

**STATE OF SOUTH CAROLINA
In the Court of Appeals**

**APPEAL FROM AIKEN COUNTY
Court of Common Pleas
The Honorable Doyet A. Early, III Circuit Court Judge**

Appellate Case No. 2019-000362

Adele J. Pope, Appellant,

v.

Estate of James Brown and The James Brown 2000 Irrevocable Trust, Respondents.

**RECORD ON APPEAL
VOLUME IV of VII
(Pages 1451 – 1938)**

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SC Court of Appeals

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1	State of South Carolina	)	In the Court
2	County of Aiken	)	Of Common Pleas
3			
4			Docket No. 2013CP0201337
5			
6	Adele J. Pope,	)	
7	Plaintiff,	)	
8		)	Transcript of Record
9		)	Volume I
10	vs.	)	
11		)	
12	Estate of James Brown,	)	
13	Defendant.	)	
14			
15			September 5-7, 2018
16			Aiken, South Carolina
17			
18	<u>B E F O R E:</u>		
19			The Honorable Doyet A. Early, III, Judge.
20			
21	<u>A P P E A R A N C E S:</u>		
22			Walter Bundy, Esquire
23			Adam Silvernail, Esquire
24			Attorneys for the Plaintiff
25			Burl F. Williams, Esquire
			William Newsome, Esquire
			David Black, Esquire
			Attorneys for the Defendant
			Brenda J. Sigwald, Circuit Court Reporter
			To The Honorable Doyet A. Early, III
			P.O. Box 206, Jackson, South Carolina 29831

Deposition Designations of Roger Miller

1 and unique ways of monetizing copyrights.

2 My team and I, while there, consummated over 100
3 transactions. Most were acquisitions and most were direct
4 from the creators of the -- or the creators heirs.

5 Q Okay. And during those transactions you would do
6 these type of valuations analysis in order to decide on
7 value, price, all of that?

8 A Correct.

9 MR. SILVERNAIL: And that's all from this witness.

10 THE COURT: Anything that you want to put in?

11 MR. WILLIAMS: No, Your Honor, we didn't cross
12 designate.

13 Just for the record, this is our expert witness who
14 will come to trial next week.

15 THE COURT: What if we get to him this week?

16 Never mind. Go ahead. Next witness, please.

17 MR. BUNDY: Your Honor, the next deposition would
18 be the deposition excerpts of James B. Richardson.

19 For the record, Your Honor, this is the deposition
20 excerpts of the deposition of James B. Richardson, taken by
21 the defendant on March 3rd, in Columbia, South Carolina, of
22 2016.

23 THE COURT: 3/3/16.

24 MR. WILLIAMS: Yes, sir. March 3, 2016.

25 THE COURT: Anita, you got that one?

Adele Pope - Direct Examination by Mr. Bundy

1 chair. State your full name, spelling your last, please.

2 MR. BUNDY: Your Honor, would it be okay if I
3 examine Ms. Pope standing here?

4 THE COURT: Absolutely. We don't have a jury. I
5 don't care.

6 MR. BUNDY: Thank you, Your Honor.

7 THE COURT: You may begin.

8 THE WITNESS: Adele Jeffords Pope, P-O-P-E.

9 **DIRECT EXAMINATION**

10 BY MR. BUNDY:

11 Q Ms. Pope, where do you live?

12 A Newberry, South Carolina.

13 THE COURT: Hang on a second. I can't hear even
14 here and I'm sitting right here.

15 MR. BUNDY: Why don't you turn to him.

16 THE COURT: My court reporter can't hear.

17 Do we have the microphones on?

18 THE CLERK: The system doesn't work, Your Honor.
19 We've got to get a new one. It hasn't worked in a long
20 time.

21 THE COURT: Ms. Pope, I always can hear you when
22 you're sitting down at the counsel table.

23 THE WITNESS: I'm not going to respond to that,
24 Your Honor.

25 THE COURT: Well, I meant that -- I meant you have

Adele Pope - Direct Examination by Mr. Bundy

1 a strong voice. I can't hear you sitting right here.

2 Neither can my court reporter. Just speak up a little bit.

3 BY MR. BUNDY:

4 Q If you would, give us your address. Where do you
5 live, Ms. Pope?

6 A 1228 Walnut Street, Newberry, South Carolina.

7 Q And a brief description of your educational
8 background.

9 A I went mostly to Columbia, South Carolina public
10 schools. I went to what is now Mary Baldwin University in
11 Stanton, Virginia, spending a year in Spain.

12 I then taught for a number of -- for a couple of
13 years and had other jobs and went to the University of
14 Virginia and obtained a MAT in Spanish, which had been my
15 undergraduate major. And then I taught some more.

16 And then I went to the University of South Carolina
17 Law School and graduated, and I finished law school. I had
18 taught in Columbia for a number of years and then I
19 finished law school in 1974 and then in the 80's I went
20 back to the University of Miami in Coral Gables, Florida,
21 and obtained an LLM in estate planning.

22 Q And if you would, give us a description of your
23 work history to today's date, please.

24 A As I mentioned, I was a teacher for many years
25 before I became a lawyer and after graduating from law

Adele Pope - Direct Examination by Mr. Bundy

1 school I had had a wonderful clerking experience. I had
2 been the law clerk for Robert Wilkins, Gene Bissell, and
3 Albert Moses, all in the same law firm. But when I
4 graduated they did not have an opening at their office and
5 I was unable to find another job.

6 So I went to American Bank and Trust and was a
7 trust officer for a year, but not for American because
8 American failed just after I got there and was bought by
9 another bank. And as you could imagine, the trust business
10 was not very vibrant after the bank had failed, so the
11 ERISA, the Employee Retirement Income Security Act had just
12 passed and American Bank of Orangeburg had a pension plan.

13 So I actually spent that year closing down the
14 American Bank pension plan. It was one of the first in the
15 nation to come under the newly created pension benefit
16 guarantee corporation. So that was a unique, but
17 interesting experience.

18 Then I was hired the following -- I was a trust
19 officer there. And then I was hired the following year by
20 the McKay Firm and essentially stayed with the McKay firm
21 and successors to the McKay Firm where I had worked as a
22 clerk for many years until the 90's and in the early 90's,
23 I became a sole practitioner and have been --

24 Q What was the nature of your legal work while you
25 were with the McKay -- at that time period?

Adele Pope - Direct Examination by Mr. Bundy

1 A Well, because I was there with Bob Wilkins and Gene
2 Bissell, and Al Moses, all of whom were estate planning
3 gurus -- and at least one continues to be -- that was main
4 focus. After I went to Miami, I began doing -- began
5 looking a lot at fiduciary litigation. I did do fiduciary
6 litigation before going to Miami, but after going to Miami,
7 I really began to have a special interest in complex
8 fiduciary litigation because my, I guess my talent lay in
9 being less afraid of controversy than in estate planning
10 and administration lawyers and more willing to accept
11 complexity than many litigators. So I felt that was the
12 right fit for me and that really is the road that I've
13 taken since.

14 Q And when you went into private practice in the
15 90's, did you continue that same work?

16 A I did. One -- in fact, one of my first events
17 after leaving the McKay Firm was to continue to work with
18 members of the McKay Firm and virtually every other
19 fiduciary litigator in the state on the Boyce matter, which
20 was a very complex case that involved a charity, litigation
21 in several counties, and, and reaching a long-term solution
22 that resulted -- a complex solution that resulted in a gift
23 by a family member, who was actually a nonparty to the
24 litigation of a third of Waites Island to Coastal Carolina
25 and certain donations and all the transactions, which I'm

Adele Pope - Direct Examination by Mr. Bundy

1 happy to say have held up fairly well for about 30 years.

2 Q How long have you been a member of the South
3 Carolina Bar?

4 A I joined the bar in 1974.

5 Q Okay. You're in good standing in the South
6 Carolina Bar?

7 A I am.

8 Q And are you -- have you obtained any certifications
9 or specialties, licensure, or recognitions?

10 A I don't have any now. I did for many -- I was, for
11 many years a specialist in estate planning and probate law.
12 But after I became involved in James Brown -- we had an 18
13 hours of continuing legal education each year and the
14 probate bar, this particular group had, in my opinion, not
15 advanced far enough to understand how important copyrights
16 were going to become to estate planners and I wanted to
17 spend my study time and my education time on the
18 relationship between probate law and copyright law; and
19 they wouldn't give me credit for it.

20 And so I just -- I didn't need the certification
21 for what I was doing, so I discontinued it.

22 Q How about professional organizations, either
23 statewide or national, that you either have been or are a
24 member of related to trusts and estates?

25 A Well, I -- I was for a long time a member of the

Adele Pope - Direct Examination by Mr. Bundy

1 American College of Trust and Estate Counsel, which had
2 another name before and I think I might have been the
3 vice-president of estate. I dropped out of that, so -- a
4 few years back.

5 Again, I -- I love that organization, but it was
6 just time to drop out, it was kind of intensive.

7 Q Have you ever testified as an expert witness in the
8 State Courts of South Carolina?

9 A I have been designated and I've consulted and I
10 have given a deposition, I don't believe I have testified
11 -- if I have, it's been a good while.

12 MR. BUNDY: Your Honor, I would offer Ms. Pope as
13 an expert in trust and estate law and probate law in South
14 Carolina.

15 MR. WILLIAMS: Your Honor, Ms. Pope is a fact
16 witness in this case. I cannot understand how she could
17 possibly serve as an expert witness in the case. We
18 object, Your Honor.

19 THE COURT: Can you show me some case law where
20 it's allowed that the plaintiff or the moving party
21 attempting to prove her commissions being, being able to
22 render opinion testimony as an expert in her own case?
23 I've been doing this a long time. If I were aware of that,
24 I would be happy --

25 MR. BUNDY: Well, Your Honor, I don't necessarily

Adele Pope - Direct Examination by Mr. Bundy

1. intend to offer her has an expert on the ultimate facts.
2. What I would offer her has an expert on is to explain and
3. give her opinion as a trust and estate lawyer, why she did
4. certain things and explain it from that standpoint.

5. I mean, we've got a mixed question here. She made
6. decisions during the process of her service that were based
7. upon her knowledge as a trust and estate lawyer and I think
8. she'd have to give an opinion or explain why she made
9. certain decisions, which in effect would be an opinion, an
10. expert opinion or a legal opinion.

11. THE COURT: Well, she can't give a legal opinion, I
12. don't think.

13. MR. WILLIAMS: Your Honor --

14. THE COURT: But she can certainly -- go ahead.

15. MR. WILLIAMS: No --

16. THE COURT: Go ahead.

17. MR. WILLIAMS: Your Honor, expert witnesses are
18. supposed to be neutral; experts in a given field that look
19. at the facts through clean eyes and then render opinions
20. that help assist the Court understand issues beyond the
21. regular factual issues; understand expert issues. Your
22. Honor, necessarily an expert cannot be an advocate which is
23. what Ms. Pope is.

24. THE COURT: Well but, obviously, she has been a
25. seasoned member of the bar since 1974. She has been -- her

Adele Pope - Direct Examination by Mr. Bundy

1 entire practice has been surrounding estate work in one
2 capacity or another and obviously I'm going to let her give
3 an opinion, do you have an opinion within a reasonable
4 degree of estate planning that so and so and so and so and
5 so and so was the right thing in this case.

6 Obviously, she can testify about what she did as an
7 estate lawyer in her practice for 43 years and it's --
8 she's going to have to be able to explain what she did and
9 I don't know if that's an expert opinion; that's just her
10 telling us what she did. I'm not going to let her opine on
11 the ultimate issues of the facts, but she can tell us what
12 all she did, why she did it.

13 Sometimes, obviously, she was complying with this
14 code and this section in this case, but I'll just monitor
15 it very closely.

16 I'm not going to let her get up here and testify
17 like an expert would with a jury. Do you have an opinion
18 that so and so breached the standard of care. That's not
19 where we are. She's just going to testify to what she did.
20 Obviously, she's been doing this type of work a long time;
21 and obviously she'd be able to allow her training and
22 experience and her education to answer these questions.

23 Whether or not that's -- I understand she's highly
24 qualified in estate planning. Let's move along and if we
25 get to an opinion-type question that you feel like is

Adele Pope - Direct Examination by Mr. Bundy

1 objectionable I'll -- please stand up and object and if I
2 feel like it's going too far, I will mention it.

3 MR. BUNDY: Thank you, Your Honor.

4 THE WITNESS: Mr. Bundy, could you correct an
5 answer?

6 BY MR. BUNDY:

7 Q Yes, you may.

8 A I'm sorry. I have -- I have served as a testifying
9 expert. I apologize.

10 Q That's fine.

11 A It was in -- before Your Honor in the action to
12 approve the settlement which became the subject of McMaster
13 versus Dallas. I apologize I didn't remember and I was
14 acknowledged and admitted to give expert testimony in the
15 seven days of settlement hearings in 2009 and there were no
16 objections to my being qualified and speaking as an expert.

17 I'm sorry, I forgot that.

18 THE COURT: There's no objection and I certainly --
19 the Court does not object. In fact, I find you to be
20 highly and well qualified in this area. Whether or not you
21 will be able to give opinion testimony to certain
22 situations, if asked, we'll just have to cross that bridge
23 when the question is asked.

24 You may proceed.

25 MR. BUNDY: Thank you, Your Honor.

Adele Pope - Direct Examination by Mr. Bundy

1 BY MR. BUNDY:

2 Q Ms. Pope, I'd like to talk a minute about your
3 education and experience and research and knowledge
4 regarding federal copyright termination.

5 Can you tell us what your work has been in that
6 area and your experience, please.

7 A Yes. I first learned about the Federal Copyright
8 Act, Termination Rights Provision when I was given a book
9 after I became a special administrator in the -- for the
10 estate of James Brown in 2007. It was a book about the
11 music business and it had a very small chapter on what was
12 then called Termination and Recapture. There was a certain
13 recapture provision that's now no longer in play that was
14 in play then.

15 And I began to read and studying about termination
16 rights. I -- at the time I was only the special
17 administrator. After Judge Robert Buchanan and I became
18 PR's of James Brown's estate and trustees under his 2000
19 trust in November of 2007, I -- we engaged an entertainment
20 lawyer whose name was Ray Gonzales.

21 He's now the head of Warner Music in Los Angeles
22 and it is interesting that at the time there was so little
23 national conversation, I think I'd say about copyright
24 termination rights, that --

25 Q Could I interrupt you and ask you to just briefly

Adele Pope - Direct Examination by Mr. Bundy

1 explain copyright -- what are copyright -- what is this
2 whole issue of copyright termination about?

3 A Well, there's certain rights under Section 203 and
4 304 of the Copyright Act which allow a -- an artist, let's
5 say James Brown, if he were alive today, there are actually
6 two regimes under the Federal Copyright Act. One is the
7 56-year regime, which applies to copyrights prior to 1978;
8 and there's the 35-year regime which applies to copyrights
9 after -- 1978 and later...

10 And, of course, James Brown had copyrights which
11 spanned from 1956 until his death on December 25th of 2006.

12 And the idea behind termination rights was a
13 decision by Congress that after a certain period of --
14 well, let me begin: That when a young artist writes a song
15 and he -- he's able to copyright that song and let's say he
16 never had any experience in the world, so he presents his
17 song to the publishing company and he is wholly dependent
18 on the publishing company. There's not an equal bargaining
19 position, and he will do anything to get his song
20 published. And so acknowledging the unequal bargaining
21 position, Congress determined that at a certain point,
22 either the publishing company has gotten enough out of it
23 that they need to make a new deal with the poor guy who
24 gave them whatever they wanted 35 or 56 years earlier; or
25 if they're not going to use his copyright, let him have it

Adele Pope - Direct Examination by Mr. Bundy

1 back and try to find someone else who will help him with
2 his deal.

3 So -- so had James Brown been alive today, starting
4 in 2012 -- a small number of his American, U.S. copyrights
5 would begin to be subject to termination rights in the year
6 2012. And those termination rights would slowly mature
7 over the next 80 years or more. And they're many, many,
8 exceptions. It's extraordinarily complicated, but what I
9 had learned, learned -- began to learn in 2008 and learned
10 fairly well by about 2011, was that for charities, which
11 hold copyrights, and this was the case with Ray Charles;
12 and that is the case with James Brown, who left the bulk of
13 his fortune to his "I Feel Good" Charity, that, that there
14 are strategies by which a charity can look at the
15 provisions of the Federal Copyright Act, including the
16 definitions of heirs under the Federal Copyright Act which
17 is entirely different from the state procedure.

18 And they can develop strategies, not only with the
19 heirs, but with the publishers to minimize the impact, the
20 impact being the loss of copyright royalties, by, by the
21 attempted exercise by heirs of termination rights as to the
22 American copyrights. There are many exceptions.

23 There's -- again, not much was known way back by
24 about 2010, there was an article called, Nine Ways to Avoid
25 Copyright Terminations. And by 2012, what was happening is

Adele Pope - Direct Examination by Mr. Bundy

1 this termination rights issue was called a coming storm
2 because it was coming and nobody was looking at it.

3 And so in 2011, I did write an article with William
4 Jeffrey Smith, Jeff Smith, who is a graduate of Clemson and
5 Georgetown Law Center and a former patent attorney who --
6 he and I got together and wrote an article that was
7 entitled --

8 MR. WILLIAMS: Your Honor, may I enter an objection
9 for the discussion of copyrights, termination rights. It's
10 nonresponsive. We've discussed that we're going to allow
11 Ms. Pope, an accomplished estate and trust lawyer, to
12 discuss the estate and trust matters. We've gone beyond
13 that.

14 THE COURT: Well, he asked the question, what is
15 copyright -- I'll allow it.

16 THE WITNESS: So at this point in 2011, I had
17 learned certain things about James Brown and I became
18 concerned; and really I knew in the probate world, probate
19 lawyers were not really facing the issue yet and it was
20 becoming an issue nationwide.

21 Every charity in America that owns a copyright is
22 going to have this problem at some point.

23 BY MR. BUNDY:

24 Q And in the earlier testimony today from Mr. Miller,
25 he discussed or referred to the Factor of 20. How does

Adele Pope - Direct Examination by Mr. Bundy

1 that relate to copyright termination if at all?

2 MR. WILLIAMS: Objection, Your Honor.

3 THE COURT: Hold on.

4 MR. WILLIAMS: It calls for an expert opinion.

5 MR. BUNDY: Well -- and I will withdraw the
6 question.

7 Your Honor, at this time, I move to have Ms. Pope
8 qualified as an expert in copyright termination law as it
9 relates to trust and estates and charitable organizations.

10 THE COURT: I'm going to let her testify based on
11 her experience as an estate lawyer since 1974. And I won't
12 allow her to testify about some other expert, what his
13 ratio meant. They could have asked him that while they
14 were there, but they didn't.

15 MR. BUNDY: Well, I withdraw the question.

16 Is she qualified to give her opinion?

17 THE COURT: Yes, she's qualified to testify about
18 estate law.

19 BY MR. BUNDY:

20 Q How are copyrights typically valued? Is there a
21 methodology that is used?

22 A Well, we valued James Brown's copyrights pursuant
23 to a --

24 THE COURT: Wait a minute. Now, the question is,
25 how are they typically --

Adele Pope - Direct Examination by Mr. Bundy

1 THE WITNESS: Well --

2 THE COURT: -- not James Brown.

3 THE WITNESS: I must rely on other experts, what
4 I've learned from other experts about how they are valued,
5 but I have come to learn, and now understand, that
6 copyrights which are solid gold, such as copyrights which
7 are of very high quality, can bring in 15 to 20 times their
8 annual royalties.

9 And for example if one's annual royalty stream were
10 \$3 million, that would mean the copyrights would be worth
11 45 to 60 million or maybe more, according to some experts.
12 And that is not just a single expert, but we -- Judge
13 Buchanan and I have, have secured that sort of information
14 from --

15 BY MR. BUNDY:

16 Q We'll talk about the James Brown Estate in a moment
17 as it relates to copyright termination. I just wanted to
18 lay the -- for the record, the explanation.

19 MR. BUNDY: All right. Let's put up the screen,
20 please.

21 Your Honor, prior to your taking the bench, the
22 parties were able to agree on evidence -- on some exhibits.
23 And we have agreed that Exhibits 1 through 11 are in
24 evidence without objection, subject to Your Honor's
25 approval.

Adele Pope - Direct Examination by Mr. Bundy

1 Exhibit 12 is offered for identification at this
2 point. I will move at a later date and lay the appropriate
3 foundation and tender it at that time.

4 THE COURT: Yes, sir.

5 Correct?

6 MR. WILLIAMS: Yes, Your Honor.

7 (Plaintiff's Exhibit Number 1, Number 2, Number 3,
8 Number 4, Number 5, Number 6, Number 7, Number 8, Number 9,
9 Number 10, Number 11 were entered into evidence.)

10 (Plaintiff's Exhibit Number 12 was marked for
11 identification.)

12 THE COURT: 1 through 12, no objection -- 1 through
13 11 no objection. 12 is an objection?

14 MR. WILLIAMS: Yes, Your Honor, and then the
15 orders, Your Honor, we -- we have filed copies sitting as
16 court records.

17 THE COURT: Thank you.

18 MR. BUNDY: Your Honor, Exhibit Number 1 is a list
19 or a compilation of certain of your orders and certain --
20 and I think 95 percent of them are yours, there may be two
21 orders from Court of Appeals. And so, what I would -- and
22 we've marked it as Exhibit 1, or Plaintiff's Exhibit 1, but
23 in fact, the only thing that really needs to be in the
24 record is the index of Plaintiff's Exhibit 1, which would
25 establish which orders we were referring to. And I just

Adele Pope - Direct Examination by Mr. Bundy

1 please.

2 This, Your Honor, is the --

3 THE COURT: Is this a different exhibit?

4 MR. BUNDY: Yes, Your Honor, this is different,
5 demonstrative evidence. And I'll move to introduce it -- I
6 don't have boards and all that, but what I will do is print
7 out a copy or send you a -- an e-mail with this on it for
8 your use.

9 But basically this is the -- what we call
10 PR/Trustee Timeline. And what this is, is the time that is
11 covered by the -- your payment order of January 8, 2008.
12 And basically, it's just a way to keep us -- so we all sort
13 of know where we are in the time frame as we walk through
14 the testimony.

15 Basically the green, Your Honor, is the hours,
16 Ms. Pope's hours, during every month during the period that
17 relates to your order of 1/8/2008. The total represents
18 the total of the time where Ms. Pope, her compensation, as
19 well as her staff.

20 So this is in hours graph, this is the total
21 dollars that includes hours that are not included on here
22 because they're not Ms. Pope's hours, they're her staff's
23 hours.

24 THE COURT: And what date does that cover, please?

25 MR. BUNDY: This covers, Your Honor, from November

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1 thought it would make it easier for you to follow along
2 through the presentation, so that would be the --

3 THE COURT: You have a copy for me to -- a desk
4 copy while you're going through it?

5 MR. BUNDY: Yes, sir.

6 May I approach?

7 THE COURT: Certainly.

8 (The Court was given the notebook of Plaintiff's
9 Exhibit 1.)

10 MR. BUNDY: Your Honor, just if I might explain to
11 you how I'm going to proceed, it might make it easier.

12 What we have here is a timeline, Your Honor. Of
13 June -- or of January 2007 through October of 2007, which
14 constitutes Ms. Pope's service as special administrator
15 because Your Honor has already ruled on her compensation
16 for that period. So we're not going to be discussing
17 compensation.

18 These documents will come up on that screen there,
19 basically -- mostly the orders that are in the book in
20 front of you and a couple of the exhibits, the Last Will
21 And Testament of James Brown or Trust of James Brown.

22 THE COURT: So that 's January through October of
23 2007?

24 MR. BUNDY: Yes, Your Honor.

25 And then, if you would, show the next graphic,

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1 20, 2007 until May --

2 THE WITNESS: 26th.

3 MR. BUNDY: May 26th, 2009.

4 THE COURT: For the record, the significance of
5 those -- that span of time from 11/27 to 5/26/09 represents
6 what?

7 MR. BUNDY: It represents the time that was -- was
8 the PR/trustee because the May 26th date, I believe, is the
9 date that I believe that your order replaced her as
10 PR/trustee.

11 THE COURT: My order speaks for itself.

12 All right. And is there a figure on that?

13 MR. BUNDY: Yes, Your Honor. The number is --

14 THE COURT: A million, 473?

15 MR. BUNDY: Well, the dollar amount?

16 THE COURT: Yes, sir.

17 MR. BUNDY: The dollar amount is \$1,473,550 plus 8,
18 three-quarter percent, simple interest per your order,
19 one-eighth. And that order is in Exhibit 1, which you have
20 in front of you.

21 For explanation, just so you'll know, the -- this
22 little hatched area is her time that she kept for a period
23 of time after you issued your order, so it's not -- it's
24 not included in here, but we did have those records and I
25 wanted to put them on the chart.

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1 After this point in time, there -- no hours were
2 kept because --

3 THE COURT: So if I'm looking at it, I take that
4 January 2007, just -- that shows the number of hours --
5 help me explain -- explain that to me.

6 That's November '07, December --

7 MR. BUNDY: This is November 20, 2007 and she --
8 since she was only -- she got appointed on November 20th.

9 THE COURT: Sure.

10 MR. BUNDY: That's only a partial month. So for
11 that partial month in November, she spent 50 hours.

12 THE COURT: Okay. And then for December it jumps
13 up --

14 MR. BUNDY: In December, she spent 150 hours.

15 THE COURT: I see, hours.. Okay.

16 MR. BUNDY: And then, here we go to February or
17 whatever, I guess, it's almost up to 225 hours.

18 And then, of course, throughout the graph, I think
19 it's evident, based on the amount of orders that are being
20 issued and everything that's going on, which we're going to
21 explain, it makes perfect sense.

22 And this is when the settlement agreement occurred
23 and she was told to stand down. Her hours then decreased
24 somewhat because even though she still has to take care of
25 things, she's been told to stand down with regard to

Adele Pope - Direct Examination by Mr. Bundy

1 affirmative things.

2 And then, Your Honor, of course, the settlement
3 hearings occur and then she's back attending to hearings
4 preparing for all that. So that's the --

5 THE COURT: And I assume somewhere along the line,
6 we will have a -- I say -- will there be an itemization of
7 the time or is it just, I spent 50 hours --

8 MR. BUNDY: Yes, sir. Yes, sir, that's contained
9 in Exhibit 8.

10 THE COURT: 8?

11 MR. BUNDY: Yes, sir, here it is.

12 What Exhibit 8 is --

13 THE COURT: That's one that's not objected to?

14 MR. BUNDY: Not objected to; without objection.

15 THE COURT: And Exhibit 8 would represent or be the
16 hard data that you used to establish the green part of the
17 PR/trustee timeline?

18 MR. BUNDY: That is correct, Your Honor, and
19 Exhibit 10 -- may I approach?

20 THE COURT: Absolutely.

21 MR. BUNDY: Exhibit 10, Your Honor, is the actual
22 hours that have been taken from that document, put into a
23 spreadsheet and then that was translated to that document
24 or to the chart.

25 THE COURT: And then did I understand it, a while

Adele Pope - Direct Examination by Mr. Bundy

1 ago when you were explaining is, the green represents not
2 only Ms. Pope's time, but some of her staff?

3 MR. BUNDY: Yes, Your Honor.

4 THE COURT: And that's broken down into these two,
5 10 and 8.

6 MR. BUNDY: Yeah. The staff time -- yeah, I'm not
7 sure the staff time is broken out in that document.

8 THE COURT: But will --

9 MR. BUNDY: But we'll be discussing it and Ms. Pope
10 will explain --

11 THE COURT: Sure.

12 MR. BUNDY: -- will explain that.

13 THE COURT: There's no objection to 8, 10 and 1, so
14 far?

15 MR. WILLIAMS: No, Your Honor.

16 THE COURT: Okay. I granted summary judgment when
17 we were here recently and that amount was what?

18 MR. BUNDY: Yes, sir --

19 THE COURT: Do you remember what the exact amount
20 was?

21 MR. BUNDY: It was 40 --

22 MR. NEWSOME: It was \$47,000 and some change, but
23 the interest roughly doubles the amount.

24 THE COURT: Plus interest.

25 MR. NEWSOME: Right, to be kind of specific.

Adele Pope - Direct Examination by Mr. Bundy

1 MR. BUNDY: And that was based on, obviously, her
2 commission during -- as special administrator and trustee.

3 THE COURT: But that's not included --

4 MR. BUNDY: That's not included in this. And
5 that's why the previous screen, the previous graphic,
6 doesn't have those dollar amounts under it. Because this
7 is the -- as you see from the title, this is the Special
8 Administrator Timeline. I needed to do this and I'm going
9 to have to go through the testimony to sort of set the
10 stage for what she had to do when she was personal
11 representative and trustee.

12 THE COURT: No problem.

13 MR. BUNDY: Thank you, Your Honor.

14 THE COURT: That's why it's -- that's why it's a
15 lot easier nonjury sometimes.

16 MR. BUNDY: Oh, I'm so -- I can't, you know, I
17 don't know --

18 THE COURT: We can all sit and talk just a little
19 bit.

20 MR. BUNDY: Your Honor, at this time, I would ask
21 the Court the take judicial notice of all the orders and
22 findings in Exhibit 1.

23 THE COURT: Well, I mean, obviously, they're my
24 orders.

25 MR. BUNDY: Yes, sir. Pursuant -- I've got to lay

Adele Pope - Direct Examination by Mr. Bundy

1 -- I've just got to do it. It's Rule 201 of the South
2 Carolina Rules of Evidence.

3 THE COURT: That says what?

4 MR. BUNDY: The -- the rule governs only judicial
5 notice of adjudicated facts. The judicially noticed fact
6 must be, one, not subject to reasonable dispute in that it
7 is generally known within the territory or jurisdiction of
8 the trial courts or capable of accurate and ready
9 determination by resources whose accuracy cannot be
10 reasonably questioned. The Court shall take judicial
11 notice as requested by a party and supplied with the
12 necessary information, Rule 201, Your Honor.

13 THE COURT: All right. Any objection by anyone?

14 MR. WILLIAMS: Your Honor, we have no objection to
15 the use of them for judicial notice, but we have not --
16 subject to our ability to, just as we go through these to
17 be sure they're actually court records. We don't challenge
18 opposing Counsel's statement, we just haven't had the
19 opportunity to run through them all.

20 MR. BUNDY: Your Honor, I will concede, I will call
21 back any document I've improperly included or anything I've
22 done improper.

23 THE COURT: You know, y'all -- when we get to the
24 end, I'll give everybody an opportunity to go through them
25 and make sure everything's in there that was represented to

Adele Pope -- Direct Examination by Mr. Bundy

1 be and if something's not, we'll discuss it. No problem.

2 MR. BUNDY: Yes, sir.

3 So judicial notice is taken of the documents in
4 Exhibit 1?

5 THE COURT: Yes, sir.

6 MR. BUNDY: Thank you.

7 BY MR. BUNDY:

8 Q All right. Ms. Pope, let's begin --

9 THE COURT: Before you go into -- you made a
10 calculation on that 8 and three-fourths on that million
11 473. Have you made a calculation on the interest?

12 MR. BUNDY: I think Ms. Pope may have. Or a rough
13 calculation.

14 THE WITNESS: Roughly, it's \$123,000 a year from
15 May 26, 2009.

16 THE COURT: All right. I won't interrupt again.
17 Well, I say that. Go ahead.

18 MR. BUNDY: Thank you, Your Honor.

19 BY MR. BUNDY:

20 Q All right. Ms. Pope, if you would, tell us how you
21 became to be involved in the James Brown Estate,
22 Mr. Brown's estate?

23 A I became involved after a phone call from Alan
24 Medlin who --

25 MR. BUNDY: Talk to the judge. I can hear you

Adele Pope - Direct Examination by Mr. Bundy

1 okay. Talk to the judge.

2 THE WITNESS: I became involved after a phone call
3 from Alan Medlin who is a lawyer and someone I knew and was
4 in the American College with, asking me to be considered as
5 a special administrator for James Brown's estate, and I
6 said that I would be considered.

7 Shortly after that, still, I believe in February of
8 2007 or perhaps early March, I received a call from Judge
9 Early's assistant setting up a telephone conference for me
10 to be interviewed. I attended a telephone conference.
11 There were a number of people on the line. I am not sure
12 exactly who they were. I know some of them, but I wasn't
13 familiar with several of them at the time.

14 And March 7th, Judge -- of 2007 -- Judge Early
15 called me and asked me -- he actually said, Are you sure
16 you want to do this and I said yes.

17 THE COURT: Again?

18 THE WITNESS: Well, if you ask me again, Your
19 Honor...

20 I said yes that it sounded interesting and Judge
21 Early said, Well, would you mind working with Bob Buchanan;
22 and I didn't know Judge Buchanan very well at the time and
23 -- but I said that I would do -- I was being asked to serve
24 at the Court's pleasure and I would do what the Court
25 wanted me to do.

Adele Pope - Direct Examination by Mr. Bundy

1 So he said, Give Bob Buchanan a call and then call
2 me back. And so I called Judge Buchanan and what we
3 understood in that conversation was that they were asking
4 us to be special administrators and that term is not well
5 defined within the probate code. And Judge Buchanan
6 specifically said he did not want to be a fiduciary because
7 he was a sitting part-time federal magistrate and he had, I
8 believe, received permission from Judge Anderson to serve,
9 but he did not want to serve as a fiduciary.

10 BY MR. BUNDY:

11 Q Hang on one second. Let me interrupt you here and
12 ask you what the significance of serving as a fiduciary as
13 opposed to not being a fiduciary in terms of a special
14 administrator's responsibilities and duties.

15 A Well, I might best describe it by the reason I
16 didn't want to a fiduciary.

17 Q Fair enough.

18 A And that might help. A fiduciary, of course, has
19 certain responsibilities to see that a trust or estate, in
20 this case an estate, is properly managed and there were
21 already three trustees and Judge Early had found in the
22 order of February, I believe, it's 19, it shows 20 here,
23 but that was the filing date. But Judge Early had found --

24 Q Let us pull that up because we need to if we're
25 going to talk about it.

Adele Pope - Direct Examination by Mr. Bundy

1 A Okay. Right.

2 Q This is his February 19, right?

3 A Yes.

4 Q Okay.

5 A Judge Early had found in that order that there was
6 no basis known to him at the time to support some very
7 serious allegations being made against the people who had
8 just been appointed as personal representatives under the
9 will of James Brown and had for almost 7 years been serving
10 as a trustees under his trust and there were three of
11 those; and so from my perspective, those were the people
12 who had the responsibility to be sure that the estate and
13 the trust, which was its primary beneficiary, were properly
14 managed.

15 And the rule in South Carolina is that if there are
16 fiduciaries, they act by majority. And so my perspective
17 was that Judge Buchanan and I were going to be minority
18 fiduciaries, if, in fact, we were fiduciaries at all. And
19 I was not willing to be a minority fiduciary with people
20 who were even being accused of having acted improperly for
21 7 years.

22 Q Okay. So let's go back then. So you called --

23 A Right.

24 Q -- Judge Buchanan, and how did it go from there
25 to --

Adele Pope - Direct Examination by Mr. Bundy

1 A So --

2 Q -- to the time that you are appointed special
3 administrators?

4 A We had the first of a thousand pleasant
5 conversations and we called the judge back and we put
6 together an order, which the Court signed on February 7th
7 -- I'm sorry March 7th, 2007, which allowed us to be
8 special administrators, but carved the position so that it
9 was an oversight position.

10 And the thrust of it was that we were to keep an
11 eye on these people who were being accused of stealing,
12 burying money, hiding money and all sorts of other bad
13 things.

14 Q All right. So let's look up at the screen. I
15 think this is a February --

16 A That's the February order, and it just recites how
17 the matter came before Judge Early on two emergency
18 petitions for appointment. One was by Tommie Rae,
19 Mr. Brown's companion; and another was by six people who
20 were represented by a gentleman from Atlanta whose name is
21 Louis Levinson. And there were separate petitions for
22 emergency appointment of a special administrator.

23 Q So the -- so the people in the Brown case at this
24 time were requesting the judge appoint a special
25 administrator?

Adele Pope - Direct Examination by Mr. Bundy

1 A They were. They were. And I understood -- I
2 understand now that I was nominated by Mr. Levinson and the
3 client -- the lawyers for Tommie Rae and that Judge
4 Buchanan had been nominated by the trustees who were being
5 attacked.

6 Q Was there any opposition to your appointment as far
7 as you know as special administrator?

8 A Not that I'm aware of.

9 Q Okay. All right. So then we move to -- in March.
10 What, if anything, occurred of significance in March that
11 might be outlined in Judge Early's order, supplemental
12 order appointing special administrators in Exhibit 1?

13 A That -- that -- I've sort of jumped ahead, but in
14 the February order Judge Early had said -- I'm sorry, in
15 the March order Judge Early says, The Court hereby appoints
16 Robert L. Buchanan, Jr. and Adele J. Pope to serve without
17 bond as special administrators of the estate of James
18 Brown, also known as James Joseph Brown; and that order set
19 the conditions, the limited, non-fiduciary conditions of
20 our appointment.

21 Q All right. Tell us what those conditions were.

22 A Well, simply oversight of the trustees and if we
23 saw something we -- that bothered us that we didn't approve
24 of, we were to report it to the Court.

25 Q Okay. So what was your first order of business as

Adele Pope - Direct Examination by Mr. Bundy

1 a special trustee with the duty of oversight in this
2 matter?

3 A Well, the first thing we did was invite anybody who
4 wanted to talk to us to come talk to us. And I think that
5 was said on March 19th of 2007 in Columbia. Judge Buchanan
6 held court in Columbia and Florence and we would -- we
7 developed a habit of scheduling our formal meetings when he
8 was in Columbia, and our informal meetings when he was
9 driving.

10 Q Okay. So tell me about the first meeting you had
11 after you and Judge Buchanan became special administrators
12 of the Brown Estate.

13 A Well, we had invited the personal representatives
14 and trustees, and that would be Mr. Albert Dallas,
15 Mr. David Cannon, and Judge Bradley or AL Bradley, who was
16 known as Judge Bradley; and we invited them to attend.
17 They did not attend the first meeting, but -- at least one
18 of their lawyers, I believe Keith Babcock attended and
19 chatted with us a bit. Mr. Levinson came from Atlanta and
20 brought a big notebook of things. Mr. Levinson had done a
21 good little bit of investigation.

22 Q And who were Mr. Levinson's clients?

23 A Mr. Levinson's clients were the six children named
24 by James Brown in his will, some of whom may or may not be
25 children under state law.

Adele Pope - Direct Examination by Mr. Bundy

1 Q Okay.

2 A But they were designated by James Brown in his will
3 and that was half or fewer than James Brown's real
4 children.

5 Q And who was Mr. Babcock of the Louis Babcock Firm
6 representing?

7 A Lewis and Babcock represented the then PR/trustees,
8 the Cannon PR/Trustees, Mr. Cannon.

9 Q So this was just a meeting of lawyers, no clients?

10 A You know, we didn't exclude clients. If they had
11 come, we would have been glad to meet with them.

12 Q What, if anything, did you discover at that
13 meeting?

14 A Well, we just got a lot of basic information, but
15 mostly we wanted to talk to the PR/Trustees and so we
16 scheduled a meeting for March 26th of 2007 to meet with
17 them.

18 Q Okay. And that was arranged by their lawyer,
19 presumably?

20 A Yes, Mr. Babcock was always cooperative with us.

21 Q Okay. And did, in fact, a meeting occur?

22 A Yes.

23 Q And could you tell us about that meeting?

24 THE COURT: What date was that, please?

25 THE WITNESS: I'm sorry, March 26, 2007.

Adele Pope - Direct Examination by Mr. Bundy

1 BY MR. BUNDY:

2 Q Let me ask you first, had you ever met any of these
3 three gentlemen prior to the meeting, the trustees?

4 A No.

5 Q Okay. All right. So tell me about the meeting.
6 Who was there and what occurred.

7 A Well, Mr. Buchanan and I went, we went to the
8 office of Hull Towill Law Firm here in Aiken. And it was
9 in a small conference room and the room was full; and my
10 recollection is at the head of the table was William
11 Hammond, the trust. -- I'm sorry, the tax lawyer for the
12 estate.

13 Q The tax lawyer for the estate; who hired him?

14 A The Cannon PR/Trustees.

15 Q The trustees --

16 A Right.

17 Q -- because he was their tax lawyer?

18 A Well, for the estate.

19 Q Right. Okay.

20 A And he was newly hired. He had not represented
21 James Brown in the past.

22 Q Right.

23 A Then there were the three PR/Trustees and there
24 was, I believe both Keith and perhaps a young lawyer,
25 Jonathan Harland from his firm, I'm not certain; Bill

Adele Pope - Direct Examination by Mr. Bundy

1 Tucker, who Judge Buchanan referred to as Tuck, William
2 Tucker, who was there at the Hull Towill firm with
3 Mr. Hammond. Mr. Hammond was part of the Augusta office of
4 Hull Towill. And that might have been all. It was a
5 little kind --

6 Q Well what -- the purpose of the meeting was what?

7 A Well, we had sent them a list of things we wanted
8 to see that you would normally ask for if you were trying
9 to learn about an estate. We asked for the tax returns,
10 you know, financial statements, you know, just whatever it
11 took to get a view of what was there. Because our job
12 theoretically was to see what was there and make sure it
13 didn't take missing.

14 Q Okay.

15 A And so just tax returns, whatever was necessary to
16 learn about the assets.

17 Q Based on your experience at that time with 30 some
18 odd years, were these unusual requests to be made by
19 someone in your position?

20 A Oh, no, they were entirely appropriate.

21 Q And is it what you anticipated the judge would have
22 expected you to do?

23 A Well, that was the way I viewed my job.

24 Q All right. So how did the meeting go? What did
25 you get?

Adele Pope - Direct Examination by Mr. Bundy

1 A Well, it was the first of a series of troublesome
2 meetings with David Cannon. He -- he was furious with me
3 before I got to the meeting and I had never met the
4 gentleman. He -- he -- his face was red and he was almost
5 fist on the table, and he said to me, You're just a spy of
6 the enemy, and I was taken aback.

7 But I said, Gosh, Mr. Cannon, I'm just trying to do
8 my job. And --

9 Q Did he tell you who the enemy was that you were the
10 spy for?

11 A Well, I got the idea that he meant Tommie Rae.

12 Q Okay.

13 A And I later came to know that he had a long and
14 tempestuous relationship with Tommie Rae.

15 Q All right. Who is Tommie Rae?

16 A Mr. Brown's companion.

17 Q Okay.

18 A And so -- so basically, we were there to see
19 documents and nobody was going to show us documents.
20 Mr. Hammond, who was a very competent tax lawyer, said that
21 the tax returns were all wrong and that he would fix them
22 and then he would show them to us, show the corrected tax
23 returns to us. And I told him I thought there was a lot to
24 be learned from incorrect tax returns and I sure would like
25 to see those so we wouldn't lose any time here.

Adele Pope - Direct Examination by Mr. Bundy

1 Q Which tax returns was he speaking of?

2 A Well, we had sent a list that said something like,
3 give us all your tax returns and the tax returns for the
4 entities and, you know, just sort of a standard list that
5 you -- if a client is coming to your office to do a will,
6 you say bring all these things and you hope they bring
7 them, but if they don't, you talk to them anyway. And so
8 it was just kind of a standard list to determine what the
9 assets were and the income flow, of course, to --

10 Q So the upshot or the result of that meeting was
11 what?

12 A Well, the result of that meeting was that they
13 didn't show us anything and -- except -- we did sign some
14 sort of little confidentiality agreement which later blew
15 away with the wind, but that was one of the things they
16 were saying it was all confidential, so -- but we already
17 had some things from Mr. Levinson, so we were asking a
18 little bit about -- about certain things, just the little
19 tiny bit that we had learned from the week before.

20 And the -- the only thing that we took away from
21 the meeting was a publicity rights contract that James
22 Brown had entered or had entered into or appeared to have
23 entered into shortly before his death on Christmas day and
24 this was March.

25 But as I recall it was an unsigned copy. But we

Adele Pope - Direct Examination by Mr. Bundy

1 talked about that particular contract because it was with
2 Global Gaming --

3 THE COURT: Part of what?

4 THE WITNESS: I'm sorry, it was with Global Gaming.

5 THE COURT: And you called it a confidential
6 contract?

7 THE WITNESS: Well, no -- well, not particularly,
8 it's not confidential. But --

9 THE COURT: What was it, just --

10 THE WITNESS: It was a contract drawn up by which
11 James Brown's image was going to be used on slot machines
12 and other gaming devices so that if you won he would go
13 (sound) and if you lost he would do something else.

14 THE COURT: And Ms. Pope would you tell us what he
15 would do if you won again.

16 (Laughter).

17 THE WITNESS: And so -- but what was significant
18 about that -- a couple of things was significant about
19 that. The contract, according to Mr. Cannon, because it
20 was in a gaming state, Nevada, it was going to have a
21 fairly long incubation period, but he said once the
22 incubation period was over, that he expected it to earn
23 \$400,000 a quarter; and this was just for what I've just
24 described.

25 So that looked like a fairly good contract. For me

Adele Pope - Direct Examination by Mr. Bundy

1 because I'm a trust and estates attorney, I noticed a
2 couple of things about the contract. I noticed one -- one
3 that it wasn't signed, but I understood that there was a
4 signed copy. And then I noticed that it was started before
5 his death but then got dated -- it had dates spanning his
6 death, which wouldn't be unusual because of a death, but I
7 was trying to think does this belong to the estate or to
8 James Brown.

9 And then on the edge of the contract was a little
10 thing in handwriting that I later learned was Mr. Cannon's
11 handwriting that said, Transfer the trust. And I don't
12 know why I just remember that, and that would later become
13 significant as -- because of an issue of what was in the
14 trust and what was in the estate.

15 But for that day it looked good. It looked like
16 they had lots of potential and I think maybe by then we did
17 also know about a judgment that Mr. Cannon had filed in
18 Aiken County against James Brown for \$900,000 and you will
19 see that 900,000 becomes a recurring number.

20 BY MR. BUNDY:

21 Q Who filed the judgment?

22 A David Cannon.

23 Q One of the trustees?

24 A One of the trustees. And it had been filed, I
25 believe, January 4th of 2007 just days after James Brown --

Adele Pope - Direct Examination by Mr. Bundy

1 THE COURT: January of 2007?

2 THE WITNESS: Yes, Your Honor. Just --

3 BY MR. BUNDY:

4 Q A couple of weeks after James -- Mr. Brown's death?

5 A Just -- yes, within a couple of weeks. And that
6 judgment made it appear that -- that James Brown owed
7 Mr. Cannon \$900,000 and we questioned that because the
8 judgment was a -- was put into Aiken County, a Georgia
9 judgment from several years back. And it seemed strange to
10 us that that just got filed right after Mr. Brown's death.

11 THE COURT: Well, was it a domestication of a
12 Georgia judgment --

13 THE WITNESS: It was, Your Honor. But, you know we
14 asked about it and it got taken off the record. I think on
15 May 4th. So it became a nonissue.

16 BY MR. BUNDY:

17 Q So it was pretty easy to satisfy that judgment?

18 A Well, we found out later that Mr. -- in a
19 foreclosure against Mr. Brown back in the early 2000's
20 Mr. Cannon had paid off about, I think the leftover after
21 the mortgaged property had been sold. And I think he had
22 paid about \$35,000 and they had assigned the judgment to
23 him. So he had, when James Brown died, filed it to make it
24 appear that James Brown owed him \$900,000.

25 Q So what -- as a result, you look at the contract

Adele Pope - Direct Examination by Mr. Bundy

1 with regard to the potential slot machine or whatever?

2 A Uh-huh.

3 Q What else did you come away with from that meeting?

4 A Well, that was pretty much it that day. Within a
5 relatively short period, we did get something that was very
6 valuable historically, but did not really help us get our
7 arms around the assets. We were given access by Mr. Tucker
8 to the complete closing package of a debt that James Brown
9 had incurred on June 4th and June 11 of 1999, to the New
10 York teachers, TIAA. And that debt would become very
11 important in the big picture even though it was -- it was
12 not -- all of those historical records were not immediately
13 important to us as people trying to figure out what he
14 owned today.

15 Q All right. How much documentation was there with
16 this package?

17 A I think there were about 925 pages and they -- they
18 were all the old publishing contracts, all the assignments
19 to TIAA; the --

20 Q Why don't you take the opportunity now and explain
21 to the Court this TIF -- TIAA bond or Pullman Bond as they
22 call it, that Mr. Pullman created and how that works,
23 please.

24 A Okay. Well, Mr. Pullman was a New York financier
25 who was very proud of his reputation and ability to create

Adele Pope - Direct Examination by Mr. Bundy

1 sophisticated financing mechanisms. And he developed a
2 method which he thought was proprietary to him. The Court,
3 I think, later found out it wasn't, but he developed a
4 mechanism to -- for a very high net worth musician who was
5 not just a singer, but the owner of copyrights to pledge
6 future royalties from those copyrights in a -- what really
7 felt like a bond.

8 So they would pledge future royalties and someone
9 would pay the -- the -- the songwriter for the -- for the
10 use of the future royalties and -- to pay off -- the pledge
11 to pay off the bond. And so the term became -- really
12 began in the 90's and became known as either the Pullman
13 Bond, which Mr. Pullman wanted them to be called or Bowie
14 Bonds.

15 THE COURT: Spell that for me.

16 THE WITNESS: Bowie, B-O-W-I-E.

17 BY MR. BUNDY:

18 Q After David Bowie?

19 A After David Bowie, because he was one of those high
20 net worth songwriters who could -- who could pledge his
21 future royalties for --

22 Q Is this -- is this the kind of transaction that
23 Mr. Miller was referring to in his testimony regarding the
24 high value of these kinds of things and people would be
25 able to count on the return in the future?

Adele Pope - Direct Examination by Mr. Bundy

1 A Well, I think they're only similar in the fact it
2 -- what you just said, count on a high return in the
3 future, yes. I mean, there're only, I think between maybe
4 four and seven people doing what was called Pullman Bonds.
5 Mr. Brown did them. David Bowie did them. Some country
6 group, I can't remember. But only very high --

7 THE COURT: What kind of group?

8 THE WITNESS: I'm sorry?

9 THE COURT: Country group?

10 THE WITNESS: Some country group. I -- is Crosby
11 Stills --

12 BY MR. BUNDY:

13 Q Did Hendrix do one?

14 A I don't know. I don't think so. But anyway, what
15 it is, is in 1999, Mr. Brown borrowed \$26 million from the
16 New York teachers. After interest buy downs, payments for
17 Mr. Pullman, payments for everybody involved in the TIAA
18 deal, and there were about 15 New York lawyers involved,
19 Mr. Brown ended up -- and with an interest buy down -- to
20 bring it down to the low rate of, I think, 7.95 percent.

21 Mr. Brown walked away with \$19 million, but he owed
22 the New York teachers \$26 million, which he would pay over
23 a period of roughly, 16 to 19 years.

24 They would get in return a pledge of approximately
25 850 of his major copyrights. And there were a few that

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1 remained outside, but essentially his major copyrights were
2 pledged on the TIAA debt until paid in full.

3 So of the \$19 million, James Brown had, through Mr.
4 Cannon to give him credit, had negotiated way down a
5 gigantic debt to the IRS to about three point something
6 million. Mr. Brown wanted a million outright. He got
7 that. So that brought it down to 15 million and the rest
8 got taken by David Cannon.

9 Q But that's what you didn't know. --

10 A Oh, no, we didn't know at that point.

11 Q Okay. So those were the documents -- and so you
12 had these 900 pages, which gave you at least some
13 indication of finances?

14 A Well, they turned out to be hugely important later,
15 but they didn't tell us what was in the estate that -- this
16 had happened in 1999. I mean they turned out to be hugely
17 important.

18 Q All right. So what was the next -- once you got
19 those documents, what occurred next in this timeline
20 regarding trying to get up to speed to do what the judge
21 had asked you to do and oversee these PR/Trustees?

22 A Well, we kept asking and we kept asking and we kept
23 being nice and asking some more and they wouldn't give us
24 anything. So I think we had a -- Judge Early had at least
25 one hearing where we sort of talked about, it really would

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1 be nice to see some documents.

2 But finally, none of that worked, and Judge
3 Buchanan and I felt that we wanted to try to get along with
4 these people.

5 So we finally, in early June, I think at a hearing
6 maybe the 4th of June of 2007, we asked the Court -- we had
7 filed a motion asking the Court to give us access to the
8 documents because one argument --

9 (The document on the overhead was changed.)

10 THE WITNESS: Yeah, that would be it, June 22nd.

11 BY MR. BUNDY:

12 Q And this would be the June 22nd, 2007 order --

13 A Right --

14 Q -- referred to in the timeline and this order
15 related to access --

16 A Yeah.

17 Q -- of SA's --

18 A Yeah, and --

19 Q -- is that correct?

20 A Yes. And it says it came before Judge Early on the
21 13th. I think maybe we filed our motion on the 4th of
22 June, or early June, and then it came before Judge Early.
23 and one of the arguments that the Cannon trustees were
24 making was that you can't see things related to the trust.
25 And our position was that the trust was the sole bene -- I

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1 mean the primary beneficiary of James Brown's estate and we
2 couldn't think without seeing the trust. Plus, it had been
3 in existence for many years during his lifetime.

4 So Judge Early said, It is therefore ordered,
5 adjudged, and decreed that the special administrators of
6 the estate of James Brown are hereby granted complete,
7 direct, and continuing access to all information,
8 documents, and records in any form related to the -- to
9 James Brown, the estate of James Brown, the James Brown
10 2000 Irrevocable Trust -- which was the other part of James
11 Brown's estate plan -- and all trusts created
12 thereunder -- that would be the grandchildren's trust and
13 the James Brown "I Feel Good" Charity, and any Brown
14 entities or interest, however titled.

15 And the term "Brown Entities" came from a list that
16 we had compiled just from research on the internet and
17 other places, of corporations, LLC's, things that James
18 Brown appeared to have an interest in. So by the time
19 Judge Early issued this order on June 22nd, 2007, the term
20 "Brown Entities" was a very broad term, an understood term.

21 THE COURT: And, in fact, the order listed some 12
22 entities.

23 THE WITNESS: Did we do them in that order?

24 THE COURT: Yes, ma'am.

25 THE WITNESS: Yes.

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1 BY MR. BUNDY:

2 Q So you were appointed as special administrator, you
3 and Judge Buchanan, when again?

4 A March --

5 Q February--

6 A 7th.

7 Q March 7th. And it's now --

8 A June --

9 Q -- June and you have to go get an order just to get
10 the documents.

11 A We do. Although in fairness, it became clear on
12 the 13th that Judge Early was going to give us that
13 access. So starting on June 15th, the accountant started
14 sending us copies of the tax returns.

15 Q Okay.

16 A Because Buddy -- he was Buddy Dallas's accountant.
17 And when Buddy Dallas said something came to Bob and Adele,
18 it came. That was just how it was.

19 Q Okay. All right. Now, we've also got a June 22nd
20 order here related to Greenberg Traurig. Can you explain
21 this to the Court, please. This is June 13?

22 A Yes, that has a little bit of history.

23 Q Okay.

24 A Greenberg Traurig and it's premier entertainment
25 lawyer, Joel Katz had represented James Brown for many

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1 years, but not in all of his transactions, in certain of
2 his transactions. And so in 2006, the year of Mr. Brown's
3 death -- excuse me, let me back up.

4 Greenberg Traurig did not represent Mr. Brown in
5 connection with the 1999 TIAA deal. So when Mr. Brown
6 walked into Greenberg Traurig, shall we say in 2006 to
7 start doing things related to the TIAA deal, it had been
8 done years earlier and he owed about, still about \$20
9 million. So he came to Greenberg Traurig in 2007, he,
10 being Mr. Brown --

11 Q 2006, you mean?

12 A I'm sorry, 2006. He being Mr. Brown and the
13 entourage that went with him. And they engaged Greenberg
14 Traurig I think for a flat fee of \$215,000 to refinance the
15 TIAA debt.

16 Now, at the time, Mr. Brown, so far as we can tell,
17 had no idea that the assets had taken missing, that
18 everything he had gotten before had taken missing, but
19 certain people did know that, namely the Cannon trustees.

20 So --

21 Q About to the tune of \$15 million?

22 A Yeah, the whole proceeds of the debt, which he
23 still owed 20 million on had taken missing.

24 Q Okay.

25 A Okay. So he comes in still owing 19 or 20 million

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1 to Greenberg Traurig and they say let's redo this debt and
2 so Greenberg Traurig, I think for a flat fee of something
3 like \$212,000, agreed to do this refinance of the TIAA
4 debt. And so it was worked through the Royal Bank of
5 Scotland, RBS, and the RBS said, We will loan you
6 25,200,000 if you come up with a professional appraisal
7 that these particular assets are worth \$42 million.

8 And those particular assets would have been the 850
9 copyrights that were pledged to TIAA because they were
10 going to pay off TIAA and then refinance it just like you
11 refinance your mortgage. So the appraisal got done. The
12 closing was scheduled for May 5th of 2006, and just days
13 before the closing, about May 2nd or Thursday, Mr. Pullman
14 came forward, citing a provision in his 1998 or '9 contract
15 with James Brown and said he got 12-and-a-half percent of
16 the deal.

17 Well, I mean, there was very little of the deal
18 left after paying off the -- what turned out to be about 19
19 million or 20 million to the teachers; and then they had to
20 pay off all the cost of closing. So that did the deal in.

21 So then a lawsuit began while James Brown was still
22 alive in New York State under Judge Solomons. And Judge
23 Solomons and -- Greenberg Traurig -- Greenberg Traurig and
24 Pullman were making -- or James Brown and Pullman were
25 making claims against each other about who had messed up

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1 the RBS deal. And they were pretty high dollar claims and
2 counterclaims against each other.

3 And Judge Solomons had said -- and Mr. Pull -- I'm
4 sorry. Mr. Pullman was accusing Greenberg Traurig of
5 conflicts of interest and it was all very complicated. But
6 the judge had said, I'm not going to keep going with this
7 until James Brown comes in here and tells me what he wants.
8 But then James Brown died, making him unable to come in and
9 tell the judge what he wanted. So that was sort of the
10 status of it in the early part of 2007.

11 And so the question for Judge Buchanan and me was
12 should Greenberg Traurig be defending this litigation where
13 they're being accused of wrongdoing. That was sort of the
14 gist of it; and we didn't have any reason to think anything
15 bad of Greenberg Traurig; but what happened in
16 approximately May, Greenberg Traurig said if we did not --
17 we, being Judge Buchanan and I -- if we did not approve
18 their approximately \$330,000 of legal fees that were
19 outstanding and agreed that they would be paid in the
20 future, that they would not continue to be the lawyers in
21 the New York litigation.

22 And we simply were unable to know enough to
23 determine that their 300 and whatever it was thousand
24 dollars of fees were valid. So we asked for guidance from
25 Judge Early about what to do. I mean, that's exactly what

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1 we had been appointed to do.

2 So we said, Gosh, this has come up. They want to
3 continue to represent in New York, but they won't continue
4 unless we, not just the trustees, but we, Judge Buchanan
5 and Adele, approve their fees.

6 And so we were unwilling -- we couldn't do that.
7 So Judge Early heard that, I believe, on the same day and
8 on the 22nd issued an order which did one administrative
9 thing. It made clear to the Court that the State would be
10 substituted for Mr. Brown himself in the litigation and
11 then he said that Greenberg Traurig would not serve and
12 then slightly surprising to Judge Buchanan and me, he said
13 that we were to find new counsel in New York. And so we
14 did. We did. We found new counsel.

15 We found Matthew Ballenger and his associate at
16 Hogan and Hartson. And they were actually in D.C., but
17 they agreed to go from D.C. -- one of them was a member of
18 the New York Bar and they agreed to travel from D.C.
19 without charge; and they were good lawyers. And I've made
20 this story too long, but there was a great result. We
21 never -- the estate never had to pay anything to Mr.
22 Pullman, who was seeking millions of dollars.

23 Q And what was the liquidity of the estate at that
24 time to pay these fees? How did you -- how were you able
25 to negotiate a fee with these Washington lawyers?

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1 A Well, a little bit later we -- Judge Early approved
2 the fee contract.

3 Q Okay. All right.

4 A And agreed that it would be treated as an
5 administrative expense, which would be the highest
6 priority.

7 Q Okay. All right. Now, let's move on and -- into I
8 believe August of 2007. Just briefly, can you just give me
9 sort of the lay of the land in between the time that you
10 took care of the Greenberg Traurig issue, which ultimately
11 was resolved in favor of the estate, correct?

12 A Yeah, but after we left it.

13 Q Thank you.

14 What happened between then and let's say August?
15 What was going on during those months?

16 A Well, things moved sort of fast because --

17 THE COURT: What?

18 THE WITNESS: Things moved rather fast and so in --
19 as soon as we got the access -- what we call the Access
20 Order, I called and scheduled a meeting to go look at
21 documents. And I believe it was on June 26th or 7th and
22 Judge Buchanan could not go that day or had other things to
23 do; and so I went to Barnwell to Mr. Cannon's office and
24 Mr. Cannon greeted me virtually the same way he had greeted
25 me earlier.

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1 Q Some three months earlier?

2 A Some three months earlier in March. And he
3 basically said he didn't care what Judge Early said, he was
4 not going to let me look at the documents until -- you
5 know, he was not going to let me look at the documents.
6 And so I said, Well, you know, I've driven from Newberry,
7 but I'm certainly not going to have a fight with you.

8 So I got in my car and I drove away and I was at
9 the edge of Barnwell when I got a call from Buddy Dallas
10 and Buddy said, Would you be willing to come back and talk.
11 And I said, Oh, sh -- you know, I'm not going to stand on
12 ceremony. I'll come back if you want me to, if it will be
13 helpful. So I went back and Mr. Cannon started talking to
14 me.

15 I'm sure Buddy was there also. But he said,
16 essentially, Ms. Pope, I'm not a crook. Well, I mean --
17 so --

18 Q Had you accused him of being a crook?

19 A No, no. But I was beginning to wonder.

20 Q So that's a yes response?

21 A He said, I need to grieve the loss of my friend.
22 James Brown was my friend. And may I -- just give me over
23 the 4th of July to grieve the loss of my friend. I said,
24 why certainly. So we -- I said, we'll make an appointment
25 to come back after the 4th of July.

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1 And when I left, I did not go back to Newberry. I
2 went straight to Judge Buchanan's office and I said I'm
3 never going there alone again because I know this is going
4 to be my word against Mr. Cannon's word, and I just don't
5 want to put myself in that position again.

6 So -- so, Judge Buchanan and I began trying to
7 schedule a meeting with him. Oh, and I also said, And we
8 need to go quick, because by then I knew something was
9 likely to be wrong. So Judge Buchanan and I began trying
10 to schedule, and I think we tried to schedule for July 6th,
11 and that didn't work. Finally we got to go on July 17th.

12 We later learned -- I'll just say quickly that on
13 July 10th, Mr. Cannon and Mr. Dallas had gotten documents
14 from another Atlanta law firm, Powell Goldstein, by which
15 they were going to attempt to move the situs of James
16 Brown's trust out of the State of South Carolina over to
17 the State of Georgia before a hearing on August 10th of
18 2007, to escape Judge Early's jurisdiction. But we didn't
19 know that then.

20 So we go on the 17th of July of 2007, and it was
21 nearly a replay of the earlier meetings because Mr. Cannon
22 began, still sort of resisting our looking at documents.
23 And I remember he said, Well, what do you want to see. And
24 I said, Everything.

25 And he said, Well, tell me what you want to see.

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1 And I said, Well if you would let me go in the back room,
2 it would make it easier for all of us. But that didn't
3 happen.

4 So Judge Buchanan and I sat there all morning long
5 with -- saying, Well, we want the bank accounts. And we
6 would say, Now is that the bank account. And he would go
7 back to the back and get something and come back and -- and
8 I was reading and Judge Buchanan was writing. And I would
9 say, This is a bank account and it shows the beginning
10 balance of this and that. I mean, he wasn't giving us the
11 documents, but he was giving access to these documents.

12 And so it was exhausting, but we were, you know,
13 our job was to get along with these people and we were
14 doing our best. So it was afternoon and everybody was
15 exhausted. Keith Babcock was there -- no, not Keith,
16 Jonathan Harling, a paralegal from Lewis and Babcock, the
17 trustees and I, and we were, again, around a little table,
18 and the last thing -- oh, they had told us they had shown
19 us all the bank accounts.

20 And so we were just about to leave and Mr. -- Mr.
21 Cannon walked out with a tiny thin folder with, I think two
22 pages in it, and he -- and he -- we said, Well, hmm, what's
23 that -- and so we looked at -- no, he didn't walk out, we
24 saw it in the file room -- we saw it in the file room.
25 That was it.

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1 He didn't walk out. We said, Could we look at
2 that. And so then we sit down and look at it and it's just
3 a couple of pages, but it's a \$900,000 check with a letter
4 behind it. And it says -- it said something like, be sure
5 you get this deposited right because they're third party
6 payees or something, something in the letter. But what was
7 significant --

8 Q Who was the letter from?

9 A It was either from Leon Friedman, Mr. Brown's
10 lawyer in New York for important constitutional kind of
11 things or somebody at Greenberg Traurig. You could tell
12 from the letter that that was the chain that this money
13 had --

14 Q So, so --

15 A -- followed.

16 Q So the copy of this -- the picture of this \$900,000
17 check was accompanied with a letter pointing out to whoever
18 was receiving it, there are people who have an interest in
19 this money?

20 A Exactly. Exactly.

21 Q And that would have been the TIAA people, right?

22 A Well -- well -- at the time, we didn't think that.
23 We're just looking down at a check that if you're --

24 THE COURT: You were looking at a check or a copy
25 of a check?

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1 THE WITNESS: Copy of a check. Copy of a check.

2 Sorry, Your Honor.

3 Looking down at a copy of a check that seems to say
4 James Brown Account \$900,000. And so my question was,
5 Well, gosh, we haven't seen that, which account did it go
6 into. And David Cannon said, Oh, it went into another
7 account. Wherever Leon Friedman told me to put it. And I
8 said, MMMMM. So...

9 BY MR. BUNDY:

10 Q Who is Leon Friedman?

11 A Leon Friedman is a New York lawyer and professor at
12 Hofstra who had represented James Brown in some of his
13 larger matters. And Leon was only tangentially involved
14 when I was around. But -- so -- so, he had had some
15 involvement with this audit, which was -- the \$900,000
16 check were the proceeds of an audit of some back royalties
17 that had not been paid by the publisher that came in in the
18 Summer of 2006.

19 So -- so, we are sitting around a table and there's
20 a speakerphone in the middle and -- and -- so we said -- he
21 said after Mr. Cannon said I did -- I did what Leon
22 Friedman told me to do, Judge Buchanan and I said, Well,
23 let's call him up and see -- see about it, because now we
24 were looking at \$900,000, just one year before Mr. Brown
25 died, so we were getting closer to what's in this estate or

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1 what's not in this estate. So he said -- he said --

2 Q He, being whom?

3 A I'm sorry, Mr. Cannon said, You know, I think he's
4 in Italy with Justice Scalia. He said, You know, he goes
5 there every year and teaches those courses.

6 And I said -- and we -- I, one of us, one of the
7 two of us, one of the two of us said, Well, let's try him.
8 So we dial up and he answers the phone and Mr. Cannon says,
9 Oh, Leon, you're there. And he said, I thought you were in
10 Italy with Justice Scalia and -- and Leon said, No, I'm
11 going tomorrow morning and this year it's Justice Ginsburg.
12 And he truly was leaving the next morning. And we were so
13 lucky we got him on the phone.

14 And so then Mr. Cannon said, Got my special
15 administrators here and they're wondering what instructions
16 you gave me about depositing that check. And Leon said, I
17 didn't give you any instructions about depositing that
18 check.

19 Well, we knew then, you could have heard a pin drop
20 in the room. So we asked to see where it was deposited.
21 Mr. Cannon brought out another checkbook. We sat there as
22 we had all morning we -- me calling out the deposits and
23 Judge Buchanan writing them down and we essentially sort of
24 went home in silence because we knew we had found something
25 that somebody had to go.

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1 And so we -- I lay on the side porch of my house
2 all weekend and kept looking at the numbers and thinking
3 about it and we talked on Monday and we said, Somebody's
4 got to go. And so we called Lewis and Babcock --

5 Q Now, we is you and Judge Buchanan?

6 A Judge Buchanan and I. And essentially we said, You
7 have until Thursday to do something about this or we're
8 going to do something about it. And the reason we had
9 Thursday is because we knew that there was going -- a
10 hearing scheduled for August 10th, 2007, the date of this
11 order, and we knew that the rest of this world of people
12 needed 10 days notice of what we had found.

13 And so we said, You have until Thursday to file
14 something or we're going to file something. And so by
15 about Wednesday or Thursday, they had all gotten a new
16 lawyer --

17 Q They being --

18 A The being the Cannon trustees. Lewis and Babcock
19 stayed on to represent the estate in certain matters, but
20 -- but the others had a new lawyer so there was no use to
21 talk -- I went and spoke with Cam Lewis, but he couldn't do
22 anything at that point to --

23 Q Who did they get for lawyers?

24 A Stan Jackson appeared a few days later.

25 Q For all three of them?

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1 A No, only for two of them, for Buddy Dallas and for
2 Judge Bradley.

3 Q And what about Cannon? Did he get a lawyer?

4 A He got a long series of lawyers after that. But at
5 that moment, no.

6 So we -- so between -- so between when we -- we
7 filed what we thought was the most nonaggressive motion we
8 could file, which was there had been a material breach of
9 fiduciary duty here, 900,000 missing, and we think that one
10 or more trustees must resign because we didn't know who was
11 responsible for this. Immediately by August the 3rd,
12 Mr. Cannon had essentially fallen on the sword and said it
13 was all him and nobody else. And both Judge Bradley and
14 Mr. Dallas had filed affidavits saying we never had the
15 slightest clue that this happened.

16 And further they began to say and continued to say
17 for a long time that there was a veil of secrecy between
18 the world and Mr. Cannon and James Brown and that they
19 never crossed that veil. They were on the other side of
20 the veil with the whole world.

21 So anyway -- so that's what happened. We go to the
22 -- by the time we have the hearing on August 10, 2007, all
23 the people who wanted to get rid of Cannon and Dallas have
24 smelled blood because they've got good reason to get rid of
25 all three of them. But Judge Buchanan and I are thinking

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1 that, that Buddy Dallas knows a lot. And so what we
2 negotiated with Mr. Dallas and Judge Bradley was a proposal
3 to sort of shift the balance rather than being just pure
4 oversight, they would have to get permission from us before
5 they did anything, any big transactions.

6 Q Was that memorialized in any orders?

7 A It was. We reached an agreement on the night of
8 August 9th, my birthday, of 2007, or on the day of August
9 9th. And it -- we didn't have time to put it in writing,
10 although they're drafts, and that -- and we -- the next
11 morning, here's what happened: Mr. Cannon resigned.

12 Mr. --

13 MR. BUNDY: Can we put that order up, please, the
14 August 10, resignation.

15 THE WITNESS: Yes. Mr. Cannon resigned.

16 Mr. Cannon brought Judge Early a check for \$350,000 payable
17 to the estate. My recollection is he didn't really have a
18 lawyer speaking for him that day. He was speaking for
19 himself. We reached an agreement that we would again shift
20 the balance between the PR's and Judge Buchanan and myself,
21 as special administrators, so that they would have to ask
22 us for deals, but we could pre-approve things like security
23 for the house and routine payments.

24 Then in addition, Judge -- the order of Judge Early
25 terminated the employment of all -- all accountants and

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1 lawyers who had worked closely with Mr. Cannon, not that
2 they had necessarily done anything wrong, but because of
3 the closeness to this person that we knew had -- had -- had
4 misappropriated \$900,000.

5 So he had terminated all the accountants and the
6 lawyers except for Lewis and Babcock. He allowed them to
7 stay on and I believe that's all --

8 Q Let's look at this now.

9 A Okay.

10 Q Basically if we could go back, Mr. Cannon brought
11 in 300 and some odd thousand dollars to partially repay the
12 \$900,000?

13 A Right. As the order finds, Cannon has paid over
14 and delivered \$350,000 to the estate. These funds, like
15 all others shall be deposited in one or more accounts. Oh,
16 that reminds me. This order also says that -- that one of
17 the two of Judge Buchanan and me has to sign a check to
18 make sure that money didn't take missing; which was our --

19 Q That's what it says down here at the bottom.

20 A Oh, I'm sorry.

21 Q Okay. Let's move on to the next callout, please?

22 A Okay. All right. And then --

23 Q All right.

24 A Okay.

25 Q So Bradley and Dallas now will continue, but their

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1 service is strictly limited?

2 A It was limited as I've discussed. The lawyers and
3 accountants were terminated. A new accountant was employed
4 by the Court, Bill Sellers, William Sellers. And then --
5 then, sort of the concession that Judge Buchanan and I were
6 able to get from these other people who wanted -- who
7 wanted Dallas and Bradley gone, also was that there would
8 be a little period for them to just leave them alone so
9 some estate administration matters could be dealt with.
10 And so the order found that by saying that, that
11 there were certain actions that just had to be completed.

12 That was preparing an inventory and appraisement,
13 which actually did get done by Bill Hammond in November, on
14 November 15th of 2007; applying for recognition of
15 exemption of the James Brown "I Feel Good" Trust. That was
16 huge. That was a multimillions of dollars problem because
17 the bulk of James Brown's wealth was going to the James
18 Brown "I Feel Good" Charity and the original trustees had
19 never applied for it to be recognized by the IRS as a
20 501(c)(3) charity.

21 And what that meant to us was that -- that we have
22 tens of millions of dollars going into a charity, but we
23 will not get a charitable deduction unless the application
24 is timely made and retroactive to James Brown's death,
25 which could happen if it were timely made.

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1 So that was the number one tax concern facing
2 everybody and it's all through the documents, through
3 Mr. Hammond's documents, our documents. So that was put
4 into the order that that application for recognition of the
5 charity had to be completed because if it hadn't been done
6 and the IRS had disallowed the charitable deduction, it
7 would have been very bad.

8 The next preparing for filing the State tax
9 return and extensions. That -- the estate tax return was
10 due on September 25th, 2008. It ended up not being filed
11 until September 25th, 2009, which was the last possible
12 extension as long as the PR's were in the United States.

13 And then preparing certain other income tax
14 returns. But again, the really important thing there was
15 getting the charity approved by the IRS.

16 Q All right. Now, what did the Court do with regard
17 to documentation, et cetera, which you'd previously had
18 trouble getting? What was going to happen to the
19 documents now that you were the new -- you were still an
20 SA, but you had more authority, I guess --

21 A Well --

22 Q -- oversight?

23 A Well, the protection of the documents didn't really
24 have so much have to do with that. It had to do with their
25 being at Cannon's house and Mr. Cannon had just resigned.

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1 And there was a lot of concern about spoliation of
2 documents. And so, really, I guess the second or even the
3 first most important impact of that order was to direct
4 that all of the James Brown historical documents be placed
5 in a central location.

6 And it turned out that I had behind my office a big
7 ole warehouse sort of space. They stayed under the control
8 of Lewis and Babcock for many months after that, but all
9 the documents were to be sent there. And I have never seen
10 this happen before, but the Brown historical documents
11 included Buddy Dallas's entire file, not only for James
12 Brown, but for all of the children.

13 Everything in Cannon's file -- I mean it was a
14 monumental 70 to 80 box production of documents which
15 really allowed everyone to understand what had happened
16 before.

17 In addition, I forgot this, Judge Buchanan's
18 office, 212 Newberry Street, was made the official
19 residence of the estate and the 2000 Trust; and that is
20 because Mr. Cannon's address had been used and we --
21 everybody, including the two remaining trustees wanted to
22 make sure that the mail came somewhere where it would be
23 seen and dealt with.

24 So they were still the PR's. The -- the -- the
25 people who were trying to get rid of them agreed that they

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1 would sort of slow down on discovery except for a couple of
2 depositions in New York to give them a little breathing
3 room to get these administrative things done.

4 Q All right. And -- and as -- this reconfirms, the
5 judge also terminated everybody, financial advisors,
6 lawyers, and all the people who had been involved with
7 Cannon and Bradley and Dallas?

8 A Right. With certain minor exceptions.

9 Q So it was a clean sweep, basically?

10 A The purpose -- because remember, now, Mr. Dallas
11 and Mr. Bradley were saying, We didn't know anything about
12 this. And so with that clean cut, it made sense.

13 Q Okay.

14 MR. BUNDY: Any other callouts in this document?

15 (Indicated in the negative.)

16 MR. BUNDY: All right. Let's move to the next --
17 to the other one we were looking at. Well, I guess -- we
18 have another one --

19 THE COURT: Let's stop. We've been going two
20 hours. My court reporter needs a break as well as others
21 do. It's 25 till, we'll come back in about 15 minutes.
22 That's about 10 till 12. And I plan to go until one and
23 then take an hour break from one until two. Start back at
24 two and go until five.

25 Would that present a problem?

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1 MR. BUNDY: No problem for the plaintiff, Your
2 Honor.

3 THE COURT: All right. Let's take -- take about a
4 15 minute break.

5 Ms. Pope, you're in the middle of your testimony,
6 so as I tell everybody, don't discuss it.

7 THE WITNESS: Yes, sir.

8 THE COURT: All right.

9 (A brief recess was observed.)

10 Mr. Bundy, you may proceed.

11 MR. BUNDY: Thank you, Your Honor.

12 THE COURT: Thank you.

13 BY MR. BUNDY:

14 Q Ms. Pope, I'd like to direct your attention now to
15 the supplemental order related to disbursement of royalty
16 funds; please. That's an order dated August 19, 2007?

17 A That was just a little agreement by TIAA that
18 allowed us to keep \$100,000 of the \$350,000 that Mr. Cannon
19 had misappropriated because they should have gone to pay
20 off the TIAA debt. But TIAA --

21 Q Let me stop you there. The \$900,000 check that you
22 discovered was the -- misappropriated funds, is that
23 correct?

24 A It was. It was from an audit and it should have
25 been paid to M & T Bank.

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1 Q Pursuant to the closing documents in those files?

2 A In the TIAA Pullman deal.

3 Q Because they had a lien on those proceeds?

4 A That's correct.

5 THE COURT: Where did -- where did the 9 -- did you
6 find out where the 900 went? Refresh my memory because
7 I'm --

8 THE WITNESS: Yes, Your Honor. We determined that
9 \$180,000 of it had been legitimately paid to the Haber
10 Corporation, which were the auditors. The rest, not so
11 legitimate. There was never an explanation for the
12 remainder.

13 THE COURT: Did they find out where it was
14 deposited, where it went or --

15 THE WITNESS: Well, we went all the way through the
16 checkbook and saw that it was deposited in the Summer of
17 2006, and the last check out was to Cannon on December
18 28th, 2006, just three days after James Brown died. So
19 there was essentially no accounting ever. Your Honor, I
20 think ordered him -- he returned the 350. Your Honor found
21 that Haber debt was legitimate and I think Your Honor
22 ordered him to pay -- in my head, I think it's 373,
23 whatever was the difference that he hadn't paid, and -- but
24 he never paid it.

25 THE COURT: And then after that, not getting ahead

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1 of the game, but sometime after that is when we had the
2 contempt hearing for him --

3 THE WITNESS: Oh, yes. And --

4 THE COURT: -- That's in the records.

5 THE WITNESS: He had --

6 THE COURT: I'm getting ahead of the story.

7 THE WITNESS: No, no, that's fine. But just to
8 finish up with Mr. Cannon, if it would be helpful, Your
9 Honor held him in contempt -- well, maybe we should wait
10 for the story.

11 THE COURT: All right. I won't interrupt.

12 MR. BUNDY: I need all the help I can get, Judge.

13 THE COURT: So do I.

14 BY MR. BUNDY:

15 Q I want to go back -- I just want to make sure that
16 the record is clear on this \$900,000. The \$900,000 less
17 the legitimate portion that was paid was supposed to go to
18 T -- to the teachers?

19 A To the teachers. So when Mr. Cannon wrote the
20 check back --

21 Q To the Court --

22 A -- for 350 --

23 Q Okay.

24 A -- Judge Early said hold on until we decide what to
25 do with it. And then Judge Buchanan and I negotiated with

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1 them to be able to hold \$100,000 because the estate was so
2 illiquid to begin the process of going after Cannon for the
3 remainder of what was missing; and so that's that.

4 Q Let me stop you there.

5 A Uh-huh.

6 Q You mentioned illiquidity. What was the condition
7 of the James Brown trust and estate at that point relative
8 to liquidity, cash, et cetera? Very briefly?

9 A Terrible.

10 Q Okay. That works. So the \$100,000, what happened
11 to it? What did you and Mr. Buchanan do with the \$100,000?
12 How was it handled?

13 A Well, we immediately began to work on the
14 engagement of Kendall Few and Jim Gilreath to help us try
15 to recover not only money from Cannon, but -- Mr. Cannon,
16 but other monies which had been misappropriated or other
17 losses between 1999, which was the date of the TIAA debt,
18 through the end of 2006. And that was sort of the period,
19 a major period of Mr. Cannon's wrongdoing.

20 Q So you became concerned that money had been stolen,
21 I guess to use any other word, from Mr. Brown from 1999 up
22 until his death and you wanted Mr. Gilreath and Mr. Few to
23 look into that and bring whatever actions were necessary to
24 try to recoup those monies?

25 A That's true. And since Judge Early's August 10th

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1 order had put us essentially in charge of matters that
2 Mr. Cannon and the remaining trustees -- I'm sorry the
3 remaining trustees, Mr. Dallas and Mr. Bradley had a
4 conflict. Well, they had -- clearly had a conflict in
5 seeking counsel to sue their co-trustee for the return of
6 stolen money.

7 So Judge Buchanan and I assumed that role to
8 select counsel because they had a conflict and that was the
9 way the August 10th order worked.

10 Q All right. And tell me a little bit if you will
11 about what -- how you came to decide in conjunction with
12 Judge Buchanan to hire Mr. Few and Mr. Gilreath. What were
13 their qualifications?

14 A The only thing we thought about was who's the best
15 lawyer in the state. And we thought it was best not the
16 select one in Charleston. I'll tell you we thought about
17 some in Charleston.

18 Q Why is that?

19 A Well, there were just a lot of Charleston people
20 that we decided it would be better if we would go somewhere
21 else. And so honestly Kendall Few and Jim Gilreath were
22 the perfect combination because Mr. Gilreath has a, I think
23 a masters in tax, and this was a complicated financial
24 thing; and we didn't know where it was going to lead. And
25 so we thought they were the perfect team.

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1 Q Did you have any indication at that time that the
2 Greenberg Traurig Law Firm might be potential defendants?

3 A You know, we weren't thinking so much of that as,
4 as -- by the time we hired them, we had already discovered
5 7 of the 12 -- of the 17 million Mr. Cannon took and so we
6 were more focused on who all was around when Mr. Cannon was
7 taking, who helped him take, you know, the whole schmiel.

8 Q I understand. And you felt that Mr. Few and Mr.
9 Gilreath were qualified for that task?

10 A The best.

11 Q Okay. And typically in your experience, is it the
12 duty of the trustees and PR's, whether they be SA --
13 assuming they have the appropriate authority, or personal
14 representatives and trustees to have the right to select
15 counsel for --

16 A Well --

17 Q -- for the trust or the estate?

18 A Well, but for the August 10th order, that was the
19 duty of Mr. Bradley and Mr. Dallas as the remaining PR and
20 trustees.

21 Q Okay. But it's typically not assigned to a third
22 -- in other words if you've got a trustee, that's the
23 person who makes the decision?

24 A That's your job.

25 Q Not some governmental agency?

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1 A No.

2 Q Okay. All right. If you would in -- let's look --
3 I believe that's the end of that one.

4 Let's now go to the August 10 order. I believe --
5 is there another -- there's another August 10 order; is
6 that correct?

7 A No, I think we've gotten them all August 10 and
8 August 19. There may be some other --

9 Q Okay.

10 A Yeah.

11 Q All right. So now we're in October?

12 A Yes.

13 Q What happened between August and October during
14 your tenure as special administrator?

15 A Well, if I could actually go all the way from
16 August to -- to November.

17 Q Okay.

18 A We kept discovering more and more wrongdoing by
19 Cannon. In the October 2nd Order -- and Judge Early, as
20 you recall I mentioned, had taken the 350 and asked
21 Mr. Cannon to account for his actions and -- and he had not
22 accounted. And so there was a sort of a parallel universe
23 of Judge Early and Mr. Cannon failing to do everything he
24 was ordered to do. And that ultimately resulted in his
25 being held in contempt and serving some time.

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1 Q Okay. All right. In October of 2007, what
2 occurred relative to the estate of any significance in your
3 mind?

4 A Okay. Well, the attorney general and the attorney
5 general of Georgia pro hac vice under the attorney general,
6 came into the case on September 24th and Judge Early issued
7 an order on October 4th allowing both of them to come in
8 and nobody opposed that. I mean, it was fine.

9 And the order -- I guess we're on the October 4th
10 order.

11 MR. BUNDY: October 4 order, please.

12 THE WITNESS: Okay. Well, that -- what was just
13 flashed up from one of the orders reminded me. There was a
14 lot of thinking about the tangible personal property and we
15 were looking for ways to deal with it because the house was
16 scary -- a scary place to leave these assets. And Judge
17 Early had directed that we work with -- the personal
18 representatives and we work with the family members to try
19 to think of a way to preserve the -- the tangible personal
20 property. And -- yes, and --

21 Q All right. And so that was the basis of this
22 statement by the Court, All counsel for clients interested
23 in the tangible personal property of the estate were
24 directed to work with the Special Administrators and
25 personal representatives over the next 45 days to present a

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1 plan for completion of the inventory and preservation of
2 the tangible personal property, including provision for
3 payment of estate taxes and administrative expenses related
4 to such property. Okay. Correct?

5 A Yes. And I'll just mention one thing that I didn't
6 think of. James Brown's -- James Brown died in 2006 and
7 that year a person had a \$2 million exemption from estate
8 taxes or actually a combination of the estate and gift
9 taxes, but for purposes of this, estate taxes. And so what
10 we knew at the time was James Brown's will provided that \$2
11 million -- his exemption amount was going into a
12 grandchildren's education trust and that amount was to go
13 tax -- estate tax free to the education trust.

14 So the result of that was that anything over that
15 amount that did not go to the charity, to the "I Feel Good"
16 Charity, because there was not a specific provision in the
17 will, the recipient of that property had to pay the estate
18 taxes on it.

19 And so by then we were thinking that Mr. Brown's
20 personal and household effects which were going to the --
21 to the six designated children, had a value of about
22 800,000 to a million something like that. And so that
23 meant that these recipients were going to have to find \$3-
24 \$400,000 in estate taxes to pay it.

25 And so that's what all of this was about, to try to

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1 get them, with their lawyers, to help us figure out, how
2 are we going to pay these estate taxes. Do you want to
3 pledge them? Do you -- you know.

4 Q Okay. So now we're in October and the Attorney
5 Generals of South and North Carolina --

6 THE COURT: Georgia.

7 THE WITNESS: Judge Early's correct, Georgia.

8 MR. BUNDY: Georgia, excuse me. Georgia and South
9 Carolina.

10 And if we could, let's turn to that order please.

11 THE WITNESS: Yes -- yes. The motion of the South
12 Carolina Attorney General and the Georgia Attorney General
13 to intervene in this matter to represent and protect the
14 beneficiaries of any charitable trust created under the
15 last will of James Brown and his irrevocable trust, both
16 dated August 1, 2000; or any other of the assets of the
17 estate impressed with a charitable trust is granted.

18 BY MR. BUNDY:

19 Q Now, was there any objection to --

20 A No, no.

21 Q And what was your thinking when that -- were you
22 pleased with that yourself? Did it matter one way or the
23 other?

24 A It didn't matter one way or the other. The will
25 contest had not been filed. If the will contest had been

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1 filed, we would have certainly wanted them there, but it
2 hadn't been filed. But it didn't matter, it was great.

3 Q What was your understanding then, and if it's
4 different now please tell me, of what the attorney
5 general's duties and rights were as it related to his
6 responsibilities and rights in this intervention in this
7 estate?

8 A Well, we viewed it as his right to advocate for the
9 beneficiaries of the charitable "I Feel Good" Trust because
10 those beneficiaries last in perpetuity and aren't
11 identifiable. So to speak for those beneficiaries.

12 Q What about the attorney general's duties visa vi
13 the trustees of the trust?

14 A Well, if the attorney general saw that the trustees
15 were taking action it would be detrimental to the
16 charitable beneficiaries. He should call that attention --
17 call that to the attention of the Court; or seek their
18 removal or whatever was necessary.

19 Q Do you have an opinion as to whether or not the
20 attorney general has the authority to direct the actions
21 of --

22 A Trustee in a charitable trust? Only what I've read
23 in Wilson versus Dallas.

24 Q All right. Thank you.

25 All right. Now, I think we're down on the last

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1 document of this timeline, I guess, which is granting pro
2 hac vice admission for the Georgia attorney general,
3 correct?

4 A The Georgia attorney general was serving under the
5 South Carolina attorney general that's correct.

6 Q And ultimately what role, if any, did the Georgia
7 attorney general play in this litigation?

8 A In early January, I believe it was -- well, she was
9 -- she made some rather vicious attacks on us; particularly
10 on Judge Buchanan in a December hearing. And so she had
11 clearly been closely associated with Buddy Dallas and was
12 saying whatever Buddy Dallas wanted to have said.

13 But in January, I believe, either counsel for
14 Tommie Rae or Mr. Levinson made an oral motion that she be
15 let out of the case because of a misunderstanding of the
16 reading of James Brown's will. As I recall nobody
17 objected. As I recall Judge Early didn't issue an order,
18 but she left in January of 2008.

19 Q All right. Now, that --

20 MR. BUNDY: Now let's go to the next chart. All
21 right.

22 And if you would if you would, let's go to the
23 first order.

24 THE COURT: Which order are we at now, please?

25 MR. BUNDY: This is the order of --

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1 THE COURT: Accepting resignation?

2 MR. BUNDY: Yes, Your Honor.

3 THE COURT: All right.

4 BY MR. BUNDY:

5 Q All right, Ms. Pope. We are now in November and I
6 think our last discussion was about October. Did anything
7 happen in October other than what we've -- just generally
8 what's going in October while you're still Special
9 Administrator?

10 A Well, there's just this crescendo of confusion and
11 allegations and discord and -- that because -- because
12 we're discovering more and more money that Mr. Cannon has
13 taken. And it's becoming obvious that Mr. Dallas was not
14 investigating Mr. Cannon, but, in fact, trying to white
15 wash what had happened. And so the result was that on --
16 on the -- there was a hearing on the 15th of November,
17 which was continued until the 20th of November. And at
18 that hearing lots of ugly things came out about Mr. Cannon.
19 And later I think Judge Early, himself, said the testimony
20 was as ugly as it could get.

21 Mr. -- it came out that Mr. Farr, the accountant
22 who had been fired in August had filed a bunch of income
23 tax returns that were unauthorized and the purpose of the
24 filing was to shift the ownership of -- of certain assets
25 from the estate, I mean from the estate to the trust.

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1 And those filed returns were inconsistent with documents
2 Mr. Dallas and Mr. Bradley had filed back in September and
3 an affidavit of Mr. Farr. So Mr. Farr, the accountant was
4 becoming very involved in all of this; and he was Mr.
5 Dallas's personal accountant.

6 Q So Mr. Farr had disregarded Judge Early's orders --

7 A He --

8 Q -- and continued to file documents after he'd been
9 removed by the Court?

10 A He -- he did.

11 Q Okay.

12 A And that -- and that became an issue because Mr.
13 Cannon told the judge on the 15th that he had authorized
14 that to be filed because he needed to save \$40 million in
15 taxes. That's what he said.

16 Things were closing in a little bit on Mr. Dallas.
17 There was evidence -- Mr. Dallas and Mr. Bradley, and --
18 but more Mr. Dallas in addition; not so much them
19 individually but their involvement with Mr. Cannon. And it
20 was now known that James Brown had brought in \$18 million
21 in road-show revenues between 2003 and 2006; you know, the
22 -- the copyrights that were earning \$3 million a year and
23 there was no money. So -- and even a couple of hundred
24 thousand dollars were gone so, I mean, the general
25 atmosphere was moving toward these people have a problem;

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1 all three of them.

2 Q Let me stop you there. You had \$15 million that
3 was unaccounted for with the TIAA effort from 1999; right?

4 Approximately \$15 million?

5 A That was part of the 17 that Mr. Cannon took.

6 Q And then you've got the road-show royalties of how
7 much?

8 A Well, the -- the William Morris records showed that
9 they had -- James Brown had earned about 18 million between
10 2003 and his death.

11 Q So that's in addition to the 15?

12 A That's -- well, if I could say, the 15 that was
13 taken; yes, oh yes. Because that 15 was taken by 2003.

14 Q Okay.

15 A Yeah. I mean there was just a lot of money.

16 Q So if it hadn't been taken, it would have still
17 been there?

18 A Oh, absolutely.

19 Q Okay. So you got 15; you've got the 18; and then
20 you've got \$3 millions dollars a year for royalties?

21 A Yes, oh, yeah.

22 Q And there was no money, right?

23 A No money.

24 Q Okay. That's all I was trying to get to. All
25 right?

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1 A Sorry.

2 Q And that did not bode well for Mr. Bradley or
3 Mr. Dallas?

4 A More as -- more from the coverup standpoint at --
5 certainly at that point.

6 Q All right. All right. Let's go back to the
7 hearing as referenced or as memorialized, I guess, to some
8 extent by the judge's order of November, of -- the 19th.
9 Tell me what -- how it came to pass?

10 THE COURT: It's still November 20th, I think.

11 THE WITNESS: It is, Your Honor. And it's hard to
12 see, but it looks like --

13 BY MR. BUNDY:

14 Q So the 19 looks like a 2; it had a 2 underneath it
15 on the --

16 A It is, it's the 20th.

17 THE COURT: I think we had two hearings if I
18 remember correctly -- not remember, I can't remember that
19 far back -- from an order that I signed that was November
20 15th and again on the 20th in Bamberg. That was dealing
21 with Cannon's contempt and some other issues and that's
22 when he testified that he was making that guy do the tax
23 returns. Actually my order said it wasn't quite 30
24 million, it was -- it was a lot of money is what it was; 39
25 million.

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1 THE WITNESS: Oh, sorry. I said 40.

2 THE COURT: You were one million off.

3 THE WITNESS: I'm sorry.

4 THE COURT: But anyway, it was a substantial amount
5 of money that was shocking.

6 BY MR. BUNDY:

7 Q All right. So as a result, is it correct that
8 Bradley and Dallas submitted their -- according to the
9 order, submitted their immediate permanent resignation as
10 personal representative/trustees to the estate of James
11 Brown, 2000 Irrevocable Trust, dated 2000 -- and all Brown
12 Entities, et cetera; is that correct?

13 A That's correct.

14 Q All right. And the Court accepted that resignation
15 and appointed whom or who to take -- to take the reigns
16 going forward?

17 A Well, according to the order, the Court accepted
18 that resignation and upon the recommendation of all
19 interested persons, other than the Attorneys General of
20 South Carolina and Georgia appointed Robert L. Buchanan,
21 Jr. and Adele J. Pope as personal representatives under the
22 will and trust of the James Brown 2000 Trust --
23 Irrevocable Trust and its sub-trusts.

24 Q Let's talk about this group, interested parties --

25 MR. BUNDY: If you can go back to the previous

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1 callout.

2 BY MR. BUNDY:

3 Q Upon the recommendation of all interested parties
4 -- now who would be included in that universe of interested
5 parties who did not -- who recommended you and Judge
6 Buchanan?

7 A Okay. Well, under the South Carolina Probate Code,
8 interested parties is sort of a moving target. But it was
9 pretty clear then because there had been no contest to the
10 will. So it was the children, who would have the personal
11 and household effects under the will. The --

12 Q And were they represented by counsel?

13 A They were, by Mr. Levinson.

14 Q Okay.

15 A And the grandchildren who would receive benefits
16 under the grandchildren's trust, which was one the
17 sub-trusts of the 2000 Irrevocable Trust, also represented
18 by Mr. Levinson; except that one child and one grandchild
19 -- sorry one child and one acknowledged grandchild, two
20 acknowledged grandchildren, were then represented by David
21 Bell of -- an Augusta lawyer.

22 Q And what other interested parties were there?

23 A Well, that was -- the attorneys general.

24 Q What about -- what about Ms. Hynie Rae Brown? Was
25 she --

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1 A Oh, oh, I'm sorry. Yes, she was because she had
2 filed a petition in early 2007 so she had a pending claim,
3 not to challenge the will or trust. And also her son,
4 James, had a pending claim that he was a pretermitted
5 child.

6 Q All right.

7 A So they did. You're right.

8 Q Let's talk a minute about that. And was she
9 represented by counsel?

10 A She was.

11 Q And who was her counsel?

12 A She had about five lawyers, but among them were
13 Robert Rosen of Charleston --

14 Q Robert Rosen?

15 A -- and Alan Medlin --

16 Q Professor Medlin?

17 A Heyward Carter --

18 Q He's a tax lawyer.

19 A Yes. Jean Lee. I'm not sure who else. Oh, yes,
20 well, I later found out that she also had a contract with a
21 lawyer who served as a lawyer for her child's guardian ad
22 litem.

23 Q Okay. And what was the nature of her claim that
24 would have put her in the universe of interested people?

25 A Well, if she had been determined to be the spouse.

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1 Q All right. All right. Now, it goes on to say that
2 upon recommendation of all interested persons other than
3 the attorneys generals -- Attorneys General, South Carolina
4 and Georgia. So Georgia attorney general later got out.
5 Let's talk about the attorney general in South Carolina.
6 Who was -- who appeared at that time or was appearing for
7 the attorney general of the State of South Carolina?

8 A Senior Assistant Attorney General Havird Sonny
9 Jones.

10 Q Okay. People know him as Sonny Jones?

11 A Sonny.

12 Q Okay.

13 A Uh-huh.

14 Q And what was Mr. Jones's basis to the extent you
15 know, that he was unwilling on behalf of the attorney
16 general for the State of South Carolina to agree with the
17 recommendation of all interested parties?

18 A That particular day, I would not have thought it
19 any -- that day, I you would not have thought it anything
20 other than he didn't like to commit because he had just
21 come in --

22 Q Okay.

23 A -- That day.

24 Q Okay. All right. Now, let's go to the next order
25 of November 21 entitled, Order Allowing Complying or --

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1 before we go to that.

2 Once -- you now are -- you and Judge Buchanan are
3 now playing what role, or performing what duties with
4 regard to the estate of James Brown?

5 A Well, we're now it. We are personal
6 representatives under the will, which carries with it in
7 South Carolina a duty to uphold the will; but even if it
8 did not in the State of South Carolina, it certainly did
9 under the terms of the will itself. With respect to the
10 2000 Irrevocable Trust, same thing. We're responsible for
11 the defense of the estate plan and the administration of
12 the estate and trust.

13 MR. BUNDY: Your Honor, at this point I would refer
14 to two exhibits, which are in evidence without objections,
15 Plaintiff's Exhibit 3, which is the last will of James
16 Brown, and Plaintiff's Exhibit 2, which is Irrevocable
17 Trust Agreement of James Brown. May I approach?

18 THE COURT: You may.

19 Without objection obviously?

20 MR. WILLIAMS: Yes, sir.

21 BY MR. BUNDY:

22 Q All right. Ms. Pope, if you would, I hand you
23 Exhibits 2 and 3?

24 THE COURT: Well, before you get to there, that --
25 now we start a new journey, or a new timeframe --

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1 MR. BUNDY: Yes, sir.

2 THE COURT: -- on November 20, '07.

3 MR. BUNDY: Yes, sir.

4 THE COURT: Starting with this order. Everything
5 prior to what you've been talking about and all those
6 services -- I granted summary judgment on them last week or
7 the week before last, so that's where we are now?

8 MR. BUNDY: That's correct, Your Honor. We've got
9 an order, but we haven't been paid. So we're looking to
10 paid, but we want to get paid for this now. So here we go.

11 THE COURT: Here we go.

12 BY MR. BUNDY:

13 Q If you would, let's start with the will please,
14 ma'am.

15 A Okay.

16 Q And tell me as the, you and Judge Buchanan as the
17 PR's under this will as directed by the judge, what your
18 duties were and what significant provisions in the will
19 that you feel need to be brought to the Court's attention
20 to explain what you did or what you perceived to your
21 duties and how you complied with those duties.

22 A Well, the primary one is that it was what we call
23 other pour-over will. And what that meant is whatever I
24 own, I pour over into my 2000 Irrevocable Trust. And so
25 it's sort of in probate lingo. What used to be a will is

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1 now an estate plan composed of two documents rather than a
2 single document.

3 Q Is there a term of art in your world regarding
4 documents like that? A unified --

5 A Unified -- I say unified estate plan.

6 Q Is that a term generally accepted in your field?

7 A I think so.

8 Q Okay. And just by way of example, what would be a
9 non-unified estate plan? How -- what would that look like
10 as opposed to what this looks like?

11 A Well, for example, if I had a trust for my
12 daughter, Jane, over there and -- and I had put \$100,000 in
13 it and I might, in my will add another 10,000, but give the
14 rest to my husband Tom, that would be non-unified because
15 that trust stands alone.

16 Q Okay. And that's not the case with these
17 documents?

18 A No.

19 Q Now, before we go any further, do you know who
20 prepared these documents?

21 A Yes.

22 Q And who did?

23 A Dewain Herring.

24 Q Okay. Is Mr. Herring, in your opinion, a competent
25 and capable trust and estates lawyer?

Adele Pope - Direct Examination by Mr. Bundy

1 A Before Mr. Herring had an unfortunate event that
2 ended his career and probably ruined his life, he was a
3 very competent lawyer. And I, in fact, had him as an
4 expert in another case at the time of the unfortunate
5 event.

6 Q And that unfortunate event had nothing to do with
7 his preparations of wills or trusts or trust advice, did
8 it?

9 A No.

10 Q Okay. So if you would, explain to the Court -- and
11 let's go through the will first, or whatever you deem to be
12 appropriate, to explain now that you're the PR and trustee,
13 along with Judge Buchanan, what your duties were and what
14 your goal was, so to speak, in order to implement the
15 intent of James Brown.

16 A Well, James Brown wanted to leave the bulk of his
17 fortune to his "I Feel Good" Charity that has but one
18 purpose, to provide money to educate needy and deserving
19 students studying in Georgia and South Carolina. That was
20 the primary goal throughout both of his documents.
21 Everything centered around that.

22 In addition, he acknowledged six children to be his
23 children and that did present an issue already by November
24 20th, 2007, because under South Carolina law, at least two
25 of those were not presumed to be his children, but he had

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1 acknowledged them to be his children.

2 In addition, by then through DNA testing provided
3 by the estate, three children of James Brown who were DNA
4 proven children had been identified and acknowledged by the
5 prior personal representatives, not acknowledged to receive
6 anything, but acknowledged as James Brown's children.

7 So there were issues surrounding that. None of
8 which would have mattered unless there would be a will
9 contest. But, things that were looming in case the will
10 contest occurred, there was a fee schedule for reasonable
11 fees in both of the documents and both of the documents
12 contained very, very strong in terrorem clauses. James
13 Brown specifically said, Should any beneficiary under this
14 will or this Irrevocable Trust either directly or
15 indirectly challenge the terms of this trust, that -- that
16 those challenges should be vigorously met by the personal
17 representatives that the person making the challenge would
18 lose standing under James Brown's documents and -- and that
19 such an action would be considered an affront to James
20 Brown's wishes.

21 So it was a very, very strong in terrorem clause in
22 a will and trust which had been in place for six-and-a-half
23 years before James Brown's death; a trust which had been
24 actively and openly managed in two separate states which
25 had what's called a certification of a trust notifying the

Adele Pope - Direct Examination by Mr. Bundy

1 world of the existence of these trusts and --

2 Q Let me stop you right here a minute. Based upon
3 your general knowledge or specific knowledge and what
4 you've learned since you got involved, have you come to
5 know what James Brown's reputation was for responding to an
6 affront? When James Brown was affronted, what was his
7 response?

8 A Well --

9 Q By reputation?

10 MR. WILLIAMS: Your Honor, I believe all evidence
11 would show that Ms. Pope did not know Mr. Brown during his
12 lifetime; and if she were to give us testimony, it would be
13 testimony that she perhaps read and she would be
14 introducing hearsay concerns?

15 THE COURT: Well, you know, that's probably
16 somewhat correct, but I'm trying this nonjury and I've
17 heard --

18 How many years, Ms. Pope? Ten years of it.

19 -- and I haven't heard anything new to me yet this
20 morning. I'm going to allow her to answer that for the
21 record.

22 THE WITNESS: Well, I think it's -- it can be said
23 most succinctly by Mr. Dallas who said, If James Brown were
24 here, this would all be over in 15 minutes.

25 ///

Adele Pope - Direct Examination by Mr. Bundy

1 BY MR. BUNDY:

2 Q So have you read the book *Kill Them and Leave*?

3 A I have.

4 Q All right.

5 A Was he quoted in there -- I'm sorry.

6 Q All right. So now -- so did you -- as the personal
7 representative and trustee, what is your job relative to
8 the decedent and his documents?

9 A It's to -- it's to enforce his estate plan.

10 Q All right.

11 A If a challenge is raised to his estate plan.

12 Oh, if I could say one thing about that, just 11
13 days, 10 days before we were appointed, on Halloween, two
14 of his daughters had been deposed and under oath had stated
15 that they believed the will carried out James Brown's
16 wishes, they just didn't like the trustees.

17 Q All right. Let's -- let's move a minute back to
18 the order appointing you as personal representative to
19 the --

20 MR. BUNDY: On the second page, please.

21 THE WITNESS: Oh, that was the in terrorem clause.

22 BY MR. BUNDY:

23 Q I want to go to --

24 A Oh --

25 Q -- to this page.

Adele Pope - Direct Examination by Mr. Bundy

1 A Oh, okay. The --

2 Q This is on Judge Early's order accepting
3 resignation, appointing representatives. What I want to
4 focus your attention on --

5 THE COURT: Which order are you referring to,
6 please?

7 THE WITNESS: The same one, Your Honor. The
8 November 20th, at the end.

9 THE COURT: Okay. November, 20th.

10 BY MR. BUNDY:

11 Q And I'd like to direct your attention to this line,
12 one, you were appointed along with Mr. Buchanan, personal
13 representative of the estate of James Brown and trustee of
14 James Brown's trust: To serve without bond with all the
15 authority, powers, and duties as if they had been appointed
16 in the original documents, other than the requirement that
17 there be three personal representatives and trustees.

18 What is the legal significance of that in your
19 mind?

20 A Well, it gave us the same authority as if we had
21 been named successors in James Brown's documents. And the
22 prior trustees had resigned without designating a
23 successor, which they did.

24 Q Okay. Did anybody appeal this order?

25 A No.

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1 Q Did anybody move for reconsideration?

2 A Excuse me, some people did move for
3 reconsideration.

4 Q Okay. And was it changed?

5 A Well, it -- it's a bit of a long story, but the
6 short version is: After a series of hearings Judge Early
7 denied the right of Mr. Dallas and Mr. Bradley to -- to
8 come back in, not as personal representatives, but as
9 trustees. They challenged their --

10 Q What I'm talking about, this language here, the
11 language that you would serve as if you had been appointed
12 in the original documents. Has anybody ever appealed that
13 aspect of that?

14 A Well, no. Only to the extent that Mr. Dallas and
15 Mr. Bradley took the position that they had been hoodwinked
16 into resigning.

17 Q All right. Let's put aside Bradley and Dallas.
18 The attorney general didn't appeal it?

19 A He did a motion to alter or amend in December,
20 which we think was untimely, that challenged Judge Early's
21 authority again, to appoint not a PR, but a trustee in
22 addition to a PR. But that, again, was resolved by the
23 order of Judge Early dated April 8th, 2008; and the
24 attorney general did not appeal that order.

25 Q Okay. All right. Let's go to the next order --

Adele Pope - Direct Examination by Mr. Bundy

1 before we do that, is there anything else that we need to
2 understand about either the trustees or the will before we
3 go forward as it relates to your basic duties as PR and
4 trustee, now that you've discussed the in terrorem and the
5 rest of --

6 A Well, I don't think so, except the notion that in
7 -- within the Irrevocable Trust, there appears to be a
8 formula which says half to my grandchildren and half to my
9 -- to the James Brown "I Feel Good" Charity. But -- but
10 the grandchildren's is limited to 2 million, so it wasn't
11 half at all. It was 2 million and everything else.

12 Q Okay. All right. Let's look at the order allowing
13 combining of funds.

14 A Okay. That order -- that order was an example of
15 what -- what we began to see, which was a, a concern that
16 the attorney general would express and then realize that it
17 was okay what we were doing. That order -- we asked Judge
18 Early to approve the payment of certain expenses from the
19 estate to the trust to pay the security for the Beech
20 Island home.

21 Some money was coming in. There was a publicity
22 rights deal, \$100,000 coming in, and we needed to use that
23 money to keep security at the house until we could do
24 something about the tangible personal property. So it just
25 allowed us to transfer funds. The attorney general

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1 misunderstood and thought we were taking money from the
2 charity, which we couldn't do. He was correct. We could
3 not possibly do and would not have done. But it got
4 resolved.

5 Q All right. Well, let's look at our timeline over
6 here, the PR/Trustee Timeline. It looks as if in December,
7 there was a will challenge; is that correct?

8 A There were -- there were two will challenges and
9 two trust challenges.

10 Q All right. And is there a time or statute of
11 limitations of filing a will challenge?

12 A There is. One year after death. Tommie Rae filed
13 her challenges, two separate lawsuits on December 19th.
14 One year after Mr. Brown's death was December 25th, but
15 that was a holiday. And so, Mr. Levinson on behalf of five
16 of the six children named in the will and their children,
17 filed the challenges on December 26, 2007.

18 Q Okay.

19 A The last day.

20 Q All right. Did those will challenges create any
21 discord among the parties?

22 A Well, there was already plenty, so I wouldn't say
23 that event, but, I mean there was extraordinary discord
24 already in place.

25 Q And in your opinion did the in terrorem clause

Adele Pope - Direct Examination by Mr. Bundy

1 apply now to the individuals that filed these will
2 challenges?

3 A Well, to -- sitting here, I would say as a legal
4 matter, yes. We very much did not want to have to enforce
5 the in terrorem clause. We wanted to stave off a
6 challenge.

7 Q Okay.

8 A And we did everything we could to do that.

9 Q All right. That's where I wanted to go. It
10 appeared as though the latter part of November -- and we
11 talked about that. What is this green graph?

12 A That is a drawing of my time spent as personal
13 representative.

14 Q Okay.

15 A A graph of my time spent as personal
16 representative.

17 Q Those are your hours?

18 A These are my hours.

19 Q All right.

20 THE COURT: Now, I asked a question when we were
21 opening or when we were going over those demonstrative
22 aids, I was told, I thought, that was your hours and your
23 help.

24 THE WITNESS: No, Your Honor. The 1,473,550 is --
25 includes time and cost for myself and for my assistants.

Adele Pope - Direct Examination by Mr. Bundy

1 They're -- in schedule -- Exhibit 5 of the joint claim,
2 Mr. Buchanan and I filed in 2009, we recounted our staff
3 hours. So it's documented, but not in the chart. It is
4 included in the number.

5 MR. BUNDY: May I approach, Your Honor.

6 THE COURT: You may.

7 Anyway the green includes staff and lawyer.

8 THE WITNESS: The green includes staff and lawyers.

9 MR. BUNDY: That's Exhibit 5.

10 THE COURT: I've got Exhibit 7.

11 MR. BUNDY: Well, it's Exhibit 7 to this trial.

12 THE COURT: It's identified Exhibit 5.

13 MR. BUNDY: It used to be Exhibit 5 in the
14 affidavit. It's now Exhibit 7 and that's the back up for
15 what she just explained.

16 BY MR. BUNDY:

17 Q All right. So now, it looks as though according to
18 this, you logged about 150 hours in the month of December,
19 correct?

20 A Yes.

21 Q Or at least that's what you wrote down?

22 A Well, that's what -- that is what my time sheets
23 showed and that is what my descriptions showed and I think
24 my descriptions may have missed a day or two, but my time
25 sheets and my time records -- a day or two, I mean over the

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1 period of a year and a half, but -- that I forgot to
2 recapture -- but my time records which I prepared in
3 connection with the claim which is the subject of this
4 action in 2009 clearly reflected that.

5 MR. BUNDY: And, Your Honor, I believe you have
6 that in front of you. I don't have -- I didn't write the
7 exhibit number down, unfortunately.

8 THE COURT: I think it's Number 8.

9 MR. BUNDY: Number 8.

10 BY MR. BUNDY:

11 Q And is that contained in Exhibit 8, Ms. Pope? Here
12 it is right here, Exhibit 8?

13 A Yes. The chart --

14 THE COURT: That's a break down of the hours; is
15 that correct?

16 THE WITNESS: The chart -- the chart was then put
17 into a similar computation and I checked each one and then
18 we checked the green chart against it.

19 BY MR. BUNDY:

20 Q So if the judge desires he can go to any day here
21 and read a narrative of what you did on that day?

22 A He can.

23 Q And how much time it took?

24 A Well, he could get it from there or he could get it
25 from hundreds of pages of other documents.

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1 Q I got you. Okay.

2 So let's talk about, just in general based on your
3 recollection, what you were doing from the time you became
4 PR/Trustee until the will challenge to persuade the people
5 who would ultimately file the will challenge not to file a
6 will challenge. Tell us what you did.

7 A Well, Judge Buchanan and I always hoped that that
8 third seat would be a family seat.

9 Q The third seat as a trustee?

10 A The third seat that Judge Early had allows us to
11 leave vacant. I mean that was the way it ideally would
12 have been and we knew --

13 Q Why did you want to do that?

14 A Well, because it was James Brown. And if a family
15 member could be one of three trustees, it would be great.
16 And so, we really began to try to stave off a will contest
17 by Louis Levinson's clients.

18 Q Well, what -- why would -- who -- let me start it
19 this way: Who were you hoping to put on the board? Which
20 family members or member were you hoping to put on the
21 board? Or ask to be on the board?

22 A Well, honestly, we perhaps had not gotten that far,
23 but clearly either Deanna or Yamma would have been highly
24 qualified to be on it if they hadn't challenged the will.

25 Q Okay. So -- and I guess that's what I'm trying to

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1 get to. How is it that a will challenge somehow affects
2 their ability to be on -- a trustee?

3 A Well, because Judge -- I'm sorry. Because James
4 Brown had said himself, had said anybody who challenges
5 this will either directly or indirectly loses standing. I
6 mean, he was serious that he did not want a challenge. And
7 if I could put it in a little better context, remember as
8 special administrators, we were looking at the fund. We
9 didn't care who was going to get it. There was no will
10 challenge at the time, so we assumed it was going where it
11 does go under the documents.

12 But if -- if there had been a will challenge at
13 that time, it wouldn't have been our affair. But once we
14 were appointed PR's and trustees two things happened. One,
15 it was our legal duty to defend the will -- well, three.

16 Two, James Brown's documents demanded it.

17 And three, and this I've really never seen before
18 in a will contest, more than a year before and just four
19 days after he had entered that \$26 million transaction with
20 15 lawyers in New York, James Brown had done an earlier
21 will and trust which looked almost exactly like this
22 document. And there was some minor changes, but
23 essentially we had an ironclad estate plan. But the copy
24 of the '99 documents were in a sealed box; and so the first
25 thing we did when we read that document was urge people to

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1 unseal that box and read that because I thought that if
2 Louis Levinson would understand how insurmountable, from
3 our perspective at least, the challenge -- a challenge to
4 the will would be, that we could maybe keep him from doing
5 that.

6 And so, the judge may remember, that on December
7 21st, he was sick and we had a hearing and we were -- we
8 were begging to let that box be opened and Your Honor
9 looked at Stan Jackson and said, where are your clients?
10 Can they open that box.

11 And Mr. Jackson said he would check with them and
12 get to Judge Buchanan and me that afternoon. That was the
13 21st of December. And Mr. Jackson left town. I think
14 Judge Buchanan had to go scale his fence to get his phone
15 number or something, but anyway, finally after a lot of
16 work on Judge Buchanan's part, on -- at noon on December
17 24th, Christmas Eve, we faxed the '99 will to Mr. Levinson
18 and everyone else hoping, hoping that they would look at
19 that and not challenge the documents.

20 So -- so -- but they did. And so --

21 Q Let me stop you there --

22 A -- we really wanted to give them some time to drop
23 that lawsuit.

24 Q Let me ask you a question. Based on your
25 experience and expertise and based upon what you knew at

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1 the time in light of the '99 will and trust documents
2 compared with the 2000 documents, do you have an opinion to
3 a reasonable degree of certainty as to the likelihood of
4 success of a will contest, based on those documents?

5 MR. WILLIAMS: Your Honor, back to our prior
6 objection.

7 THE COURT: I'll sustain that objection.

8 MR. BUNDY: Thank you, Your Honor.

9 BY MR. BUNDY:

10 Q All right. Now, you were unsuccessful -- and let's
11 -- I think we are now -- you were unsuccessful in avoiding
12 a will contest; is that correct?

13 A We were.

14 Q And there were three different sort of groups
15 contesting the will; is that fair to say?

16 A No. There were two, what I would call groups.
17 Tomi Rae and her son being group one and the five
18 Levinson clients for themselves and their children being
19 the other. The third group of non-charitable beneficiaries
20 was the son, Terry Brown and his children, Forlando and
21 Romunzo. And they were very much supporting the will, but
22 they in turn on -- not they, I'm sorry. Forlando in turn
23 on January 2nd, 2008, filed a federal court action in the
24 Court where Judge Buchanan practices, seeking to enjoin the
25 2000 Trust from taking any action until the Cannon trustees

Adele Pope - Direct Examination by Mr. Bundy

1 were reinstated.

2 Q Okay.

3 A There was a -- there's a lot going on, but they
4 theoretically were supporting the will.

5 Q Okay. What was the basis of the will contest as
6 you understand it?

7 A I haven't looked at it in a long time, but undue
8 influence.

9 Q Undue influence, okay.

10 All right. Now, in January -- I guess we would be
11 now into January here. Yes. All right.

12 THE COURT: January of '08, right?

13 MR. BUNDY: January of '08, Your Honor, yes.

14 BY MR. BUNDY:

15 Q And this document is entitled Order Directing
16 Payment of Fees and Costs of Special Administrators and
17 Other Relief. What was the genesis of this order,
18 Ms. Pope?

19 A Well, we had completed our service as special
20 administrators and we hadn't been paid. And also, I went
21 with my husband to a -- a meeting in -- somewhere. And I
22 sat by a gentleman who had served in a lot of court
23 appointments and he said to me -- and he was somebody I
24 respected. He said, go home and make arrangements for how
25 you get paid now.

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1 And I went to Judge Buchanan and I said, this
2 gentleman said we need to make arrangements for how we get
3 paid now.

4 So we -- we -- we had the authority under the
5 documents to just pay ourselves. James Brown's documents
6 would allow that, as long as we paid ourselves a reasonable
7 amount. But we said no. So we essentially made an
8 agreement with ourselves as PR's and trustees,
9 individually, to be paid on a time plus cost basis, similar
10 to what we were asking for as special administrators. But
11 this would be for, for time and costs as a deposit toward a
12 full commission and so that was what we requested.

13 That was what we approved as PR's and trustees and
14 that was what we presented to Judge Early in a filing in
15 December and -- which he approved in -- on January 8th,
16 what we call the payment order of January 8, 2008.

17 Q All right. Let's look at it.

18 A Okay.

19 Q It says, Both Mr. Buchanan and Ms. Pope are
20 attorneys with substantial experience. This has been an
21 extremely difficult case -- and it continued to be
22 extremely difficult?

23 A Double difficult.

24 Q Okay. So worse than it was then?

25 A About twice.

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1 Q Okay -- and has required they devote a large
2 portion of their day almost every day to the task --
3 that was accurate then?

4 A Absolutely.

5 Q And how did that change, if any, in the -- going
6 forward?

7 A It got worse.

8 Q All right. Their discovery of the inappropriate
9 2006 deposit of 9,000 -- \$900,000, which should have been
10 applied to Mr. Brown's debt has been of substantial value
11 -- with the help of family members and their counsel, the
12 special administrators investigated numerous areas of
13 concern. As PR's and trustees they are continuing their
14 work.

15 So let's go to the next paragraph, please.

16 In addition to their own work, the special
17 administrators were required to use staff in a way which
18 was not anticipated at the time of their appointment.
19 Mr. Buchanan's office became the home address of the James
20 Brown Estate, the James Brown 2000 Irrevocable Trust and
21 the Brown Entities. Ms. Pope's office became the
22 repository for more than 80 boxes of documents. With the
23 assistance of the staff of former counsel for the PR
24 representatives, after August 10, 2007, Ms. Pope and her
25 staff made documents and records available to counsel for

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1 all interested parties, as well as the work of the estate.

2 Now, let's go to the next one. With respect to
3 their request to receive periodic payments on a time plus
4 cost basis, with full right -- with right to receive full
5 commissions as personal representatives and trustees, I
6 find that it is entirely reasonable under the
7 circumstances. Based on their affidavits it is clear that
8 the work of Mr. Buchanan and Ms. Pope has approximately
9 doubled since they became personal representatives and
10 trustees.

11 And that's consistent with the green chart, is it
12 not?

13 A Yeah. I actually checked that over the weekend. I
14 was spending 100 hours or less a month as special
15 administrator and as PR and trustee, about 200 -- 200 or
16 more each month.

17 Q Okay. So you went --

18 A With the one exception, I think.

19 Q Right. Right.

20 In less than a month of service, they have filed
21 the application of recognition of the James Brown "I Feel
22 Good" Trust as a 501(c)3 Charitable Educational
23 Organization. They have also begun to address the
24 substantial tax issues facing the estate, the trust, and
25 the Brown Entities.

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1 Further, they are now actively involved in both the
2 administration of Mr. Brown's assets and entities and also
3 the defense of his estate plan.

4 Go to the next line, please.

5 Under these circumstances the Court finds it
6 appropriate for Mr. Buchanan and Ms. Pope, as personal
7 representatives and trustees to continue to receive fees
8 and costs on an hourly basis, as a deposit only --

9 What does that mean?

10 A Well, just what it said. For example, if, if --
11 remember now, we were PR's and trustees and we would later
12 seek a commission that was in the range of 5 percent; and
13 so if we had been timely paid under this order and my
14 commission at approximately 2.8 million then would be
15 reduced by what I had been paid.

16 Q If you hadn't have been paid it wouldn't be
17 reduced?

18 A It hadn't been paid, it wouldn't be produced
19 (verbatim), plus it would earn interest from the time it
20 was earned.

21 Q So it was contemplated at the time of your order
22 that your fees, your commissions, would not be limited to
23 your hours?

24 A No. They would not be.

25 Q Okay. -- as a deposit only to any full commissions

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1 to which they might be entitled as personal representatives
2 and trustees. I specifically find that such payments are
3 reasonable and should be made without prejudice to, but as
4 a deposit toward their full commissions.

5 And it was upon that order you proceeded as PR and
6 trustees; is that correct?

7 A That order and James Brown's documents.

8 Q Let's go to the last part of the order.

9 Based on the foregoing, it is ordered, adjudged and
10 decreed: Robert L. Buchanan, Jr. and Adele J. Pope shall
11 receive continuing payment on a time, plus costs basis for
12 themselves and their staff, commencing November 21, 2007.

13 And that's right here, the beginning of the green
14 graph, correct?

15 A That's correct.

16 Q Shall be a deposit toward and without prejudice to
17 their full commissions as personal representatives and
18 trustees.

19 Is the time plus cost that you're seeking under
20 that portion of this order \$1,473,550 plus 8.75 percent,
21 simple interest?

22 A Yes.

23 Q Thank you.

24 Now, Three: To the extent not paid within 60 days,
25 the above amounts shall be subject to interest at the legal

Adele Pope - Direct Examination by Mr. Bundy

1 rate. Correct?

2 A Yes, and actually theoretically, a bunch of that
3 was earning interest all along.

4 Q Right.

5 A But I have simply asked the Court to accrue the
6 interest from May 26, 2009, which was the date we were
7 relieved of our appointment.

8 Q Okay. And are there -- is there any question about
9 what the legal rate is in your mind or are there more than
10 one legal rate and you selected one as opposed to the
11 other?

12 A Well, I see my son-in-law over there because he
13 taught me to watch this, but at some point, approximately
14 seven years out, one of the two rates of legal interest in
15 South Carolina have a crossover. For the first years,
16 prime plus 4 percent will be the higher rate. I mean will
17 be the lower rate. Prime plus 4 percent would have been
18 the lower rate. But that compounds, where as the 8 and
19 three-fourths percent rate does not compound. Simple
20 interest, so at about 6 or 7 years, they crossover and the
21 rate that I've asked for is the lower of the two --

22 Q So --

23 A -- possible interpretations of the word legal rate.

24 Q So you're not asking interest during the time
25 period and you're also not asking for the highest interest

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1 you could get?

2 A Right. Except for the last -- theoretically the
3 last 60 days.

4 Q And then Robert Buchanan and Adele Pope shall be
5 reimbursed for all costs as shown.

6 Now, this was a filed document with the Court,
7 served on all the parties; correct? As far as you know?

8 A Absolutely.

9 Q Okay. Did anybody file a 59(e) motion?

10 A No.

11 Q Did anybody appeal?

12 A No.

13 Q Is that on appeal now?

14 A No.

15 Q All right. And based upon the failure to file a
16 59(e) or appeals, was this the understanding of how you
17 were to be compensated going forward?

18 A Yes.

19 Q All right. Now let's look at the -- I'd like to
20 talk to you now, just generally about -- let's talk about
21 what else we've got in the -- it looks like the month of --
22 where are we, in December?

23 No, January, I believe it is. We've got an order
24 scheduling hearings. What's the significance of -- of this
25 order in your mind, Ms. Pope?

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1 A Well, it's only significant in that so much was
2 going on. I mean many, many things had happened other than
3 the five lawsuits I've mentioned to you between November
4 20th and the date of this order.

5 Mr. Dallas and Mr. Bradley had sought to have Judge
6 Early recuse himself. There were accusations everywhere.
7 There was acrimony everywhere. There was just lots to be
8 dealt with and so we had requested, and I don't think
9 anyone disagreed, that we have regular hearings because so
10 much was going on.

11 And so that's just representative of the fact that
12 every single month, and sometimes twice and a couple of
13 times three times a month, there would be a hearing of some
14 sort to deal with some of the many, many, many, issues that
15 were going on.

16 Q Was there discord amongst the participants in this
17 the proceeding?

18 A There was discord everywhere.

19 Q How much of it did you cause?

20 A None. Except that we -- we did believe that we had
21 to defend the estate plan. I don't call that --

22 Q I understand?

23 A -- discord.

24 Q The discord you created was by defending the estate
25 plan?

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1 A That would be the only possible interpretation of
2 it.

3 Q All right. Let's go to Order Approving Engagement
4 of Counsel?

5 A Yes. That was the order by which Judge Early
6 authorized us to engage Mr. Few and Mr. Gilreath.

7 Q All right. Let's talk about that engagement a
8 moment. As of -- the attorney general had been involved in
9 this matter now for how long?

10 A He came in on September 24th and was officially
11 admitted on October 4th.

12 Q Okay. So this is now December?

13 A January.

14 Q January?

15 A Uh-huh.

16 Q January. Okay.

17 When you -- we discussed earlier that you had
18 decided or -- when you were special administrator, that you
19 wanted to hire Gilreath and Few to go after Mr. Cannon and
20 whatever else he -- could be discovered relative to those
21 misdeeds; correct?

22 A Correct.

23 Q All right. Did the attorney general, through Sonny
24 Havird Jones become involved in that discussion regarding
25 who the attorneys should be?

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1 A Yes.

2 Q All right. And can you tell us the nature of that
3 involvement?

4 A Sonny wanted to control the litigation. And he
5 wanted to do it through the Attorney General's Official
6 Counsel Litigation Retention Agreement, which he took pride
7 in having helped the attorney general develop.

8 That agreement, again, most essentially put the
9 attorney general in control of the litigation.

10 Q What was your position relative to the legal right
11 of the attorney general to control that litigation?

12 A Well, it was always we wanted to work with the
13 attorney general. We wanted him on our side, but we
14 thought the engagement should be lawyers selected by the
15 trustees. We certainly wanted him to agree with us about
16 that. And he did, in fact, agree that Mr. Few and
17 Mr. Gilreath were extraordinarily competent. He just
18 wanted us to select his people.

19 Q As an accommodation to him, did you interview or
20 otherwise talk to lawyers he wanted you to hire?

21 A We did. I spent about -- several hours on the
22 phone with representatives of the law firm of Mark Buyk,
23 who is a wonderful lawyer. And -- but, Mr. Buyk then
24 notified the attorney general that his firm was not
25 interested in the appointment.

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1 And then Sonny wanted us to hire Steve Hamm. And
2 Steve, again, is a fine lawyer, but we felt we had picked
3 the finest lawyers for this assignment. And ultimately,
4 the judge agreed with us.

5 Q Okay. And that's when he gave you the right in
6 this order to retain counsel?

7 A That's correct.

8 Q All right. And it was a continuous duty.

9 Did the -- are you aware of any discussion between
10 Mr. Few and Mr. Gilreath about -- that the attorney general
11 -- the attorney signing the attorney general's contract at
12 his hourly rate or whatever?

13 A Well, they did make us some concession to their fee
14 to -- giving Mr. Jones credit, Mr. Gilreath, and Mr. Few
15 did make a concession to their fee. But what they weren't
16 wanting to be was be under the control of the attorney
17 general.

18 Q Well, didn't the attorney general want 10 percent
19 of the recovery?

20 A Well, that -- that is true. All of the attorney
21 general's contracts give the attorney general's office 10
22 percent of, not the recovery, the legal fees.

23 Q So Mr. Jones had a financial interest in putting
24 his lawyers in and signing his contract and controlling
25 that litigation as an employee of the attorney general?

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1 A Well, that's been raised a lot of times about other
2 people. It was not the focus of our concern at the time.

3 Q But did it cause you any concern as the trustee?

4 A Not -- not at the time.

5 Q Okay. All right. And let's move to the order --

6 THE COURT: It's one o'clock, Mr. Bundy.

7 MR. BUNDY: Good time to stop.

8 THE COURT: Well, and I'm trying to keep us on
9 schedule. So we're going to stop at one and we will start
10 back at two. You folks enjoy your lunch.

11 Ms. Pope don't discuss your case with your lawyers,
12 please.

13 THE WITNESS: May I have lunch with my daughter?

14 THE COURT: How about your husband?

15 THE WITNESS: Oh, well, we'll invite him if he'll
16 pay. Thank you.

17 THE COURT: All right. Everyone have a nice lunch.
18 We'll start back at two o'clock. Thank you very much.

19 (A recess for lunch was observed.)

20 MR. BUNDY: May it please the Court?

21 THE COURT: Yes, sir.

22 BY MR. BUNDY:

23 Q All right. Ms. Pope, before the lunch break, I
24 believe we were looking at the Denial of the
25 Reconsideration -- we went through the -- this is the

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1 period where you -- this would be the motion of
2 reconsideration. What is going on in January of 2008
3 regarding Mr. Cannon?

4 A Okay. Well, this is just a denial of Judge Early's
5 -- of David Cannon's attempt to have a reconsideration of
6 Judge Early's order finding him in contempt and then later
7 on there was a question of whether the contempt was willful
8 and that continued on.

9 And really like lots of things you've asked me
10 about, lots went on and it really would be at least
11 minimally recorded in the time -- the time records and
12 explanations. So there was lots going on about Cannon.

13 Q And that would be --

14 A Throughout --

15 Q That would be graphically represented here, would
16 it not?

17 A Well, it certainly would. Cannon and many other
18 things; yes, would be part of that graph.

19 Q Next; I'd like to draw your attention to Court of
20 Appeals Order Ex Parte David Cannon --

21 A Again --

22 Q -- dated February 1, 2008?

23 A Again, I think Judge Early found that Mr. Cannon's
24 behavior -- now, again, this wasn't all of Mr. Cannon's
25 takings, but found that Mr. Cannon's actions, which had

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1 been the subject of the November 15, and 20th, 2007,
2 hearings were willful contempt. Of particular note was
3 that he had wired \$900,000 to Roatan Island in the -- in
4 Honduras in the Caribbean to purchase a turnkey retirement
5 mansion which was being built at the same time he was
6 telling the Court he was unable to make payments.

7 And we -- by the way, by the time this order comes
8 out a young woman I knew had gone to Roatan Island and
9 taken some pictures of the structure which was being built
10 to be his turnkey retirement mansion.

11 Q And these funds were sent to Roatan during a period
12 of time, of time when he was under a Court order to repay a
13 debt?

14 A Well, close. It was August 16, 200 -- August 16,
15 200 --

16 (The Court handed Ms. Pope a document.)

17 THE COURT: That's that order you can refer to.

18 THE WITNESS: -- 7 -- oh, thank you -- that I
19 believe he -- he wired -- it was certainly -- we were
20 looking into the missing money at the time. And I could be
21 wrong. He could have wired only \$800,000 to Roatan because
22 earlier in the year in 2007, he had spent \$200,000 on the
23 lot; but essentially, it was a million dollar retirement
24 mansion.

25 Q All right. The next document is the --

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1 THE COURT: And it was paid for all before the
2 first shovel of dirt was turned. You remember that?

3 THE WITNESS: Your Honor, but the dirt was turned
4 and it did get finished.

5 THE COURT: I know, but he had paid for it before
6 any dirt was turned.

7 THE WITNESS: Yes, Your Honor.

8 BY MR. BUNDY:

9 Q The next I'd like to draw your attention to is
10 February 1, 2008 Order Granting Supercedes from Court of
11 Appeals, I believe.

12 A That's just more of the Cannon issue. He was
13 ordered to go to jail and he could purge himself by certain
14 actions. And he was seeking to post a bond rather than to
15 post a cash bond. I don't remember today all the details,
16 but there -- there was a lot going on. And also Cannon
17 kept changing lawyers in the process as well.

18 Q And then there's February 6, 2008 order clarifying
19 the bond?

20 A Again, that was Cannon wanting to put up -- post
21 some sort of bond by people who had assets rather than a
22 cash bond. And he was allowed, as I recall to do that.
23 And then somehow he ended up going to jail because either
24 the bond ran out or there was something else that happened.

25 Q And then the next document would be the 2008,

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1 February 19 order, wherein Judge Early denied the motion
2 for recusal which had been filed by Dallas and Bradley; is
3 that correct?

4 A Right. Well, there was just a lot going on with
5 Mr. Dallas and Mr. Bradley and with everyone between our
6 appointment, but specifically between the will contests
7 that were filed on December 19 and 26, 2007, and this
8 period when this order was issued.

9 And one was that Powell Goldstein, the lawyers for
10 the Forlando suit that had been brought against the 2000
11 Trust on January 2nd, 2008, to try to enjoin the trust from
12 taking any action until the Cannon trustees were
13 reinstated.

14 Those lawyers, Powell Goldstein, were also helping
15 Mr. Dallas attempt to require Judge Early to recuse
16 himself. And he filed a motion to require Judge Early to
17 recuse himself and a motion for another judge to hear the
18 recusal motion. And that happened right at the end of
19 December or the very first of January of 2008. And Judge
20 Early, because that brought a halt to everything until
21 there was a ruling.

22 Judge Early set yet another hearing, not one of the
23 scheduled ones, for January 4th of 2008, and -- and before
24 he had a chance to hear the issue about whether another
25 judge had to hear the recusal, the Supreme Court sent down

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1 an order making clear that Judge Early was the appropriate
2 judge to hear the recusal motion. And so he did hear the
3 recusal motion on the 4th of January and he orally denied
4 the recusal from the bench. And he would have issued an
5 order, I'm sure shortly after that; but Mr. Dallas and Mr.
6 Bradley changed lawyers, and within a few days a new
7 lawyer, Wayne Byrd had come in on their behalf and he asked
8 Judge Early to please not issue the order.

9 I don't know, but he just -- he was hoping that
10 something could be resolved before the order was issued.
11 It was not -- nothing was resolved. And so the order came
12 out on February 19th, 2008.

13 Q So in terms of your abilities to perform your
14 duties as the trustee, what effect did the Forlando suit
15 and the motion for recusal have on your ability to
16 represent yourself as acting on behalf of the trust -- on
17 behalf of the trust so you could get some things done?

18 A Well, those were -- those were -- had some effect
19 on it, but the real effect was -- or the larger effect was
20 -- was the attorney general of South Carolina was
21 challenging Judge Early's authority to appoint us to the
22 two roles. And so on -- on approximately January 6, Judge
23 Buchanan and I filed documents with the Court and, of
24 course, served them on the parties. And essentially, the
25 documents said, if Judge Early will not conduct a hearing

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1 and at that hearing investigate and determine both that our
2 appointment is valid and that all of our service has been
3 both ethical and appropriate, we ask the Court to allow us
4 to resign. And we asked the Court to allow us to resign in
5 a way that doesn't allow the Cannon trustees to be returned
6 because that was -- with the federal lawsuit pending, that
7 was a huge fear.

8 Today it seems absurd because we know that Mr.
9 Cannon took \$17 million, but at that time, on January 6 of
10 2008, it was a huge threat because the attorney general had
11 been told that Mr. Cannon was innocent, that Bob Buchanan
12 and I had tossed him out to get a \$5 million commission on
13 \$100 million estate and that we were trying to transfer
14 assets from the trust into the estate to increase our
15 commissions.

16 So it was a -- today it seems absurd, but it was a
17 real threat then and Mr. -- Judge Buchanan and I wanted to
18 resign if the judge did not find that everything we had
19 done was okay. But we wanted to resign in a way that
20 Cannon -- the Cannon trustees could not come back in.

21 Q And did you, in fact -- did Judge Early hear that
22 motion? Did he rule? Or how did that end up?

23 A Well, he did, but it took a little time because he
24 correctly determined that if he heard the motion of Mr.
25 Dallas and Mr. Bradley to be reinstated, in other words to

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1 rescind their resignations -- they had not been removed by
2 Judge Early, they had resigned in open court. But they
3 were now saying that their resignations were forced, that
4 they were illegal, you know, a number of allegations. And
5 so Judge Early appropriately determined that the first
6 thing to do was to find if he was going to reinstate them
7 because that would render our motion moot.

8 But -- so the first hearing held was, I think
9 February 8th of 2008. And at that hearing, he dealt with
10 the issue of whether Mr. Cannon and Mr. Dallas could
11 rescind their resignations. And on March 7th, which was
12 the next scheduled hearing, Judge Early issued and
13 distributed an order saying that Mr. Cannon -- I'm sorry --
14 Mr. Dallas and Mr. Bradley could not rescind their
15 resignations. So that ended there.

16 And so that very day he proceeded with the hearing
17 on Judge Buchanan's and my request to review our
18 appointments and determine whether we were properly
19 appointed and whether we had served both ethically and
20 appropriately because since December 20 -- I'm sorry --
21 Since November 21, 2007, the attorney general had been
22 making the allegation that it was unethical for us to serve
23 as both PR and -- PR's and trustees; not that our work was
24 inappropriate, but holding the two offices was
25 inappropriate. And we had gotten a slight reprieve or a

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1 little bit of comfort about that because those were strong
2 allegations.

3 And on January 9th at a hearing before Judge
4 Early, Judge Buchanan and I asked the Court to poll all of
5 the parties and the essence of the poll was -- even though
6 they're all these challenges to our appointment, does
7 everybody in the room agree that during the pendency of
8 these challenges, which would be up until April, that we --
9 that they want us to continue to administer both the estate
10 and the trust in a professional way. And that's on the
11 record of the January 9th, 2008 hearing.

12 And Judge Early allowed us to poll the entire
13 group, which included both attorneys general, Mr. Jackson
14 for Dallas and Cannon, and every other interested person.
15 And all of them on the record affirmed that they wanted us
16 to continue and, in fact, at this hearing, we told the
17 Court that if not, we wanted to make a record at every
18 hearing of what we were doing and what people were
19 objecting to. But they approved it and then we explained
20 at that same hearing that as special administrators, there
21 were many things that were coming before the Court. But as
22 PR's and trustees under James Brown's documents, we didn't
23 have to have that constant Court oversight so that we would
24 simply be reporting to the Court from time to time when the
25 hearings took place to let -- to let everybody know

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1 everything we were doing because our goal was to have a
2 very open administration. There had been too much secrecy
3 and too much thievery.

4 Q And was that memorialized -- that was just done in
5 open court?

6 A It's in the record of the January 9th, 2008
7 hearing.

8 Q Okay. So now, let's -- so now, are we -- is there
9 anything else from February we need to discuss in your --
10 to your recollection?

11 A Let's see -- oh, gosh, yes. Beginning -- I think I
12 mentioned earlier, I'm referring now to the February 20th
13 2008 order approving sale of certain tangible personal
14 property. As I mentioned to you everyone knew before Mr.
15 Bradley and Mr. Dallas resigned that a sale was going to be
16 necessary to pay the estate taxes attributable to the
17 household goods that were going to private individuals.
18 Not all of the property that was going to the charity. And
19 they knew, again, that for every dollar of value that James
20 Brown's six children were to receive, there would be more
21 than 40 cents on the dollar of estate taxes.

22 So they were already working or at least starting
23 to work with an organization called Julien's, an auction
24 house run by a gentleman named Darren Julien. And Judge
25 Buchanan and I didn't know much about this, but I do

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1 remember we had a little chat with them on Halloween night
2 of 2007 and Judge Bradley made a call to Darren Julien, so
3 that's how I happened to remember the name.

4 But -- so we knew we had to have some sort of a
5 sale to raise funds. And we also knew that a mortgage on
6 the Beech Island property, which would have been the normal
7 procedure to get some money for this illiquid estate, was
8 no longer possible for five reasons, four will trust
9 contests and the federal suit in which Forlando was
10 alleging that Judge Early's appointment was illegal.

11 So we couldn't seek traditional funding to pay
12 these estate taxes for the tangible personal property.

13 So -- and the -- and the -- and the children did
14 not have the funds to pay it. So there we were. And we
15 were coming up -- you can tell from February 20th, we were
16 coming up on March 25, 2008, which was the first automatic
17 extension for filing the estate tax return, but we knew by
18 then we're not going to make that date. But we knew we had
19 to get going. And so we began looking for a quality
20 auction house to conduct some of the sale of at least some
21 of the tangible personal property. And --

22 Q What about other sources of funding like copyright
23 revenues, royalty revenues, or any of the rest of it?

24 A Well, a sale of those assets was being thrown
25 about, but there was a huge problem associated with that.

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1 Do you want me to tell you what it was?

2 Q Yes, please.

3 A Okay. Between October 18th and October 20th, 2006,
4 a letter came out from Greenberg Traurig, the law firm of
5 Joel Katz that I've mentioned earlier, to Buddy Dallas and
6 -- and to -- directed to James Brown who was alive at the
7 time. We got it from Buddy, but it was directed to James
8 Brown; and I remember we talked earlier about the Pullman
9 litigation. We discussed that and we discussed how it fell
10 through.

11 Well, by October of 2006, this is shortly before
12 James Brown dies; Greenberg Traurig and Dallas and Cannon
13 and a gentleman named Frank Copsidas, who ran an entity
14 called Intrigue, were now looking for another way to do the
15 refinancing that had fallen through on May 5th, 2006. And
16 they -- and a letter was written by Greenberg Traurig to
17 Mr. Brown that says, essentially, we've got this new way to
18 do the deal. Even though the Pullman matter had not been
19 resolved, it was still being litigated, they were looking
20 for a new deal.

21 And the new deal called for a refinance -- either a
22 sell or a refi of what a lot of people call the Book of
23 Music, which was the approximately 850 major copyrights.
24 And so they were going to sell or refinance these
25 copyrights as they -- which we know now that RBS had valued

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1 at about 42 million and from that figure they were going to
2 take, I think I'm right, 5 percent for Greenberg Traurig;
3 12-and-a-half or 15 percent for Frank Copsidas; 5 percent
4 plus 5, \$500,000 for Mr. Dallas; 5 percent, plus I think,
5 about a million more for Mr. Cannon; and \$100,000 for
6 Mr. Bobbitt and there might have been more.

7 But essentially what came to be known as the
8 October 18th letter was an absolute gutting of the equity
9 that -- poor James Brown had spent since '99 getting in the
10 TIAA deal and fortunately never went through, but so -- a
11 sale of those copyrights was -- at that point, while they
12 were still claiming those percentages -- and I will tell
13 you that before I was appointed on -- at the hearing which
14 took place in February of 2007, Mr. Peoples, who was one of
15 the early lawyers for the Cannon group said, If anything
16 happens to this agreement, there will be lawsuits you've
17 never heard of.

18 So there were people that believed that these
19 gentlemen and that law firm and their equities were
20 entitled to about half of any sale of the major copyrights
21 and that had to be resolved.

22 Q So you were left with what to try to generate funds
23 to have any liquidity in the estate?

24 A Well, we were left with a sale of some of the
25 multitude of pieces of tangible personal property and it

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1 sort of made sense because it was the very people who were
2 receiving the household goods who were generating the
3 estate tax because the grandchildren got their 2 million
4 estate tax free and the charity got its 80 million estate
5 tax free. So it was equitable and even if it hadn't been
6 equitable it was the only solution.

7 Q All right. So then as part of this order -- we're
8 now on the order of February --

9 A Right. Right.

10 Q Item Number 3, the request --

11 A Right. That --

12 Q -- for IRS charitable recognition of the James
13 Brown "I Feel Good" Trust has never been filed. What was
14 the significance of that?

15 A Well, that was, "had never been filed" because this
16 was a recounting by Judge Early in the February 20th order
17 of just kind of what a mess everything was in when we took
18 over. By then, we had filed it. We filed it on December
19 5th, but he was just recanting the history prior to our
20 appointment.

21 MR. BUNDY: Let's go to the next callout, please.
22 Let's go back up. I want to look at Number 5, please.
23 Item Number 5.

24 THE WITNESS: The majority of royalties from --

25 ///

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1 BY MR. BUNDY:

2 Q Let him get it first, please.

3 A I'm sorry.

4 Q That's okay. You see it?

5 A Yes.

6 Q I know you do.

7 THE COURT: The majority, is that what it is?

8 THE WITNESS: Right.

9 The majority of --

10 BY MR. BUNDY:

11 Q This was a finding by the judge, the majority of
12 royalties from Mr. Brown's published songs are pledged to
13 the trustee with the TIAA royalty-backed debt and will be
14 unavailable for 5 to 7 years. Was that correct?

15 A That is correct. Based on our -- I'm sure our
16 explanation that a sale would generate these -- these
17 absurd claims.

18 Q Okay. All right. Let's go to Number 7, the next
19 callout.

20 A Okay.

21 Q Okay. In Number 7, the Court takes judicial notice
22 that the following directly interfere with or inhibit the
23 ability of the PR/trustees to seek traditional funding.

24 A The challenge by most children to the existence
25 of the trust, makes a traditional mortgage of the home

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1 estate problematic.

2 Q You testified to that, correct?

3 A That's correct.

4 Q B, A federal lawsuit by Forlando Brown seeking
5 removal impairs the ability of the trustees to obtain
6 financing for the estate/trust?

7 A True.

8 Q C, the actions of the former PR/trustees, the South
9 Carolina Attorney General and certain beneficiaries
10 challenging the appointment of Mr. Buchanan and Ms. Pope
11 negatively affects their ability to perform their duties
12 without seeking Court approval or seek long-term
13 arrangements for the estate/trust. Is that accurate? Is
14 that judicial notice correct?

15 A Yes.

16 Q Okay. So you were left with --

17 A The Christies sale.

18 Q Now, the notion that the attorney general was doing
19 things which were affecting, negatively affecting your
20 ability to perform your duties, was that an extraordinary
21 matter in your opinion based on your experience in trusts
22 and estates?

23 A For a short time, it would not have been
24 extraordinary for this reason: Mr. Cannon and Mr. Dallas
25 went to the attorney general, as I said, and said, This is

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1 a money hungry woman and gentleman who want to oust us, the
2 innocent trustees, so that they can get the \$5 million
3 commission payable on the 5 million -- \$100 million
4 estate.

5 And further, they're raiding the trust and
6 putting it in the estate to increase the size of this
7 estate to increase their commissions. And --

8 Q Are either one of those statements accurate?

9 A No. They were lies.

10 Q Okay.

11 A But for the attorney general to be concerned about
12 that, initially was appropriate. What became the problem
13 was that -- that the attorney general continued the
14 alliance with Mr. Cannon and Mr. Dallas and assistance to
15 Mr. Cannon and Mr. Dallas and Forlando up through at least
16 May of 2008 and that -- that created huge problems.
17 Attorney General McMaster, for example, got it only by what
18 he learned from Sonny, on February 7th, went on WIS TV and
19 he talked about the massive wealth of James Brown and --
20 and he said that working for the poor kids, and that was
21 the term he used, working for the poor kids and the family
22 went far past the stop sign of conflict of interest.

23 He's -- he recounted James Brown's huge and
24 important persona and wealth, but -- but the program was
25 billed as Forlando, this family hero taking on, I think

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1 they called us two prominent lawyers, Mr. Buchanan and me.

2 And so this whole notion of the -- the most
3 powerful lawyer in the state, whose job it is to protect
4 charities siding with Cannon, who is now known to have
5 stolen \$17 million just -- it was hard. It was hard.

6 Q And did it render your services extraordinary, in
7 your opinion?

8 A I believe it did.

9 Q Okay. All right. Now, let's go forward with what
10 was accomplished at that time, if anything, regarding the
11 sale of assets, et cetera.

12 A Okay. Well, His Honor approved the Christies
13 sale, just quickly, we had worked with Christies,
14 Sotheby's and Julienne's, but Mr. Dallas had allowed Darren
15 Julienne to have some sort of contact with the media that
16 set off another firestorm of acrimony. And so we had
17 pulled Mr. Julienne from consideration, not because he
18 wasn't competent but because of this firestorm that Mr.
19 Dallas had created.

20 And so it was between Sotheby's and Christies and
21 Christies -- I met the woman, she came down and really
22 loved the notion of it, but they, internally they were
23 doing less at the time with memorabilia. I don't -- it was
24 an internal decision, not that they didn't like the
25 collection. They decided to get out and Christies was

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1 very favorable to us and we had a good contract and they
2 agreed to advance the appraisal of all of the household
3 goods, the cost of that and to take it from the cost of the
4 sale. And we needed that. And they agreed to holdbacks
5 for the family and some other things that are covered in
6 the February 20th order that we -- that were favorable.

7 Q All right. So now under this same order, proposals
8 for sales and dispositions, based upon the above facts, as
9 to the deplorable condition of the estate/trust, did you
10 have anything to do with the -- with this deplorable
11 condition?

12 A Well, yeah, I was trying to fix it.

13 Q Did you have anything to do with the cause of it?

14 A Oh, absolutely -- we didn't cause it.

15 Q The Court finds that emergency action is necessary
16 to preserve and protect the assets of the estate/trust
17 without prejudice to the eventual outcome. The Court also
18 finds that the PR/trustees are entitled to conduct such
19 sales as necessary to raise funds to defend against all
20 challenges to Mr. Brown's estate.

21 Again, without prejudice to the outcome, the Court
22 finds that this is appropriate for the PR/Trustees. The
23 Court further finds that the proposals of the PR/Trustees,
24 as modified herein are the appropriate methods of managing
25 the Estate/Trust during these critical times.

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1 Did you get the impression from this order that the
2 judge was, at least, not unhappy with your actions as
3 it related to the estate and trust?

4 A I felt that not only did he understand, but most
5 everyone else did to.

6 Q In determining the necessity of the sale of
7 tangible property, the Court has considered the need for
8 funds. It has also considered that the non-charitable
9 devisees who may receive TPP may pay up to 50 percent of
10 the date of death value of property received in estate
11 taxes. What's the significance of that?

12 A Well, that's just the issue that we've discussed
13 that every dollar that did not go either to the charity or
14 into the \$2 million to the grandchildren was going to be
15 taxed at --

16 Q All right.

17 MR. BUNDY: Let's go to the next heading, tangible
18 personal property, the next part of this order, please.

19 BY MR. BUNDY:

20 Q All right. Looking at the callout: Four, If
21 possible -- this is the judge 's order, right? This is
22 what the judge said he wanted done, right?

23 A That's correct.

24 Q If possible, the sale or sales by Christies or any
25 other agent/auctioneer will be conducted on or before

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1 August 1, 2008, correct?

2 A That's correct. And the reason for it was that as
3 soon as we could get the tangible -- or a good bit of the
4 tangible personal property out of the house, either to
5 Christie's or into four museums, where we ended up placing
6 a lot of the property, we could reduce the security cost on
7 the home that were eating the estate alive.

8 Q Okay. So there would be a double benefit here?

9 A Yes.

10 Q Okay. All right. 5 -- and what was the
11 significance of the August 1, 2008 date? If any?

12 A Well, I think we were scheduled to run out of money
13 in July or August or -- you know, I mean -- we were going
14 to bring the cost of protecting the house down from over
15 100,000 a year to thousands.

16 Q Okay.

17 A But -- but that was the issue.

18 Q Okay. The PR/Trustees shall have sole discretion
19 as to the terms of the contract, but will consult with
20 interested counsel. Did you, in fact, consult with
21 interested counsel?

22 A Regularly. We began -- we began immediately
23 contact with Christie's and we gave them a list of everyone
24 they could talk to with or without us and, of course, one
25 of the things in the sale, which we may be getting to, was

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1 the right of the beneficiaries to select items to withhold
2 and I spent two days with the Levinson clients; and my then
3 assistant Adam Silvernail spent another full day with them.
4 I believe he was the one, someone from my office.

5 So, yes, we worked very closely with them. We knew
6 this was an emotional thing.

7 Q Six, The PR/Trustees are authorized to put such
8 pieces as they select on loan to one or more museums for a
9 period not to exceed three years, so that such items may be
10 preserved for future distribution to beneficiaries, as
11 appropriate, with assurances for proper insurance and
12 security for all items put "on loan." Tell me about that?

13 A Well, that was --

14 Q The work that you did and what your opinion is
15 regarding the value of that work.

16 A Okay. Well, I don't know whether I've talked about
17 the condition of Beech Island, but Judge Buchanan would
18 know because he's mopped up some of the flood waters
19 himself. But Beech Island had a central area that -- James
20 Brown's mansion, I'm speaking of, had a central area that
21 had sort of a drain, but when it didn't drain, there were
22 problems.

23 In addition, they had overhead copper pipes and we
24 had a leakage in one back bedroom and I remember the
25 gentleman looked at me and said, Lady, next time these

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1 pipes go, the house is -- it's going to be a flood. And so
2 we were afraid to death of what might happen to these items
3 of -- that James Brown had carefully preserved. And so by
4 this time, we had -- no, not quite, within a couple of
5 weeks we will have sent about 45 boxes of music
6 memorabilia to a sound storage facility in Nashville near
7 our entertainment lawyer so that they could be used later.
8 And then we wanted a home for pieces because the Christies
9 sale was only 350 pieces out of literally thousands of
10 pieces of tangible personal property.

11 So we asked for permission to place them with
12 museums and Dr. Leonard McIntyre, who is now the head, I
13 think, of Tech near Bamberg, but at the time was the
14 interim president of South Carolina State, was just
15 wonderful to us. He had alums and teachers and students
16 come and volunteer and carefully wrap things and take them
17 to that museum.

18 The South Carolina State -- that was the IP
19 Stanback Museum. The South Carolina State Museum also took
20 items on loan and -- and in addition the Augusta museum of
21 history, Nancy Glaser was wonderful to us too. And we put
22 some additional items in the Lucy Craft Laney Museum of
23 African American History, a small museum in Augusta.
24 And it was just win/win because they were safe,
25 they were insured. The three year period was just a

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1 guesstimate of the length of the will contest because we
2 didn't know who was going to own them.

3 Q So not only did you have a place to secure them,
4 you didn't have to pay to secure them and somebody else
5 paid the insurance and storage, et cetera.

6 A That's correct.

7 Q Okay. All right. Now, we'll go to Item 7.

8 Pieces not sold by Christie's or other agents
9 auctioneer may be sold by the PR/Trustees in their sole
10 discretion at one or more or a series of separate auctions,
11 private sales, if additional funds are necessary, provided
12 notice given to potential heirs and devisees. Were there
13 any sales outside of Christies?

14 A No, the Christies sale took place on July 17th of
15 2008, and we learned of the Attorney General Settlement on
16 August 12, 2008, just a few weeks later.

17 Q And that's when you were told to stand down?

18 A That is.

19 Q All right. Now, with regard to the home of
20 Mr. Joseph Brown, what -- will you tell us what cash, if
21 any, that generated or how that went?

22 A Well, it didn't generate much, but we really had
23 hoped that it would help soothe the waters. The home of
24 James -- of Joseph Brown was the home of the person
25 everybody called Pop, James Brown's father. And it was

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1 over in Augusta and it was really an albatross for the
2 estate because we couldn't -- you couldn't get insurance
3 because nobody lived there.

4 And -- and there was a question of title because
5 everybody thought that James Brown had inherited it and he
6 had indeed, I think, kept it up and paid the taxes and so
7 forth, but then there was some talk that James Brown had a
8 brother who really owned half. And so you'll note that we
9 asked to sell it with the quitclaim deed, but here's the
10 more important thing. The family was very, very emotional
11 about Pop's house and we wanted them to have it; and so we
12 -- I think we gave them, you know, either almost nothing
13 down or -- or nothing down, and they gave the estate back a
14 -- this \$60,000 or 59,5 note and mortgage or deed of trust
15 or whatever they call it in Georgia.

16 And that was approved in February and I think -- I
17 think it closed about in May. But that was important to
18 the family. They said that -- many of them said that Pop's
19 house was important as a family place as was the Beech
20 Island mansion.

21 Q Okay. And then the next order I'd like to look at
22 is the --

23 A Well, it -- well, this --

24 Q Let's look at this.

25 A Yes.

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1 Q That's the one you've been on.

2 A Yes -- no, this is the same thing, but just the
3 judge saying, I don't have to talk about what bad shape
4 everything's been in because we've all been having these
5 hearings and we all know it. So -- but the judge did order
6 that anybody who unreasonably interfered with or delayed
7 the Christies sale, which was just critical to get done,
8 could be charged with -- with the reasonable cost of -- of
9 -- of an action.

10 Q And was it correct in February 2008 that all
11 parties had received full information and did not dispute
12 the estate's trust financial circumstances?

13 A Oh, absolutely.

14 Q Did anybody lay the blame at your feet for the --
15 for the financial condition of this trust and estate at
16 that time?

17 A Not at that time.

18 Q Okay. All right. So now we go to an order Direct
19 An Execution of the Affidavits Related To and Grants Other
20 Partial Relief. That's dated February 25th, February 20.
21 What's the --

22 A Okay.

23 Q -- significance of that?

24 A Well, the first one is just short. We were getting
25 ready to do this estate tax return. It says that it must

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1 be filed by March 25th, 2008, which was true, but we did
2 get another extension. It was not a deadline that couldn't
3 be worked with. But the estate tax return was due and in
4 order to know how much tax was due, we had to determine
5 whether there had been gifts prior to death because the
6 federal estate tax system is a unified system where you
7 have to first look at the gifts and then add them --
8 certain gifts -- and then add them to the estate taxes.

9 And so the judge ordered and everyone signed gift
10 affidavits, essentially saying that although James Brown
11 was very generous, that he had never given anybody more
12 than \$10,000 worth of gifts in a year.

13 Q And if it had been more than a year that would have
14 reduced the 2 million or they --

15 A Well, it would have added more taxes.

16 Q Okay. All right. And it looks like there was a
17 motion and then -- looks like an order on a motion to
18 disqualify Louis Levinson and that was dated February 26,
19 2008?

20 A Well, this was one of those little side issues of
21 extreme discord among the parties that, of course, spilled
22 over into the general litigation.

23 Q Now, who was Mr. Levinson representing at this
24 time?

25 A Well, Mr. Levinson -- in filing the challenges that

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1 he filed to the will on December 26, 2007 -- represented
2 five of the individuals named as children in the will. The
3 sixth had -- the sixth, Terry and his son Forlando and his
4 other son Romunzo had initially hired Mr. Levinson and
5 then they had terminated him in March of '07 about, about
6 the time we were coming in.

7 So some of this we just learned about. When
8 Mr. Levinson filed the will challenge, Mr. Bell, who was
9 also one of the lawyers suing Judge Buchanan and me in
10 federal court, filed several things, a motion to disqualify
11 Louis Levinson and prevent his participation in the will
12 contest, which he had just filed. And then he filed either
13 five or six grievances against Mr. Levinson in both Georgia
14 and South Carolina.

15 And Mr. Bell essentially alleged that Mr. Levinson
16 -- well, a few things. He alleged that Mr. Levinson had
17 changed his position, that they -- the family had hired
18 Mr. Levinson only to investigate the trustees and not to
19 challenge the will. And then secondarily --

20 Q How many trustees was he investigating?

21 A That would be Cannon, Dallas, and Bradley.

22 Q Right.

23 A That -- his contract was January 9 of 2007. And
24 secondarily he said there was an allegation that
25 Mr. Levinson's contract, his 30 percent contingency plus a

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1 \$150,000 contract had been forged and so he had gotten a
2 handwriting examiner. It caused a firestorm. And there
3 are about more that a thousand pages, I think in the record
4 about it, but Mr. Levinson very strongly disagreed with all
5 of that and said that Mr. Bell was using it to advance his
6 position in the case and as you can imagine, Mr. Levinson
7 did not like to have his career at stake over there.

8 Q And the judge found that it was appropriate for
9 Mr. Levinson to continue on in the case?

10 A He not only found that, but he found that
11 contemplated in the Levinson contract was a contest of the
12 will.

13 Q All right. Now, we move to the next order related
14 to -- entitled the March 7, 2007; is that the next order in
15 line?

16 A Yeah. Well, we -- yes. We probably discussed that
17 already because we've said that -- and there would be more
18 detail in my time sheets, but on February, I think the 8th
19 of 2008, there was a hearing of Dallas and Bradley
20 attempting to undue their resignations. The March 8th
21 order does not allow them to and, you know, makes certain
22 findings.

23 And then there's a March 7th order regarding what
24 is put up there as diaries. They were handwritten notes of
25 Tomi Rae, which had been discovered within Mr. Brown's --

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1 discarded within Mr. Brown's Beech Island mansion in March
2 of 2007. They had been public for a long, long time.
3 Everybody knew what they said, everybody discussed what
4 they said, everybody thought they were of substantial
5 importance, particularly because she was claiming to be the
6 spouse because they admitted that she was -- that she,
7 prior to meeting James Brown, she was married, living in
8 Texas with her husband and thought she might be pregnant.
9 And then further that she begged James Brown to marry him
10 -- her, after he discovered her marriage. And in addition
11 to that, she had also promised to get a divorce and didn't
12 get it. So the diaries were going to some day be very
13 important, but --

14 Q In light of all that, did you feel you had
15 reasonable grounds to contest her position as Mr. Brown's
16 spouse?

17 A Oh, absolutely. I mean -- and that -- those were
18 public. They were out there everywhere, but they were just
19 a part of the overwhelming evidence that was available.

20 Q All right. All right. And next is an order to
21 Allow Video Deposition of Inmate?

22 A Well, that's -- you know, as I said, Mr. Herring
23 had an unfortunate event, a very unfortunate event that
24 kind of ruined his life and caused someone else to lose his
25 and that -- so Judge Early said that he needed to be --

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1 needed to be deposed.

2 Q Why -- what was it that was relevant that
3 Mr. Herring might know in your position as to why his
4 deposition would need to be taken?

5 A Well, I was not the specific one who asked for it,
6 but, of course, he needed to be deposed to determine
7 whether there was any basis whatsoever to -- for anybody to
8 claim undue influence, although we thought that there was
9 not, we were -- at -- at that particular stage, we -- that
10 order was issued in March, about March 15th. We were just
11 working with -- or we had just finished working with
12 motions to dismiss the will contest. There should be an
13 order right about that same time with Mr. Levinson. But
14 with Tomi Rae, we had a pending motion to dismiss her
15 claim. And so we weren't -- we hadn't quite gotten to that
16 stage, but it was great. And he ordered it and --

17 Q But this is ordinary course of defending a will
18 contest, that would be a witness --

19 A Oh, absolutely.

20 Q -- deposition that you would want to take, the
21 gentleman who drew the will, right?

22 A Absolutely. And I believe it might have been
23 Mr. Bell who asked for that and, of course, he was taking
24 the position that he supported the will. So it was just
25 somebody doing it and it was great, it was great.

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1 Q All right. Then the next order I'd like to draw
2 your attention to is the March 8th 2000 order --

3 THE COURT: Which tab are you on now, Mr. Bundy?

4 MR. BUNDY: It's Tab 26, Your Honor. I believe
5 it's 26.

6 THE COURT: I got it.

7 MR. BUNDY: Thank you, sir.

8 BY MR. BUNDY:

9 Q All right. Ms. Pope, what do you see -- what is
10 significant -- what is the purpose of this order, allowed
11 you --

12 A Well, this is the order which resulted from our
13 telling Judge Early we do not want to be here unless --
14 unless our -- unless you have a hearing and decide that our
15 -- we were properly appointed and our work has been both
16 ethical and appropriate. It also was related -- the
17 context of it -- it came in the context of our motion to
18 dis --

19 (The witness was shown a document.)

20 Yes, yes. It came in the context of Louis
21 Levinson's will contest.

22 Q Okay.

23 A And one of the requirements for a will contest is
24 you must say who you think are the heirs.

25 Q Okay.

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1 A Because if -- if you -- if you win and the will is
2 set aside, you've got to know who it goes to. And so the
3 Levinson clients had not done that. And so we -- we -- we
4 required that they do that and that they give notice of
5 that.

6 Could I look at the order just a second. Well, let
7 me say that -- so the -- oh, I apologize. I apologize.
8 This is -- I thought this was the order -- Judge Early's
9 order. I'm going to, April 8th order. I apologize.
10 I'm going to tell this quickly.

11 So -- but the story that I'm telling you is
12 correct. So we resolved our motion to dismiss Mr.
13 Levinson's will contest by his clients saying who they
14 thought the heirs were and we note that they did not think
15 the heirs were Tomi Rae, but something very important was
16 happening here. We were beginning to understand how
17 important the heirs determination was under the Federal
18 Copyright Act. So we wanted a correct determination of
19 heirs. So in this agreement, we -- we say, let's have a
20 complete, careful heir's determination. This is March 8,
21 2008. But we want to make sure you understand it's without
22 prejudice to our position that he did not die intestate.

23 We're not trying to find out who the heirs are
24 because he died intestate, we're trying to find out who the
25 heirs are because -- and the order says, they may have

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1 certain rights under state or federal law. We didn't want
2 to give them any part of the estate. We wanted to find out
3 who they were so that the trust could protect itself with
4 respect to the Federal Copyright Act Termination Rights.
5 And that was our first foray into protection of the
6 termination rights which were going to begin to mature in
7 2012. And --

8 Q All right. Explain if you would at this time why
9 the Federal Copyright Termination might be affected by
10 heirs who were not devisees under the will or otherwise?

11 A Okay.

12 Q Entitled to anything under the will?

13 A Well, the federal laws have their own ways of
14 defining heirs like social security. People who are not
15 heirs -- strictly under state law can get social security
16 benefits.. And the -- the -- the termination rights
17 provisions have a --- a provision that says that heirs are
18 determined under the federal law. So that's okay. But the
19 next thing they have is a provision that says that the
20 spouse for purposes of termination rights is determined
21 under state law.

22 And so what you have is the possibility of a state
23 law determination that incorrectly determines who the
24 spouse is having a tremendous impact on the termination
25 rights. Now, there's a lot of literature out there about

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1 whether that 's legal, it's working it's way up in the
2 Courts because it's sort of similar to the same sex
3 marriage issue. If you look to states but then states
4 don't treat people fairly, you've got a problem.

5 But for our purposes, it was very important to
6 determine that a person who was not likely to be the spouse
7 was not the spouse. And this order was a good step because
8 the Levinson clients, all agreed in an order consistent
9 with our position and the then position of the attorney
10 general was not the spouse.

11 Q Well, in terms of the power or whatever control
12 that a spouse might have in federal copyright terminations,
13 how is that different from, let's say if you had six heirs
14 and no spouse? And then give me the example if you had a
15 spouse and six heirs?

16 A Okay.

17 Q How would you -- if you were trying to deal with
18 that issue, how would -- how would it work and who would be
19 in control from the other side?

20 A Good question.

21 Q Thank you.

22 A A spouse is -- for Federal Copyright Act,
23 Termination Rights, to be exercised they must -- that is
24 for the heirs to attempt to secure royalties -- American --
25 U.S. copyrights only, that are owned by a charity, for them

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1 to exercise these termination rights and try to take some
2 of the royalties, they have to do it by majority, but a
3 spouse counts as 50 percent when you're determining the
4 majority. So if you have a spouse and 30 children, it
5 takes a spouse and one child. If you have no spouse and 30
6 children, you can make a deal with 15 of those children and
7 stop the exercise of termination rights.

8 So there are all sorts of dynamics available if
9 there is not a spouse. So I mean, lots of people have
10 spouses, but the bottom line is you would never create a
11 spouse if you don't have one. So -- and if you've got
12 pretty good evidence that there isn't one, you certainly
13 wouldn't create one. And we -- we -- that was our point
14 here. We needed to have a final determination that there
15 wasn't one or that there was and then also to ferret out
16 about half a dozen other children that James Brown himself
17 did not acknowledge, but he had no right to exclude from
18 their rights under the Federal Copyright Act.

19 Q And in terms of what Mr. Brown's wishes were and
20 what his intent was, as it relates to where those copyright
21 dollars should ultimately end up, what was -- what was his
22 wish as you read the will?

23 A Well --

24 Q And the trust.

25 A Well, he provided for past and future spouses,

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1 nothing. And further he said even if some future spouse
2 gets something, I want to hold her to the minimal amount.
3 So, so, he -- he -- although he could not -- in fairness,
4 he could not control the proper and timely exercise of
5 termination rights in 2012 to the extent that the estate
6 hadn't planned for it and worked on it. His will could not
7 control that; but it certainly made clear his wishes.

8 Q And that was going to fund the "I Feel Good"
9 Trust --

10 A That was -- every dime taken by termination rights
11 would come either from the "I Feel Good" Trust or the fund
12 that was going to be used for certain grandchildren to age
13 35 and then to the "I Feel Good" Trust.

14 Q All right.

15 A Oh, and this is merely in Judge Early's order, it
16 sets out there, The purpose of the above action is to
17 determine all lawful heirs at law of James Brown, including
18 lawful heirs who may be entitled to rights under state and
19 federal laws because the determinations could have been
20 different.

21 Q All right. Let's now move to --

22 MR. BUNDY: Tab 28, Your Honor, which is the
23 document entitled Supplemental Order Directing Execution,
24 Contract, and Sale filed April 2nd, executed by Your Honor
25 on April 1st.

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1 THE WITNESS: Oh, that is just simply the order
2 where Judge Early, who's already approved the Christies
3 sale and set certain terms for family members and Tomi
4 Rae to see holdbacks finding that nobody did seek a
5 holdback timely as he had ordered on February 20th --

6 BY MR. BUNDY:

7 Q Let's go and look at it.

8 A Okay.

9 Q It says -- if you look on --

10 A Well -- well -- well, we'll get to that -- I'm
11 sorry.

12 Q This is where we are, isn't it?

13 A Yeah, that's where we are. So -- so all the family
14 had looked, nobody had filed and Tomi Rae had had the
15 opportunity to look and nobody had filed any requests for a
16 holdback of any item from the Christies sale. Then on
17 March 28th, the Levinson clients filed a motion to stay the
18 sale or stop the sale and Judge Early's order details that,
19 just a few days before. Deanna, Yamma, Venesha, Darryl,
20 and Larry, each individually and as parent of their
21 children, filed separate motions to stop the sale.

22 And he just -- the judge made the finding that they
23 had interfered, but they hadn't caused any damage in that
24 four-day period. And so he directed us to sign the
25 Christie's Consignment Contract that day. And the

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1 Christie's Consignment Contract, of course, listed
2 everything that would be sold.

3 Q Well, let's go to page 3. I want to back up a
4 little bit?

5 A Sure.

6 Q Top paragraph, page 3. You got that?

7 A Yes.

8 Q It says, and this is -- this is Judge Early
9 recounting what he's previously ordered; is that correct?

10 A That's correct.

11 Q And he notes on page one the February 20 order had
12 not been appealed, correct?

13 A That's correct.

14 Q It's the law of this case?

15 A And no reconsiderations sought.

16 Q And it says on page 3, On or before February 27th,
17 all parties were given the Christies selection for sale
18 and estate tax valuation as provided in the February 20
19 order; is that correct? Was that given to them?

20 A I think you said the 22nd, but it's the 27th.

21 Q Was it given to them?

22 A Yes, yes.

23 Q What did -- what did it look like? I mean -- what
24 was this thing that you gave?

25 A Well, the appraisal was about like that and the

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1 selection for sale was about like that because it was 350
2 items and the -- approximately million, two estate tax
3 appraisal overlapped, but it contained many more items.

4 Q Okay. Was it one of those things that you would
5 look at if you went to Christies or were going to go to
6 the auction or was it something a little different from --

7 A It was not the catalog. The catalog came later.

8 Q Okay. Well, in those items, was the Grammy listed?

9 A Yes.

10 Q Okay.

11 A In -- in -- in the estate tax return and in the
12 selection for sale.

13 Q So they knew as of that day the Grammy was going to
14 go up for sale?

15 A Oh, everybody knew; sure.

16 Q And was there any objection?

17 A No.

18 Q Okay. Since the last day of that --

19 A And no holdback.

20 Q Ma'am?

21 A And nobody requesting a holdback.

22 Q Nobody requested a holdback. The judge further
23 points out the last day to designate items requested to be
24 withheld in order of importance was March 10, 2008. No
25 party timely submitted designation. Of course, the order

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1 various parts objected, but the Court deemed the objections
2 untimely or not in conformity with the February 20 order;
3 is that -- is that -- is that correct?

4 A That is true. There was -- I remember some phone
5 call from somebody later on, but -- to the courthouse here,
6 not here -- yes, here. But, no. That was correct.

7 Q All right.

8 A What the Court ruled was correct.

9 Q Let's go the page 4, second to the last full
10 paragraph?

11 A Court finds that the moving parties and others have
12 had more than adequate time and opportunity to review the
13 assets in the selection for sale. The Court finds that
14 neither the moving parties, nor any others make a valid
15 specific and timely objection.

16 Q Correct?

17 A That's correct. And it's correct about the time
18 because I spent two days with family members and a member
19 of my staff spent a third day.

20 Q And then His Honor orders, you're directed to
21 execute the consignment agreement, shall proceed on
22 February 20. Anyone who delays the implementation shall be
23 charged with costs and damages?

24 A Right. And we had set out that that ought to be
25 about \$4,000 a week because -- because we were running out

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1 of money.

2 Q And if you go to the -- after the signature page on
3 this order, there's a list of -- of terms, right? Are
4 those all the people who were given notice and opportunity
5 to complain about all of this?

6 A Yes. There may have been more who were given
7 notice and opportunity, but at least these were --

8 Q Okay. All right. Let's go to Order Denying Motion
9 to Reconsider Appointment of Successor Personal
10 Representatives and Trustees and Granting Related Relief?

11 A I'm sorry, that was the order I thought I was
12 looking at before --

13 Q Well, let's just run --

14 A Okay.

15 Q Let's just run through it quickly?

16 A That's the April 8th order in which Judge Early,
17 after the hearing on March 7th, deals with our concern
18 primarily that on December 14th, the attorney general of
19 South Carolina had filed an objection to our appointment as
20 PR -- it says as PR's and trustees, but he was concerned
21 that we were appointed to both positions. He didn't want
22 us to be trustees.

23 And this is Judge Early's finding that all of our
24 -- that our appointment was appropriate and that all of our
25 acts beginning March 7, 2007, as special administrators and

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1 continuing up until the date of that order, which was April
2 8th, 2008, were ethical and appropriate.

3 Q The judge put in his order, after reviewing the
4 entire record, the Court makes the following findings: All
5 motions to reconsider should be denied. Buchanan and Pope
6 have served properly to date in the capacities of SAs's and
7 later PR/Trustees. And they should continue as PR's and
8 trustees subject to the right of the PR/trustees, the Court
9 or any other interested persons seeking the appointment of
10 SA, special trustees or both, if appropriate. Correct?

11 A Yes.

12 Q And that was as of what date again? April --

13 A That was April 8, 2008.

14 Q All right.

15 MR. BUNDY: Would you take this down, please.

16 (The slide was changed.)

17 BY MR. BUNDY:

18 Q So April 8th, 2008?

19 A That's correct.

20 Q So as of at least -- of this date up through this
21 period the judge finds that you should be, continue to be
22 PR/Trustees and nothing you've done up to this point is
23 anything but okay; is that correct?

24 A That's the way I understood it.

25 Q Okay. And in -- in fact, was it -- did you not --

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1 you and Mr. Buchanan are the ones who requested this
2 hearing, right?

3 A We wanted to resign if the Court didn't make those
4 findings.

5 Q What was the basis, as you understood it, of the
6 attorney general's motion or objection I guess it was. On
7 December 14, the attorney general filed an objection to the
8 appointment of SA's -- of the SA's, that's when you were
9 the SA -- as PR and trustees. What was the basis of that
10 motion up to the time of this order; if you know?

11 A Well, again, looking back at the things that were
12 being said about us by Forlando and Mr. Cannon and Mr.
13 Dallas -- and --

14 Q Is that the legal basis? I mean, what's the legal
15 basis as you understood it?

16 A Oh, oh, that -- I believe the legal basis was that
17 Judge Early -- I'm not sure exactly, I'd have to look at
18 the documents, but I believe he was following the same
19 rationale that Mr. Dallas and Mr. Cannon were following
20 that Judge Early lacked the jurisdiction to do it and that
21 a person could not serve as both PR and trustee under James
22 Brown's unified estate plan.

23 Q All right. Now, Judge Early obviously overruled
24 their objection or didn't buy into it. Did thereafter as
25 of this date, did the AG then file a petition to have you

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1 or Mr. Buchanan removed for cause? As of this date, had
2 they filed any such --

3 A Not --

4 Q -- papers?

5 A Not -- not until -- until October or November of
6 2009.

7 Q Okay.

8 A I'm sorry, 2008.

9 Q October or November of 2008?

10 A After the settlement. After the settlement.

11 Q So was it -- now, this is in April we're talking
12 about, right?

13 A It is, yes.

14 Q All right. So they filed an objection, the judge
15 overrules the objection and they don't file a petition
16 trying to say that you're not doing your job, that you're
17 doing -- you're stealing money, whatever --

18 A No.

19 Q -- and then, it wasn't until after the settlement,
20 which we'll get into in a minute, in October they filed a
21 petition; is that correct?

22 A That's correct. But there's actually more, because
23 on July 30th of -- of 2008, just prior to the settlement,
24 which took place on August 10th, the attorney general had
25 specifically, in writing, approved us as the permanent

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1 trustees of the trust.

2 Q Okay. Anybody appeal this order or file a 59(e)
3 motion to your knowledge?

4 A I don't think so. I don't think so. There could
5 be one. I don't think so.

6 Q All right. Let's go to -- let's look at the last
7 part of this order on April 8th. I don't want to --
8 there's no reason to go through the order, it speaks for
9 itself.

10 MR. BUNDY: Put the last page, please, yes. Number
11 3. I think it's Number 3, the last page 49. Yes.

12 BY MR. BUNDY:

13 Q Three, the cost of this action, including
14 reasonable attorney's fees shall be equitably charged
15 Cannon, Bradley, and Dallas, pursuant to South Carolina
16 trust code. Such amount should be determined, affidavits
17 and brief arguments at the hearing to be held on May 9,
18 2008.

19 What became of that? Do you know?

20 A Well, it didn't -- it didn't happen then. And --
21 and it was important because they had probably cost --
22 well, they had cost the entire special administrator fee,
23 which was \$317,000 and certain other costs. And so it was
24 great to have charged them with that and some other costs,
25 but it didn't happen.

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1 Q Do you have any knowledge whether that --

2 A I don't know whether it happened -- it did not
3 happen during the time that we were serving.

4 Q Okay. Is that the sort of thing that the trustee
5 that was serving after you should have pursued in your
6 opinion?

7 A Yes.

8 Q Okay. And then you go, All future filings shall
9 bear the caption, the judge as all future filings connected
10 to this matter should be prepared and attached to Exhibit

11 A.

12 Why was that in there?

13 A Well, I -- I was perceived as being too careful
14 about captions, but I really want -- Judge Buchanan and I
15 wanted to understand who was being bound by these orders.
16 And so page 50 of that order contains the caption of all
17 the parties who -- who were then parties to the action.
18 And it continued to be used after that. And with -- made
19 clearer who the parties were.

20 Q Okay. Semiannual report: Where is that?

21 A It might be that.

22 Q This it?

23 A That's it.

24 MR. BUNDY: Your Honor, may I approach?

25 Your Honor, in evidence without objection is

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1 Exhibit 9, which is entitled, First Semiannual Report to
2 Devises Beneficiaries and Attorney General.

3 THE COURT: All right.

4 BY MR. BUNDY:

5 Q Ms. Pope, this says from November 20 to May 20,
6 2008, who created this document.

7 A Mr. Buchanan and I did.

8 Q All right. And what -- why did you do that?

9 A Well, because we -- we had an open administration.
10 At that point, we, of course, had no idea who the
11 beneficiaries were going to be. We thought they should be
12 James Brown's, but there were will contests ongoing and
13 there was the spousal issue also. And again, there had
14 been a lot of secrecy and a lot of stealing, and we just
15 thought the better course was to be open and to keep
16 everybody informed and that January 9th hearing explains
17 that this is the way we're going to do it.

18 And so on -- by May 20th, I -- we were already
19 having this prepared, but we were also just so frustrated
20 with what Mr. Jones was continuing to do and we had just
21 gotten or would -- yes, right about then, we had just
22 gotten a series of scurrilous e-mails between counsel for
23 Dallas and Cannon and Sonny Jones saying ugly things.

24 THE COURT: Who are those lawyers for Cannon, and
25 Dallas --

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1 THE WITNESS: Well, we got -- we got the e-mails
2 from a gentleman here in Aiken who had come in to represent
3 Buddy, sort of a -- he was not around much, but he came in
4 in May and he worked with Neal Dickert and they produced
5 these e-mails from Bill Hammond -- between Bill Hammond and
6 Sonny that the ones -- the ones we held back were
7 scurrilous and they said they held back the scurrilous
8 ones.

9 I think -- I mean, sorry, but I think this was part
10 of the rumor that Judge Early was being nice to me because
11 we had had an affair back in law school.

12 Sorry, I didn't want to mention it, but I think
13 that was -- we didn't, I would state on the record.

14 THE COURT: I will too.

15 THE WITNESS: So will Judge Early.

16 But, but that was a rumor that had been started and
17 that may have been one of the most scurrilous e-mails that
18 didn't get produced, but a series of fairly scurrilous
19 e-mails, mostly just repeating the theme that -- that we
20 were money hungry, Judge Buchanan and I were money hungry
21 grubbers who were -- who run off this fine Mr. Cannon from
22 his position so we could get our hands on the \$5 million
23 commission.

24 And so -- and other kind of nasty things, you know.
25 And -- and Buddy had said -- said some of -- some of them

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1 in open court as well after having told His Honor in
2 November that we had worked hand in glove with him, he said
3 it was impossible to work with us. So -- anyway.

4 So, so, Sonny was continuing to be awful to us and
5 -- and -- and -- and Buddy Dallas was interfering with
6 everything. He was -- he was the shadow behind everything.
7 And so I was able to secure a little bit of help from the
8 now deceased philanthropist, John Rainey, who we had asked
9 to be a member of the advisory board, but he would not do
10 that. But he agreed to secure us a meeting with the
11 attorney general, which we attended, I think on May 28th.
12 And so in addition to already having that ready to
13 just kind of show what we had done for the six months, I
14 physically, Mr. Buchanan and I took it, and I physically
15 handed it to the attorney general because I -- we wanted
16 him to understand in the nicest most respectful way we
17 could say it, that Sonny was just making our job so
18 difficult.

19 And he had just, that very month, and Neal Israel
20 since January had been trying to do a 75th birthday special
21 for James Brown, but because of all the confusion caused by
22 the attorney general, he had said, We need to know that the
23 attorney general thinks you have the authority to do this.
24 And the attorney general gave his approval on something
25 like March 28th.

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1 Well, you can't do a TV special between March 28th
2 and May 3rd. And that was just one example of how, not
3 disgruntled beneficiaries, but the highest officer in the
4 state, charged with the protection of charities was just
5 damaging this -- this charity.

6 Q All right. So let's go through briefly the First
7 Semiannual Report and the -- some of the information in it.

8 A Right.

9 Q All right. You talk about prior service. Do you
10 have a copy? Do you need a copy?

11 A I can read it. I can see, thank you.

12 Q All right. Your prior service as special
13 administrators very briefly, you say here these are what
14 were the primary challenges during your tenure as special
15 administrator?

16 A Well, we've discussed it, obtaining critical
17 information, preventing Cannon, Dallas and Bradley from
18 selling the assets and collecting between \$5 and \$17
19 million for themselves. That was the -- the GT October
20 18th letter, the discovery of the 900,000 that we talked
21 about, and the failure of Cannon, Dallas, and Bradley to
22 inventory our account for -- actually they did inventory
23 the assets, but it was tucked away in a hidden document at
24 the time. It came out later, but they never accounted for
25 their actions. They had done a good inventory and it was

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1 done by the tax lawyer.

2 And then the spousal elective share plan which had
3 been pending since February of 2007, but which Lewis and
4 Babcock had pursued while we were special administrators.

5 Q All right. And then you -- you have what you've
6 accomplished during that period?

7 A Okay.

8 Q What did you accomplish?

9 A All right. Well, let's read it and see.

10 Okay. We put the central location of the
11 documents. That was -- that was such a critical thing to
12 being able to later recover from Greenberg Traurig, Cannon,
13 Farr, everybody. Then prevention of a fire sale of the
14 assets.

15 We -- I haven't talked about this much, but it
16 mentions the October 18th letter. Also I don't know that
17 we mentioned in there, but we did prevent Cannon and Dallas
18 from moving the assets from South Carolina where they were
19 being watched over by the Court over to Georgia where they
20 would not have been watched over.

21 Then we -- the immediate and permanent resignation
22 of Mr. Cannon, Dallas, and Bradley and then the return of
23 350 of the 900,000 that David Cannon had taken.

24 Q Do you know what the outcome of the litigation or
25 how much money Mr. Few and his associate or partner were

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1 able to gather from the various lawsuits, including the
2 Greenberg Traurig lawsuit?

3 A I don't. The Morgan Stanley lawsuit was on the
4 cusp of being settled when we were replaced.

5 Q Okay.

6 A I heard a rumor on the Farr lawsuit, but it's only
7 a rumor. And I -- I've tried to secure information about
8 the Greenberg Traurig Settlement, but haven't been able to.

9 Q Okay. All right. Then you talk about your primary
10 challenges facing you when you began as PR and trustee in
11 November 20 through May 20, 2008 and that date is just
12 significant because its six months from the date you
13 started?

14 A It's the sixth month.

15 Q Okay.

16 A Yes. Okay. And they were defending the will
17 contest and -- and -- and fending off this very dangerous,
18 although it seems silly now, lawsuit, by Forlando, which he
19 did not drop until 2012, in which he was seeking to enjoin
20 James Brown's 2000 Trust from taking any action until
21 Cannon and Dallas were reinstated.

22 Q And when it was -- and what -- what was the result
23 of the 2012, of his lawsuit?

24 A Well, Forlando asked the Court to drop it. The
25 Court did. Forlando told the Court he had absolutely no

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1 money and no chance of receiving anything from the estate
2 unless his father were dead, which was a lie. And so the
3 Court, you know, didn't charge him with anything.

4 Q Okay. And so your primary challenges then were --

5 A Then stabilizing the estate and representing the
6 fire sale of the major assets. That would be the October
7 18th letter preventing return of Cannon, Dallas, and
8 Bradley; preparing to defend more than 46 million of the
9 claims, you know, about 15 of those 46 million were the
10 Cannon trustees and another around 30 was from Pullman,
11 which we will succeed in doing in a minute.

12 But then recovery of losses by Cannon, Dallas, and
13 Bradley. By this time, we had filed suit against Cannon,
14 Dallas, Bradley, Morgan Stanley, Phil Farr had been added
15 and maybe a bank. And all of that had been done by Few and
16 Gilreath in February with an amended complaint in March
17 seeking more than \$12 million.

18 Q All right. Now, one through six, did those items
19 described cause any discord among the parties?

20 A Well, I mean there was discord everywhere.

21 Q And based on your experience in trusts and estates,
22 were these extraordinary circumstances to all being one
23 estate at one time?

24 A Yes. None of those -- none of those individually
25 was extraordinary because that's what will and trusts and

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1 fiduciary litigation is about. But for all of them to
2 converge at once and more importantly for the protector of
3 charities not to be standing by you as you fend all those
4 claims -- and in fact to be working to help people that
5 everyone else knows has stolen millions of dollars, it was
6 extraordinary.

7 Q So it -- so it was extraordinary not to have
8 someone who was normally an ally to be an enemy?

9 A Yeah. Yeah.

10 Q All right.

11 A Or at least an adverse party. Certainly, I never
12 considered the attorney general an enemy, but he was an
13 adverse party.

14 Q All right. And then you go through, I believe, and
15 discuss what you did in that time period; is that correct?

16 A We did. You know, it sets it out in some detail.

17 Q And then you gave -- and then you made projections,
18 I believe, on page 6 --

19 A Probably.

20 Q -- for the next 6 months?

21 A Right.

22 Q All right.

23 A That would have been to November, but we didn't
24 make it.

25 Q Well, I know you didn't make it, but if you had

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1 made it, this is what you projected you would be working
2 on?

3 A It is.

4 Q And what was it that you thought you were going to
5 be working on through November?

6 A Well, we expected to complete the estate tax
7 return, which was due and pay the approximately \$500,000
8 estate taxes and interest due, which we talked about
9 earlier. Because every penny that went to the children was
10 going to be taxed under the estate tax regime.

11 Oh, too, we didn't mention this from the earlier --
12 from one of Judge Early's earlier orders, but Judge Early
13 had allowed us to seek a museum purchaser for Beech Island
14 and we really wanted to do that because the family wanted
15 Beech Island to be a museum, but that was not the mission
16 of James Brown's "I Feel Good" Trust. So we had asked
17 Judge Early to allow us to sell the property, but because
18 there were about 60 acres to maintain, I think 20 or 25
19 acres, as a future home for the "I Feel Good" Foundation so
20 there would be a close association with the two. And I had
21 talked to some people at PRT and other places -- not PRT.
22 I'm sorry, I said that wrong. I'll tell you in a minute if
23 I can think of it.

24 But we were definitely wanting to find a museum
25 purchaser and in fact, we wanted it to be somebody either

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1 associated with or guided by the family because that would
2 have been great.

3 Q Was the family on board with this concept?

4 A You know, they always talked about a museum.

5 Q Okay.

6 A They always talked about a museum and what --
7 actually in 2009, we offered the property to Deanna. She
8 accepted and her lawyer rejected it. And there were
9 conditions that would have been consistent with that.

10 Q Okay. All right. Number 3?

11 A Disallow approximately 33 million of pending claims
12 -- we had disallowed the Cannon, Dallas, and Bradley claims
13 already because we knew that they would not be hard to
14 defend, but we were going to wait until we had some money
15 to pay our lawyers to disallow the approximately \$31
16 million Pullman claim and a few million others. And so
17 that's what -- that was our projection. When we got the
18 Christies proceeds and had enough money to defend, you
19 know, to pay our lawyer, we would disallow the claims and
20 that would require the people to have to file suit within
21 30 days and we could deal with it.

22 Continue active defense of the estate plan, we've
23 talked about that. Continue active defense of the spousal
24 elective share claims and work with our entertainment
25 counsel to enhance royalties, images, persona of Mr. Brown

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1 without paying 50 percent of the gross as proposed by
2 Dallas, Cannon, and Bradley.

3 Those were our goals.

4 Q All right. As it relates to this document, did
5 anybody contact you? Any of the recipients, devisees,
6 beneficiaries, or the attorney general, and say to you,
7 this is a bad plan, bad projection, you didn't do this and
8 you -- you said you did it, but you didn't really do it, so
9 we need to correct that? Did anybody make any corrections
10 to this report?

11 A No corrections to the report. And of course, the 6
12 months didn't happen --

13 Q Right.

14 A -- because the settlement was announced during this
15 -- before that.

16 Q Right.

17 A Yes.

18 Q But, I'm saying, even as to the previous --

19 A No, no --

20 Q -- information that you did, nobody contested the
21 validity of what you were saying?

22 A About what we wanted to do, no.

23 Q And what you had done?

24 A Or what we had done.

25 Q Or what you had -- or the challenges you met?

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1 A No. No.

2 Q Okay. Let's look at B, Assistance with possible
3 settlement. That's down below on page 6.

4 It reads, the PR/Trustees believe that if they are
5 joined by the attorney general in a vigorous defense of the
6 estate plan and rejection of the spousal elective share
7 claim, the Estate/Trust will within 6 months be in a
8 posture to evaluate and perhaps enter into a full
9 settlement.

10 Now, why did you put that in there, Ms. Pope?

11 A Well, because that's what we believed.

12 Q Well what -- what was your thinking? How -- if
13 they -- did, in fact, they join you in a vigorous defense?

14 A No.

15 Q Okay. What was your plan or what was -- what were
16 you trying to say here is -- if they did such a thing? If
17 they did it -- if they had engaged in a vigorous defense,
18 joined you as an ally, what was your projections or
19 thoughts about how this was going to end up?

20 A Well, let me say one thing. Mary Frances Jowers
21 did work with us on research related to the elective share,
22 but she was not driving the train. And that's the only way
23 I know to describe it. So I think -- I think it would have
24 happened -- the power of the attorney general to impact a
25 charitable proceeding is enormous.

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1 Q Okay. All right. So let's move on. You say no
2 sale of royalties, images, or persona. PR's do not believe
3 any sale of the royalties, images, or persona should be
4 considered for at least 2 to 5 years. Mr. Brown's
5 royalties was approximately 800 accomplished songs, exceeds
6 3 million annually. The royalties will substantially
7 reduce the TIAA debt since Mr. Brown's death.

8 And that -- so then you go onto say that the PRT's
9 entered only one substantial contract. Trustees entered a
10 substantial contract with Musical Television Tribute to
11 James Brown. What -- could you explain that to me? It
12 says --

13 A Could --

14 Q This is the second paragraph, page 7. Right there?

15 A The former PR -- oh, that was Buddy and -- Buddy
16 and Al Bradley did enter into a contract with the James
17 Brown saves Boston contract. They did. And, you know,
18 give them credit, it brought \$100,000 into the estate.

19 Q All right. PR/Trustees --

20 A And it was good.

21 Q Okay. The PR/Trustees over the next 6 months will
22 explore with entertainment counsel -- who was entertainment
23 counsel?

24 A Ray Gonzales.

25 Q All right. What was Ray Gonzales's experience?

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1 A He had worked for Warner Music for more than 10
2 years. He's now the head of Warner Music Legal. But at
3 the time he worked for Zumwalt, Aumond, and Hayes in
4 Nashville and he had come to us through a friend of my
5 daughter's when I went to my daughter's 30th birthday.
6 She's now 40.

7 Someone had suggested that we contact Professor
8 Bertis Downs in -- in Augusta. I'm sorry, in where is --
9 in Athens. And Bertis Downs had been the long time -- he
10 was a professor at the university and a long time sort of
11 member and advisor to R.E.M. And so we had contacted
12 Mr. Downs because we liked their mode of operation and he
13 was very kind to us, but he said he had plenty on his plate
14 and he had recommended Ray and it turned out to be a very
15 fruitful, although careful, experience because we were
16 totally illiquid and we used him when we needed him.

17 Q And you were looking to him for what kind of
18 advice?

19 A Entertainment.

20 Q As to -- as to how to sell things? As to how to
21 monetize?

22 A Whatever came up.

23 Q All right.

24 A We did -- I think we did just scores of clearances
25 that would come in worldwide every day and they would say,

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1 for example, we want to do a -- use a James Brown song in a
2 Dannon Yogurt commercial in New Zealand for 60 days and we
3 want to pay you \$20,000 for it. And so we would look at a
4 clearance like that and we would say, Well, you know, if we
5 make a mistake, it's not going to be much of a mistake.

6 And so we'd say, okay. Clear it. But then if
7 something came in that had a -- and we'd, of course, talked
8 to the clearance people whose goal was the same as ours, to
9 monetize these assets. And so if something though came in
10 that had a long period -- a long period of time or seemed
11 to impinge on something that would complicate a more
12 extensive contract, we would call Ray.

13 Q Okay. All right. And the next heading is Request
14 that Attorney General and Family explore selling. What is
15 the -- what is the purpose of this aspect of your report?

16 A Well, I think the -- I don't remember exactly what
17 was in my head, but at the time the attorney general was
18 just very into this issue that Buddy and David Cannon had
19 raised that things shouldn't be taken from the trust of the
20 estate and issues about who belonged -- who owned the
21 tangible personal property. And remember that the will,
22 which was now being contested, of course, the will had
23 given personal and household effects, not all the tangible
24 personal property, to -- to these six children before they
25 contested the will.

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1 And so there were issues about what is personal --
2 what other personal and household effects. Does it include
3 the band uniforms? Probably not. They're probably
4 business personal property. Does it include a poster from
5 a James Brown concert? Well, maybe. That might be
6 business's personal property, or that might be a personal
7 item. So that was the nature of it.

8 And that was causing discord and it wasn't going to
9 be settled until the will contest was settled, but the idea
10 was they might could work on that.

11 Q Okay. All right. Now, let's go to Exhibit 1, the
12 -- all right. Exhibit 1 is entitled proposed -- or sale of
13 assets, and it's got gross proposed sale price: One is 26
14 million, and one is 100 million and then from that are
15 various deductions. What are you trying to relate here or
16 inform to the recipients?

17 A This is just another version of what we had been
18 communicating with Sonny about since December 6, 2007. In
19 -- on December 6, 2007, Sonny wrote us and says -- said
20 something to the effect of, I understand that there is \$100
21 million offer out there and then if -- that if it is not
22 accepted the sky will fall and it will go away.
23 He said, I hear that Joe Katz, and I guess by that
24 he meant Joel Katz, is the guy to see about this. And then
25 essentially he said, Am I missing something here.

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1 And so we responded to him explaining what a sale
2 would look like if we didn't resolve the October 18th
3 letter issue before we thought about a sale. And the two
4 figures we used were 100 million, which everybody generally
5 was saying was the value of the assets, you know.

6 Q Now, everybody, who do you mean?

7 A Well, everybody. I never heard -- I never heard
8 anything lower than 80 million.

9 But, but I think even that ---

10 Q But from whom? Lawyers? Who?

11 A Well, Buddy, who -- who knew in his head what Roger
12 Miller knows from the stats.

13 Q Right.

14 A Buddy knew everything about this estate. Mr.
15 Cannon, who, you know, you might compare him to Bernie
16 Madoff or something, but Mr. Cannon knew a lot too. Louis
17 knew a good bit. Some of the children knew a good bit.
18 Mr. Rosen knew a good bit. I mean, there were a lot of
19 people -- Mr. Rosen in February of '09, it might have been
20 a bit of a hyperbole, but he had said the copyrights might
21 be worth 100 million.

22 So, so nobody thought that -- many others, but --
23 so the purpose of this was to show the damage that would be
24 done if there were a sale under the October 18th letter.
25 And the 100 million was the figure just talked about.

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1 And the 26 million, I got from a letter from Joel Katz to
2 -- or we got from a letter from Joel Katz to Buddy that was
3 approximately in February or March of 2007, that said, I've
4 been looking around for purchasers and I think the letter
5 said 26 to 31 million. And that would have been only for
6 the -- the major copyrights, not the unpublished songs, not
7 other assets.

8 Q But it --

9 A And not the publicity rights.

10 Q Right. But if the litigation that Mr. Pullman
11 brought and others had been successful, it was all in flux
12 at this point, but you had to assume for purposes of
13 looking at a sale if that litigation were successful, where
14 would it end up, right?

15 A Well, this wasn't about the litigation.

16 Q Okay.

17 A This was about the October 18th letter.

18 Q Okay. Right.

19 A This is what would have been taken from the sale if
20 the October 18th letter had been in place.

21 Q Okay. So one figure would be a net one million two
22 and the other one be 24 million?

23 A Well, it would be a minus.

24 Q Excuse me, a minus. So --

25 A Yeah.

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- 1 Q So of the hundred million, based on that letter,
2 basically 75 million would be going to --
- 3 A To --
- 4 Q To Cannon, Dallas, Bradley and some others?
- 5 A Paying off the debt and other things -- yeah, in
6 other words, we had to get this GT thing in at least better
7 shape before we could consider it.
- 8 Q And Mr. Pullman would have gotten 12.5 million;
9 Mr. Copsidas would have gotten the 12.75; Mr. Cannon would
10 have gotten 6,4; 6 million 4.
- 11 A If we had not taken control of the Pullman
12 litigation and the GT.
- 13 Q Okay. All right. Let's look at Exhibit 2 to this
14 document.
- 15 Now, these are claims being made by the former
16 PR/Trustees; is that correct?
- 17 A That's correct.
- 18 Q And two of these are -- is Mr. Dallas and Mr.
19 Bradley still being supported by the AG, or --
- 20 A Well, supported is not the right word. The AG
21 himself was not supporting them. In fact, we have a letter
22 from him in June that says essentially we do not support
23 these people, but they knew him for a long time and we
24 think they have valuable information.
- 25 Q Okay.

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1 A So the AG himself had certainly distanced himself
2 to some extent, but Sonny was continuing up through April
3 or May, continuing this relationship with their lawyer.

4 Q Okay.

5 A Yeah.

6 Q And this is the claims these people were making?

7 A They were. And we had thought of those claims as
8 about 15 million.

9 Q All right. And then if we go the Exhibit 3.

10 A Yeah, that was just telling about attorney's fee
11 claims that were outstanding.

12 Q Roughly \$941,000?

13 A Right. Right.

14 Q And let's talk about Powell and Goldstein, what was
15 that bill for?

16 A Well, Powell Goldstein wouldn't turn over it's file
17 because they said they never represented the estate.

18 Q But they wanted 4,800 -- \$4,800 any way?

19 A Well, that's what they said early on. And then in
20 March -- on about March 15th of 2008, we get in the mail a
21 forwarded letter from David Cannon that was a re: Powell
22 Goldstein from September 15, 2008. So apparently they had
23 charged 48,200 -- or they wanted to charge \$48,225 to draft
24 the defective documents to try to change the situs of the
25 trust from South Carolina to Georgia before Judge Early's

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1 August 10, 2007 hearing.

2 Q And Judge Peoples, who did he represent?

3 A Judge Peoples used to say, I came into this case to
4 help my friend, David Cannon. He and Mr. Cannon were close
5 friends in -- in Edgefield where I will tell you that Mr.
6 Cannon --

7 THE COURT: In Barnwell?

8 THE WITNESS: Excuse me, Your Honor?

9 THE COURT: It was Barnwell.

10 THE WITNESS: Barnwell. I'm sorry. Where
11 generally, Mr. Cannon was perceived as a philanthropic
12 person in town. And so I don't fault Judge Peoples for
13 that. But Judge Peoples had come in in January. He didn't
14 have any assistance. He did develop the DNA protocol,
15 which started a correct determination of heirs, but he left
16 when Mr. Cannon left, I believe, shortly after August 10,
17 2007 and he billed for \$137,000.

18 Q All right. Smith, Massey, and Brodie, Thurmond?

19 A That was -- and I just reread that claim last
20 night. Smith, Massey was young Strom Thurmond and his
21 partners. And they had been engaged by the original
22 trustees in January of 2007 and they had represented them
23 for 2 months and I just read they required a \$25,000
24 deposit and then their bill apparently had gotten up to
25 that by the end of the second month.

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1 Buddy Dallas had a strong disagreement with
2 Mr. Thurmond and he terminated -- they terminated them and
3 moved to Louis and Babcock.

4 Q All right. How about Phil Farr?

5 A He was the accountant who was doing all the
6 improper tax returns.

7 Q All right. But he wanted \$25,000?

8 A He did.

9 Q Mr. Hull Towill Norman?

10 A That was Bill Hammond's law firm.

11 Q Bill Hammond?

12 A And Bill Tucker.

13 Q And they did the -- what did they do? Do you know?

14 A Well, they -- Mr. Hammond had a lot of
15 communications with Sonny about how we were trying to get a
16 \$5 million commission.

17 Q All right. So --

18 A In the hundred million dollar estate.

19 Q Suggs Johnson?

20 A They were some accountants hired up in the upper
21 part of the estate by Buddy and those, I think to try and
22 make a fresh start. They -- they were never very in.

23 Q Greenberg Traurig?

24 A I think that that footnote may say that we
25 disallowed their claim and --

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1 Q It says GT, Greenberg Traurig -- all things that
2 were approximately \$327,000. Who did they represent?

3 A Well, this was from the failed RBS deal. This is
4 the -- that was the fee they wanted us to approve in order
5 to continue to stay in the Pullman litigation.

6 Q Which you -- which you didn't agree to --

7 A Which, we asked the judge and the judge -- we asked
8 the judge, you know, to give us guidance because we didn't
9 think we could approve that.

10 Q All right. And so then they filed a claim and then
11 it was withdrawn after a --

12 A But it was withdrawn.

13 Q -- after a period --

14 A Ultimately they withdrew all of their claims.
15 Before we left as PR/Trustees. I just put that in there
16 for -- we put that for information.

17 Q Lewis and Babcock \$348,960. Who did they
18 represent?

19 A They were the litigation counsel for the estate and
20 they -- they were good lawyers and they really towed the
21 line in representing these fiduciaries who were kind of
22 getting peeled off, but they never crossed the line. They
23 were -- they were great lawyers.

24 Q Jackson Law Firm, law office, who was -- what did
25 they do?

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1 A That was Stan Jackson, the subsequent attorney for
2 the -- both individually and as PR/Trustees, Judge Bradley,
3 and Buddy Dallas and he's the one who filed the motion for
4 Judge Early to recuse himself.

5 Q All right.

6 THE COURT: All right. Mr. Bundy.

7 MR. BUNDY: Yes, sir, Your Honor.

8 THE COURT: I think we're about at the break time.

9 MR. BUNDY: Yes, sir, this is a good break time.

10 THE COURT: I've got 3:44 on my phone. We'll break
11 until four o'clock and go until five.

12 MR. BUNDY: Thank you, Your Honor.

13 THE COURT: Ms. Pope, the same admonition, please,
14 ma'am.

15 (A brief recess was observed.)

16 MR. BUNDY: Thank you, Your Honor.

17 BY MR. BUNDY:

18 Q Ms. Pope, I'd like to talk to you now about an
19 average day in your law practice. In this area right in
20 here, or I guess this period between this first red line
21 and the will contest and the settlement agreement, we'll
22 get to it in a moment, roughly, this period of August. And
23 we're talking about 2008.

24 I note here in April, you personally billed or
25 expended over 250 hours in one month working on this case?

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1 Can we agree that's a lot of time for a lawyer to spend on
2 a case in one month?

3 A Well, they say that about 2400 a year is a -- 200 a
4 month is a pretty good load, but I was, of course, working
5 most weekends, at least one day.

6 Q All right. If you would, just give the Court an
7 idea, generally, of what your day was like during that
8 period when you would wake up and go to the office; and
9 what you would be faced with in terms of faxes, calls,
10 crises, confrontations, and all the rest of it?

11 A Well, I think the best way to look at it would be
12 to just pick any day on our -- on our sheet, which we --
13 was part of the -- part of the support for --

14 THE COURT: Now, are you looking at 10 or 8?

15 THE WITNESS: I'm sorry, Your Honor, I don't have a
16 number. It's Exhibit -- it was Exhibit --

17 MR. BUNDY: It's the one behind -- it's the bigger
18 one, Your Honor.

19 THE WITNESS: Yes, Your Honor.

20 MR. BUNDY: The one at your right hand.

21 THE WITNESS: I mean, let's pick a 9-hour day.

22 This is Wednesday, October 8, 2008, that's work with --

23 THE COURT: What page would that be on, please?

24 THE WITNESS: I'm sorry, page 58.

25 THE COURT: 58?

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1 THE WITNESS: Yes, Your Honor.

2 THE COURT: Okay. I am there.

3 THE WITNESS: Okay. And that would be work with
4 Tressa Hayes on the appeal of Dallas and Bradley. Both of
5 -- both Dallas and Bradley were conducting appeals and I
6 was dealing with that and then suggestion in the motion.

7 THE COURT: They were appealing --

8 THE WITNESS: They were appealing -- well, Mr.
9 Dallas and Mr. Bradley were appealing the March 7th order
10 in which Your Honor did not allow them to rescind their
11 resignations. And that continued until 2010. And then
12 there was a question in there -- they were -- I see from
13 this, I wouldn't have remembered it, but they were
14 questioning whether the actual action to get rid of them
15 had been properly commenced with a summons. So we were
16 having to go back and we -- look at whether Mr. Levinson
17 had properly filed a summons way back in 2007, when he got
18 ready to get rid of them. Then I put assist counsel with
19 investigation of the same; that about the summons.

20 Work on affidavit related to service or original
21 accounting document on former PR/Trustees to counter
22 affidavit to was not filed or not presented to the Court.
23 I can't remember what that was.

24 Travel to Aiken for weekly meeting with RLB, Jr.
25 Judge Buchanan and I met every week in person or near -- or

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1 intended to meet every week in person. So I traveled to
2 Aiken for our weekly meeting. Meeting with J. Bailey, Jim
3 Bailey. And working on finalizing and service of answers.
4 So this was October 8th. So this was after the attorney
5 general had, I guess, filed a petition -- oh, no, I'm
6 sorry. Oh, this was after the attorney general had
7 announced the settlement, but we were running about 7 or 8
8 claims hearings that month and the next month.

9 So it says, work on finalizing answers, motions,
10 notices related to petitions for allowance of claims of
11 Welch, Jackson, Pettit, Parrett, Pullman, and others. So
12 even though we had been told the stand down because of the
13 existence of the settlement, we were still working down
14 these claims and it was during this period, in fact, a few
15 weeks later that we were successful in having the \$31
16 million Pullman claim dismissed and they did not appeal.
17 That was great.

18 Conferences about clearance requests. I mean we
19 had conferences nearly every day about clearance requests.
20 Telephone conference with L. Levinson, A. Medlin,
21 and others in which Mr. Medlin asked about our willingness
22 to resign for a transition.

23 Explained that we could not begin to discuss any
24 possible transition until we had a hand on what was being
25 proposed. I think that was handle on what was being

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1 proposed.

2 Oh, this date being October 8th, the settlement had
3 been announced, but the terms had not been disclosed.
4 Whether it would result in any loss of the \$38 plus million
5 saved by the election of a charitable deduction on
6 Mr. Brown's estate tax return; well, I mean, Mr. Medlin
7 knew as much about estate taxes as I did and so we must
8 have been discussing about how -- what they were going to
9 do about the loss of the charitable deduction on the estate
10 tax return.

11 Explained our need to talk to accountants of those
12 of those who were working toward a partial settlement to
13 see what their position was as to how to handle income tax
14 issues for funds previously, almost exclusively paid or
15 permanently set aside for charity. Well, what happened on
16 August 10, 2008 when the attorney general announced this
17 settlement, I may be moving ahead, but we were told stand
18 down, this is settled. And we soon came to learn that the
19 attorney general had elected to give half of James Brown's
20 charity to -- to private individuals. And what that did in
21 addition to causing a gigantic estate tax problem, it
22 caused huge income tax problems because the term I'm using
23 there, paid or permanently set aside, if you have an estate
24 that's running along and making money, but it's all going
25 to end up with a charity, you treat it as if you're going

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1 to get a charitable deduction for it. I'm over
2 simplifying this.

3 But, if you now have an estate that's been running,
4 this is 2008, it's been running for two years and you're
5 changing it to say, well, no, no, we're giving half of it
6 to non-charity, you don't just impact the State tax return,
7 you impact the -- every single income tax return that has
8 to be filed with respect to the estate and so what we were
9 --- what we had begun to tell them in August and continued
10 to tell them here in October was, we need to talk to your
11 accountants to see how y'all are going to handle all of
12 these income and other problems that have been caused by
13 this announcement of the settlement.

14 And so then it said, explain that neither of us is
15 an income tax expert. Oh, good, because I'm not, but that
16 it is obvious that 90 plus percent of Mr. Brown's assets
17 under his estate plan are paid are permanently set aside
18 for charity. Thus to the extent that any party proposes to
19 take funds from charity, their accountants would need to
20 work with us to have an understanding of how that would be
21 handled in the future.

22 Subsequent telephone conference with L. Levinson,
23 Louis Levinson, and other invited members of settling and
24 non-settling team about the need for confidentiality
25 regarding the estate tax return, which did not remain

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1 confidential but was confidential for a very short period.
2 And contracts -- as we have in the federal suit, we
3 were under a confidentiality order in the Forlando suit and
4 there was -- we were concerned about the overlap.

5 Concern for the number of hours associated with
6 process of trying to designate and/or redact, so dealing
7 with those issues. I mean, that was -- that was a day with
8 9.1 hours, which included a trip from either Newberry or
9 Columbia to Aiken; but it sounds like from Columbia.

10 BY MR. BUNDY:

11 Q Is this more or less, sort of a typical day over
12 that period of time?

13 A Well, there was not such a thing as a typical day,
14 but every day was busy.

15 Q In terms of your prior experience in estate
16 matters, if you think about your own stress level, scale of
17 one to ten, okay? Just in terms of the stress on you every
18 day while you're trying to do this as compared to your
19 normal work day before James Brown, how would those things
20 compare?

21 A Well, I was always a hard worker. And I -- I don't
22 like the term stress. We were working hard.

23 Q Okay. Fair enough. All right.

24 So let's go back to our orders in Tab 30, please;
25 which is South Carolina Court of Appeals order dated May

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1 28, 2008?

2 A Well, I think we were discussing earlier, we took
3 John Rainey for the meeting with Attorney General McMaster
4 and it was what we thought was a very, very successful
5 meeting. John Rainey was very supportive of what we were
6 doing and trying to do. And Attorney General McMaster
7 appeared to be supportive of what we were trying to do.
8 And the thrust of the meeting was, we said we would like
9 the have the third trustee who would be suitable to the
10 attorney general because we want the attorney general to be
11 on our side in these issues.

12 And so Sonny kept insisting that we had to resign
13 in order to be reappointed, which we thought was strange,
14 but -- so we proposed to the attorney general, why don't we
15 do this: Why don't we all go to the probate court and say
16 to the probate court, we want a third trustee. The
17 attorney general thinks we need to resign. We think we
18 don't need to resign, but we all want to get to the same
19 place, which is to have us there and to have a third
20 trustee that the attorney general likes that will sweeten
21 our working relationship.

22 And Attorney General McMaster seemed to cotton to
23 that idea. We were delighted. He turned to Sonny and said
24 how many days will it take you to find another trustee and
25 Sonny said six. We left that meeting elated. We thought

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1 we had finally broken this barrier, this unnecessary
2 barrier with the person charged with protecting charities.
3 Well, it turns out that very day Judge Cureton
4 issued a little order in the Dallas appeal that shouldn't
5 have had any impact on what happened with the attorney
6 general at all. But David Bell, who was representing
7 Forlando in the suit to try to return Cannon and Dallas
8 took the position that this order by Judge Cureton, that
9 said the Dallas appeal does not impact the estate, and
10 therefore, you don't have to worry about a stay meant that
11 you did have to worry about a stay of all matters related
12 to the trust.

13 And so Mr. Bell and Sonny and Dallas and Cannon all
14 took that that meant we couldn't do anything as trustees.
15 So Sonny, in the flick of a pin undid everything the
16 attorney general had just done to straighten it out. And
17 -- and so Sonny started taking the position that there was
18 no trustee because Dallas and Bradley were appealing Judge
19 Early's order of April 8, 2008.

20 So Judge Early, of course, with concerns raised by
21 the attorney general and Mr. Bell and others kind of
22 cautiously moved through things and we began a very
23 respectful, but nevertheless important letter writing
24 dialogue with the attorney general just expressing our
25 terrible disappointment that Sonny was interfering with

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1 what looked like a great solution.

2 There -- in our -- in the claim that Judge Buchanan
3 and I filed, we attached some of those June letters and I
4 can talk about them one by one, but there were about five
5 of them. But it was so disappointing because it appeared
6 that we were now going to get along.

7 So that was the month of June and I remember just
8 before we all left for the 4th of July vacation Sonny files
9 a document saying there is no trustee and he wants a
10 special trustee appointed. Now, where he got the notion
11 that there was no trustee would just be Sonny's
12 imagination.

13 So Sonny filed that. We learned about it just
14 before we left for our 4th of July vacation. When we came
15 back, we had to deal with it. We were just -- it was
16 awful. Sonny just was disrupting everything the attorney
17 general had said he was willing to do.

18 And so that -- so we get back from the 4th of July
19 holiday -- now, remember that the -- the sale, the
20 Christies sale is now scheduled for July 17th. And so
21 we're just barely back from the 4th of July and we are
22 responding and Sonny has already sent Judge Early the name
23 of five
24 potential trustees, Steve Johnson, David Sojourner, Xavier
25 Starkest, one other person, and Russell Bauknight.

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1 So Bob and I, always trying to make lemonade out of
2 whatever lemons are sent to us, began to correspond with
3 these people about, let's get together. I mean we were
4 going to try to work with anybody who suited the attorney
5 general. So we come back just before the Christies sale.
6 On the 9th of July or the 8th of July, eight or nine days
7 before the Christies sale, but then Dallas, who's been
8 interfering with everything all along, with the help of
9 David Bell; Buddy Dallas files documents in Court of
10 Appeals to stop the Christies sale. And his theory is that
11 everything the -- the trust is trying to do is stayed by
12 his appeal.

13 So he files a motion to enforce the stay. Now,
14 this was not Buddy's first foray into trying to interfere
15 with the Christies sale without doing it in front of Judge
16 Early. He had -- Powell Goldstein had written us
17 threatening us. Hammond was making statements to the
18 media. I mean, they were -- and Jaqueline Hollander was
19 writing Christies trying to withdraw a turquoise bracelet
20 she said of all things, she had on when she was raped by
21 James Brown -- as if you would want a turquoise bracelet
22 with that memory -- but this was the kind of craziness that
23 was surrounding the Christies sale.

24 So on the 9th, none of that craziness had worked.
25 So eight or nine days before the sale, Buddy Dallas and

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1 Judge Bradley filed a motion to enforce the stay, to stop
2 the sale.

3 Q And that would be Tab 31, which is the July 9,
4 2008 --

5 A That -- that --

6 Q -- resulted in that order?

7 A That's right. And so Judge Cureton issued
8 immediately, a stay. It was a Thursday or Friday and he
9 said that a hearing would take place on the 14th, which I
10 think was Monday before the sale was supposed to take place
11 on Thursday.

12 Q All right. So then on Tab Number 32, this is Judge
13 Cureton's order after that hearing; is that correct?

14 A Right. They gave us -- they gave us from whatever
15 the 9th until Monday to file briefs. And Christies came
16 in and did an amicus brief that said they're going to have
17 to pay \$150,000 default fee if this sale is stopped and we
18 don't even know if we'd be interested in it if it's
19 stopped. And the attorney general filed a motion to
20 intervene and asked that the Christies sale go forward,
21 which was good. He supported our request that it go
22 forward.

23 Prior to that, the attorney general had very
24 clearly stated we take no position with respect to the
25 Christies sale. So we filed these briefs. Christies asked

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1 us who would be a good lawyer and we suggested James
2 Richardson and so Christies had hired James Richardson.
3 We had Tressa Hayes. We filed these briefs. We talked
4 about the damage that this -- stopping this sale would do
5 to this extraordinarily illiquid estate. And so that
6 Monday Judge Cureton issued his second order.

7 Q All right. Let's pull the order up and look at it,
8 please.

9 A Okay. And the second order -- oh, no, that was the
10 first order.

11 Q The first order.

12 A After careful review, we temporarily grant the
13 stay; and we had to file our briefs by noon on Monday, the
14 14th. Right. So we do that.

15 Q All right. So here's the order of July 9, I
16 believe --

17 A No, no, this will be the 14th.

18 Q 14th?

19 A Yes.

20 Q July 14th?

21 A All right.

22 Q Well Judge Cureton -- Judge Cureton points out the
23 Circuit Court Judge Early, directed response to execute the
24 consignment agreement. No party has appealed from this
25 order or the February 20th 2008 order. What did the

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1 February 20, 2008 order relate to? Just to refresh our
2 recollection?

3 A Well, the consignment agreement order was the later
4 order. It was the April 1st order.

5 Q All right.

6 A The first order saying Christies can be the people
7 was the February 20th order.

8 Q And Judge Cureton points out that the -- on the
9 14th of July, the sale's supposed to go forward in three
10 days?

11 A You got it.

12 Q Okay. And it says, we grant Christies motion to
13 appear as amicus curiae and the attorney general's motion
14 to intervene, all documents carefully considered?

15 A Right.

16 Q And he goes on and he --

17 A And I will tell you, they had before them as our
18 brief, because the Christies sale catalog was out and so
19 we filed our six or however many copies of the brief with
20 the Grammy as the centerfold or close --

21 Q Okay. So -- so there --

22 A -- in that.

23 Q So there was no secret that the Grammy was going to
24 be sold?

25 A It was right there pretty as a picture.

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1 Q The AG knew it?

2 A Right.

3 Q Everybody involved knew it; anybody that wanted to
4 look at the catalog knew it?

5 A With the crack patched.

6 Q Christies knew it. Okay.

7 And Judge Cureton said the auction may take place
8 as scheduled and for practical purposes respondents may
9 continue to act as trustees while this appeal is pending.
10 What was the significance of that?

11 A Well, it was extraordinarily significant because
12 here was Buddy trying to -- to -- to hogtie the trust for
13 the whole time of his appeal and we were mostly trying to
14 get the Christies sale done. We weren't thinking about
15 other things, but gratuitously, Judge Cureton's order does
16 contain, Respondents may continue to act as trustees while
17 the appeal is pending.

18 That lifted the cloud of the stay that had been put
19 in place on May 28th. And so Sonny's claim that there
20 never was -- that there was no trustee during the month of
21 June went out the window. That was great.

22 So now we have, for the first time, 100 percent
23 clear authority as both PR's and trustees because our PR
24 authority had never been challenged and now we have a clear
25 court of appeals order in addition to Judge Early lifting

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1 the stay so we were ready to go. Okay.

2 Q All right. Was there any further discussion at
3 this time now, about a third trustee with the attorney
4 general?

5 A Absolutely. We immediately picked back up. We
6 took Steve Johnson and Xavier Starkes out to Beech Island.
7 We talked -- I rode them -- I drove them from Columbia to
8 meet with Bob, so we talked the whole way about the
9 challenges and the opportunities. We were -- we thought we
10 were back on track.

11 Q And had you heard anything from the attorney
12 general, specifically Attorney General McMaster that he had
13 changed his mind about a third trustee?

14 A No, no specifically, specifically, we got the
15 letter of July 30th 2008 in which he -- in which he said he
16 supported us as trustees along with a third trustee, was
17 glad we were working together, but it did contain a
18 sentence, probably put in by Sonny, but I think the better
19 way would be for you to resign.

20 So it was not 100 percent resolved. But I was very
21 comfortable that we were moving in that direction. And we
22 liked -- Mr. Bauknight had not returned our calls, so we
23 hadn't taken him or talked to him. And a 5th one, we
24 hadn't, but we really liked the two trustees we had taken
25 there. The two potential trustees.

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1 And then Mr. Sojourner was on vacation and was
2 returning shortly from vacation. So we were so encouraged.

3 Q Had those trustee recommendations emanated from the
4 attorney general's office?

5 A They came from Sonny.

6 Q Okay.

7 A Yeah, they came from Sonny.

8 Q Let's go to the next document, which is found at
9 Tab 33, Judge Early's order of July 25th 2008?

10 A Well, all that does is show that we were sort of
11 continuing to do other things while all of this is going
12 on. But that's just an order that talks about our wanting
13 to go ahead and make some education payments as soon as the
14 Christies proceeds came in. And so the judge signed that
15 order.

16 Q All right.

17 A For the benefit of certain students.

18 Q In fact, the trust -- the Christies sale went
19 through, right?

20 A It did.

21 Q All right. And what -- how did it go?

22 A Well, it -- it did not go that great because
23 Mr. Levinson had called us and said would we pay for his
24 clients to come to the sale and we told him we wouldn't pay
25 for it, but if they did go and if their presence were shown

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1 to be a positive factor in the sale that we would not
2 oppose Judge Early's awarding them expenses for their
3 travel to the sale after the proceeds.

4 Q And again, his clients were the six named children?

5 A No, his clients were five of --

6 Q Five, excuse me.

7 A -- the six named. And so -- but what happened
8 actually, is instead of -- instead of being helpful at the
9 sale, it was a little bit different. Not with Mr. Levinson
10 himself, but Deanna conducted a television press conference
11 with the Reverend Al Sharpton the morning of the sale. I
12 didn't see it until that night on the news, but essentially
13 she was out in the New York press sabotaging the sale.
14 Yamma came up and told me she didn't know how I
15 slept at night. I should take the \$2 million and I'll tell
16 you what the \$2 million was. Two days before the sale, we
17 had received a call from Kraig Fox who was part --

18 THE COURT: From who?

19 THE WITNESS: Kraig, K-R-A-I-G, Fox.

20 THE COURT: F-O-X?

21 THE WITNESS: F-O-X. And he was part of this, I
22 think the Silmon Group. And Mr. Fox said we would like
23 to lend you \$2 million for either 90 or 120 days. My time
24 sheet, I mean my record may show this. And he said to stop
25 the Christies sale. He said we've been working with the --

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1 with -- I think he said the sisters, Yamma and Deanna. He
2 might have said the Levinson clients. But he said, We've
3 been working with them for about four months and we'd like
4 to give you a 90 day loan to stop the sale. And I said,
5 Oh, I hate that you made this call today and not four
6 months ago. But it was just too little too late. For
7 starters, he didn't know what the terms of the sale would
8 be. Christies had already told Court of Appeals they
9 wouldn't re up the sale if it were cancelled.

10 We knew that there would be at least a \$150,000
11 forfeiture fee and I was very sorry that that happened,
12 but, but, there was no way at that point to stop the sale.

13 So --

14 Q That's the morning of the sale?

15 A No, it was two days before.

16 Q Two days before?

17 A And then, so when Yamma came up to me, she said,
18 you know, I don't see how you sleep at night, you should
19 have taken the \$2 million, but, I mean, that didn't
20 interfere with the sale. I mean they weren't -- at the
21 sale itself, nobody was rude or inappropriate. It was --
22 the press conference didn't help. But in general, the sale
23 went the way it went. The only issue that came up during
24 the sale, as I recall, was the Grammy issue and what had
25 happened is that there had been a filing, not against the

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1 estate but against Christies, as I recall. I'm not even
2 sure I ever saw the pleadings. But I understood it to have
3 been filed against Christies seeking to halt the Grammy
4 sale.

5 Q And who made that filing?

6 A It was made on behalf of the American Academy of
7 Recording Artists.

8 Q The people who give the Grammys?

9 A The people who give the Grammys. And we -- we had
10 had very nice dealings with them before about a Grammy
11 opening and other things. But anyway, the Christies
12 counsel met with us, with Mr. Levinson in the room, and
13 said this is what they do all the time. There's absolutely
14 no legal basis not to sell this Grammy. You should leave
15 it in -- leave it in the sale. They're just bullying you
16 and we said, Well, how much will it cost to defend a sale.
17 And they had --

18 MR. WILLIAMS: Your Honor, I'm sorry. I'd like to
19 object to this line of testimony on the basis of hearsay.
20 I understand -- I understand the Court's prior ruling, the
21 Court's prior knowledge of the case, but I believe we may
22 be dealing with new information.

23 THE COURT: You're objecting on hearsay?

24 MR. WILLIAMS: Yes, Your Honor.

25 THE COURT: Well, obviously, it's hearsay.

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1 MR. BUNDY: And, Your Honor; it's not offered for
2 the proof of the matter asserted. It's to see the
3 witness's state of mind and why she did what she did.

4 THE COURT: How could all day long we've been
5 dealing with what other people said and no objections have
6 been made? I'm going to allow it in.

7 MR. BUNDY: Thank you, Your Honor.

8 THE WITNESS: So --

9 THE COURT: How much would it cost to defend the
10 sale.

11 THE WITNESS: Right. And she said, you won't use
12 our counsel because we're too expensive, but we think we
13 can find you somebody for about \$5,000. So -- but now,
14 because there had been a challenge, that meant that we
15 could withdraw this item without a penalty. You couldn't
16 withdraw other items without a penalty. So we made the --
17 Judge Buchanan, with Mr. Levinson in the room, made the
18 business decision to withdraw the Grammy. It -- it was as
19 I recall in the catalog at a possible to \$20,000 sale
20 price. It -- it -- there was just no reason to pay a
21 quarter of its value to defend a sale and then pay all the
22 commissions and everything associated with it.

23 Plus, we knew that there, A, could be future sales
24 and we knew that nobody could possibly be sad if we didn't
25 sell the Grammy. I mean it was a no brainer from our

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1 perspective.

2 And -- and so the Grammy, like a number of items
3 that didn't meet the appraisal requirements were returned
4 to the South Carolina State Museum which agreed to hold
5 them for us still under Judge Early's February 20th order.

6 Q Did there ever come a time when there was some
7 controversy about the condition of that statue?

8 A After the Grammy came back, we were notified that
9 there was a crack in it and -- but if you look at the
10 catalog, you can see the crack was already there. So I
11 asked the people at the state museum to investigate because
12 everything that was transported to and from Christies was
13 fully insured. And so they checked and Christies had a
14 pictures to show that the crack was there before it left
15 the first time, and that -- that they had sealed it and the
16 seal had broken, not a new crack, but the seal. And so the
17 State museum agreed to repair the crack with museum quality
18 work that I think they said it would normally cost \$75 to
19 \$85 an hour, but they would -- that somebody had agreed to
20 donate the work.

21 And so I think that happened and I think it then
22 went -- after our tenure to the Augusta Museum of History,
23 but I'm not quite sure.

24 Q So the Grammy ultimately didn't get sold?

25 A No. No, it was not sold.

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1 Q And it wasn't cracked by virtue of the sale?

2 A No.

3 Q Okay. All right. Let's talk about this order that
4 we're looking at here, the Number 33 regarding Interim
5 Payment of Educational Benefits. Just very briefly tell us
6 what you were trying to do here?

7 A Could I get the date of that order? Because I
8 think I remember, but I want to be sure. Is it August
9 10th? 9th.

10 THE COURT: July 25.

11 BY MR. BUNDY:

12 Q July 25.

13 A July 25.

14 Q It was filed in August, but it's July 25?

15 THE COURT: Filed August 1.

16 THE WITNESS: Filed August 1. Okay. What happened
17 after that was that I believe Mr. Levinson filed a motion
18 to alter or amend that order so that tuition payments could
19 be paid to everyone, not just those over 21 or something
20 and then by August 10, which was just shortly after that
21 order was filed, the settlement, the McMaster settlement
22 had been reached and the attorney general and Mr. Rosen had
23 told us to stand down and I think there was never a hearing
24 on it, as I recall.

25 ///

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1 BY MR. BUNDY:

2 Q All right. So --

3 A Oh, yeah, I'm sorry, I do remember. Judge Early --
4 we were concerned because Forlando had said that he needed
5 his tuition and Judge Early said to him, I had forgotten
6 this. I think it was on August 19th. Judge Early said to
7 him, well if you need some money for tuition, you let me
8 know. And so far as I know, over the next year, he --
9 nobody let Judge Early know that.

10 MR. BUNDY: Let's close these, please.

11 BY MR. BUNDY:

12 Q All right. We're now in August, correct?

13 A Yes.

14 Q Finally got to August 8th. The settlement took
15 place. Okay. How did you find out about that settlement?

16 A We received an e-mail from counsel for Tomi Rae
17 saying stand down, stop administering the estate everything
18 has been settled. That was August 12 of 2010, and then in
19 the that same day there was an e-mail to Judge Early saying
20 that there had been a mediation on August 10th on James
21 Brown Boulevard in Augusta and that everything had been
22 settled.

23 Q All right. Prior to August 10th, were you aware of
24 any settlement negotiations among and between the parties
25 in conjunction with the attorney general?

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1 A We were not.

2 Q When you met with the attorney general --

3 THE COURT: Hold on a second, please. You just
4 said August 12, 2010.

5 THE WITNESS: Oh, apologize, it was clearly August
6 12th, 2008. I'm sorry. Thank you for correcting me.

7 THE COURT: No, no, I may have written it down
8 wrong.

9 THE WITNESS: No, no, I probably said it wrong.

10 BY MR. BUNDY:

11 Q You met with Attorney General McMaster when to
12 discuss this with Mr. Rainey?

13 A Our meeting with Mr. Rainey, I believe, was May
14 28th.

15 Q And when did you meet with the attorney general
16 regarding your request for a third trustee?

17 A May -- that was May. And I'll just make sure I'm
18 not one day off. May 28th.

19 Q After Judge Cureton's order clearing up the
20 trustees could still move forward, when was that date?
21 That was a July 9th date or 16 date?

22 THE COURT: July 14th.

23 BY MR. BUNDY:

24 Q 14th.

25 A Okay. I'm sorry, just a minute. It might have

Adele Pope - Direct Examination by Mr. Bundy

1 been the 27th; I'm sorry.

2 Q At any rate, on the July 14 order from Judge
3 Cureton, or Justice Cureton --

4 A Excuse me 29th. I'm sorry. It --

5 THE COURT: Y'all are getting me confused. What's
6 the 29th?

7 THE WITNESS: I apologize. The meeting with the
8 attorney general was May 29th.

9 BY MR. BUNDY:

10 Q Okay.

11 A The Judge Cureton order was May 28th, but we didn't
12 learn about it until the 29th. I'm sorry, I apologize.

13 Q And from the 29th -- I guess what I'm trying to do
14 is to recall or establish, is the date that it -- that you
15 went back and tried to look for a third trustee.

16 A We did that -- really, the whole -- well, really,
17 the whole time after the meeting, but I think Sonny had
18 actually suggested those names in late June.

19 Q Okay.

20 A But we were in constant communication with the
21 attorney general after the May 29th meeting.

22 Q And in any of those communications were you ever
23 advised by Mr. Jones or the attorney general that
24 negotiations were going onto settle this matter?

25 A No.

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1 Q Okay. Were you informed regarding your attendance
2 or Judge Buchanan's attendance at the settlement mediation?

3 A No.

4 Q All right. Would you have gone if you had been
5 invited?

6 A Yes.

7 Q Okay. And do you think your presence would have
8 been valuable to the participants in that mediation?

9 A In light of the stance that Sonny Jones took, I'm
10 not sure.

11 Q Okay. All right. So you receive an e-mail from
12 Mr. Rosen in August?

13 A That's right. August 12.

14 Q All right. And you're told to stand down and did,
15 in fact, you stand down?

16 A Well, we stood down as best we could. We -- we, of
17 course, had to continue everything. We had to continue and
18 as I've mentioned early -- earlier, we continued on with
19 resolving all the claims matters. We filed the estate tax
20 return on September 25th. We continued -- we had a two day
21 hearing in the Forlando federal case in Beaufort on the
22 19th and 20th, I believe it was, of November. And this was
23 a critical hearing because Forlando was still seeking to
24 enjoin the 2000 Trust from taking any action which would
25 have left us -- if he had been successful, unable to even

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1 defend against the settlement. So that was a very serious
2 thing.

3 We didn't do -- we didn't do anything new or
4 extraordinary with exception of something that didn't
5 happen until 2009 that I can tell you about. But we did --
6 we did continue what I would call the administrative
7 matters.

8 Q Were you in a position after that date to go
9 forward and try to find or monetize claims or create
10 revenue for the estate or make it more liquid or do
11 anything like that?

12 A Well, I think we -- the atmosphere was so clearly,
13 we have a settlement, shut up, we're ready for you to be
14 gone, that -- that that just was -- it was not an
15 atmosphere conducive to establishing the confidence you
16 need to --

17 Q And were you apprised or provided with the
18 settlement documents when you were notified of the
19 settlement?

20 A Not right away. In fact, we had to -- we had to
21 delay looking at them a little while because they wanted
22 them to be confidential and we were afraid we were going to
23 have to talk about them in the federal hearing. But we
24 certainly -- by -- within a short while, we generally
25 understood that half of the charity was going to the

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1 Levinson's clients and Tomi Rae. It would -- at some
2 point fairly early on, we understood that.

3 Q Okay. And would that have been consistent in your
4 opinion to the intent of the testate or set forth in the
5 testamentary documents, the will, or the trust?

6 A No.

7 Q All right. So let's go back to, I guess -- well, I
8 guess we could look at the settlement now if we have it. I
9 think it's the last tab.

10 You say you got the settlement documents shortly
11 after the notification?

12 A No, no. We never got the settlement documents
13 until something like March 23rd, 2009.

14 Q Oh, okay.

15 A We got a synopsis of the settlement, I believe, in
16 October.

17 Q Okay. So really, you didn't know what the terms of
18 the settlement was other than just verbal --

19 A We knew the terms by October.

20 Q Okay. By October. All right. Well, that being
21 the case, let's stick with August -- let's go back to
22 August.

23 This is an order --

24 THE COURT: Which tab are you on, please?

25 MR. BUNDY: It's tab 24, Your Honor.

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1 BY MR. BUNDY:

2 Q This order relates to, I believe, three cases that
3 were filed requiring new case numbers?

4 A Well, these are just a little example of things
5 kept going on. We've already talked about the August 1
6 order for education benefits. Then the next thing was an
7 order of Judge Early consolidating the Cannon, Dallas, and
8 Bradley claims against the estate. This was their claims
9 for about \$5 million, even though they were being sued by
10 the estate. They got consolidated for purposes of
11 discovery. It was just kind of moving along with that.

12 And then the third petition is interesting because
13 one of those three previous trustees perhaps, Mr. Cannon
14 was now asking to restrain Judge Early, I believe, he was
15 -- we might look at that order. It was somebody else's
16 petition for restraint.

17 Q Okay. But there's an order granting limited stay
18 of certain discovery and that was Judge Early, I believe
19 signed that order on October 23rd?

20 A Right. That's a little later, but before that,
21 this third document here is a petition for removal and
22 restraint.

23 Q Okay.

24 THE COURT: That was filed by David Cannon.

25 THE WITNESS: Could we look at -- oh, that's the

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1 attorney general's petition to remove Cannon and Dallas.

2 Could I -- could we look at that.

3 BY MR. BUNDY:

4 Q September 20 --

5 A September 28th, 2008, if we could look at that just
6 to clarify. I think that's the attorney general's -- I
7 can't quite read it from here, but I believe that's the
8 attorney general's signature.

9 THE COURT: He's shaking his head, he can't blow it
10 up.

11 THE WITNESS: Okay. Okay that's fine. The
12 attorney general -- I apologize. In September, the
13 attorney general filed an action to remove Cannon, Dallas,
14 and Bradley. Before he did that, there was a consultation
15 by the settling parties with us, will you join in an effort
16 to remove Cannon, Dallas and Bradley. Our response was no
17 because there are matters pending in the appellate court
18 and we don't think that we'd have the jurisdiction to join
19 it here because we're up there saying they should never
20 return.

21 So the attorney general filed a petition for
22 removal or restraint of Cannon and Dallas in September of
23 '08. We were not made parties to that. But it
24 specifically referenced the settlement. So we moved to
25 intervene -- Judge Buchanan and I moved to intervene and

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1 within 30 days of that, approximately October 25th, the
2 petition was amended and the petitioner was no longer the
3 attorney general, but now all of the settling parties and
4 now no longer were they moving to remove Cannon and Dallas,
5 but they were moving to remove us as well. And that was in
6 October.

7 And just about the time that was filed Judge Early
8 granted a stay of certain discovery while this settlement
9 was being considered and we did not oppose a short stay.
10 It will say that in the October 23rd order. So there was a
11 short stay of discovery because Judge Early wanted to have
12 an opportunity to let people look at the settlement.

13 Q All right. Let's look now at the -- you were told
14 to stand down?

15 A Right.

16 Q You were advised of the settlement in April --

17 A Right.

18 Q -- in August?

19 A Uh-huh.

20 Q And your work, your number of hours declined?

21 A Well, my number of hours, I think declines in
22 December of '08 for two reasons. One, just prior to that,
23 just before Thanksgiving Judge Early had been asked to
24 appoint Russell Bauknight as a special administrator and
25 special trustee and the request to appoint Russell had been

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1 very broad, so in a sense they were asking that he take
2 control of everything. But they also were asking that he
3 be the one to approve the settlement. And so Judge Early
4 had -- had indicated that he was going to rule on that in
5 November. He said he'd be ruling shortly.

6 And so we were in a limbo where we didn't even know
7 whether we'd have any authority to do anything if he did
8 what the attorney general had asked him to do. And in
9 addition, my daughter was married to my son-in-law on
10 December 6 of 2008 and I had long before that asked for
11 time, two weeks off. Except for one other trial, that was
12 about all the vacation I had.

13 So my hours were down because my daughter was
14 getting married and because we were also in limbo then.
15 But I was not left free. I was called as I was serving my
16 daughter's bridesmaids lunch with a problem that Judge
17 Buchanan was having that had to be dealt with. But in
18 general, I was gone for almost two weeks.

19 Q And then there appears to be an uptick of your
20 hours starting in, you know, from -- roughly the first part
21 of February through and peeking sometime in April. What's
22 going on in this period. It's in the settlement hearings.

23 A Well, Judge Early issued an order on January 8th
24 and he did not grant their request to let Russell Bauknight
25 simply replace us. He instead -- he instead said that he

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1 was appointed for the sole and limited purpose as special
2 administrator and special trustee of assessing the attorney
3 general's settlement. And that we were to -- that we were
4 to continue with all of the administration of the estate
5 other than that.

6 So once again, we were given, by Judge Early, full
7 authority to continue. Nobody complained, nobody said we
8 were doing bad things, but by the same token, because we
9 were -- we now were looking at a document where the
10 attorney general of South Carolina, on the 10th of August,
11 had contracted to remove us and replace us with someone he
12 wanted; had declared Tomi Rae would be stipulated to be
13 the spouse; and had agreed to give 25 percent of this
14 charity to clients of Louis Levinson as they may agree
15 among themselves, and 25 percent to Tomi Rae.

16 And our accountant, based on the seismic change in
17 the tax picture caused by that had notified everyone back
18 in September that he would do the estate tax return, which
19 we did and which we filed on September 25th, but -- but --
20 so there -- things had just -- the notion that that could
21 turn out to be the case and the clear -- the attorney
22 general's clear position that he had absolute authority to
23 substitute his judgment for ours and take over just changed
24 the character of everything.

25 Q Did you agree with the attorney general's position?

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1 A We didn't.

2 Q And ultimately, neither did the Supreme Court, did
3 they?

4 A Well, no, but -- actually, I saw yesterday, on May
5 22nd, just four days before Judge Early approved the
6 settlement, Bob Buchanan and I actually filed a motion for
7 declaratory judgment that said Judge Early, please tell us
8 if the attorney general has the authority to substitute his
9 judgment for ours; and most importantly, if he does, does
10 he now have the fiduciary responsibility if something goes
11 wrong.

12 So once again, we weren't looking to hang on, but
13 the notion that someone was going to supplant our
14 obligations with his desire, but not have it clear that he
15 was now the fiduciary and I just -- that petition is part
16 of Mr. Buchanan's deposition and it's rather critical
17 because we said we want -- we want to know whether he could
18 substitute his judgment. If he can't, we want -- we still
19 want to help find a third trustee and resign and we even
20 named Rob Stanley and Ray Gonzales as our successors.

21 So we were not wanting to hang on. We were not
22 wanting to be contentious, but we were the people, we
23 believed, had the duty to uphold James Brown's estate plan.

24 Q Okay.

25 MR. BUNDY: Your Honor, I believe that would be a

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1 good place to stop. It's four minutes to the hour.

2 THE COURT: Can we waste four minutes?

3 I think y'all have been very efficient today. I
4 appreciate everyone's cooperation and preparedness. And I
5 think you're right, it's a good stopping point.

6 9:30 in the morning suit everyone.

7 MR. BUNDY: Suits the plaintiff, Your Honor.

8 THE WITNESS: You don't have that meeting?

9 MR. WILLIAMS: Your Honor --

10 THE COURT: I cancelled it because the storm's
11 coming and I don't want to waste any time and I'm going to
12 do it by telephone conference next week.

13 THE WITNESS: I'm sorry, I didn't mean to --

14 THE COURT: We've worked it out.

15 THE WITNESS: Thank you.

16 THE COURT: So, may I see the lawyers in chambers
17 for one second on logistics and we'll commence starting in
18 the morning at 9:30.

19 Ms. Pope, you're still in the middle of your
20 testimony, so --

21 MR. SILVERNAIL: Your Honor, I think --

22 THE COURT: I'm talking, if you don't mind.

23 MR. SILVERNAIL: I'm sorry.

24 THE COURT: You're in the middle of your testimony
25 so obviously, discuss the case with your husband and your

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1 daughter, but don't discuss it -- you know that.

2 THE WITNESS: We won't discuss it.

3 THE COURT: All right. Sir?

4 MR. SILVERNAIL: Your Honor, before we go off the
5 record, I believe both the plaintiffs and the defendants
6 agree that Mr. Buchanan be released from his subpoena
7 tomorrow and Thursday for his other court duties and he
8 would ask, if you wouldn't mind, just making a record of
9 that.

10 THE COURT: Well, you know, this thing is -- down
11 in the tropics, is 150 miles an hour now, Category 5 in
12 some spots and the path of it is very iffy right now, so
13 we'll just have to monitor all of that to see what we're
14 going to do about Friday and we'll deal with that as we get
15 closer.

16 But, any problem -- and you're going to be back on
17 Friday? If we need you, or next Monday or Tuesday or is he
18 being released totally from the subpoena?

19 JUDGE BUCHANAN: Well, no, I've just got to do
20 Beaufort and Charleston Wednesday and Thursday.

21 THE COURT: That's fine. When do y'all anticipate
22 calling Mr. Buchanan's secretary? I understand she's got
23 some surgery scheduled and she is, I've been told, not
24 feeling very well. And I was told that by my clerk who
25 apparently they had told her.

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1 THE SECRETARY: Yes, sir.

2 THE COURT: When is your surgery, ma'am?

3 THE SECRETARY: It's Friday. Friday morning.

4 THE COURT: When do you think you're going to need
5 her Mr. Bundy?

6 MR. BUNDY: I don't plan on calling her at this
7 time, Your Honor.

8 THE COURT: Y'all going to call her? Sir?

9 MR. WILLIAMS: No, Your Honor.

10 THE COURT: Well, she's under subpoena. If she is
11 under subpoena and you're not planning on calling her, with
12 the understanding that if we absolutely need her, we'll get
13 it done.

14 MR. BUNDY: Sure.

15 THE COURT: So you don't have to come back
16 tomorrow. Good luck with your surgery and hopefully
17 everything will work out.

18 Mr. Buchanan, I'll see you -- we'll be in touch
19 with you about how it looks like Friday, whether we're
20 going or not. Anybody else.

21 MR. BUNDY: Your Honor, I have no plans to call
22 Judge Buchanan.

23 THE COURT: Well -- okay.

24 JUDGE BUCHANAN: Okay.

25 THE COURT: That's it.

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1 Okay. Let me see y'all just for a minute.

2 (Court was in recess until the following morning.)

3 **WEDNESDAY, SEPTEMBER 6, 2017**

4 THE COURT: I had a brief chat this morning in
5 chambers with Mr. Bundy and Mr. Black. One of the issues
6 we addressed was logistics. I said let's just hold off
7 until the lunch hour to see the latest projections on the
8 storm, when it's supposed -- it's coming our way. If it
9 is, when it's supposed to get here. We'll try to make some
10 decision by this afternoon on -- I know we've got people
11 with airline tickets and so forth and so on. And if
12 they're flying in on Monday, right now that looks like that
13 might be the -- when we get hit, Monday afternoon, or
14 Tuesday. But let's just see if we get some better ideas on
15 it and then I will gather everyone's input in it and we'll
16 just try to make a joint decision on that, plans, and so
17 forth.

18 I hate for them to fly in here and then we not have
19 court. I hate for us to cancel court and then the storm
20 goes, here, I don't know, and there. It's a moving target
21 right now. So let's all look at it. I will obviously get
22 everyone's input in it before we make a decision on that.

23 Okay. Mr. Bundy, if you'd like to continue, unless
24 we have anything for the record before we need to get
25 started.

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1 MR. BUNDY: Nothing from the plaintiff, Your Honor.

2 MR. WILLIAMS: Your Honor, just housekeeping
3 matters, we served defendant's deposition designations on
4 the other side and if the Court would like a copy, we could
5 hand it to him now.

6 THE COURT: Just when you get ready to publish
7 those, you can hand them up.

8 MR. WILLIAMS: Yes, Your Honor.

9 THE COURT: All right. Mr. Bundy?

10 MR. BUNDY: May it please the Court, Your Honor.

11 THE COURT: Yes, sir.

12 MR. BUNDY: Your Honor, we're going to move now to
13 Tab 35 in Exhibit 1.

14 If you'd put on the screen, please the October 23rd
15 order, granting limited stay of certain discovery.

16 **DIRECT EXAMINATION - CONTINUED**

17 BY MR. BUNDY:

18 Q All right. Ms. Pope, sort of just catch back up
19 where we were, there was -- I think we were in this
20 November, December period of 2008; is that not correct?
21 Generally in that area?

22 A We were --

23 Q Sort of --

24 A -- toggling between October and November, I think.

25 Q So we were sort of headed back up this hourly hill

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1 in terms of the settlement hearings?

2 A We were.

3 Q Tell me about your participation and Judge
4 Buchanan's participation in the settlement hearings?

5 A Well, I think probably the best way is to begin
6 approximately with the October 20th-23rd or --

7 Q Speak up, please.

8 A Approximately October 23rd, 2008 Order Granting a
9 Stay. We -- Mr. -- Judge Buchanan and I did not oppose a
10 brief stay of -- a limited stay of discovery to consider
11 this settlement that people were trying to put together,
12 but which had not been put together. So it might be good
13 to look at exactly where we were on that day.

14 Q Okay. This would be October of 2000 and --

15 A Right. October of 2008.

16 Q 2008. All right. If you would, the first
17 paragraph, please.

18 A Right. And it reflects a hearing on September
19 29th, 2008, and it says that it's a motion of the attorney
20 general, Tomi Rae, and plaintiffs in case 872, which was
21 the Levinson clients, I believe. But -- no, no, 872. I'm
22 sorry, I used to be good with numbers. I can't tell
23 whether that's the new case that the attorney general had
24 just filed that became Wilson versus Dallas. I believe it
25 is. And it says the hearing was conducted solely on said

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1 parties letter motion. That's correct, because there had
2 been this lawsuit just filed and they asked for a stay
3 while they tried to put together the -- the settlement,
4 which had been announced in August, but -- which everyone
5 kept saying was almost ready for settlement. And -- and --
6 and by October, the terms of the settlement had been
7 disclosed in a summary and so it was during this period.

8 Now, what was happening right then is that we had
9 to file the federal estate tax return on the very day of
10 that letter motion, September 25th of 2008. That was the
11 last day that it could be filed. There were no further
12 extensions available and the assets -- the miscellaneous
13 assets on Schedule F of that estate tax return, which
14 showed the bulk of James Brown's fortune had been valued at
15 about \$84 million, I think, with the jewelry, it was
16 84,119,000 or something like that.

17 Q And excuse me, that was your obligation, along with
18 Judge Buchanan's to file that --

19 A It was. And there had been lots of discussion
20 since August 10, 2007 about the necessity, the concern
21 about the charitable issue, the application for
22 determination of charitable status of the "I Feel Good"
23 Trust. In March, we had thought at one point that the
24 estate tax return could have been filed, but instead there
25 was an extension filed and, of course, everybody got that

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1 extension in March.

2 Q Who signed that return?

3 A Mr. Buchanan and I -- I believe both signed it.

4 The reason I'm hesitating is because we were in the middle
5 of depositions in the Forlando case and it's possible I
6 didn't sign it, but I believe we both signed it. We
7 certainly both approved it and; of course, Bill Sellers who
8 was the Court appointed CPA signed it.

9 Q Well, that's what I was getting at. In other
10 words, it was prepared by a Court appointed CPA?

11 A It was prepared by Mr. Sellers; but the -- but the
12 Schedule F was largely my responsibility and that of Judge
13 Buchanan. And I will tell you that the Schedule F assets,
14 as I said, consisted of the bulk of James Brown's assets.
15 They were his many copyrights, sometimes referred to as the
16 royalties. And the number of those copyrights has morphed,
17 but we began early on thinking of them as 800 and then it
18 was clear that it was 850 and now it's clear that there
19 were about 900 copyrights, but that was the copyrights, the
20 major portion of which were assigned to the New York
21 teachers under the Pullman deal from 1999.

22 Then in addition there was a right of publicity,
23 the right of James Brown to exploit his famous, very famous
24 face and image and persona. And then in addition on
25 Schedule F was the claim against David Cannon. And by the

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1 time we filed the estate tax return, we knew that David
2 Cannon had stolen \$17 million from James Brown. We didn't
3 think that that was fully recoverable or the number would
4 have been much higher, of course, but we also had a claim
5 against Mr. Dallas, Mr. Bradley, and Mr. Cannon, along with
6 Greenberg Traurig, in connection with the October 18th
7 letter that we discussed at some length yesterday.

8 At that point, the focus of the claim against
9 Greenberg Traurig was the exorbitant fee they were wanting
10 to charge that would be 5 percent of a refinance or a sale
11 of the music assets that essentially what was pledged as
12 TIAA. Over the years and prior to the settlement, based on
13 a lot of information we had discovered, that claim against
14 Greenberg Traurig was enhanced to show what we already knew
15 then was that in March of 2007, Mr. Cannon, Mr. Dallas, and
16 Greenberg Traurig and Frank Copsidas had secretly gotten
17 together and agreed that they were going to run the James
18 Brown Trust.

19 So as early as three months after James Brown died,
20 there was a deal -- a secret deal for -- for -- for -- not
21 specifically Greenberg Traurig, but Joel Katz, Frank
22 Copsidas, Dallas, Cannon, and Bradley to run James Brown's
23 Trust by majority. Nobody knew that. James Brown didn't
24 know that. James Brown's documents didn't know that, but
25 we had already gotten that in Judge Early's order of August

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1 10, 2007, we had already gotten the minutes of that
2 critical March 5th, 2007 meeting.

3 In addition, Mr. Silvernail who was a law clerk for
4 me, I spoke of him as a runner a week ago and I just forgot
5 he was a freshman law student, had already discovered that
6 on -- on December 26th, 2006, just one day after James
7 Brown died, the Greenberg Traurig Law Firm had formed
8 something called the James Brown Music Education Fund and
9 that it was very early on in 2007 competing or appearing to
10 compete with James Brown's "I Feel Good" Trust by
11 publishing notice that they were going to publish a -- an
12 album. And so what we had then was we had to value a
13 claim, which existed at Mr. Brown's death against Greenberg
14 Traurig, against perhaps Joel Katz individually, against
15 Mr. Cannon, Mr. Dallas, and Mr. Bradley. So that was one
16 of the components of the \$84 million value.

17 Q As it relates to the Greenberg Traurig claim, that
18 claim has been resolved as you understand it?

19 A It has been.

20 Q But we don't know what the amount was?

21 A Well, we don't know. And further, for purposes of
22 the estate tax return, it's funny to say this, but how it
23 ends up is not critical, because your obligation when you
24 file an estate tax return is to value something that day.
25 And so, you know, if they had recovered 35 million let's

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1 say, but we had fairly assessed it that day as part of this
2 84 million. Maybe 10 percent, you know, maybe 2 percent,
3 maybe 1 percent. As long as we had with all available
4 information at that time valued it, we -- it would have
5 been appropriate. I'm not saying that if there had been a
6 settlement fairly soon that the IRS would not look at it to
7 -- to assess a different value, but certainly those were
8 the things that we were making a best effort to value
9 properly as of the date of death.

10 Q But clearly if someone were to question your
11 valuation on that date, to know the ultimate result would
12 at least be some evidence to give you some indication of
13 whether it was reasonable or not?

14 A Well, of course, just like to value James Brown's
15 royalties, we knew that they had a 10-year history of -- of
16 bringing in \$3 million a year. And this was the major
17 royalties only, not some missing sampling revenues and
18 other things. So to value the royalties at a formula that
19 Mr. Buchanan and I had proposed to Judge Early back in
20 November of 2007, when we were still special administrators
21 and which was not opposed by anyone, and which was 12 and a
22 half to 14 times annual royalties, which would have been --

23 Q Well, since we're on that topic, let's look at
24 Plaintiff's Exhibit 4, please.

25 MR. BUNDY: And I want to come back to this, John,

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1 but I want to move the Plaintiff's Exhibit 4 right now.

2 Your Honor, may I approach.

3 THE COURT: You may.

4 MR. BUNDY: Your Honor, this is Plaintiff's Exhibit
5 4, which is in evidence without objection.

6 BY MR. BUNDY:

7 Q Ms. Pope, what we're looking at on the screen here
8 is Plaintiff's Exhibit 4 entitled Return and Recommendation
9 of Special Administrators. You're familiar with this
10 document?

11 A It's been a while, but yes. I'm certainly familiar
12 with it.

13 Q All right. And, in fact, it's signed by you and
14 Mr. Buchanan, is it not?

15 A Yes. And I can read it on the screen.

16 Q Okay. And what was the purpose -- well, let's
17 start out with the date. This document was submitted to
18 the Court --

19 A I think it was November 14th of 2007.

20 Q Okay. Because it's -- at the bottom, it's got a
21 thing that says 13, November, WPD. I guess that was the
22 date it was -- or WordPerfect or whatever, but --

23 A That would be the date it finished getting typed,
24 but my recollection, it was filed on the -- it said it was
25 filed on the 14th, which was the day before the caustic

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1 hearings of November 15th and 20th, which resulted in our
2 becoming PR's and Trustees, the whole --

3 Q So this --

4 THE COURT: Hold on a second -- Mr. Bundy -- my
5 Exhibit 4 does not indicate that it was filed.

6 MR. BUNDY: Okay.

7 THE COURT: Do we have one that indicates that it
8 was filed?

9 MR. BUNDY: Was it --

10 THE COURT: Nor does it indicate a date on mine.

11 THE WITNESS: Well, I'm sure it was filed. I'm
12 sure it was circulated. I'm sure it was brought up in the
13 hearing. I could check the hearing transcript. But it was
14 discussed at the hearing.

15 MR. BUNDY: Your Honor, with your permission, I'll
16 go look for a file copy and --

17 THE COURT: We're okay.

18 MR. BUNDY: We're okay.

19 THE COURT: I have no reason to doubt Ms. Pope.

20 MR. BUNDY: Thank you.

21 BY MR. BUNDY:

22 Q All right. Ms. Pope, so this was something that
23 you prepared in November of 2007; is that correct?

24 A Right.

25 Q Okay.

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1 A Right. And that was -- we had no indication that
2 there was any possibility that would -- we would be PR's
3 and trustees until November 15th.

4 Q Okay. So when you prepared this, you were just
5 preparing it in your position as a special administrator?

6 A We were dealing with the huge issues related to
7 valuation and the estate tax return and as I said before
8 the application for determination of the charitable status
9 of the "I Feel Good" Trust. That's what we were dealing
10 with.

11 Q If you could, let's go to page 3, please, paragraph
12 7. All right. I'll read for a second. 7, because of the
13 crisis caused by the termination one month before the due
14 date of the estate tax return, the primary financial
15 advisor of James Brown and the Brown entities -- and what
16 individual was that? Who are you speaking of here?

17 A Well, that would have been David Cannon because
18 Buddy Dallas and Judge Bradley were still there.

19 Q The special administrators request that the Court
20 approve the following valuation procedure for the
21 royalties, image, name, and persona of James Brown. Why
22 were you requesting that the Court approve that valuation?

23 A Well, because we -- we -- the estate tax return was
24 already not filed at the first time. The -- there was an
25 extension -- essentially an automatic extension until

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1 March, but there was still a lot to be done. Mr. Dallas
2 and Mr. Bradley were dragging there feet on the application
3 for determination of the charitable status, which can take
4 months to do with the IRS and we were just nervous about
5 everything related to the estate tax return.

6 And so we were just working -- that was a -- that
7 had been a central issue since August 10, 2007. And there
8 was a proposal, I -- it will come a little later, but I
9 think I just saw it on the first page of this. There was a
10 proposal, if we could look back at page 1. There was a
11 proposal to -- something about a Mr. Dykes.

12 Q Yes, that would be paragraph 4?

13 A Right. All right. They requested the Court engage
14 Mr. Dykes at a cost of no more than \$30,000 -- gosh, I
15 didn't remember that we had joined in that request, but
16 invariably we did -- to value the TPP on or before December
17 25th, 2007.

18 Now, remember the scenario, there is no challenge
19 to the estate plan. So there are no -- essentially, there
20 are no estate tax consequences other than the consequences
21 of the value of the tangible personal property. And then,
22 only that portion of the tangible personal property which
23 is going to the six children is going to generate an estate
24 tax.

25 But there was a lot controversy over what part of

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1 the tangible personal property was going to the children
2 and what was not. And so the valuation was more for -- for
3 -- to help soothe this fight over what the children got and
4 what the charity got, which we were not part of because we
5 were only special administrators. So we did recommend --
6 but we did agree with, I think, that particular appraiser
7 was either recommended by Mr. Rosen or perhaps by Dallas
8 and Cannon. I just can't remember, but those were the
9 issues.

10 Q And if you would let's go to page 2 and look at E,
11 another recommendation that you made?

12 A All right.

13 Q Special administrators in 45 days shall engage on
14 behalf of the estate, an auction company to conduct an
15 auction of the TPP Estate, Trust, and Brown Entities, upon
16 such terms as they shall deem appropriate. It should be
17 the goal of the estate to conduct the sale as soon as
18 possible giving due regard to the unique nature of the
19 property. The contract may include any additional terms
20 and agreements such as creation of sale catalog in
21 connection with the auction. The contract shall represent
22 too, the rights of the children of James Brown to the
23 personal household effects as set out above.

24 So you're then basically saying as far back as
25 November what it was you intended to do, but y'all hadn't

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1 -- couldn't get around to that until when?

2 A Well, actually, that's true, but now we are merely
3 agreeing with what Mr. Cannon and Mr. -- I'm sorry, not Mr.
4 Cannon -- Mr. Dallas and Mr. Bradley were doing. Everybody
5 knew that there was going to be an estate tax generated by
6 the children and everybody suspected that they weren't
7 going to be able to pay it.

8 . And so remember, still no will contest here. And
9 so, yeah -- and as I told you they were already working
10 with Julianne's Auction House when we were still special
11 administrators. And so this was simply because of the
12 August 10th order, this was our agreement with them that
13 that needed to go on forward, but this was their plan and
14 it was appropriate.

15 Q Okay. Just to remind His Honor, the August 10th
16 order basically reversed responsibility -- at least gave
17 the special administrators more oversight over these
18 trustees and PA's than you had when you initially started?

19 A They could not have executed that contract without
20 our consent, so we not only said that we agree that their
21 proposal is appropriate, but we'll even ask the Court to
22 agree.

23 Q All right. Let's go back -- let's go now to page 3
24 before we leave that issue. Okay. And we've looked at
25 paragraph 7. This was the SA's request for the approval of

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1 a valuation methodology; is that correct?

2 A Well, you could call it a valuation methodology, or
3 you could call it simply an attempt to get the value right
4 on the estate tax return. That was the goal. I mean,
5 method is a little highfalutin for what we were engaged in
6 at that time.

7 Q I didn't need that highfalutin.

8 All right. Let's look at that issue?

9 A Okay.

10 Q The first one ---

11 MR. BUNDY: If you would highlight A and B?

12 BY MR. BUNDY:

13 Q A, is the unified valuation of royalties, image,
14 name, and persona, which appears to be appropriate based on
15 the scant case law and legal commentary. Now, what's that
16 mean?

17 A Well, James Brown's worldwide famous persona was
18 closely wrapped up with his music. And so, for example, if
19 -- if there -- I mean there was a great Japanese commercial
20 that James Brown had sung in and been in. And so it was
21 both his image and his music. And so worldwide it was hard
22 to tell when somebody wanted James Brown for a yogurt
23 commercial in New Zealand, it was hard to know whether it
24 was James Brown's worldwide image or his music that was
25 generating that need. And for the moment because it was

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1 all going to the charity, it -- there was no particular
2 need to segregate those two components, which were the
3 major components of his fortune.

4 Q In the years before -- in the years before
5 Mr. Brown passed, what was he making on his road -- on his
6 tours and based on his performances?

7 A Well, we didn't know that day -- well, we didn't
8 know specifically that day, but we had talked a lot to
9 Buddy and we knew that he -- for many years before he died,
10 he would make about a million dollars a week going to
11 Europe for about three weeks a year. And so we had that
12 information.

13 And we actually had loads of financial backed stuff
14 because by now, we are looking at all of the -- the M & T
15 Bank reports. I mean when Judge Early gave us access to
16 the documents in June and when the documents were put
17 behind our office, we had access to 30 years of financial
18 information.

19 Q Well, I want you to focus a minute now over on this
20 statement of scant case law and legal commentary. What is
21 -- why did you put that in there?

22 A Well, because we were unaware of a lot of valuation
23 cases of this nature.

24 Q Okay.

25 A And Buddy and David were unaware and they had had

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1 access to Greenberg Traurig, Powell Goldstein, and many
2 other distinguished entertainment lawyers and estate
3 planning lawyers.

4 Q Okay. So let's look at B now. This is what you're
5 -- what you're requesting is to use this formula; is that
6 correct?

7 A It is.

8 Q All right, sir. Use --

9 THE COURT: Well, let me ask a question. Where did
10 the formula, quote unquote, come from? Whose formula is it
11 or how was the formula derived at.

12 THE WITNESS: Well, it was from everything that
13 Judge Buchanan and I have learned from Mr. Dallas, Mr.
14 Cannon, and other inquiries and other statements that were
15 made for the entire period up to November 15, 2007. It was
16 from all of the financial information that had come to us
17 since August 10. And it was from essentially everything we
18 had been able to put our hands on as of that date. And
19 there was a lot of talk, just talk, about twelve times
20 royalties was the industries standard, but James Brown was
21 not just a regular guy. He was a special guy.

22 I learned lots -- I'm trying to be cautious,
23 because I learned lots between when we presented this to
24 Your Honor and when we filed the estate tax return. And
25 I'm trying to back up and tell Your Honor what I knew on

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1 that day rather than the many, many things I learned later
2 that taught me that that formula was conservative, very
3 conservative.

4 THE COURT: All right. Later learned information
5 which means this formula was very conservative?

6 THE WITNESS: Yes, Your Honor. We continued to get
7 it from that day forward. We certainly had a good bit of
8 it when we filed the estate tax return nearly a year after
9 this document and we -- I have seen nothing since to change
10 my mind that this formula was conservative.

11 BY MR. BUNDY:

12 Q Have you -- have you obtained any information or
13 heard of any opinions from others in this field who claim
14 that 20 times would be a reasonable --

15 MR. WILLIAMS: Your Honor, I would object on
16 hearsay.

17 THE COURT: Sustained.

18 BY MR. BUNDY:

19 Q All right, Ms. Pope, let's go through the formula.
20 One, is one year royalties based on five year M & T
21 average. What does M & T mean?

22 A That's Manufacturers and Traders Bank and M & T was
23 the trustee for the TIAA debt.

24 Q So this was based -- this would be based on an
25 actual figure done by the bank --

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1 A Right.

2 Q -- who had an interest in valuation?

3 A Right. So what that formula would do for the
4 copyrights was put it between 40 and -- what's 14 times 5.
5 That would be the approximate value for the copyrights.

6 Q Okay. Two, plus 50 percent of gross known
7 performance contracts from 2006. Why would that be
8 included?

9 A Well, what we knew about James Brown at the time
10 was that he, at least at some time, not long before his
11 death, had the second most famous image in the world after
12 the Pope. We knew he had huge worldwide recognition. At
13 least we heard that. It might have been a lie, but we
14 certainly believed -- we did not disbelieve that notion
15 because he was extraordinarily well known worldwide. He
16 still is.

17 And at Christmas, I was in Chile in the airport. I
18 saw both his image and a song being sung while I was
19 waiting for my plane. Last week, I was in the dentist
20 getting my teeth cleaned and a James Brown song came on.
21 It happens everywhere I go. I'm mindful of it because I
22 care about James Brown. But you cannot go anywhere in the
23 world that you don't at least hear James Brown and maybe
24 see a picture of him.

25 Q Okay. Three, X, a figure recommended by accountant

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1 within range of 12.5 to 14?

2 A That is times a figure recommended by the
3 accountant. But really by the time the estate -- this was
4 the proposal. But by the time the estate tax return was
5 filed, we, rather than Bill, arrived at the \$84 million.

6 Q And what was -- what was the multiple you used?
7 Was it in that range or lower?

8 A Well, it was certainly within the range, but
9 remember we did 84 million, not simply for the publicity
10 rights and the copyrights, but for the unpublished songs,
11 the 45 boxes of music paraphernalia up in Nashville waiting
12 to be worked on, the un -- the un-captured sampling
13 revenues which had been, I think estimated as high as \$10
14 million or more.

15 Q What are sampling revenues, just for the record?

16 A Okay. Well, sampling revenues are -- are important
17 in the valuation for two reasons. They are the use by
18 another artist or on another record of a portion of a James
19 Brown song. And they have musicologists who determine if
20 you use a certain amount of one of James Brown's songs,
21 then James Brown is the owner of that portion of the new
22 copyright. And so there are various ways to monetize that,
23 but that's the gist of it.

24 Q Okay. Less the pay off amount due M&T Bank as of
25 date of death. You recall what that amount was?

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1 A That amount was broadly stated for a good long time
2 to be around 17 million. And then some people called it 15
3 million by the time we got around to thinking more about
4 it, we realized that both of those figures were sort of
5 correct because there was an approximate escrow that, like
6 an escrow you have on your mortgage, so you might say I own
7 \$100 on my mortgage, but they've got a \$2 million escrow,
8 so I only have to pay off 98.

9 Q Okay.

10 A So that was the gist of it. So it was 15,
11 approximately. Might have been a little higher.

12 Q All right. Now, who received this document to your
13 knowledge?

14 A Everybody because it was discussed in open court on
15 the 15th.

16 Q And was the attorney general involved at this time?

17 A Oh, yes. And I want to say something else. We
18 didn't know it when we did this, but either that day or the
19 next day, a -- an inventory and appraisement prepared by
20 Bill Hammond, who arguably shouldn't have prepared it, but
21 was an extraordinarily competent tax lawyer was filed in
22 this -- in the probate court and I think brought up to the
23 Court, which -- which used as the value of James Brown's
24 assets \$100 million offer that had been made on October 12,
25 2007 reduced by \$15 million for the TIAA debt. And the

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1 estate tax return -- I'm sorry the inventory and
2 appraisement shows that figure divided between what they
3 thought was the trust and what they thought was in the --
4 the estate, something we didn't do on the estate tax
5 return, but it comes up with a value of about 83 million, I
6 think, so it was within a million of what we would come up
7 with the following September.

8 THE COURT: And under whose direction was he
9 working for while working.

10 THE WITNESS: Well, Your Honor, he was the employed
11 tax lawyer for the estate from January --

12 THE COURT: Cannon?

13 THE WITNESS: Hammond, Mr. William Hammond. He
14 was the --

15 THE COURT: Who employed him? Was it --

16 THE WITNESS: The estate. The estate, but then
17 Your Honor terminated his service on August 10th, 2007,
18 along with many others and then on -- on the day that the
19 estate tax return was filed, it was actually filed by Stan
20 Jackson, who was the lawyer for Mr. Dallas and Mr. Cannon.
21 He was the appropriate lawyer for Mr. Dallas and Mr. Cannon
22 and Mr. Jackson, himself was a professor and had certain
23 business valuation credentials. But we later learned that
24 Mr. Hammond had helped him, or done the estate tax return
25 and we learned that from an e-mail that he sent to Sonny

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1 Jones.

2 Actually, I forgot about that. Just about the time
3 we did this, Mr. Hammond sent an e-mail to Sonny Jones,
4 saying here is.--

5 MR. WILLIAMS: Your Honor, if we could -- just an
6 objection to hearsay about what's inside e-mails..

7 THE COURT: She's talking about an e-mail that's
8 been produced in discovery, I assume. I'll allow it.

9 THE WITNESS: I forgot that. The day we were doing
10 this return or within two days of this, Bill Hammond sent
11 an e-mail to Sonny Jones saying here is the inventory and
12 appraisalment I prepared for Buddy and those. I forget what
13 he called them, but Dallas and Bradley. So -- so we were
14 using this. We were presenting this formula, but
15 Mr. Hammond was working on -- on an offer -- he arrived at
16 the same figure based on an October 12 -- what he called an
17 offer.

18 BY MR. BUNDY:

19 Q What response, if any, did you receive,
20 specifically, from the attorney general as to any dispute
21 the attorney general had with your proposal and
22 recommendation?

23 A My recollection, and I think I put it -- I think
24 I'm right, but I may not be, but I can check the record.
25 I'm sure it was discussed and I can't remember whether

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1 Judge Early did what he normally does is say, anybody who
2 has a problem let us know. That would have been typical,
3 but I can't say for sure. But I know that that was
4 discussed. I know the attorney general had a copy of the
5 inventory where -- that -- shortly, we had a figure which
6 if he'd done the calculation would have been in sync with
7 this. I mean there was just loads of information around
8 about this time.

9 Q Are you aware of any filings or returns or any
10 responses in writing from the attorney general to this?

11 A I'm not. But remember, there was chaos starting
12 one -- starting one day after this document was presented,
13 or the day this document was presented.

14 Q All right. And then the other group would be the
15 Levinson group. Do you recall, were they aware of this?

16 A Oh, of course, of course, everybody was.

17 Q Okay. And do you recall any objections or any
18 comments from the Levinson group?

19 A Well, all I remember about that was that
20 Mr. Levinson would not be tied down on the \$2 million value
21 of the tangible personal property, which was a component --
22 ended up being a component of the 84 million. And that,
23 Mr. Levinson -- remember Mr. Levinson's clients were going
24 to have to pay taxes, so he would not be tied down. I
25 don't remember any aspect of his commentary about the

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1 valuation of image and persona.

2 Q Now, how about Ms. Hynie Brown, or companion,
3 however you refer to her? Was there any comment or return
4 from them?

5 A No.

6 Q All right.

7 A That I recall. There were -- and the record I
8 think would show that because in March, we filed the
9 request for an extension and I believe on that we had
10 valued the estate at 90 million, maybe a net of 60 million,
11 so there was nothing shocking about this formula.

12 Q Well, did anyone at this time say no, James Brown's
13 estate's worth around \$5 or \$6 million?

14 A No.

15 Q Did it ever -- did that even -- was that even, in
16 your mind, conceivable at that time? That anybody would
17 propose such a thing?

18 A No.

19 THE COURT: Ms. Pope, in paragraph F, page 2, 5(F),
20 help me with this, please.

21 MR. BUNDY: Go to (F), please: 5(F).

22 THE COURT: Page 2, (F).

23 THE WITNESS: Yes, sure.

24 THE COURT: Page 2(F), hearing should be held on or
25 about January 21, 2008 for the purpose of resolving

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1 disputes, if any, related to the above plan. Didn't we
2 have that hearing?

3 THE WITNESS: Thank you, Your Honor. I knew you
4 always gave people time to comment and you did again. My
5 recollection is there was nothing to comment about. Nobody
6 complained.

7 THE COURT: And the hearing was obviously not held.

8 THE WITNESS: There were hearings all the time, but
9 not --

10 THE COURT: I agree with that.

11 THE WITNESS: But I don't recall the issue of a
12 formula or a complaint about the formula coming up.

13 THE COURT: Well, I didn't see any orders in the
14 exhibits, so I was just wondering did we have that hearing
15 and apparently we did not.

16 THE WITNESS: Well, we had -- I think three
17 hearings in January, but that was when Your Honor was
18 trying -- they were asking Your Honor to recuse himself --
19 many other things were going on. So I -- I don't think
20 that happened.

21 BY MR. BUNDY:

22 Q So to the extent there were any disputes, none of
23 them rose to the level of needing a hearing, which was
24 available?

25 A Not that I recall.

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1 Q Okay. That's all I have on that.

2 If we could go back to the order granting limited
3 stay on certain discovery, please?

4 THE COURT: That's at Tab 35; is that correct?

5 MR. BUNDY: Yes, Your Honor.

6 THE COURT: Ms. Pope, I put some water up there for
7 you.

8 THE WITNESS: Thank you, thank you, Your Honor.

9 BY MR. BUNDY:

10 Q Let's look at the first paragraph. We are now in
11 September 29, 2008, correct.

12 A Yes.

13 Q We're back over here, right after the settlement
14 agreement, correct?

15 A Yes.

16 THE COURT: Well, that's after the settlement
17 agreement was announced. It hasn't been reduced to writing
18 and, of course, we didn't -- didn't have the hearings on
19 the settlement agreement, I think, until January or perhaps
20 some in December.

21 MR. BUNDY: Yes, Your Honor. Some of the hearings
22 are under here.

23 THE COURT: That's correct. So we're still talking
24 about some pre/post settlement agreement, pre-settlement
25 hearing.

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1 MR. BUNDY: Yes, Your Honor.

2 THE COURT: All right.

3 BY MR. BUNDY:

4 Q A hearing was held before me on September 29th in
5 connection to the September 25, 2008 motion of the attorney
6 general, Tomi Rae Hynie Brown and plaintiffs for limited
7 stay of certain discovery, the hearing was held solely on
8 the said parties letter of motion requesting a stay of
9 discovery and motions related to the marital status of
10 Tomi Rae Hynie Brown and the will/trust/heir's matters
11 movants seek a stay until December 25th, 2008, while
12 certain parties attempt to resolve some or all of their
13 differences.

14 All right. Let's go down to the next.

15 Robert L. Buchanan and Adele Pope, personal
16 representatives of the estate, et cetera, were not parties
17 to the settlement discussions?

18 A You can skip --

19 Q And did not join in the motion. They notified the
20 Court by filed returns that they do not oppose a brief
21 delay of discovery, provided it does not interfere with
22 other matters, including cases now pending by and against
23 the former PR/trustees, and the Pullman Group LLC.

24 What was the purpose of that, Ms. Pope?

25 What were you trying to accomplish here, Ms. Pope?

Adele Pope - Direct Examination by Mr. Bundy

1 A We were in October?

2 Q Yes, ma'am.

3 A We are -- we're not in October.

4 THE COURT: Actually that's September.

5 BY MR. BUNDY:

6 Q September?

7 A No, no, no, it calls us personal representatives.

8 THE COURT: The hearing was on September 29, 2008.

9 BY MR. BUNDY:

10 Q The order is October 23, 2008?

11 A I'm just looking at that.

12 Q I'll let you look at that. This is the order?

13 A Well, what I'm trying to say is if that order was
14 issued on October 23rd, that comma between Buchanan and
15 personal representatives should have said and the personal
16 representatives because we were not the personal
17 representatives on October 23 --

18 Q Oh, okay.

19 A 2000 -- that was just what was worrying me about
20 it.

21 Q Okay. All right.

22 A Oh, I'm sorry. No, no, no, we were. I'm sorry, I
23 was thinking of 2007. Absolutely. I'm straight now. I
24 was a year off. I apologize. Yes, we were the personal
25 representatives. We were not notified of the settlement.

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1 I apologize, I just got confused. And -- and, as personal
2 representatives, we did not oppose a brief stay. Because
3 -- we just didn't want it to stop everything else that was
4 going on.

5 I apologize, I just got --

6 Q Okay.

7 A -- was thinking about 2007.

8 Q So at any rate, as of October 23rd, 2008, it was a
9 limited stay of discovery and motion was granted to
10 automatically expire on December 25th, 2008; is that
11 correct?

12 A That's correct.

13 Q All right. Then we go to Tab 36 on Exhibit 1. All
14 right. This document is entitled final order dismissing
15 petition and remanding to probate court. What's the
16 substance of this order?

17 THE COURT: Now, this is in --

18 THE WITNESS: Oh, oh --

19 THE COURT: 122, the Pullman group versus Buchanan.

20 THE WITNESS: Yes, this is just simply to show that
21 we were continuing to -- during this period of the stay of
22 discovery related to Tomi Rae's marital status, we were
23 continuing, as I've mentioned, to resolve about \$33 million
24 worth of claims in fa -- mostly in favor of the estate.

25 And this was Mr. -- the South Carolina portion of

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1 the David Pullman claim; Mr. Pullman of the Pullman Bonds.
2 And that claim was dismissed and Mr. Drennon, counsel for
3 Mr. Pullman did not appeal the dismissal.

4 Q As noted in 2006, prior to the death of James
5 Brown, Mr. Brown, James Brown Enterprises, Inc. and James
6 Brown, LLC filed an action against plaintiff in the Supreme
7 Court of New York. Pullman counterclaimed seeking certain
8 relief under the engagement letter?

9 A That's correct.

10 Q Okay.

11 A This was paragraph 7 of the engagement letter of
12 James Brown with Mr. Pullman, way back before the TIAA
13 bond.

14 Q All right. Let's move onto Tab 37, please.
15 Go to the next page.

16 First paragraph, or the first sentence of the first
17 paragraph, This matter comes before the Court upon several
18 motions of petitioners above named, one of which requested
19 an order for appointment of special administrator and
20 special trustee in the above named matter. And then it
21 says a hearing was held November 25th, 2008 in Aiken
22 County.

23 What's going on here, Ms. Pope?

24 A That was where we were on November 25th, 2008, is
25 that we now knew that the attorney general of South

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1 Carolina, the protector of charities, was proposing to give
2 away 50 percent of James Brown's "I Feel Good" Charity to
3 Tomi Rae and to the clients of Louis Levinson. We
4 believed that what this was doing was taking \$40 million of
5 what should have been South Carolina's largest ever private
6 foundation for the education of needy and deserving
7 students and that \$40 million was going to pay what we
8 thought at the time would have been \$12 to \$14 million in
9 contingency legal fees to lawyers who had virtually no
10 case. We believed they simply had extremely, extremely,
11 extremely, extremely weak challenges.

12 It would give another 20 million in our perception
13 to their clients or perhaps at the time we thought it was
14 26 million. We now know that the legal fees were even
15 higher than the 12 to 14 we thought at the time.

16 Q Specifically to sort of better understand the
17 rationale for your belief as to the weaknesses of these
18 claims, you -- I assume you reviewed these claims in light
19 of your 35 years experience in probate law?

20 A I did.

21 Q Okay.

22 A And --

23 Q Specifically with -- let's -- there were basically
24 two claims, the children and the -- Ms. Hynie Brown's,
25 however you refer to her -- those are the two basic claims;

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1 is that correct?

2 A Well, there were overlapping claims, but
3 essentially the two claims were that she was the spouse and
4 that the will and trust should be set aside and that there
5 should be what Mr. Levinson referred to as an
6 administration in intestacy.

7 Q Okay. So that was -- the goal of these claims was
8 to put this whole estate in intestacy?

9 A That's correct.

10 Q Okay. And intestacy would result in what in terms
11 of how the -- Mr. Brown's estate would have been
12 distributed if there had been -- if there'd been a
13 declaration of intestacy?

14 A Well, we actually believed that intestacy would
15 have been extremely damaging to these claimants because
16 they were not the intestate heirs of James Brown, they were
17 -- well, we did not believe Ms. Tomi Rae was an heir. We
18 thought there was substantial evidence that she wasn't.
19 And we believed that the Levinson clients were fewer than
20 half of James Brown's real heirs. So had -- had they been
21 successful, there would have been a 40 to 50 percent estate
22 tax and they might have had to share what they got with
23 five or six or eight other people.

24 Q So it could have been as much as a 50 percent
25 reduction to the -- to those children's net?

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1 A Right.

2 Q Now, let's talk about your perception of the
3 weaknesses of the claim of intestacy. What was the basis
4 of that claim? The legal basis?

5 A We knew that James Brown --

6 Q What was the allegation, is what I'm -- what was
7 their allegation which would have resulted in setting aside
8 the will?

9 A Well, their allegation was essentially that he had
10 been unduly influenced to give his estate to charity.

11 Q Now, you're familiar with that body of law I
12 assume, undue influence in wills and estates?

13 A Moderately.

14 Q Okay.

15 A I certainly was at the time.

16 Q Okay. And is that a difficult thing to do?

17 A It is. And it would be particularly difficult if a
18 testator has a series of wills that have either been in
19 place for a long time, so that he's had an opportunity to
20 change them if he wishes. It would also be particularly
21 difficult in the case of a person who has publically stated
22 his charitable intentions literally at every turn for 20
23 years before he did this. It would be particularly
24 difficult to prove undue influence where there are -- as I
25 said two separate wills, a year apart, both leaving the

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1 bulk of James Brown's charity to the "I Feel Good" Trust
2 and the earlier will even having corporate successor
3 trustees which debunk the notion that Mr. Dallas and Mr.
4 Cannon could steal it all. By --

5 Q And all of those hurdles were in this case to those
6 people trying to make this intestate?

7 A Well, by then or within a few days of that there
8 were -- no, no, by then there were a number of other
9 hurdles which were extraordinarily favorable to the
10 charity. Deanna Thomas, under oath, had stated that her
11 dad's will was what he wanted.

12 Q Who's Deanna Thomas?

13 A She was a daughter of James Brown.

14 Q Okay.

15 A Deanna Thomas had sent an e-mail to Mr. Levinson
16 early in 2007 saying if my father's wishes were carried
17 out, we would already have our personal effects. There was
18 abundant support for the will by Deanna.

19 Q Who is Deanna?

20 A Who I just told you about.

21 Q Okay.

22 A Terry Brown, at the time was -- was vigorously
23 claiming that his dad's estate plan should be followed. So
24 you have two estate plans, a year apart, a person who has
25 publicly stated his intentions to leave the bulk of his

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1 assets to charity who's done it in a way and nobody
2 focused on this much, but he's done it in a way so that if
3 his -- if his estate were really teenie tiny, half would go
4 to the education of his grandchildren or the grandchildren
5 he chose. So if his estate had been only 4 million, let's
6 say, one half of that would have gone to the education of
7 certain grandchildren he selected.

8 Now, the formula was such that, that that didn't
9 happen, but this was a man whose life had been dedicated to
10 education. And in addition, as I said before, four days
11 before he executed his first document, he was interacting
12 with about a dozen New York lawyers signing documents on
13 behalf of his wholly owned entity, signing documents
14 individually, borrowing \$26 million, and -- and
15 people like to characterize James Brown as you know --
16 under educated and you know educated, but I remember
17 someone saying that they would be working on a complex
18 contract and Mr. Brown would point to a provision and say I
19 want you to add this word -- these words. And they said
20 everybody in the room would look around like, you know,
21 he's lost his mind. And a few years later, they would use
22 an expression that it would come back to bite him -- bite
23 them in the -- in the rear.

24 And what he had -- he had such an ability to
25 understand what he wanted and what he wanted to happen and

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1 it was everywhere. Before he did the '99 will, James Brown
2 was supposed to sign it on February -- something like
3 February 23rd of 1999 and James Brown -- they were all set
4 up to do it in a way that would have been traditional and
5 careful. They had a videographer or a tape and Mr. Brown
6 had a conversation with Dewain Herring. He thanked Dewain
7 Herring for being there. You know, he did what he always
8 did, showed a lot of respect for all the educated people,
9 the -- the -- that he had hired to work for him.

10 And he talked about his lowly upbringing and how he
11 was a 24/7 man. That's all he did all day long and he
12 wanted to create this charity. He wanted to create this
13 charity. And so he goes on and on. And then at the end of
14 the meeting, Mr. Brown who was one of the greatest showmen
15 of all times says, you know, but essentially since I -- I'm
16 you know educated, so I need time to read this document.

17 So we have now a tape in February of 1999 of James
18 Brown saying I wanted to create this foundation, but I need
19 to reread my will and then he signs it and then he signs
20 another one again, a year later.

21 In my whole career, I've never seen such an
22 ironclad estate plan.

23 Q Let's talk about the claim of Hynie Rae Brown.
24 What were the impediments in your opinion to the validity
25 of her -- well, first of all, what were her claims and then

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1 second, what did you see as the impediment to success of
2 those claims?

3 A Well, she claimed to be the spouse and she claimed
4 -- later to try to set aside the will. So she was
5 attacking on every front. If the will is good -- well,
6 first of all, I'm the wife and I was left out of the will;
7 saying she wanted a half. But if that doesn't work, I got
8 left out of the will and I'm the wife and I want an
9 elective share, one-third after expenses. But better than
10 that, I want the set it aside and make sure I get that
11 half. And so she was making a scatter shot of every
12 possible claim.

13 So step one would have been was she the spouse.
14 And we felt that there was very, very, very strong evidence
15 that she was not the spouse. And Mr. Rosen simply did not
16 want any discovery because Mr. Rosen was aware of all the
17 things we were aware of and Mr. Levinson, who represented
18 the children and was quite a researcher had lots of
19 evidence that she was not the wife. And, and, so there
20 were -- and -- and early on, we were being helped by Mary
21 France Jowers of the office of the attorney general, who
22 was looking at leakage which was coming up the pike and
23 other things. But even if she had been the wife, which we
24 considered extremely, extremely, extremely unlikely, the
25 will itself provided for giving the absolute minimum to

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1 wives. Plus --

2 Q If you would -- the will is an exhibit, Plaintiff's
3 Exhibit 3. Could you give us the provision of the will
4 that you're referring to?

5 A Sure. (Looking.)

6 Well, I guess there are a few here. I have six
7 living children, Deanna, Yamma, Venesha, Larry, and Terry.
8 These named children and any of their legitimate issue who
9 shall also be lineage issue of mine shall be the entire
10 class that I acknowledge to be my heirs and issue, except
11 as otherwise provided in this will and corresponding
12 instruments. I have intentionally failed to provide for
13 any other relatives or other persons where the claiming or
14 to claim to be an heir of mine. Such failure is
15 intentional and not occasioned by accident or mistake.
16 And then he, of course, has the in terrorem clause
17 in the will for the -- anyone -- which we've looked at,
18 Item 10 of the will that says should any beneficiary under
19 the will or my Irrevocable Trust and as amended dated prior
20 to this date become an adverse party in any proceeding for
21 the probate of my will or in any manner contest the
22 validity of my Irrevocable Trust, such beneficiary shall
23 forfeit his or her entire interest thereunder and such from
24 shall pass to such other beneficiaries as would be entitled
25 to take as if such beneficiary had predeceased me.

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1 Furthermore, any person not provided for in this
2 will, my Irrevocable Trust or such other instrument,
3 whether or not claiming to be a beneficiary or party in
4 interest shall have no standing or be qualified to contest
5 claim and interest in or otherwise dispute the disposition
6 of my estate as I herewith disclaim and disinherit any such
7 persons.. Any such alleged claims shall be considered an
8 affront to my wishes and it shall be challenged as such in
9 my -- by my fiduciaries.

10 I believe those may be the only two in the will.
11 Maybe in the trust he has further provisions.

12 In addition, Ms. Tomi Rae was present when the
13 will was executed and she signed the advise -- there was an
14 advisory board designation document and she signed that, I
15 think, Tomi Rae Hynie the future Mrs. James Brown. So
16 the estate and the charity had a very good argument that
17 she had -- that that will was done and if the marriage were
18 not void, that that will had been done in contemplation of
19 a marriage and that she had accepted that by being present
20 when it was done.

21 And by the way, I think two other children were
22 present when it was done, which I --

23 Q What was the basis of the notion that that marriage
24 to Mr. Brown may have been void? What created that
25 possibility?

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1 A Well, she was married to someone else when she
2 conducted a 2001 ceremony with James Brown. She falsified
3 a sworn marriage application right here in this courthouse
4 and she conducted the ceremony and then when her marriage
5 was discovered she said she would get a divorce, but
6 didn't.

7 And then her own handwritten notes confirmed that
8 she had been married. She had been living in Texas with
9 her husband. She thought she might be pregnant before she
10 abandoned her husband and met James Brown and took up with
11 him; that she had clearly concealed the marriage and not
12 done anything to correct it. Further, that she had begged
13 James Brown to marry her after he discovered her marriage
14 and he refused.

15 And further, there was substantial evidence that
16 they had separated in the Summer of 2006 over his refusal
17 to marry her.

18 Q Was there a prenuptial agreement as well?

19 A There was.

20 Q And what -- was that a help or hindrance to her
21 claim?

22 A It would have been a hindrance.

23 Q And why was that?

24 A Well, because the purpose of prenuptial agreements
25 is to minimize the claim of the spouse, if there is a

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1 spouse.

2 Q Well, did that -- did she do that in that
3 prenuptial agreement? Did that prenuptial agreement, was
4 that her agreement to release her claim?

5 A I -- I can't recall the specifics, I think there
6 was some minor provision for her.

7 Q All right.

8 A Yeah. And there were other agreements when they
9 had separated at other times, but which she got a car and
10 gave up some other things.

11 Q Okay. So those -- your basis, your reasoning as to
12 why this -- the way this settlement was proposed, was not
13 appropriate, at least from your standpoint?

14 A We felt that to give away \$40 million with what we
15 thought then was 14 million going to contingency fee
16 lawyers on those facts was wrong and would have been a
17 serious breach of our duty.

18 Q And since that time when that was your opinion, has
19 your opinion changed?

20 A No --

21 Q Is there anything you've discovered since then?

22 A No, it's strengthened.

23 Q Okay. All right. Let's go back to the order then,
24 first page, which we're still on Tab 36. Go to the second
25 page, please?

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1 All right. It says that a hearing was held on
2 November -- second -- second paragraph. A hearing was held
3 on November 25th at the Aiken County Courthouse. After
4 lengthy in-chambers discussion all necessary counsel had
5 opportunity for objections -- were you at this hearing?

6 A I was at the hearing, but not in chambers, as I
7 recall.

8 Q Okay. -- regarding appointing a special
9 administrator. The Court finds the immediate appointment
10 of special administrator, special trustee with powers
11 enumerated is necessary. The petitioners have requested
12 Bauknight, CPA, finds Bauknight -- and the Court finds
13 Bauknight is an appropriate person to serve in this
14 capacity.

15 So that -- this date is the date of Mr. Bauknight's
16 entry into this foray?

17 A No. He had been recommended as one of five
18 possible fiduciaries back in the previous summer.

19 Q Okay. And do you know what his involvement had
20 been since then, if any, in the case?

21 A I only --

22 Q Even though he had not been appointed?

23 A I only know that his -- his agent and lawyer
24 Freddie Dinsmore said he'd been involved for some time.

25 Q Okay. All right. It says, the bottom paragraph

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1 says petitioners have entered into a proposed settlement
2 agreement regarding the estate of James Brown, James Brown
3 2000 Irrevocable Trust, August 1, 2000; a copy of the
4 proposed settlement order was disseminated during the
5 hearing to all present counsel of record who requested.

6 Is this the first time you've seen this settlement
7 in November, or had you seen it earlier?

8 A Well, again, we still haven't seen the settlement,
9 now. We have seen a synopsis of it.

10 Q This was a proposed settlement now?

11 A And we've seen the -- what got signed in August,
12 yes. So we know that -- we know the essential terms of the
13 settlement by now.

14 Q Turn to the next page, please. Top paragraph, in
15 this order Judge Early orders that Bauknight is appointed
16 to serve as special administrator, special trustee, solely
17 limited the exclusive purpose of reviewing and providing
18 input and recommendations to the Court as to the proposed
19 settlement agreement among the petitioners; is that
20 correct? That was his job?

21 A That -- that was his assignment.

22 Q All right. Adele Pope and Bob Buchanan shall
23 continue to serve in their capacity as previously ordered
24 by this Court and will continue to be responsible for all
25 estate and trust matters except for the limited duty of

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1 Russell Bauknight as set forth herein; correct?

2 A Correct.

3 Q All right. Now, tell me what interactions you and
4 Judge Buchanan had with Mr. Bauknight to assist him in his
5 sole and limited, exclusive purpose to provide input and
6 recommendations to the Court?

7 A Well, we -- at that time, and that was January 8th,
8 I believe it was --

9 Q January 7th?

10 A 7th, of 2009, we were involved and had been
11 involved for about a month in setting up a meeting in New
12 York to settle the CORBIS litigation which was a suit
13 brought by James Brown in 2002 over his image and persona.
14 And settlement negotiations had been set in that -- in that
15 case for, I think it's was January 19th in New York. So
16 we, of course, invited Mr. Bauknight and all of the
17 settling parties to go because it was a great opportunity
18 to think about that issue. We didn't know at that moment
19 what the settlement terms might be, but we thought it was a
20 good idea. And so that was an effort to allow Mr.
21 Bauknight and all others to participate in a publicity
22 rights issue.

23 We -- we invited Mr. Bauknight to meet with us at
24 my office, which he did when Judge Buchanan was in town.
25 And he asked us about our concerns about the settlement and

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1 we expressed to him all of our concerns or at least an
2 outline of our concerns that day. We invited him to look
3 at the estate tax return and other -- all of the 80 -- I
4 think it was 80 then -- boxes of documents. But we did
5 need him to sign a confidentiality agreement because at
6 that time there was a brief confidentiality order in place
7 about the estate tax return and there was also the issue of
8 the federal order in Forlando's case.

9 And so there were many, many, many, documents that
10 were public, but there were a few in these 80 boxes that
11 might have been covered by that federal court
12 confidentiality order.

13 And so he declined to look at the documents and --

14 Q Did he give you a reason?

15 A He said he didn't want to see anything
16 confidential.

17 Q Would he have been able to see it if he'd signed
18 the agreement?

19 A Oh, of course.

20 Q And would that have included the tax return?

21 A Oh, absolutely. The estate tax return. Yeah,
22 sure.

23 Q So --

24 A And -- and all the settling parties had it then.

25 Q Okay. All right. After -- how long -- and did --

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1 the information that you gave to Mr. Bauknight regarding
2 your concerns, which was essentially the same as you've
3 been giving to me?

4 A I think so. We certainly tried to -- we were very,
5 very concerned. And we had actually appealed Mr.
6 Bauknight's appointment because we thought the notion
7 of taking from fiduciaries their duty to protect the estate
8 plan was inappropriate. But we weren't going to fight with
9 him. We wanted -- we wanted him and the attorney general
10 to be on our side. So...

11 We certainly cooperated.

12 Q And what other meetings or interactions did you
13 have with Mr. Bauknight to assist him with the Court's
14 appointment for the sole and limited exclusive purpose of
15 reviewing and providing input and recommendations to the
16 Court of the proposed settlement agreement?

17 A That particular meeting is the only thing I recall,
18 but, of course -- oh, we may have written him a letter
19 before then. But, you know, he -- we had a very open
20 administration. He could have seen or done whatever he
21 wanted to see or do.

22 Q In so far as you can recall, he was never denied
23 access to either you or the documents at any point in time?

24 A No. And Mr. Levinson had everything, essentially,
25 that we had. And so did Tomi Rae.

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1 Q All right. And we turn to the last page of this
2 order.

3 That all discovery in this case is stayed and all
4 responses and motions filed in this case are extended until
5 further notice of this Court after the hearing to approve
6 the proposed settlement agreement. So the litigation is
7 sort of held in abeyance, correct?

8 A Right. We had -- we had completed most of the
9 claims cases. We had the 15 million -- more than 15
10 million dollar claim cases of Cannon and Dallas and Bradley
11 in good posture, ready to be disposed of and so all the
12 focus now turned to administration issues, preserving and
13 protecting and the -- the settlement.

14 My feeling then and my feeling now is that if
15 you're about to lose half of the charity, you put laser
16 focus on that and -- and nothing -- not nothing else, but
17 you focus on that.

18 Q What effect did Judge Early's order have on the
19 Forlando suit, if it was still going forward? Is it still
20 going forward?

21 A No. Mr. -- Forlando's suit had had a two day
22 hearing in November in federal court in Beaufort which was,
23 of course, a huge embarrassment to Judge Buchanan who
24 presided in that court, but the -- and at that hearing we
25 had, by the way, fully gone through the estate tax return,

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1 but the judge either by this time or shortly thereafter did
2 not grant a temporary injunction, which was great because
3 if he had we wouldn't have been able to defend the estate
4 plan. I can't remember whether he hadn't quite ruled, but
5 he would have ruled sometime about that time.

6 Q Okay. Let's go to the next tab. The next one is
7 Tab 38. It's order denying motion to recuse. It says the
8 matter comes before the Court on January 30th 2009, on a
9 motion of David Cannon to recuse the Honorable Doyet A.
10 Early, III. What's -- what's going on here?

11 A Well, January 30th was the first day of the
12 hearings on the settlement. And David Cannon filed a
13 motion for Judge Early to recuse himself and I can't
14 remember the exact thrust of it, but the gist of it was
15 that Judge Early shouldn't be doing this and that the
16 attorney general, I believe, was violating his statutory
17 duty and I'll have to say this, we agreed with a number of
18 the statements that Mr. Cannon was making, but of course,
19 we had nothing to do with his filing.

20 Q Okay.

21 A Not so much Judge Early's jurisdiction, but that
22 the attorney general should not be giving away this
23 charity.

24 Q All right. Let's turn to Tab 39.

25 MR. BUNDY: Your Honor, with the Court's

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1 indulgence, this might be a good time, at least for a break
2 from where I stand.

3 THE COURT: I think that's a good idea. All right.
4 Let's break until -- by this clock on the wall back here,
5 until 11:15. And we'll go to one o'clock.

6 MR. BUNDY: Thank you, Your Honor.

7 THE COURT: We'll stand at ease.
8 Same admonition, Ms. Pope, please.

9 THE WITNESS: Yes, Your Honor.

10 (A brief recess was observed.)

11 MR. BUNDY: Please the Court.

12 THE COURT: Yes, sir.

13 MR. BUNDY: Thank you.

14 BY MR. BUNDY:

15 Q Ms. Pope, what I'd now like to discuss in some
16 detail is the settlement hearing, generally, but
17 specifically, I want to talk about the last tab in Exhibit
18 1, which is His Honor's order relating to the approval of
19 the settlement. Okay.

20 A Okay.

21 Q Just very briefly, will you just tell us how --
22 what period of time the settlement hearings took place and
23 what your role was or participation was in that hearing?

24 A Well, I believe they began on January 30th of 2009
25 and they continued through, I believe, it was April 6 of

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1 2009. There were a series of hearings.

2 Q Speak up, please.

3 A There was a series of hearings and I think there
4 were hearings in January -- several in March, and April.
5 There may have been one in February also. But there were a
6 number of days of hearings and basically we -- the record,
7 which is about four volumes, shows that we -- we felt that,
8 that, as long as it was our duty to protect James Brown's
9 estate plan, and that is the duty that we saw under the
10 documents and under the appointment, that we could not
11 possibly agree to this settlement. But if I had to say, I
12 would say that this -- the entire proceeding was just a
13 tribute to the power of the attorney general of South
14 Carolina because he had status and stature and he assured
15 Judge Early through Mr. Jones repeatedly that this
16 settlement was a good thing, that it was good for the
17 charity, that it was good -- that it just made all the
18 sense in the world. And we just simply could not see it
19 that way.

20 And so I can speak in more detail, but I will
21 mention that by April 1st, which was before the last
22 hearing, Mr. -- Judge Buchanan and I were so aware of the
23 attorney general's power to damage James Brown's charity
24 that we made an offer of compromise. Not because we
25 thought it was a fair compromise from a disinterested

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1 perspective, but because of the power of the attorney
2 general to dismember this charity was so great and we could
3 see that that was a threat, a threat that was huge. And so
4 on April 1st, we proposed a compromise that would have left
5 the will intact, had Guardian ad Litem's appointed for the
6 minors and given the six children named in the will 14
7 percent of James Brown's assets. It would have been far
8 more than we believed they would have been entitled to
9 under normal circumstances, but this was not normal.
10 In addition, we gave -- we proposed to give James
11 B. 1 percent, rather than his share of the 14 percent --
12 I'm sorry, the 14 percent was to the six children named in
13 the will and James B who they were saying was a child, even
14 though he had refused DNA testing. And so we said in
15 addition to the 14 percent that the 7 were sharing, we
16 offered James B. An additional 1 percent if he took and
17 passed a DNA test. But we said that he didn't have to do
18 that.

19 And then in addition, we went ahead to talk about
20 the remainder 85 or 86 percent of the estate and we set out
21 some terms for that, but the essential terms of that were
22 that Louis Levinson, who represented these children would
23 assist us with all sorts of things.

24 I could read the proposal. It's contained in Mr.
25 Buchanan's Exhibit Number 7 to his deposition, which is our

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1 supplemental affidavit that we filed on -- about July 13 of
2 2009. But the essence of it -- and we could go through it
3 in detail -- was that at the time we reported this new
4 settlement to the IRS and we got an estate tax closing
5 letter, because there now would clearly be estate taxes
6 due; that Robert Buchanan Jr. and Adele Pope would resign
7 as trustees and PR's if appropriate; and appoint as
8 successors Deanna J. Brown Thomas to fill a seat to be held
9 permanently by a member of James Brown's family, a
10 competent independent South Carolinian appointed by the
11 attorney general and a competent independent South
12 Carolinian appointed by a majority of the then existing
13 advisory board, which at that time consisted of Dr. Lenard
14 McIntyre, Dr. Anne Carmichael, Ms. Inez Tinnenbaum, Judge
15 Walter Williams, and Coach Larry Campbell.

16 MR. WILLIAMS: Your Honor, if I may, I apologize.
17 Ms. Pope's reading from something. I'd like to -- is that
18 in evidence.

19 THE WITNESS: Oh, I'm sorry. I --

20 THE COURT: She's reading from Buchanan's affidavit
21 in his deposition, I think.

22 THE WITNESS: It's our joint affidavit that
23 describes --

24 THE COURT: Hold on.

25 MR. WILLIAMS: I apologize.

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1 THE COURT: Is that an exhibit?

2 MR. BUNDY: No, Your Honor.

3 THE COURT: You can introduce it when you get ready
4 to.

5 Do you want to make it an exhibit?

6 MR. BUNDY: No, Your Honor.

7 THE COURT: All right.

8 MR. BUNDY: And I won't object if he wants to put
9 it in.

10 THE COURT: That's fine.

11 THE WITNESS: But anyway, we also provided in
12 there -- and I'm having to look for it -- oh, and among the
13 things that we asked for there was for Louis Levinson to --
14 to help us get going because we had a proposed two-year
15 publicity rights contract with CORBIS Greenlight, which we
16 had asked the attorney general to agree to on March 23rd.
17 That publicity rights contract would have been in place on
18 May 1 of 2009, and would have lasted only two years and we
19 thought it would bring in at least a million dollars a
20 year.

21 Greenlight was the company that represents
22 Einstein, Steve McQueen, and others. And we had a great
23 two-year contract. Now, this would be in addition to all
24 the music. They had no part of the music. This would be
25 solely a publicity rights contract. And we wanted very

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1 much for that money to come in during what everybody knew
2 would be an appeal of Judge Early's order no matter which
3 way it went.

4 So we had proposed that Mr. -- we were trying to
5 accommodate in every way we could and we proposed that
6 Mr. Levinson, if his client's consented, serve as special
7 administrator to cooperate and assist the PR/Trustees with
8 marshalling and managing assets and litigation, including,
9 but not limited to implementation of the CORBIS settlement
10 selecting a recipient of the right of first offer and due
11 diligence regarding a potential asset sell and related TIAA
12 and Pullman matters. So we were trying so hard to find an
13 agreement.

14 Now, what we did about Tomi Rae in that
15 agreement, by then we were very aware of the copyright
16 issue. Not exactly how it was going to come out, but we
17 were very aware that you do not want to create a wife when
18 there's a substantial likelihood there isn't one. And so
19 the settlement, out of the remaining 84 to 85 percent that
20 would be left after we provided for James B. and the
21 children, provided 7 percent of the residue to her, but did
22 not acknowledge her claim as a spouse, just didn't mention
23 it. Just said give her 7 percent. And it was a huge
24 concession, but it was an acknowledgment that we were about
25 to be run over by a train.

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1 And so that and other matters that I can discuss
2 were very clearly outlined in the supplemental affidavit
3 which Mr. Buchanan and I made on July 13th, 2009 to support
4 our claim. And at which time I had a far better memory
5 than I have today of what happened.

6 BY MR. BUNDY:

7 Q And if the attorney general had agreed with your
8 proposed compromise and assuming Mr. Bauknight who was to
9 overlook this process also agreed, would you and Judge
10 Buchanan have joined in a petition to approve the set -- to
11 approve that settlement?

12 A That -- that was a proposed offer of compromise
13 that said there will be the following settlement. And it
14 should have been secret, but actually the settling parties
15 brought it before Judge Early shortly after that as
16 evidence that their settlement should be approved.

17 Q All right. But my point is, if there had been an
18 agreement at that time to accept this, you would not have
19 proposed a settlement which would have -- still had to have
20 been approved by Judge Early?

21 A Yes.

22 Q Okay. But you wouldn't have appealed that
23 approval?

24 A No.

25 Q Okay. All right. Now, Mr. Bauknight as I

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1 understand it, since he was going to advise the judge
2 regarding the settlement. In the prior order we looked at,
3 was he appraised of this proposal and/or did you discuss it
4 with him?

5 A I don't remember that I personally discussed it
6 with him, but it was talked -- and I haven't checked the
7 hearings, but it was talked about because as I said, it was
8 presented as an offer of compromise, but it was brought out
9 in the hearings. I would ask -- have to look to see
10 exactly how.

11 Q If you had been invited to the mediation, would
12 this have been your proposal in mediation to try to resolve
13 it?

14 A I can't say because the mediation had been a full
15 year earlier. But I can say that I have years of
16 experience of helping create, not a quick solution, but a
17 long-term good solution and this was what this estate
18 needed.

19 Q Okay. Let's --

20 MR. BUNDY: Then, Your Honor, I would like to draw
21 your attention to --

22 THE COURT: What do you mean by: This is what this
23 estate needed was a long-term solution.

24 THE WITNESS: Well --

25 THE COURT: And why did it need a long-term

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1 solution?

2 THE WITNESS: It needed a long-term solution
3 because James Brown wanted his assets to be dedicated to
4 the education of needy students in perpetuity. In
5 perpetuity. And so we didn't -- we didn't need a quick fix
6 as had happened on August 10, 2008, 25 percent to Tomi
7 Rae, 25 percent to the clients of Levinson as they may
8 agree among themselves. The attorney general is going to
9 take over. This person is declared to be the wife.

10 The -- only the people who are in the agreement can
11 be heirs of James Brown. Oh my goodness, knowing that
12 there were at least three who had already passed DNA
13 testing. I mean, that was an attempt to have a quick fix
14 of something that needed a slow resolution that would last
15 a decade, two decades, three decades, four decades.

16 THE COURT: Was your proposal not a quick fix.

17 THE WITNESS: It was not a quick fix. It was a
18 slow fix.

19 THE COURT: Slow fix. Thank you.

20 Sorry, Mr. Bundy.

21 MR. BUNDY: All right. Your Honor, I'd like to now
22 turn to Tab 39 in Exhibit 1, your order entitled: Order
23 Approving Settlement Agreement.

24 THE COURT: That's where we were, wasn't it.

25 MR. BUNDY: It's Tab 39, Your Honor.

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1 THE COURT: I said that's where we were when you
2 last asked me.

3 MR. BUNDY: Thank you, Your Honor.

4 BY MR. BUNDY:

5 Q Turn to page 14, please. I guess -- let's go to
6 13, please.

7 In this portion of the order entitled: Synopsis of
8 the Settlement Agreement, okay. What I'd like to do is to
9 just very quickly run through that.

10 Number 1, please, the purpose was to settling all
11 differences, settling parties concerning disposition by
12 will or otherwise and/or transfer assets under control by
13 James Brown whether by will or testacy, trust, or
14 nonprobate means, state or federal law and substantially --
15 significantly come together as a family to honor the legacy
16 of James Brown. That was the purpose of the settlement of
17 the estate, correct? As stated?

18 A Yes.

19 Q Okay. And Number 2, it says: The settling parties
20 intend for the -- of binding private settlement but are
21 also seeking Court approval of such.

22 Did you -- was Court approval necessary?

23 A That was -- there was a lot of discussion about
24 that. I -- I didn't think deeply about that.

25 Q Okay. But at any rate, they sought the Court

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1 approval?

2 A They did.

3 Q Number 3, on the next page: Tomi Rae was the
4 legal wife of James Brown during his lifetime, at the time
5 of his death and qualifies as his surviving spouse.

6 We've discussed that your -- you disagree with that
7 agreement?

8 A Yes.

9 Q And in your opinion it had negative effects and
10 would have been contrary to Mr. Brown's wishes?

11 A Huge negative effects.

12 Q Number 4, children and grandchildren who are
13 parties to this agreement were and are lawful and/or
14 legitimate biological issue and heirs of James Brown during
15 his lifetime and were in life at the time of his death and
16 qualify as his surviving issue. No DNA testing would be
17 required of any child or any grandchild who is a party to
18 this agreement.

19 5, A professional fiduciary will replace Robert
20 Buchanan and Adele Pope as personal representatives of the
21 estate of James Brown and as trustees of the August 1, 2000
22 Irrevocable Trust of James Brown.

23 6, The charitable trust, substantially similar to
24 the --

25 THE COURT: Mr. Bundy, why are we --

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1 MR. BUNDY: You're right, Your Honor.

2 THE COURT: -- rehash -- I'm familiar with the
3 order, I signed it.

4 MR. BUNDY: I apologize.

5 BY MR. BUNDY:

6 Q Let's go to -- in Number 7, let's just go to Number
7 7. What was going to be done -- tell me -- explain this
8 settling entity -- settlement entity as you understand and
9 how that compared to what was in the will and trust?

10 A Well, it gutted the will and trust, what was known
11 as the settlement entity or the legacy trust and it put,
12 all of James Brown's assets under the effective control of
13 the attorney general of South Carolina, something that was
14 absolutely contrary to Mr. Brown's wishes.

15 Q Okay. Page 15. Okay. This just sets forth, I
16 think -- the agreement was to be 47.5 percent to charitable
17 trust, 23.75 percent to Tomi Rae and 4.79 percent to the
18 children, each child, right?

19 A Each of the children who was a party to the
20 settlement.

21 Q Let's go to page 16, paragraph 10. Can you explain
22 to me this issue here with Terry Brown and his right of
23 first refusal? What was your understanding of that
24 agreement?

25 A Well, that portion of the settlement happened

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1 outside this courtroom on January 30th of 2009. Long after
2 the original settlement had been reached. And as I said
3 before, Terry Brown had been a vocal proponent of the
4 estate plan of James Brown. But he and his son, Forlando
5 were also seeking to reinstate the Cannon trustees. And he
6 was -- Mr. Brown had been present on November 19th and 20th
7 at the hearings in, I believe was the 19th and 20th, in the
8 hearings in the Forlando case. So he had a -- they had a
9 mixed history.

10 But they were very strong proponents of the estate
11 plan. And Forlando wanted to be part of the group that was
12 buying the James Brown assets. And he had been given a 39
13 percent ownership in a group called TJBL on December 5th of
14 2007 and TJBL was the entity that was looking to secure the
15 assets and float an IPO and do all of that.

16 So in order to induce Terry Brown to join the
17 attorney general's settlement, which dismembered James
18 Brown's "I Feel Good" Trust, Terry Brown was given an
19 exclusive due diligence period of six months during which
20 he could market the James Brown assets and apparently he
21 was to exercise that at some time over the next ten years.

22 But the settling parties had a right to not sell if
23 there were a two-thirds majority. And of course, what's
24 significant about the two-thirds is that that put the
25 attorney general and Tomi Rae in absolute control of

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1 James Brown's assets because they held 75 percent of the
2 voting power under the McMaster settlement.

3 Q And do you have any ideas whether or not this
4 provision, whether there has been any offers or anything,
5 in this paragraph after that period of time?

6 A Well, there -- a lot -- a lot happened after that.
7 I know a lot about things that went on after that.

8 Q Okay. Let's go to page 21, please.

9 Page 21, the second paragraph, this authority.

10 This citation says: This authority allows the attorney
11 general to control litigation, also provides the attorney
12 has exclusive authority in order to protect public interest
13 to settle or compromise litigation and it cites the Homer
14 case. How does this compare, if at all, to the ultimate
15 decision by the Supreme Court regarding the attorney
16 general's right to engage in this activity?

17 A Well, it's entirely inconsistent with it and that
18 is the heart of the document which Judge Buchanan and I
19 filed on May 22nd, I believe it was, to ask the Court, is
20 the attorney general taking over and can he; and if he does
21 substitute his judgment for ours, may we go away with the
22 knowledge that we've done our job.

23 Q Okay. Page 23.

24 Under good faith controversy I find it is
25 uncontrovertible that a good faith controversy exists.

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1 What did the Supreme Court find regarding the good faith of
2 this controversy?

3 A That it did not exist.

4 Q Now, I think that is -- hold on. Let's go to page
5 37. Second to last paragraph. Placement of the currently
6 severing fiduciaries is also just and reasonable. Last
7 paragraph: Moreover both fiduciaries have testified they
8 attended to appeal; that actually placed into possession of
9 irreconcilable conflict of interest. The Court was aware
10 you were going to appeal; correct? All parties were aware
11 you were going the appeal?

12 A I believe so and I believe there was a general
13 feeling that there would be an appeal either way.

14 Q Okay. Then the next sentence is: Settling parties
15 propose Mr. Bauknight be appointed as replacement personal
16 representative and trustee. And, in fact, did that occur?

17 A Yes.

18 Q Were you -- was this replacement as you understand
19 it for cause by the judge?

20 A Only that that we wouldn't sign the settlement
21 which contained provisions that we believed to be
22 materially incorrect.

23 Q Any other great rationale that you were aware of?

24 A I did not perceive that to be the case.

25 Q Okay. Has there ever been a hearing in the lower

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1 court or any hearing to make a determination for -- that
2 you needed to be -- that Mr. Bauknight needed to replace
3 you for cause?

4 A No.

5 Q Have you ever had notice and an opportunity to
6 defend any allegations that --

7 MR. WILLIAMS: Your Honor, if I may?

8 THE COURT: You may.

9 MR. WILLIAMS: Your Honor, I believe what we're
10 doing here is having a legal discussion about Wilson v
11 Dallas and an order that was issued by this Court. I don't
12 believe that this is --

13 THE COURT: The order speaks for itself. The
14 Supreme Court order speaks for itself on dismissal for
15 cause, you know.

16 MR. WILLIAMS: Yes, yes, Your Honor.

17 THE COURT: And Ms. Pope can tell us how she feels
18 about it if she wants to.

19 MR. WILLIAMS: Okay.

20 THE COURT: But I mean, I know what -- what
21 ultimately happened. We all do.

22 MR. WILLIAMS: Yes, Your Honor.

23 THE COURT: Thank you.

24 You may continue, Mr. Bundy.

25 BY MR. BUNDY:

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1 Q Just to make sure I understand. You've never had
2 notice and an opportunity to defend yourself or
3 Mr. Buchanan in a court of record in this state for you to
4 be removed for cause?

5 A I don't know whether you are considering other
6 Counties, but --

7 THE COURT: Other what?

8 THE WITNESS: -- in front of Judge Early, never.

9 BY MR. BUNDY:

10 Q Okay. All right. Let's go to the last tab on
11 Exhibit 1. And this is an order of Judge Early dated
12 September 16, 2009. Let's go to page 7.

13 Number 1 here, The stay was lifted; is that
14 correct?

15 A Yes.

16 Q And the trust was going to be administered on an
17 ongoing basis, correct?

18 A Yes.

19 Q And what restrictions were placed on Mr. Bauknight
20 in this order?

21 A I have to look, but I think there were to be no --

22 Q Look at A.

23 A I think there were to be no distributions from the
24 estate or trust and no payments to current or former
25 personal representatives or trustees for commissions from

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1 estate or trust assets without further order of this Court.

2 That would be Judge Early.

3 Q Okay. And that -- and that -- and B would include
4 you and Judge Buchanan, correct?

5 A Yes.

6 Q Okay. Now, I believe that's all I have on Exhibit
7 Number 1.

8 Ms. Pope, I'd now like to discuss with you your
9 claim which brings us here today.

10 THE COURT: And I think you handed me that. It was
11 exhibit what?

12 MR. BUNDY: We're going to start up here, Your
13 Honor, with Exhibit 7. May I approach.

14 THE COURT: Certainly. I had them up here
15 yesterday, I think. Somebody got them off of there.
16 Thank you.

17 MR. BUNDY: Yes, sir.

18 BY MR. BUNDY:

19 Q We have on the screen Exhibit 7, which was
20 previously attached to what was Exhibit 5? It's titled
21 Exhibit 5, so what was it attached to Exhibit 5?

22 A In June of 2009, after we were replaced, Judge
23 Buchanan and I filed a protective claim for commissions.
24 At that time, James B. had filed a petition asking Judge
25 Early to review our commissions. And we had responded by

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1 saying we thought James B. Didn't have the authority to do
2 that, but we were under tremendous pressure to talk about
3 our commissions. And so Judge Buchanan and I had asked
4 Judge Early to please not force us to have to deal with
5 that issue right then and to either grant us our
6 commissions based on the record as it existed then or to
7 allow us to leave it until the conclusion of what we knew
8 then would be an appeal.

9 And so that didn't happen. And we filed a
10 protective claim in June and it was supported by
11 documentation then, but then further supported on, I think
12 July 13th, with this joint affidavit which contained 18
13 exhibits including the Exhibit 8 which was my time sheets
14 and 17 other exhibits in support of our claim.

15 Q Okay. I'd like to just briefly as possible, ask
16 you to explain to the judge how these numbers were
17 calculated and also is it not the case that Mr. Buchanan
18 has resolved his issue regarding his commission claim?

19 A He has.

20 Q So to the extent there is a request in here for
21 Judge Buchanan's commissions, that aspect of it is now
22 moot, correct?

23 A That is no longer my concern.

24 Q But you're -- but you're calculations as it relates
25 to Adele Pope and why we're here today remain the same?

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1 A They do.

2 Q Okay. If you would explain your analysis to the
3 Court --

4 THE COURT: Okay. And let me make sure I'm clear.
5 This Exhibit 5, which is Plaintiff's Exhibit 7 in this case
6 is for the time period as noted on here November 21, 2007
7 through 5/26/2009; is that where we are?

8 THE WITNESS: That is for the minimum PR/trustee
9 calculation. The time calculation that has been up on the
10 board the entire time. Minimum PR trustee commission
11 calculation as per the payment order.

12 THE COURT: All right.

13 THE WITNESS: And that amount was 1,473,550 plus
14 interest at the legal rate as per the order.

15 BY MR. BUNDY:

16 Q Maybe I can make this a little bit easier and move
17 it along a little quicker --

18 THE COURT: I'm not restricting you from anything
19 you want --

20 MR. BUNDY: I know, Your Honor. I appreciate you
21 -- it will make it easier for me to understand.
22 Your Honor, Exhibit -- Plaintiff's Exhibit 11, and
23 maybe these two exhibits in conjunction with each other
24 will make it easier.

25 Plaintiff's Exhibit 11 -- May I approach, Your

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1 Honor?

2 THE COURT: Yes, sir, thank you. Without
3 objection?

4 MR. WILLIAMS: Yes, sir.

5 BY MR. BUNDY:

6 Q Plaintiff's Exhibit 11, please. This is a summary
7 of your claim. This is why we're here today, correct?

8 A That's correct.

9 Q And yesterday, and however many days we're going to
10 be here?

11 A That's correct.

12 Q The one, Number 1 is the payment order and we've
13 discussed, this is based on Judge Early's order of January
14 8th, 2008; correct?

15 THE COURT: And that is Tab -- anybody remember
16 what tab that is?

17 MR. BUNDY: There's an index in front, Your Honor.
18 There should be an index in front of yours.

19 THE COURT: It is. It is. It is. And it looks
20 like January 8, 2008.

21 MR. BUNDY: Yes, Your Honor.

22 THE COURT: That's Tab 13. Okay.

23 THE WITNESS: That is the minimum deposit toward
24 commissions.

25 BY MR. BUNDY:

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1 Q Is that the deposit the judge is referring to?

2 A It is. And that is the amount that had been earned
3 as a minimum commission deposit as of May 26th, 2009, plus
4 simple interest.

5 Q And if we go to page 4 of the order, it says there
6 that will be a deposit and without prejudice to their full
7 commissions as personal representatives and trustees?

8 A And the remainder of the full commission is, which
9 I requested, is on the other document you just handed Judge
10 Early. But the difference in the two -- if I --

11 Q If we look --

12 A -- could look at it, I could show you.

13 Q If we look at Exhibit 7, second page?

14 A If I could look at that, please.

15 Q Sure.

16 A The total commission --

17 Q Total commissions requested --

18 A -- which I requested that day in June of 2009 was
19 1,473,550 plus simple interest from that day, plus an
20 additional commission to be granted in the discretion of
21 the Court of 1,372,380. That would make a total
22 commission, rounding up to the nearest dollar shown there
23 on the bottom of page 2, total commissions requested, HAP
24 2,845,929.63, which has been rounded to 930, these two
25 components.

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1 Q Is the 2 million -- is the total claim, the total
2 commission claim a percentage of a number? Is it a
3 function of a percent?

4 A Well, it is. We talk about up there the value of
5 the estate of 99 --

6 THE COURT: Before you go into that, just help me a
7 little bit. You're asking for 1,473,550 from the dates we
8 just discussed, 11/21 through 5/26/09, plus, obviously, the
9 interest. And that was based on your hourly rate of 3 and
10 some change. I forgot what it is.

11 THE WITNESS: Well, it was over three years. I
12 think we did it at 325 --

13 THE COURT: 325 over those years, plus your
14 ancillary help, et cetera.

15 THE WITNESS: Yes.

16 THE COURT: All right. And then when you go to
17 page 2 of Exhibit 7, you come down total commissions
18 requested AJP and you got 1,181, where is that figure
19 coming from.

20 THE WITNESS: That's me without my staff.

21 THE COURT: You without your staff.

22 THE WITNESS: Right.

23 THE COURT: That makes sense.

24 THE WITNESS: Right.

25 THE COURT: And then plus 1,664,484.67, and I guess

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1 Mr. Bundy's getting ready to figure out how you come up
2 with that figure.

3 THE WITNESS: Well, well, Your Honor --

4 THE COURT: That's why I asked because that
5 1,664,383 is different in Exhibit 11, which says
6 discretionary commissions of 1,372,380.

7 THE WITNESS: Well, I have -- I -- for simplicity,
8 I guess, is the only way to say it, have asked for a full
9 commission of 2,845,930. And there are two components to
10 that: 1,473,550 and 1,372,380. These figures contain some
11 interest and staff and other things that I have --

12 THE COURT: These are --

13 THE WITNESS: For simplicity, this being the
14 commission claim that we filed.

15 THE COURT: Exhibit 7?

16 THE WITNESS: Right.

17 THE COURT: All right. Now, Mr. Bundy, I assume
18 you're going to ask her how -- how Ms. Pope comes up with a
19 million 372 or a million 664, which ever it may be. I want
20 to know how -- where that figure comes from, but I know
21 where the 1,473 comes from and that's from her time and
22 staff and the interest on top of that. But tell me how you
23 come up with the other one, 1 million 372.

24 THE WITNESS: Okay.

25 BY MR. BUNDY:

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1 Q The total commission -- what is the total
2 commission you're claiming?

3 A 2,845,930.

4 Q Okay. And that's --

5 A Timely paid in two segments.

6 Q But that's the full commission you are --

7 A That's the total I'm asking for.

8 Q That's the number on page 2 of Exhibit 7?

9 A It is.

10 Q All right. And if you -- and then if you -- put
11 the other exhibit up, please, the 11, please. So --

12 THE COURT: Well, I understand what she's asking
13 for. My question is simple and after that, then you can
14 ask her what you want to.

15 BY MR. BUNDY:

16 Q How do you get to --

17 THE COURT: 1,372,380 or 1,664,383 --

18 MR. BUNDY: Right.

19 THE COURT: Whichever it is. Where does that come
20 from?

21 MR. BUNDY: Well, I think we first have to, Judge,
22 determine where the 285 came -- the 2 million 845 came
23 from. How did she calculate that?

24 THE COURT: However you want to answer it.

25 BY MR. BUNDY:

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1 Q How do you calculate -- how did you calculate the
2 total, 2,845,929.63 commission you are asking for? What is
3 that based on?

4 A Well, it was based on several things. One, the
5 approximately \$100 million value of the assets of the trust
6 and estate. Two, the reasonableness provisions of the will
7 and the trust. And -- and -- and then third, that Judge
8 Buchanan and I had requested approximately 2.1 million for
9 him and approximately 2.8 million for me, giving up
10 one-third credit for time and cost and another two-thirds
11 for the responsibility and extraordinary nature of our work
12 as PR's and trustees.

13 THE COURT: A third for time and costs and -- plus
14 two-thirds for the extraordinary responsibility?

15 THE WITNESS: Yes, Your Honor. And I had stated on
16 the stand when asked, well, what if your time went beyond
17 this because it was totally clear that I was never going to
18 ask for any other commission. I was going to ask for costs
19 and so forth, but no further commissions above this figure.

20 THE COURT: Above which figure?

21 THE WITNESS: 2 million 8 -- whatever it is, the
22 total of these two numbers.

23 THE COURT: Okay.

24 THE WITNESS: I was asked on the stand during the
25 settlement hearings, and as Your Honor may recall, I really

Adele Pope - Direct Examination by Mr. Bundy

1 wasn't very interested in talking about commissions at that
2 time, but we were sort of being forced to. And I did say
3 that that commission, although earned that day would cover
4 every hour I ever spent for James Brown after that and that
5 certainly contemplated the appeal.

6 THE COURT: Okay. So make sure I understand. The
7 component that is not time and cost is arrived at from the
8 \$100 million that you placed on the estate plus the
9 reasonableness provision of the trust and will, plus -- not
10 plus, but it's sort of a third of time and cost and
11 two-thirds for the responsibilities that you had for the
12 duties that you were --

13 THE WITNESS: Right. And that was intended to
14 favor Judge Buchanan because he had -- we both had shared
15 the responsibility for everything but his time and costs
16 were less than mine. And his staff was smaller than mine.

17 THE COURT: All right.

18 BY MR. BUNDY:

19 Q So is it then correct, to go back to Judge Early's
20 January 8 order -- the first number is the deposit?

21 A That is the way we perceived it.

22 Q The delta between the deposit and the total
23 commission that you are requesting is the 2 million 372 --

24 A That's correct.

25 Q -- which you acknowledge is discretionary and it's

Adele Pope - Direct Examination by Mr. Bundy

1 within the Court's discretion to award?

2 A I do. It was then and it is now.

3 THE COURT: So actually, it's almost 5 million.
4 4,993,151 was the total commission that both you and Bob
5 Buchanan were seeking, of which your portion was 2 million
6 845 and change.

7 THE WITNESS: That's correct.

8 THE COURT: So that 5 million or 4993 is what
9 percent of 100 million.

10 THE WITNESS: About 5 percent.

11 THE COURT: And where are you coming up with the 5
12 percent, for the record, please, ma'am?

13 THE WITNESS: Well, reasonableness. The original
14 trustees had sought 15 percent.

15 THE COURT: 15 or 50?

16 THE WITNESS: 15. 15.

17 THE COURT: 15 of what -- 15 percent of what?

18 THE WITNESS: Well, they were working toward a sale
19 for \$100 million and taking about, a little bit more than
20 15 million of it.

21 THE COURT: But that sale never was consummated or
22 either -- even came close to being consummated.

23 THE WITNESS: Well, if it hadn't been sold, they
24 were going to take it out slowly. They were looking for 15
25 percent of everything.

Adele Pope - Direct Examination by Mr. Bundy

1 THE COURT: But didn't the -- I don't know whether
2 it's the trust document or the will and trust documents
3 gave them 50 -- is that 50 percent of everything that came
4 in and out of the trust?

5 THE WITNESS: Your Honor, that was a terrible
6 misconception.

7 THE COURT: Of --

8 THE WITNESS: That was never the case. It -- they
9 never --

10 THE COURT: Okay. Maybe -- let me rephrase it.
11 What did the trust documents say about the 50 percent?

12 THE WITNESS: Deep in the provisions in both James
13 Brown's 1999 and his 2000 will and the administrative
14 provisions was an acknowledgment that administrative costs
15 are sometimes up to 50 percent; which in the music industry
16 is, in fact, the case. Publishers take half of the music.
17 That was interpolated somehow to try to convince Your Honor
18 that -- I mean, as bad as they were, Mr. Buchanan and
19 Mr. Dallas and Mr. Bradley were trying to take 50 percent
20 of everything.

21 THE COURT: Not Mr. Buchanan.

22 THE WITNESS: I'm sorry. I apologize. Mr.
23 Cannon --

24 THE COURT: Bradley Dallas --

25 THE WITNESS: Mr. Dallas and Mr. Bradley were

Adele Pope - Direct Examination by Mr. Bundy

1 trying to take 50 percent of everything. That was just --
2 the documents could not possibly have allowed that, but it
3 took on a life of its own.

4 THE COURT: Well, what does it say in the document?
5 Has anybody got that?

6 THE WITNESS: Reasonable, reasonable. That's all
7 it says. Both documents. Reasonable.

8 THE COURT: Well, either I've lost my mind or I
9 can't remember anything anymore. I read 50 percent
10 somewhere in the trust agreement that they would get 50
11 percent of the -- I don't think it was net, I think it was
12 gross.

13 THE WITNESS: I think I can find that, Your Honor.

14 THE COURT: Okay. Please. Because I --

15 THE WITNESS: It was repeated to you over and over
16 and over again, but it was not the case.

17 THE COURT: Okay. Well, let me see the trust
18 document. Maybe I can read it and refresh my memory.

19 THE WITNESS: Yeah. And would you like me to find
20 it for you.

21 THE COURT: That would be wonderful.

22 THE WITNESS: It's -- it's -- it's under the
23 Article 10, which is the Powers for the Trustee.

24 THE COURT: Thank you. (Reading.)

25 Which small provision --

Adele Pope - Direct Examination by Mr. Bundy

1 THE WITNESS: If I could look a minute, Your Honor?

2 THE COURT: Yes.

3 THE WITNESS: Thank you.

4 THE COURT: Isn't it Article 10, Number 2 up there
5 on the board?

6 Does not prevent my trustees from making up to 50
7 percent of the gross.

8 THE WITNESS: For the payment of administrative
9 expenses.

10 THE COURT: And managerial expenses.

11 THE WITNESS: Well, that read with the rest of the
12 will could not possibly have been read that way. That's
13 all I know how to say. I've been a trust law officer
14 forever. And that could not have been read that way.
15 Nobody could have claimed that who was a fiduciary under
16 that document. Because there are other savings clauses in
17 there that say no action may be taken which could
18 disqualify the trust. And I can tell you that that would
19 have disqualified the trust as a charitable trust in a
20 minute.

21 THE COURT: All right. So your 5 -- your 5 million
22 or 4,993,115 was about 5 percent of the hundred thousand --
23 \$100 million valuation that you and Mr. Buchanan put on the
24 estate.

25 THE WITNESS: My 2.8 and Mr. Buchanan's 2.1 were

Adele Pope - Direct Examination by Mr. Bundy

1 approximately that.

2 THE COURT: Yes, ma'am. I thought that's what I
3 said.

4 Okay. I'm sorry, Mr. Bundy. Go ahead.

5 MR. BUNDY: I'm glad for the help, Judge.

6 BY MR. BUNDY:

7 Q All right. Ms. Pope, if we could, let's go back to
8 the exhibit, the 11, please.

9 So, Ms. Pope, I think hopefully we've explained the
10 two elements of your claim, right, which total the two
11 million number we've been discussing.

12 The third element of your claim is attorney's fees
13 and costs?

14 MR. BUNDY: And, Your Honor, just, if you don't
15 mind, I'd like to bring this up at this point. We're going
16 to be asking for attorney's fees and costs, but I've talked
17 to counsel and we've agreed that depending on your ruling
18 we could later take up the issue of attorney's fees and
19 costs --

20 THE COURT: I assume you're talking about
21 attorney's fees and costs to the prosecution of this -- her
22 commission?

23 MR. BUNDY: Yes, Your Honor.

24 THE COURT: Sure. I don't have any problem doing
25 it that way. Just, I mean, that's obviously -- you won't

Adele Pope - Direct Examination by Mr. Bundy

1 know what they all are until it's over with.

2 MR. BUNDY: Okay. That way I don't have to go into
3 all that now and we can forgo that. Okay.

4 BY MR. BUNDY:

5 Q Just a few more exhibits, Ms. Pope.

6 I'd like to now look at Exhibit 5, please.

7 MR. BUNDY: May I approach, Your Honor?

8 THE COURT: Certainly.

9 MR. BUNDY: In evidence without objection, Your
10 Honor.

11 THE COURT: Thank you.

12 BY MR. BUNDY:

13 Q All right. What is this document, Ms. Pope?
14 Exhibit 5?

15 A This is from Mr. Buchanan's deposition, but it is a
16 copy of our protective statement and notice of creditor's
17 claim which we filed, I think it was the 24th of June,
18 2009, just after we were replaced; and it is consistent
19 with the document we've just looked at that outlined our
20 time and claims.

21 Q Well, in fact, it says amount of claim: Full --
22 the full PR/Trustees commission in the amount of 4,993,151.

23 A It does. It -- the interest, we're doing it --
24 we've got a little slightly different date for the
25 interest, but essentially it's the same.

Adele Pope - Direct Examination by Mr. Bundy

1 Q Okay.

2 A The total claim.

3 Q And is this a requirement of -- a statutory
4 requirement to file such a document?

5 A We weren't sure whether we had to file it or not.
6 So we -- that's why we filed it as a protective claim. It
7 -- it has to do with when your service is terminated and we
8 didn't believe our service had been finally terminated, but
9 we filed a protective claim, just in case.

10 MR. BUNDY: Your Honor, may I approach?

11 Plaintiff's Exhibit 6 is in without objection.

12 BY MR. BUNDY:

13 Q All right. Ms. Pope, what is Plaintiff's Exhibit
14 6?

15 A Well, on May 29th of 2013, I was hand-delivered a
16 notice of disallowance with impending bar, asserting that I
17 was not entitled to any payment and that -- and there were
18 certain allegations made in there. But what was
19 significant about it is it did refer to impending bar,
20 which meant that if I did not file the lawsuit about which
21 we're here today, I would have lost all possible claim to
22 my earned commissions, the discretionary commissions and
23 perhaps even faced alleged discroachment of the modest
24 special administrator commission, partial special
25 administrator commission I had been paid in 2007.

Adele Pope - Direct Examination by Mr. Bundy

1 Q So once you received the notice of disallowance,
2 you were statutorily required to file this lawsuit;
3 otherwise, you would have waived all of this or wouldn't
4 have been able to prosecute?

5 A The notice of disallowance forced me to do that.

6 Q And is the -- was there any time requirement within
7 which the notice of disallowance had to be filed?

8 A No. It -- our claim had been sitting since June of
9 2009.

10 Q Okay.

11 A And this was four years later.

12 Q Okay. All right?

13 THE COURT: Mr. Bundy was there an order? I'm
14 looking at the --

15 And Ms. Pope, you can help me out.

16 January 8, 2008, that's where -- ordered that you be paid
17 on the time basis. I thought there was some order,
18 somewhere that set the amount of time per hour. I think 3
19 --- or was there.

20 THE WITNESS: Well, Your Honor, I've tried to go
21 back and look at that and I -- what I found is we -- it is
22 discussed somewhat within the record, but my rate was \$300
23 an hour in 2007, 325 in 2008, and 350 in 2009. But our
24 request just uses 325, although as you can --

25 THE COURT: Okay. So you went up from 3, to 325,

Adele Pope - Direct Examination by Mr. Bundy

1 350 over a period of time, which is certainly --

2 THE WITNESS: And, you know, at the time Your
3 Honor, we had very -- Your Honor did find that our rate for
4 the special administrator had been fair and commensurate
5 with other attorneys and we had all of the information
6 about the other attorneys who were making claims. And at
7 rates of anywhere from about 275 to about \$500 an hour.

8 THE COURT: But when we were talking about fees and
9 things during the course of the litigation, it went 325,
10 350, 300 as time progressed, it moved up.

11 THE WITNESS: Yes. And our claim is, again, based
12 on 325. The 1,473,550.

13 THE COURT: Excuse me. That 1 million 473 is on
14 325 an hour plus costs?

15 THE WITNESS: It is. Plus my staff --

16 THE COURT: I understand.

17 THE WITNESS: -- at rates that are shown on the
18 chart. Very modest rates shown on the chart.

19 THE COURT: All right. Mr. Bundy? You may move
20 forward. I didn't mean to interrupt.

21 BY MR. BUNDY:

22 Q All right. Ms. Pope, what I want to talk to you
23 now is this order, this payment order, your time ends in
24 May in terms of keeping up with your time, right?

25 A I felt that we had been replaced and certainly --

Adele Pope - Direct Examination by Mr. Bundy

1 Q All right. But this is where the time stops per
2 the order of -- of --

3 A Well, I'm not sure about that. But, what I do know
4 is I would have gone way past what I've requested if I'd
5 continued to keep time.

6 Q So you no longer continued to keep time after June?

7 A I have -- I did sporadically during the period and
8 I certainly kept records of lots of what was happening, but
9 I didn't keep time sheets in the way that I had before.

10 Q As anticipated, once Judge Early issued his order
11 approving the settlement was there, in fact, an appeal?

12 A There was.

13 Q And did you -- you were the appellate?

14 A Mr. Buchanan and I were the appellants.

15 Q All right. Tell the Court what was involved in
16 that -- what was involved in that appeal. If you handled
17 the appeal, who helped you or who handled it or however
18 that went, if you would, briefly?

19 A In September the settling parties and the attorney
20 general had secured an order which said that we could not
21 be paid. And so we had the issue of conducting what we
22 knew would be a vitriolic appeal and that had already shown
23 its head in the September hearings. Judge Early had
24 quelled the discussion, but it was already there.

25 So I was --

Adele Pope - Direct Examination by Mr. Bundy

1 MR. WILLIAMS: Your Honor, if I may make a quick
2 record objection?

3 THE COURT: You may.

4 MR. WILLIAMS: I apologize. We've got an order
5 that was issued by Your Honor in this case as an
6 administrative order dated September 1st, 2016. The Court
7 made a finding that this case that we're trying today
8 regards fees and commissions for Ms. Pope. She is owed for
9 her prior fiduciary service which is included with her
10 court costs remitted on May 26, 2009. For the record I
11 would like to object to any testimony elicited that speaks
12 to assert or argue that Ms. Pope may be compensated for any
13 conduct after May 26, 2009.

14 THE COURT: Well, I'm not sure that -- are you
15 making a claim for after 5/26/09?

16 MR. BUNDY: No, Your Honor.

17 THE COURT: So why are we going into the appeal and
18 all that.

19 MR. BUNDY: It goes to special circumstances of her
20 -- and extraordinary services she offered. Her services --
21 and it goes to -- it's one more element that you could
22 consider in your discretion as it relates to the
23 discretionary fees. Because her fee -- her fee is based on
24 the commission, the total commission.

25 And so one bucket of damages is the January 8

Adele Pope - Direct Examination by Mr. Bundy

1 order. That's the down payment. The remainder of it is
2 that delta which is in your discretion and I believe it
3 would be appropriate for you in your discretion to consider
4 the services she provided; which obviously benefitted the
5 estate because she was successful in the appeal. So I was
6 just simply trying to put that in the record.

7 THE COURT: But doesn't the Supreme Court rules
8 provide that you can go to them for attorney's fees? Let
9 me see that order.

10 If you're successful, and the other party pays?

11 MR. BUNDY: Well I'm not seeking attorney's fees.

12 THE COURT: I haven't done an appeal in a long
13 time, I've forgot.

14 MR. WILLIAMS: You're talking about the appellate
15 court rules for --

16 THE COURT: Yeah.

17 MR. WILLIAMS: Yes, Your Honor.
18 For the losing and winning parties.

19 MR. WILLIAMS: Yes, Your Honor.

20 MR. BUNDY: Keep in mind, Your Honor, I'm not
21 seeking attorney's fees, I'm seeking commissions.

22 THE COURT: Well, what's the difference? I mean I
23 know the difference between -- obviously, a special
24 fiduciary, that she would have had both PR and trustee as
25 well as providing legal -- I don't know if she provided

Adele Pope - Direct Examination by Mr. Bundy

1 legal services, but she certainly used her keen legal mind
2 to maneuver this mine field that she went through while she
3 was serving in that capacity. But I do have -- my order
4 does cut it off on the date in question, May 26, 2009. I'm
5 not sure. -- I will allow you since we're doing this nonjury
6 to make a record if you'd like, but I'm not saying that I'm
7 going to consider that.

8 I may consider the commission and the
9 reasonableness all up to May 26, 2009. But I will
10 certainly allow you, over his -- over the objection of the
11 other side, to sort of as a proffer and to make the record
12 complete --

13 MR. BUNDY: Thank you, Your Honor.

14 THE COURT: -- in the event this goes any further
15 than whatever decision I may make.

16 You may continue.

17 MR. BUNDY: Thank you, Your Honor. And I
18 understand that what we're doing now is a proffer.

19 THE COURT: You may continue.

20 MR. BUNDY: Thank you.

21 BY MR. BUNDY:

22 Q All right. Ms. Pope, what -- you knew you weren't
23 going to get paid because there was an order nothing else
24 was to be paid pending the appeal or whatever. So tell me
25 what happened. How did the appeal -- what did you do

Adele Pope - Direct Examination by Mr. Bundy

1 during the appeal to prosecute this appeal which ultimately
2 was successful?

3 A Well, our commission claim which we do believe was
4 earned on May 26, 2009 included working on the appeal. And
5 during the period from May 26, 2009 until May 8, 2013, the
6 Supreme Court had found that Mr. Bauknight's appointment
7 was void, so in traditional terms there was no personal
8 representative in -- of the estate of James Brown and no
9 trustee of the James Brown 2000 Trust during that period.
10 During that period, we performed half of what is
11 the function of a PR and the trustee and that is to defend
12 that document. And I could say in terms of James Brown
13 that was greater than half because his sole desire was to
14 save the James Brown "I Feel Good" Trust and we did that.
15 And the Supreme Court found that we were the prevailing
16 party in that litigation and awarded me certain little
17 costs under the appellate rules.

18 THE COURT: Which is not very much as it used to be
19 when I was prosecuting trials.

20 THE WITNESS: They are not.

21 THE COURT: \$7 an hour.

22 THE WITNESS: They were not, but they were an
23 acknowledgment that we were the -- that we were the
24 prevailing parties. By that time through the failure to
25 report to the Supreme Court, the settlement with Bob

Adele Pope - Direct Examination by Mr. Bundy

1 Buchanan, there were no costs awarded to Mr. Buchanan
2 because he was prohibited from filing a petition for
3 rehearing. So there was confusion there.

4 But essentially the appeal was as hard as any
5 appeal I've ever seen. And I have conducted a fair number
6 of appeals. It was hard principally because the attorney
7 general of South Carolina was working against the PR's and
8 the trustees who were trying to save this charity and did
9 put the Court in a position to save this charity.

10 There were in addition to numerous vitriolic and
11 false claims, there was a strong challenge to standing.
12 There was a troublesome motion to supplement the record
13 after the closing of the record. And there were numerous
14 things that made this appeal the most difficult I've ever
15 seen.

16 Q Who handled the appeal?

17 A Because we were prohibited from having any funds, I
18 -- we were using Tressa Hayes and my husband said why don't
19 you call Jim Richardson. He likes to work on important
20 things. And I had budgeted from my own pocket because I
21 knew that Judge Buchanan couldn't take anymore, about
22 \$40,000 a year to conduct the appeal and I told my husband
23 I could not budget that into it. I couldn't do that. I
24 didn't want to be a million dollars in debt at the end of
25 this. And he said call him any way. And I did --

Adele Pope - Direct Examination by Mr. Bundy

1 Q Let me stop you here. Who is Jim Richardson?

2 A Jim Richardson is a wonderful appellate lawyer.
3 According to his testimony, he has hired -- I mean, he has
4 conducted more appeals in South Carolina than anyone other
5 than Charles Carpenter who also helped me some pro bono
6 publico.

7 Q Okay.

8 A But Jim -- I called Jim Richardson and I asked if
9 he would help Tressa Hayes and he immediately says -- said
10 he would take the appeal. And he did. And we never had
11 any discussion of what I would pay him. I just trusted my
12 husband and did it. I helped him tremendously because I
13 wanted to make the burden and the costs less. Tressa
14 helped him a lot. It was only in -- sometime in the
15 appeal, I think in 2010 when Mr. Richardson announced in a
16 filing without telling us that he was handling it pro bono
17 publico. That was the first I knew. And so it was hard.
18 It was a terribly hard appeal.

19 Q All right.

20 THE COURT: Did I hear you correctly a while ago, I
21 think you said -- you testified that you were not seeking
22 any commissions beyond 5/26/09, when I said you could
23 proffer all this? Is that what you testified?

24 THE WITNESS: I --

25 MR. BUNDY: I didn't hear.

Adele Pope - Direct Examination by Mr. Bundy

1 THE COURT: I thought I heard Ms. Pope say that she
2 was not seeking any commission beyond 5/26/09.

3 BY MR. BUNDY:

4 Q Are you seeking commissions beyond 5/26/09?

5 A Yes.

6 THE COURT: Okay.

7 BY MR. BUNDY:

8 Q All right. Now, were you at the oral arguments?

9 Did you attend the oral arguments in Columbia?

10 A And if I could say one other thing?

11 Q Certainly.

12 A After that administrative order, Your
13 Honor denied summary judgment to the defendants when they
14 asked to cut off my commissions after May 26, after that
15 administrative order.

16 THE COURT: Very well.

17 BY MR. BUNDY:

18 Q Were you in attendance in Columbia at the Supreme
19 Court hearings in Wilson versus Dallas?

20 A I was.

21 Q Okay. Do you recall an inquiry by the chief
22 justice of Mr. Jones about what investigation he had done
23 regarding looking into the validity of the claims to set
24 aside the will? Do you recall?

25 A I do. And I've read the transcript of that

Adele Pope - Direct Examination by Mr. Bundy

1 hearing, listened to the transcript of that hearing
2 multiple times and it's a part of the record in this case.
3 In the deposition of Mr. Jones or Ms. Jowers, I'm not sure
4 which one. But the transcript, which was critical is in
5 the record somewhere in this case.

6 Q Well, what was the chief justice's inquiry of
7 Mr. Jones related to his investigation into the will
8 contest?

9 A Well, she didn't seem pleased with his
10 investigation.

11 MR. BUNDY: Your Honor, now would be good time to
12 break for lunch if that's satisfactory.

13 THE COURT: Well, no, I'm going until one. I said
14 that -- I've already announced that all along. We'll go to
15 one.

16 MR. BUNDY: The witness is with you. Is yours.

17 THE COURT: Ms. Pope, you need a break before we go
18 on?

19 THE WITNESS: No.

20 THE COURT: All right. Let's go until one o'clock.

21 MR. WILLIAMS: May it please the Court.

22 THE COURT: Certainly.

23 ///

24 ///

25 ///

Adele Pope - Cross-Examination by Mr. Williams

1 A Absolutely not correct.

2 Q Okay. Will you tell the Court what you had done?

3 A I've been talking about it all day and yesterday.

4 But I'll talk about it again, if you'd like.

5 We had -- we had stabilized the clearance process.

6 Q That's the one where you told them you'd have to
7 get back to them next month?

8 A No, that was the other 198 clearances.

9 Q Okay.

10 A We had learned about the need to protect the
11 copyrights from improper or premature attempts to terminate
12 the -- the \$3 million plus royalty stream coming to the
13 James Brown "I Feel Good" Trust, and we had secured an
14 order from Judge Early on March 8th or 9th, of 2008 to have
15 the proper heirs determination, which is absolutely
16 essential to the protection by a charity of its copyright
17 royalties.

18 We had gotten a handle on -- on the assets. We had
19 just done many, many, many other things. I mean maybe I
20 just ought to refer you to the supplemental affidavit of
21 Robert L. Buchanan Jr. and Adele Pope, which we did the
22 following year, which gives a chronology -- or to my time
23 sheets, which would give you information. We worked on
24 this every single day.

25 THE COURT: Where is that affidavit? Is it in the

Adele Pope - Cross-Examination by Mr. Williams

1 Greenlight until January of 2009 when we began to negotiate
2 it. James Brown had been involved since 2002, but we only
3 became involved in the possibility of the Greenlight
4 publicity rights deal starting with negotiations in January
5 of 2009, and culminating on March 23rd, 2009 when we filed
6 an emergency petition asking the attorney general to please
7 approve that so that we could get that two year contract in
8 place by May 1, 2009. And he refused to do it because he
9 said it would interfere with Terry Brown's right of first
10 refusal.

11 Q Okay. Would it have interfered with anything else?

12 A I don't think so. It was a very clean contract.
13 And there was no chance that any portion of it would have
14 had to have been paid to Buddy Dallas or -- or David Cannon
15 or Greenberg Traurig or all the other people who were
16 claiming a percentage under the October 18 letter.

17 So we were so pleased that it was so clean and so
18 we didn't think so. I mean if somebody had analyzed it and
19 called it to our attention, we certainly could have worked
20 on modifying it, but the truth is, nobody wanted to do
21 that. They didn't want it because they said it interfered
22 with Terry Brown's right to buy these assets.

23 Q Okay. You had mentioned on direct that you said it
24 was going to generate a million dollars a year --

25 A We believed --

Adele Pope - Cross-Examination by Mr. Williams

1 give away half of this \$91 million and further agreed to
2 declare that she would be stipulated to be the wife,
3 threatening 900 American copyrights over her lifetime.

4 Q Why did the Christies sale go forward in July of
5 2008 versus September or October? Why in July?

6 A Judge Early, in his order, found that the estate
7 was in a desperate financial crisis in his first order and
8 that the Christies sale should take place, if possible,
9 before August 1, 2008. No one appealed that order. No one
10 sought reconsideration of that order. The reason was that
11 the estate, because \$17 million had been stolen, was in
12 desperate financial straits.

13 Q Okay. Did you propose the August date?

14 A Well, I am sure that when we had the hearing, we
15 told the Court that we needed to do it as soon as possible.
16 I'm guessing that the actual proposal for before August
17 came from Christies itself saying what the appropriate time
18 frame would be to do it. I'm guessing that it was from
19 consultation with them because everybody consulted with
20 them.

21 Q Okay. So --

22 A So I'm thinking that -- that it was what they said
23 was a schedule to get it done. We, of course, wanted it
24 done as soon as could be reasonably done, but properly
25 prepared.

Adele Pope - Cross-Examination by Mr. Williams

1 A He instead made an alliance with a person -- with
2 persons who had virtually no claim to set aside the will
3 and a person who was claiming to be the spouse but whose
4 own admission showed she was not.

5 Q Okay. I bring your attention to the next page and
6 I'll read it to you: Request that attorney general and
7 family explore settlement.

8 A Right.

9 Q You're asking for that, correct?

10 A That was related, as I believe I said yesterday,
11 that they work on the issues that they had trouble with,
12 which was the -- who owned the tangible personal property.
13 Whether it was owned or -- at part of the tangible personal
14 property, whether it was part of the personal and household
15 effects which were going to go to the children or whether
16 it was part of the general TPP which went into the
17 charitable fund.

18 Q If you'll read the very last paragraph --

19 A Sure.

20 Q -- to the Court, Was respectfully submitted by you?

21 A Sure. Yeah, it's --

22 Q Please, will you publish it to the Court?

23 A Right. It says while the PR/Trustees are occupied
24 with these necessary suits and the defense of Mr. Brown's
25 estate plan, they urge the family members and the attorney

Adele Pope - Cross-Examination by Mr. Williams

1 Q In the context of your prior testimony, if you
2 would publish starting with B?

3 A Well, I have to read a half of a sentence, so we
4 don't understand the context of it?

5 THE COURT: You can read the whole sentence.

6 THE WITNESS: The PR/Trustees believe that if they
7 are joined by the attorney general in a vigorous defense of
8 the estate plan and rejection of the spousal elective share
9 claim, the estate/trust will, within six months be in a
10 posture to evaluate and perhaps enter into a full
11 settlement.

12 And we could have done it.

13 Q Okay. Full settlement? That's what you're
14 recommending?

15 A After we do what was necessary to have a fair
16 evaluation of Ms. Hynie's claim, looking at her own
17 admissions and a fair evaluation of the claims against the
18 estate plan which were baseless.

19 Q Okay. But you're telling them to settle aren't
20 you?

21 A No. I'm telling them, Let's get this thing
22 prepared. We can do it in six months and then we'll all
23 know enough to have a settlement which is fair to this \$80
24 million charity.

25 Q So you are telling them to settle?

Adele Pope - Cross-Examination by Mr. Williams

1 THE COURT: That's workable.

2 THE WITNESS: Thank you.

3 (A brief recess was observed.)

4 MR. WILLIAMS: May it please the Court.

5 THE COURT: Yes, sir.

6 BY MR. WILLIAMS:

7 Q Ms. Pope, at the time of the settlement, did you
8 understand the inner workings of termination rights?

9 A I was vaguely familiar with the notion.

10 Q Okay.

11 A I certainly knew enough to know that you did not
12 want to declare someone a spouse who had only a weak
13 argument that she was.

14 Q And by the time of the settlement, I mean during
15 the settlement hearings, we saw that graph on the screen
16 earlier?

17 A During the settlement hearings, I had become a
18 little more familiar because I had spoken with Professor
19 Tritt and done a little research on my own and was
20 certainly thinking about the damage that was being caused
21 by letting someone who had substantial problems with
22 proving she was the wife, be stipulated to be the wife,
23 naming five children, two of whom were not legal children
24 of the decedent be declared as the sole heirs, adding a --
25 and others were added later; declaring as an heir, a child

Adele Pope - Cross-Examination by Mr. Williams

1 who had refused to take a \$350 DNA test, and specifically
2 excluding as heirs the only three DNA proven heirs who had
3 already been identified and acknowledged by the estate and
4 refusing to give a DNA test to an incarcerated known son.

5 Q At the time of the settlement hearings, did you
6 understand that the heirs, whoever they may be, would have
7 the ability to redirect royalty revenues in the future as
8 each copyright came up for termination?

9 A No. I knew they had certain rights, but not the
10 right to redirect -- that was not correct. They had
11 certain rights with respect only to certain aspects of the
12 copyright portfolio.

13 Q Okay. However the law works. I understand where
14 you're coming from. At the time, you did not understand
15 that the heirs, whoever they may be would have the ability
16 to redirect certain royalties to themselves?

17 A I don't believe that now the way you're putting it.
18 I believe they -- I believe that there are numerous
19 strategies to avoid that and we had four years to implement
20 those strategies and we were working on it as early as June
21 2008 and -- and the Ray Charles case has certainly proven
22 to us all that the charity has a place at the table and
23 should never be excluded. And certainly that the attorney
24 general, whose duty it is to protect a charity should not
25 align himself with the people trying to siphon off the

Deposition Designations of William Sellers

1 you will, flip to the next page. It's not the complete
2 document, but you'll see you're listed as an expert
3 witness.

4 A Uh-huh.

5 Q And there are certain opinions listed. I want to
6 go over those opinions with you. First, did you prepare
7 these opinions?

8 A No.

9 Q Have you seen this document before?

10 A I don't recall.

11 Q Okay. Do you recall discussing it with Ms. Pope?

12 A Not really, may have, but I don't recall.

13 Q All right. The first opinion says in the fall of
14 2007 Mr. Buchanan and Ms. Pope as SA's, which I believe is
15 special administrators were being pressured by Mr. Dallas
16 to sign and endorse certain tax returns prepared by Phil
17 Farr, CPA with no documentation as to their accuracy. He,
18 which I assume means Mr. Sellers, advised them not to sign
19 the returns. Mr. Farr's unauthorized tax returns added to
20 the tax problems of the James Brown estate.

21 What do you recall about that?

22 A I really don't recall that.

23 Q Okay. Paragraph 2: Mr. Sellers supports and holds
24 the opinions of Mary Jo Coal, CPA. Do you know what
25 opinions Mary Jo Coal has in this case?

Deposition Designations of William Sellers

1 A No.

2 Q Okay. So do you support her opinions?

3 A I do support her opinions.

4 Q You just don't know what they are.

5 A Because I trust her, yes.

6 Q Okay. You trust her.

7 A Uh-huh.

8 Q So if she has opinions and you trust that they're

9 valid.

10 A They're valid?

11 Q But you don't know what they are and you have to

12 know before you could support them, right?

13 A Uh-huh.

14 Q Okay. You may have additional opinions related to

15 his service, to the service of the defendants by

16 appointment of Judge Early. Do you have any expert

17 opinions that you haven't disclosed?

18 A No.

19 Q Do you have any expert opinions in the case?

20 A No.

21 MR. NEWSOME: Page 52, line 7.

22 Q Okay. Let me refer you to exhibit --

23 THE COURT: Hold on a second.

24 MR. NEWSOME: I'm sorry, Judge.

25 THE COURT: 50 what?

W. Thomas Ellison - Direct Examination by Mr. Newsome

1 Q All right. Tell us about the totals at the bottom
2 there?

3 A Okay. So the totals at the bottom are -- of
4 course, we've already talked about beginning cash plus
5 receipts. So there was -- the funds that came in that went
6 through -- as I -- the easiest way to say it they went
7 through the checking account. There were other funds that
8 did not go through the checking account. But the funds
9 that went through the checking account and the receipts
10 were \$855,430. The disbursements were \$843,038 and that
11 leaves the balance of 12,331.

12 THE COURT: But you started with 151,000, so
13 really --

14 THE WITNESS: Yes, sir.

15 THE COURT: Okay.

16 BY MR. NEWSOME:

17 Q Okay.

18 A Okay. Now, this --

19 Q Tell us about this slide.

20 A This slide takes the disbursements and sorts it by
21 name. So on the left-hand side you see the top is Law
22 Office of Adele Pope and for this period of time she was
23 paid \$159,438, which represented 18.91 percent of the
24 disbursements. The Buchanan Law Firm was paid 153,000
25 which represented 18.15 percent of the total disbursements.

W. Thomas Ellison - Direct Examination by Mr. Newsome

1 I won't read them all. You can see them. So I
2 summarized the -- the -- four of the law firms where --
3 that's Ms. Pope and then the Buchanan and then Bailey and
4 then Shipley and Hayes, which comes up to a total of
5 \$458,624, which is 54.39 percent of the disbursements.

6 Q Okay. So all of the money that ran through the
7 account include -- does that include the beginning cash?

8 A That's -- this summary includes the beginning cash,
9 yes.

10 Q Okay. All right. So over half of it went to
11 Ms. Pope and Counsel?

12 A 54.39 percent, yes.

13 Q Okay.

14 A And then that's a continuation page, so we sorted
15 everything. So that third page -- so that's just three
16 pages of the exhibit we just talked about.

17 Q Okay. What is this slide?

18 A So this is the same -- same sort of drill for the
19 -- for the receipts, if you will. So we've got a
20 description column. We've got an amount and we've got them
21 as a percentage. So the Christies deposit is \$554,077 and
22 it's 64 percent of this total, which is the beginning cash
23 and the receipts. And then, of course, there's beginning
24 cash, which is the next line. And then the rest of this is
25 just by category, highest to lowest of where the funds came

Russell Bauknight - Direct Examination by Mr. Newsome

1 personal property, business personal property, in addition
2 to the regular personal property, such as uniforms and that
3 type of property; what was a little bit of cash. There was
4 \$12,000 in the bank; \$12,300 some odd in the bank. There
5 were bills currently due and payable that exceeded the
6 amount of cash I had in the bank.

7 And the largest asset of the estate, which I --
8 when I was appointed, certainly based on the information I
9 had, the largest asset would have been the royalty streams
10 for the various copyrights, the royalties derived from the
11 masters, et cetera. There was not even a list of what
12 those copyrights were, so the biggest asset of the estate,
13 there was no documentation pulled together that would even
14 tell you what was in that group of assets.

15 Q Prior to your appointment, did you have any
16 experience with musical copyrights?

17 A I had none whatsoever and I testified to that in
18 2009.

19 Q What did you do with regard to those copyrights?

20 A Well, the first thing I did, was to have a -- an
21 intellectual property expert assist me with pulling
22 together a complete list of all the assets that created the
23 royalty stream. In addition, since that was a musical type
24 asset, I immediately began the process of finding an
25 appropriate person to advise me with respect to how to best

Russell Bauknight - Direct Examination by Mr. Newsome

1 Mr. Gonzales, but as a result of what he said, you can tell
2 us what you did.

3 THE WITNESS: Yes, sir.

4 Can you restate the question, please.

5 BY MR. NEWSOME:

6 Q Sure. Did the estate have an intellectual property
7 attorney retained to advise on musical copyrights prior to
8 your appointment?

9 A To my knowledge they did not retain an attorney or
10 an intellectual property attorney to advise on copyrights.

11 Q Okay. What was the estate's cash position on May
12 26, 2009?

13 A As I have just testified, there was approximately
14 \$12,300 in the bank. I had an insurance bill on the Beech
15 Island home coming due for approximately \$12,200. And I
16 had regular bills coming due for Mr. Washington, who is
17 handling the day-to-day upkeep of the Beech Island
18 property. I had his weekly paycheck to take care of and I
19 had certain other regular bills that had to be paid such as
20 electric bills and storage fees.

21 Q What actions did you take based on the financial
22 condition of estate at the time of your appointment?

23 A Well, with respect to the generating cash, I
24 borrowed on an unsecured basis \$25,000 from Merrill Lynch
25 to allow me to have a little bit of cash to be able to pay

Russell Bauknight - Direct Examination by Mr. Newsome

1 bills and protect the estate assets. I looked at the
2 insurance bill that was due on the Beech Island residence
3 and I found that Ms. Pope had, the previous year, paid for
4 the insurance premium on that home using a value that was
5 nearly a million dollars in excess of what the appraisal on
6 the home showed, so I was able take that appraisal and
7 negotiate a much lower insurance cost, which would insure
8 the home for what it was appraised at.

9 That was something that saved us thousands of
10 dollars -- us being the estate -- saved the estate and
11 trust thousands of dollars of insurance fees.

12 With respect to cash, that's -- I was able to
13 borrow to money from Merrill Lynch.

14 Q Okay. Did you retain any advisors to advise you
15 about the cash condition of the estate?

16 A I retained advisors on a number of fronts, all on a
17 deferred-pay basis, by the way, because I had no money to
18 pay them. But one of the advisors I consulted was a
19 bankruptcy attorney. I knew that the vast majority of the
20 money coming into the estate was being paid directly to M&T
21 Bank as trustee of the bond collection account and there
22 was very little available cash coming to the estate from
23 other sources of revenue.

24 Q And how did you hire experts with no money?

25 A Mr. Newsome, this is the James Brown estate,

Russell Bauknight - Direct Examination by Mr. Newsome

1 Godfather of soul. I don't know much about music, but I
2 know who James Brown is. People were happy to work on the
3 James Brown Estate, I think for their own personal
4 satisfaction and professional resume; so to walk into your
5 law firm for instance, yes, I was able to hire attorneys on
6 a deferred-pay basis. I was able to hire accountants on a
7 deferred-pay basis. I was able to hire a business
8 valuation investment banking firm on a deferred-pay basis.

9 I was able to hire InAudible Productions or could
10 have hired, since they were one of the final lists applying
11 for the job, Rhino Records at the Warner Music Group, all
12 on a deferred-pay basis because this is the James Brown
13 estate.

14 Q Okay. Based on your review of the estate records,
15 did Ms. Pope retain any experts on a deferred-pay basis?

16 A I'm not aware of the agreements she had with the
17 people she worked with. I know there were people who were
18 owed money at the time she was removed from office. I
19 don't know that her agreement with them was on a
20 deferred-pay basis because she did use money from the
21 accounts to pay herself and her attorneys.

22 Q Okay.

23 MR. BUNDY: Your Honor, move to strike. Question's
24 not responsive. The answer's not responsive to the
25 question.

Russell Bauknight - Direct Examination by Mr. Newsome

1 THE COURT: Overruled. Go ahead.

2 THE WITNESS: Your Honor, can I ask a question,
3 please?

4 THE COURT: Well, normally, the rules are that he
5 asks you the questions and --

6 THE WITNESS: Just about the setting. I -- can we
7 ask Mr. Bundy to move a little bit further over here. It's
8 distracting to me.

9 (Mr. Bundy moved.)

10 THE COURT: Mr. Bundy has my problem.

11 THE WITNESS: As I do too.

12 THE COURT: We have a problem hearing. Those kind
13 of things just let me know. He's just trying to get closer
14 so...

15 THE WITNESS: That's good. Thank you.

16 I understand and I'll speak loud for you.

17 THE COURT: Thank you. Move along.

18 BY MR. NEWSOME:

19 Q What was the condition of the house at Beech Island
20 when you were first appointed?

21 A The house -- well, I brought in a contractor to
22 help me assess the condition of the house. It was leaking.
23 The roof leaked. The plumbing leaked. There were a lot of
24 structural issues according to my -- what I was advised,
25 mainly caused by water.

Russell Bauknight - Direct Examination by Mr. Newsome

1 The -- there's a structure that I refer to as the
2 pool house next to Mr. Brown's pool that contained a lot of
3 business/personal property such as band uniforms, some
4 instruments, lots of costumes, lots of posters advertising
5 concerts, and that type of material. In -- in the pool
6 house, which had no working heating or air, the roof and
7 the ceiling, you could stand in that structure and look up
8 and see the sky. It had holes all the way through and
9 there was mold growing on the property that was in that
10 structure.

11 Mr. Washington, part of his daily tasks that were
12 assigned to him were to wipe down the walls of the home
13 itself because the home did not have properly working
14 heating and air and the structure was in the summertime too
15 hot and the humidity too high that mold would grow on the
16 walls. So his task every day was to -- to remove that and
17 take care of the property inside.

18 Q Okay.

19 A But the structure itself was not being kept up.

20 Q And did you find in the estate records any written
21 plan to deal with the house?

22 A I found no plan whatsoever to deal with the house.
23 In fact, I believe previous testimony was that if --

24 MR. BUNDY: Your Honor, I object.

25 THE COURT: Just what you found, please.

Russell Bauknight - Direct Examination by Mr. Newsome

1 BY MR. NEWSOME:

2 Q Did you find anything in the estate records
3 demanding Ms. Pope take action?

4 A Yes, I did. I found a letter from Louis Levinson
5 to Ms. Pope telling her --

6 MR. BUNDY: I object, Your Honor. Hearsay.

7 THE COURT: I'm going to allow that now. It's a
8 record in the --

9 Go ahead.

10 THE WITNESS: I found a letter from Louis Levinson
11 to Ms. Pope telling her of the issue of mold on the
12 uniforms in this pool house and asking her to remedy that
13 situation.

14 BY MR. NEWSOME:

15 Q And had the situation been remedied prior to your
16 appointment?

17 A No, it had not.

18 Q Okay. What's the condition of the house today?

19 A The house is secure from the elements. I've spent
20 in excess of a half million dollars putting in a new roof,
21 putting in all new heating and air for the house. I've put
22 in underground drains to take all water coming off of the
23 roof at least 100 feet away from the structure itself.
24 I've mentioned the new roof. I've secured the home from
25 damage by the elements.

Russell Bauknight - Direct Examination by Mr. Newsome

1 the tires. I did purchase a compressor and part of
2 Mr. Washington's job is to make sure that the vehicles are
3 started up on a regular basis and air maintained in the
4 tires, just the basics of keeping a vehicle up.

5 In addition, I was able to secure two of the -- of
6 Mr. Brown's touring buses that were being held at Lewis Bus
7 Service for a storage lien. I was able to negotiate a
8 payment of -- of a nominal amount of money to the Lewis Bus
9 Service and have those buses delivered to the property. So
10 they are now stored on the property as well.

11 Q Okay. What about the estate liabilities?

12 A When I came on board, there were liabilities,
13 potential liabilities, for in excess of two dozen claims, I
14 believe against the estate. The largest liability would be
15 what's been termed the Pullman Bond. I call it a Bowie
16 Bond.

17 THE COURT: Call it a what?

18 THE WITNESS: Bowie Bond after the artist David
19 Bowie, who I understand was one of the first people to
20 secure his borrowings with the stream of music -- stream of
21 royalties from his music.

22 BY MR. NEWSOME:

23 Q Okay. How did the Bowie Bond affect the estate?

24 A Well, all of the revenues from royalties paid by
25 Warner Chappell, the royalties paid by Carlin America, the

Russell Bauknight - Direct Examination by Mr. Newsome

1 royalties paid by Universal Music and the royalties paid by
2 BMI were pledged as collateral on the loan that Mr. Brown
3 obtained in 1999. Those dollars did not come to me through
4 the estate accounts, they were paid directly by those
5 entities to M&T Bank as trustee of the bond collection
6 account.

7 Q Okay.

8 A So we did not get the revenues in the estate
9 accounts whatsoever. However, those revenues are taxable
10 income and the effect to the estate was we had a lot of
11 cash coming in to M&T Bank for bond servicing that created
12 taxable income but no money in the estate accounts
13 necessarily to pay taxes.

14 Q Okay. Did you have any familiarity with this type
15 of bond before you were appointed?

16 A This is the first time I've encountered that bond
17 situation.

18 Q What action did you take?

19 A I hired a commercial loan attorney to review the
20 bond and advise me as to how the bond worked.

21 Q Did you obtain any other advisors?

22 A I hired accountants to analyze the payments that
23 came into M&T Bank and based on the information I obtained
24 from the commercial loan attorney and the description of
25 how the bond worked, the accountants then traced the

Russell Bauknight - Direct Examination by Mr. Newsome

1 dollars going to M&T Bank to determine for me whether or
2 not the dollars were properly applied to the bond
3 principal, interest, and other accounts.

4 Q If you would, tell Judge Early just generally how
5 the -- the mechanics of how the bond works.

6 A The bond had four accounts. There was a bond
7 collection account where all the dollars that came in from
8 royalties were collected and then the way the bond would
9 divvy up that money, it was called a waterfall, where first
10 and foremost, the interest on the bond was taken from the
11 total collections. So there was an amortization schedule
12 in the bond documents that showed how much interest was
13 due, tot -- how to calculate the interest due for the
14 period which was every June 15 and December 15, so they
15 would calculate interest for the six months and pull that
16 off first from the bond collection account.

17 The second thing that came out was the bond had to
18 hit certain principal targets, according to the
19 amortization schedule. It had to have a minimum principal
20 amount paid down each six months. So if at June 15, 2006,
21 if the principal pay down needed to be \$17 million, they
22 would pay down to that \$17 million figure with -- from the
23 bond collection account.

24 If there's still money left over after the interest
25 has been paid and after the principal, minimum principal

Russell Bauknight - Direct Examination by Mr. Newsome

1 payments had been drawn out, they then apply money to the
2 expense account, which M&T maintained to pay trustee fees;
3 to pay audit fees; to pay legal fees associated with the
4 administration of the bond. The expense escrow account was
5 capped at \$300,000.

6 Then there was a tax escrow account and if you
7 still had money left after funding your expense escrow
8 account, the trustees or the fiduciaries of the estate
9 could request that monies be applied to the tax escrow.
10 Now, any business person looking at a bond deal like this
11 would know that as taxable income is paid to M&T Bank, you
12 had to have money available in some mechanism to pay the
13 taxes on those funds. So they had a tax escrow available
14 for the fiduciaries to request money to be paid to.

15 Then finally there was what we call the Warner
16 Chappell escrow.

17 THE COURT: Warner what?

18 THE WITNESS: Warner Chappell.

19 BY MR. NEWSOME:

20 Q And who is Warner Chappell?

21 A Warner Chappell is the copyright administrator for
22 the vast majority of the copyrights that Mr. Brown held.
23 At the time the bond deal was done in 1999, this was a
24 dispute as to who owned approximately 9 percent of the
25 publishing revenue. There was a man named Reggie Simmons,

Russell Bauknight - Direct Examination by Mr. Newsome

1 and I don't recall the other man's name, who owned 6
2 percent and 3 percent --

3 THE COURT: Who is Reggie Simmons?

4 THE WITNESS: He was one of Mr. Brown's advisors
5 during his lifetime. I've met him. I don't do business
6 with him, but he was one of Mr. Brown's acquaintances or
7 advisors.

8 But there was a dispute as to who owned the 9
9 percent of the revenue from publishing. The dispute was so
10 great that to close a bond deal they had to agree to put 5
11 percent of the proceeds, the original bond amount was \$26
12 million, so \$1.3 million was placed into the Warner
13 Chappell escrow and each and every time Warner Chappell
14 made a payment to M&T Bank, they took the amount of that
15 payment -- they were supposed to take the amount of that
16 payment and multiply it by 9 percent and draw that amount
17 of money and add it to the bond collection account.

18 So in effect every time Warner Chappell paid a
19 dollar, there should have been a dollar and 9 cents applied
20 to the collection account.

21 THE COURT: I know I frowned already. You said
22 Reggie Simmons. I just -- news came out there was a music
23 mongol called Russell Simmons. They're two different
24 people, obviously.

25 THE WITNESS: To my knowledge, they would be two

Russell Bauknight - Direct Examination by Mr. Newsome

1 different people.

2 BY MR. NEWSOME:

3 Q Did you find anything in the estate records
4 indicating a written plan to deal with the Pullman Bond
5 prior to your appointment?

6 A No, I did not. I did not even find a copy of the
7 bond documents in the records I was provided.

8 Q Did you find -- was there any experts hired prior
9 to your appointment to advise them on the Pullman Bond?

10 A I'm not aware of any experts whatsoever that were
11 advised to -- that were hired to advise with respect to the
12 bond.

13 Q I hand you a document and ask you to take a look at
14 it and see if you recognize it.

15 (The attorneys were conferring.)

16 MR. NEWSOME: Your Honor, I've got a copy for your
17 clerk to, it's just a one page exhibit.

18 BY MR. NEWSOME:

19 Q I've handed you what's labeled Defendant's Exhibit
20 42. Do you recognize this document?

21 MR. BUNDY: Excuse me, what number is it?

22 MR. NEWSOME: 42.

23 MR. BUNDY: Is it -- it's not in evidence, is it?

24 MR. NEWSOME: Not yet.

25 MR. BUNDY: So it's ID?

Russell Bauknight - Direct Examination by Mr. Newsome

1 MR. NEWSOME: Yeah, for ID purposes, Defendant's
2 42.

3 (Defendant's Exhibit Number 42 was marked for
4 identification.)

5 THE WITNESS: I do.

6 BY MR. NEWSOME:

7 Q Okay. What is this document?

8 A This is a document I had prepared as part of the
9 analysis of being sure that payments were properly applied
10 according to --

11 (Mr. Bundy stood.)

12 THE WITNESS: I'm sorry.

13 MR. BUNDY: I think he said he -- he had it
14 prepared.

15 THE WITNESS: I don't know if I'm supposed to keep
16 talking or if I'm waiting for him.

17 THE COURT: Hold on a second. Just go ahead and
18 identify the document and tell us what it is. Don't just
19 -- how it was prepared and -- don't tell us anything about
20 the document. Who prepared it and what's it from. ID.

21 MR. BUNDY: Okay. We'll deal with it as such.

22 BY MR. NEWSOME:

23 Q What is that document?

24 A This document is an analysis of the royalties paid
25 by Warner Chappell to M&T Bank from 1999 to 2009.

Russell Bauknight - Direct Examination by Mr. Newsome

1 MR. BUNDY: Who prepared -- found -- objection,
2 foundation.

3 THE COURT: Who prepared it?

4 BY MR. NEWSOME:

5 Q Who prepared this document, Mr. Bauknight?

6 A My accountants.

7 Q Okay. Was that done in the ordinary course of your
8 management of the estate?

9 A Yes, it was.

10 Q Was it based upon the M&T Bank statements?

11 A Yes, it is.

12 Q And those are estate records regularly kept in the
13 regular course of managing the estate?

14 A Yes, they are.

15 THE COURT: You moving to introduce it?

16 MR. NEWSOME: I'd move to introduce it, Your Honor.

17 THE COURT: Any objection?

18 MR. BUNDY: Yes. Object. Lack of foundation. The
19 witness didn't prepare the document and it's hearsay. And
20 it doesn't qualify as a business record based on the
21 foundation we just heard.

22 THE COURT: Overruled.

23 MR. NEWSOME: Thank you, Your Honor.

24 (Defendant's Exhibit Number 42 was entered into
25 evidence.)

Russell Bauknight - Direct Examination by Mr. Newsome

1 BY MR. NEWSOME:

2 Q Tell us what Defendant's 42 shows, please. If
3 you'd explain it.

4 A Well, the statement date on the left, as I
5 mentioned, the bond statements and the calculations were
6 done every six months on June 15 and December 15 of each
7 year. The second column is the amount of royalties from
8 Warner Chappell paid to M&T Bank for the period shown in
9 column one. So you can see that in June 15 of 2000, there
10 were three payments from Warner Chappell, three separate
11 payments.

12 And then the third column is the date those
13 payments were received by M&T Bank. The fourth column is
14 what I was describing as 9 percent of the Warner Chappell
15 royalty that came to M&T Bank was to be calculated. So the
16 fourth column represents 9 percent of the Warner Chappell
17 royalties in column two here. If you simply take 59,159
18 from that item, multiply it times 9 percent, you would come
19 to the 53 -- 5,323.49.

20 And it was applied 9 -- the 9 percent was to be
21 applied to the collection account as an additional
22 collection. What this document shows and what I found in
23 my analysis was that the calculation was not always done
24 and the monies not always moved from the Warner Chappell
25 escrow to collection account.

Russell Bauknight - Direct Examination by Mr. Newsome

1 Q Let me stop you just to make sure for my
2 understanding. So using that first item, you mentioned the
3 Warner Chappell royalties and the 9 percent. So in
4 addition to the 59,000 that came in, the 5,323.49 amount
5 you show was taken from the escrow and applied on top of
6 the 53?

7 A It was taken from the Warner Chappell escrow and
8 applied to the bond collection account as an additional
9 Warner Chappell collection.

10 Q Okay.

11 A What I found in the column that is the fifth
12 column, that's the amount that came from the Warner
13 Chappell escrow and was deposited to the bond collection
14 account. So you can see for the first two payments the
15 bond collection account was increased by those two
16 calculated amounts, however June 15, 2000 the third item
17 they did not move the \$9,603 to the bond collection
18 account, it remained in the Warner Chappell escrow and then
19 again starting in 2002 and really going through June 15,
20 2008 they failed to move money from the Warner Chappell
21 escrow to the bond collection account. So M&T Bank had the
22 money in the escrow, but they failed to move it over as a
23 -- an additional collection on the bond royalties.

24 The total amount over that period of time that was
25 not moved is approximately \$485,000.

Russell Bauknight - Direct Examination by Mr. Newsome

1 Q And when you discovered that, what did you -- what
2 action did you take?

3 A Contacted M&T Bank, discussed the workings of the
4 bond with them and reviewed the fact that 9 percent of the
5 Warner Chappell money was supposed to be transferred to the
6 collection account each time Warner Chappell paid to M&T
7 Bank. And the administrator at M&T Bank that was assisting
8 with this particular account agreed and moved the money
9 from the escrow to the bond collection account.

10 Q Okay. And did this issue exist prior to your
11 appointment?

12 A Yes, it did.

13 Q Did it exist prior to Ms. Pope's appointment?

14 A Well, as I said, the items in yellow, the
15 highlighted area, it started in 2000 and then it correct --
16 they corrected it for a period of time and then it picked
17 up again as an error in 2002 and they continued that
18 through June 15, 2008. So quite a bit of it is before
19 Ms. Pope was in her position as fiduciary and some was
20 during her position at the time -- in her position as
21 fiduciary.

22 Q How would it have impacted the estate if Ms. Pope
23 had caught this issue?

24 MR. BUNDY: Objection. Asking him to speculate.

25 THE WITNESS: I --

Russell Bauknight - Direct Examination by Mr. Newsome

1 THE COURT: If you know.

2 THE WITNESS: I do know, Your Honor.

3 THE COURT: Well, tell us. Overruled.

4 THE WITNESS: \$485,000 would have been applied to
5 the bond collection account. It would have then been
6 applied according to waterfall, which would be first to pay
7 the interest and then to pay the principal to the minimum
8 principal amounts and then it would have fully funded the
9 expense escrow, which when I came on board was \$296,000.
10 It was capped at 300,000. So 4,000 of these dollars would
11 have fully funded the expense escrow, then Ms. Pope would
12 have had an opportunity to ask M&T Bank to place money into
13 the tax escrow or she could have chosen to reduce the
14 principal even further which would have saved just under 8
15 percent according to bond of additional interest being
16 charged.

17 BY MR. NEWSOME:

18 Q Okay.

19 A So we had \$481,000, approximately, available to
20 make a choice: To pay tax -- into the tax escrow or to
21 reduce principal, which would have saved us almost 8
22 percent interest each year.

23 Q Would these funds have been available to pay estate
24 taxes?

25 A I believe they would. I've been advised with

Russell Bauknight - Direct Examination by Mr. Newsome

1 respect to the workings of the bond document --

2 MR. BUNDY: Objection, hearsay.

3 THE WITNESS: -- and I have personally read --

4 THE COURT: All right. Hold on.

5 THE WITNESS: -- the bond document.

6 THE COURT: I'll sustain that. If you know of your
7 own personal knowledge, not on somebody's advice.

8 BY MR. NEWSOME:

9 Q Based on your --

10 A My personal knowledge --

11 Q --- dealings with M&T Bank --

12 A -- in dealing with M&T Bank with respect to taxes
13 is I could have had -- or the fiduciary could have had this
14 money available to pay estate taxes attributable to the
15 royalties which were pledged to M&T Bank.

16 Q All right, sir. Did you find any evidence in the
17 estate records of a written plan by Ms. Pope to deal with
18 the Warner Chappell escrow?

19 A I did not.

20 Q Did you find any evidence of any experts advising
21 her about the Warner Chappell escrow?

22 A I did not.

23 Q Okay. Did you find any evidence that she was aware
24 of the tax escrow?

25 A I did not.

Russell Bauknight - Direct Examination by Mr. Newsome

1 there's a group of cases under one heading and then there's
2 the Buddy Dallas case, so there's still -- the Dallas case
3 is still moving forward.

4 THE COURT: The other ones are resolved?

5 THE WITNESS: Yes, Your Honor.

6 THE COURT: Except perhaps for David Cannon.

7 THE WITNESS: We're still discussing David Cannon
8 issues.

9 So between the two cases, yes, they're still open;
10 portions of them have been resolved.

11 THE COURT: All right.

12 BY MR. NEWSOME:

13 Q And at the time of your appointment, which is now
14 nine years ago, what was the status back then of those
15 cases?

16 A Those cases -- the Morgan Stanley case I believe
17 was being mediated literally the day I was down meeting
18 with Ms. Pope in Aiken within days of my appointment. As a
19 fiduciary, I immediately contacted the lawyers handling
20 those cases and I asked for their evaluations of the cases.
21 The mediation with Morgan Stanley, for instance, had gone
22 miserably. I had been, at the beginning of the day, lead
23 to believe that could be a \$13 or \$14 million case and as I
24 said it went miserably, which prompted my immediate request
25 for an assessment by the attorneys.

Russell Bauknight - Direct Examination by Mr. Newsome

1 BY MR. NEWSOME:

2 Q Did you find any evidence in the estate records
3 that Ms. Pope requested the file prior to filing suit
4 against Greenberg Traurig?

5 A I know there was an order for them to turn them
6 over to the estate. I don't know who requested that order.

7 Q Okay.

8 A But that was in place. They were simply not
9 following the order.

10 Q Okay.

11 A I had to press ahead myself to get that done.

12 Q Okay. What is CORBIS Greenlight?

13 A CORBIS Greenlight is an entity that I would --

14 THE COURT: Hold on a second. CORBIS, C-O-R --

15 MR. NEWSOME: CORBIS, it's all caps, C-O-R-B-I-S,

16 CORBIS.

17 THE COURT: Greenlight?

18 MR. NEWSOME: Greenlight.

19 THE COURT: Okay. Go ahead.

20 THE WITNESS: CORBIS is a company that I, for ease
21 of description, I would compare it to Getty images. They
22 sell images online for use in commercial purposes or
23 personal purposes. You can buy all kinds of paparazzi
24 pictures from CORBIS. They're a company that during
25 Mr. Brown's lifetime, I think he felt -- I don't know what

Russell Bauknight - Direct Examination by Mr. Newsome

1 he felt. He filed suit against them for not paying him for
2 the use of his image and that was one of the suits that I
3 inherited when I came on board.

4 BY MR. NEWSOME:

5 Q Okay. And is that a suit Ms. Pope inherited as
6 well?

7 A Yes, it is.

8 Q Okay. And what happened -- what action did you
9 take with regard to CORBIS Greenlight?

10 A I consulted with an intellectual property attorney.
11 The attorney handling the case was in Chicago, but I needed
12 somebody to advise me whether or not that was a case we
13 needed to pursue and how I should handle it from my
14 perspective as a fiduciary.

15 Q Okay. Had Ms. Pope taken any action with regard to
16 CORBIS Greenlight prior to your appointment?

17 A Ms. Pope invited me to New York prior to my coming
18 on board as a fiduciary to attend the settlement
19 discussions with respect to this litigation, but I did not
20 go. I do believe she had worked on this case and was
21 recommending to me that I accept the settlement.

22 Q Okay. And did you follow that recommendation?

23 A I did not.

24 Q Okay. Why not?

25 A I -- again, I consulted with my intellectual

Russell Bauknight - Direct Examination by Mr. Newsome

1 point in time and no dollars changed hands between the
2 parties. I was able to work out an agreement with CORBIS
3 to imprint on Mr. Brown's image that if it were to be used
4 for commercial purposes that my name and contact was made
5 available to potential buyers of the use of the image.

6 THE COURT: Thank you.

7 BY MR. NEWSOME:

8 Q Did the estate have tax liabilities?

9 A I'm going to ask when you're talking about.

10 Q Does a PR have income tax responsibilities?

11 A The personal representative is responsible for
12 filing all relevant income tax returns due from the estate,
13 for the final 1040 for the decedent, as well as any
14 entities that they are handling for the estate.

15 Q Okay.

16 A In addition to that tax liability, there -- at the
17 time I came on board, there was an estate tax liability.

18 Q Okay. What about -- what was the status of
19 Mr. Brown's final income tax return?

20 A As I mentioned earlier, I found the copy of a form
21 1040 that was prepared by Phil Farr and signed by David
22 Cannon purporting to be the final income tax return for
23 Mr. Brown. However, the IRS informed me that --

24 MR. BUNDY: Objection. Strike.

25 THE COURT: Don't tell us what the IRS said. As a

Russell Bauknight - Direct Examination by Mr. Newsome

- 1 Q Okay. And were any of those returns due to be
2 filed during Ms. Pope's tenure?
- 3 A Yes.
- 4 Q Okay. Did you find any evidence of Ms. Pope filing
5 any income tax returns?
- 6 A I found no evidence whatsoever of Ms. Pope filing
7 any income tax returns.
- 8 Q Okay. What action did the IRS take with regard to
9 the income tax returns?
- 10 A The IRS audited the estate and I was able to have
11 returns produced that were then subjected to audit and
12 negotiate settlements with the Internal Revenue Service of
13 all the entities and years in question.
- 14 Q Okay. And what are the status of those returns
15 now?
- 16 A Those are closed years now. And we are current
17 with respect to all income tax returns that are due on a
18 regular continuous basis.
- 19 Q Okay. Was there any other IRS audits?
- 20 A We had the audit of the Estate Form 706 going on at
21 the time I took over this position. The 706 is the, in
22 layman's terms, the transfer tax return that's due when a
23 person dies and that was a return that Ms. Pope filed.
- 24 Q Okay.
- 25 MR. NEWSOME: Your Honor, I want to enter in the

Russell Bauknight - Cross-Examination by Mr. Bundy

1 A They were provided estate documents and had free
2 access to all the documents. So they pulled their numbers
3 from estate documents.

4 Q Okay. So whatever -- you didn't tell them that, it
5 just came from the documents?

6 A It came from the documents.

7 Q Okay. Now, Mr. Afterman, you hired him, I believe,
8 you discussed earlier, to help you, right? Help the
9 estate?

10 A He's an expert that I use to advise me with respect
11 to the intellectual property.

12 Q Mr. Afterman also has a contract with Tomi Rae
13 Brown, does he not?

14 A I'm not aware of a contract with Tomi Rae Brown.

15 Q You're not?

16 A No, I'm not.

17 Q Are you aware of the fact that Mr. Afterman
18 approached Mr. Levinson's clients, other members of the
19 Brown family, to represent them?

20 A I'm not aware of that.

21 Q Okay. All right. Do -- if -- let's assume that
22 Mr. Afterman does represent Tomi Rae Brown and I'd like you
23 to just assume that's the case. Would that present a
24 conflict of interest for Mr. Afterman to be representing
25 the estate with regard to music and at the same time be

Russell Bauknight - Cross-Examination by Mr. Bundy

1 representing Ms. Brown who claims and is receiving part of
2 his royalties?

3 A Well, Mr. Afterman is an independent contractor.
4 That aside -- and he can do these things you're asking me
5 to assume -- I would not take kindly to that.

6 Q Okay. So while he is free to do it, because he is
7 an independent contractor, you would expect him to disclose
8 to you so you could make an independent fiduciary judgment
9 as to whether or not that's in the best interest of the
10 estate?

11 A I would.

12 Q Okay. And isn't it more likely than not if he came
13 to you and told you that you would tell him either get rid
14 of Ms. Brown or we're getting out?

15 A I can't possibly answer that, sir.

16 Q That's a possibility, isn't it?

17 A I said I can't answer that question.

18 Q Okay. All right. Isn't it true that your
19 attorney, Mr. Black, on June 5, 2009 instructed Mr. Few and
20 Mr. Gilreath to have no further confidential conversations
21 with Judge Buchanan or Ms. Pope?

22 A I don't know about dates. I know I had
23 conversations with Mr. Gilreath and Few at some date to
24 quit providing information to Adele Pope. And to my
25 knowledge no one's ever instructed Mr. Gilreath and Few to

Russell Bauknight - Cross-Examination by Mr. Bundy

1 not get information from Ms. Pope. There's a huge
2 difference in my mind in calling Adele to -- Ms. Pope to
3 give her an update versus writing to her asking for
4 records.

5 Q Well, my question's a little more specific. My
6 question was no conversations. In other words, no contact.
7 Do you know whether or not your lawyer, your speaking agent
8 at the time on or about June 5, 2009 instructed Mr. Few and
9 Mr. Gilreath to have no further confidential communications
10 with Mr. -- with Judge Buchanan and Ms. Pope? If you don't
11 then that's fine.

12 A I don't know.

13 Q Okay. If you would, let's look at exhibit --
14 Defendant's 9 admitted over objection, please.

15 MR. BUNDY: Judge, do you have a copy of that?
16 Exhibit 9.

17 THE COURT: What is it?

18 MR. BUNDY: It's the December 23rd, 2010 letter
19 with attachments to Mr. Bauknight from --

20 THE COURT: I've got it.

21 MR. BUNDY: -- Mr. Stewart --

22 THE COURT: I do have it.

23 MR. NEWSOME: Your Honor, I'm sorry, that's a
24 confidential document and so if we want to go into that --

25 THE WITNESS: It's not -- what he's --

Russell Bauknight - Cross-Examination by Mr. Bundy

1 Q Okay. So when you got involved, you were first
2 involved as a special administrator, right?

3 A Well, I was involved as a special administrator for
4 the sole purpose of reviewing the settlement agreement and
5 advising the Court as to whether it was fair and
6 reasonable.

7 Q And that charge or order from the judge has never
8 changed has it? As it relates to your duties as special
9 administrator and special trustee?

10 A My assumption is that the special administrator
11 position ended upon my service to the Court.

12 Q And when did your service to the Court end? Wilson
13 versus Dallas?

14 A No, that was sometime in January is when I
15 testified, January of 2009 when I testified as to whether I
16 thought the settlement agreement was fair and reasonable.

17 Q Okay. So your tenure as special administrator
18 began -- when in 2009?

19 A Well, it depends on what you're talking about when
20 you say special administrator. There are two different
21 special administrator positions that I've held.

22 Q Okay.

23 A The first being that for the sole purpose of
24 looking at the settlement agreement.

25 Q Okay.

Russell Bauknight - Cross-Examination by Mr. Bundy

1 the litigation that she was trying to handle herself, plus
2 I had a litigation from Ms. Pope. So I actually had more
3 going on than she did.

4 Q Okay. So what it boils down to is you're just a
5 much better administrator than Ms. Pope?

6 A Well, I am. Yes, I am.

7 Q Absolutely.

8 A Absolutely.

9 Q And you've testified --

10 A I am a better administrator because this is what I
11 do for a living, Mr. Bundy.

12 Q Right.

13 A I'm not here to berate Ms. Pope, but she testified
14 she'd never even served as a fiduciary. I am a better
15 administrator. That's what I do for a living, yes.

16 Q Okay. And you also have testified under oath in a
17 deposition in the Forlando case that Ms. Pope is dishonest,
18 haven't you? Under oath, you have testified Adele Pope is
19 dishonest?

20 A I have not said she's dishonest that I recall.

21 Q Okay.

22 A If you could put that in front of me, I'll tell you
23 what was said and the context of it.

24 Q We'll get it for you.

25 A Okay.

Russell Bauknight - Cross-Examination by Mr. Bundy

1 issues outlined in this e-mail?

2 A I don't know. It's not in this e-mail.

3 Q The house. Is it your testimony that when James

4 Brown died that that house was in pristine condition and by

5 -- and all the conditions you discovered when you got

6 involved occurred between the date of his death and the

7 time you fixed it up?

8 A I never testified to such a --

9 Q I'm just asking if that's your position?

10 A I don't know what condition it was the day he died.

11 Q How much would it have -- tell me -- you spent how

12 much money to fix this house?

13 A I've spent over \$500,000 over my tenure.

14 Q Okay. And tell me how much money -- if Ms. Pope

15 had done what you allege she should have done it would have

16 cost?

17 A I don't recall. She --

18 Q So isn't it a fact --

19 A Had --

20 Q -- whether Ms. Pope was able --

21 THE COURT: Hold on, hold on both of you.

22 MR. BUNDY: I'm sorry.

23 THE WITNESS: I'm sorry.

24 MR. BUNDY: I'm sorry.

25 THE COURT: Gentlemen. Let him finish his answer

Russell Bauknight - Cross-Examination by Mr. Bundy

1 of the water damaging the property.

2 But in this case I haven't asked her to repay that
3 to the estate.

4 Q Pardon me?

5 A In this case I have not asked her to repay the
6 estate. I'm simply pointing those items out to show that
7 she was not doing a good job on her administration.

8 Q As it related to the house.

9 A As it related to the estate property, trust
10 properties.

11 Q Now, it's true, isn't it, that Ms. Pope -- let me
12 ask you -- I'll withdraw the question.

13 Is everything you're saying about Ms. Pope as
14 co-trustee and co-personal representative true of Judge
15 Buchanan since they were co-trustees and co-personal
16 representatives?

17 A They were responsible for the estate administration
18 together.

19 Q Okay. And you have made no attempt to
20 differentiate the conduct of one from the other because
21 they're essentially one entity and they're both jointly
22 responsible and they jointly had the same obligations to do
23 whatever it was they were supposed to do.

24 A Is there a question?

25 Q Is that correct? Is that true?

Russell Bauknight - Cross-Examination by Mr. Bundy

1 A I've not differentiated one versus the other since
2 they were co-fiduciaries.

3 Q Okay. And yet you can't differentiate them but you
4 found it prudent to pay Judge Buchanan a half million
5 dollars and you say Ms. Pope's not entitled to anything?

6 A Well, I said Judge Buchanan -- Bob Buchanan was
7 entitled to nothing for the same service. He got nothing,
8 zero, for his service as personal representative and as
9 trustee. Zero. So I'm very willing to pay your client the
10 same thing.

11 Q All right, sir. Now, isn't it true -- who sent the
12 documents up to Nashville to be stored? The music stuff.
13 Tapes and --

14 A Ms. Pope did.

15 Q Ms. Pope did.

16 A Ms. Pope and/or Mr. Buchanan.

17 Q And of course, that was the wrong thing to do,
18 right?

19 A No, I never said that.

20 Q Okay. So we can agree that at least they did one
21 thing right, which was to get all the music, put it in a
22 secure location in a city, okay, that is a music type of
23 city. That was a pretty good idea, wasn't it?

24 A On it's face it was a good idea if it had -- well,
25 there was no list of -- detailed list of what she took up

Russell Bauknight - Cross-Examination by Mr. Bundy

1 a list didn't prevent you from doing any of that, did it?

2 A Their failure to do their job did not prevent me
3 from doing my job.

4 Q Okay. So where's the damage?

5 A I didn't claim any damage in this case, Mr. Bundy.

6 Q I got you.

7 A I just said she simply didn't do her job,
8 Mr. Bundy. That's all I've said about her. The amount of
9 money we talk about in terms of lost interest, the amount
10 of money in lost opportunities is simply to show the
11 magnitude of the bad job she did.

12 Q Well, how much money was lost in lost
13 opportunities?

14 A I don't know. I just told you I couldn't from this
15 e-mail determine that.

16 Q This is all about the process, isn't it? You don't
17 like the way she processed it but you can't prove that any
18 damages were caused by it. Isn't that true?

19 A She -- she did not have the process that properly
20 administered the estate. She wanted to litigate.

21 Q This is about putting things on the wrong schedule,
22 but still getting them on the return and not being
23 processed properly, but they're still on the return, right?

24 A No, it's not -- not at all. That -- that assumes
25 that if you put something as you refer to the return in the

Russell Bauknight - Cross-Examination by Mr. Bundy

1 THE COURT: I'll allow it.

2 BY MR. BUNDY:

3 Q Bottom line, nobody lost \$485,000?

4 A Nobody's ever claimed it was lost.

5 Q So once again the complaint is about the process.

6 While nothing was lost, you don't like the way she did it?

7 A No, the way she did it was negligent, Mr. Bundy.

8 Q Okay.

9 A That's not a matter of me not liking it. She did a

10 bad job. That's all I've said.

11 Q How much money has the estate collected from

12 revenues, et cetera since you took over?

13 A I don't know, I didn't --

14 Q Is it tens of millions of dollars?

15 A I'm not going to speculate.

16 Q You don't have any idea?

17 A I'm not going to speculate.

18 Q You're the trustee, you're the personal

19 representative and you don't have any idea, can't even give

20 us a ballpark figure about how much money has been brought

21 into this estate since you took over?

22 A Mr. Bundy, I have all those records available. I

23 did not come here with having gone back nine years and

24 adding up all of those numbers anticipating a question like

25 that.

Russell Bauknight - Cross-Examination by Mr. Bundy

1 claims, any amounts of money from anybody who settled with
2 this estate that's not confidential that you can tell us as
3 the trustee or personal representative how much has been
4 paid into the estate?

5 A I don't know of any that are not confidential.

6 Q They're all confidential?

7 A Yes.

8 Q Okay. So those claims were the very same claims
9 that were listed by Judge Buchanan and Ms. Pope in Schedule
10 F, correct?

11 A I don't know what she was referring to in Schedule
12 F, but it did list claims.

13 Q Okay. And by name some of those claims were
14 against people who have since settled, correct?

15 A I don't know how you would gather that from
16 Schedule F.

17 Q Okay. Well have you asked her?

18 A Asked who?

19 Q Ms. Pope or Judge Buchanan?

20 A No, I asked my attorneys about claims.

21 Q Okay.

22 A And my attorneys told me that the value was zero.

23 Q So when you became the PR or the special
24 administrator, you never picked up the phone and called
25 Judge Buchanan or Ms. Pope to say, Look I'm in now. I need

Russell Bauknight - Cross-Examination by Mr. Bundy

1 Q Okay. What I'm trying to get to is there were
2 assets in the estate, James Brown's copyrights, his music,
3 his memorabilia and all of it. That is what makes the
4 value of the James Brown estate, correct? That's the basis
5 of it.

6 A The musical assets, the intellectual property is
7 one of the very valuable assets of the estate of James
8 Brown.

9 Q Can we compare James Brown's estate sort of like a
10 gold mine? Can we -- for purposes of my question, can we
11 just look at it as an asset, a gold mine. Will you indulge
12 me a moment so I can ask you a question?

13 A You can say whatever you want, Mr. Bundy. I'm not
14 going to speculate on that front, but --

15 Q Regardless of how good a gold miner you are, you
16 don't change the amount of gold in the mine, do you? You
17 might be able to extract more than the next guy, but the
18 mine contains what it contains, correct?

19 A I don't know anything about that.

20 Q Okay. The value of the James Brown estate, the
21 assets in the estate remained the same, the physical items,
22 the copyrights, the memorabilia, the persona never has
23 changed, has it, from the day that he died?

24 A Well the image of a person can change over time.
25 If you go back in time and think about the early days after

Russell Bauknight - Cross-Examination by Mr. Bundy

1 in court she said it's worth \$40 million. So she lost \$40
2 million in six months according to that. I don't think
3 that's an accurate picture. I think her \$84 million is
4 clearly in error. It was not based on anything and my
5 valuation was based on clear documents and records done by
6 a professional valuation firm. It's not that I've done
7 something that shows that she lost \$80 million. It was
8 never worth what she said it was to start with. You can't
9 lose something you don't have.

10 Q And you can't take credit for something you didn't
11 do, can you?

12 A Well, she didn't do anything so she cannot take
13 credit, Mr. Bundy. That's why I've asked the Court to
14 award her no fee.

15 Q But you're taking credit for the increase in value?

16 A Mr. Bundy, I have done a very good job. This Court
17 has said I have done a good job. The Supreme Court said
18 I've done a good job. I have done a good job and I've done
19 the things necessary to properly administrate this estate
20 and trust. I have done the things that caused it to go up
21 in value, Mr. Bundy, so yes, I'm not patting myself on the
22 back, that's just my job. That's what I do.

23 Q Are you aware that this same Court has also held
24 that Mr. -- that Judge Buchanan and Ms. Pope did a good
25 job?

Russell Bauknight - Cross-Examination by Mr. Bundy

- 1 A I don't know when they held that. I'm not -- I
2 don't recall that.
- 3 Q You don't recall that. Okay.
- 4 A But I do recall that Judge Buchanan, Bob Buchanan
5 renounced his right to a fee in this case and he renounced
6 his right to a trustee fee as well as the PR fee. Zero
7 dollars.
- 8 Q What's the estate worth today?
- 9 A I don't know.
- 10 Q No idea?
- 11 A I personally have not completed that work. I have
12 engaged professionals to assist me in advising on that
13 front on a regular continuous basis, but I don't have a
14 professional valuation in hand that's current. I've had
15 no --
- 16 Q Well --
- 17 A -- reason to value it.
- 18 Q Have you done any since the Philpott valuation?
- 19 A I've had people advise me on a regular continuous
20 basis, but I've not done another valuation.
- 21 Q What's the last one you can remember?
- 22 A The last formal valuation was the Philpott
23 valuation.
- 24 Q So you haven't done one since then?
- 25 A I just said that.

Russell Bauknight - Cross-Examination by Mr. Bundy

1 Q Okay. And you don't have an opinion about what
2 it's worth now?

3 A I don't have an opinion about what it's worth now,
4 but I know it's increased in value.

5 Q Well, you know it's at least worth \$8 million
6 because you've got \$8 million in the bank.

7 A Precisely.

8 Q Okay. And you know that it's got a revenue stream
9 because the -- the TIAA debt's been paid off for how long?

10 A I forget the date it was paid off.

11 Q Are you also getting royalties on all those songs?

12 A We get royalties on all but five songs.

13 Q Pardon me?

14 A We still continue to receive royalties on all but
15 five songs.

16 Q Okay. And how much do you receive in -- on an
17 annual basis for those royalties?

18 A It varies, but I don't know the amounts, sir.

19 Q Well, can you give me a range?

20 A I'm not going to speculate on that.

21 Q Well, is it less than what is shown in Plaintiff's
22 Exhibit 15? Is it less than these royalties?

23 A I'm not going to speculate on that, Mr. Bundy.

24 Q All right. These royalties are exactly the same
25 royalties that you're getting now with the exception there

Russell Bauknight - Cross-Examination by Mr. Bundy

1 are five fewer songs, correct?

2 A It depends on what you mean by royalties. I don't
3 know -- I'm not going to speculate on the dollars, but the
4 songs are the same songs except for the five that
5 termination rights were exercised on. There are a few
6 additional songs because I now own portions of new
7 copyrights because of certain sampling that we've approved
8 over the years.

9 Q Isn't it true you're getting at least \$3 to \$4
10 million a year on a regular basis from royalties,
11 copyrights, and all the rest of it at a minimum?

12 A Mr. Bundy, I just said I'm not going to speculate
13 on that.

14 Q Okay. And you aren't prepared to answer that
15 because it never occurred to you I was going to ask it?

16 A It didn't.

17 MR. BUNDY: Your Honor, I think it's now time to
18 clear the courtroom and I can move to the next -- I don't
19 know if I'll go all the way to five, but I'll get pretty
20 close.

21 THE COURT: All right. We're going back into a
22 confidential thing. It's going to take us through the
23 conclusion of the testimony today. I'll ask the same
24 people to leave, exit the courtroom. We're going to start
25 at 9 o'clock sharp in the morning. Everyone is welcome.

Bradley Sharp - Direct Examination by Mr. Williams

1 Q Okay. Based on your understanding of the valuation
2 approach adopted by Ms. Pope and the formula, and we can
3 look at it, what's your observation of the approach that
4 she utilized?

5 A My understanding of the valuation conducted by
6 Adele Pope was she effectively concluded to a value of \$84
7 million --

8 MR. BUNDY: I would object. This witness is giving
9 an opinion about the opinion of another witness and he's
10 established that he has not personally done an evaluation.
11 Clearly he would have the right as an expert to do an
12 evaluation and put his evaluation in. But all he's doing
13 is criticizing another witness and I don't think that's
14 appropriate for expert testimony. Thank you, Your Honor.

15 THE COURT: He is opining about the approach that
16 Ms. Pope took and the approach that Mr. Bauknight took and
17 obviously, as I told y'all yesterday, Ms. Pope's claim for
18 commissions is based on her approach, which is worlds apart
19 from the valuation given by the estate and by the IRS. So
20 obviously, it will benefit this finder of fact as to any
21 information I can receive concerning the appropriateness
22 and the validity of the approaches used by both sides. And
23 I do deem it proper for me to be assisted by this expert's
24 opinions. So therefore, I respectfully overrule the
25 objection.

Bradley Sharp - Direct Examination by Mr. Williams

1 Adele Pope. And then the time period of mid 2009 through
2 2016, which I understand corresponds to the administration
3 of Russell Bauknight through current. Based on our true
4 view of the information, we tried to extract three trends.

5 Number one, the total volume of clearance activity
6 that was submitted each year. Number two, the trend with
7 respect to the approval rate of those clearances over time.
8 And number three, the total dollar value of fees that were
9 agreed to for each of those clearances. Appreciating that
10 in certain cases the underlying fees that were agreed to
11 were variable or contingent upon specific aspects of their
12 usage. And so in those cases, we were not able to
13 specifically quantify them.

14 Based on my review of the underlying information,
15 there was a significant increase --

16 MR. BUNDY: Your Honor, this is the last time I'm
17 going to object on this, but I take the position that he's
18 getting ready to give you a verbal summary. And this rule
19 1006 does not limit itself to charts. It says charts,
20 summaries, or calculations. I take the position that
21 without the underlying data, he's not entitled -- he's
22 going to make a summary statement. He can give his
23 opinion, but I don't think he can give a summary verbally
24 or in the chart. That's my objection. Thank you.

25 THE COURT: Overruled. Move along.

Bradley Sharp - Direct Examination by Mr. Williams

1 THE WITNESS: Based on my review of the underlying
2 data, and again I will speak approximately, there was a
3 dramatic increase in clearance requests to the estate
4 between 2009, 2010, and thereafter. I believe that that
5 increase in the volume of clearances was at least twofold.
6 The approval rate of those clearances, I believe, increased
7 from the 60 percent to below 60 percent level to north of
8 80 percent in 2010 and thereafter.

9 BY MR. WILLIAMS:

10 Q Let's stop. The 60 percent was in what year?

11 A I believe that was in 2008.

12 Q Okay. And then it went down in 2009, is that what
13 I just heard you say?

14 A There's a significant decline in 2009.

15 Q Okay. And then in 2010, what happened?

16 A That approval rate increased to approximately 85
17 percent and has maintained at this level from 2010 and
18 beyond.

19 Q Okay. And the actual number of clearances that
20 came into the estate, what type of increase did that --
21 what type of increase occurred with respect to that?

22 THE COURT: Increase from when to when?

23 BY MR. WILLIAMS:

24 Q From when -- from when Mr. Bauknight became the
25 fiduciary of the estate and trust, what type of increase in

Bradley Sharp - Direct Examination by Mr. Williams

1 the actual number of clearances that were asked occurred?

2 A Based on my recollection --

3 THE COURT: Clearances that were requested.

4 MR. WILLIAMS: Yes, Your Honor. The number of --

5 THE WITNESS: Clearance requests.

6 BY MR. WILLIAMS:

7 Q Sure.

8 A The number of clearance requests in 2008, I believe
9 that number was approximately 150, maybe a little higher,
10 maybe a little lower. In 2009, that number went down. I
11 don't recall the approximate figure. In 2010 and
12 thereafter, the clearance requests were in the hundred's.

13 Q Okay. And did they stay that way thereafter based
14 on the data you saw?

15 A There was a slight decline subsequent to 2010. I
16 believe that might be a function of, you know, potentially
17 pent up demand with respect to those clearance requests.
18 But they've -- they've settled to a more steady state in
19 recent years.

20 Q All right.

21 MR. BUNDY: I'm sorry, they settled to what?

22 THE WITNESS: A steady state.

23 MR. BUNDY: Oh, a steady state.

24 THE WITNESS: The dollar value, as well as,
25 significantly increased. And again, this is a dollar value

Bradley Sharp - Direct Examination by Mr. Williams

1 of total fees that were effectively agreed to. Again,
2 based on my recollection in 2008 and 2009 -- in 2008 that
3 total dollar value of fees agreed to was around a million.
4 In 2009, there was a significant decline. In 2010, that
5 number was in excess of 9 million. And subsequent to 2010,
6 there was some variability, but I believe that those --
7 those amounts varied between 3 and a half, or else just say
8 \$3 to \$4 million per year.

9 BY MR. WILLIAMS:

10 Q Okay. And when you talk about the actual requests,
11 what are we talking about? Make sure the court understands
12 what it is that's being cleared. The million or so in 2008
13 versus the 9 million or so in 2010?

14 A Yes. The majority of these clearance requests are
15 requests to use the music for a particular purpose. So for
16 example, I believe, there was a request by Chanel to use
17 the music, or the song, It's a Man's World in conjunction
18 with an advertising campaign and effectively this is an
19 approval or a question to approve the right to use the
20 music for that purpose.

21 Q Okay. Did you track down, for example, on the jump
22 between 2009 and 2010, what did that -- what do you
23 attribute that jump to?

24 A I would attribute that increase to better
25 management and better administration of the estate.

Bradley Sharp - Cross-Examination by Mr. Bundy

1 can proffer.

2 MR. WILLIAMS: Thank you, Your Honor.

3 Mr. Bundy, it's your witness.

4 MR. BUNDY: With regard to the proffer, I'm not
5 familiar with a rule that allows you to proffer. You
6 haven't even moved in to put into evidence. As I
7 understand it --

8 THE COURT: They moved and you objected before he
9 moved and we had that discussion, so --

10 MR. BUNDY: Thank you, Your Honor.

11 **CROSS-EXAMINATION**

12 BY MR. BUNDY:

13 Q Good morning, Mr. Sharp. What information were you
14 provided by or from the defendants? What information did
15 you receive and what form did it take?

16 A The documents that I received included the
17 inventory and appraisal.

18 Q The -- which inventory and appraisal?

19 A There is an inventory and appraisal document. It's
20 in conjunction with the tax return that was prepared.

21 Q Okay. All right.

22 A A copy of the tax return.

23 Q The estate tax return?

24 A Correct.

25 Q You didn't get any income tax returns? Or did you?

Bradley Sharp - Cross-Examination by Mr. Bundy

- 1 Q Okay. Did you call him and talk to him?
- 2 A I did not.
- 3 Q Okay. Did -- was his -- other than -- and how long
- 4 is the affidavit?
- 5 A How many pages?
- 6 Q Yes, sir.
- 7 A I don't recall.
- 8 Q Okay. And you don't know Mr. Alexander?
- 9 A I've never met Mr. Alexander.
- 10 Q Okay. Did you do any background check on him? Did
- 11 you see what his credentials were outside of the affidavit?
- 12 A I don't recall.
- 13 Q Did anybody who provided this to you tell you
- 14 anything about Mr. Alexander? In other words he's
- 15 incompetent, he's a clown, or he doesn't know what he's
- 16 talking about?
- 17 A No.
- 18 Q Okay. So your entire universe of making your
- 19 decision that he was unqualified to give an opinion was
- 20 based on the pages in that affidavit?
- 21 A The results of a deposition transcript that I
- 22 reviewed.
- 23 Q Oh, so you reviewed a deposition transcript. Okay.
- 24 And so you read that and you -- by reading those two
- 25 things, you just came to the conclusion that he just didn't

Bradley Sharp - Cross-Examination by Mr. Bundy

- 1 A I was provided with clearance data.
- 2 Q Clearance data. And I believe that came in the
3 form of an Excel spreadsheet prepared by someone else?
- 4 A Several Excel spreadsheets.
- 5 Q Prepared by someone else?
- 6 A Yes.
- 7 Q Okay. And you didn't test -- you didn't audit that
8 spreadsheet, did you? You didn't go and check the
9 underlying data, did you?
- 10 A We relied upon the Excel spreadsheets that were
11 provided to us.
- 12 Q And your opinions therefore about the clearances
13 are based on representations in a document that you did not
14 audit and do not know as a matter of fact are accurate?
- 15 A We relied upon the Excel files that were provided
16 to us with the clearance data.
- 17 Q And that's the assumption upon which your
18 conclusions and opinions are based.
- 19 A We relied upon the information that we --
- 20 Q And if that was unreliable, would that change your
21 opinion?
- 22 A Under the Pope scenario that that information was
23 not reliable, it's possible it may impact.
- 24 Q Sure. I mean just junk in, junk out, right?
- 25 So other than the spreadsheet, what did you get?

Bradley Sharp - Cross-Examination by Mr. Bundy

1 A There may have been other information that was
2 provided. I believe that list that I provided comprises
3 the majority of the information that -- that --

4 Q I notice that you didn't bring any documents with
5 you to the stand. Do you have any documents here in the
6 courtroom that would help you refresh your recollection
7 about what in fact you were provided?

8 A I do not.

9 Q Okay. You're from California?

10 A Yes.

11 Q So those documents are back in California? Or do
12 you still have them?

13 A I brought some documents along with me.

14 Q And what did you bring with you?

15 A The majority of those documents are the ones that I
16 provided in that list.

17 Q I see. Okay. Did you sign a confidentiality
18 agreement?

19 A Yes.

20 Q Okay. When did you sign it?

21 A I don't recall.

22 Q When were you hired?

23 A I don't recall precisely.

24 Q Was it last year? Year before last? Can you tell
25 me was it in the -- was it -- can you tell me what decade

Bradley Sharp - Cross-Examination by Mr. Bundy

1 you were hired in?

2 A I don't recall the precise date that we were hired.

3 Q Can you tell me the year?

4 A I don't want to speculate. I don't recall

5 precisely.

6 Q Were you hired before James Brown died?

7 A I was not.

8 Q Okay. So at least we know you weren't hired in

9 2005. Okay. Were you hired during Ms. Pope's tenure as

10 administrator, trustee? Between 2007 and let's say 2009?

11 Were you hired in that time period?

12 A No.

13 Q Okay. Were you hired before Wilson versus Dallas,

14 the decision was rendered? You familiar with that

15 decision?

16 A No.

17 Q You've never heard about the decision in this case

18 where the Supreme Court reversed a settlement that -- at

19 which settlement was the initiation of Mr. Bauknight's

20 presence in the case? You didn't know anything about that?

21 A I'm not familiar with that.

22 Q Okay. Well, do you remember how much you're

23 getting paid? Do you know how much you're charging by the

24 hour?

25 A Yes.

Bradley Sharp - Cross-Examination by Mr. Bundy

1 A 29.

2 Q If we could, let's look at Exhibit 29, please. You
3 prepared this document?

4 A Yes.

5 Q And the information in that document comes from, in
6 part, the estate tax return, does it not? Schedule F of
7 the estate tax return -- of the estate tax return?

8 A Which number are you referencing?

9 Q Well, I'm referencing the number at the top and the
10 way you've taken things out. Are those -- isn't it true --
11 let me ask it to you this way: Isn't it true that Schedule
12 F is where that information came from and what it was made
13 up of?

14 A Are you referencing the \$84 million?

15 Q Yes, sir. The \$84 million and the deductions for
16 your analysis of what the \$84 million included.

17 A My understanding was the concluded value by Adele
18 Pope was \$84 million, so that's the number I included here.

19 Q Where did it come from? What's your source
20 document for the \$84 million?

21 A It was referenced in a number of the documents that
22 I received.

23 Q Including the estate tax return which I believe you
24 previously received was provided to you?

25 A It may have been included there. It was referenced

Bradley Sharp - Redirect Examination by Mr. Williams

- 1 which is Plaintiff's Number 4.
- 2 A This is that document.
- 3 Q Thank you. So Plaintiff's 4 has the formula that
- 4 we talked about and that you gave an opinion on this
- 5 morning?
- 6 A Yes.
- 7 Q Okay. You were questioned on direct and you were
- 8 also questioned extensively on cross about your clearance
- 9 analysis. If I were to hand you -- or first of all, I'm
- 10 going to mark this, if I may as -- for identification
- 11 Defendant's 30 -- no, I'm not going to mark it.
- 12 If I were to hand you this, could you identify
- 13 that?
- 14 A Yes.
- 15 Q Okay. And what is that?
- 16 A This is an analysis that I prepared based on review
- 17 of the clearance data from 2008 to 2016.
- 18 Q Okay. I heard you testify that you saw 150
- 19 clearances run through the estate in 2008. Is that --
- 20 after reviewing that, is that still your recollection?
- 21 A No.
- 22 Q Okay. Having the benefit of reviewing that
- 23 document, can you tell the Court what you now recall?
- 24 A In 2008, it was approximately 65.
- 25 Q Okay.

Bradley Sharp - Redirect Examination by Mr. Williams

- 1 A Clearance requests.
- 2 Q Okay. And then in 2009?
- 3 A In the first portion of 2009 that's associated with
- 4 Adele Pope administration, it's approximately 60.
- 5 Q Okay. And then can you tell me what you observed
- 6 once Mr. Bauknight's administration began?
- 7 A In 2000 -- the second half of 2009, the number of
- 8 clearance requests increases to 119 approximately.
- 9 Q Okay. And how about in 2010?
- 10 A In 2010, that number increases to approximately
- 11 304.
- 12 Q Okay. And how about in 2011?
- 13 A In 2011, that number increases to approximately --
- 14 I'm sorry it decreased slightly from 2010, but the number's
- 15 approximately 268.
- 16 Q Okay. How about 2012?
- 17 A 2012 that number is approximately 234.
- 18 Q 2013?
- 19 A 2013, that number is approximately 215.
- 20 Q Okay. You were questioned extensively, and I just
- 21 want to talk in as very general sense as possible about
- 22 what's called Schedule F of an estate tax return. You
- 23 recall that during cross-examination?
- 24 A Yes.
- 25 Q And you were asked if you could identify specific

Louis Levinson - Cross-Examination by Mr. Silvernail

1 Q Were you involved in the PR/Trustees discussion of
2 what to do with that information?

3 A No, sir.

4 Q So you don't know sitting here whether they
5 investigated that?

6 A That is correct.

7 Q Or whether they made a decision not to do it?

8 A That is correct.

9 Q Or so, of course, on what information that decision
10 might have been based?

11 A Yes, sir.

12 Q Now, in the Spring of 2008, do you recall that the
13 attorney general was challenging Ms. Pope and Judge
14 Buchanan's appointment?

15 A Yes. I don't remember when it was, but I do
16 remember the challenge, yes.

17 Q And do you recall that Mr. Dallas and Mr. Bradley
18 had also challenged the acceptance of their resignation and
19 thus the appointment of Ms. Pope and Judge Buchanan?

20 A Okay. Let me -- let me answer yes and explain what
21 I think your asking. I know that no sooner had Buddy
22 Dallas and Judge Bradley resigned that they contended --
23 that they contended that they'd either been coerced into it
24 or it wasn't voluntary or some nonsense like that and filed
25 something to be reinstated, yes.

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 Manges, New York, practicing corporate law. And in 1994, I
2 moved to the firm of Shukat, Arrow, Hafer and Weber, a firm
3 that specializes in the entertainment area. I've been with
4 the firm since 1994. About 16 years ago, I became a
5 partner of the firm. I'm the managing partner of the firm
6 and I represent musicians, artists, music publishers,
7 record companies, managers, live music venues, and I have a
8 particular specialization in representing the estates and
9 heirs of well known musicians.

10 I represent the estates of John Lennon, Jimmy
11 Hendrix, I work with the Bob Marley estate; Roy Orbison;
12 John Coltrain, Charles Mingus. I am the co-trustee of the
13 John Phillips Trust. John Phillips was the main songwriter
14 and lead singer of the Pop group the Mama's and the Papa's
15 and I am a co-trustee of the Bob Marley Family Trust.

16 THE COURT: I Shot the Sheriff.

17 THE WITNESS: Exactly.

18 BY MR. NEWSOME:

19 Q Tell us, perhaps, using John Lennon's estate as an
20 example. What was your role with that estate?

21 A Well, for the Lennon estate, I'm actually the -- I
22 am the attorney and also the -- basically the day-to-day
23 business manager. So all requests that come into the
24 estate to utilize John Lennon's music, both individually
25 and when requests come with respect the Beatles music would

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 stop that. But at any rate.

2 I'm going to qualify him. He'll be able to give
3 opinions as long as it's admissible and if he gives an
4 opinion where you think it's beyond the scope of an expert,
5 state your opinion and we'll -- state your objection and
6 we'll hash that out and I'll make a ruling on it.

7 MR. BUNDY: Thank you very much, Your Honor.

8 MR. NEWSOME: Thank you, Your Honor.

9 BY MR. NEWSOME:

10 Q So Mr. Herbsman, when a celebrity musician dies,
11 what action should a fiduciary take with regard to
12 contracts?

13 A Well, the first step would be to gather all of the
14 agreements and make sure you understand what obligations
15 and responsibilities the estate has, what the artist was
16 subject to: Recording agreements, publishing agreements,
17 agreements with performing rights societies, any place
18 where there is royalty streams that come in. You need to
19 collect them, review them and prepare summaries of all of
20 them so you can understand where you could and couldn't
21 exploit rights.

22 Q Okay. And have you reviewed Ms. Pope's description
23 of her work in this estate?

24 A I did. I reviewed extensive time records.

25 Q Okay. And did you see any evidence that Ms. Pope

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 conducted a contract review?

2 A I did not.

3 Q Okay. And did you find any evidence that she
4 retained experts to advise her or to handle such a review?

5 A I did not.

6 Q Okay. What actions should a fiduciary of the
7 estate of a celebrity musician take with respect to
8 exploitation of unreleased recordings?

9 A Well, a prudent fiduciary would determine whether
10 there are archives of recordings that the deceased musician
11 holds, catalog those, make sure what's available, preserve
12 them, and potentially put together a plan of how to exploit
13 them and where to exploit them.

14 Q Okay. Is that a valuable estate asset?

15 A It can be, yes.

16 Q Okay. And in your review of the estate records and
17 Ms. Pope's records, did you see any evidence that Ms. Pope
18 conducted a review of unreleased recordings?

19 A I did not.

20 Q Okay. And did you find any evidence that she
21 retained an expert to conduct that -- such a review?

22 A No.

23 Q What actions should a fiduciary of a celebrity, the
24 estate of a celebrity musician take with respect to name,
25 signature, and trademarks of a deceased performer?

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 A Well, you need to check to make sure what's
2 registered and what's not registered as a trademark. Make
3 sure that you protect the trademark. Depending on the
4 state where the individual has passed away and what the
5 laws are of the state it can be extremely important to make
6 sure that you protect the trademarks because you may have
7 problems with right of publicity rights in certain places
8 and it's an additional protection that you can have. And
9 also, you want to stop third parties from going out and
10 bootlegging. Especially when someone has passed away.
11 It's an opportunity for people to go out and start making
12 T-shirts and products and things using -- using the
13 celebrity's name, image, logos; and so it would be prudent
14 to make sure that everything's registered with the
15 trademark office.

16 Q And you heard some testimony earlier from
17 Mr. Sharp. Is that common that there's an increased
18 interest after death?

19 A Oh, absolutely. Yeah, a death bomb, basically.
20 Yeah.

21 Q Is that a technical term?

22 A Yeah (laughter).

23 Q I thought that was a South Carolina term.

24 Did you see any evidence that Ms. Pope took any
25 action with respect to James Brown's name, signatures or

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 trademarks?

2 A I saw nothing in the time records that indicated
3 that.

4 Q Okay. And did you find any evidence of her hiring
5 an expert to handle that on behalf of the estate?

6 A No.

7 Q What is -- what is third party content? What is
8 that?

9 A Well, there may be material that's not owned by the
10 estate or not owned by the record label with which the
11 artist is associated. For instance, an artist may have
12 done a live performance and it may have been recorded by
13 the venue where the performance occurred, it may have been
14 recorded by a local radio station for broadcast. It occurs
15 a lot at festivals or someone may have attended a show and
16 just had a camera on hand and taken some footage, recorded.

17 So it would make sense to go out and try and find
18 those people to put the word out that you're looking for
19 that material to acquire it so that it doesn't become
20 material that's exploited by third parties without your
21 permission and competing with the legitimate product in the
22 marketplace.

23 Q And did you find any evidence of Ms. Pope taking
24 steps --

25 A I did not.

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 Q Did you find any evidence of her acquiring an
2 expert to advise her or assist the estate in locating that
3 third party content?

4 A No.

5 Q Okay. What role does social media play in the
6 estate of a deceased celebrity musician?

7 A Over time it's become much more important as social
8 media has played a more important role in marketing,
9 promotion, and just day-to-day communication. But, now --
10 so Mr. Brown passed away in 2008 is that -- 6, 2006, I'm
11 sorry. '8 is when -- so in 2006 -- but in 2008 is when the
12 PR appointment was done. At that time something like
13 MySpace, a very popular site at the time for music, would
14 have been something to have made sure that you had a page
15 on that you were registered and out there with the public.

16 Facebook had just started not long before then, but
17 it would be prudent to go out and secure domain names and
18 make sure that you're protecting the potential marketing
19 that you can do with a name.

20 Q Okay. And did you find any evidence that Ms. Pope
21 took that action on behalf of the estate of James Brown?

22 A No, I didn't see any.

23 Q Okay. And did you find any evidence that she hired
24 and expert to handle that on behalf of the estate?

25 A I did not.

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 Q What action should a fiduciary of an estate of a
2 celebrity musician take with respect to new recording
3 projects?

4 A Well, if your prudent, you would want to make sure
5 that there is a flow of product out on the market. As I've
6 said, you don't want to have a problem where third parties
7 are putting product out and you also don't want to have the
8 fan base dissipate, so it's important to make sure that you
9 have a flow of new product. And when I say new, obviously,
10 the musician is no longer alive, so it's not newly recorded
11 product, but things from what one would call the vault and
12 you release things, say for an anniversary project, a
13 particular birthday, boxed sets, previously unreleased
14 materials.

15 Q Okay. You mentioned a birthday. Did you find any
16 evidence of those types of projects in this estate?

17 A Not on the recording release side. The one thing I
18 did see was I believe there was talk of a tribute concert,
19 70 or 75 -- 75th, on his 75th birthday, but I saw some
20 mention of it and then no further mention of it. And I
21 don't believe it actually occurred.

22 Q Okay. With regard to the new recording projects,
23 did you see any evidence that Ms. Pope secured any new
24 recording projects for the estate of James Brown?

25 A I didn't see any evidence that she did and there

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 was no documentation of communication with the record label
2 as to whether anything was being done. I didn't see
3 anything.

4 Q Did you see any evidence of an attempt?

5 A I did not.

6 Q Okay. Did you see any evidence of her retaining an
7 expert to assist the estate with regard the new recording
8 projects?

9 A I did not.

10 Q What other revenue opportunities would be available
11 for an estate of a deceased celebrity musician like
12 Mr. Brown?

13 A So there would be the possibility for things like a
14 touring exhibition, of memorabilia, say museum exhibitions,
15 live stage shows, tribute type shows, review type shows
16 where someone could play James Brown in the review. Shows
17 -- sit down shows like in Las Vegas a Cirque du Soleil
18 type of a show; movies, documentaries, publishing
19 opportunities for books, things of that nature.

20 Q So in a Cirque du Soleil show, is that an
21 opportunity to generate significant revenue?

22 A Yes.

23 Q Do you have any example?

24 A I've been involved -- sure, the Beatles Cirque du
25 Soleil show, a show -- it's been running in Las Vegas for

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 about 11 years -- has been extremely successful and there
2 are others. The Michael Jackson show in Vegas, also a
3 Cirque du Soleil show.

4 Q Okay. And did you see any evidence of Ms. Pope
5 took any actions with respect to these other types of
6 revenue opportunities for the estate of James Brown?

7 A I did not.

8 Q Okay. Did you find any evidence in the estate
9 records where she might have retained an expert to explore
10 those type of revenue opportunities?

11 A The only thing I did see would have been, there was
12 an engagement of an attorney, Ray Gonzales who's a music
13 industry attorney who worked at Warner Music, I believe,
14 for a while and was in private practice. And there was
15 some indication of communication with Ray regarding the
16 75th Birthday Tribute. That's where I saw that reference,
17 but it was fairly minimal and then it disappeared.

18 Q Okay. And you've heard some testimony about
19 clearance requests. You have any experience with clearance
20 requests?

21 A Yeah, I handle clearance requests every day.

22 Q Okay. And what action should a fiduciary take --
23 of a celebrity musicians estate take with respect to
24 clearance requests?

25 A Well, clearances -- and it's a general

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 categorically, it's more than just music. You can have
2 music clearances, you can have human likeness clearances,
3 publishing clearances, master recording clearances; and
4 they come from a variety of different sources. So the most
5 important thing that someone would do to be prudent is to
6 make sure you have somebody who is aware of the market,
7 understands what the market will bear because there's a big
8 difference between licensing a hit song and licensing a
9 song that is just a part of an artists category. You can
10 license a James Brown song that is not a well-known song
11 and you wouldn't expect to pay a large fee relative to a
12 James Brown song that was a big hit song.

13 And you need to know what the market bears in terms
14 of what other songs have received, what other licenses have
15 been. You need to know what a particular type of movie
16 budget will allow for a particular license. So it's a
17 fairly specialized area. You need a lot of experience
18 seeing the same thing over and over again in order to know
19 what you can and can't negotiate.

20 Q And you heard Mr. Sharp's testimony this morning
21 and he was asked whether clearance requests were really
22 sitting waiting for the phone to ring; is that how it
23 works?

24 A No. No. If you sit and you wait for the phone to
25 ring, you'll just get -- you're just getting what -- what

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 comes to you. You know, some people have an idea in
2 advance, they know what it is they want. But there is a
3 whole process of marketing and promoting the music because
4 honestly there are -- you know, if there are 250 feature
5 films released a year, there are a lot more than 250
6 artists out there who would like their music to be used in
7 a movie. So you need to -- a music placement consultant
8 would create a sampler of music of your artist, send it out
9 to music supervisors of movies and of television shows,
10 send it to add agency creative people. And there's also,
11 you need to have relationships with those people. It's a
12 fairly insolate community and so you need to know who the
13 ad agency creatives are who are making the decision as to
14 this song is what I want for this advertisement; this is
15 what I'm going to pitch to this particular client.

16 And the same with the music supervisors. Movie
17 after movie, it will be the same group of music supervisors
18 who are hired to supervise and if you have relationships
19 with them they keep you updated as to what projects they're
20 working on, what's coming up and you have the opportunity
21 to pitch your music then in advance before the general
22 public knows about the project.

23 Q And I believe you heard Mr. Sharp testify as to his
24 opinion about why clearance requests might have increased
25 after Mr. Bauknight's appointment. Do you have an opinion

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 as to a reason why clearance requests might have increased
2 after his appointment?

3 A I do. It's -- in my opinion it's because they
4 hired Peter Afterman who is an expert in music clearances.
5 So -- that's what he does for a living.

6 Q Okay. And what do you base that opinion on?

7 A I've worked with him. I've had clients -- one of
8 my clients is a very large music video production company.
9 They make and distribute substantial numbers of music
10 videos, including a James Brown product; and so I've had to
11 go to Pete Afterman for clearances so I'm aware of what it
12 is he does and for other clients as well. He also
13 represents the Rolling Stones.

14 THE COURT: He represents who?

15 THE WITNESS: The Rolling Stones. And that's what
16 he does day in and day out.

17 BY MR. NEWSOME:

18 Q Okay. Defendant's 43. I ask you to take a second
19 and take a look at that, please, sir.

20 A Okay. I've reviewed it.

21 Q All right. And on the first page there at the
22 bottom you'll see an e-mail from Adele J. Pope --

23 A Uh-huh.

24 Q -- to Tracy Johnson. And if -- I would ask you to
25 publish the last sentence of the second paragraph beginning

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 with, Could you also please?

2 A Could you also please give us our recommendations
3 on the basic license term and all three options.

4 Q Now, is that typical for a fiduciary to ask, in
5 this case Warner Chappell, for recommendations on clearance
6 requests?

7 A Well, you would hope that you would have your own
8 opinions as to what the appropriate fees should be. It's
9 -- it's not uncommon to ask the publisher you're working
10 with if they feel that the fees are good, but you should
11 also have your own opinion.

12 Q Okay. Or have an expert that can provide that for
13 you?

14 A Right. When I say your own opinion, via you
15 working with somebody. Sure. Who would be able to confirm
16 to you whether or not it's a good offer of not.

17 Q Okay.

18 A And the reason I say that is not that Warner
19 Chappell doesn't know. Warner Chappell does this
20 regularly. They should be aware of what fees are good
21 fees, but honestly Warner Chappell, you know, they have two
22 million copyrights and so they do this in a -- and their
23 viewpoint is very different. Their -- their viewpoint is
24 to maximize the amount of money that they're receiving and
25 so honestly, Warner Chappell isn't concerned about whether

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 the song is going to get used again next week, next month,
2 that's not -- you know, their concern is they got people
3 who are getting bonuses by how much they take in in a
4 particular quarter.

5 So their desire is a desire to license as much as
6 possible and if you're not willing to do it at the
7 particular fee because there are other considerations that
8 you have, they got another song they can offer because
9 they've got 2 million copyrights to offer.

10 So I find that when I deal with music publishers
11 it's more important that I make sure that I'm comfortable
12 and I know that everything is the way that it should be
13 because we're not necessarily always looking for the same
14 end result. We have different -- different desires
15 sometimes.

16 Q Okay. And does this question confirm Ms. Pope did
17 not have an independent expert to advise on these terms?

18 A Well, it does appear that way because she's asking
19 Warner to tell her whether or not these are good terms,
20 yes.

21 Q And the next paragraph, can you publish the last
22 sentence beginning with, We would very.

23 A We would very much appreciate it if you have any
24 summary of 2008 approvals you could send us.

25 Q So is it common to ask the music publisher to keep

Jonas E. Herbsman - Direct Examination by Mr. Newsome

1 BY MR. NEWSOME:

2 Q Okay. Did you find any evidence in the estate
3 records that Ms. Pope took any action with regard to the
4 Bowie Bond in this estate?

5 A I did not.

6 Q Okay. Did you see -- did you find any evidence of
7 her retaining an expert on behalf of the estate to come up
8 with a plan or action with regard to the Bowie Bonds?

9 A No.

10 Q Okay. Is it common for estates of celebrity
11 musicians to lack the funds to pay expenses?

12 A Yes.

13 Q Okay. And what steps should a fiduciary of a
14 celebrity estate take with regard to hiring experts when
15 they lack funds? In your opinion.

16 A If you don't have the money to pay, which is not
17 uncommon at the time or shortly after the time of death,
18 you would look to engage people on a deferred compensation
19 basis.

20 Q Is that common with celebrity estates?

21 A Sure, I've done that a number of times, yeah.

22 Q Okay. Did you see any evidence of Ms. Pope
23 retaining anybody on a deferred-pay basis?

24 A I did not.

25 Q Okay. What action should a fiduciary take with

Jonas E. Herbsman - Cross-Examination by Mr. Bundy

1 you take that into consideration arriving at a conclusion
2 as to whether or not you'd take it under a contingency?

3 A Human nature is what it is. I don't think I have
4 one estate client that doesn't have this going on.

5 Q All of this?

6 A Not as -- not anymore as much as this, but
7 unfortunately, Bob Marley had 11 children and a wife and no
8 will. You know --

9 Q Did he have children?

10 A -- John Lennon had an ex-wife and -- and an
11 estranged son and --

12 Q I got you.

13 A -- and, you know, in each instance, it's a similar
14 situation. It's -- Miles Davis disinherited two children,
15 you know, it --

16 Q Well, in addition to all of that, did Mr. Marley or
17 Mr. Davis or whoever have three trustees that'd been
18 stealing from him, at least one or two of them, stealing
19 from him for 10 years previous?

20 A Well, I don't think that would impact my decision
21 as to whether I was representing or not, I'd look at -- I'd
22 be looking at what's going --

23 Q In fact, those three --

24 A -- forward.

25 Q -- gentlemen were in total control of all the

Jonas E. Herbsman - Cross-Examination by Mr. Bundy

1 records, wouldn't turn the records over; and in fact, had
2 all the in -- and by records, I don't mean vinyls or CD's.
3 I'm talking about documentation, okay?

4 A Sure.

5 Q They had all this documentation, they wouldn't turn
6 it over and the trial judge sitting in this case had to
7 hold one of them in contempt of court because he wouldn't
8 do it. Is that the same kind of problem you had with Bob
9 Marley?

10 A It's unfortunately not uncommon. In -- in -- in
11 the music industry because of the rights and the fact that
12 people sell things off when they're young and then people
13 seek to recover rights or -- and you also have a lot of,
14 you know, the only way one can put it is a lot of shady
15 characters, you know, who see this as an opportunity to
16 latch onto somebody and to line their own pockets. So in
17 most every instance I've been involved with, unfortunately,
18 something along those lines comes along as part of the
19 baggage.

20 Q Have you looked into see if this is any worse than
21 those?

22 A I haven't and -- because the question that I was
23 asked was --

24 Q Correct?

25 A -- what was done from the day when someone came in,

1 THE COURT: Yeah, why don't you -- as soon as
2 possible, but perhaps no later than the first week in
3 January let me know how y'all worked that out.

4 MR. NEWSOME: That will be fine.

5 THE COURT: I would like before we reconvene and
6 perhaps we're going to reconvene the week of the 29th, 10
7 days before that, I would like at minimum for either side
8 or both sides briefing the subject of the duty of a PR and
9 visa vi the duty to defend the estate plan and balancing
10 the duty to defend with responsibilities concerning the
11 cost of the defense versus settling. There's been a lot of
12 testimony about that today and I'd like to see if there's
13 any law on it and what your positions are concerning that.

14 In addition to that, under seal, the confidential
15 -- I want to know the money that the subsequent litigation
16 from the time that Mr. Bauknight was appointed, what the
17 cost of the estate has been for the subsequent litigation,
18 including attorney's fees, expert fees, litigation costs
19 and support personnel through four days of testimony
20 already. That's under seal, but obviously, I want to
21 consider that in -- if I have to balance out anything about
22 the duty to defend versus the efficiency to the estate as
23 to whether to continue litigation or to resolve it.

24 For the record, I want the record to reflect that I
25 have, once again, engaged the lawyers briefly, but still

1 engaged them to once again or to continue or whatever it
2 takes, to have meaningful discussions on trying to resolve
3 this. Obviously, I -- my task is to find whether or not
4 Ms. Pope is entitled to a fee and if so, the amount. And
5 obviously, the range of compensation is a high end from the
6 full commission on the full value of the estate or if I
7 find that she's not entitled to a commission, obviously,
8 she's been ordered some so far, but it would be a zero as
9 far as the part that's not been ruled on. So the range is
10 obviously, we've talked about the other day, and obviously
11 this case has implications on 4900 and I'm not going to go
12 over everything I talked about in chambers, but I have had
13 that conversation and I encourage you to continue to try to
14 resolve it. Thank you.

15 Everyone have a wonderful holiday season. I thank
16 you for your excellent presentation on both sides of this
17 issue, excellent legal skills, excellent -- everybody's
18 been wonderful and I appreciate it. Everybody have a
19 wonderful holiday season.

20 I will be available all through the holidays. I'll
21 be on my e-mail if you need me for anything and I will get
22 back to you as soon as possible. Let's try to find those
23 two days that week and hopefully that will -- if it's not
24 resolved, hopefully that will complete the testimony and
25 then we will be in a position, I will be in a position to

1 make a decision.

2 Thank you very much.

3 MR. NEWSOME: Thank you, Your Honor.

4 (Court was in recess until February 20, 2018.)

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Jeffrey Smith - Cross-Examination by Mr. Bundy

1 and trademark?

2 A Intellectual property.

3 Q And have you had any particular interest or have
4 you done any extensive studying with regard to termination
5 of copyrights?

6 A I've been doing almost nothing in the area of
7 intellectual properties since 2008 once I learned about,
8 you know, the importance of it, especially in this
9 particular case. So...

10 Q Have you published any articles of treatises on
11 this subject?

12 A Yes, we -- Ms. Pope and I published an article in
13 2011 about termination rights in the states.

14 Q Okay.

15 MR. BUNDY: Your Honor, at this time, I'd offer him
16 as an expert in termination of copyrights. He was listed
17 as an expert.

18 MR. WILLIAMS: Your Honor.

19 THE COURT: Yes, sir.

20 MR. WILLIAMS: We object. He is not qualified as
21 an expert. He testified during my questioning that he'd
22 never advised any client on termination rights. That he
23 has worked on, I think six copyrights his entire career and
24 I can go through --

25 THE WITNESS: Well --

Jeffrey Smith - Cross-Examination by Mr. Bundy

1 MR. WILLIAMS: I can lay a further foundation for
2 the absence of qualifications for him being an expert if
3 given the opportunity to.

4 THE COURT: I think that goes to the weight and not
5 to it's admissibility. If you want -- what do you want him
6 to give an opinion in what area?

7 MR. BUNDY: In termination of copyrights and what
8 -- and how difficult they are, how few people knew about
9 it. I mean, just -- I want him to explain to the Court
10 because I don't know that the Court has sufficient
11 knowledge and I think he would assist you in understanding
12 this.

13 Nobody has yet, I don't believe, put up a witness
14 to explain to you how complicated this is and how it really
15 works. And they put him up and he's -- and they're
16 complaining that Ms. Pope didn't run this estate properly
17 and she -- in light of the termination of the copyright
18 law, had to navigate that. And, in fact, it's because the
19 attorney general was completely unaware of it that this
20 estate's in the mess it's in now. We're going to go into
21 that later.

22 But I think it's crucial that Your Honor has some
23 understanding of the termination of copyrights and how they
24 affect this case.

25 THE COURT: Mr. Bundy, I've been hearing this case

Jeffrey Smith - Cross-Examination by Mr. Bundy

1 for I don't know how many years now. More than I, almost
2 since I've been on the bench. And I am very familiar with
3 the complexity of the termination rights and I don't need
4 an expert coming in here giving me an opinion about how
5 difficult it is.

6 MR. BUNDY: All right, sir.

7 THE COURT: Sustained. Move along.

8 MR. BUNDY: All right, sir.

9 Thank you, Your Honor.

10 THE COURT: Thank you. Anything else?

11 MR. WILLIAMS: No, Your Honor.

12 THE COURT: Thank you, you may step down.

13 MR. WILLIAMS: Your Honor, we've got a deposition
14 designation of Raymond Gonzales who was another lawyer
15 retained by the estate under the administration of
16 Ms. Adele Pope. I can hand it up if you'd like to read it.

17 THE COURT: Y'all are trying the case. You can put
18 the designations in or you can read it. I assume you've
19 given him the designations.

20 MR. WILLIAMS: I have. And this has been --

21 THE COURT: Hold on for a second.

22 Ms. Pope, Mr. Bundy, y'all finish your discussion
23 now.

24 MR. BUNDY: I think these are your designations and
25 our counter-designations.

Laura Woolley - Direct Examination by Mr. Williams

1 was the proposed date for the auction? And it's also on
2 the catalog.

3 A July 17th of 2008.

4 Q Okay. So based upon the timeline of boots on the
5 ground, cataloging everything, until when it was determined
6 that the sale was going to occur, how long did Christies
7 have to create the catalog?

8 A Oh, one month.

9 Q Okay. In your professional opinion, is this enough
10 time to properly promote an auction for a deceased
11 celebrity?

12 A No.

13 MR. BUNDY: Objection.

14 THE COURT: The objection is what?

15 MR. BUNDY: Asking the witness to speculate.

16 THE COURT: Overruled.

17 MR. BUNDY: And it's irrelevant.

18 THE COURT: Overruled. She's opined based on her
19 experience and her qualification.

20 THE WITNESS: I don't think it's possible to do the
21 level of research that needed to be done, which is why I
22 think that's not here. What I saw missing from this
23 catalog makes sense when I work the timeline out and
24 realized that from the time the property arrived, there was
25 -- I mean, it's not -- it's very tedious to go through and

Laura Woolley - Direct Examination by Mr. Williams

1 THE COURT: How in the world can she answer that if
2 the auction took place two months later what John Doe is
3 going to bid on an outfit.

4 MR. WILLIAMS: If you're -- if the Court will
5 indulge me, we've got a presentation from her.

6 THE COURT: The last question is sustained -- that
7 objection is sustained.

8 Try it another way.

9 MR. WILLIAMS: Yes, Your Honor.

10 BY MR. WILLIAMS:

11 Q Have you done an analysis of items that sold at the
12 Christies sale that sold at later auctions?

13 A Yes, I did. There were a number of pieces that
14 people bought from the Christies sale but then re offered
15 later where they did the research and actually identified
16 where he wore them. And they performed, like,
17 exponentially better when presented properly, with proper
18 cataloging that was more thorough.

19 Q Okay.

20 MR. BUNDY: For the record, I -- we're going to
21 move to strike as irrelevant as well, Your Honor.

22 THE COURT: Overruled on that.

23 (Defendant's Exhibit Number 66 was marked for
24 identification.)

25 ///

Laura Woolley - Direct Examination by Mr. Williams

1 BY MR. WILLIAMS:

2 Q I hand you what's been marked as Defendant's 66 for
3 identification.

4 You were describing an analysis you had done?

5 A Yeah, I pulled all of the items that I could find
6 that had been re offered and, for instance, on the very
7 first page, Lot 86 was the suit on the right. It was sold
8 -- with the large photo of him wearing it on the very next
9 page -- by Julianne's Auctions in 2011. So as presented by
10 Christies with no information, I mean the description just
11 says, Two piece, red satin suit; sold for \$1,000 and when
12 Julianne's put a picture of him wearing it and explained
13 where he actually wore it, it sold for \$6,875.

14 And that's pretty much throughout this whole
15 packet. What you'll find, Lot 113 sold for 500 at
16 Christies. Presented again with the photograph of him in
17 it sold for 3,750.

18 THE COURT: Which lot was that?

19 THE WITNESS: That was pages -- this one right
20 here. The red suit here with the little inset photo and --

21 THE COURT: I see. I see.

22 THE WITNESS: So each one is just the presented --
23 138, here's one of his suits. This the next page they
24 presented it with him with David Bowie and it sold for
25 5,000 as opposed to \$625 as it was presented at Christies.

Laura Woolley - Direct Examination by Mr. Williams

1 maltese. And they'll -- you couldn't still get that for
2 them. That was part of the frenzy of that sale. So...

3 Q Okay. And then I guess -- why do you think the
4 opposite happened in your professional --

5 MR. BUNDY: Objection.

6 BY MR. WILLIAMS:

7 Q -- in your professional -- withdrawn?

8 THE COURT: Go ahead and ask your question.

9 BY MR. WILLIAMS:

10 Q In your professional opinion, Ms. Woolley, why do
11 you believe that these items sold at a higher price later
12 on?

13 MR. BUNDY: Objection.

14 THE COURT: Overruled.

15 THE WITNESS: I think that obviously they were
16 presented better. They were better researched. I also
17 think it -- July in New York, doing an auction is really
18 not the best time of year to schedule a sale. It's kind of
19 a ghost town. It's kind of the off-season for auctions.
20 The peak season in the New York auction rooms, you'll have
21 10, 11 auctions happening at Christies New York. In July
22 you have one, maybe two. And they're usually what we kind
23 of call the interiors or arcade sales, which are fancy
24 garage sales. It's all the stuff that's kind of
25 accumulated from different consignments over the year that

Roger Miller - Direct Examination by Mr. Williams

1 royalties I know will, you know, continue to be earned for
2 at least 15 years. But I'm going to do some sort of net
3 present value discount on those U.S. rights because I only
4 had one year with them. And, you know, let's just say the
5 net present value discount on that \$50,000 is \$45,000. So
6 your catalog isn't worth 1.5 million, which is 15 times a
7 hundred thousand, it's worth \$795,000, which is 15 times
8 50,000, plus net present value ascribing to your U.S. flow.
9 It's just -- I assume to be terminated by the creators or
10 the heirs.

11 Q Okay. So that type of exercise, does the
12 termination rights have the same effect here in the James
13 Brown catalog?

14 A Yes.

15 Q Okay. And can you explain that?

16 A Yes. It's my understanding that Mr. Brown has
17 signed his copyrights to a corporation and in exchange for
18 that assignment, he received minority shares in that
19 corporation. So the publishing rights to many of his
20 important works reside with this third party entity. He
21 receives some income or the estate, charity now, receives
22 some income as a result of those assignments. But those
23 rights are eligible for termination. And when they're
24 terminated the charity will lose that income.

25 Q Okay. So what do you -- what -- what was your task

Roger Miller - Direct Examination by Mr. Williams

1 when you were retained by the estate with respect to
2 termination rights?

3 A When I was hired, it was my understanding that
4 termination rights were important in this matter for a
5 couple of reasons. Number one, they came into play in
6 terms of how the copyrights were valued for the estate's
7 purposes. And they also came into play because there was
8 at one time an opportunity for all the parties involved,
9 the estate and the heirs to come together and combine and
10 pool their respective assets, termination rights, and other
11 assets.

12 And so what I did is I created an objective
13 valuation of those termination rights that could be used
14 for either purpose or any other purpose.

15 Q Okay. So what were some of your observations about
16 the value of these termination rights generally?

17 A Generally --

18 MR. BUNDY: Your Honor, if I may? There's no date
19 on his question, so I object about -- what valuation on
20 what date?

21 THE COURT: Well, let's do be a little more
22 specific. But these assets, what are you talking about?
23 And give us a date that he did it as of. I think that's a
24 fair objection and makes it all --

25 MR. WILLIAMS: Yes, sir, Your Honor.

Roger Miller - Direct Examination by Mr. Williams

1 THE COURT: -- understandable to all of us.

2 MR. WILLIAMS: Yes, Your Honor.

3 BY MR. WILLIAMS:

4 Q What were some of your observations about the value

5 of the termination rights that related to the -- Mr. James

6 Brown's music catalog as of the date, you can provide the

7 date for the valuation that you provided.

8 A They were quite valuable.

9 MR. BUNDY: Could we get the date?

10 THE COURT: What date did you value them as of?

11 THE WITNESS: I valued them as of the date of my

12 testimony, March 16, 2017.

13 BY MR. WILLIAMS:

14 Q Okay.

15 A I also provided an absolute value that pays no

16 regard to date.

17 Q Okay. And --

18 THE COURT: No regards to date; is that correct?

19 THE WITNESS: That's correct.

20 THE COURT: An absolute value no regards to date

21 and as of the date of his deposition, specific date.

22 MR. BUNDY: 2016, as it relates to 2016 --

23 THE WITNESS: 2017.

24 MR. BUNDY: Excuse me, I apologize, 2017.

25 THE COURT: March 16, 2017?

Roger Miller - Direct Examination by Mr. Williams

1 THE WITNESS: Yes.

2 THE COURT: 17.

3 THE WITNESS: Yes, Your Honor.

4 MR. BUNDY: I would object to that, it's
5 irrelevant. The issue here is the date of death valuation.
6 And as to the other one I object because I don't know what
7 it means. It must have a date, a value as time goes -- the
8 value has changed, but anyway that's my objection.

9 THE COURT: Thank you, overruled.

10 MR. BUNDY: Thank you.

11 THE COURT: Obviously, you can explore that on
12 cross-examination.

13 BY MR. WILLIAMS:

14 Q What impact do the termination -- who owns the
15 termination rights?

16 A The heirs is my understanding.

17 Q So what impact do they have on the value, discord
18 among the parties of death value of the --

19 THE COURT: Date of value? Or --

20 MR. WILLIAMS: Date of death value. I'm sorry,
21 Your Honor.

22 BY MR. WILLIAMS:

23 Q What effect do they have on the value of the
24 estate?

25 A But I did make the observation that they were quite

Roger Miller - Direct Examination by Mr. Williams

1 valuable and termination rights are by definition a
2 liability to the estate because they're an asset to the
3 heirs. So as these rights are taken away, then dollar for
4 dollar, that dollar is extracted from the estate.

5 Q Okay. What portion of the estate's royalties are
6 subject to termination?

7 A As I recall from my examination of the Warner Music
8 copyrights that were assigned, a little under 60 percent of
9 earnings came from the U.S.

10 Q Okay. And so if terminated, what does that mean?

11 A That means that 60 percent of the earnings for the
12 publisher's share would -- would be recaptured by the
13 heirs.

14 Q And go -- okay. The estate heirs negotiated a
15 settlement where the heirs would contribute their
16 termination rights in exchange for half the estate's
17 assets, you're aware of that, correct?

18 A Yes.

19 Q Okay. Have you analyzed whether or not that is a
20 good deal, in your professional opinion?

21 MR. BUNDY: Object. I don't know what good deal
22 means.

23 MR. WILLIAMS: I can rephrase it. Withdraw it.

24 BY MR. WILLIAMS:

25 Q Have you analyzed whether or not that was a prudent

Roger Miller - Direct Examination by Mr. Williams

1 decision in your professional opinion?

2 A In my professional opinion it seemed to be a
3 prudent decision.

4 Q Okay.

5 A It would have been beneficial to the estate.

6 Q Okay. And can you explain why?

7 A Certainly. The heirs as things are now have the
8 ability to extract earnings from what's flowing through the
9 estate into the charity. Which means that over time, the
10 ability of the charity to do its charitable work will be
11 diminished. If an agreement was reached where all the
12 assets would have been combined and those termination
13 rights would have resided with the estate, then not only
14 would there be preservation of that income, there actually
15 would have been growth.

16 Q Explain how that would work?

17 A Those termination rights would be exercised in
18 favor of the estate. For example, in the case of the
19 Warner's assignments, again, those works that were
20 contributed to Warners were contributed for a minority
21 corporation interest. Those assignments can be terminated
22 and the estate could collect the full publishers share for
23 those works.

24 MR. BUNDY: I hate to --

25 THE COURT: Hold on.

Roger Miller - Direct Examination by Mr. Williams

1 MR. WILLIAMS: Your Honor --

2 THE COURT: Wait a minute.

3 MR. BUNDY: I hate to interrupt, but the answer is
4 drifting off into an answer that apparently relates to
5 whether or not it's a good idea to settle the case among
6 the heirs. That's not what this case is about. And you
7 know, we've already learned from Wilson versus Dallas that
8 that agreement whether it might have been a good idea or
9 not, was not acceptable to the Supreme Court. And so I'm
10 not so sure that I can see any nexus or relevance to this
11 testimony as it relates to the issues in this case.
12 Ms. Pope was not involved with that agreement. And she had
13 nothing to do with it. Okay? And it may or may not have
14 been a good idea to appeal it from a financial standpoint,
15 but it was appealed and it was reversed. And so I don't --
16 I don't -- I just object on relevance, Your Honor.

17 THE COURT: Overruled.

18 MR. BUNDY: Thank you, Your Honor.

19 THE COURT: Overruled.

20 BY MR. WILLIAMS:

21 Q You were talking about the Warners, the corporation
22 where they were assigned to Warners and there's minority
23 interest in the Warners C Corp?

24 A Yes, and so as I explained, that would be very
25 important because those interests would effectively be

Roger Miller - Cross-Examination by Mr. Bundy

1 People were talking about \$100 million. Would that
2 surprise you?

3 A I don't have enough information to be surprised.

4 Q But the number \$100 million associated with the
5 James Brown estate in 2007, would it have shocked your
6 conscience?

7 A Had I seen how little it earned, yes, it would.

8 Q So the assets, Mr. Brown's, the assets in the
9 estate, would you consider them to be solid gold?

10 A I think they're great assets.

11 Q Solid gold?

12 A I have used that analogy before.

13 Q In this case --

14 A Yes.

15 Q -- regarding these assets under oath?

16 A Fantastic copyrights.

17 Q There you go. Thank you.

18 Now, prior to November 24, 2016, you had nothing to
19 do with the James Brown estate; is that correct?

20 A Prior to what?

21 Q Prior to November 24, 2016, you had nothing to do
22 with the James Brown Estate? No knowledge of it, nothing,
23 correct?

24 A Correct, yeah.

25 Q All right. And how much have you been paid since

Roger Miller - Cross-Examination by Mr. Bundy

1 then to -- up until your appearance here today, total?

2 A \$300 an hour.

3 Q Okay. How many hours?

4 A I don't know, I've billed maybe about \$15,000.

5 Q \$15,000, bucks?

6 A Most of which was for valuation work.

7 Q Okay.

8 A That's for the time really spent.

9 Q So if we do the math, we can figure the hours?

10 A Sure.

11 Q And the valuation you were asked to create was the

12 specific day of your deposition, which was March 16, 2017;

13 is that correct?

14 A I believe I chose that date and it just seemed to

15 be the most relevant --

16 Q Okay.

17 A -- date because that's --

18 Q But that's the date.

19 A -- when we were to talk about value.

20 Q That's the date. It wasn't the date of death, it

21 was that date?

22 A No.

23 Q Some 11 years later?

24 A Correct.

25 Q Okay. Now, the valuation you made, you used or

Tiffany Provence - Direct Examination by Mr. Newsome

1 A Circuit court and probate court?

2 Q Okay. And what areas have they -- have you been
3 qualified as an expert?

4 A I'm generally qualified with regards to fiduciary
5 administration, aspects of fiduciary administration,
6 probate litigation, will contests, common law marriages,
7 anything within the spectrum of serving as a fiduciary
8 and/or representation of the obligations of the fiduciary.

9 Q Okay. And when's the last time you were qualified
10 as an expert?

11 A Last December, just this past December.

12 Q Okay. Last December meaning?

13 A 2017.

14 Q Okay, a couple months ago?

15 A Yes.

16 Q Okay.

17 A Two months ago.

18 MR. NEWSOME: Your Honor, we offer Ms. Provence as
19 an expert in the areas of fiduciary administration, which
20 would include compensation and litigation.

21 THE COURT: Any cross on her qualifications?

22 MR. WILLIAMS: No, Your Honor. Other than the
23 fiduciary compensation, I think is up to you. I think it's
24 a matter of law, not subject to expert witness testimony,
25 but I think --

Tiffany Provence - Direct Examination by Mr. Newsome

1 use more than one person.

2 Q And that's -- you're talking about the difference
3 between the 1040 and a 1041?

4 A 1040, 1041, 706's, all the -- all the -- yes.

5 Q Okay. All right. Have you ever been appointed to
6 manage a complex estate assets outside of your area of
7 expertise?

8 A Regularly.

9 Q Okay. And what types of estates would those be?

10 A I've mentioned some of them. I mean I've had pizza
11 parlors, restaurants, concrete companies. I've had some
12 intellectual property, but that was more in the realm of
13 publication, publishing rights, written publishing. Just
14 all sorts of -- I mean you learn a lot on entities and
15 businesses that you never even knew existed. So I would
16 say for the most part I've never inherited a special
17 appointment or a fiduciary appointment to a law firm where
18 I knew what was going on as opposed, it's always something
19 that's pretty much outside of my realm of expertise.

20 Q And how do your PR responsibilities differ in those
21 situations?

22 A They don't.

23 Q Okay. Do they differ if the cash -- if the estate
24 has no cash?

25 A Unfortunately, there's not an exclusion on standard

Tiffany Provence - Direct Examination by Mr. Newsome

1 A Unfortunately, Ms. Pope's bills are what I
2 categorize as block billing, which is a legal term I assume
3 that most of us are familiar with, meaning that we group a
4 large amount of tasks together and then put a time on them
5 as opposed to specifically listing our tasks and
6 attributing a time value to each individual task. Because
7 of the block billing, it made it very difficult to go in
8 and review her records for reasonableness. It's a
9 challenge because if you want to say, well, should she have
10 taken this action and is it reasonable and you go in to try
11 to find all of the places where -- or the time that was
12 allotted to that specific action, it's very difficult to do
13 that.

14 Q Okay.

15 A So to the extent that -- that caused me concern.
16 Also just as a preliminary matter, if you take the number
17 of hours that she's billing for over the period of time
18 that she's billing for, including what I understood was
19 somewhat of the stand-down period, her total number of
20 hours worked is almost, I would define it as super human.
21 I mean it's extraordinary in comparison to what my billable
22 time has been on any file that I've worked.

23 Q And did -- approximately how many hours per month
24 was she billing?

25 A I think it averaged out to over 200 hours a month.

Tiffany Provence - Direct Examination by Mr. Newsome

1 Q And is that high by typical standards?

2 A That's incredibly high even by a big law firm
3 churning burn standards. No offense on big law firms.

4 Q That no longer bothers me.

5 I'm going to hand you what's labeled as Plaintiff's
6 Exhibit 8. Ask you if you -- is this the document you're
7 referring to with Ms. Pope's time description?

8 A Well, without looking page by page, it looks like
9 the -- yes, hundred page attachment of an accounting of her
10 time in this file.

11 Q Okay. And I just -- maybe flip to the second page
12 and do you see an example of what you refer to as block
13 billing?

14 A Well, I would -- I would actually site the entire
15 page as an example of block billing. So for example -- and
16 the testimony that she offered both in her deposition and I
17 believe in court as well was an acknowledgment of this,
18 that she would figure out how many days -- or how long she
19 worked on James Brown that day and then just list the
20 things that she had done. So in general as compared to
21 what I would say is an itemized bill, this entire page is
22 block billing. So if we want to look at the -- you know,
23 the second entry of 10.5 hours, it's a list of all sorts of
24 things and you cannot separate out if there's a specific
25 beneficiary that was causing those things or what required

Tiffany Provence - Direct Examination by Mr. Newsome

1 failure to act prudently. You also opine here that she
2 failed to act expeditiously and efficiently. What do you
3 mean by that?

4 A Well, it was one of the standards of care that we
5 hit through the code, the requirement that you act
6 expeditiously and efficiently. I believe one of -- and I
7 apologize, I do not recall if it was in this hearing or in
8 her deposition, she said she favored a slow fix. She
9 favored settlements and actions that were going to allow
10 her to continue to be involved in this estate and/or trust
11 for a very long period of time. And that is neither
12 expeditious, nor is it efficient.

13 Q Okay. And in your opinion, did that meet the South
14 Carolina standard of care?

15 A It did not.

16 Q Okay. What about acting in the best interest of
17 the estate?

18 A Again, the question that we struggle with at all
19 times in this position is, who is the estate. And I
20 believe that at times Ms. Pope felt she was the estate.

21 Q Okay.

22 A And did not work towards the best interest of
23 everyone that was involved. And that was again, kind of
24 the discussion of loss of neutrality and my fear that it
25 became difficult for her to look at the best interest of

Tiffany Provence - Direct Examination by Mr. Newsome

1 the estate because she became personally invested, both
2 professionally by closing her office and making this her
3 sole source of income as well as by advocating for or
4 against various parties within the estate. She lost her
5 neutrality.

6 Q Okay. And in your opinion did those actions meet
7 the standard of care in the State of South Carolina.

8 A I do not believe that they did.

9 Q Okay.

10 (Defendant's Exhibit Number 75 was marked for
11 identification.)

12 THE COURT: Mr. Newsome, how much more you got?

13 MR. NEWSOME: Not much more, Your Honor.

14 Your Honor, I'll move into evidence Exhibit,
15 Defendant's Exhibit 74.

16 MR. BUNDY: Object, it's hearsay. She's here to
17 testify to it. It's like a report.

18 MR. NEWSOME: It's a summary of her opinion in this
19 case, Your Honor.

20 MR. BUNDY: That doesn't make it admissible into
21 evidence. It's hearsay.

22 THE COURT: Sustained. She's testified to it
23 verbatim.

24 MR. NEWSOME: All right.

25 ///

Tiffany Provence - Cross-Examination by Mr. Bundy

1 appointed personal representatives of the estate of James
2 Brown and trustees of the James Brown 2000 Irrevocable
3 Trust, to serve without bond with all of the authority,
4 powers, and duties as if they had been appointed in the
5 original documents. Is that -- am I reading that
6 correctly?

7 A Minus the remainder of the sentence.

8 Q Is it -- well, we can read it: Other than
9 requirements that there be three personal representatives
10 and trustees?

11 A Correct.

12 Q Okay. So as a probate expert, what is the
13 significance, if any of a judicial order which says: You
14 are now the trustee and the PR and you have the powers and
15 duties as if you'd been appointed in the original
16 documents. Is there any significance to that language?

17 A That you then have the powers and authorities in
18 the code as well as any additional powers or authorities
19 within the documents themselves.

20 Q Okay. I understand that you take the position and
21 I think that you and I can probably agree that there is a
22 duty of neutrality, correct? I think we talked about that
23 earlier.

24 A Yes.

25 Q And that's a duty that trustees and PR's are --

Tiffany Provence - Cross-Examination by Mr. Bundy

1 PR's -- correct?

2 A I believe technically it's to be impartial, but,
3 yes.

4 Q Okay. But there's no such thing, is there, as a
5 quote, neutral trustee in the code? There's no definition
6 of a neutral trustee, like a neutral in a -- like a referee
7 in a boxing match?

8 A No, that's --

9 Q Okay. You're not talking about a particular legal
10 title like a corporation or an LLC or something like that,
11 you're just using the word neutral to describe duties,
12 there -- there's no such thing as a neutral trustee per se?
13 That's just the duty within the duties a trustee has?

14 A I'm using the word neutral to indicate someone who
15 does not have a vested interest in the outcome, is not also
16 a beneficiary or devisee or heir as opposed to the majority
17 of fiduciary's who are wearing two hats at one time.

18 Q Isn't the duty of neutrality to be neutral as it
19 relates to specific classes of people? As an example, if
20 you've got ten creditors and you're the PR, you have to
21 treat all of those creditors neutrally. You can't favor
22 one over the other.

23 A You can favor one over the other if they are in
24 different categories of creditor's claims, but per se, you
25 can't play favorites.

Tiffany Provence - Cross-Examination by Mr. Bundy

1 are bound by all the duties that are in the 700 Section of
2 the probate code, not just prudent administration, but all
3 of the duties.

4 So I believe my testimony was that -- I think I
5 listed several areas where I think she fell below the
6 standard of care.

7 Q I understand that. But I just want to talk about
8 prudent administration as defined in Section 62-7-804.
9 That's all I want to talk about. That specific
10 requirement, prudent administration. Okay? What did she
11 do that fell below the average -- the -- in exercising
12 reasonable care, skill, and caution, that violated the
13 distributional requirements of the trust or the will?

14 A She failed to hire experts. She failed to get a
15 proper valuation of the assets. In my opinion she
16 immediately set out to start litigation. You know, those
17 creditor's claims are a perfect example of what we
18 discussed. Creditor's claims may sit in a file until the
19 estate is ready to close. There is no necessity that you
20 immediately disallow them. It's not as if, if they sit
21 there for a certain amount of time they're suddenly
22 allowed.

23 So I've read a lot of correspondence where 2009 was
24 going to be a year of due diligence and in my opinion,
25 those should have been flip-flopped. The due diligence

Tiffany Provenge - Cross-Examination by Mr. Bundy

1 I understand your ruling, but I'm simply protecting
2 myself on the record and I understand the written order is
3 coming and it will be whatever it will be.

4 THE COURT: It's going to be that I have -- I
5 received it, I gave it a cursory examination as I told you
6 yesterday, basically just reading the cover letter and I've
7 since decided I don't need that, should not have asked for
8 it, not going to consider it. I have shredded it and
9 that's my ruling and I will probably give a written order
10 to it.

11 MR. BUNDY: I just wanted to make it clear that we
12 have -- our purpose was different. We were going to use it
13 for cross-examination. But I've stated my position on the
14 record. Thank you very much, Your Honor.

15 THE COURT: All right. Redirect.

16 MR. NEWSOME: Thank you, Your Honor.

17 THE COURT: And for everybody's benefit, we're
18 going to go to about one o'clock and break until 2:30.

19 MR. NEWSOME: Can I have just one minute just for
20 housekeeping?

21 THE COURT: Sure.

22 (There was a pause in the proceedings.)

23 MR. NEWSOME: Thank you, Your Honor.

24 ///

25 ///

1 A It's not that I didn't know how to do it, I didn't
2 know how to do what's encompassed with each component.

3 Q Okay. As in all the components?

4 THE COURT: Well --

5 THE WITNESS: The tangible personal property, I'm
6 pretty comfortable with. I mean that's something -- real
7 estate in Beech Island --

8 BY MR. WILLIAMS:

9 Q Yeah, I withdraw that, the intellectual property
10 components?

11 A Right.

12 MR. WILLIAMS: Your Honor, if I may have some
13 argument to exclude this witness.

14 THE COURT: Well, I assume you're going to make the
15 same argument you made the other day in Barnwell. But I'll
16 listen. I'll be glad to hear from you.

17 MR. WILLIAMS: Thank you, Your Honor.

18 THE COURT: Or you want me to just ask y'all some
19 questions?

20 MR. WILLIAMS: Maybe that will be the best way.

21 THE COURT: Anything else as to his qualifications,
22 Mr. Bundy?

23 MR. BUNDY: No, Your Honor.

24 THE COURT: All right. So we've discussed last
25 week, there was a motion to exclude Mr. Alexander's

1 testimony as not complying with the applicable rules in the
2 700 area of the South Carolina Rules of Evidence as well as
3 Watson versus Ford Motor, State versus Wright. You're all
4 familiar with those.

5 Obviously, the Courts, the Supreme Court has tasked
6 our court, my court, the circuit court with the gatekeeping
7 function to either allow or not allow expert testimony.
8 And as we all know, obviously, this is an area -- and I
9 think expert testimony would assist me in resolving those
10 factual questions because I've allowed experts to testify
11 as to valuations in the case already. That's not a
12 question.

13 Then I have to go into whether or not the expert is
14 qualified in the particular area by which he wishes to
15 testify, which in this case is to give expert opinion
16 testimony on the valuation or the evaluation of certain
17 aspects of the James Brown estate and more of what we've
18 all dealt with throughout is the evaluation on the royalty
19 interest, the image, persona, publicity rights, licensees
20 and other related rights owned by Mr. Brown and his
21 business interest such as Geronimo, et cetera.

22 In making that decision, obviously, I have to look
23 at those factors that appellate courts have set out in
24 these cases. Obviously, we're all familiar with Watson
25 versus Ford. That was a cruise control case where a man

1 attempted to be qualified as an expert on cruise control,
2 had never done any tests on cruise control system. He
3 merely studied that system in preparation for the trial and
4 the Supreme Court in that case found that he was not
5 qualified.

6 With all due respect to Mr. Alexander, I admire
7 him, his business acumen, having enough sense to get out of
8 North Carolina -- for his business acumen, obviously, he's
9 been a very successful businessman in the -- particularly
10 in the women's apparel area, starting out with Catoe's as
11 an operation flunky, as he described himself; moving up to
12 the major buyer of shoes and accessories; four-and-a-half
13 years as a senior buyer. But all that was dealing with
14 retail industry, particularly women's clothing and shoes
15 and accessories. And obviously he had to do some
16 valuations in that in making decisions and making the
17 purchases.

18 From there he went to Consolidated Shoe Company
19 which was a -- designs women's shoes and imported and
20 exported and obviously he had to do evaluations on the
21 brand of shoes and a methodology and what shoes sell more
22 than others and to market those shoes.

23 He's had experience at Duck Head. And then from
24 that he advanced, opened up his own company at a young age,
25 about the same time I started practicing law, 1974. Grew

1 that company admirably. Has over 60 employees dealing as a
2 warehouse distributor, also having an international aspect
3 of it in dealing with China, Taiwan, Brazil, Italy.

4 Obviously, he had to value the brands of shoes, including
5 shoes for NASCAR, Tiny Lund and others, Reebok shoes, Bank
6 of America, worked with Pick and Pay.

7 I remember Pick and Pay as a big shoe company in
8 our area. Also Catoe's was -- had stores here in Bamberg,
9 all over the south. Mr. Cates -- his name is Cates wasn't
10 it?

11 THE WITNESS: C-A-T-O.

12 THE COURT: Mr. Catoe had a daughter that lived in
13 Aiken for a while. I can't remember her name, but they had
14 a plantation at the coast and, in fact, I went duck hunting
15 down there. A very successful business.

16 THE WITNESS: Yes, sir.

17 THE COURT: And apparently did a wonderful job with
18 them and they retained him over the years to help them in
19 their business, retail women's business.

20 And he has been most candid with the Court and has
21 admitted to us that he is not accredited to value
22 businesses. He's written no publications on business
23 evaluations, valuations. He's never valued an
24 entertainer's estate. He's never valued a musical
25 copyright, unpublished songs, never evaluated a copyright,

1 I said that. Termination rights. In fact, this is the
2 first evaluation he's ever attempted to do concerning this
3 type of an estate.

4 Well, most of us in this room have been in this
5 case since it started right here in this courtroom many,
6 many years ago after the death of James Brown. Well, I say
7 in this courtroom, it might have been in Aiken, but we've
8 been in a number of courtrooms over all of these years and
9 there's testimony even in Ms. Pope's claims for
10 commissions, it is a, notwithstanding what some people say
11 it's been a very, very long road.

12 It has been a very complicated case and obviously,
13 the methodology of the valuation has been subject to a lot
14 of discussion and expert witnesses. And it is a different
15 asset.

16 It is a different animal, as they say sometimes,
17 but it's a different, totally different asset in trying to
18 value these royalty interests, images persona, publicity
19 rights, particularly the termination rights, which is an
20 evolving federal law, licenses, and other rights.

21 And with all due respect to this witness, I find
22 that he does not meet the requisites of the rules on expert
23 witnesses, the mandate set out in Watson versus Ford Motor
24 and the cases cited in it and those have that have been
25 cited after that.

1 And with all due respect, I find that he is not
2 qualified under our particular -- under our rules to render
3 an opinion as to these particular assets. He's trying to
4 value a retail business or something of that nature, I
5 would have absolutely no hesitation in qualifying him in
6 either. So my ruling is he is not allowed to give opinion
7 testimony in this case.

8 Now, in furtherance in my ruling, or not my ruling,
9 but my discussion from the bench, last week in Barnwell,
10 notwithstanding that I have found that he is not qualified
11 to give an opinion in this case, I will allow you to do a
12 proffer as to what the opinion is so you'll be protected on
13 the record.

14 MR. BUNDY: Thank you, Your Honor. Would you like
15 me to leave it up to the witness or do you want me to do
16 it? I mean that's up to you.

17 THE COURT: I'll let you give a summation of it.

18 MR. BUNDY: I think I might be quicker and then if
19 he -- and then the witness, I guess could either say I'm
20 right or I'm wrong. Does that suit you?

21 THE COURT: Suits me.

22 MR. WILLIAMS: Yes, Your Honor, no objection on
23 that.

24 MR. BUNDY: If it please the Court.

25 THE COURT: Hold on one second.

1 MR. BUNDY: Your Honor, in full recognition of your
2 ruling, but respectfully --

3 (There was a pause in the proceedings.)

4 MR. BUNDY: Thank you. Your Honor, in complete
5 recognition of your ruling, I respectfully disagree and
6 preserve all our rights. Having said that, I will now seek
7 to summarize what I believe the opinions in summary that
8 Mr. Alexander would have given had he been allowed to give
9 an opinion.

10 One, he would have testified to a reasonable degree
11 of certainty that the methodology and valuation based on
12 his years of experience, et cetera, et cetera, would lead
13 him to believe to a reasonable degree of certainty that the
14 valuation of the \$84 million was appropriate and based upon
15 good information.

16 That the valuation provided later, which resulted
17 in a \$4.7 million valuation was, to a reasonable degree of
18 uncertainty fell below any standard of care --

19 THE COURT: With a reasonable degree of certainty.

20 MR. BUNDY: Excuse me a reasonable degree of
21 certainty, fell below any standard of care when you compare
22 one to the other.

23 Specifically, approximately \$3 million of the TIAA
24 debt was overstated, so that was a mistake. Two, if you
25 compare the 84 million to the 4.7, you're comparing apples

1 to apples because the 84 has had a reduction for the TIAA
2 debt and you're evaluating based on valuation of the
3 previous assets. The 4.7 is the other apple because it's
4 based on the TIAA reduction.

5 So what you're doing is comparing the very same
6 universe of debt, of asset. And if we want to use the
7 apples and oranges, the first valuation, the apple is the
8 size of a basketball. The second evaluation, the apple is
9 the size of a grape. The difference is a 95 percent
10 reduction across the entire evaluation of every single
11 element in there. We don't know -- we don't know what
12 those -- there's no way to tell from this -- the number
13 that was put into evidence how that 87 -- \$4.7 million is
14 divided up. So our assumption, reasonably would be is that
15 it was a pro rata reduction all the way through. Well, if
16 you just pick one item, the \$900,000 evaluation for
17 personal property, let's say, which was in the 84 million,
18 you are now saying the personal property was valued on the
19 day of James Brown's death at \$940,000 and yet on the very
20 same day a different appraiser comes up with \$50,000. Pick
21 the Rolls Royce out, some appraiser said that Rolls Royce
22 on the day of his death was worth \$100,000; 12 years later,
23 it's redone and that very same Rolls Royce on that very
24 same day is only worth \$5,000. The testimony would be to a
25 reasonable degree of certainty that you don't need to know

1 the underlying basis of that second valuation because it's
2 a trick. It's a ruse. It can't be correct. It can't --
3 it is not believable on its face based upon the discovery
4 he did, based upon the fact that \$50 million was received
5 prior to that.

6 Based upon the fact that the \$84 million is arrived
7 at from numbers from the very men who created with James
8 Brown all of these assets. It is not believable that on
9 the day of James Brown's death his publicity rights had
10 zero value. It is not believable.

11 THE COURT: Mr. Bundy, I was going to let you tell
12 me what he's going to say --

13 MR. BUNDY: That's what he's going to say all to a
14 reasonable degree of certainty. Thank you, Your Honor.

15 THE COURT: Thank you. All right. Thank you very
16 much. It's joy to have you in my court.

17 THE WITNESS: Thank you, Your Honor. I feel like
18 I've been here a long time in your courts.

19 (Off the record discussion.)

20 THE COURT: All right. In light of our in-chambers
21 discussions, it's my understanding is what we plan to do,
22 what you plan to do as far as reply, you had a number of
23 deposition excerpts that you were going to introduce into
24 the record and you told us that that would probably take us
25 to about four o'clock, a little after four. And as you're

1 TUESDAY, MAY 8, 2018

2 THE COURT: Call your next witness.

3 MR. BUNDY: Good morning, Your Honor.

4 THE COURT: You may call your next witness.

5 MR. BUNDY: Your Honor, before I call a witness I'd
6 like to enter -- we want to put in some deposition
7 designations. We've marked this book as Plaintiff's
8 Exhibit 47. What this is, Your Honor, is a tabbed
9 notebook, which has the designations that we have made as
10 planned of the named witnesses. And then at the -- at the
11 end of each designation, for instance the first one is
12 Robert Cook. On page 4, we moved to admit Exhibit Number
13 2, which is 1 through 10 premarked various documents. And
14 this goes through for all those witnesses as tabbed.

15 We wanted to do -- we wanted to take care of this
16 now because Ms. Pope will be my first live witness and I
17 wanted to have these documents in evidence when she
18 testified.

19 THE COURT: Any objection?

20 MR. NEWSOME: Yes, Your Honor. We've already moved
21 to exclude some of these depositions. We would extend that
22 motion to these additional depositions that have just been
23 presented to us. I was just shown this notebook. I don't
24 have a copy to refer to.

25 MR. BUNDY: Here you go.

1 THE COURT: Gentlemen, when we left here the other
2 day, I asked y'all to please have this resolved before we
3 started this morning.

4 MR. NEWSOME: Yes, Your Honor. And we've certainly
5 -- you know, when we were together last, that was the goal,
6 but that was not able to be accomplished. We believe that
7 the plaintiff is seeking to submit documents that are well
8 outside the scope of reply. We believe that unfortunately,
9 there's a good chance that this case may go up on appeal.
10 And another thousand pages of depositions don't need to be
11 in the record. They aren't relevant to this case.

12 MR. BUNDY: Your Honor, since we've last met, we've
13 sent --

14 THE COURT: Before you say that, I'm not fussing.
15 Y'all have been great and worked hard together. I
16 understand. I'm just trying to figure out the most
17 efficient way --

18 MR. BUNDY: Sure.

19 THE COURT: -- to handle it this morning without
20 having to read all the depositions and all the transcripts.
21 I certainly don't want to cut into our time having to do
22 that, so I may just take it subject to their objection. I
23 need to know what you object to. Have you got that written
24 out or have you had time to go through it to see what you
25 object to?

1 MR. NEWSOME: No, Your Honor. What I would ask
2 would be that you go ahead and take testimony and that if
3 you determine any of these depositions are relevant or
4 within the scope of reply then we could provide counter
5 designations at this time.

6 THE COURT: Well, I'm not going -- if you're
7 objecting to them, I'm not going to go through and read a
8 thousand pages then make a determination whether or not
9 they're relevant or not. You're objecting to the whole
10 thing or --

11 MR. NEWSOME: Yes, Your Honor.

12 THE COURT: Is there some of it that you do not
13 object to?

14 MR. NEWSOME: They're outside the scope of reply.
15 They -- which, I think prior to the objection, there was --
16 a lot of them are related to case 4900. There's nothing in
17 evidence, in the defense case about case 4900, so they're
18 outside of the scope of reply and we object to the
19 introduction of all of them.

20 THE COURT: All right. Here's what I'm going to
21 do. I'm going to allow him to offer it, but I'm not going
22 to rule on it one way or the other presently until I've had
23 a chance to see what it is.

24 MR. NEWSOME: Okay.

25 THE COURT: I don't know of any other way. If she

1 wants to -- if she, Ms. Pope -- refers to any of it today,
2 object individually as to that and tell me your specific
3 objection. Is that a fair way to move it?

4 MR. NEWSOME: Yes, sir. Do we need to have Mr.
5 Bundy make a proffer or how do we get it on the record?

6 MR. BUNDY: If I -- if I may, Your Honor --

7 THE COURT: Well, I assume if you ask Ms. Pope to
8 confirm some portion of John Doe's deposition, if you go to
9 it and you object to it, we will.

10 MR. BUNDY: If I may, it may be more efficient to
11 go ahead and make a determination what the issues are on
12 reply. That way we won't have all these individual
13 objections. In other words, let me, as an example, they
14 have entered a defense in the case of what they call block
15 billing. Block billing was not part of our case, it's a
16 defense to their case.

17 And as I understand what their defense is, is
18 basically what's referred to in law as confession of
19 avoidance. It's a confession of avoidance, when you plead
20 it's an affirmative defense under the procedures,
21 confession of avoidance means I confess, for instance that
22 I -- that you, you -- in this case, you spent these hours.
23 I confess that I have no way to say that you didn't spend
24 these hours. However, I'm going to avoid payment, even
25 though I've confessed you spent the hours by bringing up

1 the a defense of block billing. Well, that's an
2 affirmative defense.

3 It was new matter and I objected to all of that
4 because none of these things were pled. And I think that
5 if we go down the list of what we perceive to be the issues
6 on reply, which is new matter, which I objected to when
7 they brought it up because they didn't have affirmative
8 defenses; or they opened the door for these issues by going
9 into things like the other trustee's conduct.

10 Mr. Bauknight testified and Ms. Provence, I
11 believe, certainly Mr. Bauknight testified to his conduct
12 as the administrator and used that, I guess, as the
13 standard by which Ms. Pope should be judged. That would be
14 new matter. Ms. Provence testified that -- and I agreed
15 with Ms. Pope and the Supreme Court that Mr. Bauknight was
16 not even the trustee during the four years of appeal.

17 The trustee or trustees that's on tort would be,
18 probably be Mr. Buchanan, I mean Mr. Bauknight, the
19 attorney general, and Pope and Buchanan because all of that
20 was just in limbo. So --

21 THE COURT: Well, I'm going to let you put your
22 reply up.

23 MR. BUNDY: Okay.

24 THE COURT: If you go beyond what was brought up in
25 the cross or gets too far afield, you have to object, I'm

1 not going to object up here.

2 MR. BUNDY: Okay. All right. So I understand,
3 these -- you have accepted those designations --

4 THE COURT: I have not -- I have not accepted them
5 as evidence. I'm taking them -- they're given to me this
6 morning. It's a wealth of material and --

7 MR. BUNDY: Right.

8 THE COURT: -- he's objecting -- they are objecting
9 to it, so I can't rule on it unless something individually
10 comes up. I can't rule on it en masse. If something
11 individually comes up, make your objection, I'll rule on
12 it.

13 MR. NEWSOME: Your Honor, could I just be heard on
14 one thing and that was in response to Mr. Bundy's well
15 reasoned argument. We disagree with his --

16 THE COURT: Characterization --

17 MR. NEWSOME: -- characterization of the law with
18 regard to block billing. We think particularly with regard
19 to this type of case where you're reviewing the
20 reasonableness of fees it's appropriate to evaluate what
21 was done during those hours, and it's not just an
22 affirmative defense.

23 THE COURT: That's why I'm up here, fortunately or
24 unfortunately, I'm having to ultimately decide.

25 MR. NEWSOME: Thank you, Your Honor.

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1 THE COURT: And I don't think I've hindered anybody
2 about making a record. I think I've been most generous on
3 that.

4 So, good morning. And you may proceed.

5 MR. BUNDY: Thank you, Your Honor.

6 Ms. Pope.

7 THE COURT: You've been previously sworn.

8 Mr. Bundy.

9 MR. BUNDY: Thank you, Your Honor. May it please
10 the Court.

11 THE COURT: Yes, sir.

12 **DIRECT EXAMINATION**

13 **BY MR. BUNDY:**

14 Q Ms. Pope, there was testimony regarding the duty of
15 neutrality and your alleged breach thereof in the -- from
16 the previous witnesses on behalf of the defendants. Would
17 you, for the Court, please, give your opinion with regard
18 to what, in fact, the duty of neutrality is; and any other
19 similar duties such as the duty of loyalty; and advise the
20 Court as to whether or not in your opinion you breached any
21 of those duties.

22 MR. NEWSOME: All right. Your Honor, I'm going to
23 object. You've already ruled that she's not an expert and
24 can't give expert opinions in this case.

25 THE COURT: I'm not going to allow her to give an

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1 opinion as to whether what she did was within the standard
2 of care. That's obviously, as I'm trying this nonjury,
3 that's a determination I have to make.

4 MR. BUNDY: All right.

5 THE COURT: She can certainly talk about what it
6 is, but I'm not going to allow her to say here's what I did
7 and it's my opinion to a reasonable degree of legal
8 certainty it fell within that standard.

9 MR. BUNDY: All right. Thank you, Your Honor.

10 BY MR. BUNDY:

11 Q Would you explain for the Court you're
12 understanding of the duty of neutrality as it relates to
13 trustees and PR's?

14 A I will and I will remind the Court that I have been
15 qualified as an expert both in this case and in the James
16 Brown case for the approval of the settlement hearing. And
17 I am an expert and if I need to go over my qualifications
18 and all of the things I've done, I'll be glad to because
19 it's been assumed so far, but I haven't had an opportunity
20 to tell the Court not only of all of the qualifications I
21 had in 2009, but all the additional qualifications that
22 I've achieved since I became involved in the James Brown
23 case. And if I need to say those, because I'm a little set
24 back by the notion that I'm not an expert in these areas.

25 THE COURT: I've never suggested that you're not an

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1 expert. I'm saying I'm not going to allow you to give
2 expert opinion testimony as to whether or not you deviated
3 from the standard of care in this case when I'm trying to
4 decide your actions. And I will be more than happy if you
5 want to put your qualifications in the record. I don't --

6 THE WITNESS: Well, I would like to then, Your
7 Honor.

8 THE COURT: Certainly.

9 THE WITNESS: Because prior to becoming involved in
10 the James Brown case, I had a long history of representing
11 what I referred to as Chapter 11 clients. That was clients
12 with a very high net worth or an interest in a high net
13 worth asset or estate or trust. And I developed a special
14 expertise as a trust and estate expert who also had
15 expertise in corporate tax, in -- in -- in private
16 foundations, charitable giving, gift taxes, estate taxes,
17 income taxes, fiduciary income taxes and -- and in the
18 valuation of assets, particularly in instances where there
19 were not -- there was not a reason to have a professional
20 valuation. And I'll just give you an example.

21 Every single year, every --

22 MR. NEWSOME: Objection, Your Honor, now she's
23 testifying to something other than qualifications.

24 THE COURT: I agree. Please state your
25 qualifications.

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1 THE WITNESS: I'm qualified to value estates and
2 trusts without a professional appraiser but taking
3 advantage of other appraisals. I've done it routinely
4 since the 1980's for charities, for estates, particularly
5 when in the 80's, since the 80's when there's been a high
6 marital deduction and a high exemption from the State
7 taxes, it was very customary and very acceptable to the IRS
8 to value estates without a professional valuation --

9 MR. NEWSOME: Objection, Your Honor, she's doing it
10 again.

11 THE WITNESS: I value my own --

12 THE COURT: Hold on just a second.

13 What's your objection?

14 MR. NEWSOME: She's testifying about the IRS and
15 what they accept rather than her on qualifications.

16 THE COURT: Sustained.

17 THE WITNESS: I'm sorry.

18 I value my own private foundation every year. I
19 have assisted numerous clients in valuing private
20 foundations. I worked as an advisor for three years for a
21 \$50 million charitable foundation, the Graham foundation in
22 Greenville. I did not do an annual valuation for them, but
23 I'm familiar with the -- the forms by which every
24 charitable foundation trustee every year must give a
25 valuation to the IRS and I'm not aware of any charity ever

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1 having --

2 MR. NEWSOME: Objection, Your Honor.

3 THE COURT: All right. Mr. Bundy. I'm going to
4 allow her to set out her qualifications. That's education,
5 work experience, but to go through every case she's ever
6 tried -- I --

7 MR. BUNDY: I understand.

8 THE COURT: Please.

9 BY MR. BUNDY:

10 Q Your educational background, please.

11 A My resume is in the brief. I graduated from the
12 University of South Carolina. I graduated from the
13 University of Miami my with an LLM in estate planning. I
14 have written articles about copyrights. I had a blog about
15 copyrights. I have studied the intrusion of governmental
16 officials into private foundations. I've met with the
17 national association of attorneys general to say what they
18 were doing about that.

19 THE COURT: Not this case, general qualifications,
20 please.

21 BY MR. BUNDY:

22 Q Just general qualifications. All right. Are you a
23 member of any professional organizations?

24 A I am -- I am a member of the South Carolina Bar,
25 former member of ACTEC, the American College of Trusts and

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1 Estate Council. I was for many years. I -- I have been
2 officer of various trusts and estates sections of the South
3 Carolina bar.

4 Q How long have you been practicing law?

5 A Forty -- more that forty years and I'm a former
6 trust officer.

7 Q Okay. You're a former trust officer. Okay.

8 And your practice was focused on what specialty, if
9 any?

10 A My practice was both -- was -- has always been and
11 -- both litigation and planning and administration. It's a
12 very -- it's been a very cross-disciplinary problem-solving
13 practice.

14 Q All right. In the contexts of trusts, what is the
15 duty of neutrality?

16 A Well the duty of neutrality is best --

17 (Mr. Newsome stood.)

18 THE COURT: Yes, sir?

19 MR. NEWSOME: I'm not sure where we are because she
20 testified about her qualifications. Is there any voir dire
21 or --

22 MR. BUNDY: Sure.

23 THE COURT: She's not -- she's not giving any
24 opinions. She's just telling us what neutrality is.

25 MR. NEWSOME: All right. Thank you, Your Honor.

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1 THE COURT: If she starts giving opinions, I'll let
2 you voir dire her on qualifications. I've already ruled,
3 but, you know, I've known Ms. Pope since she graduated from
4 law school, known her before she graduated, we were in the
5 same class. I know what her practice is. Followed her
6 closely throughout this whole James Brown saga and I'm
7 aware of what she's practiced, the field she practiced in,
8 the area she practiced in, but I'm not going to let her
9 give opinions as to whether or not she complied with the
10 standard of care in this case.

11 MR. BUNDY: Okay.

12 THE COURT: She can tell me what she did, but I'm
13 not going to let her then give an opinion.

14 MR. NEWSOME: Thank you, Your Honor.

15 THE COURT: It's just like having a doctor.

16 MR. BUNDY: Thank you, Your Honor.

17 BY MR. BUNDY:

18 Q Duty of neutrality, please.

19 A Well, I heard in testimony about the duty of
20 neutrality and I think it was described incorrectly because
21 the duty of neutrality has to be taken in the context of
22 the duties under the probate code, which I define as sort
23 of duties of the heart and duties of the head. And -- and
24 -- and the duties of the heart are -- are not just being a
25 good person, but being a good person with respect to the

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1 particular beneficiaries you must benefit. So, for
2 example, in the James Brown trust, the primary duty of the
3 heart is the duty of loyalty and the duty of loyalty, some
4 people say the more important than everything else. I tend
5 to agree but --

6 MR. NEWSOME: Objection, now she's giving her
7 opinion about this case.

8 THE COURT: I tend to agree. Just please tell us,
9 the question was, what is the duty of neutrality. If you
10 know.

11 THE WITNESS: Well, may I finish with the duty of
12 loyalty because it's so critical to understanding the duty
13 of neutrality.

14 THE COURT: But you can't opine as to whether or
15 not you complied with it.

16 THE WITNESS: Well, I do have a professional
17 opinion to a reasonability of professional certainty --

18 THE COURT: Mr. Bundy, I've ruled that I'm not
19 allowing this witness to opine as to whether or not her
20 conduct complied or didn't comply. She can tell us what
21 she did. I will apply those facts as I find them to be to
22 everyone who has testified as to what that duty is and let
23 y'all fight to me by the law; but I'm not going to let her
24 opine as to what she complied about -- as to whether she
25 complied. I may be wrong, but that's my ruling, so move

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1 along.

2 MR. BUNDY: Just to protect my record, can I just
3 say if we had been -- that a proffer would be she would
4 testify as to all those things she met. She met the duty
5 -- you see what I'm saying, I'm just trying to take care of
6 that part of the record so that --

7 THE COURT: I assume that everybody would know
8 that's what she would testify about.

9 MR. BUNDY: Right, but I need to say it, I think
10 for the record.

11 THE COURT: Thank you.

12 MR. BUNDY: Thank you, Your Honor.

13 BY MR. BUNDY:

14 Q All right. If you would describe the duty of
15 loyalty. What is the duty of loyalty in the context of
16 trusts and estates?

17 A Well, the duty of loyalty in the context of trusts
18 and estates is, in my opinion, a duty of the heart, not
19 being good, but being specifically, you have a duty to the
20 beneficiaries of the estate -- of the trust, of the trust.
21 And with --

22 Your Honor, may I speak about James Brown? I
23 thought that's what my opinion's about.

24 THE COURT: He asked you a question. I don't think
25 he asked you anything about James Brown.

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1 THE WITNESS: With respect to the trust of the 2000
2 Trust of James Brown, the duty of the --

3 MR. NEWSOME: Objection, Your Honor.

4 THE COURT: Sustained.

5 BY MR. BUNDY:

6 Q Okay. To -- who does -- does the duty of loyalty
7 go as far as the trustee is concerned to anyone other than
8 the beneficiaries? Does it extend to anyone other than the
9 beneficiaries?

10 A No.

11 Q Okay.

12 A And in a case where you have either a charity or
13 minors you have even a stronger duty than otherwise.

14 Q Okay.

15 A And that is the case that I am prepared to testify
16 about and who met that duty of loyalty and who didn't.

17 Q Does a trustee or PR owe any duty of loyalty to
18 people who are not named in a will, not heirs, not
19 beneficiaries or contest the will?

20 A Absolutely not.

21 Q Okay.

22 A And the code specifically -- specifically directs
23 that among the duties of the trustee is to provide a
24 reasonable defense as to all claims. And the duty of
25 neutrality, which has been improperly, or not in my opinion

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1 correctly presented to the Court, is a duty of neutrality
2 among the beneficiaries. The code is clear. It's not a
3 duty of neutrality between the beneficiaries and outsiders.
4 The exact opposite. It is -- the code is clear. It is a
5 duty of neutrality among beneficiaries.

6 And the best example of that, and there are
7 examples here if I'm allowed to answer, but is in a case
8 where a trustee is a trustee of two trusts, maybe a marital
9 trust and a trust for perhaps the children of a prior
10 marriage, in that instance, everybody is a beneficiary of
11 the trust. And so the trustee has a duty of impartiality
12 sometimes called neutrality between and among the, the
13 beneficiaries of the trust he is administering, but the
14 duty of neutrality does not reach to the outside world, the
15 exact opposite. You have a duty to follow the terms of the
16 trust.

17 Q Okay.

18 A And as the Supreme Court has said in Wilson versus
19 Dallas, you have an even greater duty when --

20 MR. NEWSOME: Objection, Your Honor.

21 THE WITNESS: -- there's a charity.

22 THE COURT: What's the objection?

23 MR. NEWSOME: Now, she's talking about this
24 specific case instead of a general duty. I mean there's
25 already a proffer as to opinions, so I object to giving

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1 opinions in this case.

2 THE COURT: She's citing Wilson V Dallas again.
3 We're all familiar with it. But I'll let her answer it.
4 My ruling is, I'm not going to allow her to specifically
5 say handling this in my professional opinion as an estate
6 lawyer for 40 some odd years, that I complied with or
7 whatever. That's my finding to do that. That's my job.

8 THE WITNESS: In -- I'm sorry.

9 THE COURT: Go ahead.

10 THE WITNESS: In conjunction with the duty of
11 loyalty and the duty of neutrality, all of the duties that
12 I would call duties of the head rather than the heart must
13 be performed and it's virtually stated in every section of
14 the code. In accordance with the terms of the document, of
15 the trust. For example, a prudent person must manage the
16 fund prudently, but it can't just be general management.
17 It must be for the benefit of the particular beneficiaries.

18 Q Okay. In your opinion to a reasonable degree of
19 certainty, did Mr. Bauknight fall below the standard of
20 care in his administration as PR and trustee to the duty of
21 neutrality?

22 MR. NEWSOME: Objection, Your Honor. That's not
23 relevant to Ms. Pope's service or the value of her service.
24 Things that happened after she was PR are not relevant to
25 the value of services she gave.

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1 MR. BUNDY: Your Honor --

2 MR. NEWSOME: And she's giving an opinion, which
3 she's not qualified as an expert in this case.

4 MR. BUNDY: Well, we proffered her as an expert.
5 As I understand your ruling, she can't testify about her
6 own failure to meet the standard.

7 THE COURT: Well, Mr. Bauknight is not seeking fees
8 and commissions and costs, et cetera in this case. That's
9 Ms. Pope's claim and what Mr. Bauknight did is a subject
10 for another day. And it's getting way afield. This case
11 is tailored to me to make a determination, what, if any
12 commission, payment, attorney's fees, however you want to
13 deem it is she entitled to, if any. And if so, how much.
14 And what Mr. Bauknight's done and hadn't done, that's for
15 another day.

16 MR. BUNDY: Just so I can make a little short
17 record, our position is, is that the defendants -- that
18 this is new matter. Mr. Bauknight's behavior and what he
19 did was new matter. It was put up as the standard by which
20 Ms. Pope was to be judged. It also relates to the benefits
21 that Ms. Pope conferred upon the estate and the detriments
22 and the things that Mr. Bauknight did -- as I understood
23 what Ms. Provence said and also the gentleman from Atlanta,
24 you have to look at the whole tenure of what all of these
25 people did in order to determine the reasonableness of her

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1 services. And unless you understand or until we can make a
2 record so to speak of what this expert says that
3 Mr. Bauknight did or did not do, they turned it into more
4 than a fee case.

5 We brought -- we came in here and said, here are
6 her hours, this is what she did and this is what the deal
7 is. That was our very simple case. They then came in and
8 turned it into entirely something else, which is what
9 Mr. Bauknight did, all the things she did wrong, yada yada
10 but they haven't quantified any of it. They haven't come
11 and told you a single hour of hers is not valid, et cetera,
12 et cetera. That's our position. Thank you.

13 THE COURT: Thank you, move along.

14 BY MR. BUNDY:

15 Q The -- there's --

16 A Do I get to give my opinion?

17 Q I don't think so, no?

18 THE COURT: No, ma'am.

19 THE WITNESS: Do I get to proffer it?

20 BY MR. BUNDY:

21 Q I think we have.

22 THE COURT: Move along.

23 BY MR. BUNDY:

24 Q There was an allegation that you failed to amend
25 the inventory and appraisalment. What duty was there --

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1 what is the -- what is the duty to amend per the statute or
2 otherwise to amend the inventory and appraisalment and why
3 didn't you do it?

4 A We did not do it because there is no duty -- and I
5 do need to add the facts here because they're very clear
6 facts of why we did not amend it, but --

7 THE COURT: I'll let you do that.. That's sort of
8 what I said. You can tell us what you did and why you did
9 it.

10 MR. BUNDY: Right. That's what we want to know
11 what you did and why you did it.

12 THE COURT: Or what you didn't do.

13 BY MR. BUNDY:

14 Q You just can't tell us that you think it was okay.
15 That's up to the judge.

16 THE COURT: Well, okay. But -- go ahead.

17 THE WITNESS: Under the probate code, you have no
18 duty to amend an inventory and appraisalment that is
19 substantially correct. To under --

20 THE COURT: What if it's not substantially correct?

21 THE WITNESS: To understand why we believed and I
22 still believe today that the inventory and appraisalment
23 filed on November 15th, 2007 was substantially correct --

24 BY MR. BUNDY:

25 Q And who filed that inventory and appraisalment?

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1 A That was filed by Stan Jackson, who is a lawyer who
2 is a valuation expert; also prepared by William Hammond, a
3 tax expert, who was familiar with the James Brown matters;
4 prepared and filed on behalf of Mr. Dallas and Mr. Bradley,
5 who certainly have their problems, but are -- I will tell
6 you that it is my personal experience that Mr. Dallas was
7 the smartest person in the room on most days. He fully
8 understood everything about the value of James Brown.

9 And let me explain. One must understand the facts
10 of what was going on to fully understand why we did not
11 file an amended inventory.

12 On November 15th of 2007, there was virtually no
13 dispute that James Brown's assets were worth \$100 million
14 or more. It was from every corner. On October 12th --

15 THE COURT: Would you please define what corners
16 you're talking about.

17 THE WITNESS: Yes, Your Honor. On October 12th of
18 2007, a group to be formed called TJBL, which I had
19 mentioned before, put in an offer. I have some documents
20 that I've pulled that I may refer to, if you don't mind.

21 MR. NEWSOME: Your Honor, I object to this
22 testimony also. She -- as she said she referred to it in
23 her case in chief. She was crossed on it. We put in
24 valuation experts in our case. They were crossed and so
25 this has already -- this was part of her case in chief.

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1 This isn't reply.

2 THE COURT: I'll allow it.

3 THE WITNESS: Okay. Beginning in the summer --

4 THE COURT: I'm going to allow it because quite
5 frankly the valuations are so different and -- and the
6 testimony's been so different in this trial, I'm trying to
7 get a grasp on what Ms. Pope was relying on to justify that
8 amount or not change it, not amend it, not modify it.

9 MR. BUNDY: Ms. Pope --

10 THE COURT: That and in relationship to what the
11 IRS finally did. Those are some of the things I think are
12 very important in determining if she's entitled to -- if
13 Ms. Pope's entitled to fees, the amount. And obviously,
14 how -- we can't -- how she came up with that figure and how
15 -- what she was relying on is important to me. So I'm
16 going to allow her once again to testify to it.

17 THE WITNESS: Your Honor, I made some copies last
18 night.

19 BY MR. BUNDY:

20 Q Ms. Pope, before you start your explanation, would
21 you give us the code section and tell us what was necessary
22 under the code for you to be required to file an amended
23 inventory and appraisalment.

24 A You -- I'll give you the code section if I can find
25 it. I'm sorry, I was looking at the trustee sections.

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1 Duty of Personal Representative to Supplement

2 Inventory, 62-4-708, which says that, If a personal
3 representative determines that the original inventory was
4 erroneous or misleading that -- that they must file --
5 must, shall -- actually, it says shall rather than must --
6 must file an amended inventory.

7 Q So you didn't file a original inventory and
8 appraisement?

9 A Did not.

10 Q Your duty to amend it comes specifically from that
11 statute?

12 A It does.

13 Q Is that correct?

14 A Yes.

15 Q Did you ever, at any time come to the conclusion
16 based on the wording of that statute that the inventory and
17 appraisement needed to be amended?

18 A No.

19 Q Okay. Why not? Why didn't you come to that
20 conclusion?

21 A Because the only substantial error -- and it wasn't
22 even a substantial error because we -- one of the experts
23 testified about this, that total approximately \$100 million
24 value of the assets was placed on two different schedules
25 because the trustees at this time were taking a position

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1 that -- that a good bit of the assets were already in the
2 2000 Trust, but the approximately \$100 million value of the
3 trust showed up on two separate schedules. And that -- and
4 -- so if I could begin so that one can understand that
5 there was virtually no question about the -- could I have
6 that document that I just gave you? Because I think it
7 could help the Court understand really how the -- the first
8 -- the first -- the whole issue of whether these assets for
9 worth less than approximately \$100 million really did not
10 come to a head until it was brought up in the Supreme Court
11 in May of 2011.

12 And I provided to the Court, and this is already
13 filed in this case, how the -- the context in which it came
14 up. And I can, if the Court will allow me, tell the Court
15 everything I've learned since then. But essentially,
16 nobody, nobody anywhere suggested in a filed document
17 between November 15, 2007 and May 3rd 2011, that there was
18 anything wrong with the original inventory and
19 appraisement.

20 Q Okay.

21 A All those years. And it came up in the context --
22 and in -- in direct -- in direct line with an e-mail of
23 Ms. Tomi Rae's lawyer of 2009, which I did not get until
24 discovery in this case, after 2013, which essentially said,
25 let's discredit Bob Buchanan --

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1 MR. NEWSOME: Objection, Your Honor. Where's this
2 e-mail.

3 THE COURT: Hold on. What are you talking about?

4 MR. NEWSOME: She's quoting from an e-mail that we
5 haven't documented.

6 THE WITNESS: It's in the record in this case. I
7 didn't bring it today.

8 MR. NEWSOME: Well, I object unless -- we should
9 have that document.

10 THE WITNESS: It's one of these depositions.

11 THE COURT: Hold on, now, hold on.

12 I'm not going to allow some e-mail that you're -- I
13 mean you can -- just give us a basis -- all I'm asking is a
14 basis of why you didn't file a supplemental accounting when
15 ultimately, the one the IRS agreed to was substantial
16 different than the \$100 million so to speak, substantially
17 different.

18 THE WITNESS: May --

19 THE COURT: And you say that everybody knew it was
20 100 million, that's what I'm interested in. Who knew it
21 and how did they know it? And how did they come about
22 that? Was it just a figure pulled out of the air? Did
23 they have an appraisal done by somebody qualified to do it?
24 Or was it just their -- their thoughts that that's what it
25 was?

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1 But I'm not -- that's what I'm concentrating on.

2 THE WITNESS: Your Honor, the 4.7 million was
3 fabricated by counsel --

4 BY MR. BUNDY:

5 Q That's not what he wants to know right now.

6 Let's back up a minute. Let me try to -- what --

7 A May --

8 MR. NEWSOME: I move to strike that from the
9 record.

10 THE COURT: I'm not going to interject anymore.
11 You ask her the questions you would like to ask her. If it
12 gets what I want to hear, that's fine, if it don't --

13 MR. BUNDY: I got it.

14 MR. NEWSOME: Your Honor, can I move to strike her
15 last remark.

16 MR. BUNDY: Ms. Pope --

17 THE COURT: What was her last remark.

18 MR. NEWSOME: She just said the 4.7 million was
19 fabricated by counsel, is I think what she just said, which
20 wasn't responsive to the question.

21 THE COURT: That's what she said. I'm not going to
22 strike it. Leave it in there.

23 THE WITNESS: If I could tell the whole story of
24 the valuation because Your Honor may --

25 THE COURT: Ma'am, just answer the questions from

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1 Mr. Bundy. I'm not going to ask anything else.

2 BY MR. BUNDY:

3 Q Question and answer.

4 You, under the code section we previously looked
5 at, felt you had no duty to amend the inventory and
6 appraisal provided by your previous trustees?

7 A We had no duty because the figure was correct.

8 Q All right.

9 A Substantially --

10 Q Tell the Court on what basis you originally thought
11 it was a good inventory and appraisal and continued to
12 believe it was a good inventory and appraisal until
13 after you were no longer trustee and PR.

14 A Okay. I --

15 Q And had no authority to amend it after you'd been
16 taken off, right?

17 A Correct.

18 MR. NEWSOME: Objection leading question.

19 THE COURT: I'm going to allow it.

20 BY MR. BUNDY:

21 Q So tell the Court.

22 A I will tell the Court how we arrived at that time
23 in understanding that the figure was correct and how we
24 continued to believe it was correct.

25 Q Perfect. Thank you.

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1 A The first -- and I have researched by going through
2 the Dallas appeal. And the Dallas appeal began when --
3 when we were still PR's. And so that helps us understand
4 where we all were. And the Dallas appeal is about 3,000
5 pages. And Mr. Dallas began his appeal in early 2009. So
6 that helps give us a picture of what everyone knew --

7 THE COURT: Be specific. What Dallas appeal are
8 you talking about.

9 THE WITNESS: All right. The first element of the
10 Dallas appeal that is important is the 43 million.

11 THE COURT: What was he appealing, ma'am?

12 THE WITNESS: I'm sorry?

13 THE COURT: What was Dallas appealing?

14 THE WITNESS: Oh, Mr. Dallas, Your Honor, when he
15 resigned, 10ten days later he tried to undue his
16 resignation and Your Honor --

17 THE COURT: Okay. That will do. That will do.

18 THE WITNESS: Yes, and Your Honor did not allow him
19 to do that and so that order was issued on March 7th of
20 2009 -- I'm sorry March 7, 2008. And so that appeal sort
21 of -- of froze the record for the first year and a half of
22 -- after Mr. Brown's death.

23 And so I tried to look at that as the best example
24 of all of the information that was available. And if I add
25 some information that I've learned, I'll try to say that

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1 I've learned it.

2 But at the time and this is all in the record, we
3 testified to Judge Early that Joel Katz had, as early as
4 January of 2007 received unsolicited offers of 25 to 32
5 million for the TIAA music catalog alone. So that was
6 substantial evidence that there was virtually no -- I mean
7 without any solicitation a 25 to \$32 million appraise --
8 proposal had come in.

9 Then by May of 2007, a gentleman named Steve
10 Sidmans, who was a -- who was a partner at Greenberg
11 Traurig had put together a proposal to send out -- and I do
12 have some copies of those if Your Honor would like, to send
13 out proposals for purchase of the music catalog. And this
14 is the catalog to which there had been an unsolicited offer
15 of somewhere between 25 and 32 million.

16 Now, supporting all of this was the RBS
17 professional appraisal, which is the -- which is the
18 complaint -- the complaint of which is contained in the --
19 in the Dallas appeal. I can pull it out for Your Honor to
20 look at, along with a bunch of other information about the
21 royalties and lots of other nonconfidential information
22 about everything.

23 Q What's the significance of the complaint?

24 A But the complaint, I think it's paragraphs 19 and
25 23, of the complaint, of the RBS deal cite clearly --

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1 Q Who was the plaintiff in that case?

2 A I'm sorry, Mr. Brown and certain Brown entities.
3 Mr. Brown, himself, alive, not Mr. Brown's estate.

4 Q And who was he suing?

5 A He was suing the Pullman company.

6 Q And why was he suing them?

7 A He was suing them for having stopped a refinance of
8 his TIAA bond deal just three days or two days before it
9 actually happened.

10 THE COURT: And who represented Mr. Brown?

11 THE WITNESS: Greenberg Traurig.

12 THE COURT: Same people who were ultimately sued.

13 THE WITNESS: Well, lots of people have been sued,
14 Your Honor.

15 THE COURT: Well, specifically Greenberg Traurig
16 sued at your incident to start off with.

17 THE WITNESS: Your Honor, they were, but I need to
18 explain. They were not sued over that, Your Honor. They
19 were sued over a new deal which was -- was -- which was set
20 up in October of 2006 for which they were not seeking an
21 hourly fee as they had in the RBS deal, but they were
22 seeking a higher fee and a new deal. So, no, we never sued
23 them over that deal.

24 And, in fact, Your Honor, if you'll remember, in
25 May of 2007, they were still the lawyer in the New York

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1 case and Ms. Solomons was the -- Judge Solomons was the
2 judge. And we asked Your Honor -- we had concern, we being
3 Mr. Buchanan and I, as special administrators, had
4 concerns, not about the quality of the Greenberg Traurig
5 work in general, but about the fact that they had a
6 potential conflict. And I have here a copy of a -- there
7 was a motion to disqualify them.

8 So it was certainly not -- there may have been
9 things wrong with the -- the February -- the March deal.
10 I'm not saying there wasn't, but certainly nothing that
11 Greenberg Traurig did, to my knowledge.

12 BY MR. BUNDY:

13 Q Ms. Pope, let's go back. I want to stay focused on
14 just this one thing right now.

15 We're trying to confirm why it is that you think
16 that the inventory and appraisal was okay. Okay? James
17 Brown sued Mr. Pullman, correct?

18 A He did.

19 Q When he was alive?

20 A He was.

21 Q Over a loan that did not close?

22 A Yes.

23 Q What were the two preconditions for that loan to
24 close?

25 A A professional appraisal of 42 million for the

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1 approximately 800 copyrights, which had been pledged to
2 TIAA.

3 MR. NEWSOME: Objection, Your Honor, none of this
4 is in evidence.

5 THE COURT: I'm going to allow her to do it. She
6 -- I'm going to allow it.

7 Go ahead.

8 BY MR. BUNDY:

9 Q And?

10 A And a guarantee or a projection of a guarantee 3.5
11 million a year income from that particular income stream
12 for the duration of the loan.

13 Q So those were the two conditions preceding it?

14 A They were.

15 Q And why -- what is significant about the --
16 Mr. Brown's complaint against Pullman?

17 A Well, the complaint specifically says the loan was
18 approved, the -- and the term sheet was done and the loan
19 was ready to close, but for Mr. Pullman's interference.

20 Q All right. And what did you conclude regarding the
21 value of the estate based upon that? Value of the
22 inventory and appraisement?

23 A I concluded from that and many, many other things
24 that 40 to 50 million was entirely appropriate for the, the
25 copyrights because the RBS loan did not contain all the

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1 copyrights. And there had been numerous new -- new
2 recordings coming out right after James Brown died.

3 Q All right. What --

4 MR. NEWSOME: Objection, Your Honor. I want to
5 preserve my objection for the record. She's testifying
6 about all sorts of stuff that's not in the record. I
7 object to her continuing to testify about things that we
8 have no ability to look at, no ability to cross-examine her
9 on.

10 THE COURT: Well, this is stuff long after the
11 appraisalment was filed.

12 I asked Mr. Bundy to go through what she relied on
13 in testifying about --

14 MR. BUNDY: This is before the appraisalment.

15 THE WITNESS: This is just before the inventory.

16 THE COURT: Well, tell me the things after I mean
17 it's a whole --

18 MR. BUNDY: That's why I'm trying to keep her
19 focused.

20 BY MR. BUNDY:

21 Q Before the appraisalment --

22 A Uh-huh.

23 Q What we're talking about is why you didn't think it
24 was necessary to change it. What I want to know is -- this
25 was information you had that occurred before the

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1 appraisement?

2 A It did. And I had become, within days after the
3 appraisal, the personal representative of the estate and
4 substituted in that litigation; and I would not have
5 allowed it to continue if I had not believed the basis of
6 the litigation was correct.

7 Q Okay. And what else did you rely on in deciding --
8 in you and your co-trustee, deciding that there was no
9 necessity under the statute to amend the inventory and
10 appraisement as filed by the previous trustees?

11 A Well, many things. Let me back up to just before.

12 In the Summer of 2007, Mr. Cox and -- and others,
13 were trying to put together a deal to sell the James Brown
14 assets. And the problem was, from the perspective of new
15 trustees, was not to sell, but the fact that Mr. Dallas and
16 Mr. Cannon were trying to get a \$10 million commission.
17 So -- so when you look at what was a problem, the problem
18 isn't the top line, it's the bottom line. But -- so in the
19 Summer of 2007, Dr. Cox, who was not a copyright expert but
20 a branding expert, made a lot of projections about the
21 value of the James Brown assets. And he valued the brand,
22 the -- even though he said it was in fallow, he eval'd it
23 at 40 to 50 million. I had no evidence to the contrary.

24 Q Prior to your becoming trustee, had Mr. Dallas
25 applied to the Court to hire someone to value the tangible

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1 -- the --

2 A He did, but there were some things between the
3 summer and that --

4 Q Okay.

5 A -- that are significant here. Mr. Dallas -- I mean
6 Mr. Levinson took the deposition -- well, I told you on
7 October 12th was the first letter of intent of TJBL, a \$90
8 to \$100 million letter of intent plus a 5 percent legacy
9 royalties to purchase the assets. And some people call it
10 a letter of intent, some people call it an offer. But it
11 happened on October 12th. That was not made to us, it was
12 made to the original trustee.

13 Then on October 31st there were a number of
14 depositions taken. We were still special administrators,
15 we were not paying -- we were not directing depositions or
16 -- we just went to hear them. And in that deposition,
17 Mr. Levinson questioned Forlando Brown extensively about
18 what he knew about \$100 million offer. So everybody was
19 talking about the \$100 million offer, but -- long before
20 November 15th.

21 All right. Then in -- in -- on the very day of
22 November 15th, the day the original inventory was filed, a
23 lot of things were happening. One was that Mr. Levinson's
24 associate had secured from William Morris agency,
25 Mr. Brown's talent agency, documents to show that he had

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1 earned \$18 million in road shows between 2003 and 2006.

2 And, Your Honor, that's in the record, filed in the
3 record of November 15th of 2007.

4 Also, at that same time on November 15th, 2007,
5 there were income tax returns for the years 2003 to -- or
6 2002 to 2006 filed with Your Honor in your court showing
7 that Mr. Farr had understated the income for James Brown by
8 \$3 million a year --

9 MR. NEWSOME: Your Honor, I want to just preserve
10 my objection.

11 THE COURT: You're protected.

12 MR. NEWSOME: She continues to refer to documents
13 that are not in evidence that we can't cross her on.

14 THE COURT: Okay.

15 THE WITNESS: They're in the record in --

16 THE COURT: Go ahead, ma'am.

17 THE WITNESS: Okay. So that was on November 15th.
18 There was a lot going on on November 15th -- November 15th,
19 2007. All of the amended income tax returns and old income
20 tax returns for these pre death years were filed. The
21 William Morris, an \$18 million from 2003 to 2006 was filed.

22 MR. NEWSOME: Just, we renew my objection, Your
23 Honor.

24 THE WITNESS: There was lots of evidence in the
25 record just from the record that had been built up the

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1 whole year, including a lot of correspondence between
2 Mr. Hammond and Mr. -- and Senior Assistant Attorney
3 General, Sonny Jones, about the value. And, of course,
4 since we were special administrator and since August 10,
5 2007, we had access to virtually all the historical
6 financial records, from my review, I saw nothing in there
7 to suggest that the value was not correct.

8 Now, you asked the question did Mr. Dallas ask for
9 an appraisal and he did do that. And -- and he asked the
10 Court, Your Honor, to have -- to conduct an appraisal on --

11 BY MR. BUNDY:

12 Q The music or the intellectual property value?

13 A Of the IP, both the copyrights and the music. And
14 he made that request at sometime just short of November
15 15th, of 2007. And the transcript of that hearing will
16 show that Judge Early rejected his request that he
17 represent -- that he engage Mr. Herbsman's partner,
18 Mr. Shukat and that he in addition pay \$60,000 for an
19 appraisal of the IP and I think, if I can opine, that Judge
20 Early's decision was entirely correct --

21 MR. NEWSOME: Objection.

22 BY MR. BUNDY:

23 Q So anyway, this was an opportunity for the trust
24 and the estate to pay for an appraisal by Herbsman and
25 partner and that was not allowed?

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1 A Well, not Mr. Herbsman, he testified he couldn't
2 make an appraisal.

3 Q Okay.

4 A This was in addition to Mr. Herbsman.

5 Q Okay. In addition. All right.

6 A At the time -- at the time, I will say that we did
7 support an appraisal of the tangible personal property and
8 the basis for that was that there was dispute, both about
9 the value and about who would get it. So there was a
10 reason for that.

11 And there was no reason -- there was nothing in
12 dispute at that point about the -- about the value or where
13 it was going.

14 Q Okay. What else did you -- what else led you to
15 believe it was not necessary to amend the inventory and
16 appraisal, other than what you've already testified to?

17 A Well, on January -- let me see if I could -- if I
18 could have just a minute. (Looking for a document.)

19 On January 2nd, and I did make a copy of this, and
20 this is somewhere in the record because I see that it's
21 Exhibit 13, but I don't know to what. But some -- did we
22 mark that other --

23 Q I assume that most of these are parts of the
24 exhibits that are in these depositions; is that correct?

25 A I can't be sure. I can't be sure.

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1 Q Well, just answer -- if you need it --

2 THE COURT: January what?

3 THE WITNESS: I'm sorry, I gave you the Mark
4 Jacobson.

5 MR. BUNDY: Let's go ahead and mark --

6 THE WITNESS: May 23rd, 2007, seeking, discussing
7 seeking proposals to purchase.

8 MR. BUNDY: You got another copy?

9 THE WITNESS: Yes.

10 (Plaintiff's Exhibit Number 48 was marked for
11 identification.)

12 MR. BUNDY: Your Honor, I would move to introduce
13 Exhibit 48, which is an e-mail.

14 THE WITNESS: I have with me --

15 (The attorneys were conferring.)

16 BY MR. BUNDY:

17 Q Would you identify the document, please.

18 A Oh, that's just the proposal for purchase made by
19 GT in the Spring of 2007 that I discussed a little earlier.
20 I actually pulled out the wrong document. I have here also
21 and I only have one copy, is the notice, but I can give it
22 to you.

23 MR. BUNDY: Your Honor, I move to introduce into
24 evidence.

25 MR. NEWSOME: Your Honor, I object, I don't see

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1 where Ms. Pope is on this e-mail.

2 THE COURT: Well, that's a document.

3 MR. NEWSOME: Lack of foundation.

4 THE COURT: It's been throughout all the James
5 Brown litigation. I'm familiar with it. I'm going to
6 allow it.

7 (Plaintiff's Exhibit Number 48 was entered into
8 evidence.)

9 THE WITNESS: Then also here is the notice of
10 motion made in the -- in the Pullman New York case, in
11 which I -- Mr. Buchanan and I became plaintiffs. It's a
12 notice of motion by the defendant, Mr. Pullman, but it
13 contains the term sheet, if you -- if the Court would like
14 --

15 BY MR. BUNDY:

16 Q So it contains the term sheet for?

17 A For the Pullman loan.

18 Q Okay.

19 A And -- and I'm sure this is all over the record.

20 Q Hang on a second. Let me mark this, please.

21 (Plaintiff's Exhibit Number 49 was marked for
22 identification.)

23 MR. BUNDY: Exhibit 49. Plaintiff's Exhibit 49.

24 (The attorneys were conferring over the exhibit.)

25 MR. NEWSOME: Your Honor, we object. We haven't

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1 | been provided this document, or notice. We asked for these
2 | documents in discovery and then, you know, this is the
3 | first time we've seen it.

4 | MR. BUNDY: I didn't handle discovery in the case,
5 | so I don't know.

6 | THE WITNESS: I don't believe they ever came to
7 | look at my documents, Your Honor. In 4900, they spent four
8 | days in my office. And that would have been defendants.
9 | That was in 2017. I don't believe they ever came to look
10 | at my documents. They were always available to them, the
11 | whole 130 boxes.

12 | THE COURT: I'll allow it. Move along.

13 | MR. BUNDY: Thank you, Your Honor.

14 | (Plaintiff's Exhibit Number 49 was entered into
15 | evidence.)

16 | BY MR. BUNDY:

17 | Q Just simply, what is Plaintiff's Exhibit 49, what
18 | is significant with regard to the question on the table,
19 | which is why you didn't deem it necessary or think it --
20 | that you were required to amend the inventory and
21 | appraisalment?

22 | A Right. Well, it was just generally known then that
23 | there had been the \$25.2 million loan that almost closed
24 | just shortly before Mr. Brown's death and that was only on
25 | 800 of his 900 copyrights and none of his publicity rights.

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1 And there was, of course, the whole history of Mr. Pullman,
2 when James Brown made the original \$26 million loan in
3 1999. There broad publication of the \$100 million value of
4 his music empire at that time. And I saw nothing to see
5 that it had gone down.

6 Q All right.

7 MR. NEWSOME: Objection to hearsay.

8 MR. BUNDY: Was there a term sheet --

9 THE COURT: Hold on, hold on.

10 MR. NEWSOME: She's talking about broad general
11 knowledge and people saying stuff. I mean it's hearsay.

12 THE COURT: I understand.

13 BY MR. BUNDY:

14 Q Is this what you're talking about?

15 A It is.

16 Q All right. Can we just go to the point, you know.
17 If the term sheet that we're talking about is attached to
18 the document. That's all I want to do.

19 So anything else with regard -- well, let me ask
20 you this: Was there a formula presented to the Court
21 during this period of time for purposes of trying to
22 evaluate or for you to have some way to see if the
23 inventory and appraisalment was correct or did not need to
24 be changed?

25 A It was not the inventory and appraisalment. It was

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1 for the estate tax return.

2 Q Okay.

3 A And we presented it separately, separate and apart
4 from the proposal by Mr. Dallas for the appraisal that day
5 and we -- we presented a formula that we believed based on
6 seven months of close association with people who were
7 intimately familiar with James Brown's assets.

8 And also knowledge ourselves since August
9 approximately 15th of the, the music history and the whole
10 history of his music empire. So we made that proposal, but
11 it was -- it was not about the inventory and appraisement
12 and it was separate from it.

13 But the good news is the values were very similar.
14 But I need to say a few more things about why I think --
15 what I knew then about the inventory and appraisement.

16 Q Okay. That's fine.

17 THE COURT: Before you go to that, let me just ask
18 you one question about what Mr. Bundy just handed me which
19 was the Limited Company SPD for Soul Brother --

20 THE WITNESS: Yes, sir.

21 THE COURT: -- so forth and so on. You're familiar
22 with that. It says conditions precedent: Financial:
23 Receipt and satisfaction with the financial model prepared
24 by the borrowers advisors detailing forecast income and
25 ability to service debt. Did you ever see that model?

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1 THE WITNESS: We did not, Your Honor, but we were
2 plaintiffs in the case. And I was satisfied that that was
3 correct, that the allegations that had been made in the
4 complaint, that all of that was completed and that the only
5 thing that stopped that closing, which was the allegation
6 of the complaint, was the interference by Mr. Pullman.

7 THE COURT: My question, did you ever see the model
8 prepared by the --

9 THE WITNESS: I did not see the model prepared by
10 RBS.

11 THE COURT: Second: Receipt of and satisfaction
12 with lender constructive professional valuation report in
13 respect to the borrowers share of the copyright/cash flows.
14 The accountancy practice prepare the professional valuation
15 will also review financial model. Did you ever see that --

16 THE WITNESS: Your Honor, I --

17 THE COURT: -- valuation.

18 THE WITNESS: -- believe that they were in the
19 Greenberg Traurig file, which you're will remember, you
20 ordered Mr. Dallas to deliver on August 10th of 2007. We
21 were still trying to get it on August 12th, 2008 when the
22 attorney general announced his settlement. And there
23 again, a long history of trying to get it.

24 THE COURT: Thank you.

25 THE WITNESS: I believe that that information was

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1 contained within the Greenberg Traurig file.

2 THE COURT: Did you ever see it?

3 THE WITNESS: I did not see it.

4 THE COURT: Thank you. Move along.

5 BY MR. BUNDY:

6 Q What else did you -- you were talking about other
7 things you relied on?

8 A Well, yes, we knew the size of the TIAA debt, which
9 was a component of that inventory and appraisalment, which
10 was approximately \$15 million that had sometimes been
11 thought to be 17, but had been refined to be approximately
12 15 and that was part of that inventory and appraisalment.
13 And we never saw anything that was necessary.

14 Also then -- and I'm trying to find it -- on July
15 -- January I think 2nd, I received a letter -- I don't see
16 it --

17 THE COURT: What year, please?

18 THE WITNESS: Of 2008, just shortly after the
19 inventory.

20 I received a letter from -- Mr. Cox -- from Mr. Cox
21 withdrawing the \$100 million offer. Oh, here it is right
22 here. I think I have four copies of this. Three.

23 This is January 3rd, 2008, Dear Ms. Pope and
24 Mr. Buchanan, due to the current issues, the lack of
25 interest in our letter of intent to purchase the trust

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1 assets, we are withdrawing our offer of 100 million plus 5
2 percent legacy royalties to the beneficiaries of the trust.
3 See attached letter.

4 So we received that on January 3rd, 2008.
5 (Plaintiff's Exhibit Number 50 was marked for
6 identification.)

7 MR. BUNDY: And exhibit 50.

8 Your Honor, I move to introduce Exhibit 50.

9 THE COURT: Any objection?

10 MR. NEWSOME: Without objection, Your Honor:
11 (Plaintiff's Exhibit Number 50 was entered into
12 evidence.)

13 THE COURT: Move along.

14 THE WITNESS: So when they with drew their \$100
15 million after -- by then there had been a challenge to the
16 will, so a sale was not going to be in the cards for a
17 while.

18 THE COURT: Refresh my memory on who Terry Bradford
19 Cox was, PhD.

20 THE WITNESS: Your Honor, he was that branding
21 expert gentleman who spoke in your chambers right over
22 there the day that Mr. Dallas and Mr. Cannon resigned. And
23 he had been involved with the James Brown matters since
24 early 2007. And he had formed a group called the gray
25 Hamm, G-R-A-H-M, Windsor Group of Atlanta investors, who

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1 were seeking to purchase and perhaps -- they actually
2 projected to set up an IPO and sale, but an issue came up
3 in Your Honor's courtroom right over there, a question by
4 Mr. Levinson, with everyone under oath, that they were
5 looking to pay options or a kick back to Mr. Dallas and --
6 and Mr. Cannon.

7 And that came up --

8 THE COURT: That's the same day Mr. Dallas
9 resigned, isn't it?

10 THE WITNESS: Same day he resigned, Your Honor.
11 Exactly.

12 BY MR. BUNDY:

13 Q All right. What else do you --

14 A Well, that -- that and just having understood --
15 having had detailed contact with Buddy Dallas, knowing that
16 Buddy Dallas was being advised by Joel Katz, who was one of
17 the rock stars of the entertainment world, for better or
18 worse, but there were just thousands of pieces of
19 information, including -- and it's in the record -- an
20 e-mail Mr. Hammond to the attorney general, Senior
21 Assistant Attorney General Sonny Jones, the very day the
22 inventory was filed because it wasn't first filed under
23 sale. It came out a few months later.

24 But -- saying here's the inventory and appraisement
25 I prepared. I mean lots of -- lots of communication with