiver, Esq.

Daniel Stevenson, Thomas Stevenson, III,

James King, and Genevieve Felder

John Wilkerson, Esq. for James King;

Robert Hood, Esq. for Daniela Stevenson;

Rob Bunson, Esq. for Thomas Stevenson;

Southeastern Transcript, Inc.

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This matter comes before the Charleston County Probate Court pursuant to Petitioners Jacquelin S. Bennett and Kathleen S. Turner, as Co-Personal Representatives of the Estate of Jacquelin K. Stevenson's, Petition to Setoff the amount of Daniell R. Stevenson, II's liquidated indebtedness against his interest in the Estate. A hearing was held on February 22nd, 2011. Present at the hearing was counsel for Petitioner Bennett, John Hayes, Esq.

FINDINGS OF FACT

Upon review of the record, evidence presented, and testimony given at the hearing on February 11th, 2011, this Court makes the following findings of fact:

1. Jacquelin K. Stevenson (the "Decedent") died testate on September 17, 2007, as resident of the Charleston County, South Carolina.
2. The Petitioners, Jacquelin S. Bennett and Kathleen S. Turner, are the duly appointed Personal Representatives of the said Estate.
3. Daniel R. Stevenson, II, is named under the Last Will and Testament of Jacquelin K. Stevenson as a specific beneficiary of a portion of the Estate's personal property under Section 3.3 of Article 3, fifty percent (50%) beneficiary of the Estate's interest in the real estate located at Lake Summit, Henderson County, North Carolina, under Section 4.3 of Article 4, and a residuary beneficiary under Article 5 wherein he is entitled to twenty percent (20%) thereof.
4. The Estate has received a Ten Million Eight Hundred Ten Thousand Five Hundred Forty-One and no/100 Dollar (\$10,810,541.00) Judgment against Daniel R. Stevenson for Breach of a Fiduciary Duty, Breach of Trust, conversion, and Fraud. This liquidated indebtedness amount is due to the Estate and a required offset to the debtor's interest under Section 62-3-903, SC Code.
5. The Decedent's Residuary estate, after all taxes, expenses, and claims, is estimated to be Four Million Three Hundred Thousand Dollars (\$4,300,000.00). Daniel R. Stevenson II's interest in the Estate is estimated to be an amount that is grossly under the amount of his aforesaid liquidated indebtedness.

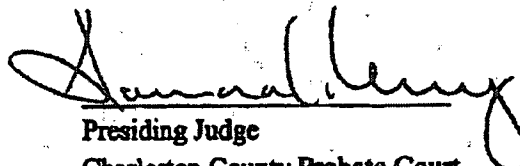
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6. Daniel R. Stevenson, II, filed a Chapter 7 proceeding in the United States Bankruptcy Court for the Western District of North Carolina.
7. The Bankruptcy Court issued an Order on February 8, 2010, allowing the Estate to proceed in the Charleston County Probate Court to determine "the setoff rights of the Estate of Jacquelin K. Stevenson against the indebtedness owed to the Estate of Jacquelin K. Stevenson by Daniel R. Stevenson, II"
8. The Charleston County Probate Court issued an Order on June 8, 2010, granting the Petitioners' Petition to Setoff and allowing the Personal Representatives of the Estate of Jacquelin K. Stevenson to "setoff any entitlement which Daniel R. Stevenson, II, would have otherwise had in the Estate of Jacquelin K. Stevenson by the full amount of the aforesaid Judgment"
9. The Petitioners are seeking an Order granting the right to have a Water Craft; serial # etc741681697, vessel number nc-3962, (hereinafter the "Water Craft") located in North Carolina, re-titled into the name of the Estate of Jacquelin K Stevenson.
10. This Water Craft is in actuality property of the Estate of Jacquelin K. Stevenson, and therefore, is subject to the June 8, 2010 Order granting the right to setoff.
11. A Hearing on this issue was scheduled to be heard on February 22, 2010.
12. All parties have agreed and consented to the motion and granting of this Petition as referenced by the signatures below.

WHEREFORE the Petitioners' Petition to Setoff is **GRANTED**.

IT IS SO ORDERED.

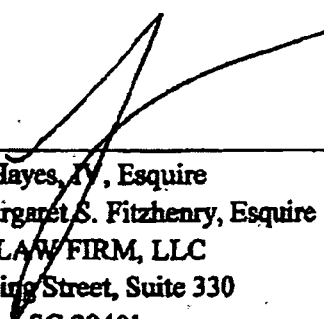
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Presiding Judge
Charleston County Probate Court

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Charleston, South Carolina

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WE SO MOVE:



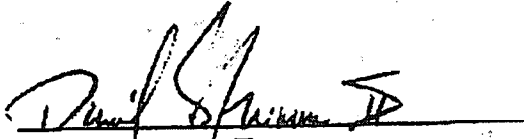
John C. Hayes, IV, Esquire
Mary-Margaret S. Fitzhenry, Esquire
HAYES LAW FIRM, LLC
180 Meeting Street, Suite 330
Charleston, SC 29401
ATTORNEYS FOR PETIONERS

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Page 4 of 7

WITH CONSENT:



Daniel Stevenson, II

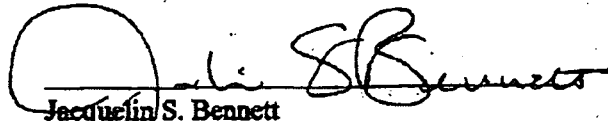
RESPONDENT

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Page 5 of 7

WITH CONSENT:


Jacquelin S. Bennett
Petitioner(s)

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Page 6 of 7

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Jacquelin S. Bennett and Kathleen S. Turner, as Co-Personal
Representatives of the Estate of Jacquelin K. Stevenson,
Plaintiffs

vs.

Estate of James Kelly King and Genevieve S. Felder,
Defendants

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CIVIL ACTION COVERSHEET

2015-CP - 10- 5056

Submitted By: Daniel S. Slotchiver
Address: 44 State Street
Charleston, SC 29401

SC Bar #: 15129
Telephone #: 843-577-6531
Fax #: 843-577-0261
Other:
E-mail: dan@slotchiverlaw.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|---|---|---|
| Contracts | Torts - Professional Malpractice | Torts - Personal Injury | Real Property |
| ☐ Constructions (100) | ☐ Dental Malpractice (200) | ☐ Conversion (310) | ☐ Claim & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Motor Vehicle Accident (320) | ☐ Condemnation (410) |
| ☐ General (130) | ☐ Medical Malpractice (220) | ☐ Premises Liability (330) | ☐ Foreclosure (420) |
| ☐ Breach of Contract (140) | Previous Notice of Intent Case # | ☐ Products Liability (340) | ☐ Mechanic's Lien (430) |
| ☐ Fraud/Bad Faith (150) | 20 <u>-NI-</u> | ☐ Personal Injury (350) | ☐ Partition (440) |
| ☐ Failure to Deliver/
Warranty (160) | ☐ Notice/ File Med Mal (230) | ☐ Wrongful Death (360) | ☐ Possession (450) |
| ☐ Employment Discrim (170) | ☐ Other (299) | ☐ Assault/Battery (370) | ☐ Building Code Violation (460) |
| ☐ Employment (180) | | ☐ Slander/Libel (380) | ☐ Other (499) |
| ☐ Other (199) | | ☐ Other (399) | |
| Inmate Petitions | Administrative Law/Relief | Judgments/Settlements | Appeals |
| ☐ PCR (500) | ☐ Reinstate Drv. License (800) | ☐ Death Settlement (700) | ☐ Arbitration (900) |
| ☐ Mandamus (520) | ☐ Judicial Review (810) | ☐ Foreign Judgment (710) | ☐ Magistrate-Civil (910) |
| ☐ Habeas Corpus (530) | ☐ Relief (820) | ☐ Magistrate's Judgment (720) | ☐ Magistrate-Criminal (920) |
| ☐ Other (599) | ☐ Permanent Injunction (830) | ☐ Minor Settlement (730) | ☐ Municipal (930) |
| | ☐ Forfeiture-Petition (840) | ☐ Transcript Judgment (740) | ☒ Probate Court (940) |
| | ☐ Forfeiture-Consent Order (850) | ☐ Lis Pendens (750) | ☐ SCDOT (950) |
| | ☐ Other (899) | ☐ Transfer of Structured
Settlement Payment Rights
Application (760) | ☐ Worker's Comp (960) |
| Special/Complex /Other | | ☐ Confession of Judgment (770) | ☐ Zoning Board (970) |
| ☐ Environmental (600) | ☐ Pharmaceuticals (630) | ☐ Petition for Workers
Compensation Settlement
Approval (780) | ☐ Public Service Comm. (990) |
| ☐ Automobile Arb. (610) | ☐ Unfair Trade Practices (640) | ☐ Other (799) | ☐ Employment Security Comm (991) |
| ☐ Medical (620) | ☐ Out-of State Depositions (650) | | ☐ Other (999) |
| ☐ Other (699) | ☐ Motion to Quash Subpoena in
an Out-of-County Action (660) | | |
| ☐ Sexual Predator (510) | ☐ Pre-Suit Discovery (670) | | |

Submitting Party Signature: 

Date: September 15, 2015

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Jacquelin S. Bennett, and Kathleen S. Turner, as
Co-Personal Representatives of the Estate of
Jacquelin K. Stevenson,

Petitioners,

vs.

Estate of James Kelly King and Genevieve S.
Felder,

Respondents.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Case No. 2015-CP-10- 5056

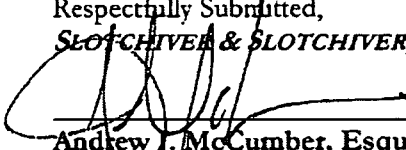
**NOTICE OF INTENT TO APPEAL
TO THE CIRCUIT COURT**

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2015 SEP 15 PM 4:13
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

YOU WILL PLEASE TAKE NOTICE that the Petitioners, Jacquelin S. Bennett and Kathleen S. Turner, as Co-Personal Representatives of the Estate of Jacquelin K. Stevenson, by and through their undersigned counsel pursuant to S.C. Code Ann. § 62-1-308, intend to appeal to the Charleston County Court of Common Pleas of the Orders of the Honorable Judge of Probate, Tamara C. Curry, dated July 30, 2015 and September 10th, 2015. Copies of the Order are attached hereto, and incorporated by reference, as if fully restated herein.

Respectfully Submitted,

SLOTCHIVER & SLOTCHIVER, LLP



Andrew J. McCumber, Esquire

S.C. Bar No.: 101559

Daniel S. Slotchiver, Esquire

S.C. Bar No.: 15129

Stephen M. Slotchiver, Esquire

S.C. Bar No.: 65477

44 State Street

Charleston, SC 29401

Phone: (843) 577-6531

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COUNSEL FOR THE APPELLANTS

September 15, 2015

Charleston, South Carolina

SLOTCHIVER
&
SLOTCHIVER,
L.L.P.
ATTORNEYS AT LAW
44 STATE STREET
CHARLESTON, SC
29401-2810

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Jacquelin S. Bennett, and Kathleen S. Turner, as
Co-Personal Representatives of the Estate of
Jacquelin K. Stevenson,

Petitioners,

vs.

Estate of James Kelly King and Genevieve S.
Felder,

Respondents.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Case No. 2015-CP-10- 5056

**NOTICE OF INTENT TO APPEAL
TO THE CIRCUIT COURT**

The undersigned certifies that the Notice of Intent to Appeal was served upon the parties to
this action on this **15th** day of **September, 2015** by U.S. Mail to the following:

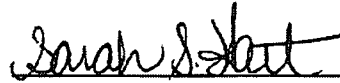
John S. Wilkerson, III Esquire
Elaine H. Fowler, Esquire
Turner Padgett Graham & Laney, P.A.
40 Calhoun Street, Suite 201
P.O. Box 22129
Charleston, SC 29413

COUNSEL FOR THE ESTATE OF JAMES K. KING

George R. McElveen, III, Esquire
McElveen & McElveen
2229 Bull Street
Columbia, SC 29201

COUNSEL FOR GENIEVE S. FELDER

FILED
2015 SEP 15 PM 3:13
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____



Sarah Hart, Paralegal
Slotchiver & Slotchiver, LLP

Charleston, South Carolina

SLOTCHIVER
&
SLOTCHIVER,
L.L.P.
ATTORNEYS AT LAW
44 STATE STREET
CHARLESTON, SC
29401-2810

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Hon. Thomas A. Russo, Circuit Court Judge
The Hon. Tamara C. Curry, Probate Court Judge

Case No. 2007-ES-10-1437

Jacquelin S. Bennett, and Kathleen S.
Turner, as Co-Personal Representatives of
the Estate of Jacquelin K. Stevenson,

Appellants,

v.

Estate of James Kelly King and Genevieve
S. Felder,

Respondents.

NOTICE OF APPEAL

Jacquelin S. Bennett, and Kathleen S. Turner, in their capacity as Co-Personal Representatives of the Estate of Jacquelin K. Stevenson hereby notice their intent to appeal the Order of the Honorable Thomas A. Russo dated April 18, 2017.

This Order on appeal affirmed the Orders of the Probate Court, the Hon. Tamara C. Curry presiding, dated July 30, 2015 and September 10, 2015. Appellants received a copy of the Circuit Court's order via email on April 18, 2017.

Respectfully submitted this 17th day of May, 2017.

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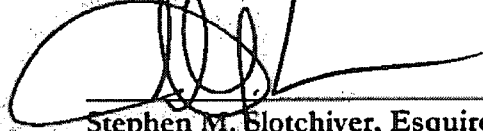
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MAY 19 2017

SC Court of Appeals

By:

SLOTCHIVER & SLOTCHIVER, LLP

A handwritten signature in black ink, appearing to be 'S.M. Slotchiver', written over a horizontal line.

Stephen M. Slotchiver, Esquire

Daniel S. Slotchiver, Esquire

Andrew J. McCumber, Esquire

44 State Street

Charleston, SC 29401

(843) 577-6531

Counsel for Appellants

Charleston, South Carolina

Other Counsel of Record:

George R. McElveen, III, Esquire

McElveen & McElveen

2229 Bull Street

Columbia, SC 29201

Attorney for Respondent, Genevieve S. Felder

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Hon. Thomas A. Russo, Circuit Court Judge
The Hon. Tamara C. Curry, Probate Court Judge

Case No. 2007-ES-10-1437

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SC Court of Appeals

Jacquelin S. Bennett, and Kathleen S.
Turner, as Co-Personal Representatives of
the Estate of Jacquelin K. Stevenson,

Appellants,

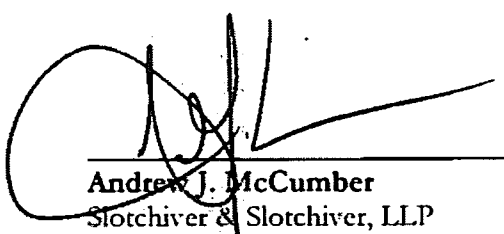
v.

Estate of James Kelly King and Genevieve
S. Felder,

Respondents.

PROOF OF SERVICE

I, the undersigned, do hereby certify that I have served the Notice of Appeal on Genevieve S. Felder by depositing a copy of it in the United States Mail, postage prepaid, on May 17, 2017, addressed to her attorney of record, George R. McElveen, III, of the firm McElveen & McElveen, located at 2229 Bull Street, Columbia, SC 29201.



Andrew J. McCumber
Slotchiver & Slotchiver, LLP
44 State Street
Charleston, South Carolina 29401
(843) 577-6531

Attorney for Appellants

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

COUNTY OF CHARLESTON)

Case. No. 2007-ES-10-1437

IN RE: THE ESTATE OF)
JACQUELIN K. STEVENSON)

Jacquelin S. Bennett and Kathleen S. Turner as
Personal Representatives of the Estate of
Jacquelin K. Stevenson,

ORDER ON APPEAL

Appellants,

v.

Estate of James Kelly King and Genevieve S.
Felder,

Respondents.

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MAY 19 2017

SC Court of Appeals

This matter came before the Court on June 3, 2016, at 9:30 A.M. pursuant to Appellant's Notice of Intent to Appeal and Appeal of the Ruling of the Honorable Tamara C. Curry, Judge of the Probate Court for Charleston County, entered July 30, 2015, and subsequent Order Denying Motion to Reconsider, entered September 10, 2015.

PROCEDURAL HISTORY

Jacquelin K. Stevenson died testate on September 17, 2007. She was survived by two daughters, Kathleen S. Turner and Jacquelin S. Bennett (Appellants), and a step-daughter, Genevieve S. Felder (Respondent). She was also survived by two sons, Thomas C. Stevenson, III and Daniel R. Stevenson, and a step son, James Kelly King.¹ The will originally designated Kathleen S. Turner and Thomas C. Stevenson as Co-Personal Representatives.

¹ James Kelly King passed away during the administration of the estate, and his share has been resolved by private agreement.

The will was admitted to probate in the Charleston County Probate Court in October of 2007. The six individuals named above were the devisees under the will. Among the various assets of the estate are four real properties:

Lot 19 Dupree Creek Lane, Mt. Pleasant
("Paradise Island")

Glasgow Island Lane, Edisto Island
("Bailey's Island")

Lots 34, 35, 36, and 37, Lake Front Drive, Hendersonville
("Lake Summit")

2414 Rockland Avenue, Rockville, SC
("Rockville")

Rockville is a waterfront lot with an upscale vacation and rental home and a deep-water dock. The Lake Summit property is a long-time family vacation home, lakefront, also with a dock. Lake Summit carries itself financially and is used by the family when available. Paradise Island and Bailey's Island are unimproved investment lots with significant carrying costs. It is the proposed distribution of these properties that is the basis of this dispute.

Pursuant to the terms of the will, Appellants were devised the Rockville property. Lake Summit was devised to Daniel R. Stevenson and Thomas C. Stevenson, III. Genevieve S. Felder and James Kelley King received monetary bequests roughly equal in value to the real estate shares. Thomas C. Stevenson, III was subsequently removed as Personal Representative due to malfeasance. Both he and Daniel Stevenson lost their inheritance rights to the real properties by order of the Probate Court dated February 11, 2011, also for malfeasance. Accordingly, the disposition of all of the real properties with the exception of Rockville is now governed by the residuary clause, which states:

All the rest, residue, and remainder of my property and estate real and personal, of whatsoever nature, and wheresoever situate,

including any property before mentioned but not effectively disposed of, . . . I give, devise, and bequeath to Kathleen S. Turner, Jacquelin S. Bennett, Thomas S. Stevenson, III, Daniel R. Stevenson, James Kelly King, and Genevieve S. Felder, in equal shares, per stirpes, and not per capita . . . Jacquelin S. Bennett was appointed Co-Personal Representative in place of Thomas C. Stevenson, Jr., so that she and Kathleen S. Turner are currently Co-Personal Representatives.

By Private Agreement executed in March of 2015, the claims of the estate of James Kelly King, who died during the administration of the Stevenson estate, were resolved by monetary payment. Other disbursements were approved, leaving the allocation of the residuary assets between Kathleen S. Turner, Jacquelin S. Bennett, and Genevieve S. Felder to be resolved either by further agreement or the probate court. (The Private Agreement stated that "the remaining residuary assets between them will be resolved by subsequent agreement or will be determined by the Charleston County Probate Court.")

On September 14, 2011, Respondent Genevieve Felder filed a Demand for Hearing, which was subsequently held on June 16, 2015. The interested parties were Jacquelin S. Bennett and Kathleen S. Turner as Co-Personal Representatives, and Genevieve S. Felder. The proposal of the Co-Personal Representatives was that they divide Lake Summit equally between themselves, with the Bailey's Island and Paradise Island properties to be divided among the three in various shares. Genevieve S. Felder would receive the large majority of the Bailey's Island lot, but no interest in Lake Summit. Respondent argued that the proposed distribution was not fair and equitable, and inconsistent with the fiduciary duty of the Personal Representatives.

At the hearing, Appellants argued that the will gave the Co-Personal Representatives broad authority to distribute in kind, so that the only consideration to be made was that the distribution "come out equal" based strictly on monetary value, with no other factors being relevant. Respondent argued that while the language in the will clearly grants the Co-Personal

Representatives broad authority to distribute in kind, such authority is not absolute, and is constrained by fiduciary principals and the duty to treat all beneficiaries equitably and fairly. Respondent further argued that the determination of what was fair and equitable should, in proper circumstances, include non-economic considerations such as sentimental value, utility, and other intangible factors. The position of the Respondent is that in the particular circumstances of this case, only a pro-rata distribution of the remaining real properties can be fair and equitable.

By order dated July 30, 2015, Tamara C. Curry, judge of the probate court, stated that in the absence of an agreement, the probate court, as provided by the private agreement, would decide the allocation of the remaining real properties utilizing fiduciary principals. The Court ruled:

Petitioners . . . acting as Co-Personal Representatives of the Estate of Jacquelin Stevenson, are to divide said properties located on Lots 34, 35, 36, and 37, Lakefront Drive . . . , Lot 19 Dupree Creek Lane . . . , and Glasgow Island Lane . . . in equity and in good faith among the devisees so that each receives an equal ownership interest in each piece of real estate that is before the Court.

Appellant filed a Motion to Alter or Amend on August 12, 2015, which was denied by order dated September 10, 2015, stating that under the circumstances of this case, the language of the residuary clause requires a pro-rata distribution. This appeal followed.

FINDINGS OF FACT

By the express terms of the will, Rockville was devised to Kathleen S. Turner and Jacquelin S. Bennett, who now find themselves in the position of co-Personal Representatives. Lake Summit was devised to Daniel R. Stevenson and Thomas C. Stevenson, III, who have forfeited their interests in the estate. The remaining real properties, Paradise Island and Bailey's Island, were, under the will, to be disposed of pursuant to the residuary clause.

Paradise Island appraised for \$390,000.00, Bailey's Island for \$725,000.00, and Lake Summit for \$1,100,000.00. The distribution proposed by the Appellant Personal Representatives was, at the time Respondent filed her Request for Hearing, as follows:

Paradise Island	
Jaquelin Bennet	\$83,000.00
Kathleen Turner	\$83,000.00
Genevieve Felder	\$83,000.00
James Kelly King	\$140,000.00

Bailey's Island	
Jaquelin Bennet	\$35,000.00
Kathleen Turner	\$35,000.00
Genevieve Felder	\$548,500.00
James Kelly King	\$106,500.00

Lake Summit	
Jaquelin Bennet	\$550,000.00
Kathleen Turner	\$550,000.00

James Kelly King has, by agreement, accepted a monetary settlement and is no longer a factor in these deliberations. The buy-out of his share did not otherwise alter the distribution as among the remaining three beneficiaries.

As a result of the forfeiture of the interests of Daniel R. Stevenson and Thomas C. Stevenson, III, the disposition of all of the real properties of the estate (with the exception of Rockville) is governed by the residuary clause, which states:

All the rest, residue, and remainder of my property and estate real and personal, of whatsoever nature, and wheresoever situate, including any property before mentioned but not effectively disposed of, . . . I give, devise, and bequeath to Kathleen S. Turner, Jacquelin S. Bennett, Thomas S. Stevenson, III, Daniel R. Stevenson, James Kelly King, and Genevieve S. Felder, in equal shares per stirpes, and not per capita . . .

The powers of the personal representatives are set forth in Article 10 of the will, designated "Fiduciary Powers," which states in relevant part:

my personal representatives shall have all of the powers granted by law . . . It is my intention in specifying the following powers to give broad discretion and flexibility to my Personal Representatives . . .

10.6 Distributions. Without the consent of any beneficiary, to make distributions (including the satisfaction of any pecuniary bequest) in cash or in specific property, real or personal, or an undivided interest, or partly in cash and partly in such property . . . and without making pro-rata distributions of specific assets.

It is in reliance on this language that Appellants contend authorizes them to select their proposed distribution scheme, that of conveying Lake Summit to themselves, alone, in equal shares, and conveying to Respondent and to themselves varying shares in the remaining properties so that ultimately each receives roughly equal value as determined by the appraisals.

CONCLUSIONS OF LAW

In an action at law, the circuit court should uphold the findings of the probate court if there is any evidence to support them. *See Adams & B & D, Inc.*, 297 S.C. 416, 420, 377 S.E.2d 315, 317 (1989). When the proceeding is equitable in nature, the circuit court, on appeal, may make factual findings according to its own view of the preponderance of the evidence. *See In re Estate of Weeks*, 329 S.C. 251, 261, 495 S.E.2d 454, 460 (Ct. App. 1997). Appellants present two arguments in support of their position:

1. **The trial court erred in holding that the Testator's intent was that the real property passing through the Residuary Estate shall pass in equal ownership interest shares to each devisee as opposed to as directed by the Personal Representative, provided that the distributions are of equal monetary value.**

The trial court noted Respondent's position that Appellant's distribution scheme was not fair and equitable. Quoting S.C. Code Section 62-3-703 (1976, as amended), the Court found that the Personal Representatives were bound by the duties of a fiduciary, using their authority "for the best interests of the successors to the estate."

The court further quoted *Moore v. Moore*, 360 S.C. 241, 599 S.E.2d 467 (Ct. App. 2004)

in reviewing the duties of a fiduciary, stating as follows:

(a) fiduciary relationship is founded on the trust and confidence reposed by one person in the integrity and fidelity of another. A fiduciary relationship exists when one imposes a special confidence in another, so that the latter, in equity and good conscience, is bound to act in good faith and with due regard to the interests of one imposing the confidence.

Under the circumstances of this case, the court made its determination concerning the disposition of the residue “in light of the duties imposed upon a fiduciary” ruling that equity and good faith required a pro-rata distribution.

On reconsideration, the court further noted that the residuary clause specifically directs that property “not effectively disposed of” by specific devise was to be divided among the residuary beneficiaries “in equal shares,” and that a plain and ordinary reading of this language called for a pro-rata distribution of the residuary estate.

Regardless of whether this interpretation was actually the testator’s intent, however, the Personal Representatives are, as the court observed, subject to the duties of a fiduciary, and I find the lower court’s finding—that here, the fiduciary duty in fact requires a pro-rata distribution—to be appropriate in light of the evidence presented. I find that the allocation of Lake Summit by the Personal Representatives to themselves and the division of the remaining properties among all three beneficiaries—particularly in light of highly disproportionate division of Bailey’s Island to force an overall equal valuation of interests—serves no apparent purpose other than to favor themselves, allowing them to “cherry pick” among the assets at the expense of the remaining beneficiary, which fails the test of equity and good faith.

2. The trial court erred in holding that the Co-Personal Representatives did not have the broad discretionary authority to make determinations as to what property falls within the general descriptions, and to make distributions in any reasonable manner, pursuant to sections 10.1 and 10.6 of the Last Will and Testament of Jacquelin K. Stevenson.

A court's consideration of the actions and duties of a fiduciary is equitable in nature. *See, e.g., Farley v. Matthews*, 168 S.C. 294, 167 S.E. 502 (1933).

[I]t is a well-settled rule that anyone acting in a fiduciary relationship not be permitted to make use of that relationship to benefit his own personal interests. It is a doctrine repeatedly announced by the courts of this nation that courts of equity will scrutinize with the most zealous vigilance transactions between parties occupying confidential relations toward each other[.]

Island Car Wash, Inc. v. Norris, 292 S.C. 595, 599, 358 S.E.2d 150, 152 (Ct. App. 1987).

There can be no dispute that pursuant to the language of the "Fiduciary Powers" section of the will that the Personal Representatives enjoy broad discretion in making distributions. The trial court did not rule otherwise. Rather, the trial court correctly observed that such authority is subject to the duties of a fiduciary, and found that in this particular instance, that duty requires a pro-rata distribution of the residuary estate. On its face, the proposed distribution scheme is not related to any apparent reasonable purpose. The unequal distribution of Bailey's Island can only be interpreted so as to allow the Personal Representatives to retain Lake Summit for themselves and exclude Respondent. The record is devoid of any assertion or explanation as to what other purpose the proposed distribution scheme might serve, or why it is in fact "reasonable."

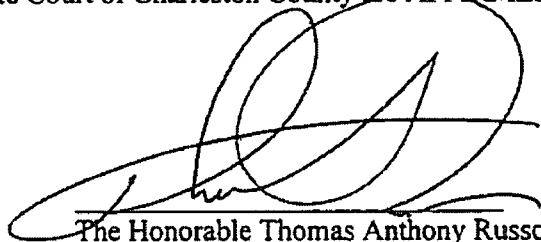
CONCLUSION

Based upon my view of the facts of this case, by a preponderance of the evidence, I find that the Personal Representatives' proposed distribution of the residuary assets is inconsistent with their fiduciary duty to treat all parties fairly and equitably. I further find that, based on the facts of this case, by a preponderance of the evidence presented, and in light of well-settled fiduciary

principals, a pro-rata distribution of the Paradise Island, Bailey's Island, and Lake Summit properties among the three remaining estate beneficiaries is required.

Accordingly, the findings of the Probate Court of Charleston County are ~~are~~ AFFIRMED.

AND IT IS SO ORDERED.

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

The Honorable Thomas Anthony Russo
Presiding Judge

4/18 2017
Florence, South Carolina

FILED

2015 OCT -6 PM 4:35

**JULIE J. ARMSTRONG
CLERK OF COURT
THE STATE OF SOUTH CAROLINA**

**In the Court of Common Pleas
for the Ninth Judicial Circuit**

APPEAL FROM CHARLESTON COUNTY PROBATE COURT

The Hon. Tamara C. Curry, Probate Court Judge

Case No. 2015-CP-10-5056

**Jacquelin S. Bennett, and Kathleen S. Turner, as Co-Personal
Representatives of the Estate of Jacquelin K. Stevenson,**

Appellants,

VS.

Estate of James Kelly King and Genevieve S. Felder,

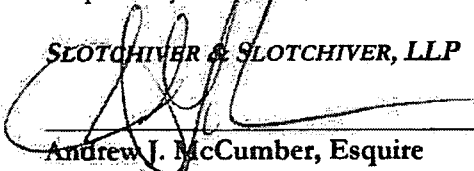
Respondents.

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STATEMENT OF ISSUES ON APPEAL:

1. Whether the trial court erred in holding that the Testator's Intent was that the real property passing through the Residuary Estate shall pass in equal ownership interest shares to each devisee as opposed to as directed by the Personal Representative, provided that the distributions are of equal monetary value?
2. Whether the trial court erred in holding that the Co-Personal Representatives do not have the discretionary authority to make determinations as to what property falls within general descriptions, and to make distributions in any reasonable manner, including the use of cash, specific property, real or personal, or an undivided interest, without regard to the income tax basis of specific property allocated to any beneficiary and without making pro-rata distributions of specific assets pursuant 10.1 and 10.6 of the Last Will & Testament of Jacquelin K. Stevenson?

Respectfully Submitted,


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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Jacquelin S. Bennett, and Kathleen S. Turner, as
Co-Personal Representatives of the Estate of
Jacquelin K. Stevenson,

Petitioners,

vs.

Estate of James Kelly King and Genevieve S.
Felder,

Respondents.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Case No. 2015-CP-10-5056

CERTIFICATE OF SERVICE

FILED
2015 OCT 16 PM 4:35
JULIE A. ARISTONG
CLERK OF COURT

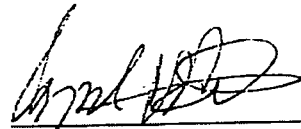
The undersigned certifies that the Statement of Issues on Appeal was served upon the parties to
this action on this 6th day of October, 2015 by U.S. Mail to the following:

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IN THE PROBATE COURT
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

In re: ESTATE OF JACQUELIN K. STEVENSON
CASE NO. 2007-ES-10-01437

JUDGE: TAMARA C. CURRY

DATE: JUNE 16, 2015

TIME: 2:00 PM

LOCATION: CHARLESTON COUNTY PROBATE COURT
CHARLESTON, SOUTH CAROLINA

REPORTED BY: ANNE BOULEY MEYER, RPR
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A P P E A R A N C E S

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1 THE COURT: Ladies and gentlemen, this
2 is case number 2007-ES-10-1437 in reference to the
3 estate of Jacquelin Stevenson.

4 We have the petitioners' demand for
5 hearing. We have Attorneys Stephen and Daniel
6 Slotchiver who are representing Jacquelin Bennett,
7 Kathleen Turner. We have the respondent listed as
8 Genevieve Felder, is that correct, who is being
9 represented by Attorney George McElveen.

10 And are we ready to proceed?

11 MR. SLOTCHIVER: Yes, Your Honor.

12 THE COURT: Attorney McElveen, are we
13 ready to proceed?

14 MR. MCELVEEN: Thank you, Your Honor.

15 THE COURT: Okay. Attorney SLOTCHIVER.

16 MR. MCELVEEN: Your Honor, for the
17 record, this is a dispute about the disposition of
18 property under a residuary clause of the will of
19 Jacquelin Stevenson.

20 The remaining assets in this estate are
21 some real estate and some cash assets. The value
22 of the real estate has been provided, no dispute.
23 The value of the real properties are not in dispute
24 here.

25 What is in dispute here is the

1 authority of the personal representatives to
2 essentially pick and choose which real properties
3 they will keep and which real properties to
4 distribute.

5 The clause in question of course is --
6 do you have a copy of the letter?

7 THE COURT: I do. But let me just stop
8 you for a second. I was just identify the
9 attorneys first. They're the petitioners, so I
10 need to let them go forward. Am I correct?

11 MR. SLOTCHIVER: Actually,
12 Mr. McElveen, this is his petition for demand for
13 hearing.

14 THE COURT: Okay. I apologize. They
15 have it wrong on my sheet.

16 MR. SLOTCHIVER: We represent both
17 Jackie Bennett and Kathleen Turner in their
18 capacity as the personal representatives.

19 THE COURT: Okay. I apologize.
20 You can continue.

21 MR. MCELVEEN: To call the question,
22 Your Honor, of course is the --

23 THE COURT: Which section of the will?

24 MR. SLOTCHIVER: It's 10.6.

25 MR. MCELVEEN: Item 10.6. This is on

1 page 10 of 14.

2 THE COURT: What page is it?

3 MR. MCELVEEN: Number 10 of 14.

4 THE COURT: Okay.

5 MR. MCELVEEN: And, Your Honor, I will
6 give you a moment to read it.

7 THE COURT: Okay.

8 MR. MCELVEEN: Of course it's a broad
9 power of the authority to distribute in kind the
10 assets of the estate. The three properties that
11 are really in question here are two properties that
12 are in Charleston County -- one is known as
13 Bailey's Island, the other is known as Paradise --
14 they are vacant, residential lots.

15 The other property is a lot -- is a
16 developed lot and four undeveloped lots in
17 Henderson County, North Carolina, which is known as
18 Lake Summit, which is on Lake Summit and is a
19 family resort and rental property.

20 There's no distribution or proposed
21 distribution schedule that shows the final
22 proposal, and that's because there's a private
23 agreement in existence that the three girls who are
24 managing the estate will buy Mr. King, the fourth
25 child's, interest out. And at that point, the

1 distribution will be done.

2 And I'm just going to ask if
3 Mr. SLOTCHIVER will inform the Court what the
4 proposed distribution of the three properties is.

5 MR. SLOTCHIVER: Your Honor, I have
6 Herb McGuire, who's the estate's CPA, that's coming
7 down to the court right now that may be able to
8 explain this a little bit better.

9 But what is going to be happening under
10 the proposals that were previously prepared and
11 filed -- not filed -- previously prepared and
12 circulated, is that of the properties we have a
13 value determined for the property, current value,
14 and we show who is receiving what share.

15 We don't show the percentages, we show
16 the dollar amounts. For example, the Rockville
17 property was valued at one million 450 for which
18 Kathleen Turner and Jacquelin Bennett were each
19 receiving \$725 [sic] of value towards that
20 property, which equates to 50/50. And that was, I
21 believe, a specific bequest under the will to them
22 anyway.

23 THE COURT: And that was Kathleen and
24 who?

25 MR. SLOTCHIVER: Kathleen Turner and

1 Jacquelin Bennett. In terms of the property in
2 question, we are talking about Lake Summit. And of
3 that one, that property was valued at 1.1, and the
4 value assigned was 550 to Kathleen Turner and
5 Jacquelin Bennett.

6 The Bailey Island property was valued
7 at 725,000, for which Jim King's estate was
8 receiving a value, or a percentage equal to the
9 value of 106,500; Genevieve Felder, Mr. McElveen's
10 client, was receiving a value of \$548,500; and
11 Jacquelin Bennett and Kathleen Turner were each
12 receiving a value equal to \$35,000 a piece.

13 What Herb McGuire when he comes in will
14 be able to testify to, if necessary, is that this
15 estate had more value in real estate than in liquid
16 assets. So it's very difficult to try to come up
17 with a proposal in order to try to find everybody's
18 share in an equal manner.

19 He spent numerous hours and numerous
20 revisions trying to get to that point. We talked
21 about Bailey Island, we talked about Lake Summit,
22 and I think Mr. McElveen also discussed Paradise.

23 Paradise was valued at \$390,000. Of
24 that, Jim King's estate share was 140,000; and then
25 Genevieve Felder, Jacquelin Bennett, and Kathleen

1 Turner were each receiving a value of \$83,333, so a
2 third, a third, a third, regarding the portion
3 other than what went to Jim King's estate.

4 And then I think, as Mr. McElveen
5 mentioned, there's a separate agreement, part of
6 the property agreement that was approved by the
7 Court, wherein the estate of Jim King's estate has
8 agreed to sell, and Kathleen Turner, Jacquelin
9 Bennett, and Genevieve Felder individually have
10 agreed to purchase his interest for a predetermined
11 amount, which is on a very discounted basis.

12 So that's the division of the property,
13 the equalization factors I've attached.

14 THE COURT: Thank you.

15 Attorney McElveen.

16 MR. MCELVEEN: Thank you, Your Honor.

17 And of course our position is that there are
18 considerations other than the pure value that
19 should -- that the Court can take into
20 consideration.

21 This is a case, Campbell versus Jordan,
22 this is a 2009 case, Your Honor. Of course I
23 wasn't able to find a case dealing directly with
24 the personal representatives' authority to
25 distribute in kind, this case is a case in which a

1 judge is distributing an estate in kind, a
2 partition of estate assets.

3 And given the fact that a personal
4 representative is a fiduciary, given the fact the
5 principles of equity control, that there's -- any
6 distribution has to be fair and equitable, that the
7 fiduciaries have a responsibility to not take
8 advantage of their position and to look out for the
9 interest of all the beneficiaries, I don't think
10 it's hard to see how the criteria for a personal
11 representative and a judge in a partition action
12 would be any different.

13 And in that case it talks about how the
14 sentimental value of a property is a proper
15 consideration in a partition. It talks about how
16 the use of a property is a proper consideration in
17 a partition. These are noneconomic factors that
18 can be taken into consideration as far as a
19 valuation.

20 The valuation on all these properties
21 were done from a sales approach perspective, and
22 it's finding somewhat similar properties in the
23 area and see what they sold for. They did not take
24 into consideration any of those things.

25 THE COURT: So, we have looked at the

1 clause and it gives them broad powers. So in your
2 opinion what is unfair about how the properties
3 have been divided?

4 And if it's your position that it's
5 unfair, then how are the personal representatives
6 supposed to take all of these factors and know what
7 these factors are in order to make it what you
8 determine to be fair.

9 MR. MCELVEEN: Well, Your Honor, the
10 will itself initially states that -- and these
11 properties are all falling through the residuary
12 clause -- the will itself states that the residual
13 shall be distributed in equal shares.

14 THE COURT: Correct.

15 MR. MCELVEEN: And at this point
16 there's three beneficiaries left.

17 THE COURT: So you're saying they're
18 not distributed in equal shares?

19 MR. MCELVEEN: Well, but then we move
20 on to the provision that says they can be
21 distributed in kind. And my position is that that
22 authority to distribute in kind is constraining by
23 these principles of equity and the obligation to
24 take these intangibles into consideration.

25 THE COURT: And that's my question.

1 How do the personal representatives take this into
2 consideration? What are you asking them to look
3 into?

4 MR. MCELVEEN: I'm asking them to look
5 into the fact that they have decided that they want
6 to take what I deem, and what I'll show in this
7 hearing, to be the most -- the most desirable
8 property for themselves, and distribute the less
9 desirable properties from these positions to the
10 third beneficiary.

11 THE COURT: Okay. Even though they
12 have divided the property per equal value? You're
13 saying that the properties that they have are
14 properties that -- when you say desirable,
15 desirable as to what? How do you determine what is
16 desirable?

17 MR. MCELVEEN: Well, first of all, Your
18 Honor, the property at Lake Summit can be used. It
19 has a house. It's a resort area. It has a dock
20 and a boat. And the family -- all the family uses
21 it whenever they can. And when they can't, they
22 rent it.

23 The Lake Summit property carries
24 itself. There's no costs associated with owning
25 it. The other two properties cost somewhere

1 between 15,000 and \$20,000 a year in taxes and
2 assessments alone.

3 THE COURT: So there are no taxes and
4 assessment on Lake Summit?

5 MR. MCELVEEN: There are, but Lake
6 Summit pays for itself in rentals.

7 THE COURT: And the other property
8 could not?

9 MR. MCELVEEN: No. They don't have
10 houses on them, and there's no rental market that
11 we know of from these properties. They're vacant
12 residential lots.

13 These two residential lots have been --
14 were purchased in 2005, the Lake Summit property
15 was purchased in -- 60, 70 years ago. And it's
16 been in the family many years, and has been where
17 the family has vacationed since everyone was young.

18 THE COURT: Okay.

19 MR. MCELVEEN: And we think -- and
20 finally, there's -- you know, a party in kind, Your
21 Honor, has a purpose obviously. If you've got a
22 car in an estate that's worth \$25,000 and you've
23 got \$25,000 cash, well, you can't give three people
24 a car. The same with a residential lot.

25 But there is no reason that these real

1 properties can't be distributed equally. Corporate
2 ownership and investment in resort properties is
3 commonplace. And in fact, what they're proposing
4 for the Lake Summit property is corporate
5 ownership, simply excluding my client.

6 And there's really no purpose for that,
7 Your Honor. She has been -- ever since this estate
8 has been opened, she's been the one that's done the
9 accounting and the books for that property and
10 managed it.

11 So I think when you want to do
12 something to distribute in kind, you can't -- even
13 though you have broad powers to do it, you can't
14 ignore those considerations and you don't have
15 absolute authority to do whatever you want,
16 particularly if it benefits you to the exclusion of
17 someone else. And that's our position.

18 THE COURT: Okay. Thank you.

19 Mr. SLOTCHIVER.

20 MR. SLOTCHIVER: Judge, first, the
21 facts in the case that have been handed up are
22 substantially different than this one. They deal
23 with a partition action, not with an estate that
24 has a specific clause that affords the personal
25 representatives the ability and the requirement to

1 do exactly what they have done here.

2 An argument can be made that properties
3 are worth more if they're income producing than
4 non-income producing, but in this case all of that
5 has been taken into consideration in the values.

6 In fact, one of the first things that
7 Mr. McElveen said was the values of the real estate
8 and real properties are not in dispute. So we
9 believe that the clause in the will controls, that
10 the properties are being divided equally in the
11 manner required under the will based on the pro
12 rata share that each beneficiary receives.

13 THE COURT: Can I ask you a question?
14 Will the property that Mr. King along with your
15 clients -- because there was a certain portion, I
16 can't remember if it was Paradise, that particular
17 piece of property, is that just a lot? Or are
18 there structures on that piece of property?

19 MR. SLOTCHIVER: It is just a lot, Your
20 Honor.

21 THE COURT: And the Bailey Island?

22 MR. STEVENSON: Bailey Island is just a
23 lot with a dock on it.

24 THE COURT: Okay.

25 MR. SLOTCHIVER: But at the end of the

1 day, they're all values. And one of the problems
2 is that the will sets forth the standards of which
3 must be followed.

4 THE COURT: I understand.

5 MR. SLOTCHIVER: And even if the Court
6 were to devise a mechanism -- I don't believe this
7 case stands for it -- to overlook the will, how
8 would we ever decide what was fair? Because what's
9 fair to one person might not be fair to another
10 person.

11 THE COURT: Well, let me ask you a
12 question. In terms of the personal
13 representatives, they're both personal
14 representatives and they have a fiduciary duty to
15 not only themselves but to the heirs, how was it
16 determined that neither one of personal
17 representatives was receiving a larger percentage
18 of either Bailey Island and Paradise versus the
19 other heirs receiving a portion of the Summit
20 property?

21 MR. SLOTCHIVER: They worked with the
22 CPA to come up with a figure that seemed to work
23 and make sense. There's no perfect mathematical
24 formula of which --

25 THE COURT: So technically it's the CPA

1 who actually came up with these divisions?

2 MR. SLOTCHIVER: No, the CPA assisted
3 them. They made the ultimate decision as to what
4 to do, and they did it on what they thought made
5 sense. You know, they did it based on -- I don't
6 want to go into legal advice, but they consulted
7 with counsel and they looked at the will.

8 And the will was the rule. They
9 followed the rule book to see what they could do.
10 They made sure that mathematically it was evenly
11 distributed among everybody. And they gave cash to
12 make up the difference so that it's fair.

13 The values are the values. What's
14 really being argued over here is, we don't like the
15 property we got, we'd rather have the other lot.
16 And if this were the case without this particular
17 clause in it, perhaps that argument would have a
18 little more weight.

19 But here, because the clause is there,
20 it gives them the ultimate determination so long as
21 they follow the rule. And the rule being set forth
22 in the 10.6, which is what they have done.

23 And here nobody is arguing over the
24 values. It's just, we don't like the property we
25 were given.

1 MR. STEVENSON: One moment, Your Honor.

2 THE COURT: Yes, sir.

3 MR. SLOTCHIVER: The only other point,
4 Your Honor, is this property does not have -- we
5 don't believe it has the sentimental value
6 asserted. At the time that the property was
7 purchased, Ms. Felder --

8 THE COURT: When was that one
9 purchased?

10 MR. SLOTCHIVER: 1955, I believe.
11 Ms. Felder was already married with child. Her
12 mother [sic] had already remarried and already had
13 four children -- and already had four children at
14 the time.

15 THE COURT: Repeat that again for me.

16 MR. SLOTCHIVER: The people that grew
17 up with it were Kathleen, Jacquelin, Tom and Dan
18 were already born at the time the property was
19 purchased, and they spent each and every summer
20 there from small childhood. But Ms. Felder was 18
21 with child.

22 So if there's real sentimental value,
23 if that were really a component, sentimental value
24 falls more on the side of the PRs. And if the
25 testimony goes forward, Your Honor, it will be that

1 Ms. Felder didn't start using the house until after
2 their mother had died, around 2010. For whatever
3 it's worth, they still let her use it now.

4 THE COURT: Thank you.

5 Attorney McElveen, are you calling any
6 witnesses?

7 MR. MCELVEEN: I would, Your Honor.

8 THE COURT: Okay. Call your first
9 witness.

10 MR. MCELVEEN: I call Jacquelin
11 Stevenson to the stand.

12 THE COURT: Stevenson?

13 MR. MCELVEEN: I'm sorry. Bennett.

14 THE COURT: If you'll just come
15 forward. Place your left hand on the bible, raise
16 your right hand.

17 JACQUELIN BENNETT,
18 having been first duly sworn, was examined and
19 testified as follows:

20 THE COURT: If you'll just speak into
21 the mic, and answer any questions Attorney McElveen
22 has for you.

23 EXAMINATION

24 BY MR. MCELVEEN:

25 Q. Ms. Bennett, you are one of the PRs for the

1 estate?

2 A. I couldn't hear you.

3 Q. I'm sorry. You're one of the personal
4 representatives --

5 A. Yes.

6 Q. And as personal representative your job is
7 to distribute the assets of the estate according to
8 the will of your mother, correct?

9 A. Yes.

10 Q. Could you tell the Court briefly, rather
11 than me walking you through it, the family
12 relationships.

13 Ms. Stevenson is your mother, correct?

14 A. That's right.

15 Q. And she had how many children?

16 A. Five.

17 Q. And those children were?

18 A. Jim King, Kathleen Turner, myself, Thomas
19 Stevenson and Daniel Stevenson.

20 THE COURT: I need you to speak up into
21 the microphone.

22 THE WITNESS: I'm sorry.

23 A. Jim King; Kathleen Turner; myself, Jacquelin
24 Bennett; Tom Stevenson; and Daniel Stevenson.

25 Q. All right. And then you have a half sister?

1 A. Genevieve.

2 Q. Okay. And she was the daughter of your
3 father's first wife, correct?

4 A. Yes.

5 Q. Now, you remember -- Genevieve told me while
6 I was sitting in the court that Lake Summit was
7 purchased in 1954; is that right?

8 A. I guess '54 or '55.

9 Q. Okay. And was it purchased as a vacation
10 home?

11 A. Yes.

12 Q. And was it used that way?

13 MR. SLOTCHIVER: Your Honor.

14 THE COURT: Yes.

15 MR. SLOTCHIVER: Understanding that
16 you'll give some latitude, I don't want to waive
17 the right to make an objection as to relevance. I
18 believe that the only thing relevant is have they
19 followed the terms of the will.

20 THE COURT: I'm going to allow it,
21 though.

22 MR. SLOTCHIVER: Okay.

23 MR. MCELVEEN: And I will be brief.

24 THE COURT: Okay.

25 Q. And had -- you lived with your mother and

1 your siblings, your direct siblings lived with your
2 mother obviously, correct?

3 A. Yes.

4 Q. And Genevieve did not?

5 A. That's right.

6 Q. And so whenever they would go to Lake
7 Summit, you would go?

8 A. Right. That's where we lived.

9 Q. Right. Genevieve, on the other hand, did
10 use it, did she not?

11 A. You mean during the growing up years?

12 Q. Right.

13 A. You know, mother and daddy were there the
14 entire summer. I don't know that -- she, of
15 course, came up to visit. But I don't think that
16 they ever turned the house over to any of the
17 children to use.

18 Q. But she would be invited?

19 A. Of course.

20 Q. And she would spend time there, sometimes
21 weeks at a time during the summers?

22 A. I don't know that it was weeks.

23 Q. Do you know that it was longer?

24 A. I don't know.

25 Q. Nevertheless, she was fully included and was

1 invited to the house --

2 A. Yes.

3 Q. -- on numerous occasions over the years?

4 A. Yes.

5 Q. And then when she had children of her own,
6 she was actually given time herself to go up there
7 and spend -- or her family was given time to go up
8 there and spend time during the summer, were they
9 not?

10 A. The children were never really given the
11 house to use.

12 Q. Well, so she was able to use the property
13 over the years. Maybe not as much as you, but she
14 was able to use it and spend time up there
15 especially during the summers, correct?

16 A. Really and truly, mother and daddy did not
17 turn the house over to any of the children. They
18 may have used it some, but we were not generally
19 given the freedom to use the house. I lived there
20 because I was their child and lived in the house.

21 Q. When they were there?

22 A. When they were there.

23 Q. Right. And in later years you didn't use it
24 without them present?

25 A. Occasionally, but not much.

1 Q. Okay. Thank you. Since your mother's
2 death, Lake Summit has been used as a rental
3 property, correct?

4 A. Well, she died in 2007. I think we started
5 renting it in 2010.

6 Q. Okay. Has it rented well?

7 A. Did what?

8 Q. Has it rented well?

9 A. Pretty well.

10 Q. And you recently installed heat and air for
11 the first time?

12 A. Right.

13 Q. And how much did that cost?

14 MR. SLOTCHIVER: Your Honor, once
15 again, if I could make an objection as to the
16 relevancy. The values have all been agreed upon
17 for the properties. I don't know what the
18 relevancy of the testimony about renting the
19 property is in light of the fact that it's
20 undisputed that the values are equal and they have
21 been equalized.

22 The only argument here is, I don't like
23 the property we have been given.

24 THE COURT: Attorney McElveen.

25 MR. MCELVEEN: Your Honor, I'm actually

1 going into not so much what it's worth, but the
2 fact that it pays for itself. The cost of
3 ownership.

4 THE COURT: I'm going to allow him more
5 latitude.

6 MR. MCELVEEN: Thank you.

7 A. I don't think that the rental covers --

8 THE COURT: That's not -- the question
9 was was heat and air installed, and the cost.

10 A. And I am not exactly sure of the cost, but
11 the rental is not paying for the cost. If the
12 rental -- the money that we take in from rent has
13 not paid for the heat and air conditioning.

14 Q. My question was, how much did the heat and
15 air cost?

16 A. I'm not sure.

17 Q. Okay. And was the idea of putting in
18 heating and air to increase the rental capacity?
19 The rental prospects?

20 A. Well, we had it -- yes, because we had a
21 very bad mildew problem and we had people
22 complaining about it.

23 Q. Okay. And there were people that just
24 didn't want to use the house because it was
25 un-air-conditioned from time to time?

1 A. Yes.

2 Q. That's what certain people take into
3 consideration?

4 A. Yes.

5 Q. Now Bailey's Island, that's a beautiful lot,
6 isn't it?

7 A. It is beautiful.

8 Q. But there's no house?

9 A. No. There's a dock.

10 Q. Does anybody use it?

11 A. You know, occasionally people go out there
12 and have picnics.

13 Q. Okay. No house, no one can spend the night
14 or use it as a rental property?

15 A. No.

16 Q. And same with Paradise Island?

17 A. Right.

18 Q. And they were purchased in 2005; is that
19 correct?

20 A. I don't know.

21 Q. Somewhere thereabouts, perhaps?

22 A. I guess.

23 Q. They weren't in your family long, were they?

24 A. They were purchased after they sold mother's
25 house on Meeting Street.

1 Q. Which was about when?

2 A. I just don't know.

3 Q. I mean, was it 10 years ago? 15? You're
4 not sure?

5 A. I'm not sure of that. But it would be after
6 2000, I'm sure of that.

7 Q. Okay. Now, the value that you gave, or that
8 Mr. SLOTCHIVER gave for Bailey's Island, \$725,000,
9 do you know where that value came from?

10 MR. SLOTCHIVER: Your Honor, I want to
11 object only because the values have all been agreed
12 upon. So I don't know why we are going down this
13 road.

14 THE COURT: Attorney McElveen. I mean,
15 y'all agreed that there's no issue regarding
16 valuation of the properties. Am I correct?

17 MR. MCELVEEN: Can you give me one
18 moment, Your Honor?

19 THE COURT: Yes.

20 MR. MCELVEEN: I will withdraw the
21 question.

22 THE COURT: Okay. Thank you.

23 MR. MCELVEEN: That's all I have.
24 Thank you very much.

25 THE COURT: Thank you. You can step

1 down.

2 Attorney McElveen, your next witness.

3 MR. MCELVEEN: Genevieve Felder.

4 THE COURT: Come forward, ma'am.

5 Place your right hand on the bible and
6 raise your left.

7 GENEVIEVE FELDER,
8 having been first duly sworn, was examined and
9 testified as follows:

10 THE COURT: If you'll just speak in the
11 mic so that the court reporter can hear your
12 responses.

13 EXAMINATION

14 BY MR. MCELVEEN:

15 Q. Ms. Felder, you've heard the testimony about
16 the family relationships. That's all correct,
17 right?

18 A. Yes.

19 Q. And you were Tom Stevenson's daughter by his
20 first marriage?

21 A. Right.

22 Q. So you're the oldest of the daughters?

23 A. Very much.

24 Q. Do you remember when Mr. Stevenson bought
25 the property at Lake Summit?

1 A. Absolutely.

2 Q. Do you remember how old you were?

3 A. I must have been about 25 or 26.

4 Q. All right.

5 A. I was married and pregnant with my first
6 child.

7 Q. And how long did it take you to be invited
8 up there?

9 A. Oh, immediately.

10 Q. And from time to time thereafter were you
11 invited to stay there?

12 A. Yes.

13 Q. Were your children invited to go along?

14 A. Yes.

15 Q. Was your husband invited?

16 A. Yes.

17 Q. And did this happen every summer?

18 A. Every summer.

19 Q. Can you give me an idea of how often you
20 spend summer there?

21 I'm sorry, how much time you would spend
22 each summer?

23 A. A few weeks each summer. My children
24 sometimes went without me and stayed with their
25 grandfather.

1 Q. How long did they stay?

2 A. Two or three weeks at a time.

3 Q. And later on were you in a position to
4 invite guests?

5 A. Yes.

6 Q. And how often did that happen?

7 A. Numerous times the house was given to me.

8 Q. From time to time?

9 A. From time to time, yes. A couple of times a
10 year.

11 Q. Tell the Court, if you would, characterize
12 Lake Summit. What is it?

13 A. Lake Summit is a small lake, it's not very
14 big, but it's very family oriented. And it's
15 beautiful. All my children learned to waterski up
16 there. It's just a very relaxing, wonderful place.
17 Very important.

18 Q. Is it a resort area?

19 A. Yes.

20 Q. Are a lot of the houses on Lake Summit
21 rental houses?

22 A. A good -- there are some. Most of them are
23 private homes.

24 Q. All right. And most of the -- you said most
25 are privately owned?

1 A. Yes.

2 Q. Do you know anything about the market for
3 property at Lake Summit?

4 MR. SLOTCHIVER: Objection, Your Honor.
5 It goes back to value, and we agreed upon the
6 value.

7 MR. MCELVEEN: I'm not getting into
8 value, Your Honor, I'm getting into whether or
9 not --

10 THE COURT: Hold on. Let me -- you
11 objected, he's responding.

12 Continue with your response.

13 MR. MCELVEEN: The purpose of the
14 question, Your Honor, is to establish, again, the
15 intangible character of Lake Summit. I'm not
16 getting into the value at this point.

17 MR. SLOTCHIVER: I don't know how the
18 character of Lake Summit plays a role in the
19 distribution of an estate based upon agreed-upon
20 values and agreed-upon percentages, which nobody is
21 disputing.

22 THE COURT: I understand. But his
23 argument goes to this particular case, whether or
24 not the Court follows the case with something
25 different. So I'm going to allow him to continue.

1 Q. All right. So what I'm getting at is was
2 there big turnover at Lake Summit of properties, to
3 your knowledge?

4 A. No. No. Not at all.

5 Q. So people once they had it, they didn't like
6 letting the properties go?

7 A. Absolutely.

8 Q. Is that correct?

9 A. Uh-hum.

10 Q. Now, as far as Bailey's Island and Paradise
11 Island are concerned, the other two properties, is
12 that a property that has ever been used by you or
13 any member of your family --

14 A. No.

15 Q. -- for --

16 A. I have been to Bailey's Island one time and
17 walked out on the dock. I've never even been to
18 Paradise Island.

19 Q. Now, you are the accountant, basically, for
20 Lake Summit?

21 A. Well, I pay the bills.

22 Q. The bookkeeper, I guess.

23 A. Yes.

24 Q. Do you pay taxes every year?

25 A. Yeah.

1 Q. Do you know what the taxes for Bailey's
2 Island are?

3 A. I don't know what the taxes are. I know
4 what the assessments are.

5 Q. Let me --

6 A. Because I don't know Bailey's Island and
7 Paradise Island.

8 MR. STEVENSON: We would just object to
9 the relevancy. I believe they can show the
10 numbers, but the amount of taxes, the electricity
11 bills or any other bills associated with it, I
12 don't know how that's relevant even under the terms
13 of this case.

14 THE COURT: I understand. I'm going to
15 allow it.

16 Q. Take a look at that and see if you recognize
17 it..

18 A. This is -- I don't even know, 51 South
19 Battery.

20 Q. That's the property.

21 A. I've never even heard of that. I've never
22 even heard of that. Is that Bailey's Island?
23 Bailey's Island, okay.

24 Q. Can you read for the Court what the taxes
25 were for 2014?

1 A. What do you want me to read?

2 Q. Can you tell from that document what the
3 taxes were for 2014?

4 A. 2014. 2014 taxes 11,294. Okay.

5 Q. Does that sound right to you?

6 A. If it's here that's right.

7 MR. SLOTCHIVER: If we could just have
8 a continuing objection for the property taxes.

9 THE COURT: Yes.

10 MR. SLOTCHIVER: I understand she is
11 going to go into the property taxes of the other
12 properties.

13 THE COURT: Thank you.

14 Q. Can you tell from that document what the
15 property taxes in 2014 were for Paradise Island?

16 A. 11,061.

17 Q. Per year?

18 A. In 2014.

19 Q. And at my request did you calculate your
20 homeowners association dues and the other
21 incidental costs associated with all three
22 properties?

23 A. Yeah, you did. For the Paradise Island, the
24 property owners is about 350 a year. And for
25 Bailey's Island it is something like 4,000, close

1 to 4,000.

2 Q. All right. So any given year you have to
3 pay \$15,000, plus these incidentals?

4 A. Right. Without any income.

5 Q. Does Lake Summit have a homeowners
6 association?

7 A. Yeah. 500 a year.

8 THE COURT: I'm sorry. How much?

9 THE WITNESS: 500 a year for the
10 property owners.

11 Q. Did you -- you've also, as you stated,
12 you've kept the books for Lake Summit. Can you
13 tell the Court what the income versus the expenses
14 were for Lake Summit for the years that you managed
15 the property?

16 A. Only one year did we not make money. We
17 usually end up with about 3,000 extra a year.

18 Q. So how many years is that?

19 A. Since 2010.

20 Q. 2010. So five years?

21 A. Yes.

22 Q. You had to pay money in one year?

23 A. Only one year it was did we not make money.

24 Q. All right.

25 A. But we had money left over from the year

1 before, so it didn't cost any money.

2 Q. Would you anticipate it being more rentable
3 with the improvements of the air conditioning?

4 A. Oh, yes.

5 Q. All right. And have y'all recently adjusted
6 the rent?

7 A. We went up a little last year with any new
8 people we go up with. Some people have rented it
9 every year, so we kept it even for them. In fact,
10 only one group.

11 MR. MCELVEEN: That's all I have.
12 Thank you very much.

13 THE COURT: Any questions for this
14 witness?

15 MR. SLOTCHIVER: Just a couple.

16 EXAMINATION

17 BY MR. SLOTCHIVER:

18 Q. Ms. Felder, I just have a couple of
19 questions. I will be very brief.

20 I believe you testified that you were
21 probably 25 or 26 and married at the time this
22 property was purchased?

23 A. Yes.

24 Q. And your siblings would have been minor
25 children?

1 A. Oh, yes.

2 Q. So you would agree that they have had use of
3 the house since childhood; is that correct?

4 A. Yes. Well, they lived there. That was
5 their summer home.

6 Q. Right. And to you, you've had use of the
7 house periodically since you were an adult?

8 A. Yes.

9 Q. You talked about the air conditioning being
10 installed in the house.

11 A. Yes.

12 Q. Are you familiar with the fact that the
13 monies paid to put the air conditioning into the
14 house were from personal funds?

15 A. They had to be, because I hadn't paid
16 anything.

17 Q. And they weren't from the savings funds?

18 A. No. Oh, I don't know about that. I don't
19 know.

20 Q. Well, I'm going to represent to you they
21 were personal funds. Any reason to dispute that?

22 A. I assume that they were.

23 Q. And from the accounting that you've done on
24 the home, you haven't seen any distributions from
25 that used to purchase the air conditioning?

1 A. No. No.

2 Q. Okay. And as I understand it, what you're
3 upset about here today is -- let's back up.

4 You don't dispute the values. We have all
5 agreed to the values of the properties, correct?

6 A. No. Did I ever agree to the value of
7 Bailey's Island and Paradise Island?

8 Q. There was a hearing and an agreement entered
9 into --

10 A. See, I don't remember.

11 Q. Okay. All right.

12 A. Because I think that Bailey's goes back.

13 Q. Do you understand that some of the values
14 that have been given to you represented on the tax
15 notes to be much greater? The value on the tax
16 note shows a value much greater than you received?

17 A. I have no idea.

18 Q. You've had a lawyer involved in the case?

19 A. Yes.

20 Q. You've signed documents along the way?

21 A. Yes.

22 Q. You've come to court before along the way?

23 A. Right.

24 Q. Is it your complaint that you wish that you
25 had different ownerships of the properties?

1 A. Yes.

2 Q. Okay. Have you read the will?

3 A. Yes.

4 Q. And do you understand that your sisters --

5 A. Yes.

6 Q. -- are appointed to make that decision?

7 A. Yes.

8 THE COURT: You have to let him ask you
9 the question first before you answer. Wait for him
10 to give you the full questions.

11 THE WITNESS: Excuse me.

12 Q. You understand that your sisters have the
13 authority to distribute based on the terms of the
14 will?

15 A. Yes.

16 Q. And you understand that that's what they set
17 forth to do here today; you just don't agree with
18 it, correct?

19 A. Right.

20 Q. Now, you get along with your sisters, don't
21 you?

22 A. I hope so, yes.

23 Q. In fact, they still let you use the
24 property. They still let you use the property,
25 don't they, at Lake Summit?

1 A. Yes.

2 Q. You were there as recently as two weeks ago?

3 A. Right.

4 Q. So there's no disagreement that affects you
5 in dealing with them personally, there's no
6 discord, instead you just disagree with how they
7 determined they wanted to divide the property?

8 A. Right.

9 Q. But they've always been nice to you, and
10 you're nice to them?

11 A. I hope so.

12 Q. Okay. You just disagree with how they
13 decided to follow their job as PRs of the estate?

14 A. Yes.

15 MR. SLOTCHIVER: I have got nothing
16 further.

17 THE COURT: Anything further for this
18 witness?

19 MR. MCELVEEN: Justify briefly.

20 EXAMINATION

21 BY MR. MCELVEEN:

22 Q. So in addition to the experiences that
23 you've had at Lake Summit, your children have had
24 those experiences, right?

25 A. Yes.

1 Q. And would you like to see your grandchildren
2 have those experiences?

3 A. That is it exactly.

4 MR. MCELVEEN: Thank you.

5 THE COURT: Nothing further from the
6 witness?

7 MR. SLOTCHIVER: Nothing further.

8 THE COURT: You can step down. Thank
9 you.

10 Any additional witnesses, sir?

11 MR. MCELVEEN: I call Mr. McGuire.

12 THE COURT: Mr. McGuire.

13 Place your left hand on the bible and
14 raise your right.

15 HERBERT MCGUIRE,
16 having been first duly sworn, was examined and
17 testified as follows:

18 EXAMINATION

19 BY MR. MCELVEEN:

20 Q. Good afternoon, Mr. McGuire.

21 A. How are you?

22 Q. Good. You and I have talked on the
23 phone --

24 THE COURT: Could you state your full
25 name for the record?

1 THE WITNESS: Herbert B. McGuire.

2 Q. You and I have talked on the phone, but I
3 don't think we've ever met.

4 A. I don't really remember talking to you on
5 the phone, but we could have.

6 Q. All right. But you are the estate
7 accountant?

8 A. Correct.

9 Q. And you've come up with the values that are
10 being utilized to make a distribution; is that
11 correct?

12 A. I came up with them?

13 Q. I'm sorry?

14 A. You said I came up with them?

15 Q. You used those valuations --

16 A. Yeah.

17 Q. -- in your proposals for distribution based
18 on your conversations with both Mr. SLOTCHIVER and
19 the two personal representatives?

20 A. Correct.

21 Q. Now, you are not an appraiser?

22 A. I am not.

23 Q. You're an accountant?

24 A. Correct.

25 Q. Do you know how many times each property was

1 appraised, to your knowledge?

2 A. Twice.

3 Q. Once?

4 A. Twice.

5 Q. What was the most recent appraisal that you
6 know of?

7 A. As of March 2008, I guess.

8 Q. 2008?

9 A. We did the ultimate valuation for the
10 estate.

11 Q. Okay. Now, you are not aware that those
12 properties have been appraised since then?

13 A. If they have, I don't remember.

14 Q. But you didn't use those numbers?

15 A. I used it.

16 Q. 2008?

17 (Interruption by the court reporter.)

18 MR. MCELVEEN: Just a moment, Your
19 Honor.

20 MR. SLOTCHIVER: And, Your Honor, while
21 he is looking for that, I would just place an
22 objection on the record as to the relevancy of what
23 numbers he used to calculate in light of the fact
24 everybody has agreed to the values.

25 We've already had it been approved,

1 testified. He stipulated at the beginning of the
2 hearing that nobody is disagreeing with the values.
3 I don't know why it would be relevant to go through
4 with it.

5 THE COURT: Okay. Attorney McElveen,
6 because in chambers and prior to you said there was
7 no dispute in regards to the valuation of the
8 property.

9 MR. MCELVEEN: Well, Your Honor, we are
10 not really disputing the values. We've got some
11 values. And perhaps what I'm heading towards here
12 is that there were several appraisals done. And
13 the appraisal trends on these two properties is
14 downward.

15 We are not going to argue with it
16 because the values were what they were. And the
17 values that were determined at that particular time
18 are the values that have to be used.

19 THE COURT: So the purpose of asking
20 him the valuations on any new appraisals is for
21 what purpose?

22 MR. MCELVEEN: Is to show you that the
23 trend, that the value trend is downward. And that
24 that is an intangible that the Court could take
25 into consideration when it considers whether or not

1 they're acting within they're fiduciary capacity.

2 MR. SLOTCHIVER: I don't understand how
3 those can be intangibles that the Court can take
4 into consideration when we've all agreed upon the
5 values. Values go up and down depending on a
6 variety of things, but we agreed to them.

7 THE COURT: And I was going to say the
8 same thing. I mean, a piece of property, the value
9 today versus tomorrow could change, the value at
10 the time of death versus three years later.

11 I mean, there are trends in every piece
12 of property. If that's the case, then the Court
13 would constantly be juggling trying to determine
14 within a certain period of time, especially since
15 you all have already reached an agreement.

16 MR. MCELVEEN: May I speak, Your Honor?

17 THE COURT: Yes.

18 MR. MCELVEEN: The point is not to
19 challenge the values being made --

20 THE COURT: I understand what you said.

21 MR. MCELVEEN: The point is to show
22 that the fiduciaries are plucking the property that
23 performs the best.

24 THE COURT: Okay. Then that's a
25 different question than asking him the valuation.

1 And you need to ask him some additional questions.

2 I'm not going to go into a whole line
3 of questioning regarding valuation if it's for the
4 purpose of showing what you said was the trend that
5 two pieces of property -- the trend was that the
6 valuation was going down. And that's what your
7 response was.

8 MR. MCELVEEN: Yes, Your Honor.

9 Q. Are you -- you used the 2008 appraisal; is
10 that correct?

11 A. That's correct. I don't remember using any
12 others. Now, the values on the two properties --

13 THE COURT: You're going to have to
14 speak up because we've got to hear you.

15 A. The values on the two properties that went
16 down, that was after the appraisal. The property
17 on Lake Summit was appraised again and the value
18 didn't go down.

19 Q. But what?

20 A. It did not go down. It's the same.

21 Q. Okay. But you are not aware that the other
22 two properties were reappraised?

23 A. Yeah. They would have been reappraised for
24 the alternate value.

25 Q. Okay. Well, that's what I'm asking. So

1 they were appraised --

2 MR. SLOTCHIVER: Your Honor, we are
3 going over the same material we just objected to a
4 moment ago.

5 THE COURT: We are asking the same
6 question.

7 Q. Do you know whether the second appraisals
8 for Bailey's Island and Paradise Island were lower
9 than the first?

10 MR. SLOTCHIVER: Same objection.

11 THE COURT: It's the same question,
12 sir.

13 MR. MCELVEEN: I'm just trying to show
14 the trends, Your Honor.

15 THE COURT: I understand. And I
16 said that I wasn't going to allow the trends.

17 MR. MCELVEEN: Okay. Thank you. I
18 withdraw the question.

19 Q. In your accounting, you've had to adjust or
20 make allowances in the various accountings for the
21 income of the properties, right?

22 A. Correct.

23 Q. Bailey's Island and Paradise Island have no
24 income, do they?

25 A. Correct.

1 Q. Lake Summit has rental income?

2 A. Correct.

3 Q. Do you know about how much?

4 A. Not really, I don't.

5 Q. Would it surprise you if I told you it was
6 in the neighborhood of \$20- to 23,000 a year?

7 A. It sounds a little high to me, but I would
8 think more than 15,000. But I don't know.

9 Q. Do you know if Lake Summit operates at a
10 loss?

11 A. Cash flow basis. I think it cash flows
12 something.

13 Q. It cash flows itself?

14 A. I think so.

15 MR. MCELVEEN: Thank you. That's all I
16 have.

17 THE COURT: Attorney SLOTCHIVER.

18 EXAMINATION

19 BY MR. SLOTCHIVER:

20 Q. Mr. McGuire, would you just tell the Court a
21 little bit about yourself? She may not be familiar
22 with you. Tell her about your background.

23 If you could try to speak up. It's hard to
24 hear.

25 A. It's hard for me to do sometimes.

1 I'm a CPA and I have been in practice for a
2 long time, about 50 years. And I went to the
3 University of South Carolina, have my own firm.
4 And I started in 1980, and I have been in the same
5 firm ever since.

6 Q. Is the type of work you were called upon to
7 do in this case vastly different than what you were
8 called upon to do many times before?

9 A. No.

10 Q. Have you testified as a witness before in
11 court?

12 A. Yes.

13 Q. In all courts?

14 MR. MCELVEEN: Your Honor, we will
15 stipulate to his qualifications.

16 A. I have not testified in the probate court,
17 but I have testified in other courts.

18 Q. State court, federal court?

19 THE COURT: He said he would agree to
20 stipulate that he's an expert in the field of?

21 MR. MCELVEEN: Forensic accounting.

22 MR. SLOTCHIVER: Okay. Fair enough.

23 Q. Mr. McGuire, when you are -- when properties
24 -- in your experience, when a property is rental,
25 is that a consideration that is taken into affect

1 by the appraisal?

2 A. Yes.

3 MR. MCELVEEN: Your Honor, I'm going to
4 object. He has not been qualified as an appraiser.

5 MR. SLOTCHIVER: Well, I can go back
6 through his background more, Your Honor. That's
7 what I was trying to do when he stipulated. I'm
8 happy to go over his background.

9 He's not an appraiser, but I believe
10 he's testified he's worked with appraisers, and I
11 think he --

12 THE COURT: You have to qualify him
13 again because he's going to object.

14 MR. SLOTCHIVER: Okay. Fair enough.

15 Q. In your experience, have you worked with
16 appraisers in the past?

17 A. Yes.

18 Q. Is that a regular part of your business?

19 A. Yes.

20 Q. In order to understand it, in order to give
21 advice as a CPA with regard to properties, do you
22 understand not the process of an appraiser, but are
23 you aware whether or not appraisers take into
24 consideration things such as the rentability of the
25 property?

1 A. Generally they do. They say it within the
2 appraisal.

3 Q. And you've testified in federal court?

4 A. Yes.

5 Q. State court?

6 A. Yes.

7 Q. You've testified on personal matters?

8 A. Yes.

9 Q. Tax matters?

10 A. Yes.

11 Q. Business corporations and individuals?

12 A. Yes.

13 Q. Is that correct?

14 A. Yes.

15 Q. Okay. And is it your understanding, sir,
16 that the values that have been used -- we are not
17 going into values, excuse me.

18 Is it your understanding that four quarters
19 is worth the same thing as a dollar bill?

20 A. Yes. I think so.

21 Q. And in this case do you believe that the
22 distributions that are made make any difference
23 whether it's rentable or not rentable as far as the
24 value?

25 A. In this particular case, no. We used the

1 values that we had. They were appraised twice. I
2 don't know of anything else we could have done.

3 MR. SLOTCHIVER: Thank you, sir.

4 THE COURT: Questions for the witness?

5 MR. MCELVEEN: Yes, ma'am.

6 EXAMINATION

7 BY MR. MCELVEEN:

8 Q. Mr. McGuire, there are different types of
9 appraisals, aren't there?

10 A. Yes, sir.

11 Q. There's appraisals coming from a sales
12 perspective?

13 A. Yes.

14 Q. Appraisals done from a highest and best use
15 perspective?

16 A. Correct.

17 Q. Those are very different things, aren't
18 they?

19 A. Generally speaking an appraiser will
20 appraise three different ways and come up with not
21 necessarily the average, but what the appraiser
22 thinks is the appropriate value.

23 And I don't know that that answers your
24 question. But appraisals are made for a different
25 purposes all the time.

1 Q. And those values can be very different?

2 A. It depends.

3 Q. It depends on the person, the appraiser?

4 A. Yeah.

5 Q. And it depends on the data?

6 A. No.

7 Q. Some appraisals take into consideration what
8 a property might be worth if it was fully
9 developed, other appraisals don't do that?

10 A. That's one of the assumptions in the
11 appraisal as to how you're going to appraise it.

12 Q. Do you know off the top of your head which
13 approach was used in the appraisals of these
14 properties?

15 MR. SLOTCHIVER: Your Honor, in this
16 case we would object because it doesn't matter. We
17 have all agreed upon the values, and you've already
18 ruled that it's irrelevant to go over this issue of
19 the particular appraisals.

20 MR. MCELVEEN: You went into it on
21 direct.

22 MR. SLOTCHIVER: But what I was asking
23 Mr. McGuire was is there a difference when you are
24 dividing up money if it's four quarters or a
25 dollar, are they all the same.

1 And I asked about the methodology, not
2 about the particulars of this case. I think they
3 are distinguishable.

4 THE COURT: Thank you. I'm going to
5 allow the question.

6 Q. So you don't know off the top of your head
7 what approach was used in these appraisals?

8 A. I would have to look at the appraisal again
9 to see what they used.

10 Q. Thank you.

11 THE COURT: Anything further from this
12 witness?

13 MR. SLOTCHIVER: Nothing from us.

14 THE COURT: Okay. Thank you.

15 Do you all have any problems with us
16 releasing Mr. McGuire?

17 MR. MELVEEN: Not at all.

18 MR. SLOTCHIVER: So he can leave?

19 THE COURT: He can leave if he desires,
20 unless you all plan on calling him back.

21 Thank you.

22 Attorney McElveen, any additional
23 witnesses?

24 MR. MCELVEEN: Give me just a moment,
25 please, Your Honor.

1 That's all we have, Your Honor.

2 THE COURT: Okay thank you. Any
3 additional witnesses for the respondent?

4 MR. SLOTCHIVER: Before we bring
5 another witness, I guess we move for a directed
6 verdict at this stage, if I may.

7 The will sets forth what the
8 responsibilities, what the requirements are for the
9 PRs and what their rights are. And there's no
10 dispute that the values are even. There's no
11 dispute because the testimony has been that we do
12 not disagree with the values, we do not disagree
13 with the personal property. The value of the real
14 estate and the real property is not in dispute.

15 So the only issue before the Court is
16 whether or not everybody likes what properties they
17 got out of the mix. Everybody agrees they got an
18 even amount, it's just do we like them. The will
19 sets forth the requisite language stating what is
20 required under the distribution of the estate.

21 And without the consent of any
22 beneficiary, in this case Ms. Felder is the
23 beneficiary, without her consent, the PR has the
24 right to make distributions, including satisfaction
25 of any pecuniary request, any cash, or any specific

1 property, real or personal, or an undivided
2 interest, or partly in cash and partly in such
3 property, and to do so without regard to income tax
4 base, the specific property allocated to any
5 beneficiary, and without making pro rata
6 distributions of specific assets.

7 That's exactly what the PRs have set
8 forth to do here. Now, the case that's been put up
9 to the Court is very different. Number one, it
10 deals with a partition action where there is no
11 standard set forth as we have in a will. It's just
12 a partition action asking the Court to divide the
13 property. Please, Court, figure out how to divide
14 it among all these people. It's very a different
15 action.

16 But not only that, the facts of it are
17 different. Because there you've got one person who
18 the record states had lived on the property or a
19 portion of the property for its entire life, and
20 that's the person who was getting most of it.

21 You've got another part that says that
22 he has been very involved in bringing different --
23 running water and electricity to the home. Here we
24 have got a scenario where the people that lived
25 there or used it for their entire life have been

1 the PRs.

2 So even if we determine this case was
3 relevant, which we don't believe that it is, the
4 people that really benefit from this case are the
5 PRs because they've used it since they were small,
6 small children. Ms. Felder didn't use it until she
7 was an adult, according to her testimony, 25 or
8 26 years old, married and pregnant.

9 So there's a giant distinction between
10 the case they used to support their position, and
11 what happened in this case.

12 Judge, one of the points that has been
13 addressed is, what if we do this? How will we ever
14 have it? Whenever a party says, I have a
15 settlement or right and therefore I don't have to
16 follow the will, what do we do? What's the test?
17 How does the Court determine who gets what?

18 One of the powers that the personal
19 representative has is to set forth how they want
20 their estate to be distributed, and who makes the
21 final decision.

22 And here that's exactly what this
23 document purports to do. And it's exactly what our
24 clients have complied with. And the only argument
25 is, we'd like to have maybe part of the property

1 that makes income. But we have heard testimony
2 from Mr. McGuire that all of that is part of the
3 value, and we're not disputing over the value.

4 So the fact that one property maybe has
5 no structure on it, and another one has a dock on
6 it, and another one has a piece of property that's
7 rentable, when you go to sell those properties,
8 they're all selling for what they have been
9 appraised at theoretically.

10 So the process was done, appraisals
11 were taken, the computations were done, cash
12 disbursement made up the difference in the values.
13 And what we're now hearing is an argument, let's
14 not follow the will. And we would move at this
15 point for a directed verdict.

16 THE COURT: Attorney McElveen.

17 MR. MCELVEEN: Your Honor, I would
18 disagree the Campbell case is really
19 distinguishable. The Campbell case states two very
20 obvious -- that whether the judge or personal
21 representative is making a distribution, it has to
22 be fair and equitable. And I'd like to hear an
23 argument that that's not the case.

24 Secondly, Your Honor, that case stands
25 for the proposition that intangibles can be taken

1 into consideration. Not by the Court but -- not
2 only by the Court in making a partition under the
3 estate, but it is also relevant in cases in which
4 personal representatives are doing the same thing.
5 They may not be controlling in every case, but it's
6 certainly relevant.

7 Now, on the Campbell case the Court
8 said, you're right, sentimental value and other
9 intangibles such as use may be admissible, may be
10 considerable, but because this gentleman in the
11 case put all his money into the property, his
12 pecuniary interest trumps the interest of the other
13 beneficiaries.

14 In this case, their pecuniary interest
15 is exactly the same. I don't think the fact that
16 they put heat and air in there a few months ago
17 knowing that this hearing was coming up this
18 morning establishes enough pecuniary interest on
19 their part in order to trump the sentimental
20 interest and the intangibles that we are relying
21 on.

22 And we can dispute, Your Honor, the --
23 we cannot dispute the values, which we're not, and
24 still dispute which is the most desirable property.
25 If you give me ten dollars and tell me I've got to

1 pay a dollar a year to keep it, but if you give me
2 this ten dollars and say I don't have to pay
3 anything to keep it, what am I going to do? Is
4 that not relevant?

5 And the same thing is true with the
6 intangibles of use, Your Honor. I've got property
7 here worth \$700,000, but all I can do is go stand
8 on it during the day. I can't use it unless I want
9 to camp on it, which probably is not allowed by the
10 homeowners association rules; or I have got this
11 beautiful mountain house that I can go stay on
12 worth exactly the same. Which do I want? Which
13 benefits me the most? Which is something -- is
14 that not something that should be taken into
15 consideration?

16 And when you couple that with the fact
17 that we have a fiduciary duty here, Your Honor, and
18 it's obvious the fiduciaries are taking the most
19 desirable property, I think that the Court should
20 scrutinize that.

21 And as far as this being a motion for
22 directed verdict, just the fact that we put in the
23 sentimental interest should get us by that motion.
24 But I would ask the Court to consider the other
25 arguments as well.

1 MR. SLOTCHIVER: Very briefly, Your
2 Honor. Ms. Felder has a right, if so desired, on
3 the properties that she is to receive to file a
4 partition action just as she's done in this case.
5 That's a right that everybody has.

6 So if she decides she doesn't want to
7 keep the property, she doesn't want to have it
8 divided, she can make an effort to file for
9 partition. More importantly, let me remind the
10 Court that none of these arguments were made by
11 Ms. Felder to giving Jim King his distribution.

12 There was no argument that we have to
13 look at it differently, we have got to make sure
14 that everything follows this particular case and
15 these sentimental values when it comes to giving
16 his distribution. They weren't raised at all.
17 When it was convenient to raise it then, it wasn't.
18 When it's convenient now, it is.

19 The other thing, Your Honor, and I
20 mentioned it a moment ago, this case that was
21 handed up not only stands for the fact that he made
22 financial support, but it also stood for the fact
23 that he lived there most of his life, which is
24 exactly what happened here.

25 Someone has to make a decision. So the

1 question is, can you make a decision based on what
2 the will says? And the answer is yes. Is it fair
3 economically? Everything is fair. Is it the same?
4 Nobody disputes it. Is it equitable economically?
5 It's equitable, nobody disputes the values.

6 The problem is that you'll never find a
7 scenario, or rarely find a scenario, where
8 everybody is going to be happy with what they get;
9 who gets the wrench, who gets the washer, who gets
10 the necklace, who gets the car, who gets the TV?

11 These are always problems that this
12 Court deals with, no different than they deal with
13 it in the divorce court. But someone has to make
14 the decision. Sometimes it's the Court when nobody
15 else can make it, and sometimes it's the PRs when
16 they have right to do it.

17 But when they make that decision, it's
18 governed by what's inside the language of the law.
19 And that's all they have done today. This isn't a
20 case of -- the reason I asked Ms. Felder if there
21 was any discord between her and her sisters was I
22 wanted to show that unlike for example the James
23 Brown case where discord could be an issue, there
24 is none.

25 She used the house recently, just a few

1 week ago, at no cost to herself. She has been
2 offered, you want to use it, call me, you can come
3 and use the house. But here I move for a directed
4 verdict because there's no law to support that we
5 can circumvent the language that the will said
6 because you don't like what distribution you get
7 even though you agree that it's financially
8 correct. Thank you.

9 THE COURT: In regards to the motion
10 for directed verdict, the Court is going to deny
11 it.

12 Do you plan on calling any witnesses?

13 MR. SLOTCHIVER: Yes. May we have one
14 moment, Your Honor?

15 THE COURT: Yes, sir.

16 MR. SLOTCHIVER: May we have five
17 minutes?

18 THE COURT: Yes, that's fine.

19 MR. SLOTCHIVER: Thank you.

20 (A recess was taken.)

21 MR. SLOTCHIVER: Judge, I think in
22 light of the fact that there was another hearing
23 where all of the matters were addressed except for
24 this one, we'd like to hand up to the Court, just
25 for the Court's record, if you'd like to review the

1 transcript from the last hearing.

2 THE COURT: Yes, sir.

3 MR. SLOTCHIVER: And this is the
4 original transcript. And other than that, we have
5 no witnesses to call.

6 THE COURT: Okay, thank you.

7 MR. SLOTCHIVER: We just ask the Court
8 to review that.

9 THE COURT: Okay. Thank you.

10 Closing remarks.

11 MR. SLOTCHIVER: I think we kind of
12 argued it a moment ago.

13 MR. MCELVEEN: Judge, I don't have much
14 to say other than I ask that you take those
15 intangibles into consideration and mull them over.
16 This is a situation where these properties, truly
17 the best way to divide them is equally.

18 I understand what the will says, we are
19 not disputing what the will says. But what we are
20 saying is that the fiduciaries don't get to
21 cherry-pick the best property. And that's about
22 it.

23 THE COURT: Attorney Slotchiver.

24 MR. SLOTCHIVER: There's no argument
25 set forth before the Court today to divide them

1 equally. I believe the argument before the Court
2 today is not to approve the distribution that's set
3 forth in the petition.

4 And we would ask that you find that
5 that is in compliance with the document that has
6 been submitted, the will document, and in
7 compliance with the agreements and the values.

8 THE COURT: Okay. Thank you very much.
9 The Court is going to take this under advisement;
10 have an opportunity to read the transcript, the
11 case and the will again; and the Court will let the
12 parties know as soon as it can.

13 MR. SLOTCHIVER: Thank you, Judge.

14 THE COURT: Thank you.

15 MR. MCELVEEN: Thank you, Judge.

16 (The hearing was concluded at 3:54 PM.)

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1 CERTIFICATE OF REPORTER

2 STATE OF SOUTH CAROLINA
3 COUNTY OF CHARLESTON

4 I, Anne Bouley Meyer, Registered
5 Professional Reporter and Notary Public for the
6 State of South Carolina at Large, do hereby certify
7 that the witnesses in the foregoing hearing were by
8 The Court duly sworn to testify to the truth, the
9 whole truth and nothing but the truth in the
10 within-entitled cause; that said hearing was taken
11 at the time and location therein stated; that the
12 testimony of the witnesses and all objections made
13 at the time of the examination were recorded
14 stenographically by me and were thereafter
15 transcribed by computer-aided transcription; and
16 that the foregoing is a full, complete and true
17 record of the testimony of the witnesses and of all
18 objections made at the time of the hearing.

12 I further certify that I am neither
13 related to nor counsel for any party to the cause
14 pending or interested in the events thereof.

14 Witness my hand, I have hereunto
15 affixed my official seal on 3rd day of November,
16 2015 at Charleston, Charleston County, South
17 Carolina.

18 Anne Bouley Meyer
19 NCRA
20 REGISTERED PROFESSIONAL REPORTER
21 My Commission expires
22 February 5, 2023
23
24
25

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In the Matter Of:

Stephenson, Jacqueline v

In Re:

Hearing

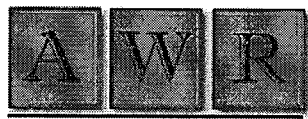
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1 STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

2 COUNTY OF CHARLESTON

3
4 IN RE: THE ESTATE OF JACQUELIN STEVENSON

5 JACQUELINE BENNETT and
6 KATHLEEN TURNER,

7 Petitioners,

CASE NO. 2007-ES-10-01437

8 GENEVIEVE FELDER,

9 Respondents.
10
11
12

13 HEARING BEFORE: HONORABLE TAMARA C. CURRY

14 DATE: March 3, 2015

15 TIME: 2:22 PM

16 LOCATION: Charleston County Courthouse
84 Broad Street
Charleston, SC

17 TAKEN BY: Counsel for the Defendant

18 REPORTED BY: LORA L. McDANIEL,
19 Registered Professional Reporter

20

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11 ESTATE OF JAMES KELLY:

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18 ATTORNEYS FOR THE RESPONDENT
19 GENEVIEVE FELDER:

20 NELSON, MULLINS, RILEY & SCARBOROUGH, LLP
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(INDEX AT REAR OF TRANSCRIPT)

1 THE COURT: This is case number
2 2010-ES10-1437 in reference to the Estate of
3 Jacquelin Stevenson. We have a petition to approve
4 settlement. We have attorney Stephen Slotchiver, who
5 represents Jacquelin Bennett and Kathleen Turner.

6 And we have the Estate of James King and
7 Genevieve Felder, and John Wilkinson listed as
8 Respondents; is that correct?

9 MR. SLOTCHIVER: Couple clarifications. I
10 represent Kathleen Turner and Jacquelin Bennett, in
11 their capacities as the personal representatives of
12 the Estate, not individually.

13 John Wilkerson is on vacation this week.
14 He has one of his partners in his firm that is
15 filling in for him today, which is Shawn Willis.

16 George McElwaine is here representing
17 Genevieve Felder.

18 THE COURT: Who is representing Genevieve
19 again?

20 MR. SLOTCHIVER: George McElwaine.

21 THE COURT: Are we ready to proceed?

22 MR. SLOTCHIVER: Yes, Your Honor. Your
23 Honor, just a little bit of background. I think I
24 only need a couple minutes.

25 The Estate and the trust made great

1 strides trying to resolve almost all of the
2 outstanding issues stemming around the Estate of
3 Jacquelin Stevenson as well as regarding the Qtip
4 Trust, which was initially established under the
5 Estate of Thomas C. Stevenson's Will. Thomas C.
6 Stevenson was Jacquelin Stevenson's husband that
7 predeceased her.

8 There's also a marital trust that was
9 established under the Thomas C. Stevenson Will that
10 we'll also be able to resolve today, Your Honor.

11 As court records will reflect, Jacquelin
12 Stevenson had, I call it, six children. It's really
13 she had five biological children, and she had one
14 step-child, whom she loved all of them equally.

15 The kids were Tom Stevenson; Dan
16 Stevenson; Jacquelin Bennett; Kathleen Turner;
17 Genevieve Felder and James King. There were previous
18 hearings held by this court to set off the rights of
19 both Tom Stevenson and Dan Stevenson as a result of a
20 very large judgment that was issued against them to
21 be in favor of the Estate and Trust.

22 Today, Your Honor, I've got an original
23 private agreement that I would like to present to The
24 Court, if I may.

25 THE COURT: You can.

1 MR. SLOTCHIVER: It's been signed.
2 There's two original sets. One has been signed by
3 Kathleen Turner, Jacquelin Bennett, and Gloria King,
4 in her capacity as the Personal Representative of the
5 Estate of James King. And the other I just received
6 today, which was signed by Genevieve Felder. They're
7 the same agreement; we had two sets because it called
8 for original signatures.

9 The private agreement addresses a consent
10 by all interested parties to accountings that have
11 been prepared by the Estate and Trust's CPA, which is
12 Herbert McGuire. He prepared separate accountings
13 for the Estate, for the Qtip Trust and for the
14 marital trust.

15 In addition, he prepared a summarization
16 of almost like a proposal for distribution showing
17 what each of the beneficiaries was to receive from
18 the Estate, the Qtip Trust and the marital trust.

19 Now, Your Honor, I've not filed these
20 accountings or the summarization for two reasons;
21 one, because all parties have signed off on waiver of
22 statutory filing requirements, which I can present to
23 The Court.

24 The other reason, which is on the side, is
25 that there was a confidentiality agreement that

1 stemmed out of other litigation not between the
2 interested parties of the Estate but between the
3 Estate and the Trust that required confidentiality
4 agreement.

5 At this time, Your Honor, I would like to
6 present the waivers that have been signed by Gloria
7 King on behalf of the Estate of James Kelly King;
8 Jacquelin S. Bennett, Kathleen S. Turner and
9 Genevieve Felder, okay?

10 THE COURT: Yes.

11 MR. SLOTCHIVER: And I'll make note that,
12 on the waiver, all three of the boxes listed have
13 been checked for Jacquelin Bennett, Kathleen Turner
14 and the Estate of James King but not for Genevieve
15 Felder. And I'll get into that in just a moment.

16 Your Honor, I think it's also important
17 for the record to reflect who the beneficiaries are
18 of the Qtip Trust and the marital trust are. I think
19 it will give Your Honor a little bit better clarity.

20 The Qtip Trust beneficiaries are Jacquelin
21 Bennett, Kathleen Turner, and Genevieve Felder, but
22 not the Estate of James King.

23 The marital trust beneficiaries are the
24 three ladies and the Estate of James King, okay. So
25 it does have a slight impact.

1 Now, Your Honor, the private agreement
2 will reflect -- and we'll ask The Court today to
3 approve the private agreement -- is that all parties,
4 the Estate of James King, Jacquelin Bennett,
5 Genevieve Felder, and Kathleen Turner are all in
6 agreement to the accountings on behalf of both trusts
7 and the Estate, okay.

8 They're also in agreement as to the
9 disbursements to be made to the Estate of James King.

10 That stated, Jacquelin Bennett, Kathleen
11 Turner, and Genevieve Felder are not all in agreement
12 as to how to divide out the remaining residuary
13 assets between the three of them. They're okay with
14 what Mr. King's Estate receives. Between the three
15 of them, they're still trying to work it out. If
16 we're able to work it out, then we'll file a separate
17 private agreement and inform The Court of the
18 settlement.

19 If they're unable to work it out, then we
20 will be back in front of Your Honor at a later date
21 to hear that issue with reference to division of the
22 remaining assets.

23 Your Honor, I also mentioned to you that,
24 as part of the private agreement, that there is a
25 reserve that is being retained by the Estate and the

1 Trust, combined reserve of \$100,000. That reserve is
2 being split between the Qtip, basically representing
3 50 percent or \$50,000, and the Estate and the marital
4 trust representing the remaining \$50,000.

5 The reason I've got the Estate and the
6 marital trust on the same side is because those
7 beneficiaries are the same; whereas the Qtip, the
8 beneficiaries are slightly different. That's been
9 consented to by all the parties, Your Honor.

10 Any monies remaining in that reserve at
11 the conclusion of the Estate would then be subject to
12 being divided out pursuant to 50 percent going to the
13 Qtip beneficiaries and 50 percent going to the
14 marital trust or Estate beneficiaries.

15 That said, other than the division --
16 other than the division of the residuary assets
17 between Jacquelin Bennett, and Kathleen Turner,
18 Genevieve Felder, there's only one other issue left
19 before we can actually close this Estate, which as
20 The Court knows, has been open for almost eight
21 years. That is a pending malpractice suit.

22 What the private agreement will address
23 and the attached schedules, which, Your Honor, have
24 not been filed with The Court will address, is that
25 any net proceeds received -- we don't know what will

1 be received ultimately on this malpractice suit, if
2 anything. We're hopeful but we don't know.

3 Any net proceeds to be received will be
4 divided under the same percentage allocation as was
5 previously done on a separate matter, which all
6 parties are aware of and all parties have agreed to.

7 Now, Your Honor, there's one other thing
8 that's referenced in the private agreement as well;
9 that is that the Estate of James King, upon receipt
10 of the interest in the real estate that is to be
11 distributed to him from the Estate of Jacquelin
12 Stevenson, will be purchased.

13 He will sell, and his sisters, Jacquelin
14 Bennett, Kathleen Turner, and Genevieve Felder, will
15 purchase his interest in all the real estate he is to
16 receive for a one lump sum amount of \$123,250, which
17 will be taking place in the immediate future. Just a
18 matter of having the deeds finalized and the
19 transaction will close. That's part of this
20 agreement as well; the requirement on the Estate of
21 James King to sell, and the requirement for the three
22 persons to purchase for that amount.

23 Lastly, Your Honor, there is -- lastly,
24 Your Honor, on the schedules that were prepared by
25 Herbert McGuire, the CPA for both the Estate and the

1 trust of which there were three separate accountings,
2 one for each trust, one for the estate, and one
3 summarization that actually shows who's to receive
4 what, all parties have agreed to sign on to those
5 documents, although they have not yet signed today
6 because two of the parties are not present in the
7 courtroom today, Your Honor. They have all agreed to
8 sign one of those schedules so that there's no issue
9 with reference to what was contained within those
10 schedules, Your Honor.

11 Your Honor, I think all parties agree it's
12 a fair and reasonable settlement. We wouldn't be
13 here today otherwise. This is something that's been
14 going on for seven-and-a-half years. We've asked
15 Your Honor, pursuant to the code, to approve this
16 settlement as being fair and reasonable.

17 If Your Honor is so inclined to approve
18 it, I've prepared a proposed order for Your Honor's
19 signature that I've shared with all Counsel, and it's
20 been approved.

21 THE COURT: Attorney McElwaine.

22 MR. McELWAIN: We agree.

23 THE COURT: You heard the agreement that
24 Attorney Slotchiver has placed on the record and
25 there's nothing that you would like to add, and you

1 believe that he has accurately reflected the
2 agreement --

3 MR. McELWAIN: Yes.

4 THE COURT: -- on behalf of your client?

5 MR. McELWAIN: I do believe, yes.

6 THE COURT: And Attorney Willis?

7 MR. WILLIS: Yes, Your Honor.

8 THE COURT: How are you?

9 MR. WILLIS: Fine. How are you?

10 THE COURT: You've also heard the
11 agreement that Attorney Slotchiver has placed on the
12 record. And do you believe that he has accurately
13 reflected your client's belief in regard to that
14 particular agreement?

15 MR. WILLIS: Yes, Your Honor.

16 THE COURT: You're asking The Court to
17 accept the agreement?

18 MR. WILLIS: Please, Your Honor.

19 THE COURT: Attorney Slotchiver, The Court
20 is going to grant the relief that you have sought.
21 You've indicated a number of different agreements.
22 The Court is not going to reiterate the agreement
23 that you've placed on the record. This is the
24 proposed order that you have?

25 MR. SLOTCHIVER: Yes, Your Honor.

1 THE COURT: You both have had an
2 opportunity to review the proposed order also?

3 MR. McELWAIN: I have.

4 MR. WILLIS: Yes, Your Honor.

5 THE COURT: Thank you. Thank you very
6 much.

7 I just want to make sure it's accurate
8 with what you've indicated. On the last paragraph,
9 you have indicated that the Estate of James Kelly
10 King's interest in the real estate received will be
11 sold.

12 It says that Genevieve Felder shall
13 purchase the property, but does it say that the
14 Estate will actually be required to sell to them or
15 that he's agreeing also or that his Estate is
16 agreeing to sell; is that accurate?

17 MR. SLOTCHIVER: I gave out all of my
18 drafts.

19 THE COURT: I just want to make sure. You
20 have indicated to The Court. It's almost as though
21 Genevieve will purchase it. Whoever is the personal
22 representative of that Estate should agree that they
23 will definitely sell to.

24 MR. SLOTCHIVER: That's part of the
25 private agreement. The Estate will sell.

1 THE COURT: It's part of the private
2 family settlement agreement?

3 MR. SLOTCHIVER: Yes, Your Honor.

4 THE COURT: I just want to make sure.

5 MR. SLOTCHIVER: It states here that
6 Jacquelin Bennett, Kathleen Turner, Genevieve Felder
7 shall then purchase all of the Estate of James Kelly
8 King's interest in all real estate holdings received
9 from the Estate of Jacquelin Stevenson for a lump
10 sum.

11 Actually, the Estate of Jacquelin
12 Stevenson is distributing certain portions of real
13 estate to the Estate of James King. The Estate of
14 James King then agrees to immediately sell.

15 THE COURT: It just didn't say that,
16 that's why I asked.

17 MR. SLOTCHIVER: I can clarify in the
18 order.

19 THE COURT: Is it in the private family
20 settlement agreement? I just want to make sure
21 they're saying they will purchase.

22 He also should agree that whoever is the
23 personal representative of that Estate, that the
24 agreement is that the Estate will, in fact, sell it
25 to them or required to sell it to them.

1 MR. WILLIS: Your Honor, I confirm the
2 agreement. The Estate of James King will sell the
3 property.

4 THE COURT: Okay. We're good then. Do
5 you know how many copies you will need?

6 MR. SLOTCHIVER: Your Honor, if I could
7 get three, that would be wonderful.

8 THE COURT: Because if you'll meet us
9 upstairs, we can get you certified copies.

10 MR. SLOTCHIVER: That will be great.

11 THE COURT: Thank you. We'll be happy
12 when we are ready to close this Estate, 2007. We are
13 trying to move our old files, trying to get them
14 closed, especially ten years and 12 years. Had a few
15 files a little too long. Glad y'all were able to
16 resolve it. Thank you.

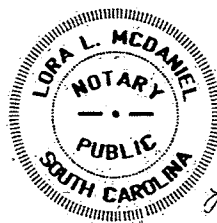
17 (The hearing was concluded at 2:36 p.m.)
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CERTIFICATE OF REPORTER

I, Lora McDaniel, Registered Professional
Reporter and Notary Public for the State of South
Carolina at Large, do hereby certify that the
foregoing transcript is a true, accurate, and
complete record.

I further certify that I am neither related
to, nor counsel for, any party to the cause pending
or interested in the events thereof.

Witness my hand, I have hereunto affixed my
official seal this 11th day of June, 2015 at
Charleston, Charleston County, South Carolina.



Lora L. McDaniel,
Registered Professional Reporter
My Commission expires:
September 18, 2016

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STATE OF SOUTH CAROLINA	) COURT OF COMMON PLEAS
	)
COUNTY OF CHARLESTON	) Case No(s) : 2015CP1005056
	)
Jacquelin S. Bennett and	)
Kathleen Turner,	)
	)
Plaintiff,	)
	)
-VS-	) TRANSCRIPT OF RECORD
	)
Estate of James Kelly King	)
and Genevieve Felder,	)
	)
Defendant.	)
	)

June 03, 2016
Charleston, South Carolina

B E F O R E:

HONORABLE THOMAS A. RUSSO, Judge.

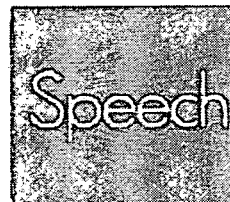
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EXHIBITS PAGE

NO.

DESCRIPTION

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PLAINTIFF EXHIBITS

(No exhibits offered.)

DEFENSE EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

(No exhibits offered.)

P R O C E E D I N G S

(Proceedings begin on the 3rd day of June, 2016
at approximately 9:57 a.m.)

THE COURT: This is an appeal from the
Charleston County Probate Court.

MR. SLOTCHIVER: Yes, Your Honor.

THE COURT: All right. Be glad to hear
from you.

MR. SLOTCHIVER: Thank you. My name is
Daniel Slotchiver. Here, seated with me today,
is Kathleen Turner. Let me give you a little
bit of background about the estate, if I can.
It will help you understand the situation. It's
relatively brief.

Judge, on September 17th, 2007, Jacquelin
Stevenson passed away. When she passed away,
she had three daughters, Kathleen Turner and
Jacquelin Bennett, who were ultimately
appointed as co-PRs. She had a third daughter,
who was a half-sister to the PRs whose name was
Genevieve Felder. She had two sons and a
stepson. For purposes of today, the two sons
and the stepsons don't have a dog in this
fight. So the real issue is between what the
executors have done, or moved to do with the

1 estate, and what Ms. Felder has objected to.

2 At the time of passing, Your Honor, there
3 were four properties involved with the estate.
4 One of them is the Wadmalaw Property which
5 passed through the will to Kathleen Turner and
6 Jacquelin Bennett, the co-PRs. That's not at
7 issue. The second piece of property is
8 Hendersonville Property, North Carolina
9 property that passed to -- through the will, a
10 specific devise, to Daniel and Thomas
11 Stevenson. Now, because of some actions that
12 took place with the administration of the
13 estate, they are no longer involved with it.

14 That property, instead, has become part of
15 the residuary estate. So we have that property,
16 Hendersonville Property, residual state --
17 residual estate property and we have two other
18 pieces of property that were not owned at the
19 time the will was written, but they are also in
20 play with reference to the distribution of
21 properties, and this whole matter deals with
22 distribution of properties.

23 On May 4th, 2015, my clients filed a Demand
24 for Hearing in order to set forth the plan to
25 distribute the properties. This was going to

1 put all the properties, but for the Wadmalaw
2 Property which was a specific devise to the co-
3 PRs -- the will sets forth that in the
4 administration of the estate, the personal
5 representatives shall have all the powers
6 granted by law, including, but not limited to,
7 powers granted to personal representatives
8 under the code. It says it is my intention in
9 specifying the following powers to give -- and
10 then it goes to a list of many powers that we
11 will discuss in a few minutes -- to give raw
12 discretion and flexibility to my personal
13 representatives.

14 What happened is that at the hearing, the
15 respondent, Ms. Felder, has asserted that the
16 distribution is not fair, but not that it's not
17 fair economically. There's no dispute as to the
18 economics. We brought in a -- a CPA. We
19 evaluated the numbers. A distribution plan was
20 made.

21 Her concern or her argument, instead, was
22 that it's not fair because she thinks the other
23 properties are better. They are investments.
24 They generate some income. They are better
25 properties. She'd rather have ownership in

1 those properties. Once again, not economic, but
2 just her desire to have ownership of those
3 properties.

4 Judge Curry of the probate court ordered
5 that she believed that the plain language of
6 the residuary clause control and that all the
7 properties, under the residuary clause, shall
8 be divided to all the recipients in equal
9 shares, not just monetarily, but you've got
10 three pieces of property, each one gets one-
11 third equal shares.

12 The conflict comes because of some the
13 language contained in the will, which is also
14 referenced in the code under 62-3-715. That's
15 the code section. It actually follows the
16 language in the will. The language in the will,
17 under Fiduciary Powers -- that we discussed a
18 moment ago under Fiduciary Powers, which is
19 that -- which is that I give raw discretion and
20 flexibility.

21 One of the powers says -- and this is the
22 pertinent one, Your Honor, I think that applies
23 to all -- it says -- this is 10.6. It was
24 referenced in the brief that we filed. It says
25 without the consent of any beneficiary --

1 powers without the consent of the beneficiary,
2 which in this case would be Mr. Felder, to make
3 distributions in cash or specific properties,
4 real or personal, or an undivided interest or
5 partly in cash or partly in such property, and
6 to do so without regard to the income tax basis
7 or specific property allocated to a beneficiary
8 without making pro rata distribution of
9 specific assets.

10 So we appealed the Court's order. The
11 grounds for the appeal are two-fold. One is the
12 Court determine that -- or the court set forth
13 to determine what the intent was. It's stated
14 that the intent was for all of the
15 beneficiaries to receive equal shares in each
16 one of the properties. As set forth in our
17 motion, we've disagreed with that because the
18 requirement is to look at the entire document.

19 The law says that a reasonable will as a
20 whole, in giving due weight to all language and
21 revisions given to the effect of every part,
22 that's our position. We feel that the testator
23 had no intent -- there's no language to support
24 that every person receive an equal share in
25 each piece of the property. It just doesn't

1 exist. In fact, an argument could be made to
2 the other extent that we've got an offset that
3 was included in the will to some of the
4 properties. We've got language contained in the
5 will about the ability to give pieces, part
6 property, part cash.

7 Your Honor, there's nowhere else this could
8 apply. Under the will, the only place that you
9 could give pieces or part cash, part property,
10 would be under the residuary clause. Everything
11 else is specific devise. It's the only place
12 that that could be pertinent. Nothing else it
13 would apply to.

14 There's nothing that could point us in the
15 document that suggests that it was ever
16 intended the children, the beneficiaries, to
17 share an even ownership of these properties.
18 Instead, it was in value. It was solid. The
19 residuary clause was solid as to whether the
20 parties have equal ownership right in these
21 properties, but requires, instead, only equal
22 interest in the residuary estate. There's no
23 dispute about the fact that they receive, under
24 the plan that was set forth, equal interest in
25 the residuary estate.

1 I believe, Your Honor, that goes back to
2 the fundamental basis of why wills are created,
3 so you can handle how you wish for things to be
4 distributed and you can set forth powers as to
5 how things are distributed. The powers set
6 forth in the will clearly gives the right to
7 the personal representatives to divide it and
8 distribute it the way they did.

9 Judge Curry said -- ordered that -- in
10 looking at the authority, 10.1, 10.6 under the
11 fiduciary powers, don't apply to the residuary
12 clause; it only applies to the general
13 provisions of the will, but not the residuary.

14 I don't know if you've got -- I don't
15 believe you have the file. Your Honor, the
16 caption that we're referring to under 10.1 and
17 10.6 is under the category of Fiduciary Powers.
18 It refers to in the administration of the
19 estate and it refers to several things that
20 stand alone.

21 For example, 10.1 talks about that the PR
22 has the right to determine what properties are
23 covered by the general description in the will.
24 That has nothing to do with 10.2, which is
25 payment of expenses. It had nothing to do with

1 investments of -- investments and
2 reinvestments, which is 10.3; borrowing, 10.4;
3 rental of house, 10.5. They all stand alone as
4 independent powers of the fiduciary. 10.6 is
5 the one that refers to the distribution. It's
6 the one that says you can do it.

7 Your Honor, the language follows word-for-
8 word what is set forth in the probate code
9 under 62-3-715 subsection 23. The law says that
10 in determining the powers of a personal
11 representative, the Court must look at the
12 authority imparted upon them by the code. It
13 must try to determine, under the description of
14 the will what was intended and to make
15 distribution accordingly.

16 Your Honor, there's nothing in the will
17 that suggests that each person in the residuary
18 -- each recipient of the residuary clause must
19 receive equal shares. In fact, we know there
20 are estates that have just a few properties and
21 there are estates that might have 50
22 properties. You can have tremendous amount of
23 heirs. It would -- fundamentally, it wouldn't
24 work if you're looking at petition actions
25 across the board for power that was given to

1 the PR.

2 There are estates where the will doesn't
3 set forth this language, but gives that power
4 to the executor. Those situations, I would
5 agree that Ms. Felder would have a claim. But
6 under these situations, we believe the intent
7 is clear and we believe the authority is clear.
8 Therefore, we would appeal the decision. Thank
9 you.

10 MR. MCELVEEN: Thank you, Your Honor. Your
11 Honor, first of all, this is kind of a
12 housekeeping matter. They state that -- on
13 page 12, that we failed to make an argument
14 before the probate court in the motions for
15 reconsideration. There was no motion. There was
16 a hearing on the motion for reconsideration.
17 There was no argument or no briefs filed.
18 That's just an error. I just didn't want the
19 Court to get caught up on something procedural
20 because it was inaccurate.

21 THE COURT: Is that right?

22 MR. SLOTCHIVER: Page 12 of my brief?

23 MR. MCELVEEN: Page 12 of your reply -- of
24 the response.

25 THE COURT: Where on page 12?

1 **MR. MCELVEEN:** The first full paragraph.
2 It states that --

3 **MR. SLOTCHIVER:** That is right, Your
4 Honor. There was no reply to the motion to
5 reconsider. She did rule without having a
6 hearing.

7 **MR. MCELVEEN:** Also, Your Honor, the
8 motion to -- the request for a hearing, I
9 thought was -- my recollection, it was made by
10 the respondent. But at any rate, I'd like to go
11 back and talk about the initial facts a little
12 bit.

13 Initially, as Mr. Slotchiver said, there
14 were three brothers and three sisters. Two
15 brothers were disqualified, one brother died,
16 leaving a total set of beneficiaries to two
17 full sisters and a half sister. Also, one of
18 the brothers were disinherited. He also was
19 removed as personal representative. So under
20 that scenario, two respondents were also the
21 personal representatives at that point. So
22 we're not --

23 **THE COURT:** So we have two personal
24 representatives?

25 **MR. MCELVEEN:** Two personal

1 representatives, who one of which was nominated
2 in the will and one of which was not, but who
3 also -- the respondents and the personal
4 representatives are the same person. The only
5 other beneficiary is my client.

6 The real properties, initially, in this
7 estate were the Wadmalaw Property, which was a
8 resort house on beach water. A nice dock. It's
9 a rental property and a very nice resort
10 property. Then, there's the Hendersonville
11 Property. It's actually five lots, a dock, a
12 very nice house. There were are two undeveloped
13 properties. Two undeveloped lots, one in Edisto
14 and one closer to Charleston.

15 The proposed distribution is that -- what
16 happened was the Hendersonville Property and
17 these two lots fell under the residuary clause,
18 the two brothers were excluded from the estate.
19 What they are proposing that you do is they
20 will now take -- they took the Wadmalaw
21 Property under the terms of the will. They are
22 now determining that they will also take the
23 other property. In order to make that up to my
24 client, they will give her 75 percent interest
25 in one of the lots and 33 percent interest in

1 the other lot. These are undeveloped lots that
2 were bought in the last 10 years.

3 Our argument for the probate court was that
4 that was self-serving, that was in violation of
5 their fiduciary duty. Yeah, you do have a
6 responsibility as a fiduciary to make sure that
7 the numbers come out, but you can't pick and
8 choose and select those properties. As a
9 fiduciary, you want to keep -- come up with
10 some distribution as to the other properties to
11 make those numbers come equal.

12 The Court -- probate court, when it issued
13 its original order, referred to the South
14 Carolina statute as far as fiduciaries and the
15 case law. The last line in the fiduciary
16 statute in South Carolina, which is 62-373,
17 specifically requires that fiduciaries act in
18 the best interest of the successor's estate.
19 Now, these properties, Your Honor, the Wadmalaw
20 Property and the Hendersonville Property are
21 extremely nice properties.

22 **THE COURT:** The first one you mentioned is
23 not an issue here though, correct? That was --

24 **MR. MCELVEEN:** It's not an issue.

25 **THE COURT:** So we're talking about the

1 Hendersonville Property and, then, these two
2 unimproved properties.

3 **MR. MCELVEEN:** Right. But I am going to
4 refer to that because the intent under the will
5 -- if you look at the will -- I think -- my
6 position is, and I've stated in my brief, if we
7 look at the -- at the language of the will to
8 try to determine the testator's intent, we're
9 not going to get anywhere. First of all, she
10 could not possibly imagine that instead of six
11 descendants, she'd have three. Secondly, -- and
12 so we have no idea what she would do in that
13 situation.

14 Although there's no -- I would agree,
15 there's no requirement under the will or under
16 the law that they -- that everything be divided
17 evenly, there is a requirement that everything
18 be divided fairly. If you look at the will,
19 you've got -- two people got the Wadmalaw
20 Property, two people got the Hendersonville
21 Property. There's no intention that anybody
22 would have nothing. There's no indication under
23 the will that any beneficiary be favored to
24 that extent to get the two finest properties in
25 the estate and leave the rest to the other

1 person. And that's what's happened.

2 Now, what we're here to decide is not who's
3 right and who's wrong, we're here to decide
4 whether there was any evidence before the
5 probate court that would support its decision
6 in what they did. The probate court, after
7 citing fiduciary statute, after citing the
8 fiduciary case law, determined that in this
9 case, equal division was appropriate. And it
10 is, Your Honor.

11 If you take the remaining properties, two
12 of which were investment properties and resort
13 property and divide those equally in thirds,
14 instead of taking one for themselves, 75
15 percent to the remaining successor in the
16 other, and 33 percent in the other, that's
17 irrational. That's not reasonable, Your Honor.
18 It's simply self-serving. That's our position
19 and that's what we're asking the Court to
20 consider. The probate court had a basis for its
21 decision, and it was the right decision.

22 **MR. SLOCHIVER:** If I may respond briefly,
23 Your Honor?

24 **THE COURT:** Yes, sir.

25 **MR. SLOCHIVER:** Once again, this is why

1 the provision is there. The power is that
2 without the consent of any beneficiary to make
3 distributions in cash, specific property, real
4 or personal, or an undivided interest and so
5 forth, it's all set forth in 10.6. Your Honor,
6 probate court disregarded 10.6. That's the
7 issue that we're here for today.

8 **THE COURT:** Yeah, but 10.6 still falls
9 under a fiduciary duty when you're doing that.

10 **MR. SLOCHIVER:** Yes. Yes, Your Honor.
11 That's --

12 **THE COURT:** In other words, 10.6 doesn't
13 say y'all can do anything you want, we could
14 care less.

15 **MR. SLOCHIVER:** One of the cases cited by
16 the respondents in their brief to Your Honor is
17 Wilson versus McGuire. Wilson versus McGuire is
18 463 S.E.2d 614. What it says -- and this is
19 very pertinent, it goes exactly to the point
20 that he's just raised. It's stating that the
21 allocation of a preselect tract to one heir is
22 not prejudicial to other heirs unless evidence
23 is presented to demonstrate that that
24 preselected tract is more valuable than the
25 other tracts.

1 When we talk about reasonableness, I think
2 the questions that we look at from our
3 prospective, Your Honor, is do you have the
4 power to do it. Does it follow the law and does
5 everybody get the same monetary value?

6 Without that -- and this is -- as we've
7 stated before, this is language from the code.
8 It's not language created by the lawyer who
9 drafted the will. It's language from the code.
10 It's the language that governs what happens and
11 what powers you can't give. It's quoted
12 verbatim. Without it, it would mean that, in
13 every case, the residuary clause would result
14 in every single beneficiary being given an
15 equal share of each piece of property as
16 opposed to -- meaning, ownership as opposed to
17 an equal share.

18 There's no disputing, Your Honor, that this
19 was discussed and it's not before you as to the
20 value. The values are same. It's worth what
21 it's worth. You can deal with it, you can sell
22 it, you can keep it, you can use it. It's just
23 that one of the heirs isn't happy and it really
24 goes back to, fundamentally, why people write
25 wills to begin with to a large extent is to

1 avoid that fight. When Ms. Stevenson wrote the
2 will, she set forth those powers.

3 Historically, I don't agree with the
4 argument of counsel that there's no intent that
5 can be seen. I disagree completely. The only
6 gifts of property, specific devises that were
7 made were made to my client, her sisters, her
8 brothers. The half-siblings, one of which is
9 his client, weren't given specific pieces of
10 properties.

11 Now, because properties were acquired later
12 or because properties were taken back and
13 thrown into the residuary clause, they now have
14 the right to have ownership in it. And that's
15 fine. That's what the plaintiff set forth. It's
16 a complicated effort. Hired a CPA to come up
17 with a plan and make it work. There's no easy
18 way to make it work.

19 I believe that following -- that the
20 fiduciary powers are broad, as set forth in the
21 will, gave them a lot of discretion, as set
22 forth in the will. 10.6 is under Article 10.
23 Article 10 sets forth -- the caption is
24 Article 10, Fiduciary Powers, that in the
25 administration of the estate, it sets forth

1 what the powers are and want them to have broad
2 discretion and flexibility. Then it goes
3 through the line items, one of which is
4 distributions and how to do distributions. So
5 we believe that there was no basis for the
6 judge to issue an order. We ask that you would
7 overturn.

8 **THE COURT:** Folks, I -- obviously, I
9 haven't had an opportunity to read through your
10 memos or the Court's response. So I'm going to
11 go through that. Then I'll have an answer for
12 you. Okay?

13 **MR. MCELVEEN:** Thank you, sir.

14 **MR. SLOTCHIVER:** Thank you, Your Honor.

15
16 (Proceedings conclude at approximately
17 10:22 a.m.)
18
19
20
21

CERTIFICATE

22

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Charleston, South Carolina, on this 30th day of September, 2017.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

Teresa B. Johnson

Official Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF: JACQUELIN K.
STEVENSON

IN THE PROBATE COURT

PROPOSAL FOR DISTRIBUTION

11 AUG 17 PM 2:39

CASE NUMBER: 2007ES10-01437

PROBATE COURT
CHARLESTON COUNTY

Personal Representative(s): Kathleen S. Turner
Jacquelin S. Bennett

Name and Address of Distributee	Amount or Item
Kathleen S. Turner P.O. Box 496 Folly Beach, SC 29402	See the attached 10-page report
Jacquelin S. Bennett P.O. Box 1231 Charleston, SC 29402	See the attached 10-page report
Genevieve S. Felder 337 Cedar Creek Rd Andrews, SC 29510	See the attached 10-page report
James K. King c/o Elaine Fowler Turner, Padgett, Graham & Laney P.A. P.O. Box 22129 Charleston, SC 29413	See the attached 10-page report
Thomas C. Stevenson, III c/o Robert Brunson, Esquire Nelson Mullins Riley & Scarborough, LLP P.O. Box 1806 Charleston, SC 29402	See the attached 10-page report
Daniel R. Stevenson 4 Hollyridge Drive Asheville, NC 28803	See the attached 10-page report

Executed this 15 day of August, 2011.

Signature: Kathleen S. Turner

Name: Kathleen S. Turner

Address: P.O. Box 496

Folly Beach, SC 29439

Telephone (O): 843 588-2479

(H): 843 588-2479

Signature: Jacquelin S. Bennett

Name: Jacquelin S. Bennett

Address: P.O. Box 1231

Charleston, SC 29402

Telephone (O):

(H):

STATE OF SOUTH CAROLINA)
)
COUNTY OF: CHARLESTON)
)
IN THE MATTER OF: JACQUELIN K.)
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(H): _____

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Charleston, SC 29402

Telephone (O): _____

(H): _____

[illegible]

Stevenson Estate Rev7 Allocation							
	From Page 2	Pay Specific Bequests					Sub-Total
		KST	JSB	GSF	JKK		
Cash	11,208						11,208
Certificates of Deposit	190,147			(43,500)	(24,830)		121,817
Douglas Capital - Cash Account	17,435						17,435
Rockville	1,450,000	(725,000)	(725,000)				-
Lot - Paradise Island	390,000			(230,000)	(160,000)		-
Lot - Bailey Island	170,170				(170,170)		-
Lake Summit	-						-
MHI Street 9.06 acres marsh	200						200
MHI Street 18.49 acres marsh	200						200
Drayton Street 5.79 acres marsh	200						200
Albemarle Road 2.9 acres marsh	200						200
Albemarle Road 2.5 acres marsh	200						200
Personal property	119,455	(39,818)	(39,818)	(39,818)			-
Claim - Tom Stevenson	118,358				(45,000)		73,358
Douglas Capital - Investments	14,247						14,247
Due From NCDOR (Audit)	2,772						2,772
Total Wachovia Securities - FRPT	49,305						49,305
Prior distribution (GSF)	50,000			(50,000)			-
Prior distribution (JKK)	108,500						108,500
IRS Disallowed Gifts	473,000			(78,500)			394,500
IRS Allowed Gifts	58,000						58,000
Due to IRS (Audit)	-						-
Due to Personal Representatives	-						-
Advances from Marital Trust	-						-
Advances from Q-Tip Trust	-						-
Due for Final Expenses	-						-
Loan from Genevieve Felder	-						-
Loan from Kathleen Turner	-						-
Loan from Jacquelin Bennett	-						-
KST	-	784,818					784,818
JSB	-		784,818				784,818
GSF	-			439,818			439,818
JKK	-				400,000		400,000
TCS III	-						-
ORS II	-						-
Sub-total	3,223,597	-	-	-	-	-	3,223,597

Stevenson Estate Rev7 Allocation								
	From Page 3	Distribute Residue						Total
		KST	JSB	GSF	JKK	TCS III	DRS II	
Cash	11,208		(1,319)	(8,482)	(1,427)			0
Certificates of Deposit	121,817	(28,851)	(92,967)					(0)
Douglas Capital - Cash Account Rockville	17,435	(17,435)						
Lot - Paradise Island	-							
Lot - Bailey Island	-							
Lake Summit	-							
Mill Street 9.06 acres marsh	200	(50)	(50)	(50)	(50)			
Mill Street 18.49 acres marsh	200	(50)	(50)	(50)	(50)			
Droyton Street 5.79 acres marsh	200	(50)	(50)	(50)	(50)			
Albemarle Road 2.9 acres marsh	200	(50)	(50)	(50)	(50)			
Albemarle Road 2.5 acres marsh	200	(50)	(50)	(50)	(50)			
Personal property	-							
Claim - Tom Stevenson	73,358				(73,358)			
Douglas Capital - Investments	14,247			(14,247)				
Due From NCDOR (Audit)	2,772			(2,772)				
Total Wachovia Securities - FRPT	49,305			(49,305)				
Prior distribution (GSF)	-							
Prior distribution (JJK)	108,500				(108,500)			
IRS Disallowed Gifts	396,500	(120,000)	(84,000)	(108,500)		(36,000)	(48,000)	
IRS Allowed Gifts	58,000	(17,000)	(5,000)			(36,000)		
Due to IRS (Audit)	-							
Due to Personal Representatives	-							
Advances from Marital Trust	-							
Advances from Q-Tip Trust	-							
Due for Final Expenses	-							
Loan from Genevieve Felder	-							
Loan from Kathleen Turner	-							
Loan from Jacquelin Bennett	-							
KST	764,618	183,535						948,354
JSB	764,618		183,535					948,354
GSF	439,818			183,535				623,353
JKK	400,000				183,535			583,535
TCS III	-					72,000		72,000
DRS II	-						48,000	48,000
Sub-total	3,223,597	-	-	-	-	-	-	3,223,597

Allocation of all real estate except Rockville									
		KST	JSB	GSF	JJK				
Paradise Island	Estate	-	-	230,080	160,000	390,000			
Bailey Island	Estate	30,415	30,415	-	170,170	231,000			
Bailey Island	Q-Tip	164,667	164,667	164,667	-	494,000			
Bailey Island	Marital	-	-	-	-	-			
Total Bailey Island		195,082	195,082	164,667	170,170	725,000			
Lake Summit	Estate	400,000	400,000	300,000	-	1,100,000			
Summary of distribution and proof of total									
	Estate	Q-Tip	Marital	Sub-Total	PR Fees	Inc Notes	Total	Correct	Proof
KST	948,354	356,480	224,953	1,529,788	130,415	420,822	2,081,025	2,081,025	-
JSB	948,354	356,480	224,953	1,529,788	130,415	420,822	2,081,025	2,081,025	-
GSF	623,353	356,480	224,953	1,204,787	-	420,822	1,625,609	1,625,609	-
JJK	583,535	-	224,953	808,489	-	-	808,489	808,489	-
TCS III	72,000	-	-	72,000	-	-	72,000	72,000	-
DRS II	48,000	-	-	48,000	-	-	48,000	48,000	-
Totals	3,223,596	1,069,441	699,813	5,192,851	260,830	1,262,466	6,718,147	6,718,147	-
Q-Tip Trust distribution									
		KST	JSB	GSF					
Cash	4,319	102,133	106,452	(35,484)	(35,484)	(35,484)			
Prepaid SC tax	70		70	(23)	(23)	(23)			
Due from estate	0		0						
Investment securities	571,053	(102,133)	468,920	(156,307)	(156,307)	(156,307)			
Bailey Island	494,000		494,000	(164,667)	(164,667)	(164,667)			
	1,069,441	-	1,069,441	(356,480)	(356,480)	(356,480)			
Marital Trust distribution									
		KST	JSB	GSF	JJK				
Cash	10,120	102,660	112,780	(28,195)	(28,195)	(28,195)			
Due from Q-Tip			-						
Due from estate			-						
Investment securities	660,958	(102,660)	558,298	(139,574)	(139,574)	(139,574)	(139,574)		
Bailey Island			-						
Tom Stevenson claim	228,735		228,735	(57,184)	(57,184)	(57,184)	(57,184)		
	899,813	-	899,813	(224,953)	(224,953)	(224,953)	(224,953)		

KST	Cash	Securities	Rockville	Paradise Island	Bailey Island	Lake Summit	TCS III Claim	Other	Total
<u>Estate</u>									
Cash									
Certificates of Deposit	28,851								28,851
Douglas Capital - Cash Account	17,435								17,435
Rockville			725,000						725,000
Lot - Paradise Island									
Lot - Bailey Island									
Lake Summit									
Mill Street 9.06 acres marsh								50	50
Mill Street 18.49 acres marsh								50	50
Drayton Street 5.79 acres marsh								50	50
Albemarle Road 2.9 acres marsh								50	50
Albemarle Road 2.5 acres marsh								50	50
Personal property								50	50
Claim - Tom Stevenson								39,818	39,818
Douglas Capital - Investments									
Due From NCDOR (Audit)									
Total Wachovia Securities - FRPT									
Prior distribution (GSF)									
Prior distribution (JKK)									
IRS Disallowed Gifts	28,500								
IRS Allowed Gifts								108,500	137,000
<u>Q-Tip Trust</u>									
Cash	35,484								35,484
Prepaid SC tax									
Investment securities		156,307							
Bailey Island					164,667			23	156,330
<u>Marital Trust</u>									164,667
Cash	28,195								28,195
Investment securities		139,574							139,574
Bailey Island									
Tom Stevenson claim									
<u>Other</u>							57,184		57,184
P.R. Fee					30,415	100,000			130,415
Insurance Loan	2,463					300,000	118,359		420,822
Total	140,927	295,881	725,000		195,082	400,000	175,543	148,592	2,081,028
Revision 7	7%	14%	35%	0%	9%	19%	8%	7%	100%
Revision 6	5%	15%	33%	0%	11%	21%	6%	7%	100%

JSB	Cash	Securities	Rockville	Paradise Island	Bailey Island	Lake Summit	TCS III Claim	Other	Total
Estate									
Cash	1,319								1,319
Certificates of Deposit	73,467								73,467
Douglas Capital - Cash Account									
Rockville			725,000						725,000
Lot - Paradise Island									
Lot - Bailey Island									
Lake Summit									
Mill Street 9.06 acres marsh								50	50
Mill Street 18.49 acres marsh								50	50
Drayton Street 5.79 acres marsh								50	50
Albemarle Road 2.9 acres marsh								50	50
Albemarle Road 2.5 acres marsh								50	50
Personal property								39,818	39,818
Claim - Tom Stevenson									
Douglas Capital - Investments									
Due From NCDOR (Audit)									
Total Wachovia Securities - FRPT									
Prior distribution (GSF)									
Prior distribution (JJK)									
IRS Disallowed Gifts								108,500	108,500
IRS Allowed Gifts									
Q-Tip Trust									
Cash	35,484								35,484
Prepaid SC tax								23	23
Investment securities		156,307							156,307
Bailey Island					184,667				184,667
Marital Trust									
Cash	28,195								28,195
Investment securities		139,574							139,574
Bailey Island							57,184		57,184
Tom Stevenson claim									
Other									
P.R. Fee					30,415	100,000			130,415
Insurance Loan	2,463					300,000	118,359		420,822
Total	140,927	295,881	725,000		195,082	400,000	175,543	148,592	2,081,025
Revision 7	7%	14%	35%	0%	9%	19%	8%	7%	100%
Revision 6	5%	15%	33%	0%	11%	21%	8%	7%	100%

GSF	Cash	Securities	Rockville	Paradise Island	Bailey Island	Lake Summit	TCS III Claim	Other	Total
<u>Estate</u>									
Cash	8,482								8,482
Certificates of Deposit	43,500								43,500
Douglas Capital - Cash Account									
Rockville									
Lot - Paradise Island				230,000					230,000
Lot - Bailey Island									
Lake Summit									
Mill Street 9.06 acres marsh								50	50
Mill Street 18.49 acres marsh								50	50
Drayton Street 5.79 acres marsh								50	50
Albemarle Road 2.9 acres marsh								50	50
Albemarle Road 2.5 acres marsh								50	50
Personal property								39,818	39,818
Claim - Tom Stevenson									
Douglas Capital - Investments		14,247							14,247
Due From NCDOR (Audit)	2,772								2,772
Total Wachovia Securities - FRPT		49,305							49,305
Prior distribution (GSF)	50,000								50,000
Prior distribution (JJK)									
IRS Disallowed Gifts	78,500								
IRS Allowed Gifts								108,500	185,000
<u>Q-Tip Trust</u>									
Cash	35,484								35,484
Prepaid SC tax								23	23
Investment securities		156,307							156,307
Bailey Island					164,667				164,667
<u>Marital Trust</u>									
Cash	28,195								28,195
Investment securities		139,574							139,574
Bailey Island									
Tom Stevenson claim							57,184		57,184
<u>Other</u>									
P.R. Fee									
Insurance Loan	2,483					300,000	118,359		420,822
Total	247,375	359,433	-	230,000	164,667	300,000	175,543	148,592	1,625,609
Revision 7	15%	22%	0%	14%	10%	18%	11%	9%	100%
Revision 8	10%	18%	0%	19%	16%	18%	10%	9%	100%

JKK	Cash	Securities	Rockville	Paradise Island	Bailey Island	Lake Summit	TCS III Claim	Other	Total
<u>Entity</u>									
Cash	1,427								1,427
Certificates of Deposit	24,830								24,830
Douglas Capital - Cash Account									-
Rockville									-
Lot - Paradise Island				160,000					160,000
Lot - Bailey Island					170,170				170,170
Lake Summit									-
Mill Street 9.06 acres marsh								50	50
Mill Street 18.49 acres marsh								50	50
Drayton Street 5.79 acres marsh								50	50
Albemarle Road 2.9 acres marsh								50	50
Albemarle Road 2.5 acres marsh								50	50
Personal property								50	50
Claim - Tom Stevenson							118,358		118,358
Douglas Capital - Investments									-
Due From NCDOR (Audit)									-
Total Wachovia Securities - FRPT									-
Prior distribution (GSF)									-
Prior distribution (JKK)								108,500	108,500
IRS Disallowed Gifts									-
IRS Allowed Gifts									-
<u>Q-Tip Trust</u>									
Cash									-
Prepaid SC tax									-
Investment securities									-
Bailey Island									-
<u>Marital Trust</u>									
Cash	28,195								28,195
Investment securities		139,574							139,574
Bailey Island									-
Tom Stevenson claim							57,184		57,184
<u>Other</u>									
P.R. Fee									-
Insurance Loan									-
Total	54,452	139,574	-	160,000	170,170	-	175,542	108,750	808,489
Revision 7	7%	17%	0%	20%	21%	0%	22%	13%	100%
Revision 8	13%	12%	0%	24%	19%	0%	19%	12%	100%

State of South Carolina
County of Charleston

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Estate of Jacquelin K. Stevenson
Probate Case #: 2007-ES-10-0439

FILED
2015 MAR -3 PM 2:40
PROBATE COURT
CHARLESTON COUNTY

§62-3-912 Private Agreement Among Successors to Decedent

This Private Agreement (the "Agreement") is made among the undersigned presently interested persons, as Successors;

Witnesseth:

Whereas, Jacquelin K. Stevenson, (the "Decedent"), a resident of Charleston County, South Carolina, is presently survived by the Undersigned presently interested persons, as defined in §62-1-201(23), (the "Successors"), being all of those persons who are presently affected by the particular matter hereof; and

Whereas, Kathleen S. Turner and Jacquelin S. Bennett are the Co-Personal Representatives of the Estate of Jacquelin K. Stevenson (the "Personal Representatives"); and

Whereas, the Decedent's Will (the "Decedent's Will") leaves all of her remaining estate (the "Estate") to the Undersigned.

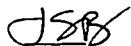
Now therefore, the Undersigned mutually agree, as follows:

1. The Estate of James Kelly King, deceased, Genevieve S. Felder, Kathleen S. Turner, and Jacquelin S. Bennett, approve the Accounting for the Estate and Trusts (as listed on the attachments to the email forwarded by Herb McGuire to Stephen M. Slotchiver on December 12, 2014 at 4:01pm) and shall receive the probate and non-probate distributions described in the attachments to the email forwarded by Herbert McGuire to Stephen M. Slotchiver, on December 12, 2014 at 4:01pm, with the only exception being the allocation of the residuary assets between Kathleen S. Turner, Jacquelin S. Bennett, and Genevieve S. Felder (which will either be resolved by a subsequent agreement or will be determined by the Charleston County Probate Court).

2. The Estate of James Kelly King, deceased, agrees to immediately sell all real estate for which it is to receive from the probate and non-probate distributions, as recited in Paragraph 1, above, to Genevieve S. Felder, Kathleen S. Turner, and Jacquelin S. Bennett for the total combined lump sum cash amount of \$ 123,250 (\$41,083.33 each).

3. The Personal Representatives of the Estate of Jacquelin K. Stevenson and the Trustees and the Martial Trust u/w Thomas C. Stevenson and the Trustees and the Q-TIP Trust u/w T.C. Stevenson are contemporaneously authorized and directed, at this time, to


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Estate of JKK

deliver, in full, to the Estate of James Kelly King, deceased, Genevieve S. Felder, Kathleen S. Turner, and Jacquelin S. Bennett, the probate and non-probate distributions, as recited in Paragraph 1, above, with the only exception being the allocation of the residuary assets between Kathleen S. Turner, Jacquelin S. Bennett, and Genevieve S. Felder (which will either be resolved by a subsequent agreement or will be determined by the Charleston County Probate Court).

4. This Agreement is made and entered into pursuant to §62-3-912, SC Code, and the Personal Representatives shall abide by its terms.

5. In consideration of the aforesaid contemporaneous distribution, the Estate of James Kelly King, deceased, Genevieve S. Felder, Kathleen S. Turner, and Jacquelin S. Bennett, unconditionally releases and forever discharges the Personal Representatives and the Estate of Jacquelin K. Stevenson and the Trustees and the Martial Trust u/w Thomas C. Stevenson and the Trustees and the Q-TIP Trust u/w T.C. Stevenson, from any and all rights and claims, whatsoever, which the Estate of James Kelly King, deceased, Genevieve S. Felder, Kathleen S. Turner, and Jacquelin S. Bennett, may have against the Personal Representatives and the Estate of Jacquelin K. Stevenson and the Trustees and the Martial Trust u/w Thomas C. Stevenson and the Trustees and the Q-TIP Trust u/w T.C. Stevenson.

6. In further consideration of the foresaid contemporaneous distribution, the Undersigned each agree to sign any other additional documents necessary to affirm the distributions to be made as recited in Paragraph 1, above, including but not limited to Quitclaim Deeds, if necessary.

7. The Undersigned each acknowledge that Slotchiver & Slotchiver, LLP, Attorneys, prepared this Agreement on behalf of and in the course of representing the Estate, Martial Trust, and Q-TIP Trust, and that:

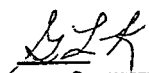
- (1) The Undersigned have been advised by Slotchiver & Slotchiver, LLP, Attorneys, that a conflict exists among their individual interests; and
- (2) The Undersigned have been advised by Slotchiver & Slotchiver, LLP, Attorneys, to seek the advice of independent counsel; and
- (3) The Undersigned have had the opportunity to seek the advice of independent counsel; and
- (4) The Undersigned have received no representations from Slotchiver & Slotchiver, LLP, Attorneys, about the tax consequences of this Agreement; and
- (5) The Undersigned have been advised by Slotchiver & Slotchiver, LLP, Attorneys, that this Agreement may have tax consequences; and


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Page 2 of 3

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Estate of JKK

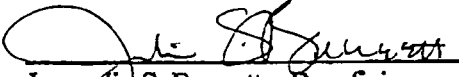
- (6) The Undersigned have been advised by Slotchiver & Slotchiver, LLP, Attorneys, to seek the advice of independent tax counsel; and
(7) The Undersigned have had the opportunity to seek the advice of independent tax counsel.

8. This document may be signed in several parts wherein each of the signed documents collectively will comprise one original set.

IN WITNESS WHEREOF, each of the Undersigned, and the Personal Representatives of the Estate, have duly executed this Agreement, under seal, on the below date.

 (Seal)
Kathleen S. Turner – Beneficiary and as
Co-Personal Representative of the
Estate of Jacquelin K. Stevenson; and as
Co-Trustee of Martial Trust u/w Thomas C.
Stevenson; and as Co-Trustee of Q-TIP Trust
u/w T.C. Stevenson

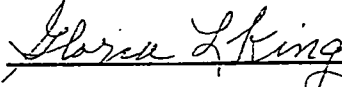
Feb. 26, 2015
Date

 (Seal)
Jacquelin S. Bennett – Beneficiary and as
Co-Personal Representative of the
Estate of Jacquelin K. Stevenson; and as
Co-Trustee of Martial Trust u/w Thomas C.
Stevenson; and as Co-Trustee of Q-TIP Trust
u/w T.C. Stevenson

2/26/15
Date

(Seal)
Genevieve S. Felder – Beneficiary; and as
Co-Trustee of Martial Trust u/w Thomas C.
Stevenson; and as Co-Trustee of Q-TIP Trust
u/w T.C. Stevenson

Date

 (Seal)

Personal Representative of the Estate
of James Kelly King, Deceased – Beneficiary

Feb 10, 2015
Date

FILE

2015 MAR -3 PM 2:48

PROBATE COURT
CHARLESTON COUNTY

State of South Carolina)
County of Charleston)

Estate of Jacquelin K. Stevenson
Probate Case #: 2007-ES-10-043

§62-3-912 Private Agreement Among Successors to Decedent

This Private Agreement (the "Agreement") is made among the undersigned presently interested persons, as Successors;

Witnesseth:

Whereas, Jacquelin K. Stevenson, (the "Decedent"), a resident of Charleston County, South Carolina, is presently survived by the Undersigned presently interested persons, as defined in §62-1-201(23), (the "Successors"), being all of those persons who are presently affected by the particular matter hereof; and

Whereas, Kathleen S. Turner and Jacquelin S. Bennett are the Co-Personal Representatives of the Estate of Jacquelin K. Stevenson (the "Personal Representatives"); and

Whereas, the Decedent's Will (the "Decedent's Will") leaves all of her remaining estate (the "Estate") to the Undersigned.

Now therefore, the Undersigned mutually agree, as follows:

1. The Estate of James Kelly King, deceased, Genevieve S. Felder, Kathleen S. Turner, and Jacquelin S. Bennett, approve the Accounting for the Estate and Trusts (as listed on the attachments to the email forwarded by Herb McGuire to Stephen M. Slotchiver on December 12, 2014 at 4:01pm) and shall receive the probate and non-probate distributions described in the attachments to the email forwarded by Herbert McGuire to Stephen M. Slotchiver, on December 12, 2014 at 4:01pm, with the only exception being the allocation of the residuary assets between Kathleen S. Turner, Jacquelin S. Bennett, and Genevieve S. Felder (which will either be resolved by a subsequent agreement or will be determined by the Charleston County Probate Court).

2. The Estate of James Kelly King, deceased, agrees to immediately sell all real estate for which it is to receive from the probate and non-probate distributions, as recited in Paragraph 1, above, to Genevieve S. Felder, Kathleen S. Turner, and Jacquelin S. Bennett for the total combined lump sum cash amount of \$ 123,250 (\$41,083.33 each).

3. The Personal Representatives of the Estate of Jacquelin K. Stevenson and the Trustees and the Martial Trust u/w Thomas C. Stevenson and the Trustees and the Q-TIP Trust u/w T.C. Stevenson are contemporaneously authorized and directed, at this time, to

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Estate of JKK

deliver, in full, to the Estate of James Kelly King, deceased, Genevieve S. Felder, Kathleen S. Turner, and Jacquelin S. Bennett, the probate and non-probate distributions, as recited in Paragraph 1, above, with the only exception being the allocation of the residuary assets between Kathleen S. Turner, Jacquelin S. Bennett, and Genevieve S. Felder (which will either be resolved by a subsequent agreement or will be determined by the Charleston County Probate Court).

4. This Agreement is made and entered into pursuant to §62-3-912, SC Code, and the Personal Representatives shall abide by its terms.

5. In consideration of the aforesaid contemporaneous distribution, the Estate of James Kelly King, deceased, Genevieve S. Felder, Kathleen S. Turner, and Jacquelin S. Bennett, unconditionally releases and forever discharges the Personal Representatives and the Estate of Jacquelin K. Stevenson and the Trustees and the Martial Trust u/w Thomas C. Stevenson and the Trustees and the Q-TIP Trust u/w T.C. Stevenson, from any and all rights and claims, whatsoever, which the Estate of James Kelly King, deceased, Genevieve S. Felder, Kathleen S. Turner, and Jacquelin S. Bennett, may have against the Personal Representatives and the Estate of Jacquelin K. Stevenson and the Trustees and the Martial Trust u/w Thomas C. Stevenson and the Trustees and the Q-TIP Trust u/w T.C. Stevenson.

6. In further consideration of the foresaid contemporaneous distribution, the Undersigned each agree to sign any other additional documents necessary to affirm the distributions to be made as recited in Paragraph 1, above, including but not limited to Quitclaim Deeds, if necessary.

7. The Undersigned each acknowledge that Slotchiver & Slotchiver, LLP, Attorneys, prepared this Agreement on behalf of and in the course of representing the Estate, Martial Trust, and Q-TIP Trust, and that:

- (1) The Undersigned have been advised by Slotchiver & Slotchiver, LLP, Attorneys, that a conflict exists among their individual interests; and
- (2) The Undersigned have been advised by Slotchiver & Slotchiver, LLP, Attorneys, to seek the advice of independent counsel; and
- (3) The Undersigned have had the opportunity to seek the advice of independent counsel; and
- (4) The Undersigned have received no representations from Slotchiver & Slotchiver, LLP, Attorneys, about the tax consequences of this Agreement; and
- (5) The Undersigned have been advised by Slotchiver & Slotchiver, LLP, Attorneys, that this Agreement may have tax consequences; and

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Page 2 of 3

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Estate of JKK

- (6) The Undersigned have been advised by Slotchiver & Slotchiver, LLP, Attorneys, to seek the advice of independent tax counsel; and
(7) The Undersigned have had the opportunity to seek the advice of independent tax counsel.

8. This document may be signed in several parts wherein each of the signed documents collectively will comprise one original set.

IN WITNESS WHEREOF, each of the Undersigned, and the Personal Representatives of the Estate, have duly executed this Agreement, under seal, on the below date.

_____(Seal)
Kathleen S. Turner – Beneficiary and as
Co-Personal Representative of the
Estate of Jacquelin K. Stevenson; and as
Co-Trustee of Martial Trust u/w Thomas C.
Stevenson; and as Co-Trustee of Q-TIP Trust
u/w T.C. Stevenson

Date

_____(Seal)
Jacquelin S. Bennett – Beneficiary and as
Co-Personal Representative of the
Estate of Jacquelin K. Stevenson; and as
Co-Trustee of Martial Trust u/w Thomas C.
Stevenson; and as Co-Trustee of Q-TIP Trust
u/w T.C. Stevenson

Date

_____(Seal)
Genevieve S. Felder – Beneficiary; and as
Co-Trustee of Martial Trust u/w Thomas C.
Stevenson; and as Co-Trustee of Q-TIP Trust
u/w T.C. Stevenson

Date

Genevieve S. Felder (Seal)

2/11/15

Date

Personal Representative of the Estate
of James Kelly King, Deceased – Beneficiary

Case #: 07810-1437
Filed: 10-9-27

STATE OF SOUTH CAROLINA)
)
)
)
)
COUNTY OF CHARLESTON)

LAST WILL AND TESTAMENT
OF
JACQUELIN K. STEVENSON

I, JACQUELIN K. STEVENSON, a resident of the County of Charleston and State of South Carolina, and a citizen of the United States, do make, publish and declare this as and for my Last Will and Testament, hereby revoking any and all former Wills and Codicils by me at any time heretofore made.

My children are KATHLEEN S. TURNER, JACQUELIN S. BENNETT, THOMAS C. STEVENSON, III, and DANIEL R. STEVENSON (the children of my marriage to my late husband Thomas C. Stevenson, Jr.), and JAMES KELLY KING. GENEVIVE S. FELDER is my step-daughter, being the child of my said late husband THOMAS C. STEVENSON, JR..

ARTICLE 1

Appointment of Fiduciaries

Personal Representative. I appoint my daughter, KATHLEEN S. TURNER, and my son, THOMAS C. STEVENSON, III, as my Co-Personal Representatives, with the survivor of them as sole Personal Representative.

ARTICLE 2

Payment of Enforceable Claims

2.1 Direction as to Legally Enforceable Claims. Except as may specifically be provided otherwise in this Will, I direct that all of my legally enforceable debts of a current nature, expenses incurred in the administration of my estate, and funeral and burial expenses (including the expenses of my last illness), including the cost of a suitable memorial, be paid out of my residuary estate. With respect to long term notes and debts secured by mortgages on or security interests in specific property, my Personal Representatives, during the administration of my estate, shall pay such installments as they come due out of my residuary estate, and any such

[Handwritten signature]

property shall be distributed by my Personal Representatives subject to such debt. My Personal Representatives may continue, renew, and/or refinance any indebtedness upon such terms and with such security for its repayment as they deem advisable.

ARTICLE 3

Gift of Pecuniary Amounts and Personal Property

3.1 Disposition by Memorandum. I may leave a list in my handwriting, or signed by me, directing the distribution of specific items of personal property to named individuals as specified in said list. If no such written list is found or identified by my Personal Representative within ninety (90) days after my Personal Representative's qualification, it shall be conclusively presumed that there is no such list and any subsequently discovered list shall be ineffective. It is my direction that my Personal Representative follow my instructions as specified in any such list in the distribution of said articles of personal property.

3.2 Conflicts. Should there be a conflict as to the disposition of any specific item or article between any memorandum I have left and a specific gift of such property under this Will, I direct that the list or memorandum which I may have left shall control such disposition over any specific gift provisions of this Will.

3.3 Remaining Personal Property. I give, devise and bequeath all tangible personal property not effectively disposed of by memorandum, or by specific gift under this Will, including furniture, furnishings, silver, books and pictures (but not including securities, cash on hand or on deposit, and other personal property relating to investments) which I may own at my death, and all policies of insurance relating to such property, in shares of substantially equal value, to such of KATHLEEN S. TURNER, JACQUELIN S. BENNETT, THOMAS C. STEVENSON, III, DANIEL R. STEVENSON, and GENEVIVE S. FELDER, as shall survive me, to be divided among them in such manner as they shall agree. If, and to the extent that they do not unanimously agree as to the division and distribution of my said property, I direct that they shall choose said property by a system of drawing lots. It is my suggestion and my request that they divide such personal property among themselves in the following manner, if and to the extent that they are unable to agree on its fair distribution:

3.3.1 Choosing by Lots. The order in which they shall be allowed to choose among such items shall be determined by lot. The child with the highest order of priority

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shall choose first; the child with the next highest order of priority shall choose next, and so on. The child choosing first shall be allowed to choose any object (so long as its value does not exceed the value of such child's then existing share of personal property to pass to such child hereunder) and the value of such object as finally determined for federal estate tax purposes shall be deducted from the value of such child's share at such time. Each child shall so be allowed to choose in order of priority. After every child has so chosen, each shall be allowed to choose again in the same order of priority until the value of each child's share has been expended or exhausted.

3.3.2 Participation. I specifically direct that during the division and distribution of the remainder of my personal property as provided in this Article, §3.3 no grandchild of mine shall be present, nor shall there be present any spouse or in-law of any child of mine.

3.4 Packing and Shipping Expenses. I direct that all costs and expenses, including the expense of packing, shipping, insuring and transporting, incurred by the delivery of the bequests made in this Article shall be borne by my Personal Representative as an expense of administration and shall not be charged against any of said devises.

ARTICLE 4

Specific Bequests and Devises

4.1 James Kelly King. I give, devise and bequeath the sum of FOUR HUNDRED THOUSAND DOLLARS, (\$400,000.00) to my son, JAMES KELLY KING, if he survives me; provided, however, if my said son does not survive me said amount shall pass as part of my residuary estate hereunder.

4.2 Kathleen S. Turner and Jacquelin S. Bennett. I give, devise and bequeath any and all interest which I may own at my death in that real property and improvements which constitute my home at 2414 Rockland Avenue, in the town of Rockville, Wadmalaw Island, Charleston County, South Carolina lots 4 and 4A, (currently designated as TMS # 150-00-00-051), and all furniture and furnishings therein, and all policies of insurance thereon, to my daughters Kathleen S. Turner and Jacquelin S. Bennett in equal shares, per stirpes. It is my intent by this bequest to give my daughters Kathleen and Jacquelin all interests I own at my death in my Rockville house and the lots on which it is situate and which are a part thereof.

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4.3 Daniel R. Stevenson and Thomas C. Stevenson, III I give, devise and bequeath any and all interest which I may own at my death in that real property and improvements which constitute my home located at Lake Summit, Henderson County, North Carolina, known as Lots #34, 35, 36, and 37, Lakefront Drive (Map No. 9585.13-03), and all furniture and furnishings located therein, and all policies of insurance thereon, owned by me at my death, to my sons Daniel R. Stevenson and Thomas C. Stevenson, III, in equal shares per stirpes. It is my intent by this devise to give my sons Dan and Tom all interests I own at my death in "the Lake House" and the lots on which it is situate and which are a part thereof.

4.4 Genevive S. Felder. I bequeath the sum of Four Hundred Thousand Dollars (\$400,000.00) to my step-daughter, Genevive S. Felder; provided, however, that if said Genevive S. Felder does not survive me, I give and bequeath said sum to her issue, per stirpes; provided, further, that if neither said Genevive S. Felder nor any of her issue survive me, said amount shall pass as part of my residuary estate hereunder.

ARTICLE 5
Residuary Estate

All the rest, residue and remainder of my property and estate, real and personal, of whatsoever nature and wheresoever situate, including any property before mentioned but not effectively disposed of, and specifically including the principal and undistributed income of the Jacquelin K. Stevenson Marital Trust established under Article VII of the Last Will and Testament of my late husband, Thomas C. Stevenson, Jr., dated February 5, 1985, and as to which I posses a General Power of Appointment (my "Residuary Estate"), I give, devise and bequeath to Kathleen S. Turner, Jacquelin S. Bennett, Thomas C. Stevenson, III, Daniel R. Stevenson, James Kelly King, and Genevive S. Felder, in equal shares, per stirpes and not per capita. I have previously loaned to my said son Dan the amount of One Hundred Thousand Dollars (\$100,000.00) on a stock margin account, and to my son Tom the amount of Seventy-Nine Thousand Six Hundred One and 38/100 Dollars (\$79,601.38) as evidenced by a Promissory Note from Tom dated as of November 1, 1993. I direct that such amount of (i) said One Hundred Thousand Dollars (\$100,000.00) principal as has not been repaid to me by Dan at the time of my death, plus all interest thereon which has not been paid by Dan, and of (ii) said Seventy-Nine Thousand Six Hundred One and 38/100 Dollars (\$79,601.38) principal as has not been repaid to me by Tom at the time of my death, plus all interest thereon which has not been paid by Tom,

shall be deducted from their respective shares hereunder, and re-distributed equally among the said beneficiaries of my residuary estate, including Dan and Tom.

ARTICLE 6

Disabled Persons' Property

6.1 Title To Property Vested. Whenever under this Will any property is to be distributed to a person under a disability (the "disabled person"), title to that property shall vest in the disabled person, but payment may be deferred and held by my Personal Representatives, who shall apply so much or all or none of the principal and income as they may determine, in the exercise of their sole and absolute discretion (without regard to the other income or other resources of the disabled person), for the disabled person's comfort and welfare. When the disability ceases, my Personal Representatives shall deliver the property and any accumulated income to the disabled person or to his or her legal representatives. Any income accumulated by my Personal Representatives shall be added to and accounted for as part of the principal.

6.2 Distributions for Disabled Person's Benefit. My Fiduciaries may, at any time and from time to time, in the exercise of their sole and absolute discretion, distribute all or a portion of the property to the disabled person's parent, guardian, or custodian under the applicable state Uniform Gifts to Minors Act, committee, conservator, or to an individual with whom the disabled person resides. The receipt of the distributee shall constitute a full and sufficient discharge to my Fiduciaries. The powers granted to my Fiduciaries in this Will shall be applicable to any property dealt within this Article.

ARTICLE 7

Payment of Transfer and Death Taxes

Appointment I direct that all estate and inheritance taxes assessed with respect to my estate herein disposed of, or any part thereof, or on any bequest or devise contained in this my Last Will and Testament (which term wherever used herein shall include any and all codicils hereto) or on any insurance upon my life, or on any jointly owned property, or any other property, transfers or interests included in my Gross Estate (as that term is defined in Section 2031 of the Internal Revenue Code of 1986, as amended or any successor thereto), be apportioned among all probate as well as non-probate interests which are included in my Gross Estate for the purpose of calculating the taxes payable upon my death. The apportionment shall be based ratably upon the values at which such interests or properties are valued in my Gross

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Estate as finally determined for federal estate tax purposes. However, such apportionment shall not apply to any and all interests which qualify for the federal estate tax charitable deduction. So far as practicable my Co-Personal Representative shall deduct the amount of such taxes allocable to each beneficiary from the amount distributable to such beneficiary, and shall recover from all others for the benefit of my estate their allocable parts of such taxes.

7.1 Exercise of Tax Elections.

7.1.1 In General. In determining the estate tax and other transfer tax liability, and the income tax liability, related to my estate, the decision of my Personal Representatives as to all available tax elections (including but not limited to the election whether to deduct certain administration expenses for income tax or for estate tax purposes) shall be conclusive on all persons concerned. My Personal Representatives shall be under no liability to any person as a result of the election made. In addition, no compensating adjustments between principal and income or in the amount of any gift under this Will shall be made as a result of any such election made by my Personal Representatives, nor shall any person be entitled to a right of reimbursement with respect to the economic consequences of any such election.

ARTICLE 8

Removal, Appointment and Succession of Fiduciaries

8.1 Resignation Procedure. Any Personal Representative may resign at any time by written notice to another then acting Co-Personal Representative (if there is one) or to the then beneficiary or one of the then beneficiaries of my Estate, setting forth the effective time and date of such resignation on or before such effective time.

8.2 Appointment of Successor Personal Representatives and Co-Personal Representatives. Subject to the provisions of Article I, hereof, any Personal Representative (including any substitute or successor Personal Representative) shall have the right at any time after qualifying as Personal Representative to appoint a successor Personal Representative to act in the place of the appointing Personal Representative, either immediately or in the future upon any stated contingency. Any such appointment may be changed from time to time prior to the date it becomes effective. If any initial Personal Representative or any such successor, for any reason, fails or ceases to act without having appointed a Personal Representative who succeeds the former Personal Representative, any remaining Personal Representative may appoint another

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Personal Representative to act in the former Personal Representative's place.

8.3 Termination of Fiduciary Powers. An outgoing Fiduciary, upon the effective date of removal, resignation, or incapacity, shall cease to have any powers or discretion hereunder. At the earliest possible date after a Fiduciary ceases for any reason to be a Fiduciary hereunder, there shall be delivered to such Fiduciary's successor or to another then acting Fiduciary hereunder all of the assets which were in the possession of such Fiduciary and there shall be made available to each successor Fiduciary a complete financial record and inventory of assets affected thereby. With respect to any properties thus transferred by the outgoing Fiduciary or by such Fiduciary's representative, such Fiduciary shall stand and be discharged of all further duties and obligations.

8.4 Successor Fiduciary Powers and Authority. Each successor Fiduciary, upon assumption of such position, shall have the same powers, rights, discretion, duties, and obligations as the predecessor Fiduciary. Title to the entire property (of the Trust or otherwise) shall automatically vest in any successor Fiduciary without the necessity of any conveyance. The assumption of authority by a successor Fiduciary shall not be complete until such successor executes a written acceptance of such appointment showing the authority for such succession (a copy of which shall promptly be delivered personally or sent by certified mail to the outgoing Fiduciary or to such Fiduciary's legal representative).

8.5 Exoneration from Liability for Acts of Prior Fiduciaries. Each successor Fiduciary shall be exempt from any liability in any way related to the prior actions or omissions of the Fiduciaries hereunder and each shall be entitled to accept as conclusive any accountings and statement of assets furnished by any predecessor Fiduciary.

ARTICLE 9

Fiduciary Provisions

9.1 Unanimity Requirements and Exceptions. All powers and discretions conferred by law or by this Will upon the Fiduciaries, including, without limitation, the right to appoint additional or successor Fiduciaries, must be exercised by the unanimous vote of the Personal Representatives in office from time to time (excepting the vote of any Personal Representative who is also a beneficiary who is ineligible to participate in the exercise of the power or discretion because he or she, as a beneficiary, may be affected by the exercise of such power or discretion).

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9.2 Fiduciary Compensation. For their services as Fiduciaries, the Fiduciaries are entitled to receive an amount which is reasonable for the services rendered at the time services are rendered. At any time there are multiple Fiduciaries serving, the Fiduciaries, collectively, shall share such fee. If there shall be a corporate Fiduciary serving as Fiduciary, the corporate Fiduciary shall be entitled to reasonable compensation for the services rendered, but in no event shall such compensation be more than an amount which is competitively determined to be reasonable for the services rendered among organizations providing similar such services.

9.3 Inventory; Appraisals; Bond. Except as otherwise required by law, my Personal Representatives shall not be required to file any inventory or appraisal or any annual or other returns or reports to any court or to give bond in any jurisdiction, but shall furnish a statement of receipts and disbursements and an investment review of the assets of the Estate at least annually to each person then entitled to income from my Estate.

9.4 Notice. Any notice or other instrument required or permitted to be given, made, executed, or delivered hereunder shall be in writing duly signed by (or, where permitted hereunder, in behalf of) the party or parties giving, making, or executing the same and shall be physically delivered or sent by certified or express mail (or equivalent postal or private express service) to all parties, if any, entitled thereto (when so sent, such notice or communication shall be plainly addressed to such person at such person's last known address). Any such instrument required to be given or sent to the estate of any deceased or incapacitated person shall be physically delivered or sent, in like manner, to the personal representative (or one of the personal representatives) of such person at such representative's last known address or, if there be no such personal representative known to the sender, to the estate of such person at his or her last known address.

If any instrument is sent by mail (or express service) as provided above, the third day following the date of its receipt by the postal service (or such express service), as evidenced by a dated postal (or express) service receipt showing the addressee's name and proper address (as described above), shall be deemed to be the effective date of delivery of the notice or other communication contained in such instrument. In all other cases, the date of actual physical delivery shall be the effective date of delivery and, except as such instrument may specifically provide for a later effective date, it shall be effective for all purposes from such date.

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Copies of all instruments of amendment, revocation, exercise of power, designation, release, disclaimer, etc., as well as of trustee resignation, removal, appointment, and/or acceptance, the original of which shall be attached hereto, shall, upon request, be promptly delivered or sent by mail by the Trustee receiving or initiating the same to each other then interested party (i.e., the other then Trustee or Trustees, if any, of the affected Trust or Trusts, and each present beneficiary of the affected Trust or Trusts).

9.5 Notice to Disabled Parties. If a person under a disability is a party to any legal proceeding relating in any manner to any Trust created by this Agreement, service of process upon the disabled person shall not be required if another individual, not under a disability, is a party to the proceeding and has the same interest as the disabled person.

9.6 Fiduciaries Protected. Each Fiduciary shall be fully protected for any action taken in good faith, in accordance with the advice of counsel, or in reliance thereon. No Fiduciary acting hereunder shall be responsible for the act, default or omission of any other Fiduciary, nor for the default or misconduct of any agent or attorney appointed by the Fiduciary, or any of them, except that any corporate Fiduciary shall be liable for the default or misconduct of its own agents, officers, or employees. Each Fiduciary shall be liable only for his, her or its own willful misconduct or gross negligence.

ARTICLE 10

Fiduciary Powers

In the administration of the Estate and of any Trusts established under this Will, my Personal Representatives shall have all the powers granted by law, including but not limited to the powers granted to Personal Representatives by S. C. Code Section 62-3-715, and to Trustees by the Uniform Trustee Powers Act (S. C. Code Section 62-7-701, et. seq.), which powers shall not be revoked or reduced if said statutes should hereafter be repealed or restrictively amended. It is my intention in specifying the following powers to give broad discretion and flexibility to my Personal Representative and my Trustees. Without limiting the foregoing, my Personal Representatives shall have the following powers:

10.1 Determinations. To determine what property is covered by general descriptions in this Will.

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- 10.2 Payment of Expenses.** To pay all debts and funeral and burial expenses (including the expenses of my last illness, which I direct shall be paid out of my estate) as soon as the convenience of my estate will permit and without regard to any limitation in applicable laws as to the amount of such expenses, and to pay or deliver any legacy without waiting the time prescribed by law.
- 10.3 Investments and Reinvestments.** To invest or reinvest in such securities or other property, real or personal (whether within or without the United States), and to retain any property received by them for such periods as they determine, including specifically retention of, or investment in, assets which may be for the use of the beneficiary or beneficiaries of any such Trust, even though such asset or assets may not be of a character, or of such a percentage of the total Trust, as would otherwise be deemed proper Trust investments. I request that my Trustees honor the wishes of the Trust beneficiaries as to the disposition or retention of any original property of the Trust, or any Trust asset which is of a personal use nature, unless the Trustees determine that such wishes are clearly in contradiction to the purposes and terms of any such Trust.
- 10.4 Borrowing.** To borrow such sums, on a secured or unsecured basis, from any source (including themselves), for such period and upon such terms as they deem necessary or convenient in the administration of my estate or of such Trust, and to secure any such loan by mortgage or pledge. No lender shall be bound to see to or be liable for the application of the proceeds, and no Personal Representative or Trustee shall be personally liable, and each such loan shall be payable only out of assets of my estate or the Trust.
- 10.5 Rental of House.** To rent my house at 58 Meeting Street during the period of the administration of my estate to such tenant and for and upon such rental, term and conditions as my Personal Representatives shall deem advisable and reasonable, but without any duty to rent same.
- 10.6 Distributions.** Without the consent of any beneficiary, to make distributions (including the satisfaction of any pecuniary bequest) in cash or in specific property, real or personal, or an undivided interest, or partly in cash and partly in such property, and to do so without regard to the income tax basis of specific property allocated to any beneficiary (including any Trust) and without making pro-rata distributions of specific assets.
- 10.7 Exoneration from Liability.** My Fiduciaries shall not be personally liable to any beneficiary of my Will or of any trust created under my Will, or to any other party interested in my estate or any trust created under my Will, for any claim against my estate or trust for the diminution in value of estate or trust property arising from the compliance by my Fiduciaries with any federal, state, or local law, rule, or regulation including (1) the reporting of, or other response to the contamination

of estate or trust property by substances or materials prohibited or regulated by federal, state, or local law or that are known to pose a hazard to the environment or to human health, (2) the reporting of or other response to violations of any federal, state, or local law or that are known to pose a hazard to the environment or human health, or (3) other matters relating to environmental laws.

- 10.8 Limitations.** Notwithstanding the foregoing, nothing in this Will shall be construed as permitting a beneficiary who may also be a Trustee of any Trust created hereunder to exercise any rights or powers which may be in excess of any limitations imposed by law or elsewhere in this Will upon the exercise of such powers (such as, for example, those limited by ascertainable standards, or otherwise prohibited to such Trustee).

ARTICLE 11

Definitions

11.1 Personal Representative, Trustee, Fiduciary. Whenever the word "Executor", "Trustee", "Fiduciary", and/or "Personal Representative", or any modifying or substituted pronouns therefor are used in this my Will, such words and respective pronouns shall be held and taken to include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the executor, personal representative, fiduciary, or trustee named herein and to any successor or substitute executor, fiduciary, trustee or personal representative acting hereunder, and such successor or substitute shall possess all the rights, powers and duties and the authority and responsibility conferred upon my executor, fiduciary, trustee and/or personal representative originally named herein.

11.2 Children, Issue, etc. The terms "children", "issue", "descendant", or words of similar import shall include only children born of the lawful marriage of such child's parents and legally adopted children or their issue, as the case may be (provided the adoption occurs before the adopted person attains the age of fourteen (14) years).

11.3 Disabled Person. A "disabled person" is a minor or a person who is deemed by my Trustees, in the exercise of their sole and absolute discretion, to be physically or mentally incapable of managing his or her affairs although a judicial declaration of the incapacity may not have been made.

11.4 "Per Stirpes". The term "per stirpes" as used herein is intended to describe the

division of shares at each generation regardless of whether there is surviving issue representing that generation. The term "per stirpes" with reference to the issue of any individual shall mean that the stock begin with the children of such individual and that no distribution at any generational level shall be "per capita". If no issue representing a generation are surviving, the number of shares for that generation shall equal the number of predeceased issue of that generation leaving surviving issue. If issue representing a generation are surviving, the number of shares for that generation shall equal the number of issue of that generation surviving, plus the number of predeceased issue of that generation leaving surviving issue.

ARTICLE 12

Survivorship

No person hereinabove named or described in this Will shall be deemed to have survived me unless he or she is living on the thirtieth (30th) day after the day of my death.

ARTICLE 13

Headings

The article and section headings used in this Last Will and Testament are for convenience only and are not to be considered as part of this Last Will and Testament.

9/15/12

EXECUTION

IN WITNESS WHEREOF, I, JACQUELIN K. STEVENSON, the Testatrix, sign my name to this instrument this 21 day of October, 1996, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Jacquelin K. Stevenson (SEAL)
JACQUELIN K. STEVENSON

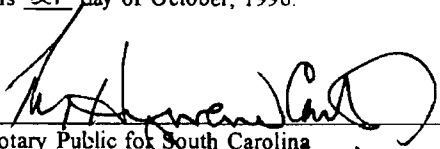
We, T. HEYWARD CARTER, JR and NOREEN S. HOLDER, the witnesses, sign our names to this instrument, and at least one of us, being first duly sworn, does hereby declare generally and to the undersigned authority that the Testatrix signs and executes this instrument as her Last Will and that she signs it willingly and that each of us, in the presence and hearing of the Testatrix, hereby signs this Will as witness to the Testatrix' signing, and that to the best of our knowledge the Testatrix is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

T. Heyward Carter, Jr.
Noreen S. Holder

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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

Subscribed, sworn to and acknowledged before me by JACQUELIN K. STEVENSON the
Testatrix and subscribed and sworn to before me by NOREEN S. HOLDER witness,
this 21 day of October, 1996.

 (SEAL)
Notary Public for South Carolina

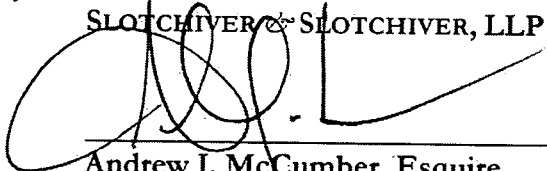
My Commission Expires: 2/26/2000

Certificate of Counsel

I, the undersigned counsel, do hereby certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully submitted this 24th day of August, 2017.

By:


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